



**BOARD OF ADJUSTMENT
AGENDA**

August 8, 2018

I. Call to Order

- **Approval of Minutes**

- **New Business:**

- 1. Stoker** (*VAR18-0019*)

- 302 SE 2nd Street

- Side Exterior (Front) Setback in the R-1 zoning district

Variance*

- 2. Bates** (*VAR18-0020*)

- 307 Old Forge Drive

- Rear Setback in the R-1 zoning district

Variance*

- **Other Business**

- **Adjournment**

Board of Adjustment
Minutes
July 25, 2018

Meeting called to order by Rick Rogers, Chairman

Present: Joe Haynie, Sam Pearson, Jan Holland, and Rick Rogers
Absent: Rustin Chrisco
Staff: Tyler Overstreet

Motion by Mr. Pearson, seconded by Ms. Holland to approve the minutes of July 11, 2018 as written.

Approved 3-0

Mr. Haynie was absent during the roll call of minutes, but showed up later.

New Business

Item #1

Binns, Variance Request for 3701 SW 2nd St, Rear Setback in R-1, VAR18-0018

Tyler Overstreet reads the staff report. He states that anything above 720 square feet must conform to the setbacks of the zoning district.

Opened public hearing

No public comments

Closed public hearing

Richard Binns, owner, speaks before the Board on the reason for the variance request. He presented pictures and plans to the Board members.

There is discussion amongst Mr. Binns, staff, and the Board members.

Approved 4-0

Meeting adjourned

Ali Worley

*A copy of this recording can be obtained from the Bentonville Planning Department.

BOA STAFF REPORT

VAR18-0019 – Stoker – Side Exterior (Front) Setback Variance

TO: Bentonville Board of Adjustment Members
THRU: Shelli Kerr, AIPC, Community Development Director
FROM: Jon Stanley, Planner
BOA DATE: August 8, 2017

GENERAL INFORMATION:

Representative: Robert & Shelli Stoker

Applicant: Robert & Shelli Stoker

Location: 302 SE 2nd Street

Existing Zoning: R-1, Single Family Residential

Existing Land Use: Single Family Residence

REQUEST: Variance

Side Exterior (Front) Setback Variance		
	Regulation	Request
Article 401. Sec 401.7-D(1) Minimum Side Exterior Setback Requirements for R-1, Single Family Residential	20' minimum side exterior (front) setback	Request of: 10.5' Variance of : 9.5'

SURROUNDING ZONING:

Direction	Zoning
North	DC, Downtown Core
South	R-1, Single Family Residential
East	R-1, Single Family Residential
West	DE, Downton Edge

BACKGROUND:

The applicant has submitted a variance request to the side exterior (front) setback for property located in the R-1, Single Family Residential zoning classification to allow for the construction of an accessory dwelling unit (ADU) along SE 2nd Street. The applicant is requesting a 10.5' side exterior (front) setback be allowed along the northern property line, which is a variance of 9.5' from the 20' required by ordinance. At the time of this request, there are no utility easements nor overhead electric that would be impeded with the proposed variance.

For additional information, please reference the attached documents.

PUBLIC COMMENT:

Staff HAS NOT received public comment regarding this request.

CONDITIONS OF APPROVAL:

If approved, the following condition(S) shall apply:

1. The approved variance shall be for the proposed footprint of the accessory dwelling unit (ADU) only, as provided by the applicant within this application.
2. The applicant must resubmit a revised building permit application and obtain an approved building permit prior to construction of the structure.

Robert & Shelly Stoker
302 SE 2ND ST
Bentonville, AR 72712

July 18, 2018

Planning Commissioners
City of Bentonville
305 SW A Street
Bentonville, AR 72712

RE: Request for Waiver – 302 SE 2ND ST, Bentonville (Existing Miscellaneous/Residential Accessory Structure Permit number RACC18-0024, dated July 13, 2018)

We respectfully request a waiver from the setback requirements for a side loading garage as required under Article 401, Section 401.07(d)(2)-2.

We have recently received building permit #RACC18-0024 to construct a freestanding 3 car garage with Accessory Dwelling/Living quarter above. Upon further review of the location of the planned garage on our property, we have realized that certain conditions exist which have resulted in a need to pursue this variance request.

Section 401.07(d)(2)-2 requires a minimum 20' setback from SE 2nd Street for our proposed side facing garage. There are special circumstances and/or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the owners of the reasonable use, enjoyment, and benefits of the land as further explained herein.

1. As currently permitted, the new garage would be located too close to a 32" Diameter (98" Cir.) old growth hackberry tree that provides intrinsic aesthetic, environmental and historic value to the property. Building the garage as close as currently designed and permitted would impact the drip zone of this tree significantly, likely leading to the decline and eventual death of this valuable asset to the property. This tree provides tremendous shade and cooling value as well as demonstrating and enhancing the antique character of this historic home. The location for this garage was carefully chosen after realizing that other locations for this garage would impact similar sized old growth black walnut and oak trees at the southeast corner of the property. The proposed location also places the proposed garage in an area of the property that avoids any potential negative storm water drainage impacts to the property to the east of this lot.
2. The existing right of way of SE 2ND Street in front of the property is approximately 44' wide, with 26' of this width on the south side of the street (18' on the north side). The right of way for SE 2ND Street extending to the east of the property is variable and ranges from 40' to 45' wide. SE 2nd Street also dead ends just to the east of the property at Town Branch Park. In January 2018 we replatted our property (now known as Lot 13, Railroad addition) and dedicated additional right of way along SE 2nd Street as we were informed by the planning department that doing so would be a mandatory requirement upon application for a building permit to build our garage. Certain planning conditions related to SE 2ND Street have now changed which, as a result of the previous

dedication that we agreed to in January of this year, resulted in a detrimental impact and hardship upon the reasonable enjoyment of our lot. Because a previous applicant requested and received a waiver from Article 1100, Section 1100.5.B – Right of Way Dedication (LSD18-0015), the city has now accepted and agreed to the condition of leaving the narrow SE 2nd Street to the east of our lot at its current width instead of the 50' width required for a Residential Street. As consideration for that decision, the applicant argued and the city accepted the argument that the nature of the dead end street, with limited approved and future development opportunities meant that the traffic count on SE 2nd street in front of that project site (and by default in front of our property) is "less than, and likely will always be, considerably less than 1000 vehicles per day..." (LSD18-0015 Waiver #3). Further, the city, via the decision to approve application LSD18-0015 accepted the argument that vehicle counts less than 1000 trips per day in fact means that the "current and proposed level of vehicle trips on this street will not rise to the definition of a Residential Street (LSD18-0015 Waiver #3).

This applicant (Stoker) has already re-platted Lot 13, Railroad addition and provided, via dedication, additional right of way. That action has essentially become of moot importance and in fact has now resulted in a hardship due to the loss of the full and reasonable enjoyment of that dedicated property that will never be used for any widening of the street. A hardship is now created in that compliance with current setbacks means there is less usable land on our lot. (It can be argued had we not applied for our building application until after the approval of LSD18-0015, we may not have been asked to dedicated any land along SE 2ND St).

3. Approval of this waiver request will allow the construction of the previously approved garage/living quarters (RACC18-0024) to be moved 6' closer to the recently re-platted right of way line (and would only have been a 2' variance request from the former right of way line. Approval of this request would also establish the building location at 22' away from the existing sidewalk along the north side of the property (south side of right of way).

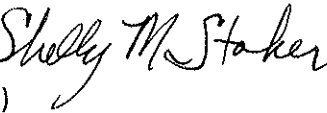
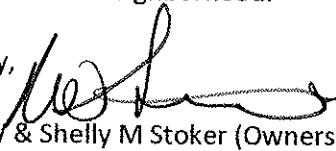
By contrast, the new townhomes approved as part of the "Central & 2ND" development (LSD18-0015) will be located as close as 5' to the right of way (in accordance with zoning) and as few as 2.5' to 3' from the edge of the proposed sidewalk to be built on the north side of SE 2nd Street. We do not request approval of our waiver request as a result of or because of previous approvals such as LSD18-005, but only offer this comparison to illustrate our belief that our proposed garage development will fit in well and will not be out of place with the character of this diverse SE 2ND Street neighborhood.

4. Approval of this waiver request will recognize the hardship created by the nature of the property and will allow for the preservation and protection of the large Hackberry Tree and the protection of the value that such creates for the enjoyment of the property, contributing to protecting our reasonable use and enjoyment of this substantial element of our property (and community).
5. The granting of the requested waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area. The granting will allow for the development of the property with such fitting within the character and nature of this mature and diversifying neighborhood. The location of the proposed garage, even with the granting of the variance, will still be set back further from both the Right of Way line on the south side of SE 2nd Street and from the center line of SE 2ND Street than the historic, old homes located directly across the street on the north side of SE 2nd Street. In fact, the proposed location of the garage is compatible with and in

harmony with the character of the neighborhood and will further establish and entrench the nature of the immediate area along SE 2ND street as a quiet and peaceful neighborhood.

Finally, I have noted on the application site plan the location of 5 medium sized and healthy Hackberry, Dogwood, and Maple trees which are currently well established (each has a 15'-20' canopy) and are located directly between our proposed garage and SE 2nd Street. Together with several other large shrubs growing between each, these trees and shrubs actually provide a very substantial natural screening effect that will serve to reduce the view to and visual impact of the new proposed garage along SE 2nd Street. Hopefully this will help add some assurance that this project (6' closer to SE 2nd St than already approved) will fit within and not detract from the character of this neighborhood.

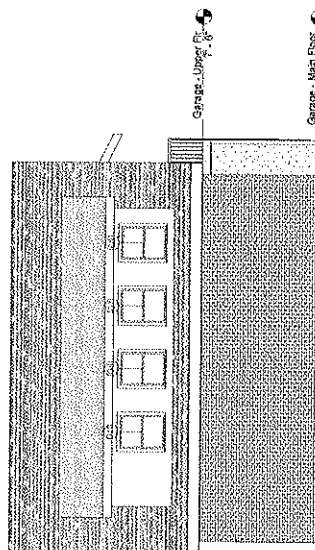
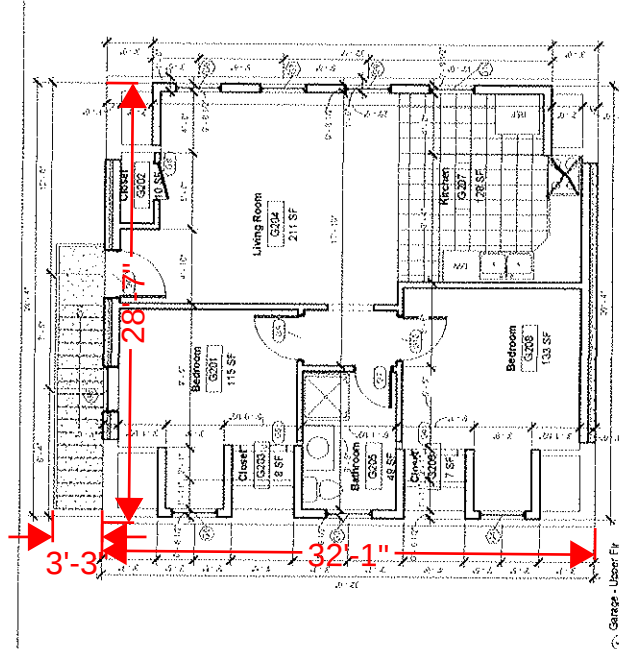
Sincerely,



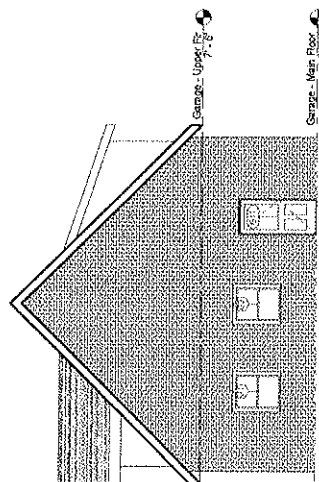
Robert W & Shelly M Stoker (Owners)

479-936-1719 479-936-4052

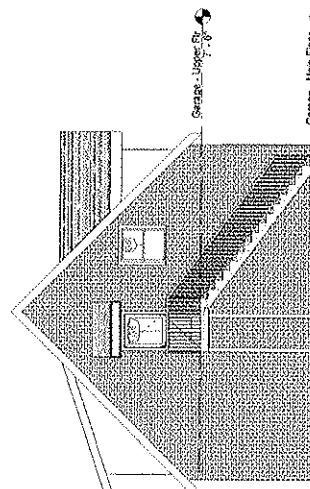
Permit # 24C18-0024



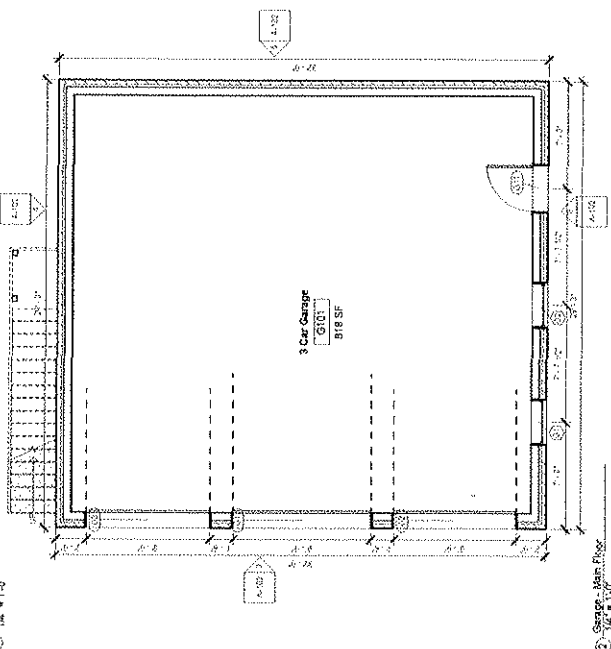
5. Garage - First Elevation



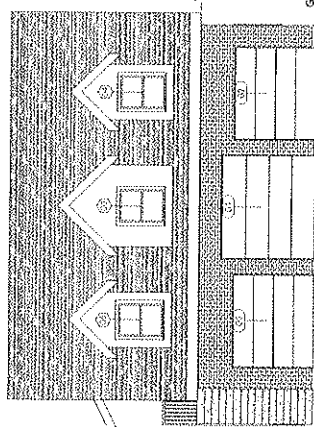
Garage - South Elevation



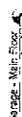
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Garage - Plain Floor



3. Garage - West Elevation



Garage - Room Schedule		
Number	Name	Area
G101	3 Car Garage	818 SF
G201	Bedroom	115 SF
G302	Closet	10 SF
G303	Closet	8 SF
G304	Living Room	211 SF
G305	Bedroom	49 SF
G306	Closet	7 SF
G307	Kitchen	128 SF
G308	Bedroom	133 SF

Mark	Grade - Door Schedule	Type
	Family	
1	Door-Change-Panel	Panel
2	Door-Change-Panel	Panel
3	Door-Change-Panel	Panel
4	Door-Change-Panel	Panel
5	Door-Change-Panel	Panel
6	Door-Change-Panel	Panel
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100	Door-Change-Panel	Panel

Garage Window Schedule					
Mark	Family	Type	Head Height	Side Height	Width
G1	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G2	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G3	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G4	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G5	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G6	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G7	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G8	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"
G9	Double Hung with Trim	35" x 48"	7' 0"	3' 0"	3' 0"

Penditive Design Group
Wendy Staten & Daniel Koster
7711 Beverly Ct., Bentonville, Arkansas 71712
479-365-1909 479-366-7794

DATE	DESCRIPTION	AMOUNT	CHECK NO.	BANK	REMARKS
10/1/19	DEPOSIT	100.00			
10/2/19	DEPOSIT	100.00			
10/3/19	DEPOSIT	100.00			
10/4/19	DEPOSIT	100.00			
10/5/19	DEPOSIT	100.00			
10/6/19	DEPOSIT	100.00			
10/7/19	DEPOSIT	100.00			
10/8/19	DEPOSIT	100.00			
10/9/19	DEPOSIT	100.00			
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10/16/19	DEPOSIT	100.00			
10/17/19	DEPOSIT	100.00			
10/18/19	DEPOSIT	100.00			
10/19/19	DEPOSIT	100.00			
10/20/19	DEPOSIT	100.00			
10/21/19	DEPOSIT	100.00			
10/22/19	DEPOSIT	100.00			
10/23/19	DEPOSIT	100.00			
10/24/19	DEPOSIT	100.00			
10/25/19	DEPOSIT	100.00			
10/26/19	DEPOSIT	100.00			
10/27/19	DEPOSIT	100.00			
10/28/19	DEPOSIT	100.00			
10/29/19	DEPOSIT	100.00			
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10/31/19	DEPOSIT	100.00			
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11/8/19	DEPOSIT	100.00			
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11/10/19	DEPOSIT	100.00			
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11/27/19	DEPOSIT	100.00			
11/28/19	DEPOSIT	100.00			
11/29/19	DEPOSIT	100.00			
11/30/19	DEPOSIT	100.00			
12/1/19	DEPOSIT	100.00			
12/2/19	DEPOSIT	100.00			
12/3/19	DEPOSIT	100.00			
12/4/19	DEPOSIT	100.00			
12/5/19	DEPOSIT	100.00			
12/6/19	DEPOSIT	100.00			
12/7/19	DEPOSIT	100.00			
12/8/19	DEPOSIT	100.00			
12/9/19	DEPOSIT	100.00			
12/10/19	DEPOSIT	100.00			
12/11/19	DEPOSIT	100.00			
12/12/19	DEPOSIT	100.00			

Stoker
Addition &
Renovation

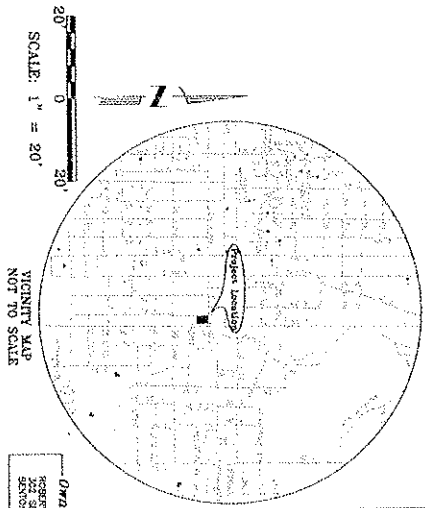
Garage Floor Plans & Details

Project Number	1601
Date	11/7/17
Grant By	DEK
Checked By	WAB

A-102

1. *What is the main purpose of the study?*

0123456789101112131415161718192021222324252627282930313233343536373839404142434445464748495051525354555657585960616263646566676869707172737475767778798081828384858687888990919293949596979899100



RAY OF Government of Idaho
BY COMMISSIONER ROBERT 1745-2034

File Code: PL417-001A

NOTES

[illegible]

OWNER/ACQUAINTANCE	LOCATION
ROBERT & SHELLY STOKER	302 SE 2ND ST. BENTONVILLE, AR 72712
DATE NO:	FILE NAME:
11-267	17-267 SP11.DWG

SHEET NO.
1 OF 1

1 OF 1

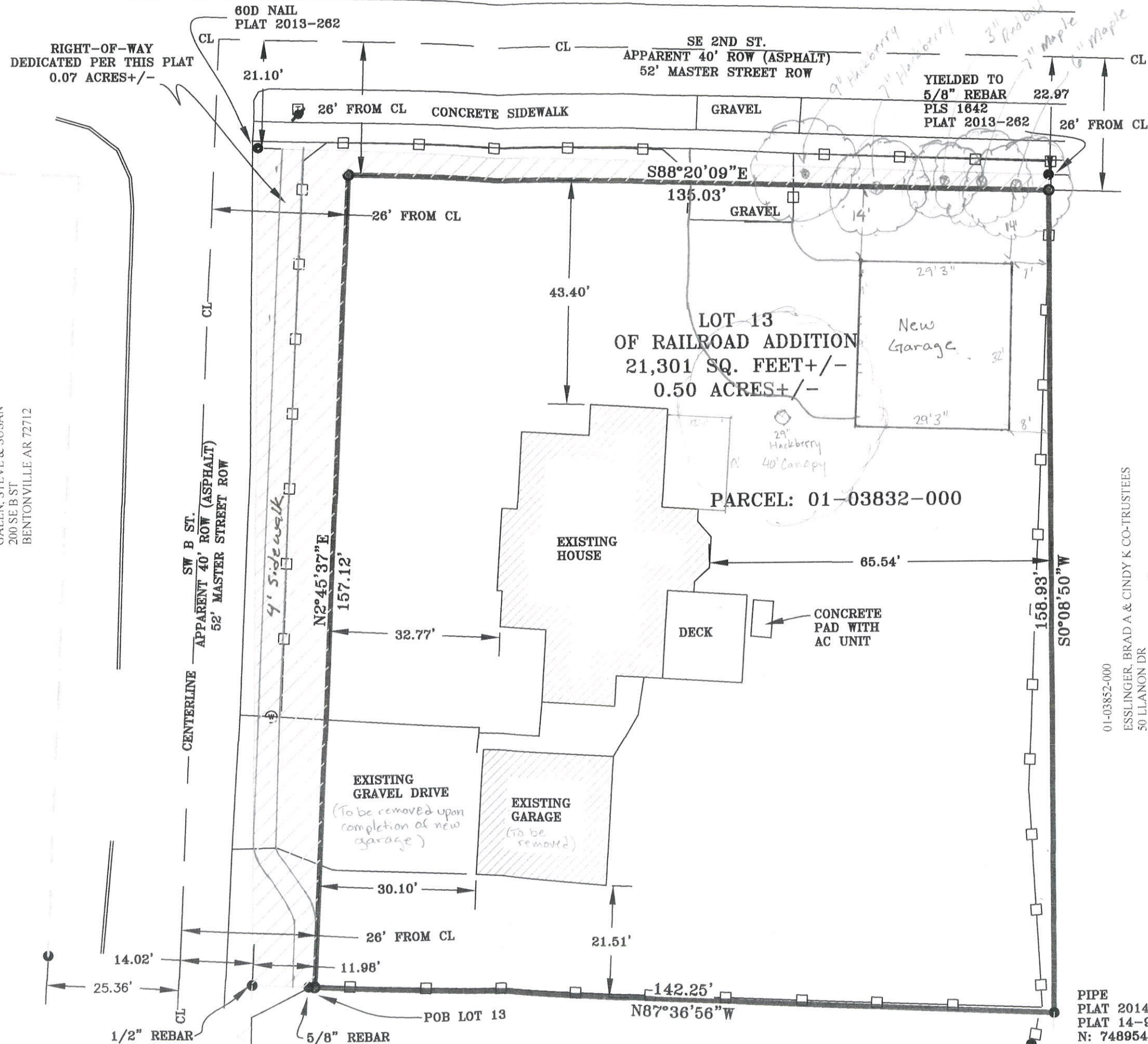
L201806467
BENTON CO CIVIC

There may not be fences or any other structures built in any drainage easements

ROGERS AR 72758

ROGERS AR 72758

01-03797-001
GALEN, STEVE & SUSAN
200 SE B ST
BENTONVILLE AR 72712



01-03832-000
ESSLINGER, BRAD A & CINDY K CO-TRUSTEES
50 LLANON DR
BELLA VISTA AR 72714

PIPE
PLAT 2014-371
PLAT 14-991
N: 748954.37
E: 882084.01

20' 0 20'
SCALE: 1" = 20'

CERTIFICATE OF APPROVAL

PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATION AND ALL OTHER CONDITIONS AN APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED, THIS CER IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF EXECUTION: 4/2/20

SIGNED _____
BENTONVILLE PLANNING
COMMISSION CHAIRMAN
SIGNED *Bob M. Caslin*
MAYOR CITY OF BENTONVILLE
SIGNED *Linda Spence*
CITY CLERK, CITY OF BENTONVILLE

SURVEYOR'S CERTIFICATION TO ACCURACY:

BY AFFIXING MY SEAL AND SIGNATURE TO THIS SURVEY PLAT, I DO HEREBY CERTIFY THAT THE LEGAL DESCRIPTION SHOWN HEREON IS TRUE AND ACCURATE, FURTHERMORE, THIS PLAT / SURVEY DEPICTED HEREIN MEETS THE MINIMUM REQUIREMENTS FOR LAND SURVEYS AS PUT FORTH IN THE ARKANSAS STANDARDS OF PRACTICE FOR PROPERTY BOUNDARY SURVEY AND PLATS DATED AUGUST 8, 1982 REV. 11/8, 1992 REV. MARCH 14, 1996 REV (MAY 2009) UPDATED 1-24-08 UPDATED 8-25-14 BY EVERETT ROWLAND 'STATE SURVEYOR, LAND SURVEYS DIVISION'

SURVEY CERTIFICATION

I, LEONARD GABBARD, HEREBY CERTIFY THAT THIS SURVEY PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY BY ME AND BOUNDARY MARKERS AND LOT SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYS HAVE BEEN MET.

BOA STAFF REPORT

VAR18-0020 – Bates – Rear Setback Variance

TO: Bentonville Board of Adjustment Members
THRU: Shelli Kerr, AIPC, Community Development Director
FROM: Jon Stanley, Planner
BOA DATE: August 8, 2017

GENERAL INFORMATION:

Representative: Dave Roberts

Applicant: Patricia Bates

Location: 302 SE 2nd Street

Existing Zoning: R-1, Single Family Residential

Existing Land Use: Single Family Residence

REQUEST: Variance

Rear Setback Variance		
	Regulation	Request
Article 401. Sec 401.7-D(1) Minimum Rear Setback Requirements for R-1, Single Family Residential	25' minimum rear setback	Request of: 19' Variance of : 6'

SURROUNDING ZONING:

Direction	Zoning
North	R-1, Single Family Residential
South	R-1, Single Family Residential
East	R-1, Single Family Residential
West	R-1, Single Family Residential

BACKGROUND:

The applicant has submitted a variance request to the rear setback for property located in the R-1, Single Family Residential zoning classification to allow for the construction of covered deck in the rear of the property. The applicant is requesting a 19' rear setback be allowed along the western property line, which is a variance of 6' from the 25' required by ordinance. At the time of this request, there are no utility easements nor overhead electric that would be impeded with the proposed variance.

For additional information, please reference the attached documents.

PUBLIC COMMENT:

Staff HAS NOT received public comment regarding this request.

CONDITIONS OF APPROVAL:

If approved, the following condition(S) shall apply:

1. The approved variance shall be for the proposed footprint of the deck only, as provided by the applicant within this application.
2. The applicant must obtain an approved building permit prior to construction of the structure.
3. If a POA exist for the Sturbridge Subdivision then the applicant shall provide approval for the construction of the covered deck from the POA president on the POA's letterhead.

July 30, 2018

Tyler Overstreet
Planner, City of Bentonville
305 SW A St.
Bentonville, AR 72712

RE: Patricia Bates Application for Variance on Parcel #01-06333-000

Dear Mr. Overstreet,

Please accept this narrative as part of my formal application for consideration of a variance on property located at 307 NW Old Forge Drive, the corner of NW Old Forge Drive and NW Barberry Lane, Bentonville, Arkansas. The proposed project is to cover and screen a 13' x 18' portion of the existing deck attached to the rear of the house. The edge of this deck is nineteen (19) feet from the rear of the lot. The Sturbridge subdivision plat filed on 9/22/1994 notes that all rear setbacks are to be twenty-five (25) feet. I am making a request for a six (6) foot variance to allow for the covering and screening of the existing deck.

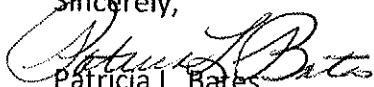
My understanding is that setbacks are established for utility easements and drainage. The proposed project includes installation of two (2) additional downspouts. I work for Beaver Water District and have envisioned a sustainable landscaping plan that will incorporate two (2) rain barrels to collect rainwater for reuse in the surrounding garden area. I have not personally experienced any drainage problems in the almost seven years I have owned the home and feel that adequate measures are planned to offset any additional run off from the deck roof covering. I have met with my neighbors to the south (305 NW Old Forge Dr.) and west (1305 Barberry Ln) about this proposed project and both parties are unconcerned as we have plantings along both property fence lines that ensure privacy.

The reason I am requesting the variance is twofold:

- As the lot faces due west and does not contain trees and landscaping sufficient to provide natural shade to the back of the house, the deck is rendered unusable from noon to approximately 7:30 p.m. during the warm seasons of the year. With the proposed construction of the roof covering, the existing chimney stack and the back door will also be replaced due to damage sustained by exposure to extreme heat and sunlight (photos attached).
- More importantly, this request to cover and screen the deck is to provide protection and to accommodate one of the major side effects I experience since being diagnosed in 2013 with the Mammillary Meat (alpha-gal) Allergy that is borne by the Texas Lone Star Tick. Aside from not being able to consume any products and most by-products of red meat, I have a strong reaction to bug bites. I can control my exposure to ticks by staying out of the woods, but I must apply insect repellent before I go outside or use the deck in the evening as I am hypersensitive to most insect bites. The screened in area would allow me to be able to enjoy the deck without concern for my health.

Thank you for considering my request to kindly waive the said variance requirement for this project.

Sincerely,

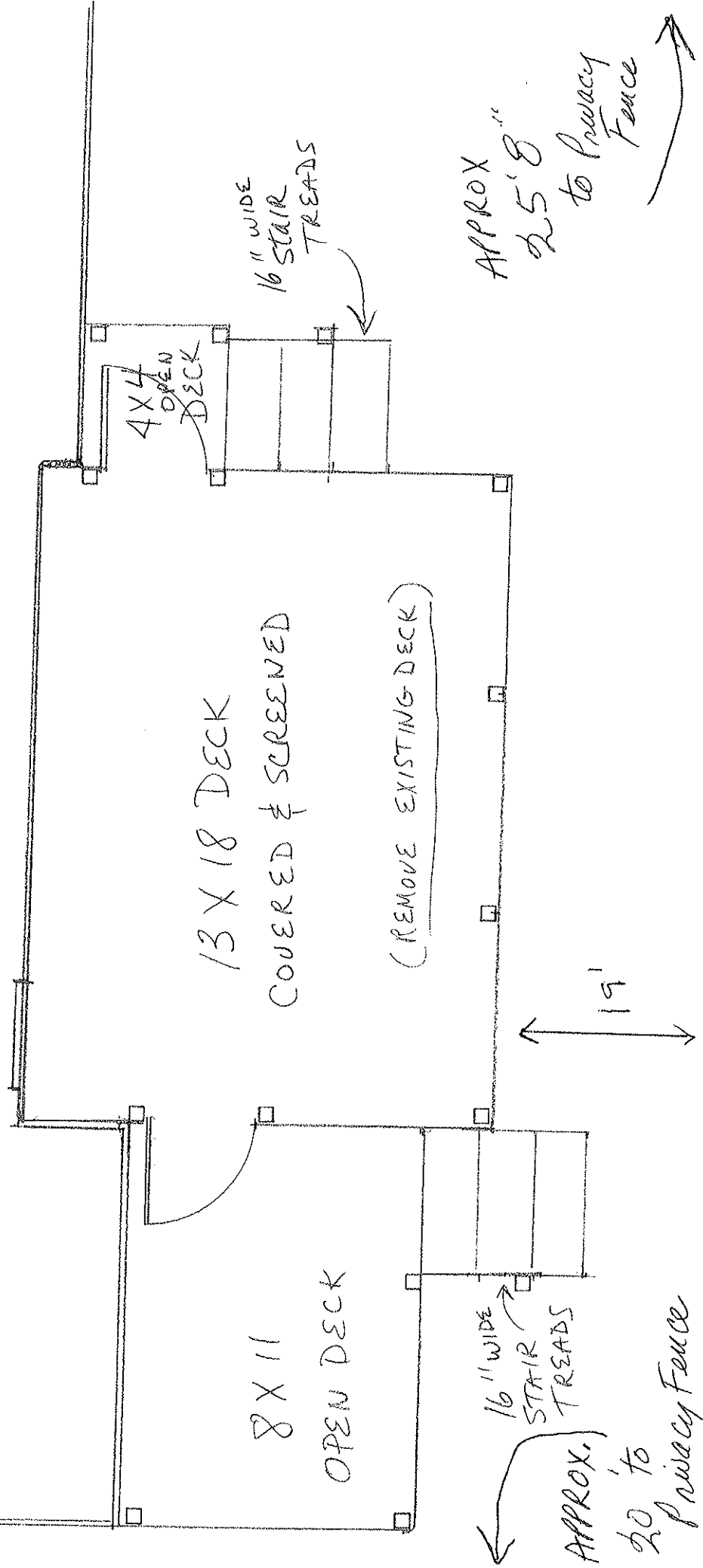

Patricia L. Bates
Property Owner



SCALE

1/4" = 1'

BACK OF HOUSE



DECK FOR PAT BATES
307 OLD FORGE DRIVE
BENTONVILLE ARK.

DAVE ROBERTS CONST. INC
479-721-7912

1/4" = 1'

