



**BOARD OF ADJUSTMENT
AGENDA**

September 26, 2018

I. Call to Order

- **Approval of Minutes**

- **New Business:**

- 1. Cadence Group** (*VAR18-0026*)
502 SE D Street

Variance*

- Appeal to Staff Interpretation (two-family vs. single family attached)

- 2. VGP, LLC (Roth)** (*VAR18-0027*)
929 & 935 North Main Street

Variance*

- Interior Side Yard Setback

- **Other Business**

- **Adjournment**

Board of Adjustment
Minutes
September 12, 2018

Meeting called to order by Rick Rogers, Chairman

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

Motion by Mr. Haynie, seconded by Ms. Holland to approve the minutes of August 8, 2018 as written.

Approved 3-0

Rick Rogers abstains due to absence from previous meeting.

New Business

Chairman Rogers moves Item #2, Bloodworth Variance Request, to the end of the agenda

Item #1

Cocoon Yoga Lab, Variance Request for 115 NW 2nd Street, Off-Street parking in D-C, VAR18-0021

Tyler Overstreet reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Tammy Morris, owner, explains variance request.

There is discussion amongst the Board members, staff, and the applicant.

Approved 3-0, with one abstaining.

Item #3

CHP, LLC, Variance Request for 424 DW D St, Side setback in RC-2, VAR18-0023

Tyler Overstreet reads the staff report.

Opened public hearing

No Public comments

Closed Public hearing

Powell Mckinney speaks in favor.

Jon Stanley explains hardship and precedence, there is some discussion between staff and Board members.

Approved 3-1, One abstaining.

Item #4

Jacobs Groups, Variance Request for 206,212,214 & 218 SE 7th St, Fence height Variance in D-E, VAR18-0024

Tyler Overstreet reads staff report.

Opened public hearing.

No public comments.

Public hearing closed.

Todd Jacobs, applicant, explains variance.

There is some discussion between Board members, staff, and applicant.
Approved 4-0

Item #5

Wood, Variance request for 308 SW E St, Fence Height Variance in R-1, VAR18-0025

Tyler Overstreet reads staff report.

Opened public hearing

No public comments

Public hearing closed

Kathrine Woods, applicant, speaks in favor of variance.

There is some discussion between Board members, staff, and applicant.

Right-of-way and set back discussed in regards to safety concerns and precedence.

Four foot fence considered along E Street for compliance with future code.

Motion by Chairman to approve Five foot fence along Glover to taper to a four foot fence along at the intersection of Glover and SW 4th, a four foot fence along SW 4th and E Street, picket style

Motion seconded by Mr. Chrisco

Approved 4-0

Item #2

Bloodworth, Variance Request for 103 Ridgefield, Fence design standard variance, VAR18-0019

Tyler Overstreet reads the staff report.

Opened public hearing

Duane Futch, 209 Ridgefield, president of the Hannover POA and architectural control committee, speaks against variance. Concerns over fence permit previously issued. Some discussion between Mr. Futch and Board members.

Walton Izer, 211 Regency Court, speaks for front facing

Kate & Russell Bloodworth, owners, spoke in favor of the variance and pled their case. There is some discussion between applicants, Board members, and staff.

Shelli Kerr, gives city interpretation of city code as it relates.

There is some discussion between Board members and staff regarding precedence and fence design.

Additional comments by public and owners for clarification.

Mr. and Mrs. Bloodworth, comment on process to move forward. There is some discussion between staff members and Board members.

Final comments from Mr. Bloodworth in defense of variance.

Closed public hearing.

Denied 4-0

Motion by Mr. Rogers, seconded by Ms. Holland to adjourn
Meeting adjourned

Rachel Gross

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

BOA STAFF REPORT

VAR18-0026, Cadence Group, LLC, - Appeal to Staff Interpretation

TO: Bentonville Board of Adjustment Members
THRU: Shelli Kerr, Community Development Director
FROM: Jon Stanley, Senior Planner
BOA DATE: September 26, 2018

GENERAL INFORMATION:

Representative: Jake Newell with Newell Development

Applicant: Cadence Group, LLC

Location: 502 SE D Street

Existing Zoning: R-C2, Central Residential - Moderate Density

Existing Land Use: Vacant High Density Residential lot

REQUEST: Appeal to Staff Interpretation

Appeal to Staff Interpretation		
	Regulation	Request
Definition of Dwelling, Single-Family per Article 201, Sec 201.02 of the zoning code	Single-Family shall be a detached residence	Split a two-family dwelling into separate lots and not meet the bulk & area requirements of the zoning district therefore creating a single-family attached unit

SURROUNDING ZONING:

Direction	Zoning
North	R-C2, Central Residential - Moderate Density
South	R-1, Single Family Residential
East	PRD, Planned Residential Development
West	R-1, Single Family Residential

BACKGROUND:

The applicant has submitted an appeal to staff's interpretation of the Single-Family Dwelling definition as defined in the current zoning code. According to the zoning code, a single-family dwelling shall be a detached residence primarily designed for or occupied by one family.

According to the applicant's narrative, they believe the dwelling is still classified as a Two-Family dwelling and can be split into separate lots without meeting the bulk and area, lot requirements of the zoning district so long as the construction type between the units meets the requirements of the building code.

For additional information, please reference the attached documents and memo.

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 appeal shall be for the proposed footprint of the structure 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. Any projections into the 5 foot setback including but not limited to soffits, fascias, bay windows or any other projections, must be non-combustible material or 1 hour rated construction. The ventilation of soffits is prohibited on side locations where the 10 foot fire separation requirement cannot be achieved.

To: Board of Adjustment

Re: Interpretation of Duplex vs Single Family in Downtown Neighborhood district

Newell Development on behalf of many of our past and future projects would like to submit an issue of interpretation within the Downtown Neighborhood zoning districts. For examples we would like to show our project at 502 SE D and how it relates to this issue. Our company has 5 other lots in DN2 areas that would be affected by this ruling.

Our company's vision and plan to create a diverse amount of housing types in the core of Bentonville has led us to building duplexes with 2 hour rated fire walls and individual utilities; then splitting these units into their own parcels and selling these units as single family residences. We have done this at 408 and 410 SW B and 327 SW D.

Now that we are working on development in DN 2 areas city staff is interpreting the code so that once we do a split that each side of the duplex now becomes a single-family structure and has to conform the single family setback requirements and not the duplex requirements. Our interpretation from seeing this product type built all over the country is that it is still a duplex but now the duplex has 2 separate parcels. We can build duplexes in DN2 and meet the bulk area and other requirements, but is impossible to build duplexes and meet the single-family lot width requirement.

We believe the intent of the Downtown Neighborhood Zoning is to provide the type of duplex units we are trying to build but there is an issue of what a duplex is and or has been in our past and future zoning codes.

We believed that literal interpretation of the current code deprives us of rights that would allow us to create housing stock in the downtown core.

Please feel free to contact me directly with any questions. Jake 479 225 3997

Thanks

Jake Newell

Newell Development

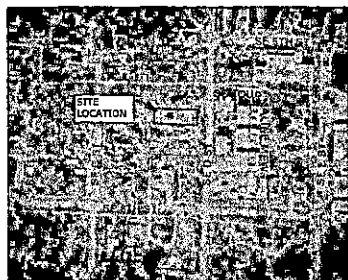
A handwritten signature in black ink, appearing to read 'J. Newell', with a stylized, looping initial 'J' and a trailing 'N'.



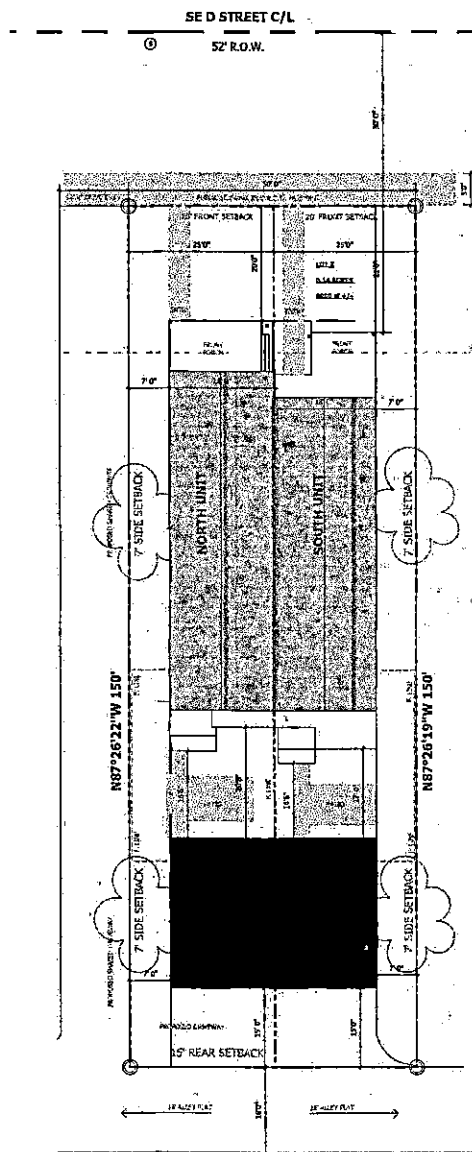
2 STREET PERSPECTIVE (NE)
N.T.S.



3 STREET PERSPECTIVE (SE)
N.T.S.



4 VICINITY MAP
N.T.S.



1 SITE PLAN
SCALE 1" = 10' - 0"

GENERAL NOTES:

- CONTRACTOR IS TO INSPECT EXISTING CONDITIONS INCLUDING BUT NOT LIMITED TO, UNDERGROUND WATER MAINS, SEWER, TELEPHONE, AND ELECTRIC, WORK HERE UNDER ARE INDICATED ON DRAWINGS FOR INFORMATION PURPOSES ONLY. NO GUARANTEE AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. RESPONSIBILITY FOR SUCH ACCURACY AND COMPLETENESS IS DECLARED. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR LOCATING UNDERGROUND INSTALLATIONS PRIOR TO CONSTRUCTION.
- ALL DIMENSIONS ARE FROM FACE OF EXIST. FACE OF CONC. OR CENTER LINE UNLESS NOTED OTHERWISE. DIMENSIONS ARE NOT TO BE SCALED. DIMENSIONS SHALL BE IN WRITTEN INFORMATION ONLY. VERIFY DIMENSIONS PRIOR TO WORK. ALTERATIONS IN DIMENSIONS AFFECTING THE DESIGN SHALL BE BROUGHT TO THE ATTENTION OF THE BUILD COLLECTIVE PROMPTLY FOR A YES/NO DECISION.
- NOT ALL MATERIALS AND ASSEMBLIES HAVE BEEN SPECIFIED. CONTRACTOR IS TO VERIFY ALL NON-SPECIFIED ITEMS WITH OWNER AND BUILD COLLECTIVE PRIOR TO EXISTING ANY WORK INVOLVING THESE ITEMS.
- IT IS THE CONTRACTOR'S RESPONSIBILITY TO SUBMIT SUBSTITUTIONS OR DEVIATIONS FROM THE CONTRACT DOCUMENTS TO BUILD COLLECTIVE FOR APPROVAL. NON-APPROVED DEVIATIONS WILL HOLD BUILD COLLECTIVE AND CONSULTING ENGINEERS HARMLESS FOR SUCH ITEMS.
- ALL WORK TO CONFORM TO APPLICABLE CODES. THE MOST STRINGENT CODE SHALL APPLY. DISCREPANCIES IN CODES AND CONTRACT DOCUMENTS SHALL BE BROUGHT TO BUILD COLLECTIVE'S ATTENTION IMMEDIATELY AND RESOLVED BEFORE PROCEEDING.
- ALL MATERIALS ARE TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS AND AS SUCH ALL SUBCONTRACTORS ARE TO INSURE THAT ALL MANUFACTURERS WARRANTIES WILL BE MAINTAINED.
- ALL SUBCONTRACTORS ARE RESPONSIBLE FOR INSURING THEIR SAFETY AND OF THEIR PERSONNEL ON THE JOB SITE AT ALL TIMES. THEY SHALL CARRY WORKMANS COMPENSATION AND LIABILITY INSURANCE FOR THEMSELVES AND THEIR EMPLOYEES. SUBCONTRACTORS AND THEIR EMPLOYEES SHALL BE PERSONALLY RESPONSIBLE TO FOLLOW ALL OSHA RULES AND REGULATIONS.
- GENERAL CONTRACTOR IS TO COORDINATE ALL MECH, ELEC, AND PLUMBING AND PROVIDE NECESSARY CONSTRUCTION TO FACILITATE SUCH WORK INCLUDING SUPPORTS, BLOCKING, ROUGH OPENINGS, ETC.
- IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO REVIEW CONSTRUCTION DRAWINGS BEFORE INSTALLATION OF MECH, ELEC, OR PLUMBING INSTALLATION, AND SHALL NOTIFY BUILD COLLECTIVE IMMEDIATELY FOR ANY DISCREPANCIES. ANY WORK INSTALLED IN CONFLICT WITH THE CONTRACT DOCUMENTS SHALL BE CORRECTED BY THE GENERAL CONTRACTOR AT NO EXPENSE TO THE OWNER OR BUILD COLLECTIVE.
- ALL DRAWINGS, SPECIFICATIONS AND DESIGN OF THE FOLLOWING SYSTEMS ARE TO BE PROVIDED BY OTHER AS REQUIRED, OWNER SHALL CONTRACT WITH OTHERS UNDER SEPARATE CONTRACTS.
A. CIVIL ENGINEERING B. MECHANICAL ENGINEERING C. ELECTRICAL ENGINEERING

GENERAL SITE NOTES:

- TAKE TEMPORARY CONTROL MEASURES TO PREVENT EROSION SHEET FLOW, USE STRAIN OR RAY MALES, SET FENCING OR EROSION FILTERS AS NECESSARY TO MINIMIZE SOIL MOVEMENT FROM PROPERTY.
- CONTRACTOR SHALL FINISH GRADE SITE SO AS TO DIVERSE WATER AWAY FROM BUILDING STRUCTURE.
- ALL FILL SHALL BE COMPACTED TO 95% STANDARD OVER PROCTOR DENSITY (ASTM D-1557) AND MIN 9000 P.S.F. BEARING CAPACITY.
- MIST EXISTING GRADE AT ALL CONTRACT UNITS OR PROPERTY LINES.
- GENERAL CONTRACTOR TO PROVIDE ROUGH GRADING TO 6" BELOW FINISH GRADE 6" TO SOIL TO BE REUSE OR PROVIDE FOR FINAL GRADING.
- PROVIDE CONTROL JOINTS AND EXPANSION JOINTS IN CONCRETE AGAINST FINISHED BUILDING STRUCTURE. PROVIDE AS FOLLOWS:
EXPANSION JOINTS AT 20' O.C. MAX
CONTROL JOINTS AT 4' O.C. MAX AT PROPERTY BOUNDARIES
- ALL UTILITY LOCATIONS ARE APPROXIMATE. FIELD VERIFY EXACT LOCATIONS.
- ALL DISTURBED AREAS TO BE RESEED.
- CONTRACTOR TO VERIFY ALL SITE CONDITIONS PRIOR TO WORK. NOTIFY BUILD COLLECTIVE IF CONDITIONS VARY FROM WHAT IS SHOWN.
- SITE PLANS, DIAGRAMMATIC IN NATURE, BOUNDARIES, UTILITIES, AND OTHER SITE FEATURES SHOULD BE REFERENCED FROM A LICENSED SURVEYOR. GC SHALL CONFIRM ALL SETBACKS AND CLEARLY MARK ON SITE PRIOR TO BEGINNING CONSTRUCTION.
- GC TO COORDINATE ALL UTILITY CONNECTIONS WITH APPROPRIATE GOVERNING BODY.
- SITE PLAN MUST BE APPROVED BY THE BUILDING OFFICIAL AND THE PLANNING DEPARTMENT PRIOR TO BEGINNING CONSTRUCTION.
- GENERAL CONTRACTOR / PROPERTY OWNER IS TO SUBMIT DRAWINGS TO THE BUILDING DEPARTMENT TO OBTAIN BUILDING PERMIT PRIOR TO BEGINNING WORK.
- ALL SITE DIMENSIONS ARE SHOWN FOR BIDDING PURPOSES ONLY. ACTUAL SITE DIMENSIONS CAN VARY.

PROJECT SUMMARY

APPLICABLE CODES:
INCLUDED BUT NOT LIMITED TO, THE LATEST ADOPTED ADDITION OF THESE CODES AS AMENDED BY THE CITY OF BENTONVILLE AND THE STATE OF ARKANSAS.

2012 International Residential Code (IRC)
(Vol. 2 with Arkansas State amendments)

THIS PROJECT IS A NEW BUILDING ON A PREVIOUSLY UNDEVELOPED SITE. A LOT SPLIT HAS BEEN COMPLETED BY A SURVEYOR AND RECORDED WITH THE COUNTY.

BUILDING DATA

PROPOSED USE: TWO FAMILY DWELLING UNIT
PROPERTY SHOWN IS ZONED: R-C2
FRONT, SIDE, AND REAR YARD REGULATIONS ARE AS FOLLOWS:
Front Setback: 20' minimum
Side Interior Setback: 7' minimum
Rear Setback: 15' minimum

NORTH UNIT - FIRST FLOOR - 1142 SF
NORTH UNIT - SECOND FLOOR - 1034 SF
TOTAL HEATED / COOLED - 2181 SF
GARAGE SPACE (STORAGE INCLUDED) - 470 SF

SOUTH UNIT - FIRST FLOOR - 1171 SF
SOUTH UNIT - SECOND FLOOR - 982 SF
TOTAL HEATED / COOLED - 2153 SF
GARAGE SPACE (STORAGE INCLUDED) - 470 SF

PROPERTY DESCRIPTION:
LOT 2 - AREA = 1.4 ACRES 00000' +/-

SHEET INDEX:

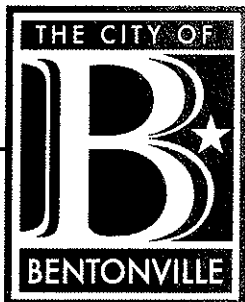
A0.0 COVER SHEET
A1.0 FLOOR PLANS
A1.1 FLOOR PLANS
A2.0 ELEVATIONS
A2.1 ELEVATIONS
A7.0 R.C.P.
A7.1 R.C.P.

SURVEY CONTACT

NEVILL SURVEYING, LLC.
705 NW D STREET
BENTONVILLE, ARKANSAS 72712
OFFICE: 479-790-7254

LEGEND

- SET 1/2" REBAR W/CAP
- PROPERTY LINE
- CENTER LINE
- ⊙ SANITARY SEWER MANHOLE
- SETBACK LINE



To: Owner/Contractor

From: Lance Blasi, Chief Building Inspector

Re: All structures constructed in areas that allow a less than 7 foot side setback.

Any projections into the 5 foot side setback including but not limited to soffits, fascias, bay windows or any other projections, must be **non-combustible material** or **1 hour rated** construction. The **ventilation of soffits is prohibited** on side locations where the 10 foot fire separation requirement cannot be achieved.

Address: _____

Date: _____

Owner/Contractor _____

(Signature)

BOA STAFF REPORT

VAR18-0027 – Roth Family Partnership, LLC –Interior Side Yard Setback Variance

TO: Bentonville Board of Adjustment Members
THRU: Shelli Kerr, AIPC, Community Development Director
FROM: Jon Stanley, Senior Planner
BOA DATE: September 26, 2018

GENERAL INFORMATION:

Representative: Jeff Roth

Applicant: VGP, LLC (Homes by Roth)

Location: 929 & 935 North Main Street

Existing Zoning: D-N2, Downtown Medium Density Residential

Existing Land Use: Two (2) undeveloped single-family lots

REQUEST: Variance(s)

Interior Side Yard Setback Variance		
	Regulation	Request
Article 401. Sec 401.7-D(1) Minimum Side Setback Requirements for D-N2, Downtown Medium Density Residential	7' minimum side setback	Request of: 5' Variance of : 2'

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 side interior setback for properties located at 929 & 935 North Main Street that resides in the D-N2, Downtown Medium Density Residential zoning classification to allow for the construction of a single-family home at each of these locations. The applicant is requesting a 5' side interior setback be allowed along the northern and southern property lines, which is a variance of 2' from the 7' required by ordinance.

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 footprints of the single-family homes only, as provided by the applicant within this application.
2. The applicant must obtain an approved building permit prior to construction of the structures.
3. Any projections into the 5 foot setback including but not limited to soffits, fascias, bay windows or any other projections, must be non-combustible material or 1 hour rated construction. The ventilation of soffits is prohibited on side locations where the 10 foot fire separation requirement cannot be achieved.

Homes by Roth, LLC
6077 SW Regional Airport Blvd, Suite 1
Bentonville, AR 72712
Phone 479-250-0524 Fax 866-651-6917

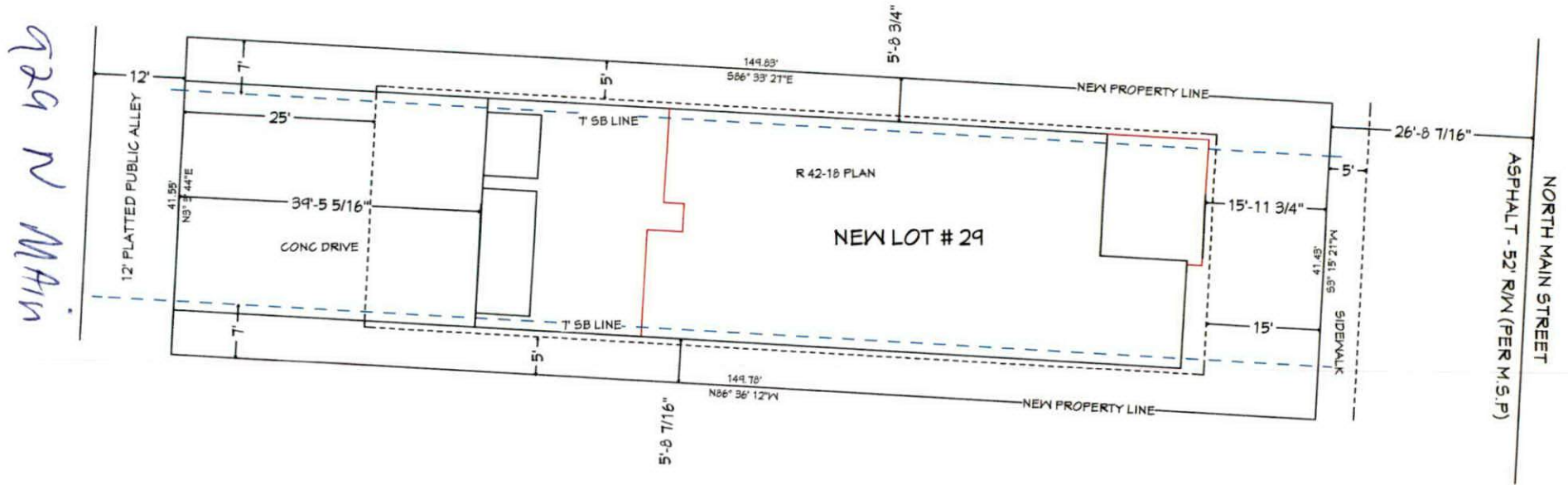
To whom it may concern,

I am requesting a side setback easement variance for properties located at 929 and 935 N Main St. We are asking that we be allowed to use the 5' side setback as this is what was originally purposed and approved when the final plat was done. We originally bought the property in question and 2 other lots to the south, they had old run-down homes on them. We tore down and cleaned up the properties and then had the piece of property re-platted into 4 lots with 5' side setbacks. We have since built 2 homes using the 5' side setbacks on the lots to the south. We now have both homes sold on the existing 2 lots that we have left. These would be lots 28 and 29. It has been brought to our attention that the new ordinance is 7' side setbacks. This really creates a huge issue for us as we have the homes contracted with the houses drawn to fit the lots with the 5' side setback. We have looked at making the homes work with the 7' side setback but honestly cannot make it work. It is very difficult to make the home work at just over 27' wide buildable area. We ask that we be allowed to proceed with the 5' side setbacks as originally planned and as the 2 previous homes had been built according to. We will still have our 10' access between houses for fire related issues if that arises.

Thank you,
Jeff Roth

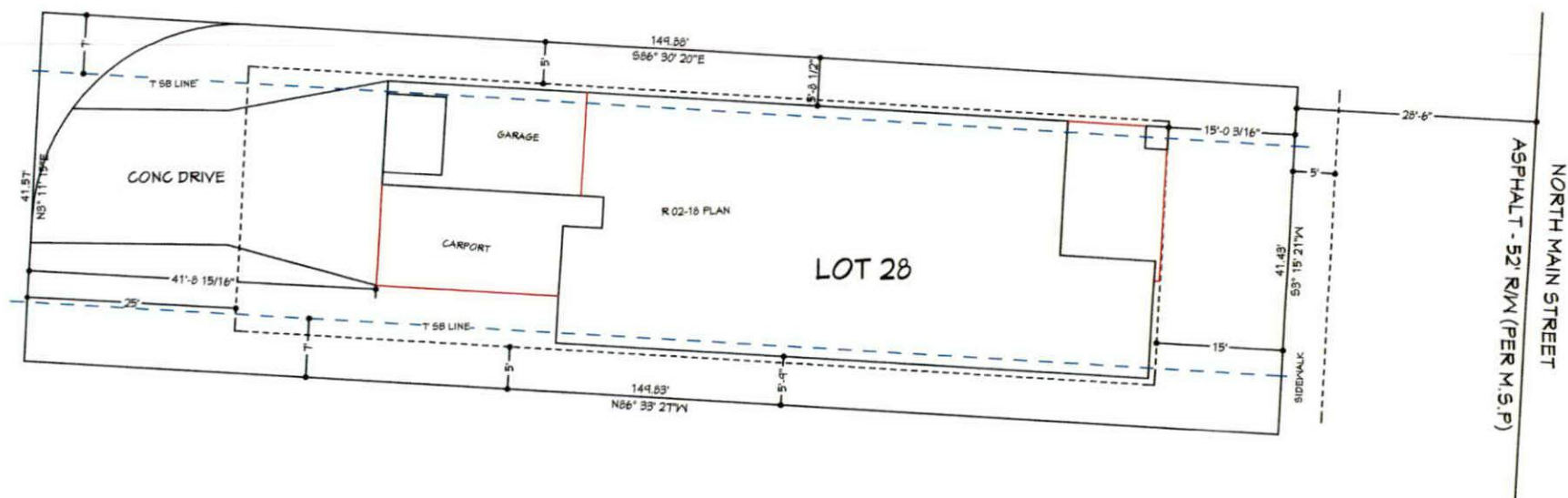
"Creating A Difference"

PLOT PLAN
1" = 20'



Burk's Addition
North Main St
Bentonville, AR
Homes by Roth
6.24.20018
9.5.2018
9.13.2018

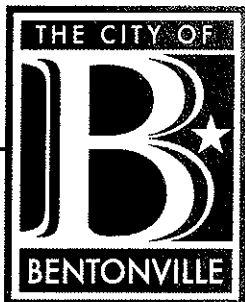
Precision Layout, Inc
479.841.4674
kent@elston.com



MAIN N 546

Burk's Addition
 North Main St
 Bentonville, AR
 Homes by Roth
 5.24.20018
 1.5.2018
 1.13.2018

Precision Layout, Inc
 479.841.4674
 kent@elston.com



To: Owner/Contractor

From: Lance Blasi, Chief Building Inspector

Re: All structures constructed in areas that allow a less than 7 foot side setback.

Any projections into the 5 foot side setback including but not limited to soffits, fascias, bay windows or any other projections, must be **non-combustible material** or **1 hour rated** construction. The **ventilation of soffits is prohibited** on side locations where the 10 foot fire separation requirement cannot be achieved.

Address: _____

Date: _____

Owner/Contractor _____

(Signature)