



**BOARD OF ADJUSTMENT
AGENDA
November 28, 2018**

I. Call to Order

II. Approval of Minutes

III. New Business:

1. Osterloh

Variance*

201 NW G Street (*VAR18-0034*)

- Rear Yard Setback
- Side Yard Setback

2. Church of the Nazarene

Variance*

220 NW A Street (*VAR18-0035*)

- Fence Location Adjacent to Public Right-of-Way

IV. Other Business

V. Adjournment

Board of Adjustment
Minutes
November 14, 2018

Meeting called to order by Rick Rogers, Chairman

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

Motion by Mr. Pearson, seconded by Mr. Haynie to approve the minutes of October 24, 2018 as written.
Approved 5-0

New Business

Item #1

Bentonville/Bella Vista Trailblazers, Variance Request for 304 Coler Trail, Maximum Sign Height, VAR18-0031

Tyler Overstreet reads the staff report and clarifies that the request is for two signs.

Opened public hearing

No public comments

Closed public hearing

India Olson, representative of Ecological Design Group, explains the variance.

There is discussion amongst Ms. Olson, the Board members, and staff.

Approved 5-0

Item #2

Malec, Variance Request for 4800 SW Blaire Mont Road, Rear Yard Setback, VAR18-0032

Tyler Overstreet reads the staff report.

Opened public hearing

No public comments

Closed public hearing

David Anderson explains the request.

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

Amended to a request of 7 feet, which is a variance of 18 feet from ordinance, for a trellis/pergola, non-covered roof and non-enclosed structure.

Approved 5-0

Item #3

Cornerstone Construction Homes, Variance request for Southwest Elm Tree Road, Fence Location Adjacent to Public Right-of-Way, VAR18-0033

Opened public hearing

No public comments

Closed public hearing

Tim McGuire, representative, explains the variance request. There is discussion amongst Mr. McGuire, Board members, and staff.

Amended to a request of 1.5 feet for a variance of 3.5 feet from ordinance.

Approved 5-0

Other Business

Item #1

2018-2019 Board of Adjustment Calendars

There is discussion on holiday conflicts.

Motion by Mr. Chrisco, seconded by Mr. Pearson to adjourn

Meeting adjourned

Ali Worley

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

BOA STAFF REPORT

VAR18-0034 – Osterloh – Rear and Side Yard Setback Variance(s)

TO: Bentonville Board of Adjustment Members
THRU: Shelli Kerr, AICP, Community Development Director
FROM: Tyler Overstreet, Planner
BOA DATE: November 28, 2018

GENERAL INFORMATION:

Representative: Nick Rumancik

Applicant: Eric and Tamie Osterloh

Location: 201 NW G Street

Existing Zoning: DN-1, Downtown Low-Density Residential

Existing Land Use: Existing Single-Family Home

REQUEST: Variance

Interior Side Yard Setback Variance		
	Regulation	Request
Article 401. Sec 401.07-B.d, DN districts setback standards.	25' minimum rear yard	Request of: 13' Variance of : 12'
Article 401. Sec 401.07-B.d, DN districts setback standards.	Total Side Yard Width of 25% of Total Lot Width; 1 Side Yard with Minimum width of 10' and 1 Side Yard of remainder of total, but no less than 5'	Request of: 7' Variance of: 3'

SURROUNDING ZONING:

Direction	Zoning
North	R-1, Single-Family Residential
South	R-1, Single-Family Residential
East	R-O, Residential Office
West	C-2, General Commercial

BACKGROUND:

The applicant submitted two variance requests to rear and side setbacks in downtown districts for property located at 201 NW G Street. The property, currently zoned DN-1, Downtown Low-Density Residential, is currently the subject of a lot split application to allow for the construction of one new home and the remodeling of the existing home.

The applicant requests they be permitted to establish a rear lot line 13-feet from the rear of the proposed remodeled home, which is a variance of 12-feet from the 25-feet required by ordinance. In addition, the applicant requests they be permitted to establish a lot line 7-feet from the side of the remodeled home, which is a variance of 3-feet from the 10-feet 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 Lots 40 and 41 of Dickson Addition, for the building footprints and lot lines as provided by the applicant within their application.
2. The applicant must obtain an approved building permit prior to construction and/or remodeling of the homes.



James Layout Services, LLC

PO Box 611 Farmington, Arkansas 72730

(479) 445-7731

jameslayoutservices@yahoo.com

*November 19, 2018
Board of Adjustments
City of Bentonville
315 S.W. "A" St.
Bentonville, AR 72712*

**Re: 201 NW "G" St.
Bentonville, AR 72712
Rezoning Request**

We are representing a request by Eric and Tamie Osterloh for a variance for the property located at 201 NW G Street. The property currently has a home and the owner would to split the property in to two lots and keep the existing house on one lot and build a new house on the other lot. Please find below the narrative addressing the required for the variance.

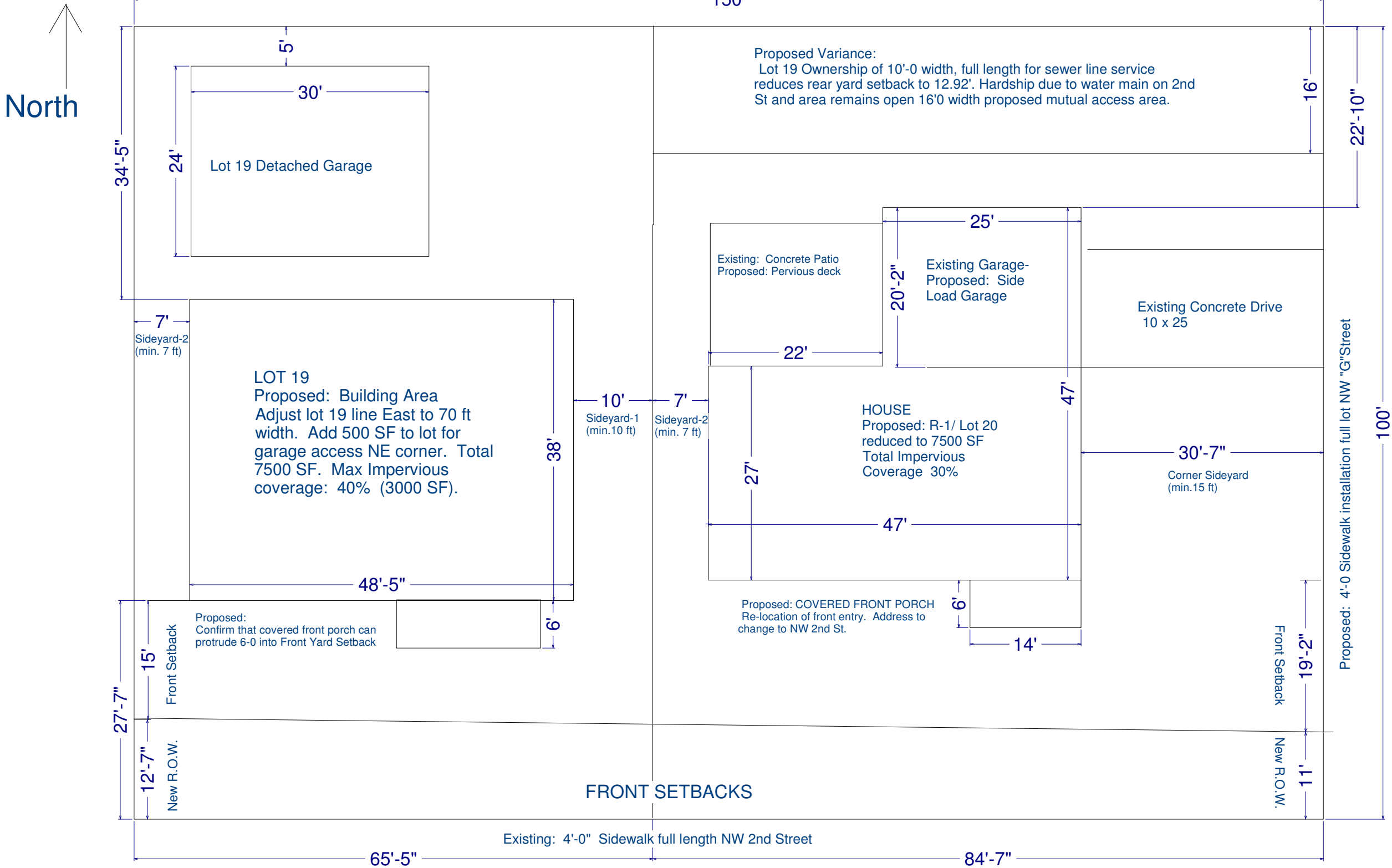
- *The property is currently zoned R-1 Single Family Residential. We have requested to rezone the property to DN-1 Down Town Low Residential.*
- *The current house front door and garage is facing NW G Street (East). The owner would like to remodel the house and make the front door of the house facing NW 2nd Street (South) and the garage facing north on the property instead of East. They would like to change the side setback from 10' to 7' and the rear setback from 25' to 13'*

*Sincerely,
James Layout Services, LLC*

**Nick Rumancik
Field Operation Manager**

Eric and Tamie Osterloh
204 NW "G" Street
Bentonville, AR 72712
Lots 19, 20 Dicksons Add.

Proposed: Project is to adjust zoning and add variances to allow new construction on existing lot 19. Change frontage to 2nd Street of lot 20 for remodel and provide access for sewer line and drive access to lot 19.



NO.	DESCRIPTION	BY	DATE

SHEET TITLE:

PROJECT DESCRIPTION:
Eric and Tamie Osterloh
204 NW "G" Street
Bentonville, AR 72712
LOT LINE ADJUSTMENT

Eric Osterloh
emosterloh@gmail.com
21060 Abbey Road, TX 51503
402635-3301

NEWCENTURY BUILDERS

DATE:
11/9/2018

SCALE:
1" = 30ft

SHEET:
A-1

20' 0 20'

SCALE: 1" = 20'

LEGEND

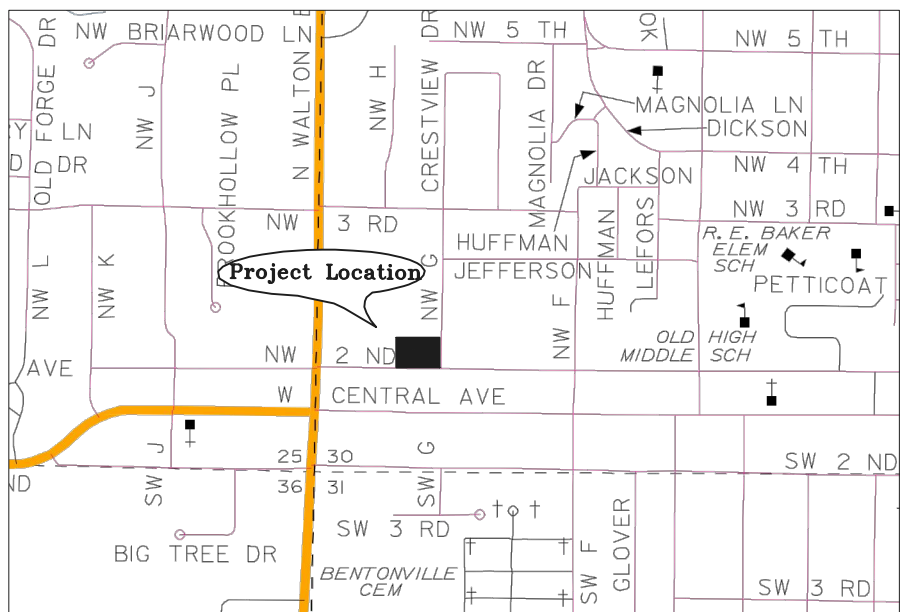
- MONUMENT SET (5/8" REBAR)
- MONUMENT FOUND (AS NOTED)
- UTILITY POLE
- DRAINAGE MANHOLE
- FENCE
- PROPERTY LINES

Drainage Easement Note:

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

SURVEY CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE UNDER MY SUPERVISION. BOUNDARY MARKERS AND LOT CORNERS SHOWN HERON ACTUALLY EXIST AND THEIR LOCATION ARE CORRECTLY SHOWN.



VICINITY MAP NOT TO SCALE

Notes:

- Except as specifically stated or shown on this plat, the survey does not purport to reflect any of the following which may be applicable to the subject real estate:
Easements, other than possible easements which were visible at the time of making of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, or any other facts which an accurate and current title search may disclose.
- Every document of record reviewed and considered as a part of this survey is noted hereon. Only the documents noted hereon were supplied the surveyor.
- This plat represents a boundary survey of the parcel recorded in Deed Records, Book 2009, Page 60324 at the courthouse in Benton County, Arkansas.
- The contractor must determine that proposed structures are clear of all boundary lines, easements, and meet building setback requirements before construction begins.
- Basis of Bearings: Bentonville City Control Monument #11 Convergence Angle -1°17'34".
- This survey is valid only if the drawing includes the seal and signature of the surveyor.
- This survey meets current "Arkansas Minimum Standards for Property Boundary Surveys and Plats."
- No abstract of title, nor title commitment, nor results of title searches were furnished the surveyor. There may exist other documents of record which would affect this parcel.
- Declaration is made to the original purchaser of the survey and is not transferable to any additional institutions or subsequent owners.
- This property is zoned DN-1
- No attempt was made to show building setback lines graphically on the survey. Setback dimensions are based on the orientation of the building(s) to be constructed.
- (BY GRAPHICAL PLOTTING ONLY)
This property is not located within any presently established 100-year flood plain as determined by the National Flood Insurance Program, flood insurance rate map for Benton County, Arkansas. Map Number 05007C0255K. Revised date June 5, 2012.

LOT 40:
PART OF LOT 20 DICKSON'S ADDITION TO THE CITY OF BENTONVILLE, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE ORIGINAL LOT 20 OF DICKSON'S ADDITION NORTH 88°07'56" WEST A DISTANCE OF 48.00 FEET TO A FOUND PIPE; THENCE NORTH 02°38'27" EAST A DISTANCE OF 10.95 FEET TO A SET 5/8" REBAR; THENCE NORTH 87°29'43" WEST A DISTANCE OF 86.61 FEET TO A SET 5/8" REBAR BEING THE POINT OF BEGINNING; THENCE NORTH 87°29'43" WEST A DISTANCE OF 64.41 FEET TO A SET 5/8" REBAR; THENCE NORTH 02°19'37" EAST A DISTANCE OF 87.00 FEET TO A SET 5/8" REBAR; THENCE SOUTH 88°16'11" EAST A DISTANCE OF 151.52 FEET TO A SET 5/8" REBAR; THENCE SOUTH 02°38'56" WEST A DISTANCE OF 10.00 FEET TO A SET 5/8" REBAR; THENCE NORTH 88°30'56" WEST A DISTANCE OF 63.94 FEET TO A SET 5/8" REBAR; THENCE SOUTH 02°19'37" WEST A DISTANCE OF 8.69 FEET TO A SET 5/8" REBAR; THENCE NORTH 87°46'50" WEST A DISTANCE OF 21.89 FEET TO A SET 5/8" REBAR; THENCE NORTH 87°46'50" WEST A DISTANCE OF 21.89 FEET TO A SET 5/8" REBAR; THENCE SOUTH 03°20'09" WEST A DISTANCE OF 69.12 FEET TO THE POINT OF BEGINNING CONTAINING 0.16 ACRES OR 6,759 SQUARE FEET MORE OR LESS.

SUBJECT TO COVENANTS, EASEMENTS AND RIGHTS OF WAY, IF ANY. SUBJECT TO ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS LEASES.

LOT 41:
PART OF LOT 20 DICKSON'S ADDITION TO THE CITY OF BENTONVILLE, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE ORIGINAL LOT 20 OF DICKSON'S ADDITION NORTH 88°07'56" WEST A DISTANCE OF 48.00 FEET TO A FOUND PIPE; THENCE NORTH 02°38'27" EAST A DISTANCE OF 10.95 FEET TO A SET 5/8" REBAR BEING THE POINT OF BEGINNING; THENCE NORTH 87°29'43" WEST A DISTANCE OF 86.61 FEET TO A SET 5/8" REBAR; THENCE NORTH 03°20'09" EAST A DISTANCE OF 69.12 FEET TO A SET 5/8" REBAR; THENCE SOUTH 87°46'50" EAST A DISTANCE OF 21.89 FEET TO A SET 5/8" REBAR; THENCE NORTH 02°19'37" EAST A DISTANCE OF 8.69 FEET TO A SET 5/8" REBAR; THENCE SOUTH 02°38'27" WEST A DISTANCE OF 79.05 FEET TO THE POINT OF BEGINNING CONTAINING 6,557 SQUARE FEET OR 0.15 ACRES MORE OR LESS.

SUBJECT TO COVENANTS, EASEMENTS AND RIGHTS OF WAY, IF ANY. SUBJECT TO ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS LEASES.

P.O.C.
COMPUTED POINT
SE CORNER
ORIGINALS LOT 20
DICKSON'S ADDITION

NOTES:

Before any work in the Right-of-Way commences, Contractor and Owner is to contact the City of Bentonville Engineering and Transportation Departments and notify said departments on the intent and type of the work that will take place with-in the Right-of-Way.

Owner/Developer shall coordinate with all local utilities to insure each lot has water, sewer and electric service.

Sidewalks shall be the responsibility of the builder/owner at the time of building permit issuance.

All structures must maintain minimum of 20' clearance from all electric lines.

10' Utility Easement on exterior lot lines.

Lot 40 shall not have access onto NW 2nd Street.

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 and furthermore that this plat and survey depicted herein meets the minimum requirements for Land Surveys As put forth in the Arkansas Standards of Practice For Property Boundary Surveys and Plats dated August 8, 1962 Rev. May 8, 1992 Rev. March 14, 1996 Rev. (May 21, 2009) Updated 1-24-08 Updated 8-25-08 by Everett Rowland, 'State Surveyor, Land Surveys Division'

CERTIFICATE OF OWNERSHIP

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HERON, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ECT. AS SHOWN ON SAID PLAT.

DATE OF EXECUTION: _____

SIGNED: _____
ERIC OSTERLOH

SIGNED: _____
TAMIE OSTERLOH

NOTARY

STATE OF _____

COUNTY OF _____

SUBSCRIBED AND SWORN BEFORE ME THIS _____

DAY OF _____

MY COMMISSION EXPIRES: _____

CERTIFICATE OF APPROVAL

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

DATE OF EXECUTION: _____

SIGNED: _____
BENTONVILLE PLANNING
COMMISSION CHAIRMAN

SIGNED: _____
MAYOR CITY OF BENTONVILLE

SIGNED: _____
CITY CLERK, CITY OF BENTONVILLE

BUILDING SETBACK FOR DN-1						
FRONT YARD		CORNER SIDE YARD		INTERIOR SIDE YARD		REAR
MIN.	MAX.	MIN.	MAX.	TOTAL MIN (% OF LOT WIDTH)	YARD 1	
15 FT.	25 FT.	15 FT.	N/A	25%	10 FT.	REMAINDER OF TOTAL, BUT NO LESS THAN 5 FT.
						25 FT.



PROPERTY LINE ADJUSTMENT DICKSON'S
LOTS 19 & 20 CREATING LOTS 40 & 41

James Layout Services, LLC
P.O. Box 611
Farmington, Arkansas 72730
Telephone: (479) 439-9929
survey@jlsnwa.com

JLS

SHEET NO.

1 OF 1

BOA STAFF REPORT

VAR18-0035 – Church of the Nazarene – Fence Location Adjacent to Public Right-of-Way Variance

TO: Bentonville Board of Adjustment Members
THRU: Shelli Kerr, AICP, Community Development Director
FROM: Tyler Overstreet, Planner
BOA DATE: November 28, 2018

GENERAL INFORMATION:

Representative: Mal McCawley

Applicant: Bentonville Church of the Nazarene

Location: 220 NW A Street

Existing Zoning: DC, Downtown Core

Existing Land Use: Religious Facility

REQUEST: Variance

Interior Side Yard Setback Variance		
	Regulation	Request
Article 1400, Section 1400.15.d.6	Fences shall be placed no closer than 5-feet to current or proposed public right-of-way	Request of: 0' Variance of : 5'

SURROUNDING ZONING:

Direction	Zoning
North	DE, Downtown Edge
South	DC, Downtown Core
East	DC, Downtown Core
West	DC, Downtown Core

BACKGROUND:

The applicant submitted a variance request to the location of fences in relation to public right-of-way for property on 220 NW A Street. The applicant requests that a fence, constructed without a permit, be allowed to remain on their eastern property line, which is a variance of 5-feet from the 5-feet required by ordinance.

According to the applicant's narrative, a fence permit was never issued because the contractor did not provide a site plan, and the location of the existing fence did not meet the requirements of the Subdivision Code.

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 design and location of the fence only as provided by the applicant within this application
2. The applicant must obtain an approved fence permit prior to construction.

To Whom It May Concern,

Bentonville Community Church of the Nazarene is requesting a variance on the placement of a fence located on the southeast corner of their property, surrounding their preschool playground. Justification for the variance is as follows.

1. The new fence merely replaced the old fence and is in the exact location of the old fence.
2. Moving the fence 5 feet as per fence code will locate it in the middle of two large pecan trees. (see photos)
3. When building our recent new sanctuary, zoning required us to build ON the property line. It seems inconsistent that the fence code would require us to build 5 feet inside the property line. Perhaps the fence code has not kept up with the building code.
4. For reference we have included photos of other fences within 1 block of this fence, both on our property and on other properties that shows our fence is consistent with other fences in the downtown area.

This is response to a Notice of Violation we received, Case No. E18-0604. Our preschool hired a contractor to replace the fence around the preschool playground. He built the fence before he had the proper permit in hand. The permit was not issued because the contractor did not provide proper site plan and current location of fence was not within code requirements, SC Sec Art 1400.15 (Ord. No. 2006-166, 11-14-2006). Code Enforcement Officer Darren Warren made us aware of this .

Thank you for your consideration.

Sincerely,

Mal McCawley
Executive Pastor
Bentonville Community Church of the Nazarene

