

Note – Due to health concerns related to COVID-19, and the current Federal recommendations to avoid gatherings of 10 or more people, some of the members of the Board of Adjustment, as well as City staff members, may attend this meeting by phone or other remote means. There is no provision allowing for the public to attend the meeting by electronic means, but the Community Development Building will be open for the public to attend. Those that do attend will be asked to watch the meeting from the building’s lobby. Attendees will only be allowed into chambers to make a public comment or to speak during any public hearing on the agenda. Those who do attend should observe the CDC recommendations concerning hygiene and social distancing (keeping at least 6 feet away from other persons present at the meeting). Moreover, no one should attend this meeting if they are experiencing any type of illness involving a fever, sneezing or coughing. Those wishing to make public comments who do not want to attend the meeting may do so in written form, submitted to planning@bentonvillear.com before 4:00 p.m. on the day of the meeting. Those comments will be communicated to the members of the Board of Adjustment.



**BOARD OF ADJUSTMENT
AGENDA
April 8, 2020**

I. Call to Order

II. Approval of Minutes

III. New Business:

1. Cristofaro Variance*

816 NW B Street (VAR20-0007)

- Lot Width

2. Dream Structures Investment Properties 3, LLC Variance*

4509 SW Morning Star Road (VAR20-0008)

- Rear Yard Setbacks

3. Cortes Variance*

508 NW J Street (VAR20-0009)

- Garage Setback

IV. Other Business

V. Adjournment

**Denotes public hearing*

Board of Adjustment
Minutes
March 11, 2020

Meeting called to order by Rick Rogers, Chairman

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

Motion by Mr. Haynie, seconded by Ms. Holland to approve the minutes of February 26, 2020 as written.
Approved 4-0

New Business

Item #1

Faciszewski: Variance Request for 1239 NE Monroe Street, Interior and Rear Yard Setbacks, VAR20-0005

Brian Bahr reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Jared Faciszewski, applicant, explains his request for the variance.

There is discussion amongst staff and the Board members.

A stipulation is put in to place that if the tree dies within the time of construction or construction of the adjacent lot, the applicant will replace with 3 trees per the city code.

Rear Setback Variance

Approved 4-0

Motion by Mr. Rogers, seconded by Mr. Haynie to amend the request to a 1-foot variance on the north side and 1-foot variance on the south side. Approved by the applicant

Approved 4-0

Item #2

Saumweber: Variance Request for 427 SW 3rd Street, Interior and Side Yard Setbacks, VAR20-0006

Brian Bahr reads the staff report.

Opened public hearing

No public comments

Closed public hearing

The representative explains his request for the variance.

There is some discussion amongst the Board and staff.

Motion by Mr. Rogers, seconded by Mr. Pearson to amend the request to a variance of 6 inches for the interior side yard setback.

Approved 4-0

Exterior Side Yard Setback Variance

Approved 4-0

Motion by Mr. Rogers, seconded by Mr. Haynie to adjourn.

Meeting adjourned

Ali Worley

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

BOARD OF ADJUSTMENT STAFF REPORT



Cristofaro

816 NW B Street

BOA Date: 4/8/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0007
Applicant / Current Owner	Philip Cristofaro 928 N Main Street Bentonville, Arkansas 72712
Site Area	+/- 0.32 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Section 401.07.b.1, Residential districts lot and area standards, of the Zoning Code

Property Description

This property is located at 816 NW B Street. The site is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1, Single Family Residential, to the north, south, east, and west.

Regulation

The minimum lot width for the R-1, Single Family Residential zoning district shall be 60 feet.

Variance Request

The applicant is requesting that proposed new Lots 29 and 30 have a minimum lot width of 47.79 feet each, which is a variance of 12.21 feet on each lot.

Background

The applicant has submitted an incidental subdivision (PLA20-0020) to create new Lots 29 and 30 of Crabtree Addition. According to the applicant's narrative, they are splitting the existing parcel into two equally sized lots to develop into residences. They also plan on constructing rear-loaded garages and state that the lot width reduction will not have a negative impact on the street frontages.

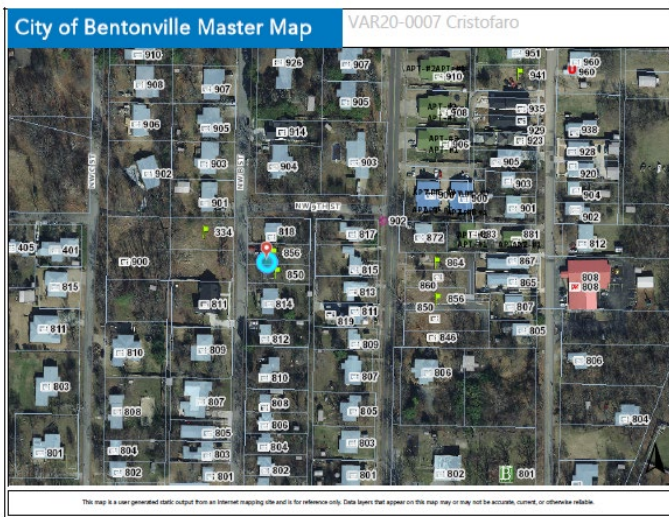
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved incidental subdivision through the Planning Commission.
3. The applicant shall be required to obtain an approved building permit prior to construction.



Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

- (1) The applicant demonstrates that:

BOARD OF ADJUSTMENT STAFF REPORT

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

Friday, March 06, 2020

City of Bentonville
305 SW A Street
Bentonville, AR 72712-5256

Re: Property Line Adjustment of 816 NW B St.

To: Development Services

c/o
CRISTOFARO, PHILIP & WILLIAMS, DAVID J
928 N MAIN ST
BENTONVILLE AR 72712

CRISTOFARO, PHILIP & WILLIAMS, DAVID J are proposing to split the parcel 01-01899-000, located at 816 NW B St. of the original Final Plat of the Crabtree Addition, City of Bentonville, Benton county, Arkansas, as shown in Plat Record Book A, Pages 109 (09/25/1947), in the office of the circuit clerk and ex-officio recorder.

Per the attached documents, the proposed Property Line Adjustment intends to split the parcel into two equal lots. The original plat attached shows the lot, highlighted in red, to be adjusted.

Per the existing Zoning of R-1 the existing two parcels do not meet current zoning standards of 60' wide frontage. To make the parcel Id's fit best west are requesting a variance of the 60' wide frontage while splitting the frontage equally at 47.79 feet.

In supporting the variance, the proposed lots will have rear loaded garages thus the width reduction will have no negative impact on street frontage & driveway clutter, but actually be a benefit to the streetscape.

We ask for your support in this project.

If you have any questions or concerns, please contact me directly.

Sincerely,

Eric Heller, Project Manager
A Million Miracles Surveying, PLLC
PH 479-387-4361
EMAIL: eric@amms-pllc.com

CREATING LOT 29 & 30

H:\million miracles surveying\2020 Projects\08-PHILLIP B ST\b-st.dwg Plotted On 2020-03-05 Plotted By Amms

BOARD OF ADJUSTMENT STAFF REPORT



Dream Structures Investment Properties 3, LLC

SW Morning Star Road

BOA Date: 4/8/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0008
Applicant / Current Owner	Dream Structures Investment Properties 3, LLC 4509 SW Morning Star Road Bentonville, Arkansas 72712
Site Area	+/- 40.3 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Section 401.07.c.1, Residential districts setback standards, of the Zoning Code

Property Description

This property is located at the southeast corner of SW Rainbow Farm Road and SW Morning Star Road. The site is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1, Single Family Residential, to the north, PUD, Planned Unit Development, to the east, A-1, Agricultural, to the west, and county land to the south.

Regulation

The minimum rear setback for R-1, Single Family Residential, is 25 feet.

Variance Request

The applicant is requesting the 118 buildable lots in the Woodlands Crossing subdivision have a minimum rear yard setback of 20 feet, which is a variance of 5 feet.

Background

According to the applicant's narrative, a wider right-of-way and larger greenspace was created with this subdivision in order to plant larger trees. Woodlands Crossing Phase I has 74 lots and Phase 2 has 44 lots.

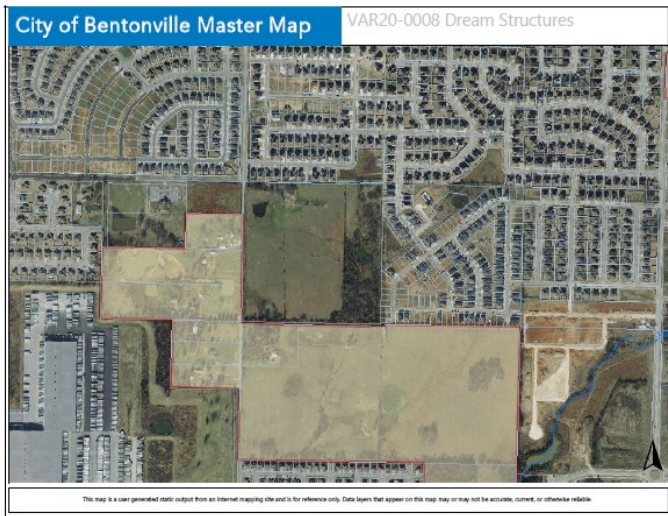
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved final plat through the Planning Commission.
3. The applicant shall be required to obtain approved building permits prior to construction.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

Monday, March 16, 2020

City of Bentonville
305 SW A Street
Bentonville, AR 72712-5256

Re: 5' Rear Setback reduction on 118 buildable lots.

To: Development Services

c/o Mr. Steve Fisher,

Per the attached approved preliminary Plat, this request is to reduce the rear setback from 25' to 20' foot. Our hardship is that we created a wider right-of-way & greenspace in support of planting larger trees.

Mr. Fisher has 119 lots in R1 Single Family residential units under construction on 40 acres +/- along SW Morningstar Road. The development of property is bordered on the North by the existing Wildwood Phase V Subdivision, on the East by Brighton Cottages Subdivision, and on the South & West by farm land.

The first Phase is 74 lots and Phase 2 is an additional 44 residential lots.

If you have any questions or concerns about this request please contact me directly.

Sincerely,

Eric Heller
Project Manager
PH 479-387-4361
EMAIL: eric@amms-pllc.com

PH II LOT 48-NB & 49-NB ARE PEDESTRIAN
WALKWAY LOTS, OWNED BY THE POA

[illegible]

Preliminary Plat of:
WOODLANDS CROSSING
Development by:
DREAM STRUCTURES LLC
PO BOX 39
LOWELL, AR 72745-0039

A Million Miracles
Surveying, PLLC
29 W Boles St., Ste A
Fayetteville, Ar. 72701
eric@amms-pll.com
PH (479) 387-4361
8.0008

Project No. 2018-28	Scale 1"=100'
Date: 4/15/2019	
Sheet Description FINAL PLAT PHASE PLAN	
Sheet # 212	

Utility Notes:

- GENERAL
- THE CONTRACTOR SHALL CONTACT "ONE-CALL" AND /OR THE APPROPRIATE UTILITY COMPANY A MINIMUM OF 48 HOURS PRIOR TO EXCAVATION IN AREAS OF EXISTING UTILITIES. THE CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE TO UNDERGROUND UTILITY LINES AND SHALL MAKE EVERY EFFORT NECESSARY TO COORDINATE WITH THE APPROPRIATE UTILITY COMPANY FOR REPAIR OF THE UTILITY.
 - A MINIMUM OF 48 HOURS PRIOR TO START OF CONSTRUCTION / INSTALLATION OF ANY UTILITIES, THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE LOCAL MUNICIPALITY / GOVERNING AGENCY OR UTILITY TO SCHEDULE A PRE-CONSTRUCTION MEETING AS REQUIRED BY SAID MUNICIPALITY / AGENCY / UTILITY. NO WORK SHALL OCCUR ON THE SITE PRIOR TO THE PRE-CONSTRUCTION MEETING. CONTRACTOR SHALL ALSO BE RESPONSIBLE FOR OBTAINING ANY NECESSARY STATE /LOCAL PERMITS FOR CONSTRUCTION.
 - WATER AND STORM LINES SHALL HAVE A MINIMUM OF 18" VERTICAL SEPARATION AND 10'-0" OF HORIZONTAL SEPARATION FROM THE SANITARY SEWER LINES.
 - ALL WATER AND SEWER FORCE MAIN FITTING SHALL BE RESTRAINED THROUGH THE USE OF THRUST BLOCKING PER THE DETAIL SHEETS OR APPROVED EQUIVALENT ANCHORS.
 - CONTRACTOR SHALL REFER TO ARCHITECTURAL OR PLUMBING DRAWINGS FOR UTILITY CONNECTION LOCATIONS FOR THE BUILDING.
 - DIMENSIONS ARE TO THE FACE / CORNER OF THE BUILDING, BACK OF CURB, AND CENTERLINE OF PIPE AND FITTING.
 - CONTRACTOR SHALL COORDINATE DISRUPTION OF UTILITY SERVICE WITH ALL SURROUNDING / ADJACENT PROPERTY OWNERS.
 - EXISTING UTILITIES SHOWN ON PLANS HAVE BEEN SHOWN IN THEIR APPROXIMATE LOCATIONS PER AVAILABLE INFORMATION.
 - CONTRACTOR SHALL OBTAIN AUTHORIZATION OF THE LOCAL MUNICIPALITIES PRIOR TO CONNECTION TO ANY EXISTING WATER LINES, SEWER LINES, OR SEWER MANHOLES. CONTRACTOR SHALL AVOID SPILLAGE OF ANY RAW MATERIALS FROM THE SEWER SYSTEM. IN THE EVENT THAT A SPILL OCCURS, THE CONTRACTOR SHALL PROVIDE ALL EQUIPMENT NECESSARY TO REPAIR THE SEWER LINE, AND REMOVE ALL SPLIT SEWAGE INCLUDING CONTAMINATED SOILS PER THE REQUIREMENTS OF THE LOCAL MUNICIPALITY.
 - PROPOSED UTILITIES THAT ARE TO BE BURIED WITHIN THE SAME TRENCH SHALL BE COORDINATED WITH AND APPROVED BY THE APPROPRIATE UTILITY COMPANY.
 - CONTRACTOR SHALL FIELD VERIFY DEPTH AND LOCATION OF EXISTING UTILITIES PRIOR TO CONSTRUCTION OF PROPOSED UTILITIES.
 - FIRE HYDRANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE STANDARDS / SPECIFICATION OF THE LOCAL WATER UTILITY COMPANY AND LOCAL MUNICIPALITY.
 - PROPOSED UTILITIES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS / SPECIFICATIONS OF THE GOVERNING AGENCY.
 - CONTRACTOR SHALL COORDINATE WITH APPROPRIATE UTILITY COMPANY AS LISTED ON THE COVER SHEET FOR ADJUSTMENT OF UTILITY LINES AFFECTED BY CUT AND FILL.
 - UTILITY LINES LESS THAN 12 KV SHALL BE RELOCATED UNDERGROUND AS REQUIRED BY THE LOCAL MUNICIPALITY.
 - CONTRACTOR SHALL COORDINATE WITH APPROPRIATE UTILITY COMPANIES FOR ROUTING OF GAS, TELEPHONE, CABLE, AND ELECTRICITY.
 - ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND, AND ALL EXISTING UTILITIES UNDER 12 KV SHALL BE RELOCATED UNDERGROUND.
 - NO UTILITIES ARE PROPOSED TO BE ABOVE GROUND.

- WATER
- ALL PROPOSED WATER MAINS ARE 8" DIAMETER C900 DR-14 CLASS 305 PVC.
 - THE MINIMUM COVER OVER WATER MAINS 8" AND LESS SHALL BE 4" MINIMUM.
 - THE MINIMUM COVER OVER WATER SERVICES SHALL BE 24" OR AS APPROVED BY THE CITY.
 - ALL WATER LINES SHALL BE BEDDED IN ACCORDANCE WITH CITY STANDARDS AND BEDDING DETAIL, SEE DETAIL SHEET(S).
 - ALL WATER LINES SHALL BE HYDROSTATICALLY TESTED AND DISINFECTED IN ACCORDANCE WITH CITY STANDARDS AND WITH A CITY INSPECTOR PRESENT.
 - ALL FIRE HYDRANTS SHALL HAVE A CITY APPROVED GATE VALVE CONNECTED TO THE TEE ON THE MAIN LINE, PER THE CITY OF BENTONVILLE'S WATER DETAIL SHEET 2 OF 2.
 - ANY CLEANOUTS, VALVE BOXES, AND METER BOXES IN THE PAVEMENT AREA SHALL BE INSTALLED WITH A CONCRETE APRON IN ACCORDANCE WITH THE DETAIL SHEET.

- SANITARY SEWER
- ALL PROPOSED SEWER MAINS ARE EITHER 8" OR 10" DIAMETER SDR-26 PVC.
 - SEWER MAINS SHALL HAVE A MINIMUM COVER OF 3.0'. MINIMUM COVER SHALL BE MEASURED FROM THE GROUND SURFACE OR THE SURFACE OF THE PERMANENT IMPROVEMENT TO THE TOP OF THE BARREL OF THE PIPE, WHICHEVER IS GREATER.
 - ALL SANITARY SEWER LINES SHALL BE BEDDED IN ACCORDANCE WITH CITY STANDARDS AND BEDDING DETAIL, SEE DETAIL SHEET(S).
 - SANITARY SEWER MANHOLES LOCATED IN GRASS AREA / NON-PAVED AREA SHALL BE CONSTRUCTED SO THAT THE RIM IS FOUR (4) INCHES ABOVE PROPOSED HIGHEST POINT OF CLOSEST ADJACENT GRADE. IN THE EVENT THIS CAN NOT BE ACHIEVED THEN THE MANHOLE COVER SHALL BE WATER TIGHT.
 - CONTRACTOR SHALL MATCH TOP OF PROPOSED SANITARY SEWER MANHOLE TO PROPOSED GRADE IN HARDSCAPE AREAS (ASPHALT, CONCRETE, ETC.). IF A DISCREPANCY OCCURS BETWEEN THE PROPOSED GRADE AND PROPOSED STRUCTURE TOPS, THE GRADING SHALL GOVERN. IF THE DISCREPANCY IS NEEDS RESOLUTION THE CONTRACTOR SHALL CONTACT THE ENGINEER OF RECORD, OR DESIGN COORDINATOR, ERIC HELLER @479-387-4361.

See Cover Sheet for legend

- Water shall be offset 15' 6" from BOC or 2' inside easement unless otherwise shown. The offset of the waterline is a crucial to the City Standards. Contractor to coordinate City inspector during installation to avoid any conflicts causing the waterline to be ripped & replaced. This would constitute the \$100.00 an hour re-inspection fee if its not laid at the proper offset & depth the first time.

Utility Plan Notes:

- 8"x8" Tee
- CONNECT
- CITY BV TAP
- Typ Dbl Mtr
- 4 QUAD

8"x 8" Tee per approved City of Bentonville Water & Sewer Specifications
Connect to ex City of Bentonville live watermain, dig with caution, 1. Verify/Close ex end gate valve. 2. Field verify the ex line is restrained, if not install anchor collar per City Detail. 3. Then remove ex thrust blocking & ex cap & plug. 4. New Waterline must be tested before & valve is re-opened. City inspector must be present for connection.
12"x8" tapping sleeve, with 8" gate valve on live 12" line Installed by City of Bentonville at owners expense
Each lot to have a double meter, a domestic 5/8" meter & and an irrigation meter
(44)" Conduit Xings for private utility xings

Utility Plan Notes:

- 8" Cross
- 8"x6" FH Tee
- 45° W
- 22.5° W
- 90° W
- 1/2" Sleeve
- 1/2"-Wipe

8" cross, per approved City of Bentonville Water & Sewer Specifications
8"x 6" Tee, per approved City of Bentonville Water & Sewer Specifications
8" 45° bend, with all thread per approved City of Bentonville Water & Sewer Specifications
8" 22.5° bend, with all thread per approved City of Bentonville Water & Sewer Specifications
8" 90° bend, with all thread per approved City of Bentonville Water & Sewer Specifications
Install 2" Sleeve for 5/8 service line for irrigation to landscaped area owned and maintained by the POA
Install 5/8" Irrigation meter w/RPZ

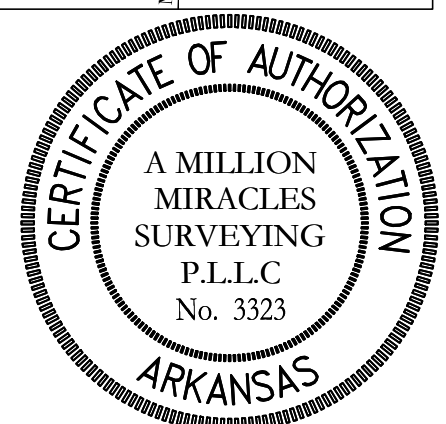
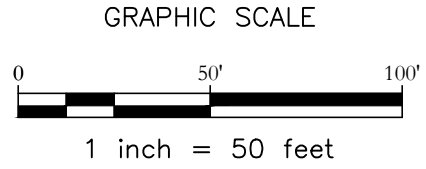
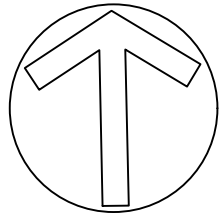
Driveway Notes:

- DRV-N
- DRV-S
- DRV-E
- DRV-W

Driveway must be installed on the **NORTH** side of lot, to avoid utility or storm structures.
Driveway must be installed on the **SOUTH** side of lot, to avoid utility or storm structures.
Driveway must be installed on the **EAST** side of lot, to avoid utility or storm structures.
Driveway must be installed on the **WEST** side of lot, to avoid utility or storm structures.

BEUD GENERAL NOTES

- Contact BEUD at 479-271-3135 before performing any grading within 5' of existing or proposed power poles.
- Electric facilities shall be installed in accordance with the latest revision of the electric specifications found on the website. Contractor is responsible for compliance with this document.
- Electric facilities shall be installed in accordance with the latest revision of the electric specifications found on the website. Contractor is responsible for compliance with this document.
- Relocation of any existing electrical facilities shall be at the owner's expense
- Any changes to the electric feed or service size after the PRECON could result in a delay of the development receiving power AND a charge to the developer for the change.



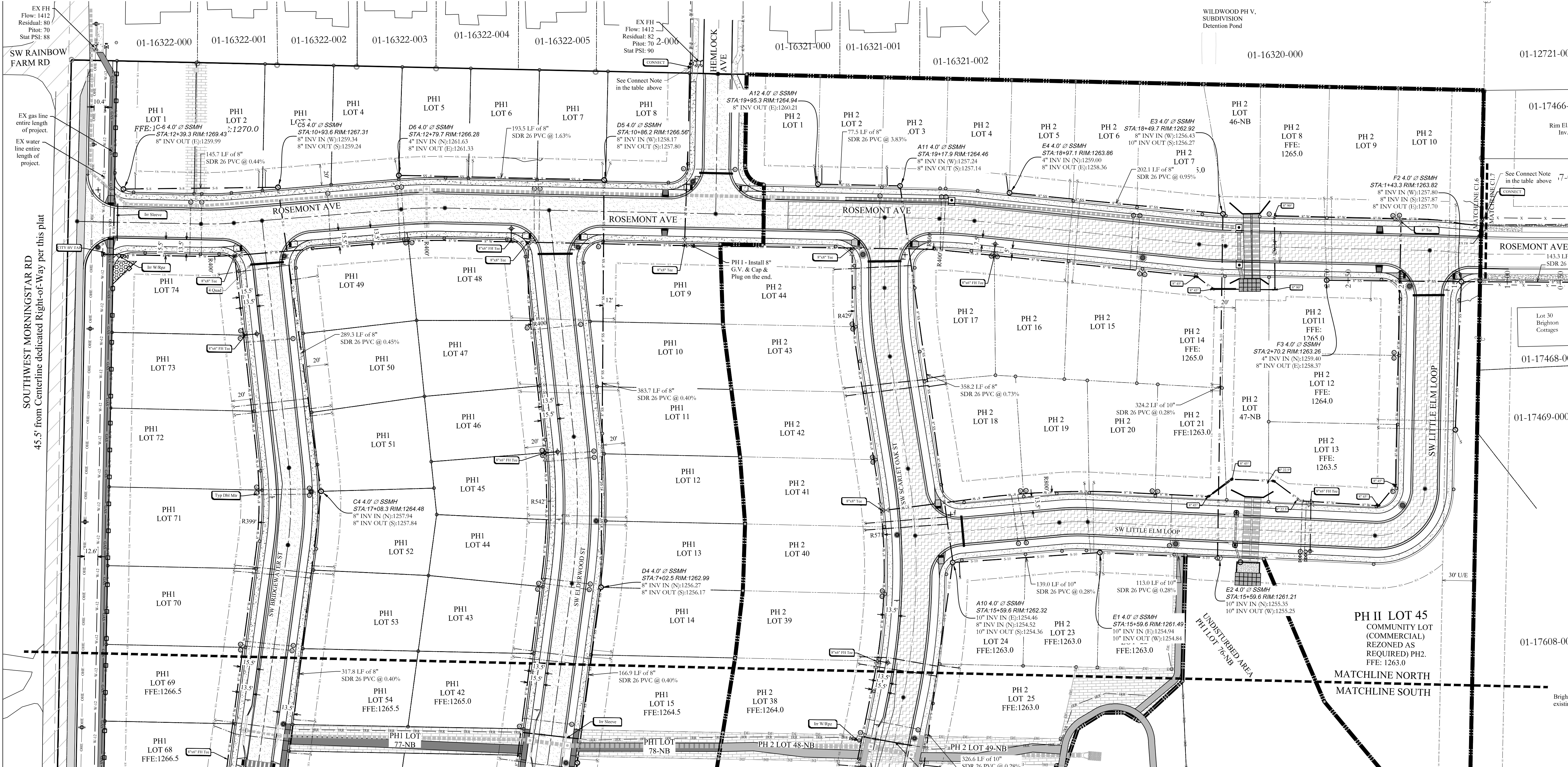
NO.	DATE	REVISION

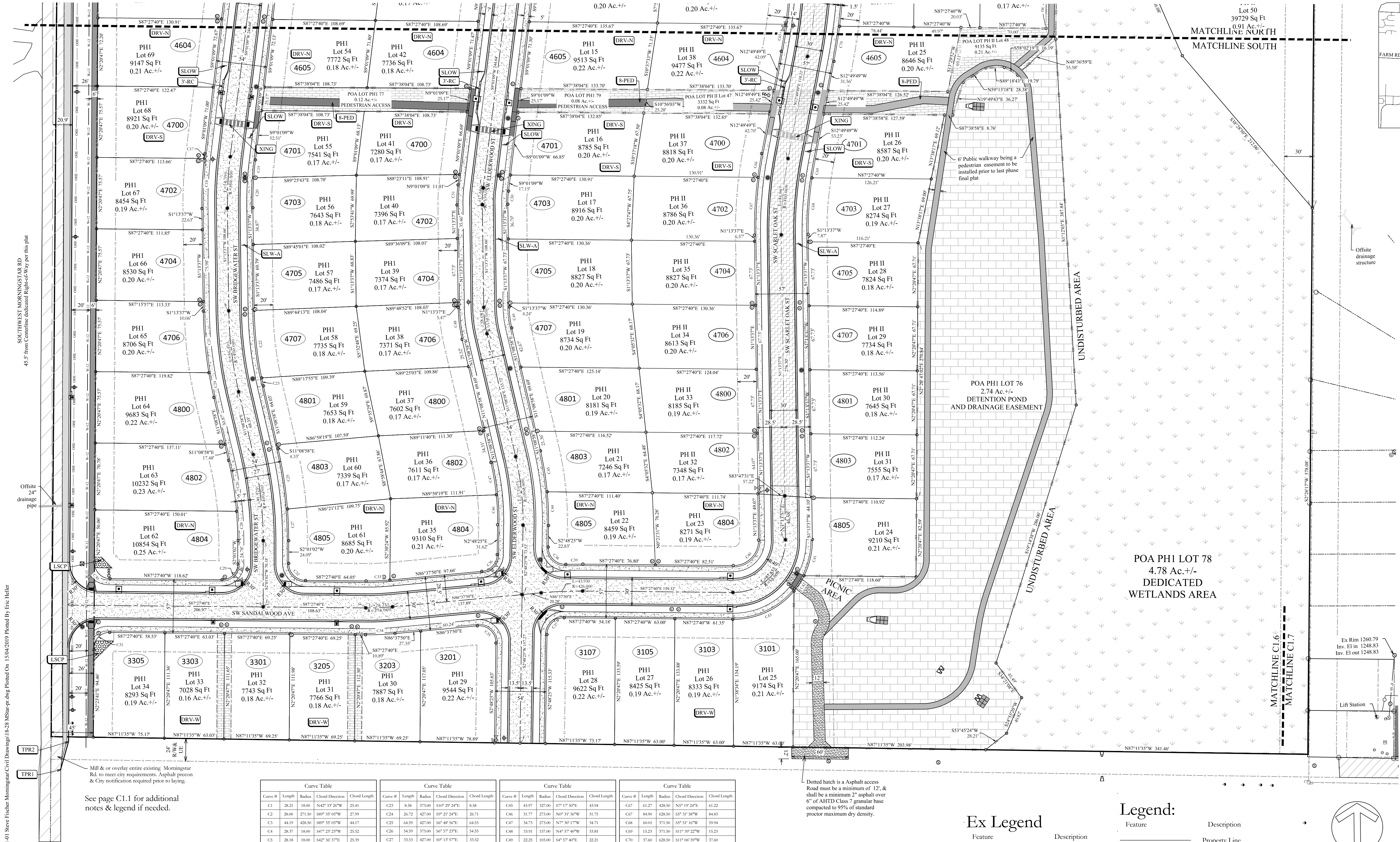
Preliminary Plat of:
WOODLANDS CROSSING
Development by:
DREAM STRUCTURES LLC
PO BOX 39
LOWELL, AR 72745-0039

A Million Miracles
Surveying, PLLC
129 W Boles St., Ste A
Fayetteville, Ar. 72701
eric@amms-pltc.com
PH (479) 387-4361

Project No. 2018-28
Date: 4/15/2019
Sheet Description
UTILITY PLAN
NORTH
Sheet # **C2.0**

City of Bentonville PP18-0008





BOARD OF ADJUSTMENT STAFF REPORT



Cortes

508 NW J Street

BOA Date: 4/8/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0009
Applicant / Current Owner	Isaac Cortes 306 Summerwood Ct Rogers, Arkansas 72758
Site Area	+/- 0.25 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Section 401.07.c.2, Garages, of the Zoning Code

Property Description

This property is located at 508 NW J Street. The site is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1, Single Family Residential, to the north, south, and west, and C-2, General Commercial, to the east.

Regulation

The minimum front setback for street-facing garages shall be 30 feet from the property line that the garage faces.

Variance Request

The applicant is requesting the street-facing garage setback be 25 feet, which is a variance of 5 feet.

Background

According to the applicant's narrative, the topography and sewer line make it difficult to meet the requirement. They also state that the development of this lot will be an improvement to the neighborhood. The plat does list a 20-foot utility easement in the rear of the lot that a building cannot be constructed in. However, the GIS map shows the sewer line is located in the front of the property.

Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain approved building permits prior to construction.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

Letter of Intent
In Support of Request for Variance
508 NW J Street, Bentonville, AR 72712

This letter of intent is in support of my request for a variance to the front setback requirement for a non-existing structure. The intention is to build a new single family residence with a 2- car garage. The proposed new home is 44'-4" feet wide and the length of the buildable space is 95 feet, with the 30 feet front setback and the 25 feet rear setback that is 99'-4" feet total. Based on the current code the front setback requirement for my particular non- complying lot of record is 30 feet from the garage, our request is to have the setback 5 feet to the west. As a result of this shifting the house on the site plan would require a variance on the west side of the house to allow for a 25- foot setback. What is perhaps most relevant here, and what I would ask the board to consider, is (1) the house has a hardship of building very close to a sewage path, those 5 feet would be of extreme benefit; (2) the topography of the lot makes it extremely difficult to build a residence; (3) the proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvement.

Thank you for your consideration.

Isaac Cortes

