

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 Planning Commission, as well as City staff members, may attend this meeting by phone or other remote means. That being said, 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 the 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 3:00 p.m. on the day of the meeting. Those comments will be communicated to the members of the Planning Commission. While email comments are encouraged, accommodation has also been made to allow Bentonville citizens to make “live” public comments orally in the event they cannot or do not feel comfortable attending the meeting in person. To do so, please send an email indicating a desire to make “live” oral public comments to Ali Worley at aworley@bentonvillear.com by at least 3:00pm on the day of the meeting and a reply email will be sent with instructions about how your comments can be made. Making comments will require you to register with your name, address, phone number, and email address. Procedures with respect to oral public comments still apply.



**BOARD OF ADJUSTMENT
AGENDA
May 13, 2020**

- I. Call to Order**
- II. Approval of Minutes**
- III. New Business:**

- 1. Engleman** **Variance***
202 SW C Street (VAR20-0010)
 - Fence Adjacent to Public Right-of-Way
- 2. Dark Star Investments, LLC** **Variance***
406 Razorback Drive (VAR20-0011)
 - Fence Height

- IV. Other Business**
- V. Adjournment**

**Denotes public hearing*

Board of Adjustment
Minutes
April 22, 2020

Meeting called to order by Rick Rogers, Chairman. Applicants and representatives were in attendance via Zoom.

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

Motion by Mr. Chrisco, seconded by Mr. Haynie to approve the minutes of April 8, 2020 as written.
Approved 4-0

Item #1

Cristofaro: Variance request for 856 NW B Street, Lot Width & Interior Side Yard Setbacks, VAR20-0007

Ms. Worley reads the staff report.

Opened public hearing for lot width

No public comments

Closed public hearing for lot width

Eric Heller, representative discusses the need for the variance regarding the lot width. There is discussion amongst the representative, Board members, and staff.

Opened public hearing for interior side yard setbacks

No public comments

Closed public hearing for interior side yard setbacks

Eric Heller, representative, discusses the need for the variance regarding the interior side yard setbacks. There is discussion amongst the representative, Board members, and staff.

The five foot variance request will apply to the southern setback on 856 NW B Street and the northern setback on 850 NW B Street.

A fourth condition of approval is added to say: Any eave or projection that encroaches closer than 5-feet to the property line would have to be fire-rated with no openings on the adjacent wall.

Approved 4-0

Item #2

Dream Structures Investment Properties 3, LLC: Variance request for Woodlands Crossing, Rear Yard Setbacks, VAR20-0008

Ms. Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Eric Heller, representative, and Steve Fisher, applicant, discuss the need for the variance request.

Mr. Rogers asks about precedence being set in approving a blanket variance.

There is discussion amongst the Board members, applicant, and staff regarding the tree planting requirements.

A fourth condition of approval is added to say: Two additional trees, with a minimum caliper of 2.5 inches, shall be planted per lot.

Approved 4-0

Item #3

Cortes: Variance request for 508 NW J Street, Garage Setback, VAR20-0009

Ms. Worley reads the staff report.

Opened public hearing

No public comment

Closed public hearing

Isaac Cortes, applicant, discusses the need for the variance request.

There is some discussion amongst the Board members and staff.

Approved 4-0

Motion by Mr. Chrisco, seconded by Ms. Holland to adjourn.

Meeting adjourned

Ali Worley

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

BOARD OF ADJUSTMENT STAFF REPORT



Engleman

202 SW C Street

BOA Date: 5/13/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0010
Applicant / Current Owner	Jeff Engleman 9300 S Morning Star Road Bentonville, Arkansas 72713
Site Area	+/- 0.26 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Article 1100.06.g.2, Fence Location Adjacent to Public Right-of-Way, of the Land Development Code

Property Description

This property is located at the southwest corner of SW C Street and SW 2nd Street. The site is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1, Single Family Residential, to the north, east, south, and west.

Regulation

A fence or wall shall be placed no closer than 5 feet to the current or proposed public right-of-way as prescribed within the Master Street Plan.

Variance Request

The applicant is requesting a 1-foot, 6-inch setback from the public right-of-way, which is a variance of 3 feet, 6 inches.

Background

According to the applicant's narrative, their hardship of placing the fence 5 feet from the public right-of-way would limit usable front yard space. The proposed fence is for the front yard only. The applicant states that Downtown Bentonville is a walkable, social community and they want to be able to use the front yard to better connect with their neighbors and community.

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 fence height, location, and materials as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved fence permit prior to constructing the fence.
3. The fence shall meet the requirements for fences located within utility easements listed within the Land Development Code.



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.



**GB GROUP
CONSTRUCTION**

CUSTOM HOMES AND RENOVATIONS

GB GROUP CONSTRUCTION

P.O. Box 7734

Springdale, AR 72766

Phone: 479-464-7336

www.BuildWithGBGroup.com

City of Bentonville
Variance for Board of Adjustment

To Whom it May Concern:

This letter is being sent to you with the intent to receive a variance for a new residence located at 202 SE C St in Bentonville. Below you will find all the information necessary to support this claim. Please let me know if you need any further information.

Reason for Variance needed:

We are requesting that the green space between the city sidewalk and owner's fence be reduced from 5' to 18".

We submitted a site plan with fence and house locations designated on it when we submitted our building permit back before we started construction. We believed that we had put them in the right locations based on the fact the city gave us no comments and thus built the home.

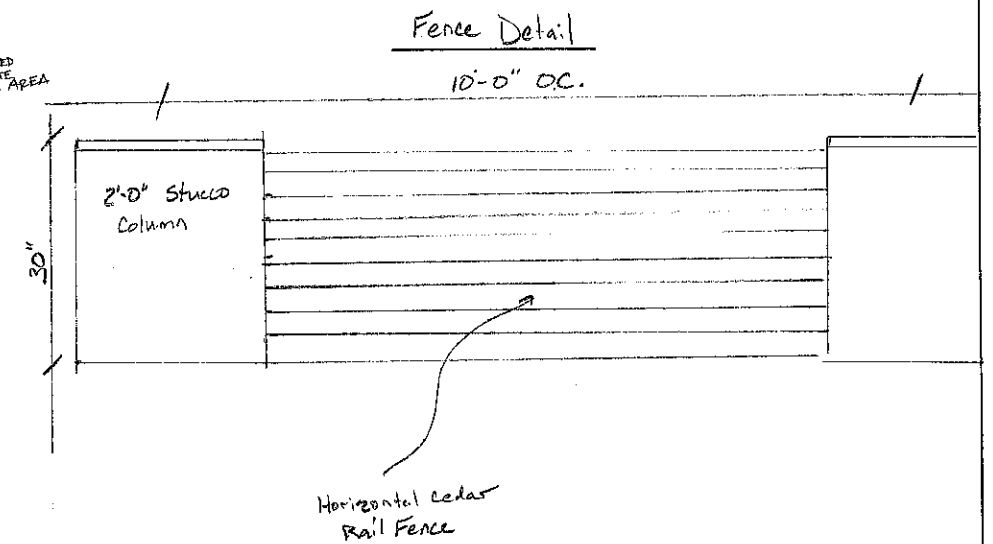
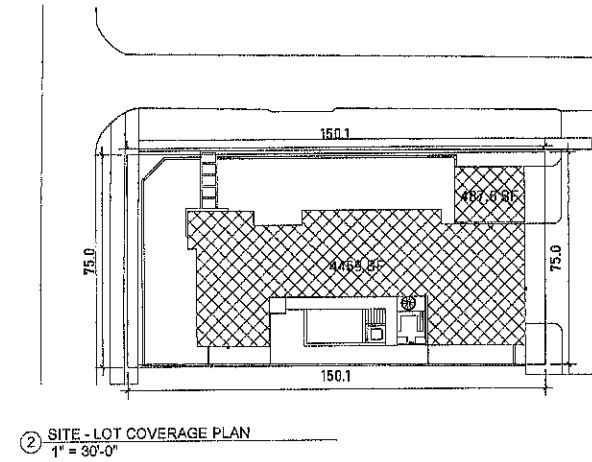
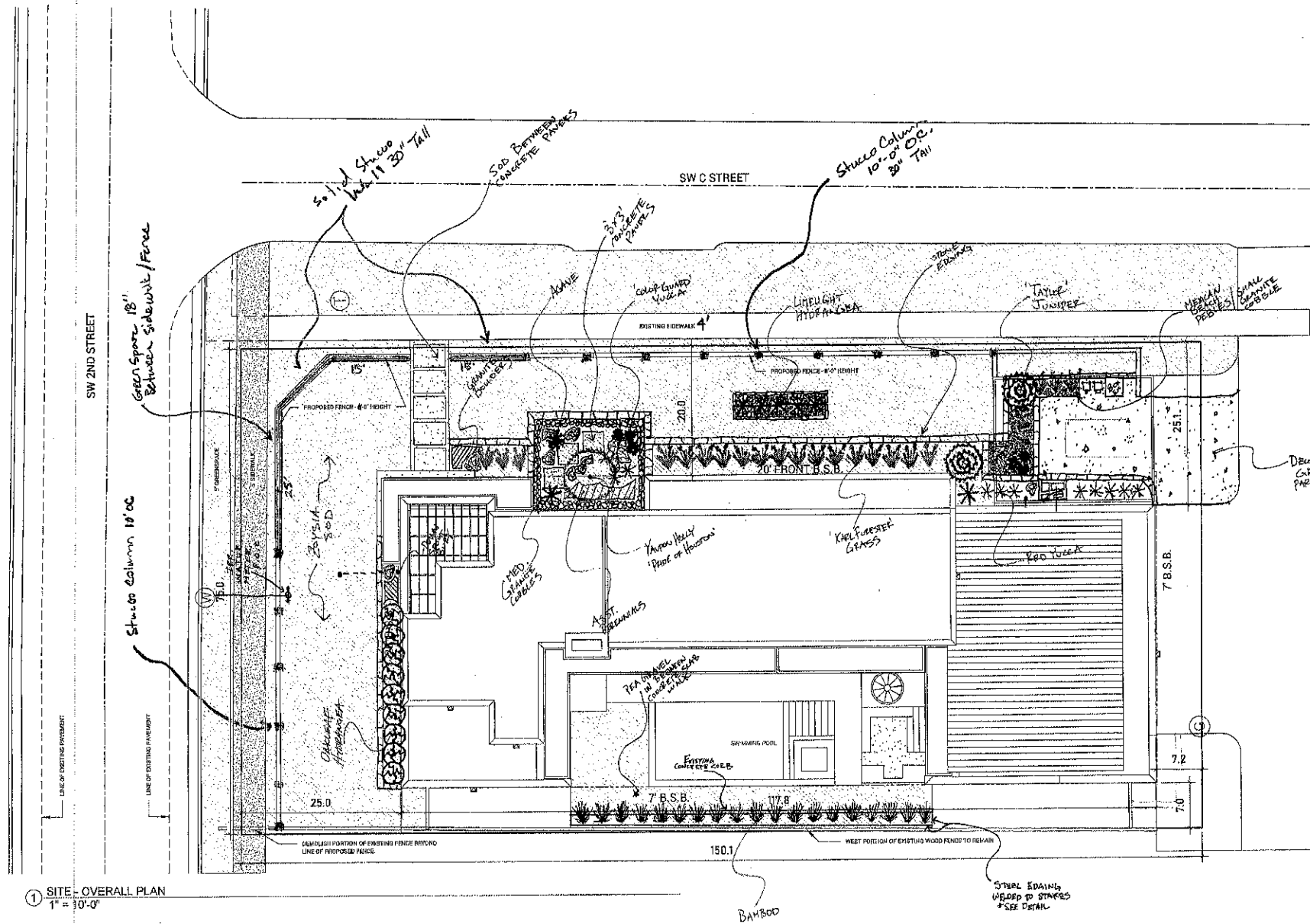
My client's hardship is that they have a dog and built the home with the intent of having a front yard and space for the dog and family to enjoy. If the fence must be placed 5' from sidewalk the front yard all but goes away. There would be no way for us to put sidewalk in and still have space for dog or my client to enjoy. Downtown Bentonville is a walkable social community and my clients want to be able to use the front yard to better connect with their neighbors and community.

Contact Information:
Jacob Tankersley
O: 479-464-7336
C: 479-283-1763
Jacob@buildwithgbgroup.com

Kindly,

Jacob Tankersley

WWW.BUILDWITHGBGROUP.COM



SW C STREET HOUSE

202 SW C STREET, BENTONVILLE, AR 72712

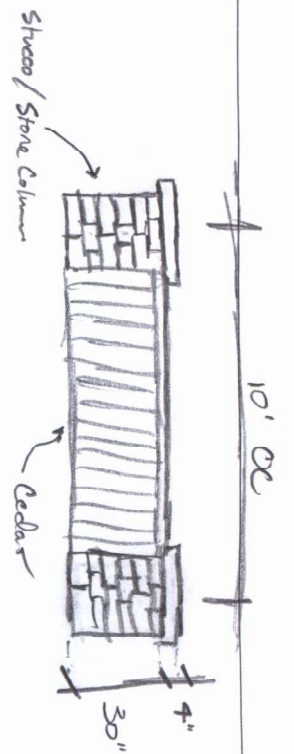
STONE STREET DESIGN

LLC • 960 STONE STREET, CAVE SPRINGS, AR 72718 • 214-505-4539

ARCHITECTURAL SITE
PLAN

02/11/2019

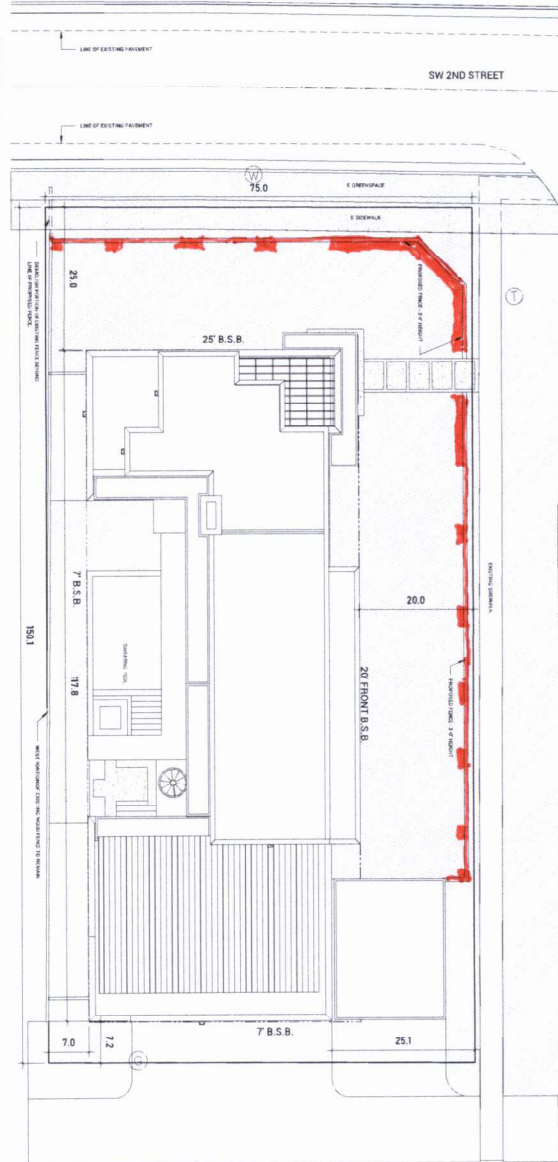
A1.1



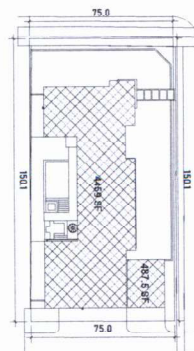
SW C STREET

SW 2ND STREET

① SITE - OVERALL PLAN
1" = 16'-0"



② SITE - LOT COVERAGE PLAN
1" = 36'-0"



SW C STREET HOUSE

202 SW C STREET, BENTONVILLE, AR 72712

STONE STREET DESIGN

LLC • 140 STONE STREET, CAVE SPRINGS, AR 72718 • 214-505-4539

ARCHITECTURAL SITE PLAN

02/11/2018

A1.1

BOARD OF ADJUSTMENT STAFF REPORT



Dark Star Investments, LLC

202 SW C Street

BOA Date: 5/13/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0011
Applicant / Current Owner	Dark Star Investments, LLC 2345 N Green Acres Road Fayetteville, Arkansas 72703
Site Area	+/- 0.62 acres
Current Zoning	C-2, General Commercial
Variance Request	Article 1100.06.h.1, Fence Height, of the Land Development Code

Property Description

This property is located at the southwest corner of Razorback Drive and S Walton Boulevard. The site is currently zoned C-2, General Commercial. Adjacent zonings are C-2, General Commercial, to the north, south, and west, and R-1, Single Family Residential, to the east.

Regulation

The maximum fence height shall be six feet above grade.

Variance Request

The applicant is requesting a maximum height of 8 feet, which is a variance of 2 feet.

Background

On April 7, 2020, Planning Commission approved a conditional use permit for a temporary gravel parking facility at this location. There were concerns from neighbors to the east in regards to keeping vehicles from driving across private residential property. A condition of approval was then added at the Planning Commission meeting that states "A barrier is to be constructed between the commercial and residential uses within 60 days as approved by the Engineering Department." Due to the property being located in the floodway, clearance must be provided below the fence to allow water to flow freely.

According to the applicant's narrative, they collaborated with the Engineering Department to find a solution. This involved providing a two-foot gap below the fence, which results in the 8-foot fence. The applicant is also providing a landscape buffer consisting of 18 Emerald Green trees.

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 fence height, location, and materials as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved fence permit prior to constructing the fence.
3. The applicant shall be required to meet all conditions of approval as set forth in the conditional use permit.
4. The applicant shall be required to obtain an approved right-of-way permit from the Engineering Department.



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.



EB LandWorks, Inc.

Civil Engineering + Landscape Architecture
PO Box 3432, Fayetteville, Arkansas 72702-3432
479.263.2575

May 4, 2020

City of Bentonville
Board of Adjustment
Attn: Mr. Tyler Overstreet
305 SW 'A' Street
Bentonville, Arkansas 72712
479.271.3122

RE: Request for Variance – The Source CUP
406 Razorback
Bentonville, Arkansas

Dear Mr. Overstreet:

Please accept this correspondence as the formal request for a variance to construct an eight foot high privacy fence on the eastern property boundary. As you are aware, throughout the CUP process the neighbors to the East have had concerns about their visibility of the subject property. We have proposed a landscape screen, and a fence as a result of the CUP comments. Due to the property being located in the floodway, clearance must be provided below the fence to allow for water to flow freely under the fence. We have worked with the Engineering Department to come to a satisfactory solution of providing a two foot gap below the fence. This solution results in an 8' high fence, and is outside of the typically allowed 6' high fence. For this reason we are requesting a variance be granted to mutually satisfy the city departments and the adjacent neighbors.

I have attached a site plan showing the location and information regarding the fence. Please let me know if you have any questions or require further information.

Best Regards,

Mandy R. Bunch, PE
EB Landworks, Inc

