



**Board of Adjustments
Meeting Agenda
January 10, 2024
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link: <https://us06web.zoom.us/j/89828760221>

- I. Call to Order**
- II. Approval of Minutes**
 - 1. November 22nd Meeting Minutes** **Approval of Meeting Minutes**
- III. New Business**
 - 1. Pensago LLC** **Variance***
604 SW 5th Street
 - 2. Buffington BW LLC** **Variance***
4800 S Vaughn Road
- IV. Old Business**
- V. Other Business**
 - 1. Review of By-Laws** **Informational**
 - 2. Election of Officers - 2024** **Informational**
- VI. Adjournment**



**Board of Adjustments
Meeting Minutes
November 22, 2023
Bentonville City Hall
Meeting Time: 4:00 PM**

Meeting Recording Link:

<https://us06web.zoom.us/j/8446121270?pwd=Zsude6lFZjpuQWZwNt6Oi4wtrlgHutrV4YRphradURwYnYvcKnAP7aCEaFbQFUPj.T3fL-WKye4UXLW-X?startTime=1700690366000>

I. Call to Order

- Meeting called to order at 4:01 PM by Chairman Kruithof
- Members present: Celia Swanson, Dean Kruithof, Joe Haynie
- Members absent: Sam Pearson, BJ Phillips
- Staff present: Tom Adler, Tyler Overstreet, Luke Aitken

II. Approval of Minutes

- November 8th Meeting Minutes** **Approval of Meeting Minutes**
 - Motion by Haynie to approve the minutes as presented, Second by Phillips.
 - September 13th meeting minutes are approved by a vote of 3-0

III. New Business

IV. Old Business

- HamHane LLC** **Variance***

409 & 411 Northwest 5th Street
Variance request of 18 feet from the minimum rear setback of 25 feet required by: Zoning Code Section 401.07-B Downtown Neighborhood (DN) Districts Regulations, (c) DN districts setback standards.

- Chairman Kruithof briefs those present on the public hearing and voting procedures of the board, noting this will not require a separate public hearing.
- Chairman Kruithof gives Ms. Swanson a chance to ask any clarifying questions due to her absence from the last meeting.
- Mr. Adler clarifies changes made by the applicant to the proposed site plan since the November 8th meeting, to include removal of fictional lot lines and the revision of two building footprints.
- Mark Haney, the applicant, speaks to utility restraints of the site in question and makes his case for the setback variance because of those constraints in combination with the existing rights of way through the site and on the north and south of the site.

- Ms. Swanson, Mr. Haynie and Chairman Kruithof all agree with staffs stated recommendations in the staff report, that sufficient hardship does not exist to justify a variance at this time.
- Motion by Swanson to disapprove the variance request, Second by Kruithof.
- Variance request is disapproved by a vote of 3-0.
-

V. Other Business

VI. Adjournment

**Pensago LLC**

604 SW 5th Street

BOA Date: 1/10/2024**Staff Report Details**

Project Number	VAR23-0028
Applicant / Current Owner	Dave Burris Architecture / Pensago LLC
Site Area	+/- 0.44 Acres
Current Zoning	DN-2, Downtown Medium Density Residential
Variance Request	Zoning Code Article 401 - Section 401.07- B Downtown Neighborhood (DN) Districts Regulations. Part (c) (1).
Related projects	RZ23-0085 (Approved by PC 1/2/2024)

Property Description

The property in question is located at 604 Southwest 5th Street, at the northwest corner of SW 5th and SW E Street. This property is currently zoned DN-2, Downtown Medium Density Residential, with a future land use map designation of Medium Density Residential. Adjacent zoning districts include R-1, Low Density Single Family Residential to the north, R-C2, Central Residential to the south and west, and DN-2 to the east. The property is currently developed with one single family home on the site. Existing land uses adjacent to the property include single family homes to the north and east, and attached townhomes/apartments to the south and west.

Regulation

Zoning Code Article 401 - Section 401.07- B Downtown Neighborhood (DN) Districts Regulations, Part (c) (1) DN Districts lot and area standards: *Minimum lot area / width of a Townhouse unit - 2,000 Sq Ft / 20 Ft wide.*

Variance Request

The applicant has requested a variance of 1' for 6 potential lots, from the minimum lot width standard of 20' for townhouse units. This variance would enable the applicant to create six 19'

Variance Request

wide lots on the property in question. The applicants narrative states the subject property faces a unique hardship due to its 3 separate street frontages. 604 SW 5th Street fronts SE E St to the east, SW 5th St to the south, and SW Glover St to the west. The property would need to be replatted to create the new lots necessary for development of townhomes. This would require 24' of right of way be dedicated along SW Glover St, reducing the overall size of the existing lot. The applicant states that this dedication would necessitate this unique design and subsequent variance request. The applicant concludes that smaller townhome development on the property will provide much needed housing density in the downtown area, without compromising the design integrity of the surrounding neighborhood.

Background

The requirement to dedicate right of way along SW Glover St is required upon redevelopment of this property regardless of the housing type the applicant wishes to build. The subject property could be developed today without the requested variance, just at a slightly lower density. Under DN-2 zoning, the applicant could feasibly build 5 town homes, 3 attached single family units or 2 duplexes on the property, even with additional right of way dedications. Planning staff finds that the lack of land area necessary to plat six new lots is a direct result of the lot size itself, and not the right of way dedication required by code. Any variance must meet the criteria of Zoning Code Section 301.10 (c) shown below.

Public Comment

Has Staff received Public Comment at the time of this report?: **No**

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant within this application.
2. The applicant must obtain a building permit before 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:
 - a. special conditions and circumstances exist which are peculiar to the land, structure or building

involved and which are not applicable to other lands, structures 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.

Legend



Pending BOA Item

SW GLOVER ST

SW E ST

SW GILMORE AVE

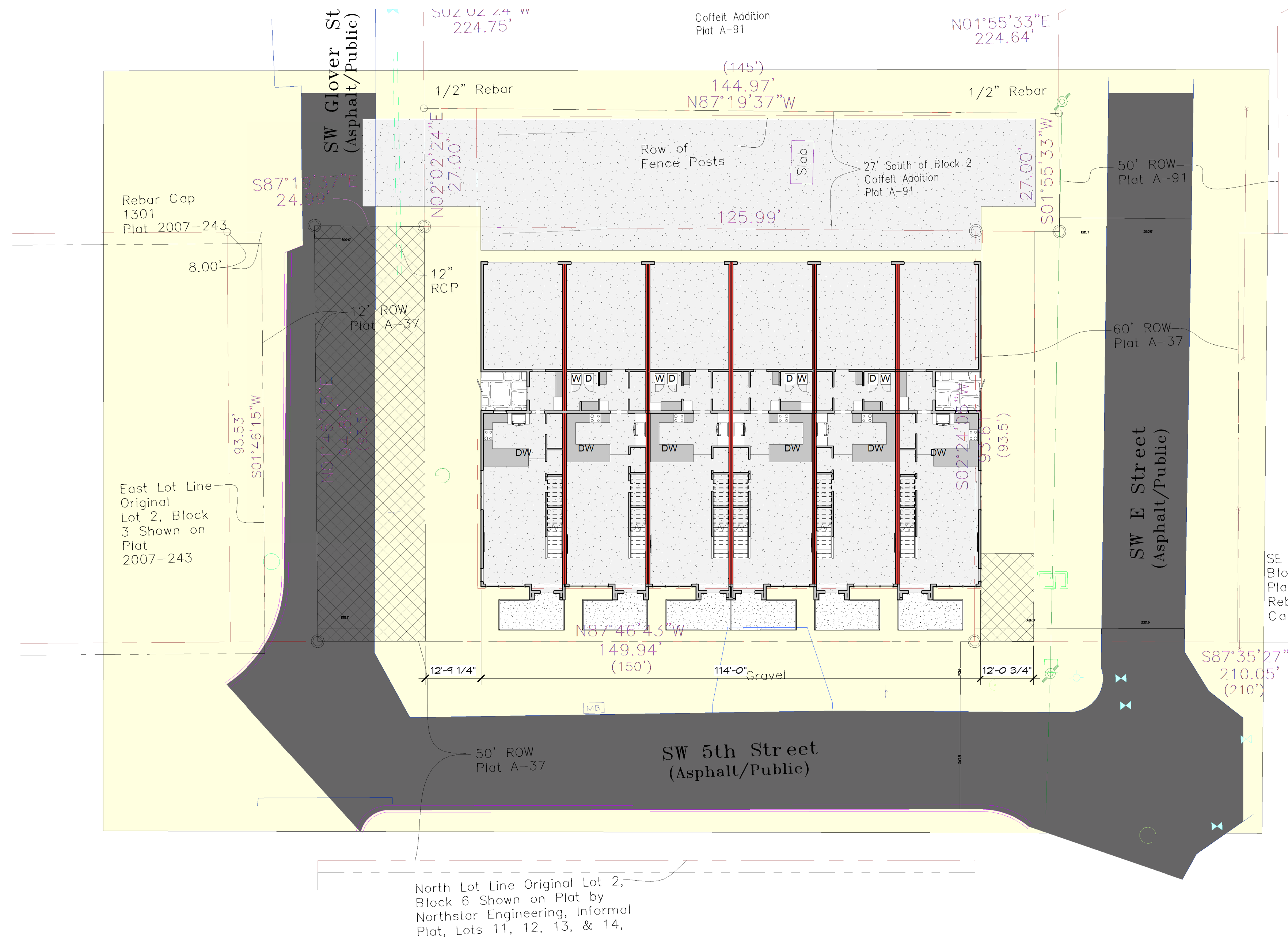
SW 5TH ST

SW F ST

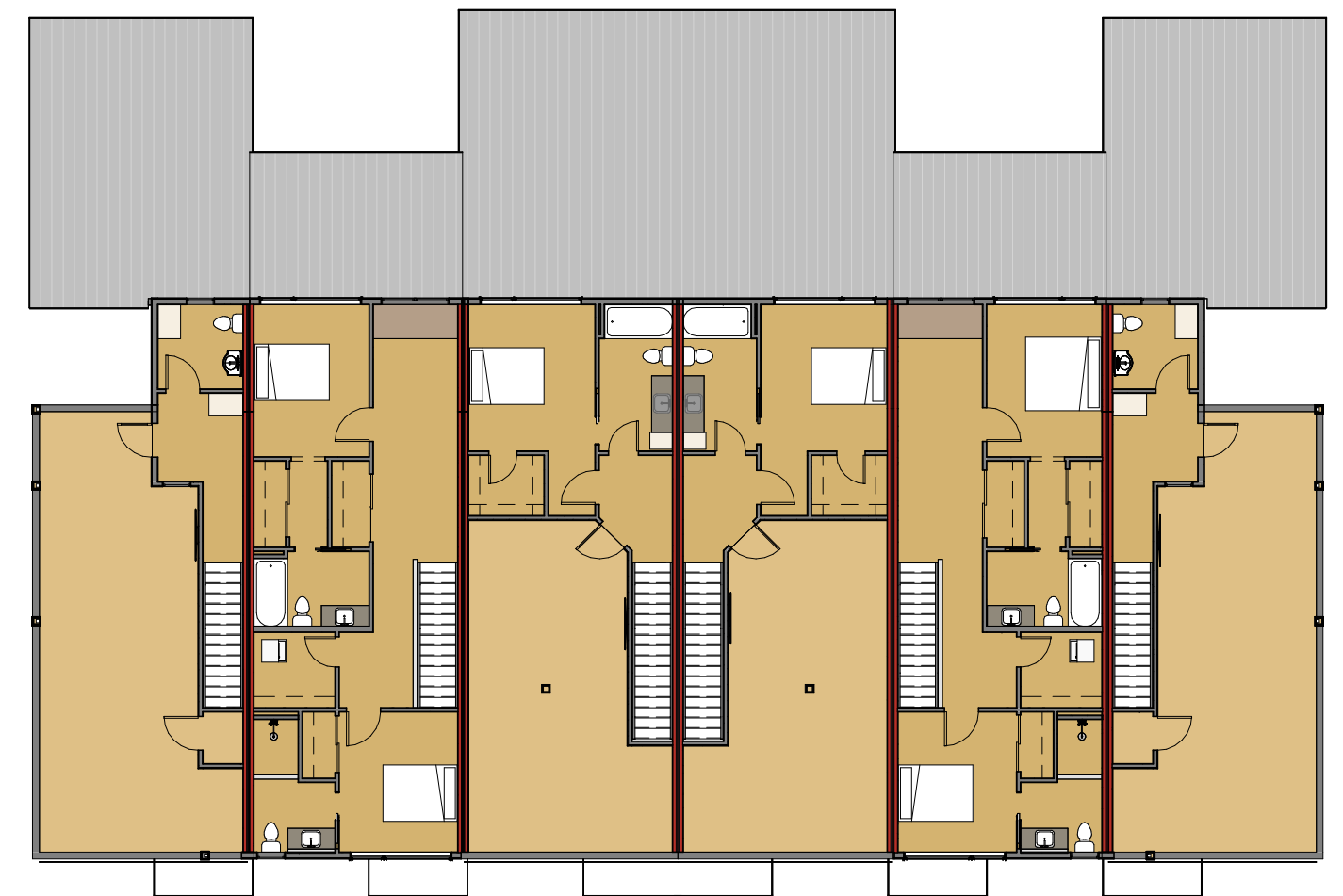
VAR23-0028

**604 SW 5th - April Townhome
Setback Variance**

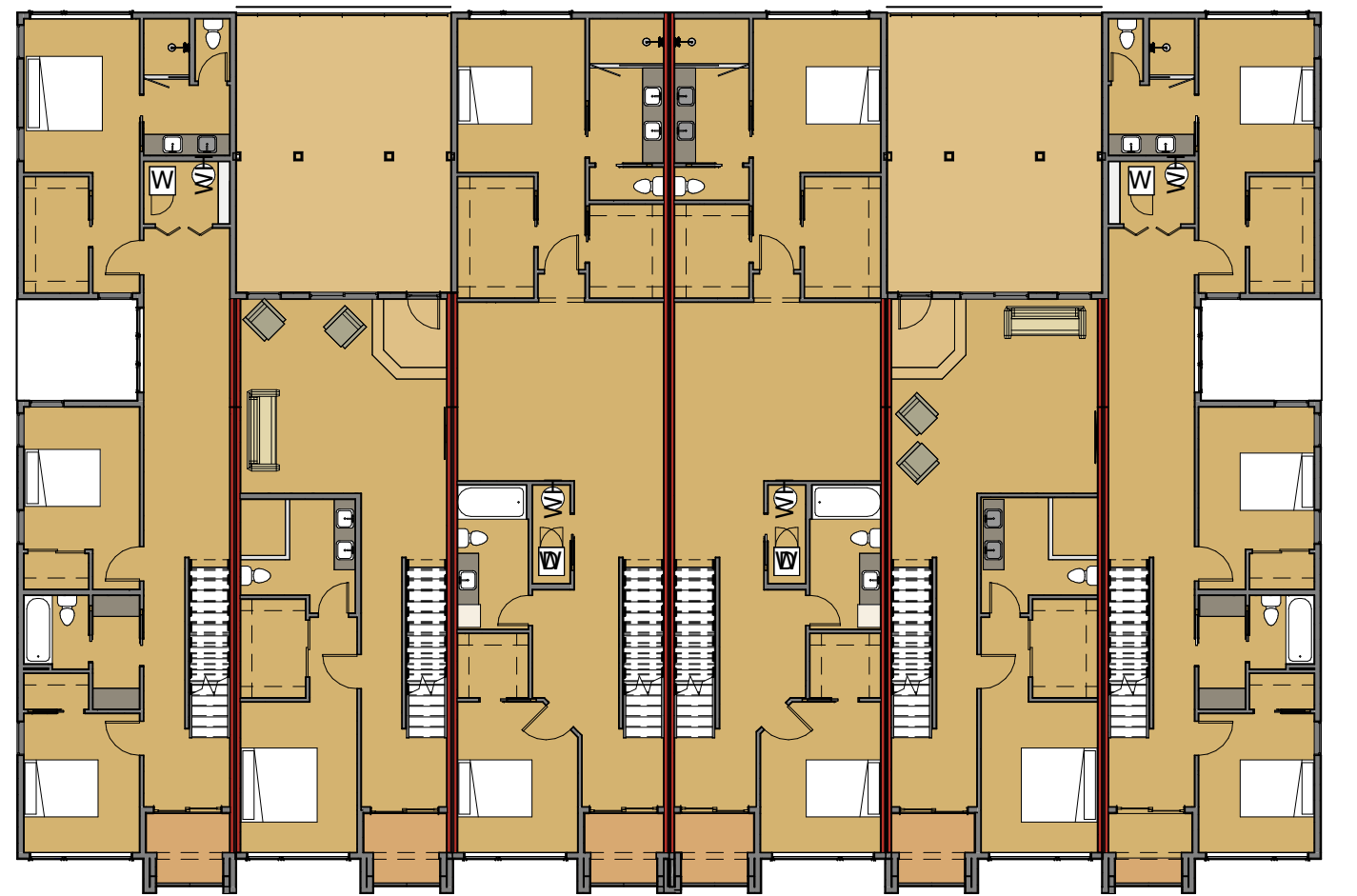




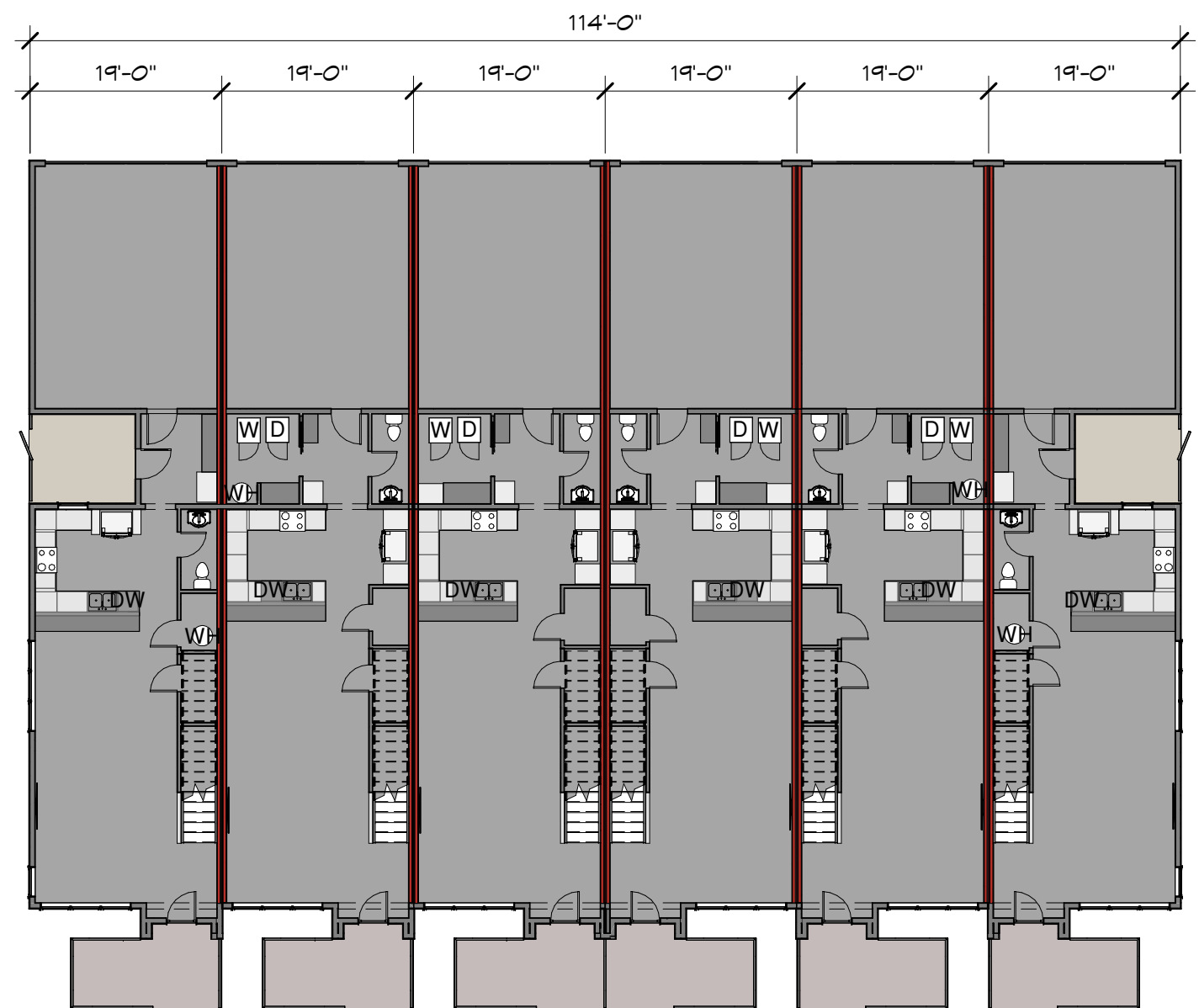
4 ARCH SITE DIAGRAM
1/16" = 1'-0"



3 CONCEPT
1/16" = 1'-0"



2 SECOND FLOOR PLAN
1/16" = 1'-0"



1 FIRST FLOOR PLAN
1/16" = 1'-0"

PRELIMINARY
NOT FOR CONSTRUCTION

Burris
Architecture
8200 Tiger Blvd, Suite 4, Bentonville, Ar 72712
479-319-6045

APRIL TOWN HOME
604 SW 5TH
BENTONVILLE, AR

DATE
9-8-23
JOB NO.
20062
REVISIONS

A7.2
PRELIMS

THIS DRAWING IS PROVIDED AS AN INSTRUMENT OF SERVICE BY THE ARCHITECT. IT IS THE PROPERTY OF THE ARCHITECT AND SHALL BE RETURNED TO THE ARCHITECT UPON COMPLETION OF THE PROJECT. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE PRIOR WRITTEN CONSENT OF THE ARCHITECT. ALL DRAWINGS, SPECIFICATIONS, AND SCHEDULES SHALL BE SUBJECT TO THE ARCHITECT'S DISCRETION AND SHALL BE USED AS SHOWN. NO PART OF THIS DRAWING IS TO BE USED FOR ANY OTHER PROJECT WITHOUT THE PRIOR WRITTEN CONSENT OF THE ARCHITECT. ANY REPRODUCTION, USE, OR MODIFICATION OF THIS DRAWING WITHOUT THE PRIOR WRITTEN CONSENT OF THE ARCHITECT IS STRICTLY PROHIBITED.



Burris Architecture

820 Tiger Blvd Suite 4 Bentonville, AR 72712
479.319.6045

Date: Sept. 8-2023

To: Bentonville Planning - BOA

Subject: 604 SW 5th

On behalf of the property owner, Burris Architecture respectfully requests a Variance of section 1100.22 4 (f) Townhouse Standard a. *Townhouse unit width. The Minimum width of a townhouse unit is 20'*

The 604 property has been designed with the use of 19' wide townhomes. They vary in size and height, provide roof terraces and upgraded street aesthetics.

Unique Circumstance.

The MSP ROW and location of SW Glover will reduce the lot size by 24' in width. This land will be dedicated to the city. The city has also requested an easement on the southeaster corner. Balancing these unique circumstances drove a unique design utilizing 19' width.

Hardship

14% of the street frontage is to be dedicated to the city ROW. In effort to create a much needed affordable density, 19' was max width allowed that fit on what was left over and met project needs.

Recap

There are many examples of townhomes with widths less than 20' that both functional and attractive. 19' wide units will provide the neighborhood affordable opportunities to live while maintaining the design integrity of the neighborhood.

Dave P. Burris, AIA, NCARB

479-586-9400

dave@burrisarch.com

**Buffington BW LLC**

4800 S Vaughn Road

BOA Date: 1/10/2024**Staff Report Details**

Project Number	VAR23-0032
Applicant / Current Owner	Crafton Tull / Buffington BW LLC
Site Area	12 separate lots (Avg of +/- 0.25 Acres each)
Current Zoning	R-1, Low-Density Single-Family Residential
Variance Request	Zoning Code Article 401 - Section 401.07 Residential (R) Districts Regulations. Part (c) (1).
Related projects	PP23-0004

Property Description

The subject property is located at 4800 South Vaughn Road, just southwest of the intersection of S Vaughn and Motley Road. This property is currently zoned R-1, Low Density Single Family Residential, with adjacent zoning districts including R-2, Medium Density Residential to the north and west, R-3, Medium-High Density Residential to the south, as well as A-1, Agriculture to the south and east. This subdivision layout was recently approved by the Planning Commission (June 6th, 2023) under preliminary plat PP23-0004.

Regulation

Zoning Code Article 401 - Section 401.07 Residential (R) Districts Regulations. Part (c) (1) requires a minimum front garage setback of 30' and a minimum rear setback of 25'.

Variance Request

The applicant has requested two setback variances each for 12 lots in McKissic Springs Subdivision. The applicant requests a variance of 10 ft from the front garage setback requirement of 30' and a variance of 5' from the rear setback requirement of 25'.

Variance Request

The applicants' narrative states that the lots in question (2,3,4,6,11,12,13,20,25,26,27,30) are unusual in shape, narrow at the front, and feature topography that limits buildable area. Their narrative also states that the literal interpretation of these zoning regulations would cause substantial undue hardship to the property owner.

Background

Upon review of the site topography and the associated preliminary plat of McKissic Springs Subdivision, planning staff has found the lots in question are not located on excessively steep topography. Many of these lots feature a sub 5% slope and are even slightly larger than others in the subdivision due to their location within the culs de sac which were planned for the development. The unusual shape of these lots could be seen as a result of the subdivision layout itself, and the topography present on the lots in question is not unusually steep for property of this zoning district in Bentonville. The applicant created the preliminary plat less than a year ago and always has the opportunity to amend it with the planning commission if the proposed architecture is no longer working as planned. Further, the sheer number of variances associated with this request demonstrates that relief through the variance process is not the proper way to rectify the situation. Per *Principles and Practice of Urban Planning*, page 440, "If the condition . . . is neighborhood-wide, it must be presumed that the governing body knew of this condition and deliberately chose, presumably on the basis of other considerations, to ignore it in the zoning requirements."

Public Comment

Has Staff received Public Comment at the time of this report?: **No**

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant within this application.
2. An approved building permit shall be required for the proposed structures outlined in this application.

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, structures 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.

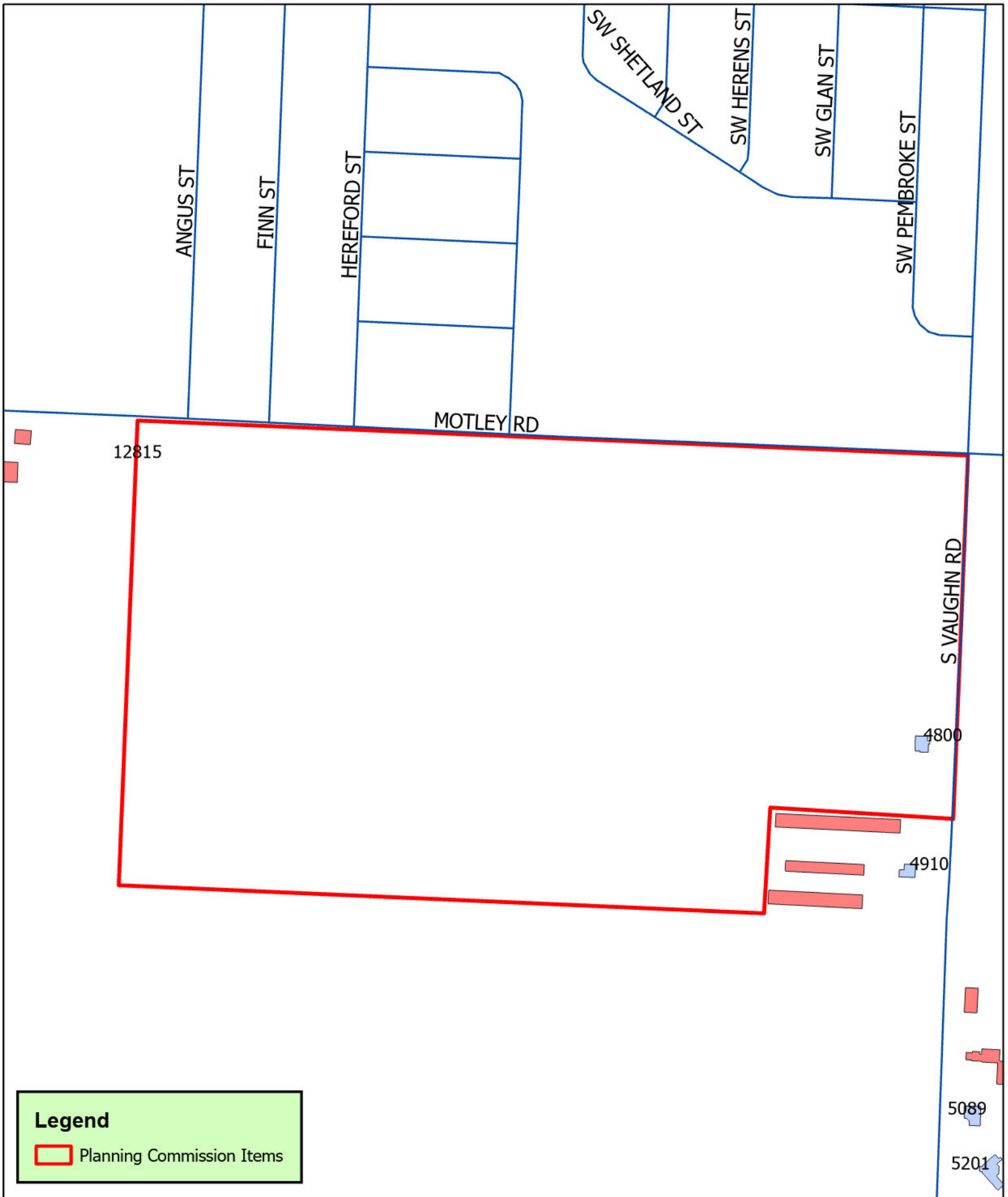
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.

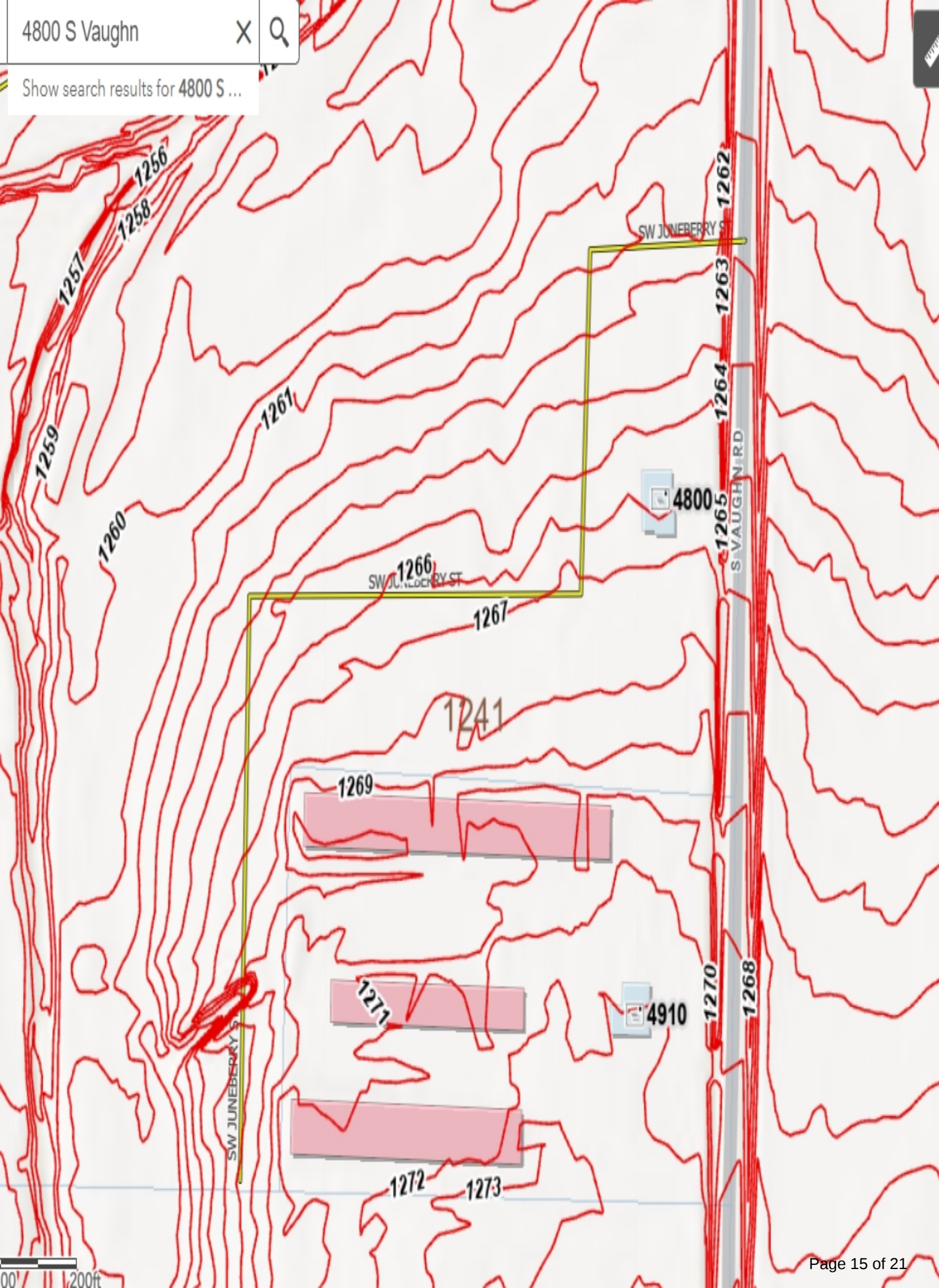
(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.



1:4,639

VAR23-0032 12/18/2023
4800 S VAUGHN RD
Parcel 01-08199-075





City of Bentonville
Planning Development Department

Letter of Intent for R-1 Setback Variance For:

SW Corner of Motley and Vaughn
ZONING: R-1 PARCEL ID#: 01-08199-075
Letter of Intent for Setback Variance

To Whom it May Concern,

We are requesting a variance for the above address to seek relief of the required front and rear yard setback, for the reasons detailed below, the proposed reduction of the setbacks would allow the property owner to build on otherwise constricted lots due to the topography and shape of lots 2,3,4,6,11,12,13,20,25,26,27,30.

1. Due to the unusual shape and narrowness of these lots, the onsite topography and the required front setback of 20 ft for the front façade and 30 ft for the garage and the rear setback of 25 ft. the lots listed above are constricted to such an extent that it is almost impossible to position a home on these lots. We are requesting a reduction in the required front setback to 20 ft for the garage instead of the required 30 ft and the rear setback to 20 ft.
2. Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.
3. The granting of the variance would have no effect on any adjoining properties. This zoning relief requested will not cause any detriment to the common good, as the literal interpretation and strict application of the applicable zoning requirements of this chapter would cause substantial undue and unnecessary hardship to the current property owner not just a casual/discretionary inconvenience to the property owner.

Thank you for your consideration,

BY-LAWS

BENTONVILLE BOARD OF ~~ZONING~~-ADJUSTMENT

ARTICLE 1. Members, Term, Attendance

- 1.1. The members and terms of office shall be as stipulated by Municipal Code Section 301.04~~City Ordinance No. 84-31~~, as amended.
- 1.2. When a new member is appointed to the Board, the position number he or she is filling will be so designated at the time of appointment.
- 1.3. Missing three consecutive regular meetings or a total of six meetings in a one-year period, except in extraordinary cases, may, at the recommendation of the Board constitute cause for removal by the City Council.
- 1.4. Members should advise the Secretary of Staff before the meeting date if they expect to be absent or late.

ARTICLE 2. Officers, Election and Term, Duties, Chairing the Meeting, Signing for the Board

- 2.1. The members shall elect a chairman, vice-chairman and a secretary at the first regular meeting in January, and the term of office shall be until the next officers have been elected.
- 2.2. The chairman shall preside at meetings and hearings and shall decide point of order or procedure, following Robert's Rules of Order.
- 2.3. In case the chairman is absent, the vice-chairman shall assume the duties as Chair; in the absent of both the Chair and the Vice-Chair; the Secretary shall preside.
- 2.4. The Secretary shall be responsible for the following tasks; however, he may delegate authority for performing them to another member of the Board or an employee of the City of Bentonville.
 - 2.4.1. Furnish a current copy of the by-laws and appointing orders at meetings as required.
 - 2.4.2. Prepare the minutes of meetings and public hearings.
 - 2.4.3. Distribute the proposed order of business items and notice of regular and special meetings.

2.4.4. Distribute the proposed order of business items and notice of regular and special meetings.

2.4.5. Maintain correspondence a filed and place notices of public hearings and advertisements.

2.5. When the certifying signature is required, the Chair's signature shall be utilized unless such authority has been designated by the Chair to another Board member or to a Board employee.

Article 3 Meeting, Scheduling, Quorum, Majority, Order of Business, Public Hearings

3.1. Board meetings shall be open to the public as provided by the Arkansas Freedom of Information Act.

3.1.1. The regular meetings of the Board of Adjustment shall be on the second and fourth Wednesday of each month at 5:00 p.m. at City Hall.~~the Technical Services Building.~~

3.1.2. Special meetings may be called at any time by the Chair of any three members.

3.2. No formal business shall be conducted without a quorum and no member may vote by proxy.

3.2.1. A quorum shall exist when a majority of the appointive members are present.

3.2.2. The affirmative vote of a simple majority of the full membership of the Board shall carry any motion or resolution.

3.2.3. The Mayor shall be an ex-officio member and shall have no vote. The Mayor shall not be counted in arriving at a quorum.

3.3. The order of business shall follow the distributed agenda unless otherwise agreed to by the members.

3.4. Public hearings shall be conducted informally, and the Chair shall make all rulings and determinations regarding the scope of the inquiry, the admissibility of evidence, the order in which evidence, objection, and arguments will be heard, and other like matters, except that other members shall be privileged to make inquiries personally and to call for a vote on any ruling of the Chair to expedite the hearing, confining the participants to the presentation of only essential matters, but entertaining the presentation of sufficient matter to do substantial justice to all concerned parties to the proceedings. Final or official

action shall be taken only in regular meetings unless the public hearing is continued to a special session of the Board after the hearing.

Article 4 Committees

- 4.1. The Chairman may establish standing, special, or advisory committees. Committee members may be persons other than members of the Board, but a board member shall be named as either active or ex-officio Chair of each committee.
- 4.2. Meetings shall be called by the chairman of the committee, or a majority of the membership of the committee, notifying the others.

Article 5 Records, Actions, Studies, Recommendation, Public Access

- 5.1. The Board Shall keep a file including all official documents of the Board including, but not limited to reports, records of decisions, recommendations, and studies made by the Board or its employees in the discharge of its duties and responsibilities.
- 5.2. Records shall be kept open to the public, available without fees or delays, subject only to the necessity for good order in the office of the Board.

Article 6 Amendments to These By-Laws, Timing, Majority

- 6.1. These by-laws shall be adopted, and later suspended, changed, or canceled only after an affirmative vote of a majority of the membership of the Board, Amendments shall be proposed in writing at a regular meetings and moved for action at a following meeting, unless ten-days notice and the written amendment itself have been given to all members, in which case motion may be made at a special meeting ten days after all the members have received the proposed change to these by-laws. Records shall be kept open to the public, available without fees or delays, subject only to the necessity for good order in the office of the Board.

Board Action:

by majority of the appointed members so voting, these by-laws for the Bentonville Board of Adjustment are hereby approved the ~~23rd~~ 10th day of January, 2024~~08~~.

2024

January							February							March						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6					1	2	3						1	2
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21	22	23	24	25	26	27	18	19	20	21	22	23	24	17	18	19	20	21	22	23
28	29	30	31				25	26	27	28	29			24	25	26	27	28	29	30
														31						
April							May							June						
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28	29	30					26	27	28	29	30	31		23	24	25	26	27	28	29
														30						
July							August							September						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
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October							November							December						
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27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				