

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@bentonville.com before 3:00 p.m. on the day of the meeting. Those comments will be communicated to the members of the Board of Adjustment. 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@bentonville.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
August 12, 2020**

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

- 1. Positronic Retail, LLC**
210 Prairie Lane (VAR20-0020)
 - Fence Height

Variance*

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

**Denotes public hearing*

Board of Adjustment
Minutes
July 22, 2020

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

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

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

New Business

Item #1

Buffington Lochmoor, LLC: Variance request for 4605 SW Hollowbrook Street, Minimum Lot Width, VAR20-0018
Ali Worley reads the staff report.
Opened public hearing
No public comments
Closed public hearing
Luke Jost, representative, speaks on the variance request.
There is some discussion between staff and Board members. A third condition of approval is added to state,
"Non-buildable shall be placed on new Lot 106 at time of platting."
Approved 4-0

Item #1

Tall Oaks Construction: Variance request for 424 NE Royce Loop, Fence Height, VAR20-0019
Ali Worley reads the staff report.
Ms. Holland recuses herself.
Opened public hearing
No public comments
Closed public hearing
Dana Lessly, representative, speaks on the variance request.
There is some discussion between staff and Board members. Ms. Worley states that Engineering has looked at this location and there are no sight distance issues.
Approved 3-0

Other Business

A new start time is discussed, but decided to go more in depth at the next meeting when all members are present.

There is discussion regarding changing the ordinance of fence height on corner lots.

Meeting adjourned

Ali Worley

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

BOARD OF ADJUSTMENT STAFF REPORT



Positronic Retail, LLC

210 Prairie Lane

BOA Date: 8/12/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0020
Applicant / Current Owner	Positronic Retail, LLC 908 E Central Avenue Bentonville, Arkansas 72712
Site Area	+/- 5.58 acres
Current Zoning	A-1, Agricultural
Variance Request	Article 1100.06.h.1, Fence Height, of the Land Development Code

Property Description

This property is located at 210 Prairie Lane. The site is currently zoned A-1, Agricultural. Adjacent zonings are R-1, Single Family Residential to the west, and A-1 to the north, east, and south.

Regulation

Regulation 1: The maximum fence height for a fence or wall located in the front yard or positioned any closer to the front property line than the front surface of the building for a typical residential or commercial lot, shall not exceed four feet in height.

Regulation 2: The maximum fence height shall be six feet above grade.

Variance Request

Request 1: The applicant is requesting a maximum front yard fence height of eight feet, which is a variance of four feet.

Request 2: The applicant is requesting a maximum fence height of eight feet around all other property lines, which is a variance of two feet.

Background

According to the applicant's narrative, Cool Wag operates as a dog daycare and hotel facility. They are requesting taller fences to help add a buffer for dogs that may escape their owners while entering and exiting the building.

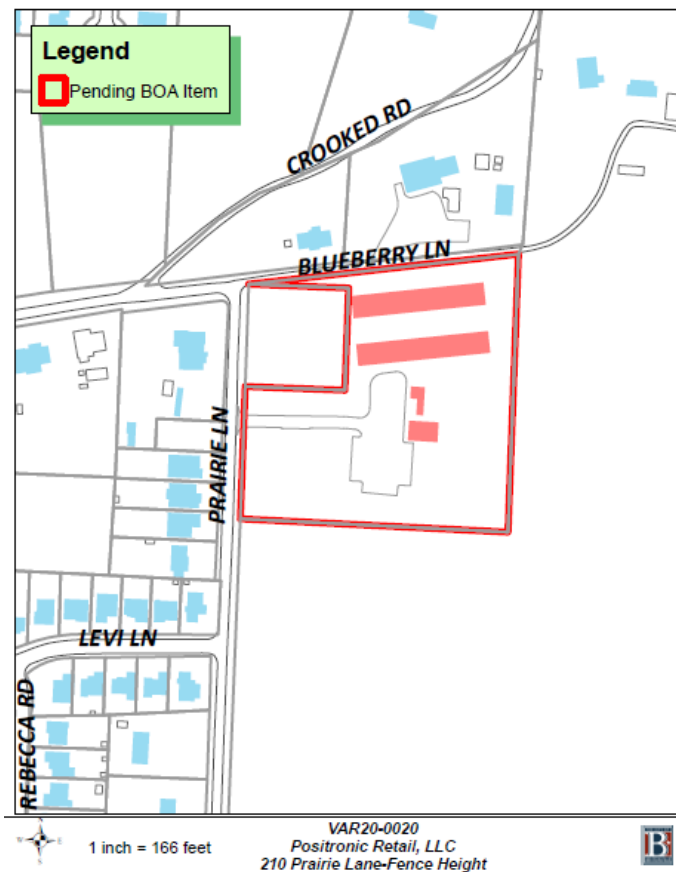
The front yard fence will be set back 20 feet from the property line on Prairie Lane. There will also be a gate at the entrance of the property, which will be set back 40 feet from Prairie Lane.

The fence located around the pool is existing and according to the applicant's narrative, is a six-foot tall black chain link fence which complies with the code regulations for fences located around pools. The pool is used as a dog dock-diving pool and is located in the front yard.

In addition, the applicant is requesting a variance for a six-foot tall black chain link fence to surround a dog agility sport yard to the west of the pool, located in the front yard. According to the applicant's narrative, the fence will surround an approximately 10,000 square foot yard that will have agility equipment for dogs to practice and have contests.

Public Comment

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



BOARD OF ADJUSTMENT STAFF REPORT

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 maintain five feet of separation from all utilities.
4. Screening of the fence around the existing pool/dog run area shall meet the requirements of Section 1400.09, Screening Requirements, of the Land Development Code. The screen shall exist of a Type A opaque screen.
5. The fence surrounding the pool shall be self-closing and self-latching.

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.

7/28/2020 - Updated 8/5/2020

Positronic Retail LLC

Bentonville Board of Adjustment,

We are seeking a variance for the 4' high limit for a fence in front of the building that is closest to Prairie LN. and 6' on the other sides of the property that are adjacent to parcels owned by others.

Our buildings are set back and we are a dog daycare and hotel facility and are in need of higher fences to add a buffer for the dogs so that if they escape their owner's while entering and exiting the building they will be able to be contained. We are asking that you allow us to build an 8' high fence and surround the property on all sides. It will either be black coated chain link or will be of a similar material (welded wire with pipe).

The property is surrounded 1. A public road, Prairie LN, 2. A private road, Blueberry LN, 3. Farmland on two sides with no structure within 500 or more feet, 4. A Cemetery.

West/Along Prairie LN: The fence will sit back off the road 20' which is well beyond the required setback.

There will also be a gate at the entrance on the driveway which will be 40' from the Prairie LN, that will enable two cars to line up if the gate should ever need to be closed (dog loose situation). This gate will have a 20' structure above it that will have an RFID antenna and camera system which will help us provide an additional level of service and security to our clients. The structure and gate will be secured with brick pillars which are 8' high.

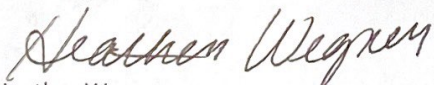
I have attached an image of what the structure will look like.

We need this to create the safest environment for our clients and to ensure that they are getting the best service possible. This is not due to anything the owners have done but rather due to the nature of dogs jumping and trying to escape and roam around.

Pool Fence: We would also like to add that we need a variance for the pool fence that is our dog dock diving pool located in front of the buildings. That fence is a 6' tall black chain link fence which complies to the fence code/regulations for pools.

Agility Fence: Also, we would like to include a variance for a 6' high black chain link fence (matching the pool fence) which will surround a dog agility sport yard to the west of the pool (between the pool and Prairie Lane). This fence will surround an approximately 100' x 100' yard that will have agility equipment for dogs to practice and have contests. The fence will use the fence along Prairie Lane as one side and the fence along the property line on the South as the other side so we only need two sides of the fence at the same height as the existing pool (variance requested in the paragraph above).

Thank you,


Heather Wegner

479-685-8527



PRAIRIE LN

STE #2

STE #4

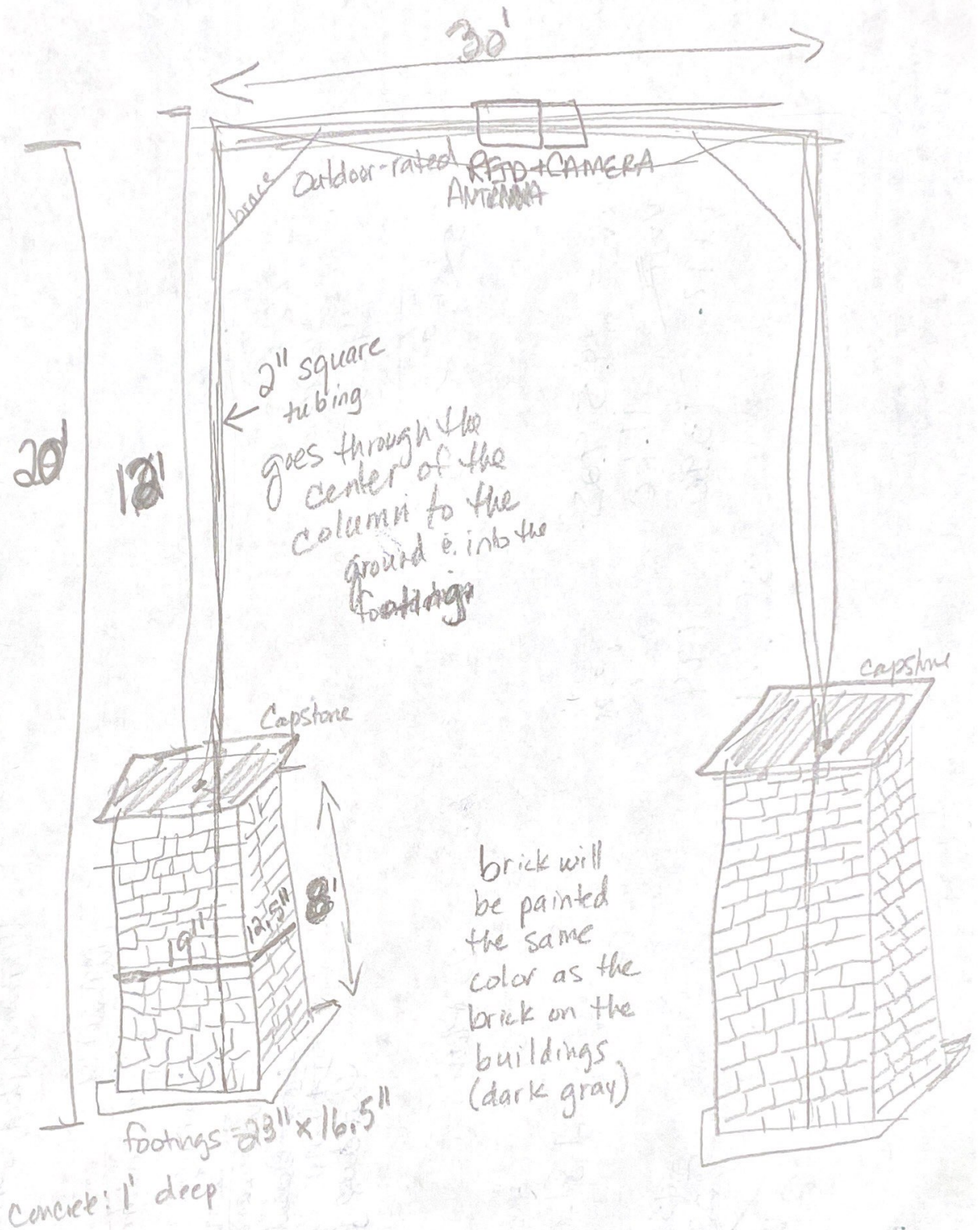
STE #210

STE #6

6? fence

fence will be 5' from parking lot

20' 45' 90' 8' Duck Pond



this will sit back 40' from the sidewalk and be to north & south sides of the driveway (between the driveway & sidewalk on the north side).