



**Board of Adjustments
Meeting Agenda
January 24, 2024
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link:<https://us06web.zoom.us/j/83540731255>

- I. Call to Order**
- II. Approval of Minutes**
 - 1. November 22nd Meeting Minutes** **Approval of Meeting Minutes**
 - 2. January 10th Meeting Minutes** **Approval of Meeting Minutes**
- III. New Business**
- IV. Old Business**
 - 1. Pensago LLC** **Variance***
604 SW 5th Street
 - 2. Review and approval of By-Laws** **Informational**
- V. Other Business**
- 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/84461212703?pwd=Zsude6lFZjpubQZwNt6Oi4wtrlgHutrV4YRphradURwYnYvcKnAP7aCEaFbQFUPj.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 Swanson.
 - November 8th meeting minutes are approved by a vote of 3-0

III. New Business

IV. Old Business

- HamHane LLC** **Variance***

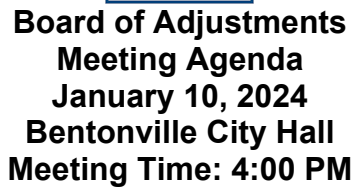
409 & 411 Northwest 5th Street
Variance request of 18 feet from the minimum rear setback of 25 feet required by: Zoning Code Section 401.07-B Downtown Neighborhood (DN) Districts Regulations, (c) DN districts setback standards.

- 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



I. Call to Order

- ## II. Approval of Minutes

Approval of Meeting Minutes

- ### III. New Business

Variance*

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2. Buffington BW LLC

Variance*

4800 S Vaughn Road

- Chairman Kruithof briefs those present on the public hearing and voting procedures of The Board.
- Mr. Aitken gives an overview of the variance request.
- Mary McGetrick, representing the applicant, Buffington Homes, speaks on reasoning for this request and explains the hardship posed by the site topography and nearby floodplain.
- Chairman Kruithof explains the criteria that The Board assesses when deciding to grant a variance.
- Mrs. McGetrick gives details on the floodplain on the property and how it creates a hardship for the specific lots in question.
- Discussion among The Board on the approval criteria.
- Motion to approve by Swanson second by Pearson.
- Request is denied 4-0.

IV. Old Business

V. Other Business

1. Review of By-Laws

Informational

- Chairman Kruithof states that he does not oppose any of the changes.
- Discussion on the definition of a “year” in regard to absences.
- The Board states they would like the one-year period for absences clarified in the by laws as “one calendar year”.
- Section 3.1.2 should read, “the Chairman or any three members.”
- Discussion among The Board and staff on time limits for a Public Hearing.
- Mr. Adler states he will consult with Legal staff on any time limits in place for public hearings.
- Section 2.4 should be amended to read “he or she may...”

2. Election of Officers - 2024

Informational

- Motion by Pearson to re-elect the same officers for 2024, second by Swanson.
- Officers are appointed for 2024 as shown below.
- Dean Kruithof - Chairperson, BJ Phillips – Vice Chairperson, Celia Swanson – Secretary

VI. Adjournment

- Meeting is adjourned at 5:01 PM by Chairman Kruithof.



Pensago LLC

604 SW 5th Street

BOA Date: 1/24/2024

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. Further, the alignment of the proposed 6 units could front to the east without any variance. 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

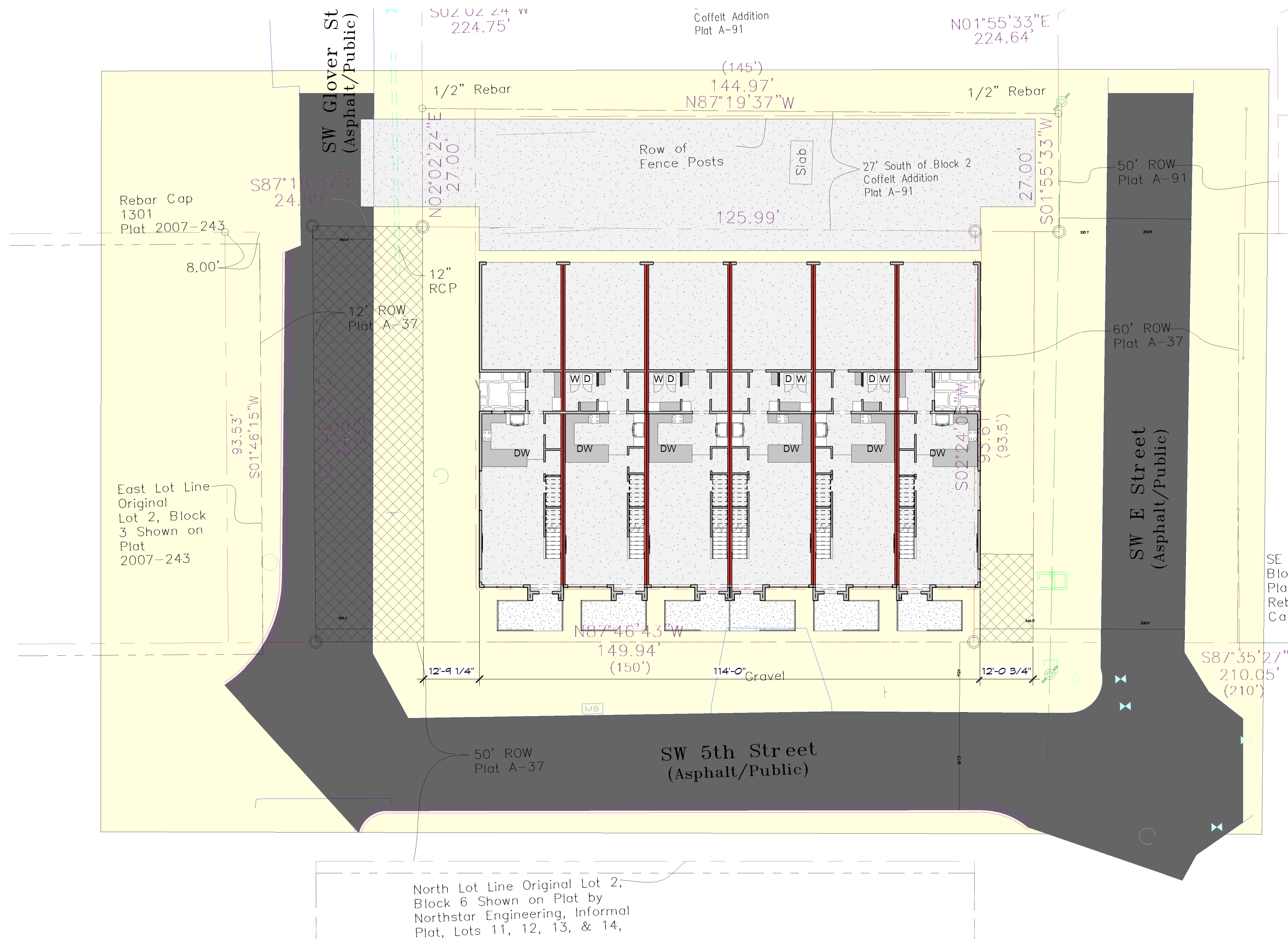
SW 5TH ST

SW F ST

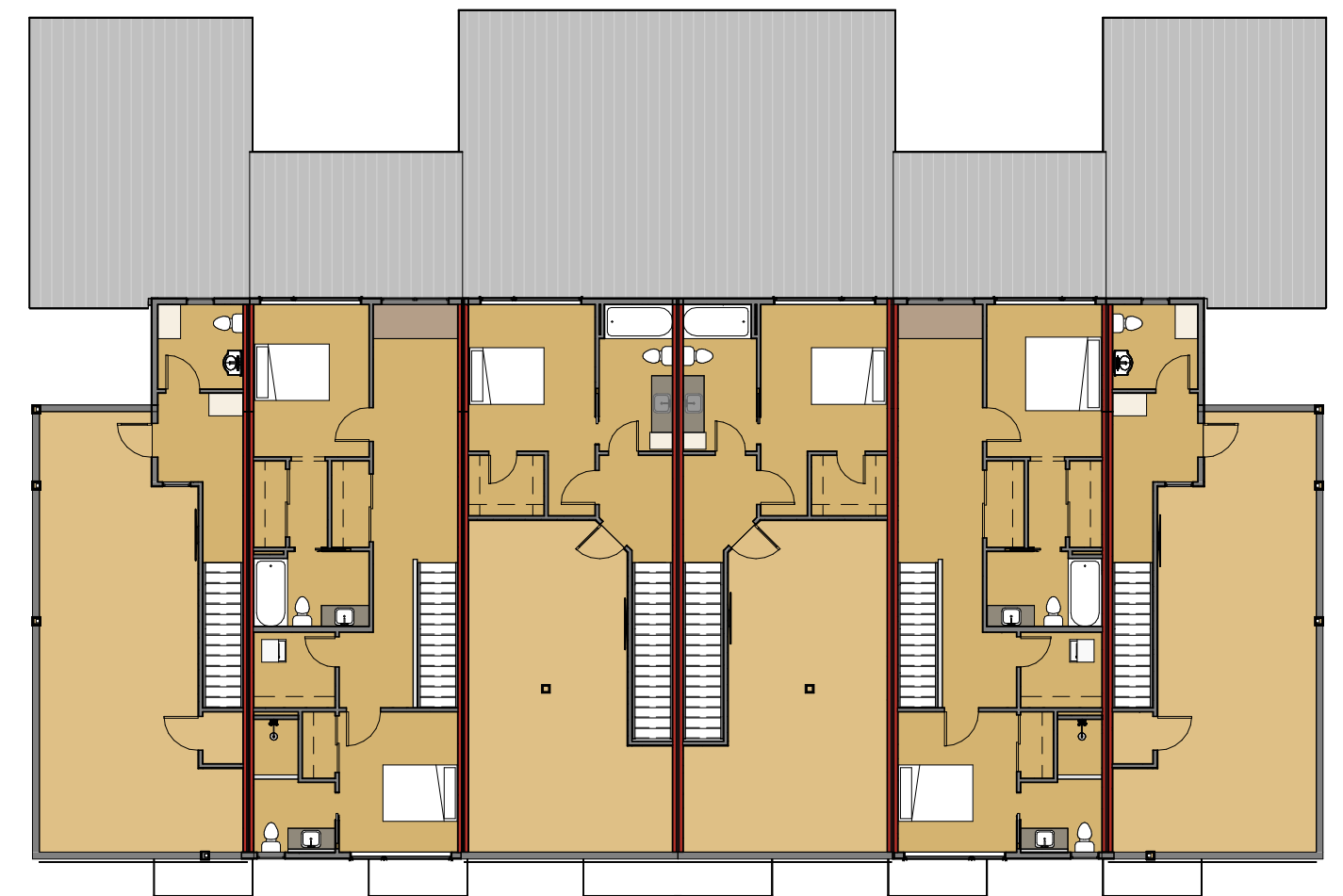
VAR23-0028

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

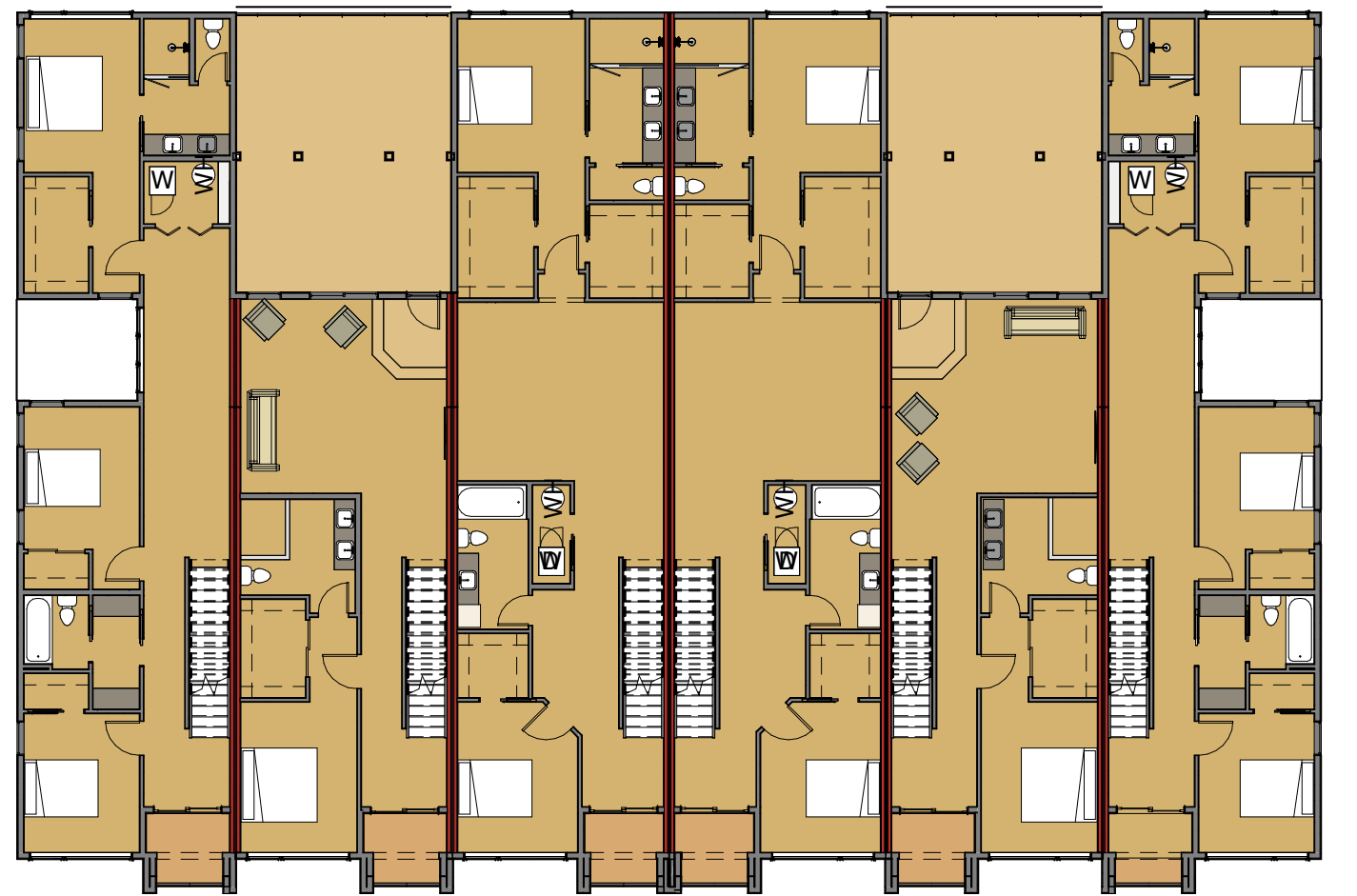




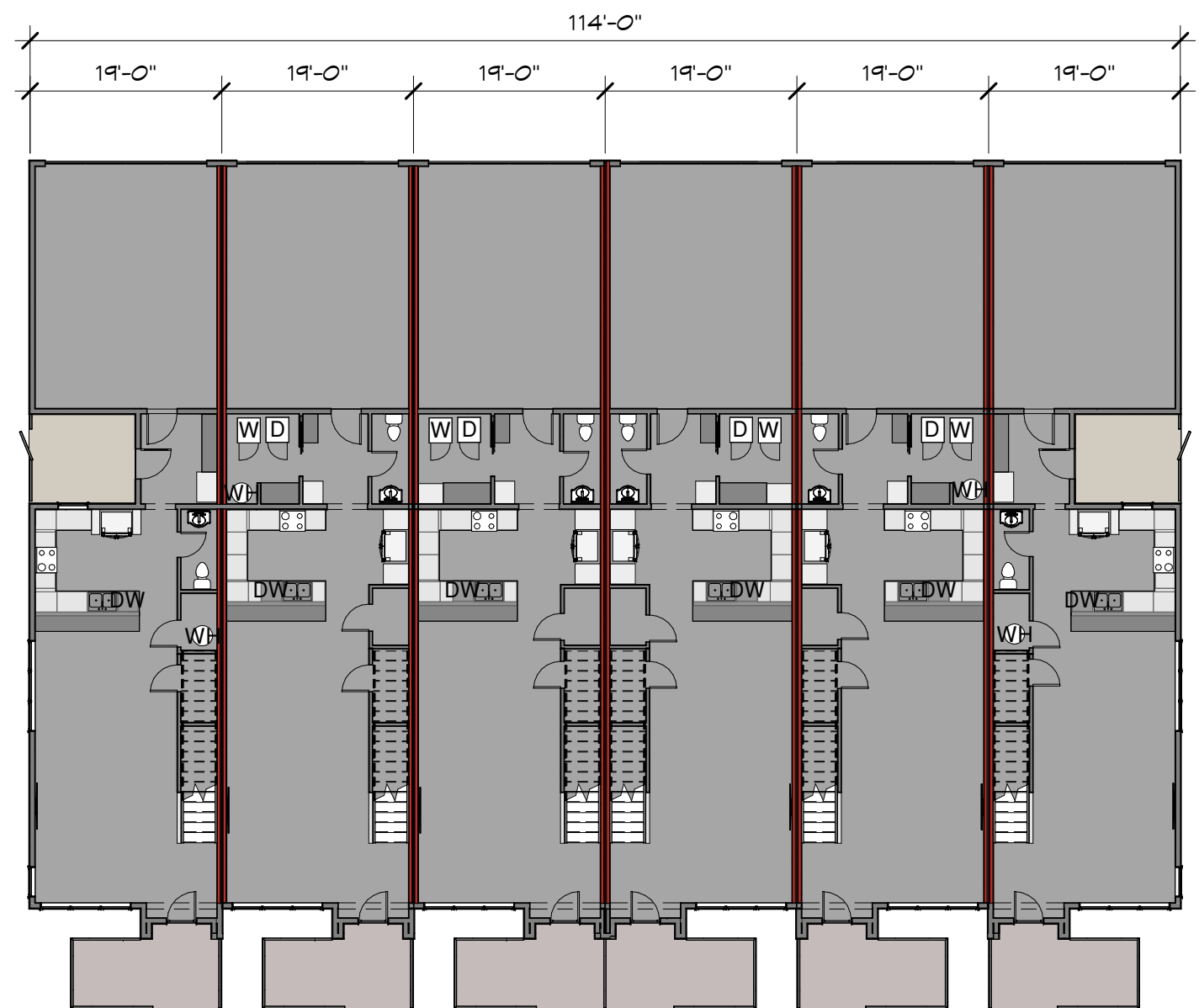
4 ARCH SITE DIAGRAM
1/16" = 1'-0"



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 DISCRETION OF THE ARCHITECT. ANY REVISIONS, ADDITIONS, OR DELETIONS SHALL BE MADE BY THE ARCHITECT. ANY REVISIONS, ADDITIONS, OR DELETIONS SHALL BE MADE BY THE ARCHITECT.



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

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 ~~calendar~~ -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, ~~they~~ 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 54:00 p.m. at City Hall.~~the Technical Services Building.~~
 - 3.1.2. Special meetings may be called at any time by the Chair ~~or~~ 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~~.

ATTEST:

Secretary

Chair