

Note –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 by 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 planning@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
October 28, 2020**

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

- 1. Clear T, LLC**
408 SE D Street (VAR20-0026)
 - Setbacks

Variance*

- 2. Square District Properties, LLC**
510 NW D Street (VAR20-0027)
 - Setbacks

Variance*

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

**Denotes public hearing*

Board of Adjustment
Minutes
September 23, 2020

Meeting called to order by Sam Pearson, Vice-Chairman.

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

Motion by Mr. Haynie, seconded by Ms. Holland to approve the minutes of September 9, 2020 as approved
Approved 4-0

New Business

Item #1

Hill: Variance request for 1398 Quail Run Circle, Accessory Building Regulations, VAR20-0023

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Mr. & Mrs. Hill, owners speak on the reason for the variance request.

There is extensive discussion amongst the Board, staff, and the owners.

Denied 4-0

Item #2

ELB Land Holdings, LLC: Variance request for SW Stonepoint Avenue & SW Hillstone Avenue, Setbacks & Lot Standards, VAR20-0024

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Dan Ferguson, representative, speaks on his reason for the variance requests.

There is discussion amongst the Board, staff, and Mr. Ferguson.

Minimum Lot Widths

Approved 4-0

Interior Side Yard Setbacks

Approved 4-0

Item #3

Schmidt: Variance request for 301 SW C Street, Fence Requirements, VAR20-0025

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Dennis Wewers, representative, speaks on his reason for the variance requests.

There is discussion amongst the Board, staff, and Mr. Wewers.

Request #1 was amended to construct the fence two feet off the property line, which is a variance of three feet.

Fence Adjacent to Public Right-of-Way

Approved 4-0 as amended

Fence Height

Approved 4-0

Meeting adjourned

Ali Worley

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

BOARD OF ADJUSTMENT STAFF REPORT



Clear T, LLC

408 SE D Street

BOA Date: 10/28/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0026
Applicant / Current Owner	Clear T, LLC PO Box 1948 Fayetteville, Arkansas
Site Area	+/- 0.17 acres
Current Zoning	DN-2, Downtown Medium-Density Residential
Variance Request	Zoning Code Article 401.07-B.d, Downtown Neighborhood (DN) districts setbacks standards

Property Description

This property is located at 408 SE D Street. It is currently zoned DN-2, Downtown Medium-Density Residential. It is surrounded by RC-2, Central Residential-Moderate Density to the north, R-1, Single Family Residential to the south and west, and DN-4, Downtown Mixed-Use Residential and C-1, Neighborhood Commercial to the east.

Regulation

According to the Zoning Code Article 401.07-B, Downtown Neighborhoods (DN) districts standards, section d, DN districts setback standards, the minimum interior side yard setback shall be 7 feet.

Variance Request

The applicant is requesting a variance to have an interior side yard setback of five feet, which is a variance of two feet.

Background

According to the applicant's narrative, they are requesting a five foot side yard setback on the southern side yard. The applicant is proposing to construct a single family attached home. The applicant states that reducing the setback would allow for enough space to build a standard 16-foot garage door.

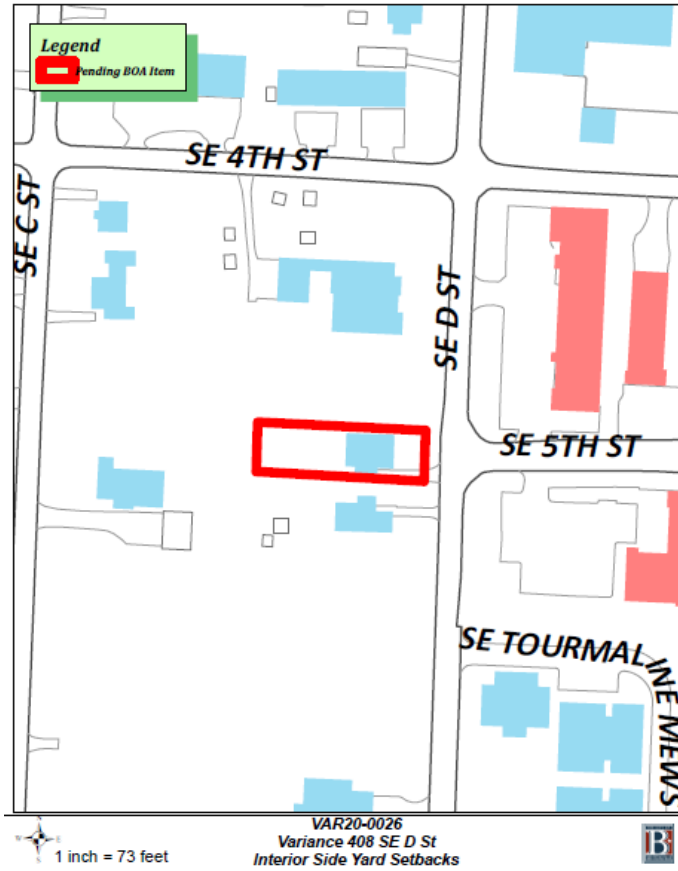
Public Comment

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 building permit prior to construction.
3. Any eave or projection that encroaches closer than five feet to the property line would have to be fire-rated with no openings on the adjacent wall.



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.



October 12, 2020

City of Bentonville Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Variance Request-408 SE D street-Lot 15 block 2

To Whom It May Concern:

We, RB Group, Inc are seeking a variance to reduce the southern side yard setback to 5 feet in lieu of the 7' standard that is required. The future plan for this property is to construct a single family attached dwelling as such zoning has been approved. One unit has been pre-sold, and the owner purchased more square footage of the lot leaving the second dwelling with total width of 16'. Reducing the side yard setback from 7 feet to 5 feet would allow us the necessary space to construct a garage with a standard 16' garage door. Should you have any question feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'RW' with a stylized flourish.

Reginald Wright.



Utility Notes

Miscellaneous Notes

Survey Description

16' PLATTED ALLEYWAY (GRAVEL) PER PLAT BOOK B, PAGE 27

1/2" CAPPED REBAR PLS #1642

1/2" REBAR

N 02°08'08" E 74.99'

N 87°50'49" W 150.09'

37.56'

25' 25' 20' 60' 20'

1/2" CAPPED REBAR PLS #1642

150.00' (R) S 87°44'08" E 150.02' (M)

5/8" CAPPED REBAR PLS #1642

37.43'

37.73'

50.00' (R) N 02°08'08" E 50.02' (M)

CONC DRIVE

25.0' GARAGE

SOD

PATIO

60.0' UNIT A

20'

16'

SOD

PATIO

UNIT B

SOD

50.00' (R) S 02°14'21" W 50.12' (M)

5/8" REBAR

0.8'

N 87°41'47" W 149.93' (M) 150.00' (R)

0.9'

5.0'

1/2" REBAR

NEW SIDE WALK

SE D STREET (ASPHALT - 70' PUBLIC RMW) PER PLAT BOOK B, PAGE 27

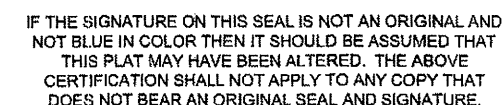
C/L

Legend of Symbols & Abbreviations

- ### Significant Observations

Zoning & Setback Information

SETBACK REQUIREMENTS:
FRONT: 20 FEET
SIDE: 7 FEET INTERIOR; 20 FEET EXTERIOR
REAR: 25 FEET



FIRM:

Certificate of Authorization № 1534

FOR THE USE AND BENEFIT OF:

CLEAR T, LLC

BOARD OF ADJUSTMENT STAFF REPORT



Square District Properties, LLC

510 NW D Street

BOA Date: 10/28/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0027
Applicant / Current Owner	Square District Properties, LLC 503 NE 2 nd Street Bentonville, Arkansas
Site Area	+/- 0.29 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Zoning Code Article 401.07.c, Residential districts setbacks standards

Property Description

This property is located at 510 NW D Street. It is currently zoned R-1, Single Family Residential. It is surrounded by R-1 on all sides.

Regulation

According to the Zoning Code Article 401.07, Residential districts standards, section c, subsection 1, Residential districts setback standards, the minimum rear yard setback shall be 25 feet.

Variance Request

The applicant is requesting a variance to have a rear yard setback of 19 feet, which is a variance of six feet.

Background

The applicant is also requesting a lot split and a rezoning to DN-2, Downtown Medium-Density Residential. According to the applicant's narrative, the owners are wishing to remodel the structure, and only one primary structure is allowed per lot. This necessitates the lot split. According to the narrative, the shared lot line would serve as the rear property line of proposed Lot 1 and the side property line for proposed Lot 2. If the structure is set back seven feet on proposed Lot 2, the existing structure on proposed Lot 1 would only be 19 feet from the proposed shared lot line.

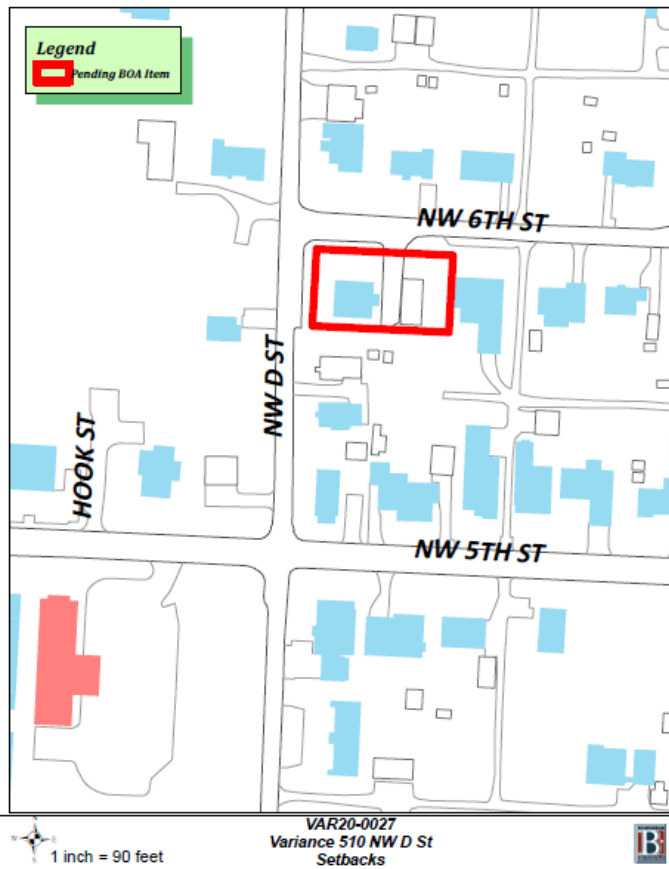
Public Comment

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 building permit prior to construction.
3. This variance will not be in effect until the proposed rezoning and lot split have City Council approval.



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.

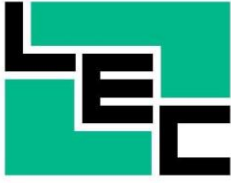
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.



LEMONS ENGINEERING CONSULTANTS, INC.

204 CHERRY STREET
CABOT, AR 72023
(501) 843-5081
(501) 941-0959 Fax

October 12, 2020

Bentonville Planning Commission
Board of Adjustments
305 SW 'A' Street
Bentonville, Arkansas 72712

Re: Proposed Variance – 510 A & B "D" Street
Bentonville Project: BOA Variance

Dear Board of Adjustment Members:

Attached you will find a proposed Lot Split as pertaining to the referenced project. This variance is in conjunction with a Rezone on the same property (RZ20-0055), that was filed for consideration earlier today.

The owners of this tract are requesting permission to remodel the structure, shown (on Lot 2) to the East of the existing Duplex, into a residence. For this to occur, the rezone to DN2 will be needed. As per the City's code, only one structure is allowed per lot in said zoning. Thus, a Lot Split is necessary. The common line between these two lots shall serve as the rear line of Lot 1, and the side lot line for Lot 2. If we set this line 7 feet West of the existing structure on Lot 2, the residual distance between this common line and the existing structure on Lot 1 is 19.76 feet, which is less than the required 25 feet. It should be noted that essentially all of the tracts on both lots, to exist between the structures, shall be used for ingress/egress, and utilities, as needed. Please include this item on the October 27, Board of Adjustments Meeting. The remaining information, with regards to this variance, has been sent through ETRAKIT, earlier today, including the payment of fees in the amount of \$150.00.

Please inform our office if you need additional information.

Sincerely,

Tim Lemons, PE



0' 20' 40' 60'

SCALE: 1" = 20'

Project No:	Date:	No.	Revisions	Date
20-063	October 12, 2020			
File:	Scale:			
Morgan Addition.dwg	1" = 20'			
Sheet:	Drawn By:			
1 of 1	B. Deck			