

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**

November 18, 2020

Registration Link: https://us02web.zoom.us/webinar/register/WN_mWzKmyFPSyKovNTMxcn5w

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

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

IV. New Business

- 1. NWA Storage 1, LLC** **Variance***
SW Regional Airport Boulevard (VAR20-0029)
 - Sign Regulations
- 2. 1SQFT, LLC** **Variance***
302 SW Chardonnay Boulevard (VAR20-0030)
 - Setbacks

- V. Other Business**
- VI. Adjournment**

**Denotes public hearing*

Board of Adjustment
Minutes
October 28, 2020

Meeting called to order by Rick Rogers, Chairman at 4:10pm.

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

Motion by Ms. Holland, seconded by Mr. Haynie to approve the minutes of September 23, 2020 as approved
Approved 3-0

Mr. Rogers states that Item #2 will move to Item #1.

New Business

Item #2

Square District Properties, LLC: Variance request for 510 NW D Street, Setbacks, VAR20-0027

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Tim Lemons, representative, speaks on the reason for the variance request.

There is discussion amongst the Board, staff, and the representative.

Approved 3-0

Item #1

Clear T, LLC: Variance request for 408 SE D Street, Setbacks, VAR20-0026

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

The applicant is not present. Motion by Mr. Rogers, seconded by Mr. Haynie to table the item.

Tabled 3-0

Other Business

A special meeting will be held on November 18, 2020 and the November 25, 2020 and December 23, 2020 meetings will be cancelled.

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

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.

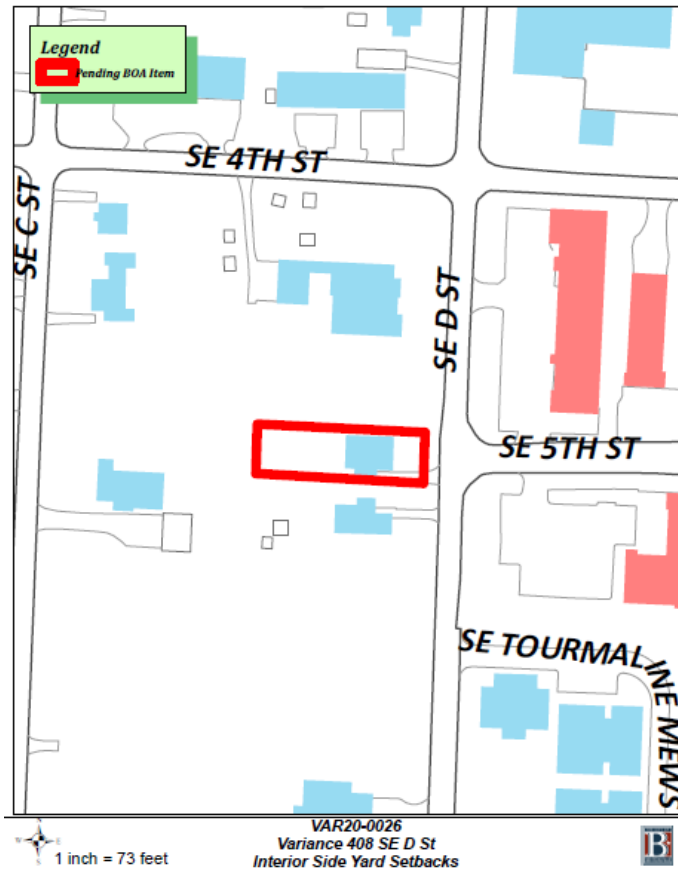
Public Comment

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

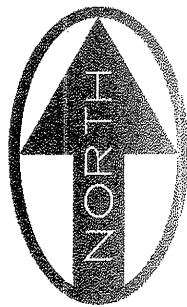
To Whom It May Concern:

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' followed by a stylized flourish.

Reginald Wright.



LOT SURVEY

BASIS OF BEARING:
BEARINGS SHOWN ARE BASED ON
GRID NORTH FOR ARKANSAS
COORDINATE SYSTEM, NORTH ZONE, NAD83.
LATITUDE = 36°22'06.2517"
LONGITUDE = -94°12'10.6380"
CONVERGENCE ANGLE = -1°16'54.83132
DISTANCES SHOWN ON PLAT ARE GRID.
COMBINED SCALE FACTOR
(GRID TO GROUND) = 1.00002711273508

Utility Notes

THE LOCATIONS OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

BEFORE DIGGING IN THIS AREA, CALL "ONE CALL" 811 FOR FIELD LOCATIONS (REQUEST FOR GROUND MARKINGS) OF UNDERGROUND UTILITY LINES

Miscellaneous Notes

COMPLETED FIELD WORK:
JUNE 12, 2020

REFERENCE DOCUMENTS:
1. WARRANTY DEED FILED IN DEED BOOK 2017 AT PAGE 52977.
2. SURVEY PLAT FILED IN PLAT BOOK B AT PAGE 27.

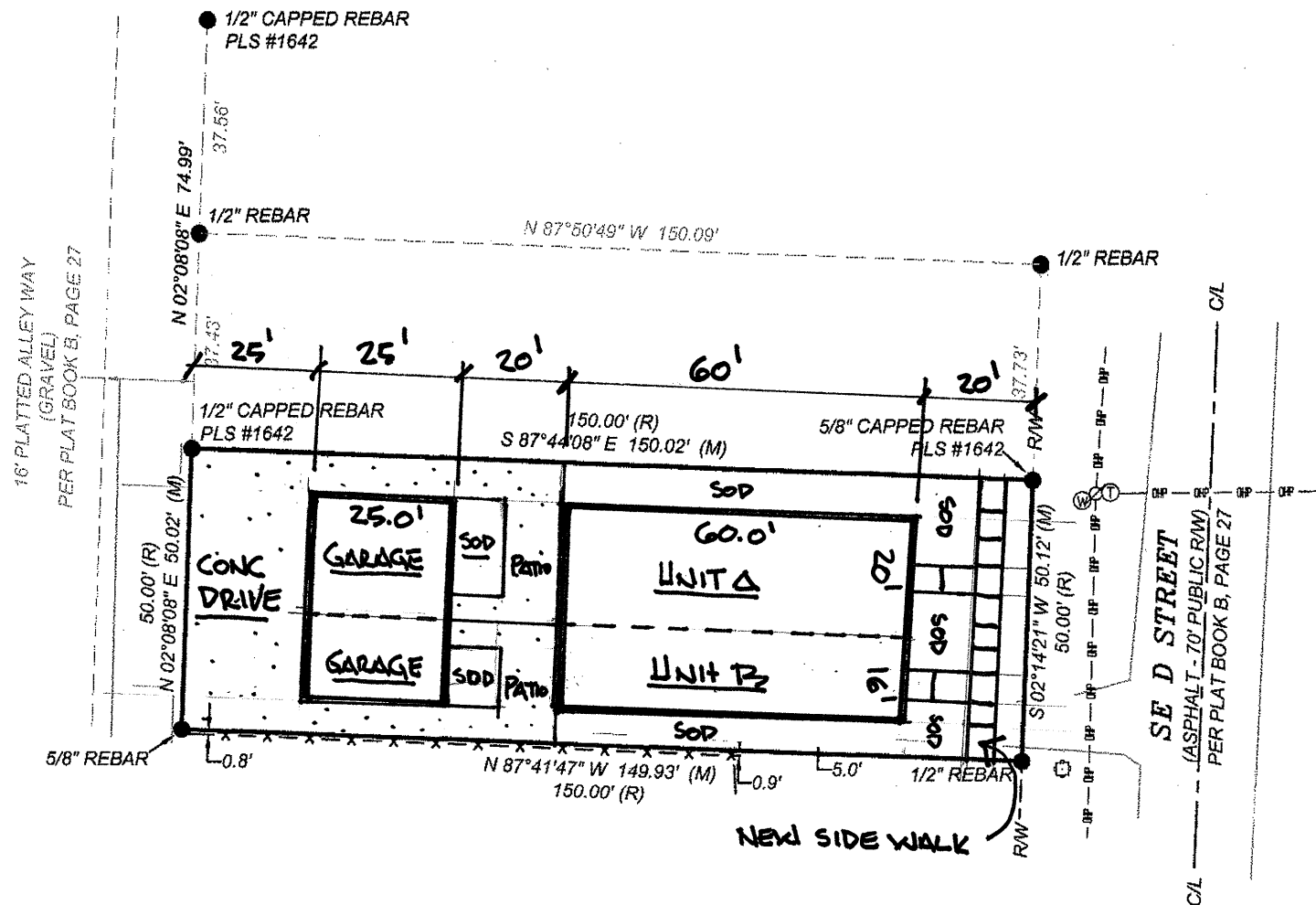
SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY

DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT OF ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT PROPERTY: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

Survey Description

LOT 9, BLOCK H, ORCHARD ADDITION, TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS.



Legend of Symbols & Abbreviations

—	BOUNDARY LINE
- - -	LOT LINE
- - - - -	CENTERLINE OF ROAD (C/L)
- - - - -	RIGHT-OF-WAY (R/W)
- x - x - x -	FENCE
- - - - -	BUILDING SET BACK (B.S.B.)
- - - - -	OVERHEAD POWER LINE
●	FOUND MONUMENT (AS NOTED)
○	SET 1/2" REBAR & CAP #1826
⊕	ELECTRICAL BOX
⊗	POWER POLE
⊕	TELEPHONE PEDESTAL
⊗	WATER METER

Significant Observations

CANOPY APPEARS TO POTENTIALLY ENCROACH INTO 7' BUILDING SETBACK LINE BY AS MUCH AS 5.0' ±

Zoning & Setback Information

CURRENT ZONING: R-1, SINGLE FAMILY RESIDENTIAL

SETBACK REQUIREMENTS:

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

0 30 60



1 INCH = 30 FEET

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 18TH DAY OF JUNE, 2020.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

FIRM:

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

3825 N. SHILOH DRIVE
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com

Certificate of Authorization No 1534

DRAWN BY & DATE:	REVIEWED BY:	SURVEYED BY:
TPN 06/18/20	HM	DA

COUNTY & STATE:	JOB NUMBER:
BENTON COUNTY, ARKANSAS	20-2522

LOCATION:
408 SE D ST., BENTONVILLE, AR 72712

FOR THE USE AND BENEFIT OF:

CLEAR T, LLC

BOARD OF ADJUSTMENT STAFF REPORT



NWA Storage 1, LLC

SW Regional Airport Boulevard

BOA Date: 11/18/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0029
Applicant / Current Owner	NWA Storage 1, LLC 74 Halbach Ct Fond Du Lac, Wisconsin
Site Area	+/- 0.01 acres
Current Zoning	C-2, General Commercial
Variance Request	Zoning Code Articles 801.15.c.2 and 801.16.a.6

Property Description

This property is located at the northeast intersection of SW Regional Airport Boulevard and SW Municipal Drive. It is currently zoned C-2, General Commercial.

Regulation

Regulation 1: According to Zoning Code Article 801.15, Signs Allowed With a Sign Permit, section c, Freestanding signs-Nonresidential districts, subsection 2, Setbacks, a sign with an area of 32 square feet or less requires a minimum five-foot setback from the property lines.

Regulation 2: According to Zoning Code Article 801.16, Prohibited Signs, section a, Generally Prohibited Signs, off-site commercial message signs are prohibited.

Variance Request

Request 1: The applicant is requesting a setback of 1.5 feet, which is a variance of 3.5 feet.

Request 2: The applicant is requesting to allow an off-site commercial sign at this location.

Background

According to the applicant's narrative, the owner's property originally had 70 feet of frontage along SW Regional Airport Boulevard and a sign in its current location prior to the City requesting right-of-way. According to the applicant, an agreement was made to allow the sign area to remain as a standalone tract specifically for the purposes of a commercial sign separated from the rest of the property owner's property due to the newly created right-of-way by SW Municipal Drive.

In addition, according to the applicant's narrative, a smaller tract for the sign was retained than what would conform to the sign setbacks.

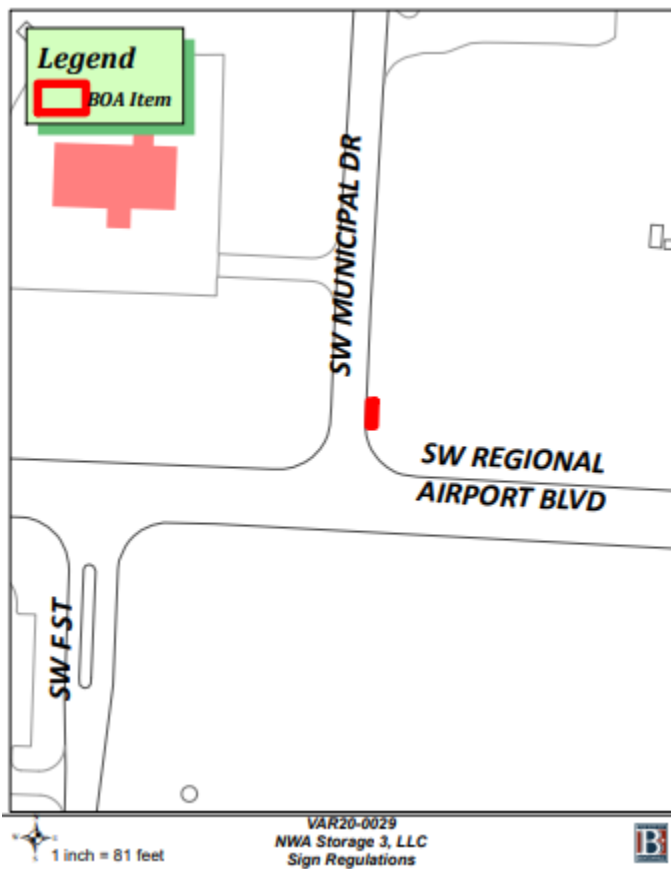
Public Comment

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 sign height, location, and materials as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved sign permit prior to construction.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

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- 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.

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October 19, 2020

Sand Creek Project: 20054

Board of Adjustment – City of Bentonville
305 SW A Street
Bentonville, AR 72712

SUBJECT: Variance Request from Sign Code

To whom it may concern,

On behalf of NWA Storage 1, LLC, I am requesting a variance from Article 801, Sign Ordinance – Private Property, Section 801.15, Signs Allowed With A Sign Permits, (c) Freestanding signs-Nonresidential districts., (2) Setback, and Section 801.16 Prohibited Signs, (a) General prohibited., (6) Off-site commercial message signs.

This property was a tract the City allowed the property owner to retain for the purpose of a commercial sign along SW Regional Airport Blvd. when the owner agreed to convey the original Right-of-Way for SW F St., now SW Municipal Drive to the City of Bentonville. The owner's property originally had 70 feet of frontage along SW Regional Airport Blvd. and a sign in its current location prior to the City requesting Right-of-Way to install a new street. An agreement was made to allow the sign area to remain as a standalone tract specifically for the purposes of a commercial sign separated from the rest of the owner's property by the newly created Right-of-Way of SW F St (SW Municipal Drive). The tract is shown as "Sign Area" in the Street Right-of-Way, Drainage and Utility Dedication filed in Deed Book 2000 at Page 63445. We are requesting that we be granted a variance from Section 801.16 Prohibited Signs, (a) General prohibited., (6) Off-site commercial message signs, allowing the owner to use the "Sign Area" tract as was intended when the Right-of-Way was dedicated to the City.

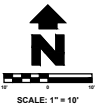
The "Sign Area" tract was created prior to the City adopting a Sign Ordinance governing setbacks. In an effort to allow the City as much Right-of-Way as possible, the owner retained a tract smaller than what would conform with Section 801.15, Signs Allowed With A Sign Permits, (c) Freestanding signs-Nonresidential districts., (2) Setback. We are requesting that the setback be reduced from the required 5 feet to 1.5 feet to fit within the existing 6-foot by 25-foot tract.

Respectfully submitted,

Yonas Ghebremedhin

Civil Engineer
Sand Creek Engineering &
Land Surveying, Inc.
Email-yonas@sandcreek.us
Phone-479-464-9282

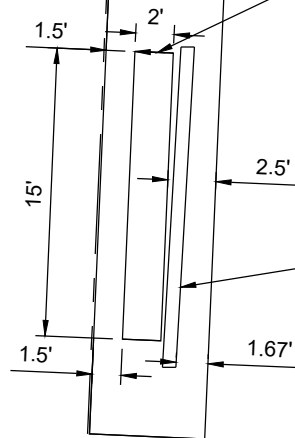
A handwritten signature in black ink, appearing to read "Yonas".



Part of Tract 3A, Seals Addn
Parcel ID # 01-05277-002
Owner info: 3B Storage LLC
Address: SW Regional
Airport Blvd.
150 Sq.Ft.± or 0.001 Ac.±

Proposed Monument Sign
"Superior Storage"

Existing
Monument Sign
"Airport
Boulevard
Mini-Storage"



BOARD OF ADJUSTMENT STAFF REPORT



1SQFT, LLC

302 SW Chardonnay Boulevard

BOA Date: 11/18/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0030
Applicant / Current Owner	1SQFT, LLC
Site Area	+/- 0.20 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Zoning Code Article 401.07

Property Description

This property is located at 302 SW Chardonnay Boulevard. It is currently zoned R-1, Single Family Residential. Adjacent zonings are R-1 to the north, east, and south, and R-E, Residential Estate to the west.

Regulation

According to Zoning Code Article 401.07, Residential districts regulations, section c, Residential setback standards, subsection 2, Garages, the minimum front setback for a street-facing garage shall be 30 feet from the property line that the garage faces.

Variance Request

The applicant is requesting a setback of 25 feet, which is a variance of five feet.

Background

According to the applicant's narrative, Chardonnay Subdivision was developed in 2002 and 82% of the homes were built under the pretenses of a 25 foot front and rear setback. The applicant states that the current zoning setbacks would greatly reduce the size of home that would fit on the lot and would go against the current architectural standards of the existing homes in the subdivision.

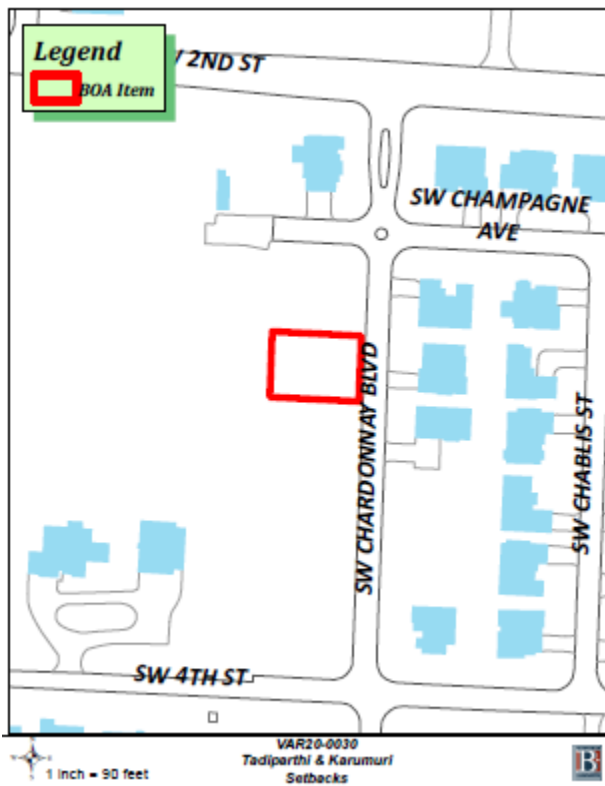
Public Comment

Staff has **NOT** received public comment regarding this request, but has received several general inquiries about the variance request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed setbacks and layout as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved building permit prior to construction.



Section 301.10.c, Standards of Approval, of the Zoning Code

BOARD OF ADJUSTMENT STAFF REPORT

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- c. that special conditions and circumstances do not result from the actions of the applicant; and,
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(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.

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Alison Worley

From: Alex Constien <alexconstien@live.com>
Sent: Wednesday, October 28, 2020 8:28 AM
To: Alison Worley
Subject: VAR20-0030
Attachments: VARIENCE REQUEST.pdf; Chardonnay Blvd_002.pdf

Alison,

Thank you for letting us know about the issue with the filing software issue. Attached are the documents for the request.

Goal of Variance - Chardonnay Subdivision was developed in 2002 and 82% of the homes in the subdivision were built under the pretenses of a front and rear setback of 25' and a side set back of 7'. Under the setbacks required by current zoning the front require a 20' living structure set back with a 30' front of garage set back. The setbacks under the current zoning would greatly reduce the size of home that would fit on the lot and would go against the current architectural standards of the existing homes in the subdivision.

Alex

Sent from [Mail](#) for Windows 10

