

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**

January 13, 2021

Registration Link: https://us02web.zoom.us/webinar/register/WN_bvUSY0qvRu6Cgxz836EWHw

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

- 1. Yates** **Variance***
 332 Crestview Drive (VAR20-0033)
 - Setbacks

IV. New Business

- 1. C Street Properties, LLC** **Variance***
 1601 NW A Street (VAR20-0035)
 - Fence Height
- 2. City of Bentonville** **Variance***
 SW I Street (VAR20-0036)
 - Setbacks

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

**Denotes public hearing*

Board of Adjustment
Minutes
December 9, 2020

Meeting called to order by Rick Rogers, Chairman.

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

Motion by Mr. Pearson, seconded by Ms. Holland to approve the minutes of November 18, 2020 as written
Approved 4-0

New Business

Item #1

Wal-Mart Real Estate Business Trust: Variance request for 406 S Walton Boulevard, Sign Regulations, VAR20-0031

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Mr. Rogers recuses himself.

Terry Pool, representative, requests the item be tabled.

Motion by Mr. Chrisco, seconded by Ms. Holland to table.

Tabled 3-0

Item #2

Yates: Variance request for 323 Crestview Drive, Setbacks, VAR20-0033

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

There will be no other public hearing held. No applicant is present.

Motion by Mr. Chrisco, seconded by Mr. Pearson to table.

Tabled 4-0

Other Business

Item #1

Planning Commission voted to approve an accessory structure ordinance amendment. Ms. Worley goes over the changes with the Board members.

Item #2: Election of Officers

Motion by Mr. Pearson, seconded by Mr. Chrisco to nominate Rick Rogers as Chairman, Jan Holland as Vice-Chair, and Rustin Chrisco as Secretary.

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



Yates

323 Crestview Drive

BOA Date: 12/9/2020

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0033
Applicant / Current Owner	Hall Yates
Site Area	+/- 0.25 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Zoning Code Article 401.07

Property Description

This property is located at 323 Crestview Drive. It is currently zoned R-1, Single Family Residential and is surrounded by R-1 on all sides.

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

Because the property has dual street frontage with Crestview Drive to the south and NW 5th Street to the north, a garage facing either street shall have a setback of 30 feet. According to the applicant's narrative, NW 5th Street, although being classified as a Collector street per the Master Street Plan, is functioning more like a residential street as there it dead ends to the west. Therefore, the applicant is seeking a variance of the street-facing garage setback standard, while still meeting the intent of a rear yard setback of 25 feet.

Per our Code, residences are not allowed access onto a Collector street. However, Planning Commission approved a waiver on December 1, 2020 for the applicant to be able to access NW 5th Street.

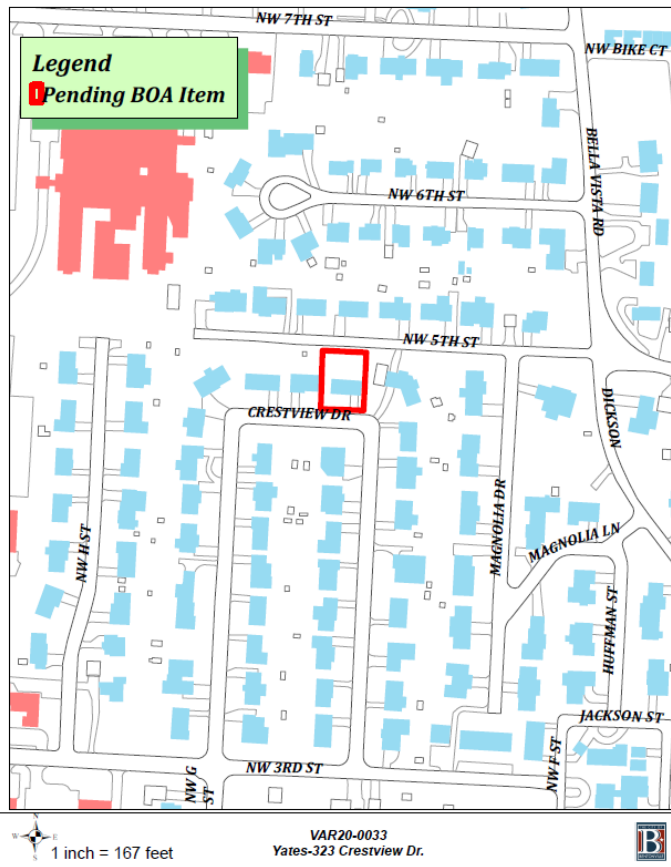
Public Comment

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.



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.

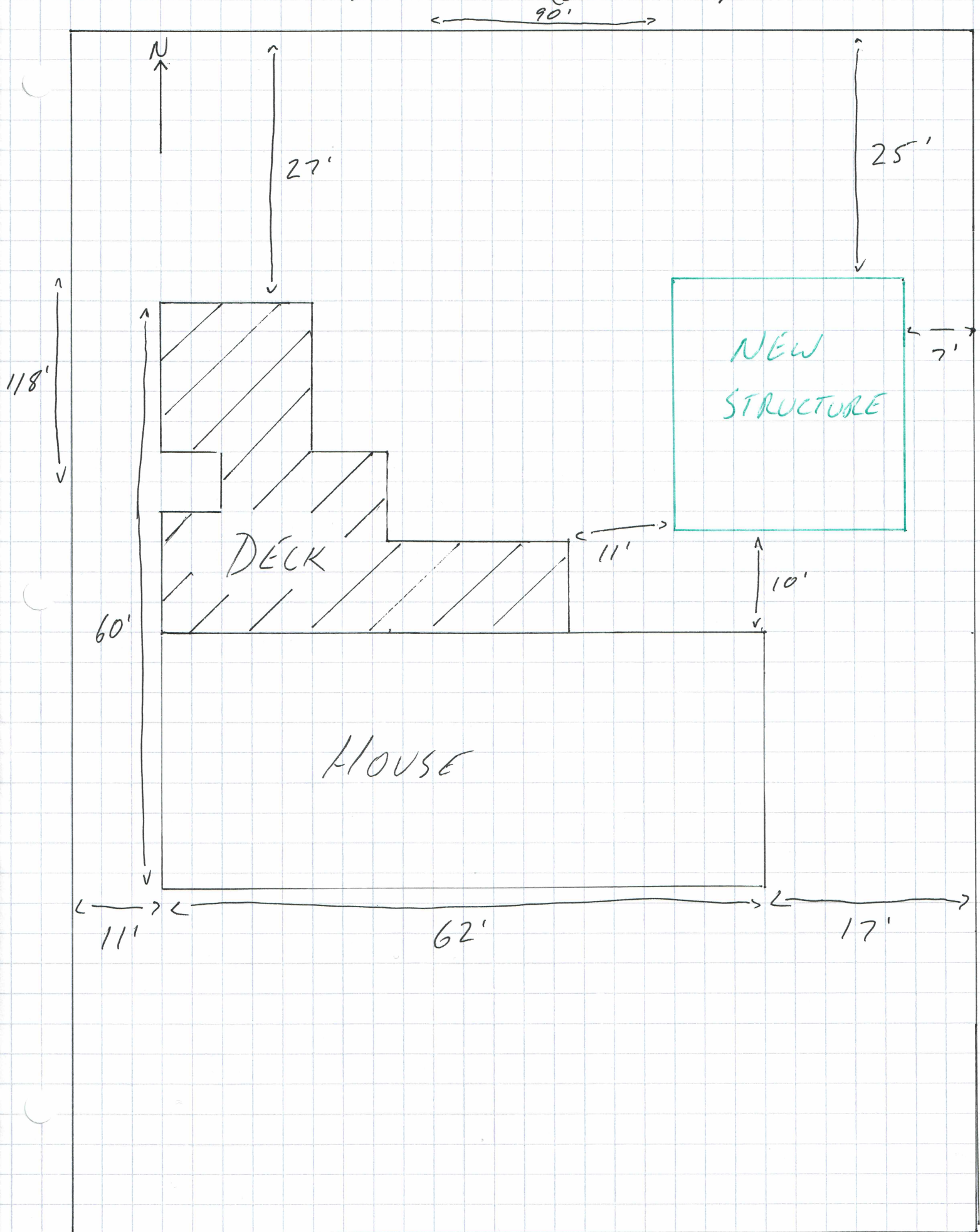
323 Crestview Drive Variance Board of Adjustment

The applicants are of the understanding that special conditions and circumstances exist in relation to building a proposed structure on 323 Crestview Drive, which may or may not be applicable to other properties in the same district. The section of NW 5th Street in question has been designated a "Collector Road" however does not adhere to the minimum 70ft of width required for "Collector Road" designation. This section of NW 5th Street is also a no-through road for the entire length of road west of the Bella Vista Road junction. Both circumstances are unlikely to ever change.

The literal interpretation of the "Collector Road" ordinance would deprive the applicants of the right to effectively use their property's entire assets, in this case dual-road frontage. This is the only "Collector Road" in the downtown district that does not function as, or adhere to, the practical purposes of a "Collector Road".

These special conditions and circumstances were not a result of the applicants' actions. They purchased the 323 Crestview Drive property with the understanding that dual-road frontage could be utilized as proposed.

323 CRESTVIEW SITE PLAN (SCALE 1:3)



BOARD OF ADJUSTMENT STAFF REPORT



C Street Properties, LLC

1601 NW A Street

BOA Date: 1/13/2021

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0035
Applicant / Current Owner	C Street Properties, LLC
Site Area	+/- 6.08 acres
Current Zoning	PRD, Planned Residential Development
Variance Request	Land Development Code Article 1100.06

Property Description

This property is located 1601 NW A Street and is currently zoned PRD, Planned Residential Development. The site is currently home to Red Barn Farm. Surrounding zonings include PRD to the north, south, and west (also park of Red Barn Farm), and R-1, Single Family Residential, and R-3, Medium Density Residential to the east across NW A Street.

Regulation

According to Land Development Code Article 1100.06, Fence and Wall Requirements, section h, Fence design standards, subsection 1.b, Fence height, Front Yard, 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, shall not exceed four feet in height.

Variance Request

The applicant is requesting a fence height of eight feet, which is a variance of four feet.

Background

According to the applicant's narrative, Red Barn serves as an urban agriculture neighborhood, where approximately 6.07 acres were retained as agricultural use. The applicant is requesting a taller fence in order to help keep the deer out, which has reduced farm production and viability.

In addition, the applicant states there is a substantial slope from the road grade to field grade and the perceived height of the fence will be much lower.

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 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 fence shall meet the requirements for fences located within utility easements listed within the Land Development Code.



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.

December 17, 2020

Application for Variance

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

We are presenting an application for a fence variance for Red Barn Farm, located on 1601 NW A Street, Bentonville, AR 72712.

Variance: Land Development Code Section 1100.06.h.1.b

In 2017, the City of Bentonville approved Red Barn, an urban agriculture neighborhood as a new Planned Residential Development (PRD). Within the PRD, the northeast corner along NW A Street, Zone 2 (approximately 6.07 acres), was retained as agricultural use and classified as A-1. For the past 2 years, our team has worked rigorously with city staff to overcome all the limitations of not having an urban farming qualification within the city limits.

Land Development Code Section 1100.06.h.1.b states “Front yard. 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 lot or commercial lot, shall not exceed four (4) feet in height.” However, this standard makes farming within city limits unviable due to the large deer population that the City of Bentonville has. A 4’ fence, established by the Land Development Code, does not keep the deer out. Deer intrusion has posed a threat on production and ultimately, the farm viability due to its large economic impact that this has had. We are requesting a variance for a 8’ fence that would keep deer out, making successful urban farming in Bentonville attainable.

In addition, there is a substantial slope from the road grade to field grade and the perceived height of the fence will be much lower. The top of the fence above the road grade will be about 4'.

As shown in the picture, we are proposing a very transparent 8' deer fence that will not obstruct the view along A Street. Alongside, we will grow natives and flowers in the space between the fence and the sidewalk to enhance its aesthetic appeal.



We appreciate your consideration and understanding,

Matt O'Reilly

Matt O'Reilly
Representative of Red Barn, LLC

12.17.2020

Date

BOARD OF ADJUSTMENT STAFF REPORT



City of Bentonville

SW I Street & SW 41st Street

BOA Date: 1/13/2021

Reviewer: Ali Worley, Planning Technician

Project Number	VAR20-0036
Applicant / Current Owner	City of Bentonville
Site Area	+/- 1.39 acres
Current Zoning	A-1, Agricultural
Variance Request	Zoning Code Article 401.06

Property Description

This property is located south of SW 41st Street and east of SW I Street. It is currently zoned A-1, Agricultural. Surrounding zonings are C-3, Mixed-Use Commercial to the north, PUD, Planned Unit Development to the east, A-1, Agricultural to the south, and C-2, General Commercial to the west. The property is the home of the future City of Bentonville Animal Services Facility.

Regulation

According to Zoning Code Article 401.06, Agricultural district regulations, section b.2, Minimum setback standards, the minimum setback for all property lines is 30 feet.

Variance Request

The applicant is requesting a setback of zero feet, which is a variance of 30 feet.

Background

According to the applicant's narrative, the building will house medical staff, as well as indoor/outdoor kennels for cats and dogs, as well as a play area for the animals. Due to the size, odd shape of the lot, storm drainage, and utilities along the eastern property line, the face of the building has been designed to be placed directly on the lot line facing SW I Street. This will give full visibility and pedestrian access from SW I Street, as well as the existing Trail of Two Cities.

The use of an animal kennel or shelter is allowed within the A-1 zoning district. The property is currently surrounded on all sides by streets or trails.

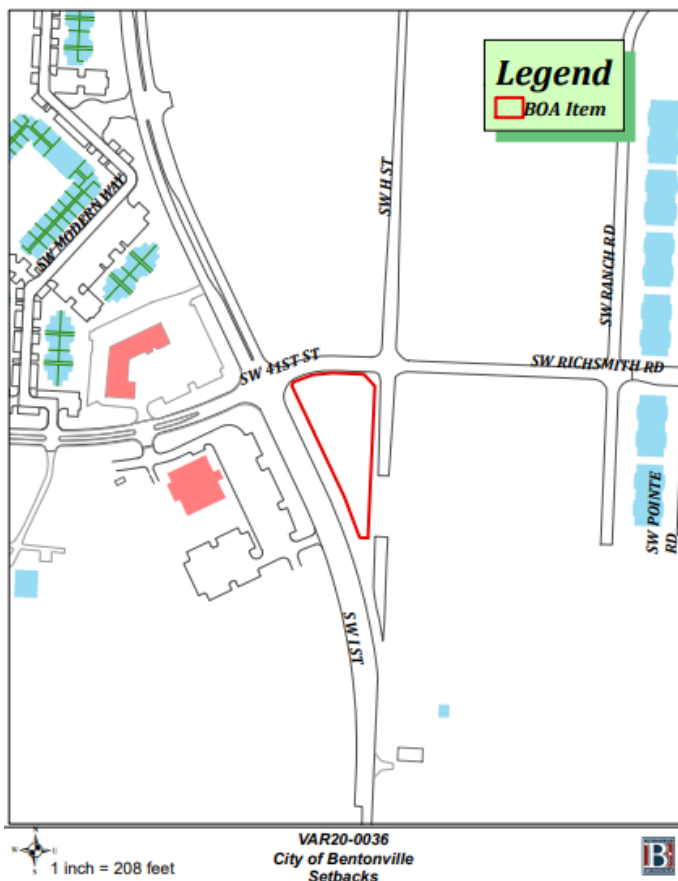
Public Comment

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 apply for and obtain large scale development approval.



BOARD OF ADJUSTMENT STAFF REPORT

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

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MORRISON SHIPLEY

City of Bentonville Planning Department
315 S.W. "A" St.
Bentonville, AR 72712

December 29, 2020

Re: *City of Bentonville – Animal Services Facility*
SW I Street
Variance Request

To Whom It May Concern:

Please accept this letter as a request for a variance to reduce the building setback along SW I Street from 30 feet to 0 feet on the property described as Parcel ID 01-16611-000, containing approximately 1.39 acres.

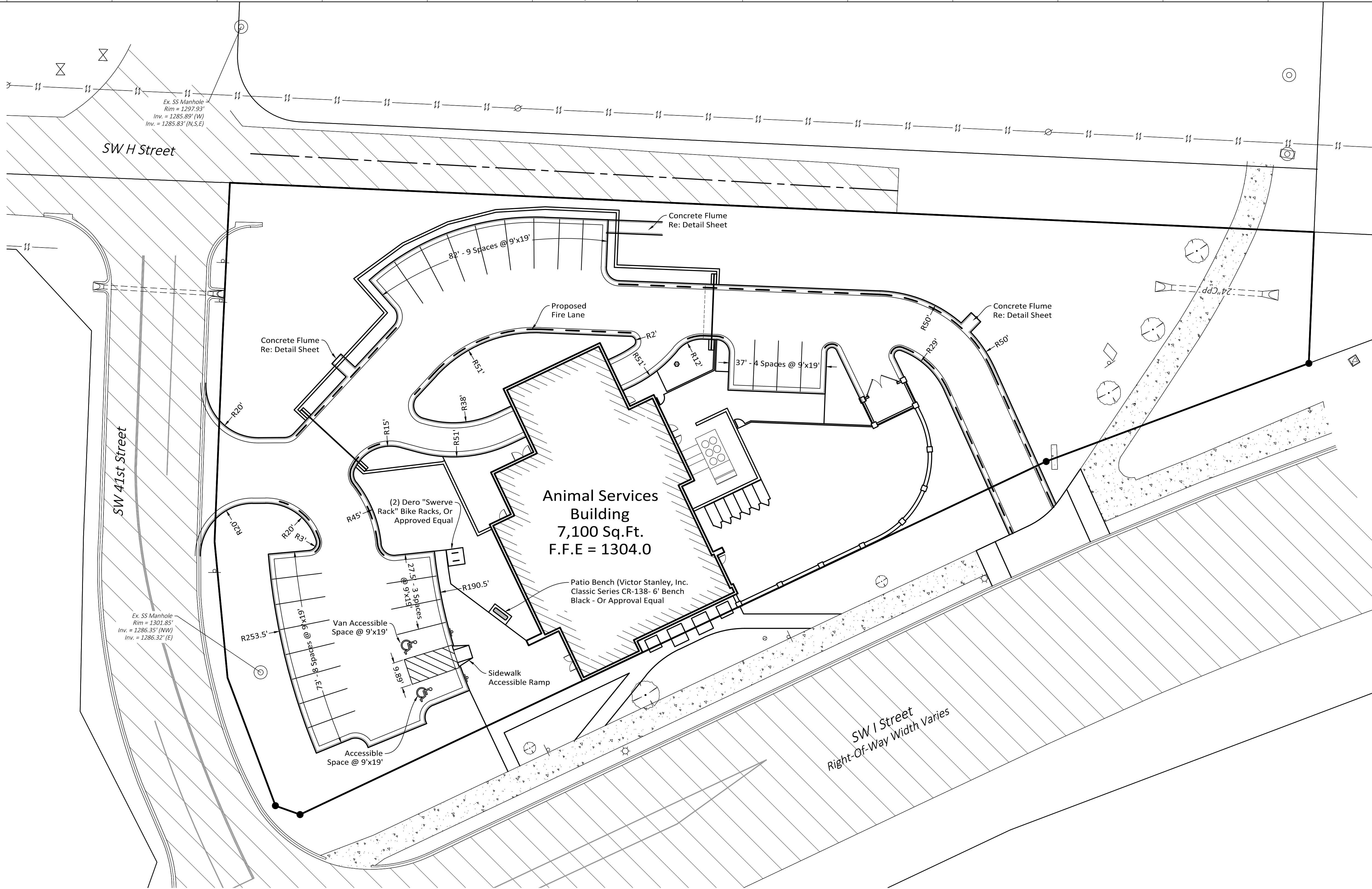
The plan for this property is an Animal Services Facility that will have a medical staff as well as kennels for cats and dogs, and a play area for the animals. Due to the size, the odd shape of the lot, storm drainage and utilities along the east property line, and the lot location, the face of the building has been conceptually placed directly on the SW I Street property line to give full visibility and pedestrian access from the existing Trail of Two Cities and SW I Street. Parking is not proposed along this side of the building but planned to be located on the sides and rear of the building. This type of facility is allowed by right with its current A-1 zoning and the property is surrounded by streets and commercially zoned properties.

If you have any questions or need additional information, please do not hesitate to call, 479-273-2209.

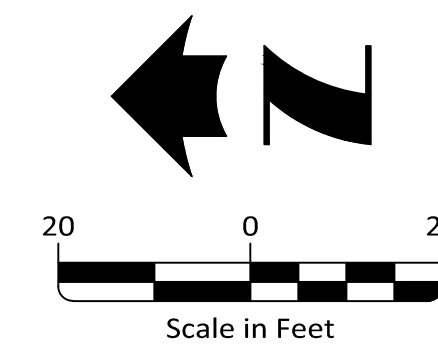
Sincerely,
Morrison Shipley Engineers, Inc.



Larry Grelle, Project Manager



1. The Contractor Shall Be Solely And Completely Responsible For Conditions Of The Job Site, Including Safety Of All Persons And Property During All Phases Of Construction Of This Site. This Requirement Shall Apply Continuously And Shall Not Be Limited To Construction Working Hours.
2. It Is The Contractor's Responsibility To Take All Precautions Necessary To Avoid Property Damage To Adjacent Properties During The Construction Phases Of This Project.
3. All Dimensions, Unless Otherwise Noted, Are To The Back Of Curb, Face Of Building, Edge Of Pavement, Or Centerline Of Stripe, All Radii are 5' Unless Otherwise Noted.
4. Contractor Shall Coordinate And Comply With All Utility Companies Involved In Project And Pay All Required Fees And Costs.
5. Unless Otherwise Noted, All Curb Shall Be 6" Type "A" Concrete Curb And Gutter. Refer To Detail Sheets.
6. See Architectural Plans For Exact Building Dimensions and Layout.
7. Proposed Sidewalks Shall Be A Minimum Of 5' Wide Unless Otherwise Noted.
8. Refer To Architectural Plans For Details Of The Proposed Entrance Sign.
9. All Construction Shall Conform To The City Of Bentonville Development Regulations.
10. All Signage, Pavement Markings, And Striping Shall Conform To The Manual Of Uniform Traffic Control Devices (MUTCD) Standards And Regulations.
11. Contractor Must Obtain A Permit Prior To Performing A Street Cut Within City Of Bentonville Right-Of-Way. All Construction In Said Right-of-Way Shall Be In Accordance With City Of Bentonville Details And Specifications.
12. All Outdoor Lighting Shall Have "Cut-Off" Fixtures In Accordance With The City Of Bentonville Requirements.
13. The Proposed Community Design Features For This Project Are Two Dero Swerve Bike Racks And A Pato Bench (Victor Stanley, Inc. Classic Series CR-138 6' Bench (Color-Black) Or Approved Equal.



LSD21-0000



0000 Bentonville, AR

REVISION DATES

SITE DIMENSION PLAN
S H E E T
C2.0
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