

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@bentonville.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@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
February 24, 2021**

I. Call To Order

II. Approval Of Minutes

Documents:

[BOA MINUTES 1-27-21.PDF](#)

III. New Business

1. Sethurajan

Setbacks (VAR21-0002)*

[3703 SW TOWN VU ROAD](#)

Documents:

[STAFF REPORT_VAR21-0002.PDF](#)
[BOA PACKET.PDF](#)

2. Fourn

Fence Height (VAR21-0003)*

210 SW O Street

Documents:

[STAFF REPORT_VAR21-0003.PDF](#)
[BOA PACKET.PDF](#)

3. Dilday

Setbacks (VAR21-0004)*

514 TIGER BOULEVARD

Documents:

[STAFF REPORT_VAR21-0004.PDF](#)

[BOA PACKET.PDF](#)

4. BBI-B Street, LLC

Fence Setback (VAR21-0005)*

606 NW B STREET

Documents:

[STAFF REPORT_VAR21-0005.PDF](#)

[BOA PACKET.PDF](#)

IV. Adjournment

*Denotes Public Hearing

Board of Adjustment
Minutes
January 27, 2021

Meeting called to order by Rick Rogers, Chairman.

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

Motion by Mr. Pearson, seconded by Mr. Haynie to approve the minutes of January 13, 2021 as written
Approved 4-0

New Business

Item #1

Calcon, Inc.: Sign Regulations, SW Autumn Hills Road, VAR20-0034

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Drew Mayer, representative, speaks on the reason for the request.

There is discussion amongst Board members and staff.

Denied 3-1

Ms. Holland votes for the variance.

Item #2

Clapper: Setbacks, 412 NW 5th Street, VAR21-0001

Ali Worley reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Dave Burris, representative, speaks on the reason for the request.

There is discussion amongst Board members and staff.

Motion by Mr. Rogers, seconded by Mr. Pearson to reduce the existing planter depth by 2 feet, 2 inches to accommodate a parking space.

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



Sethurajan

3703 SW Town Vu Road

BOA Date: 1/27/2021

Reviewer: Ali Worley, Planning Technician

Project Number	VAR21-0002
Applicant / Current Owner	Saravanan Sethurajan
Site Area	+/- 0.36 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Zoning Code Article 401.07

Property Description

This property is located at 3703 SW Town Vu Road. It is currently zoned R-1, Single Family Residential.

Regulation

According to Zoning Code Article 401.07, Residential districts regulations, section c, Residential setback standards, the rear setback for the R-1 zoning district is 25 feet.

Variance Request

The applicant is requesting a setback of 18 feet, which is a variance of seven feet.

Background

According to the applicant's narrative, they are wanting to put a 16x36-foot covered patio in their backyard. They also state there is an electric easement on the right side of the property. There are two utility easements on this property. There is a 20-foot utility easement that runs along both street frontages. The other is a 7.5-foot easement in the rear of the property.

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.

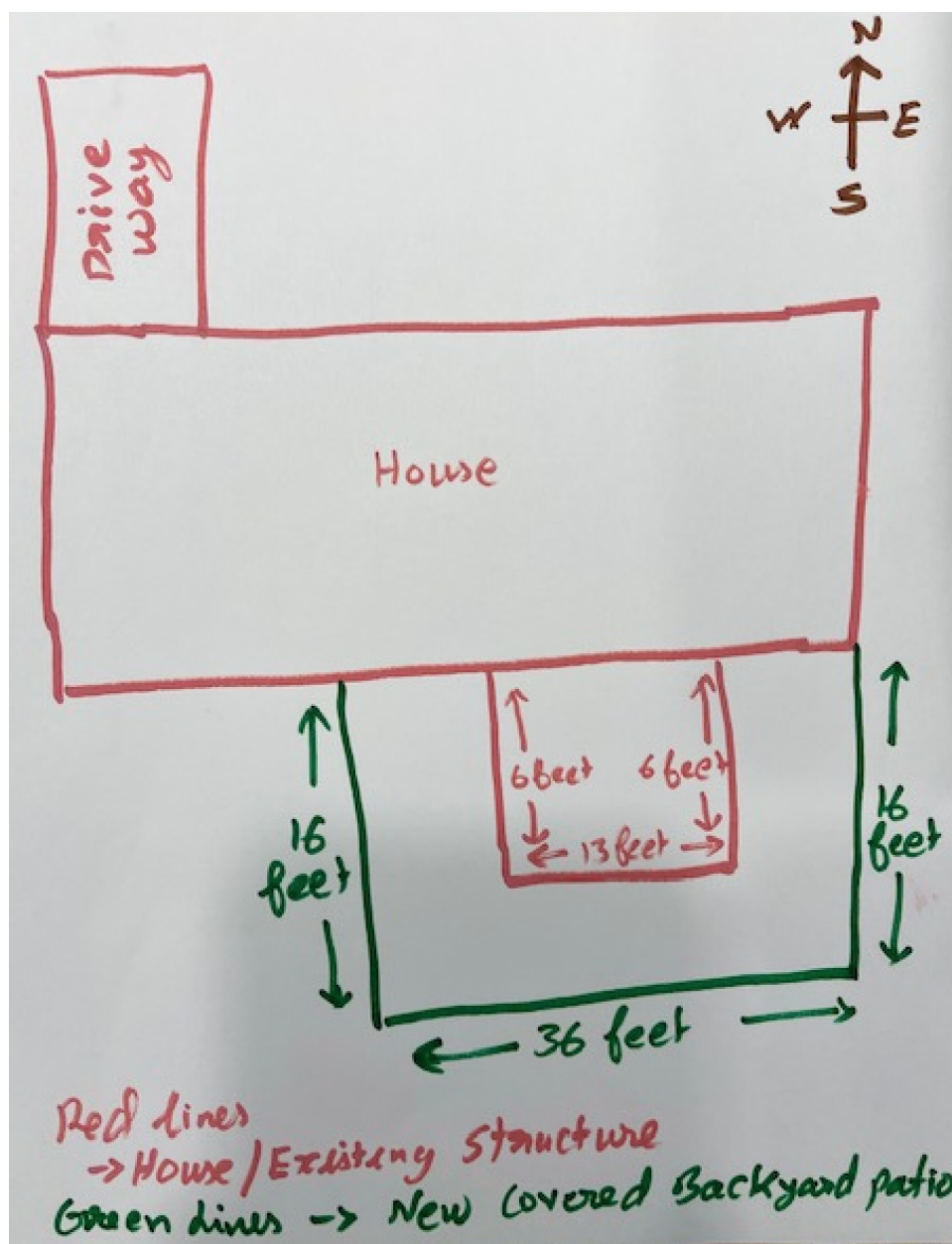
(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of 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.

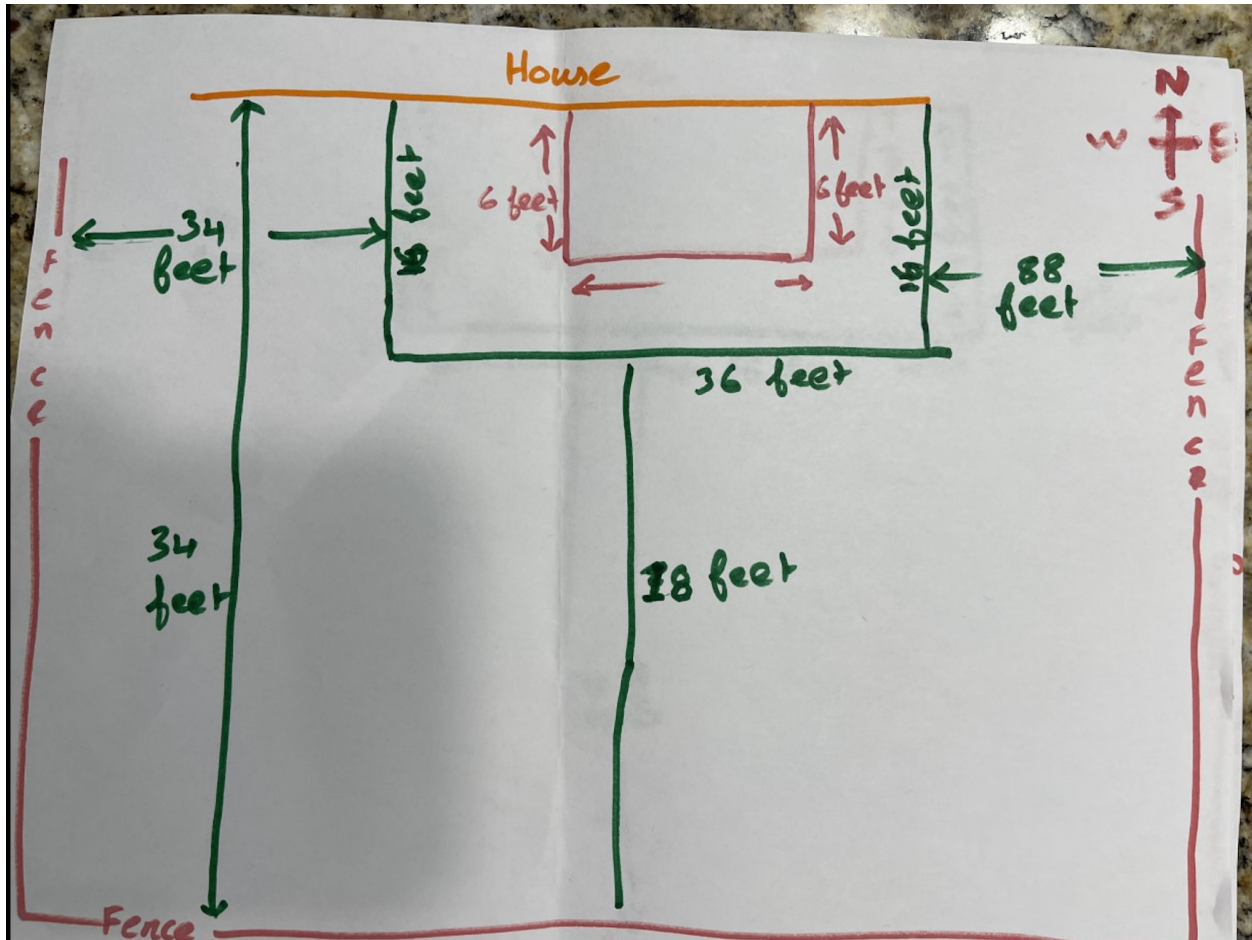
Respected Sir,

I am planning to put a covered back yard patio with the size specifications mentioned in my plan below (attached these in the permit and variance request also).

While trying to get a permit for this I came to know about the 25 minimum set back requirement from the city. There is **already electric easement** at right side of my property which does not give me option to extend patio towards it. So the only option I have is to extend it back side of my property. I have already purchase the materials for the patio work with out knowing about the requirements. So, I kindly request you to approve this variance with the plan I have put up.



Full setback length









BOARD OF ADJUSTMENT STAFF REPORT



Fourt

210 SW O Street

BOA Date: 2/10/2021

Reviewer: Ali Worley, Planning Technician

Project Number	VAR21-0003
Applicant / Current Owner	Fourt
Site Area	+/- 6.08 acres
Current Zoning	A-1, Agricultural
Variance Request	Land Development Code Article 1100.06

Property Description

This property is located at 210 SW O Street and is currently zoned A-1, Agricultural. Surrounding zonings include R-O, Residential Office to the north, A-1 to the west, and R-1, Single Family Residential to the south and east.

Regulation

According to Land Development Code Article 1100.06, Fence and Wall Requirements, section h, Fence design standards, subsection 1, Fence height, the maximum fence height shall be six feet.

Variance Request

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

Background

According to the applicant's narrative, they are requesting an 8-foot fence to provide privacy from the two-story apartments to the west and the Museum of Native American History to the north. The 8-foot portion will only be in the northwest corner.

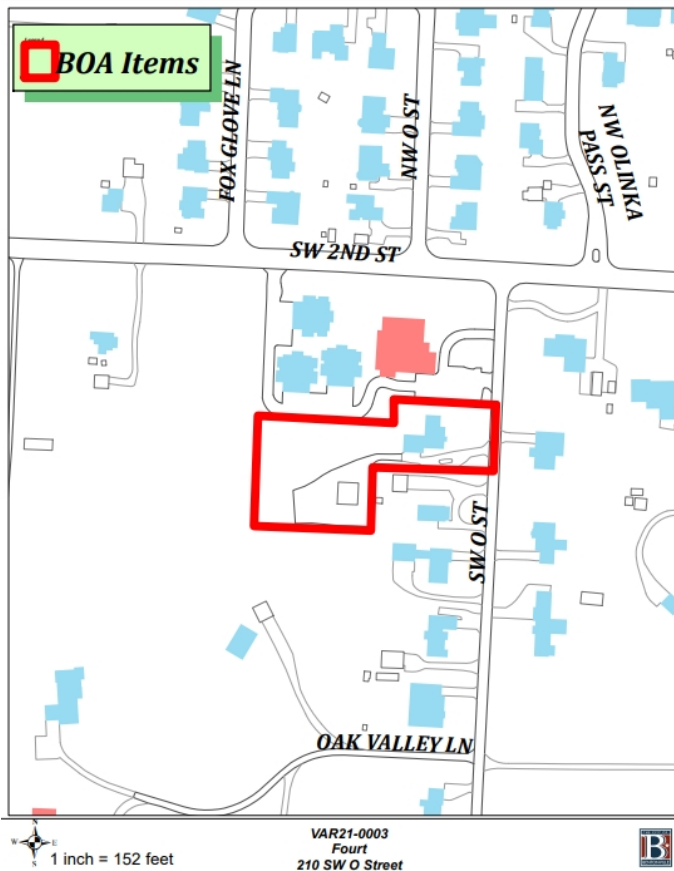
Public Comment

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:

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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.

(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.

Alison Worley

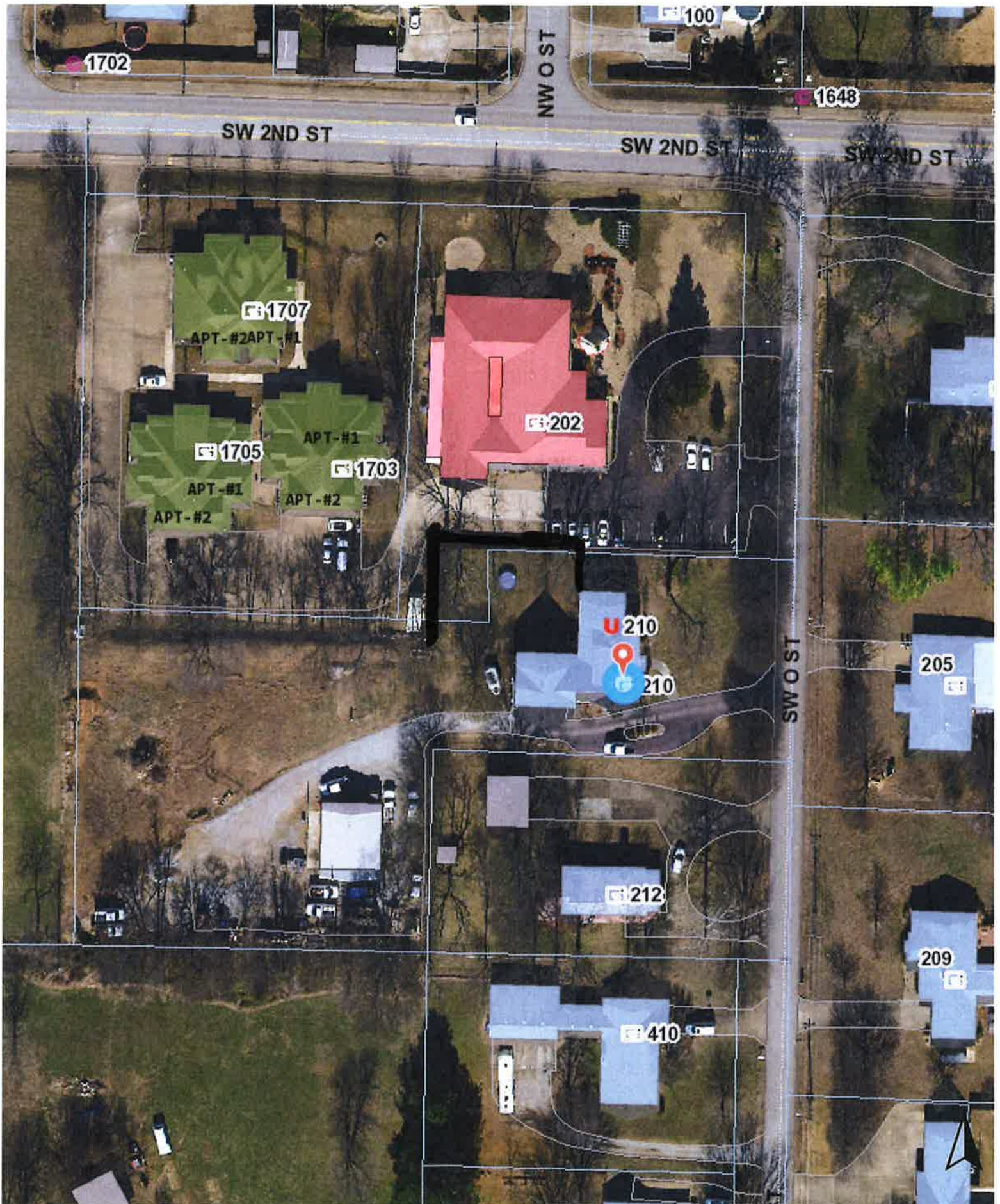
From: Rob Fourt <rob.lawnworks@gmail.com>
Sent: Monday, January 25, 2021 10:42 AM
To: Alison Worley
Subject: 8' privacy narrative

Request 8 foot privacy fence for privacy from two story apartments to the west and from the museum and Connex metal storage container.

Thank you for your help today Ali,

--

Rob Fourt
President
Lawnworks of Northwest Arkansas
479-531-8591 cell
479-464-9398 office
rob.lawnworks@gmail.com



BOARD OF ADJUSTMENT STAFF REPORT

Dilday

514 Tiger Boulevard

BOA Date: 2/24/2021

Reviewer: Ali Worley, Planning Technician



Project Number	VAR21-0004
Applicant / Current Owner	Chad & Christina Dilday
Site Area	+/- 0.82 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Zoning Code Article 401.07

Property Description

This property is located at 514 Tiger Boulevard It is currently zoned R-1, Single Family Residential.

Regulation

According to Zoning Code Article 401.07, Residential districts regulations, section c, Residential setback standards, the side setback for the R-1 zoning district is seven feet.

Variance Request

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

Background

According to the applicant's narrative, they are wanting to expand and add on to their existing house. The applicant states their only option of expansion is to the south and east. They state they have a septic system to the west, a pool to the north, and an existing driveway that would have to be removed otherwise.

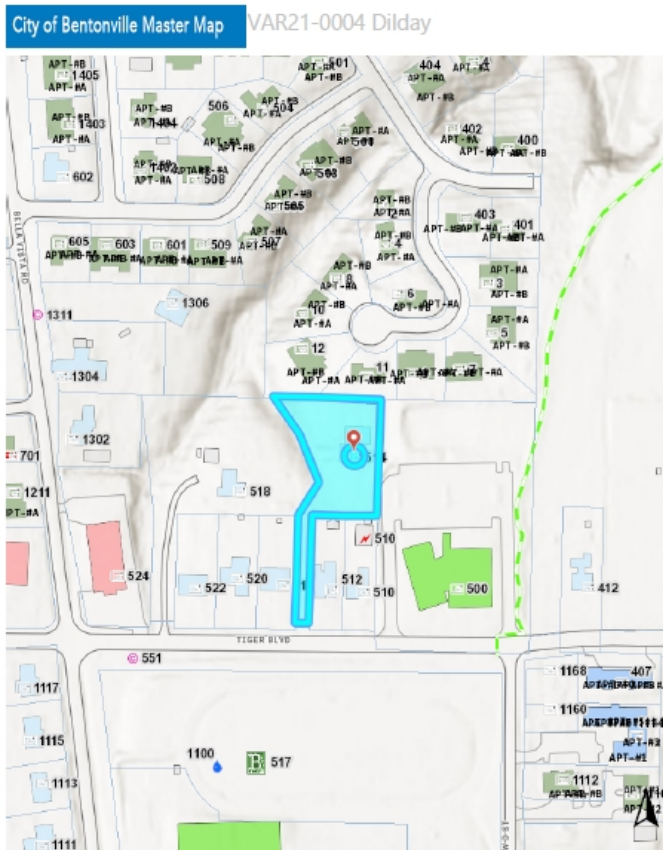
Public Comment

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 5-feet to the property line would have to be fire-rated with no openings on the adjacent wall.



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

BOARD OF ADJUSTMENT STAFF REPORT

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I attached a survey of my house we are trying to expand north of Tiger. We need a variance to expand the house due to the layout and existing structure and existing obstacles.

To the west..we have a septic system with the tank near the house that is being expanded (after speaking with the health and water departments). I had spoken with the Water Dept about potentially going onto city sewer but with over 400ft of back pressure on a sewer line (pumping up hill) and shutting down Tiger BLVD to dig it up for seems like a huge mess and a maintenance and construction nightmare. This would also require the destruction or removal of over 400 feet of existing driveway to the north we have a swimming pool. So our only option is to move south and East, which with the current design is putting us within a couple fee of our own property line, neighboring a retention pond and parking lot.



SETBACK CHART, R-1 ZONING

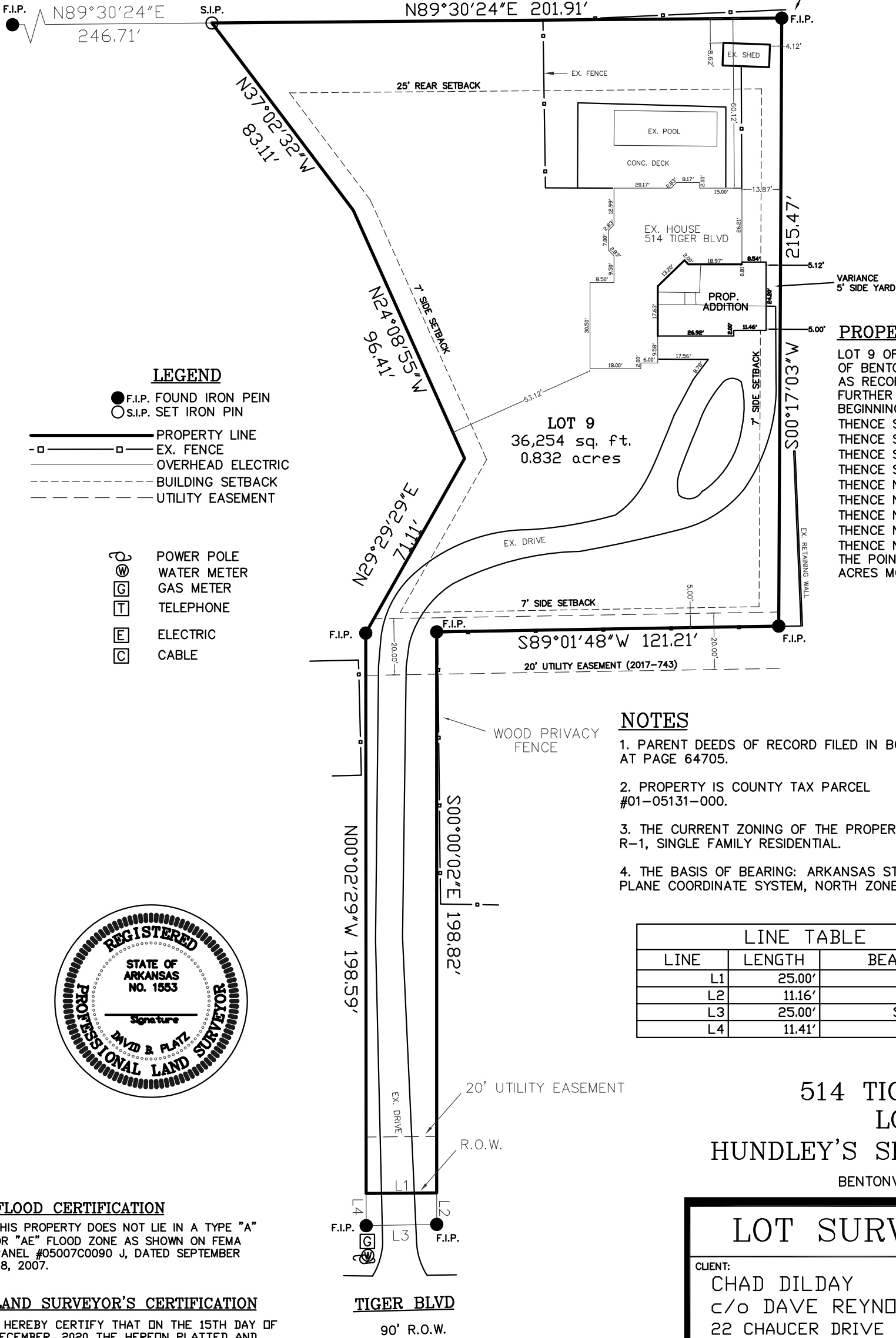
FRONT SETBACK	20'
REAR SETBACK	25'
SIDE SETBACK	7'

SCALE 1"=40'



APPLEGATE SUBDIVISION

P.O.B.
LOT 9



LEGEND

- F.I.P. FOUND IRON PEIN
- S.I.P. SET IRON PIN
- PROPERTY LINE
- EX. FENCE
- OVERHEAD ELECTRIC
- - - BUILDING SETBACK
- - - UTILITY EASEMENT

- ⊕ POWER POLE
- ⊗ WATER METER
- ⊙ GAS METER
- ⊙ TELEPHONE
- ⊙ ELECTRIC
- ⊙ CABLE

PROPERTY DESCRIPTION

LOT 9 OF HUNDLEY'S SPECIAL ADDITION, CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS AS RECORDED IN BOOK 2017 AT PAGE 743, FURTHER DESCRIBED AS FOLLOWS; BEGINNING AT THE NE CORNER OF SAID LOT 9, THENCE SOUTH 00°17'03" WEST 215.47 FEET; THENCE SOUTH 89°01'48" WEST 121.21 FEET; THENCE SOUTH 00°00'02" EAST 198.82 FEET; THENCE SOUTH 89°33'15" WEST 25.00 FEET; THENCE NORTH 00°02'29" WEST 198.59 FEET; THENCE NORTH 29°29'29" EAST 71.11 FEET; THENCE NORTH 24°08'55" WEST 96.41 FEET; THENCE NORTH 37°02'32" WEST 83.11 FEET; THENCE NORTH 89°30'24" EAST 201.91 FEET TO THE POINT OF BEGINNING, CONTAINING 0.832 ACRES MORE OR LESS.

NOTES

- PARENT DEEDS OF RECORD FILED IN BOOK 2017 AT PAGE 64705.
- PROPERTY IS COUNTY TAX PARCEL #01-05131-000.
- THE CURRENT ZONING OF THE PROPERTY IS R-1, SINGLE FAMILY RESIDENTIAL.
- THE BASIS OF BEARING: ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE.

LINE TABLE		
LINE	LENGTH	BEARING
L1	25.00'	S89°33'15"W
L2	11.16'	S00°02'29"E
L3	25.00'	S88°58'53"W
L4	11.41'	N00°02'29"W

514 TIGER BLVD.
LOT 9
HUNDLEY'S SPECIAL ADDITION
BENTONVILLE, AR 72712

FLOOD CERTIFICATION

THIS PROPERTY DOES NOT LIE IN A TYPE "A" OR "AE" FLOOD ZONE AS SHOWN ON FEMA PANEL #05007C0090 J, DATED SEPTEMBER 28, 2007.

LAND SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT ON THE 15TH DAY OF DECEMBER, 2020 THE HEREDON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION AND THE IRON PINS WERE FOUND OR SET, AS SHOWN ON THIS PLAT, ALL EASEMENTS AND ENCROACHMENTS REVEALED BY THE SURVEY ARE AS SHOWN ON THIS PLAT.

DAVID B. PLATZ, R.L.S. #1553



LOT SURVEY		REVISIONS	
CLIENT:		No.:	BY: DATE:
CHAD DILDAY			
c/o DAVE REYNOLDS			
22 CHAUCER DRIVE			
BELLA VISTA, AR 72714			
DRAWN BY:		DATE:	
DP/ZS		1/4/21	
CHECKED BY:		JOB No.:	
		2020523	
SCALE:		SHEET:	
1"=40'		1	

BOARD OF ADJUSTMENT STAFF REPORT



BBI-B Street, LLC

606 NW B Street

BOA Date: 2/24/2021

Reviewer: Ali Worley, Planning Technician

Project Number	VAR21-0005
Applicant / Current Owner	BBI-B Street, LLC
Site Area	+/- 0.26 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Land Development Code Article 1100.06

Property Description

This property is located at 606 NW B Street. It is currently zoned R-1, Single Family Residential and is surrounded by R-1 on all sides.

Regulation

According to Land Development Code Article 1100.06, Fence and Wall Requirements, section g, subsection 2, Fence location adjacent to public right-of-way, a fence shall be placed no closer than five feet to the current or proposed right-of-way.

Variance Request

The applicant is requesting the fence setback to be zero feet, which is a variance of five feet.

Background

According to the applicant's narrative, they are replacing the existing fence with a new 6-foot privacy fence. The section of the fence on the southern property line is adjacent to an alley. The applicant states if they were to place the fence back five feet from the alley, then they would have to remove three large, mature trees.

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.



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BOARD OF ADJUSTMENT STAFF REPORT

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(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.

Bing Bing Investments, LLC
606 NW B Street, Bentonville, AR 72756
PH: 479-254-8265 M: 479-381-3103

Date: Feb 5, 2021

RE: Variance Request for 607 NW B St

Dear Sir/Madam,

BBI-B Street LLC, owner of the property located at 607 NW B St, is requesting a variance to move forward with replacement of the existing 8-foot privacy fence which is very old and beyond repair. The new fence will be lowered to 6 feet, shadowbox style.

Issue: The section of fence on the south border of the property (between 605 and 607) is adjacent to an alley that runs between the two properties. To comply with the building code, this section of the new fence would need to be set in 5 feet from the property line and would require removal of three large, mature trees.

We are requesting a variance to allow the new fence to be installed where the old one currently sits due to hardship, as removing these trees would be a detriment to the property.

Thank you for your kind consideration in this matter.

Sincerely,



Donna Nessmith
Manager, BBI-B Street, LLC

1. SINGLE FAMILY RESIDENTIAL
2. ABEI

5' MINIMUM COMPLIANCE

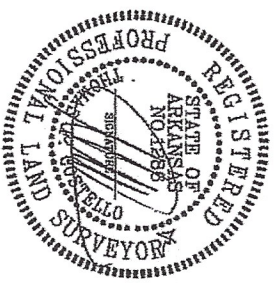
NW 7th STREET
60' RIGHT-OF-WAY

SET 60d NAIL
IN SE FACE
OF TREE
STEEL FENCE CORNER
POST 0.8 SOUTH &
0.2 WEST

FOUND 3/4" PIPE
PLAT V-280

LEGEND

- FOUND MONUMENT AS DESCRIBED
- SET MONUMENT AS NOTED
- ⊗ WATER SPRIG
- ⊗ GAS METER
- ⊗ UTILITY POLE W/BUY ANCHOR
- ⊗ TELEPHONE RISER
- ⊗ WATER METER
- ⊗ LOT LINE
- ⊗ WOOD FENCE
- ⊗ METAL FENCE



SURVEYOR'S DECLARATION:
I HEREBY DECLARE THAT I HAVE COMPLETED A SURVEY ON THE HEREIN DESCRIBED PROPERTY. CORNER MONUMENTS WERE FOUND OR SET AS SHOWN TO THE BEST OF MY KNOWLEDGE AND ABILITY.

DATE
05/04/2012

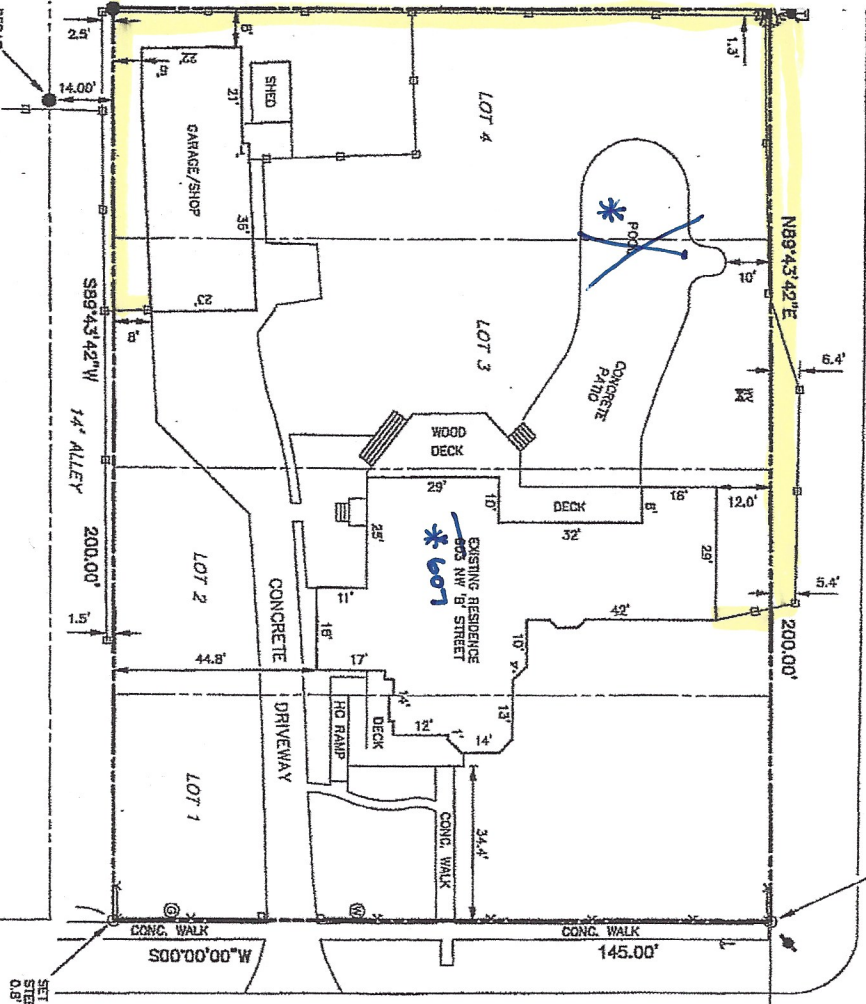
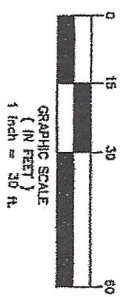
500-20N-30W-0-30-130-04-1286

BOUNDARY SURVEY
for COLDWELL BANKER REALTY
LOTS 1, 2, 3, & 4, BLOCK 19
DENIMING'S 2nd ADDITION
BENTONVILLE, ARKANSAS



Costello Land Surveying
4342 E. STATE HIGHWAY 90
PINEVILLE, MO. 64656
(417) 228-4524

JOB NO. 12038 DATE: 05-04-12
SHEET 1 OF 1 DRAWING: BNDY



CONDITIONS WERE NOT EXAMINED AS A

N OR INDEPENDENT SEARCH FOR
ES, RESTRICTIVE COVENANTS,
OR ANY OTHER FACTS WHICH
MAY AFFECT THE SURVEY.

L. SURVEYORS SIGNATURE IN BLUE

L. PURCHASER OF THE SURVEY AND

PLAY BOOK Y AT PAGE 280.

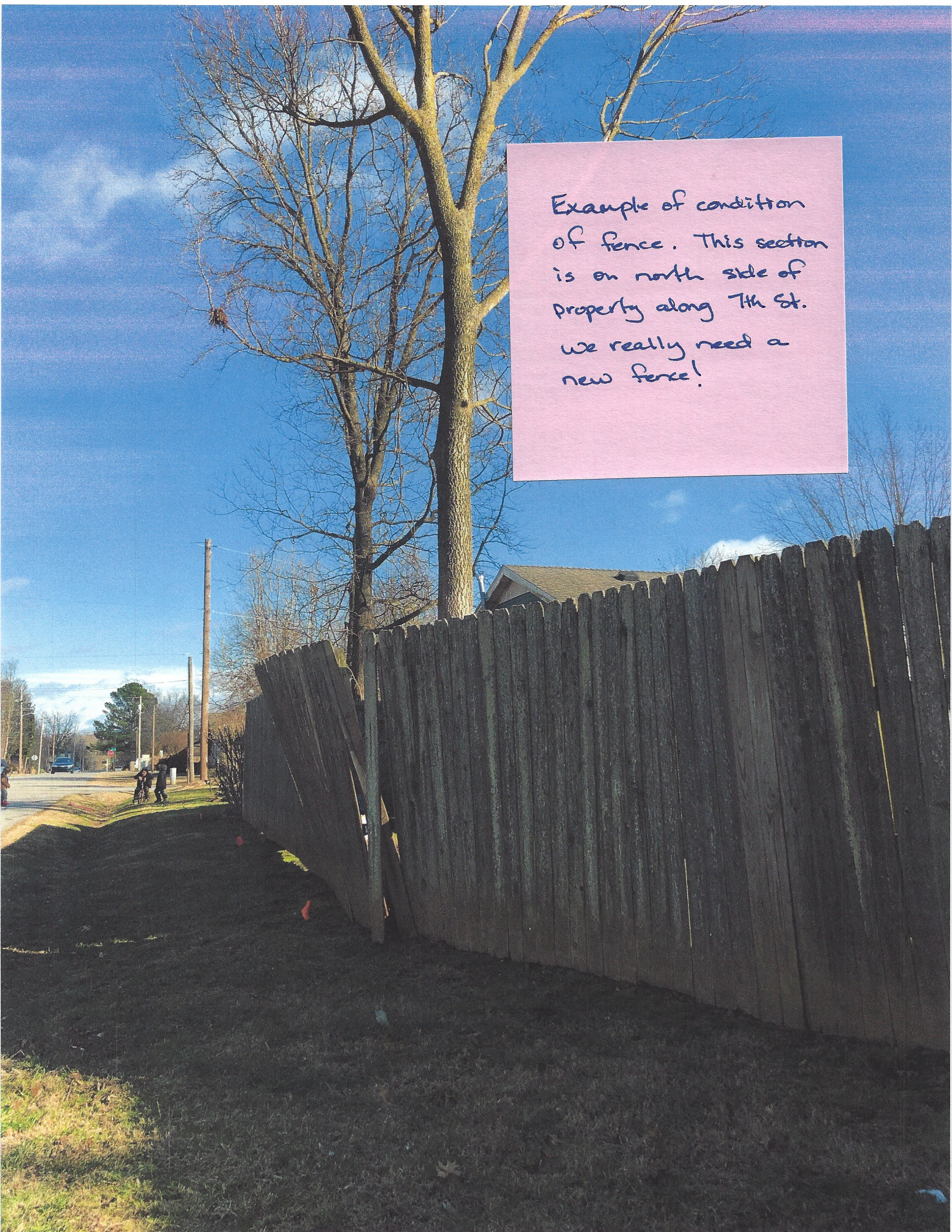
WERE NOT EXAMINED AS A PART OF THIS

MENTS ARE SHOWN HEREON.

DESCRIPTION
LOTS 1, 2, 3, & 4, BLOCK 19, DENIMING'S 2nd ADDITION
TO THE CITY OF BENTONVILLE, BENTON COUNTY,
ARKANSAS, CONTAINING 0.87 ACRES, MORE OR LESS,
SUBJECT TO ANY EASEMENTS, RIGHTS OF WAY OR
COVENANTS OF RECORD OR FACT.

* Pool removed in 2019
* Address changed to "607 NW B" in 2014 or 2015



A photograph of a weathered wooden fence made of vertical slats. A large, leafless tree stands behind the fence. In the background, a street with a few people and a car is visible under a blue sky with some clouds. A pink rectangular note is pasted on the upper right part of the image.

Example of condition
of fence. This section
is on north side of
property along 7th St.
we really need a
new fence!

Address: 607 NW B Street, Bentonville, AR 72712

Project: Replace existing 8' privacy fence with 6' fence.

Replace existing gates on NE corner of house and SE corner of garage.

