

Note – Some of the members of the Board of Adjustment, as well as City staff members, may attend this meeting virtually. For public health reasons, those who attend in person should consider personal hygiene, the use of facial coverings, and social distancing.



**BOARD OF ADJUSTMENT
AGENDA
November 10, 2021**

Registration Link: https://us06web.zoom.us/webinar/register/WN_lxcj3xipRAGq2oO5OSR_XQ

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

- 1. FSB Realty, LLC** **Variance***
403 SE 8th Street ([VAR21-0033](#))
 - Building Height Variance

IV. New Business

- 2. 1003 North Main Street, LLC Lot Split** **Variance***
1003 N MAIN ST ([VAR21-0031](#))
 - Minimum Lot Width Requirement Variance
- 3. Donamaria and Cizaurre Backyard Pergola** **Variance***
609 MCCLAIN RD ([VAR21-0034](#))
 - Setback Requirement Variance

**Denotes public hearing*

Board of Adjustment
Minutes
October 27, 2021

Meeting called to order by Mr. Rogers

Present: Rick Rogers, Joe Haynie, Jan Holland, Sam Pearson, Rustin Chrisco
Absent: N/A
Staff: Tyler Overstreet, Luke Aitken

Motion by Mr. Pearson, seconded by Mr. Haynie to approve the minutes of September 22, 2021 as written

Approved 5-0

New Business

Item #1

FSB Realty, LLC, 403 SE 8th Street, Suite 5, VAR21-0033

Tyler Overstreet reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Shannon Bedore, the applicant, and owner of 403 SE 8th Street, is available to speak on the item.

Chip Stacey of FSB Realty is available to speak on the item.

There is discussion amongst Board members and staff.

A vote is called for the side setback portion of the variance

Approved 5-0

A vote is called for the rear setback portion of the variance

Approved 5-0

A motion is made by Mr. Rogers, seconded by Mr. Chrisco to table the building height portion of the variance

Tabled 5-0

Motion by Mr. Rogers, seconded by Mr. Haynie to adjourn the meeting.

Meeting adjourned

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

Luke Aitken

BOARD OF ADJUSTMENT STAFF REPORT



FSB Realty, LLC

403 SE 8th Street

BOA Date: 10/27/2021

Reviewer: Tyler Overstreet, Planning Services Manager, AICP

Project Number	VAR21-0033
Applicant / Current Owner	FSB Realty, LLC
Site Area	+/- .08 acres
Current Zoning	DE, Downtown Edge
Variance Request	Zoning Code Article 401.08-B(d) Zoning Code Article 401.08-B(e)



Changes Since 10-27-21 Board of Adjustment Meeting

Following approval of the applicant's side and rear setback variances, the applicant amended their plans for their proposed structure to be a total of 60-feet in height.

According to Zoning Code Article 401, Section 401.08-B, Downtown (D) Districts Regulations, subsection (e), *Downtown (D) districts height standards*, the maximum height in zoning district DE is 50-feet.

The applicant's proposed 60-foot tall structure is a variance of 10-feet from the 50-foot height maximum required by the ordinance.

Property Description

This property is located at 403 SE 8th Street. It is currently zoned DE, Downtown Edge. Adjacent zoning districts are DE, Downtown Edge to the north, south, east, and west. The property is located directly adjacent to SE 8th Street, an arterial roadway.

Regulation

According to Zoning Code Article 401, Section 401.08-B, Downtown (D) Districts Regulations, subsection (d), *Downtown (D) districts setback requirements*, the setback requirements for DE zoned properties are 7-feet on the side and 12-feet in the rear when adjacent to residential and 7-feet when adjacent to commercial.

According to Zoning Code Article 401, Section 401.08-B, Downtown (D) Districts Regulations, subsection (e), *Downtown (D) districts height standards*, the maximum height in zoning district DE is 50-feet.

Variance Request

The applicant requests zero-foot side setbacks for their east and west property lines, which is a variance of 7-feet from the 7-foot setbacks required by the ordinance.

The applicant requests a zero-foot rear setback for their northern property line, which is a variance of 12-feet from the 12-foot setbacks required by the ordinance.

The applicant requests an 80-foot height maximum, which is a variance of 30-feet from the 50-foot height maximum required by the ordinance.

Background

The applicant's narrative is attached for review.

Public Comment

At the time of writing this staff report, staff has not received public comment on this item.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, setbacks, and density, as provided by the applicant within this application.
2. There shall be no encroachments nor overhangs into any utility easements without the approval of all affected private and public utilities.
3. The applicant shall be required to obtain an approved building permit before 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.



SCALE:	
DATE:	11.08.2021
DRAWN BY:	DS
CHECKED BY:	DS

SHEET:

A1.0

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[illegible]

TYPICAL NOTES FOR FLOOR PLAN

- * 2X4 STUD WALL @ 16" O.C. (INTERIOR WALLS)
* 2X6 STUD WALL @ 16" O.C. (EXTERIOR AND PLUMBING WALLS)
1. PROVIDE \$ KITCHEN APPLANCE ALLOWANCE.
2. PROVIDE \$ FRONT DOOR ALLOWANCE.
3. PROVIDE THE FOLLOWING:
* DOOR STOPS FOR ALL DOORS
* LOCKSETS & DEAD BOLTS FOR ALL EXTERIOR DOORS
* LOCKSETS FOR ALL GARAGE DOORS
* PRIVACY LATCHES FOR ALL BATHS AND BEDROOMS AND LATCH SETS FOR ALL OTHERS.
4. PROVIDE BLOCKING BETWEEN STUDS WHERE KNOBS WILL HIT WALL.
5. UNDER CUT DOORS REQUIRED FOR ADEQUATE RETURN AIR, VERIFY WITH MECHANICAL CONTRACTOR.
6. ALL CONSTRUCTION SHALL COMPLY WITH ALL APPLICABLE CODE IF DETAILED OR NOT.
7. EXTERIOR SHEATHING SHALL BE NAILED W/ 8d NAILS @ 6" O.C. EDGE, 12" O.C. FIELD.
8. NOTIFY DESIGNER OF ANY CHANGES OR DISCREPANCY OF DIMENSIONS SHOWN.
9. DURING CONSTRUCTION ADEQUATELY BRACE ALL WALLS & FRAMING MEMBERS.
10. FOAM & CAULK AROUND ALL DOORS & WINDOWS VOIDS WITH EXPANDABLE FOAM.
11. SEAL AROUND ALL DOORS & WINDOWS OPENINGS WITH MOISTURE BARRIER.
12. ALL TILE FLOORS OVER WOOD TO HAVE WONDER BOARD UNDERLAYMENT.
13. ALL WINDOW SILLS IN LIVING SPACES EXCEPT FOR BATH, CLOSETS & UNFINISHED SPACES SHALL HAVE WOOD SILLS.
14. ALL CORNERS SHALL HAVE ROUNDED METAL DRYWALL CORNERS.
15. AT FRAMING INSPECTION, PROVIDE INSPECTOR WITH MANUFACTURER INSTALLATION INSTRUCTIONS FOR:
* FIREPLACES & FLUES & INSTALL PER. INSTRUCTIONS.
16. ALL SHELVES SHOWN ARE PAINT GRADE UNLESS OTHERWISE NOTED.
17. PROVIDE WEATHER STRIPPING SWEEPS & THRESHOLDS FOR ALL EXTERIOR
* DOORS & DOORS ADJACENT TO UNHEATED SPACE & MECHANICAL ROOMS.
18. FOR CURVED WALLS - 2X6 STUDS @ 16" O.C. W/ 4 LAYERS OF 3/4" CDX PLWD W/ STAGGERED JOINTS CUT FROM 4X8 SHEETS FOR TOP PLATES W/ 2 LAYERS OF 3/4" PLWD W/
* BOTTOM LAYER PRESSURE TREATED PLWD WHEN ATTACHED TO CONCRETE) AND TOP LAYER CDX PLWD W/ STAGGERED JOINTS CUT FROM 4X8 SHEETS FOR BOTTOM PLATE.
19. REFERENCE INTERIOR DESIGN SHEETS FOR A FINISHES. CONTACT ARCHITECT FOR ALL DISCREPANCIES.
20. THESE DOCUMENTS AND THE INFORMATION HEREIN RELATING TO "SIDES ARCHITECTURAL DESIGN" PLANS HAVE BEEN FURNISHED IN CONFIDENCE FOR THE PRIVATE USE OF AUTHORIZED PERSONNEL. NO PART HEREOF SHALL BE COPIED, DUPLICATED, DISTRIBUTED, DISCLOSED OR MADE AVAILABLE TO OTHERS OR USED TO ANY EXTENT WHATSOEVER EXCEPT AS CORPORATION RECEIVING THIS DOCUMENT. HOWEVER, OBTAINED SHALL BY VIRTUE HEREOF BE DEEMED TO HAVE AGREED TO THE FOLLOWING RESTRICTIONS:
20. ALL INTERIOR WALLS DRAWN AT 4" (2" X 4" STUDS W/ 1/2" SHEET ROCK BOTH SIDES) UNLESS NOTED OTHERWISE.
21. ALL EXTERIOR WALLS DRAWN AT 4" (2" X 4" STUDS W/ 1/2" SHEET ROCK ON INTERIOR SIDES) UNLESS NOTED OTHERWISE.
22. ALL CEILINGS ARE 9'-0" UNLESS NOTED OTHERWISE.
23. ROOM SIZES ARE ROUNDED TO NEAREST WHOLE INCH.
24. HVAC & RETURN AIR AS PER HVAC CONTRACTOR.
25. ALL ANGLES ARE 45 DEG. UNLESS NOTED OTHERWISE.
26. 5' ALLOWED FOR FACE BRICK WHERE APPLICABLE.
27. FOOTING DEPTHS AND SLAB THICKNESSES TO BE DETERMINED BY OTHERS AS REQ'D BY STRUCTURAL REQUIREMENTS AND APPLICABLE CODES.
28. FLOOR JOIST SIZE AND SPACING TO BE DETERMINED BY OTHERS AS REQ'D BY STRUCTURAL REQUIREMENTS AND APPLICABLE CODES.
29. ALL PLUMBING WALLS DRAWN AT 6" (2" X 6" STUDS W/ 1/2" SHEET ROCK ON INTERIOR SIDES) UNLESS NOTED OTHERWISE.
31. WALL TYPES:
4" WOOD STUD
6" WOOD STUD

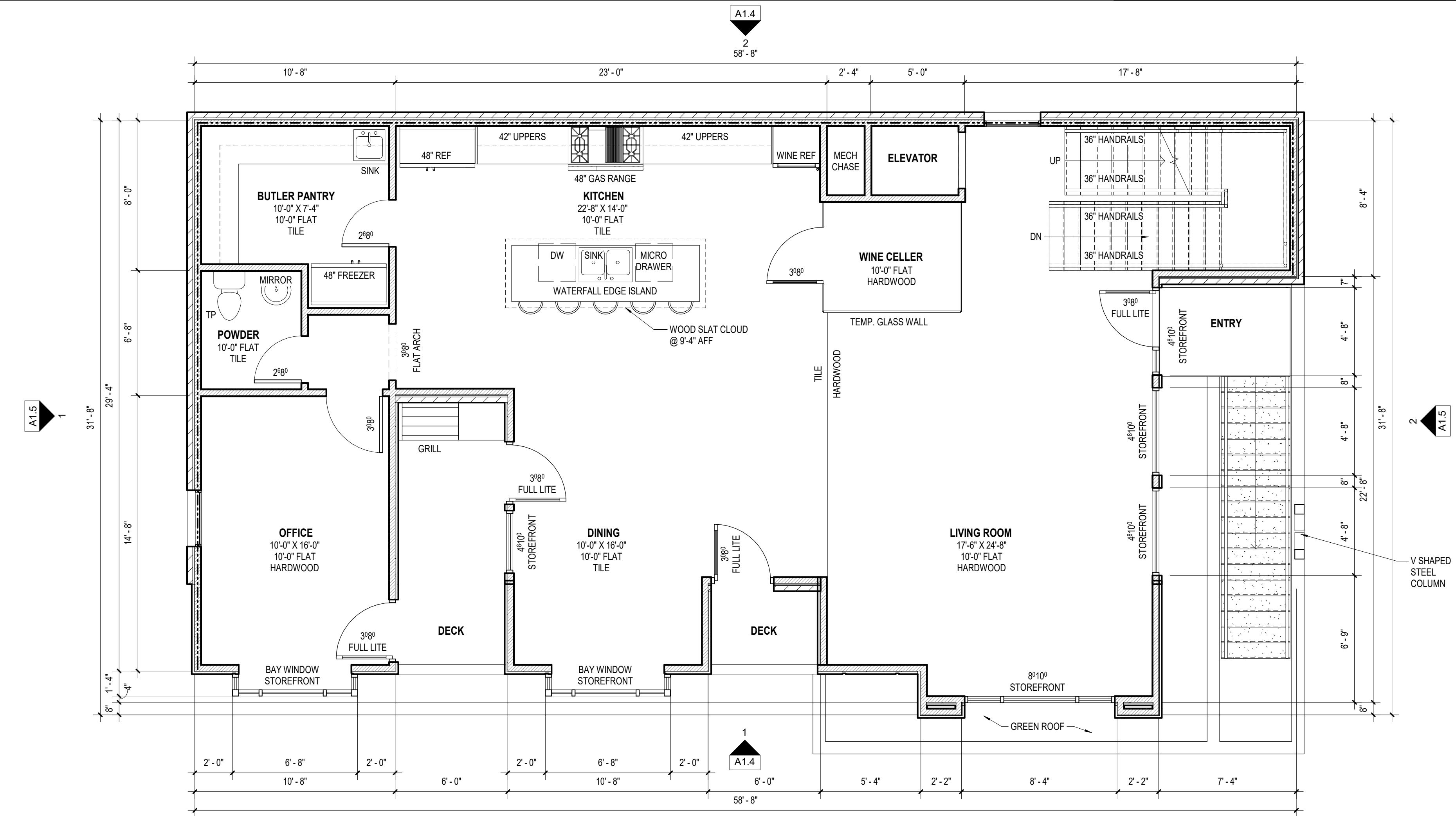
2021 COPYRIGHT

TYPICAL NOTES FOR INSULATORS

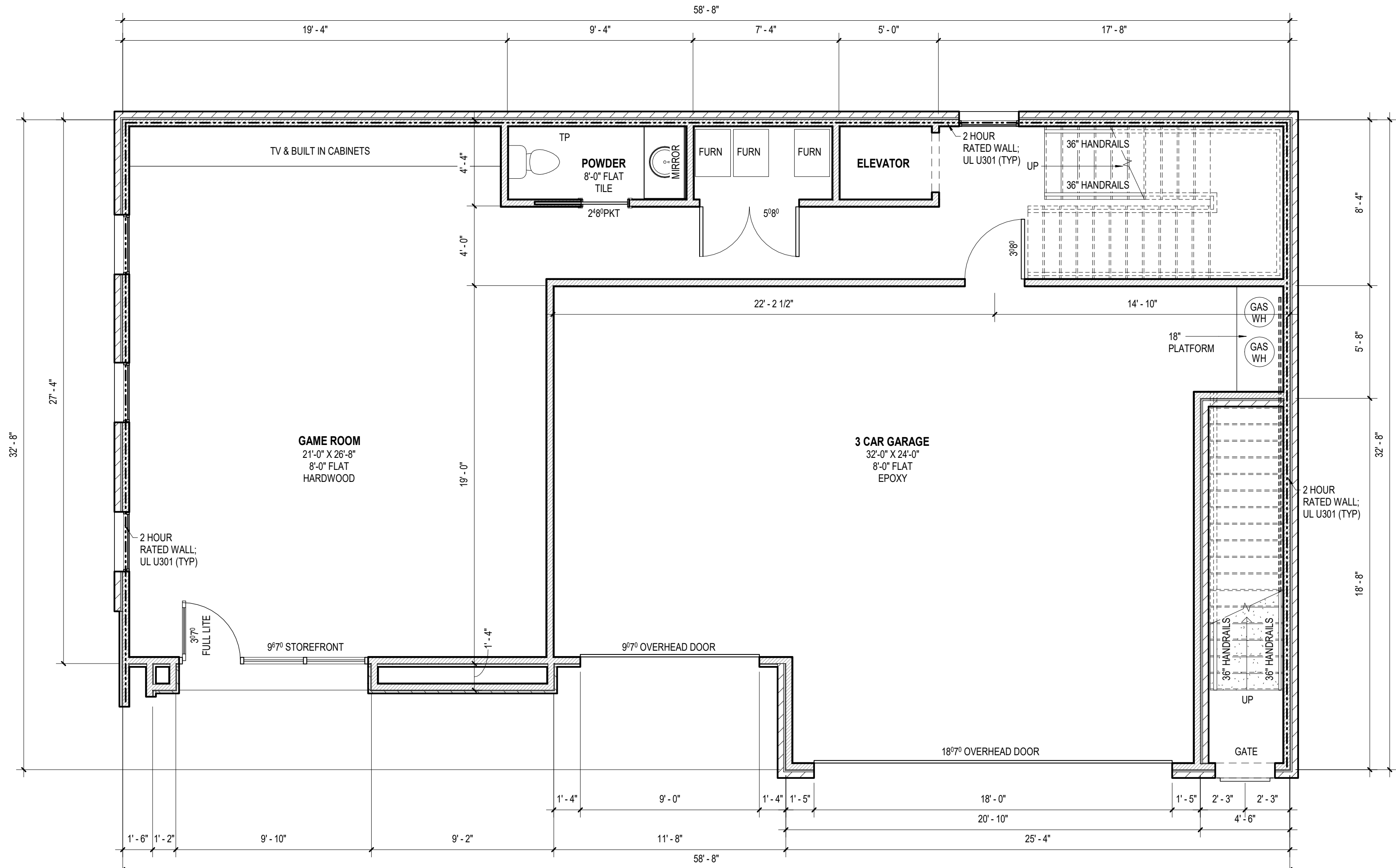
1. INSULATE THE FOLLOWING:
* CEILINGS (R-38)
* SKYLIGHT & DORMER WELLS (R-13)
* ALL EXTERNAL WOOD FRAMED WALLS (R-19)
* WALLS BETWEEN HEATED & NON HEATED SPACES (R-19)
* SOUND INSULATE AROUND MASTER SUITE & ALL BEDROOMS (R-19)
* ALL MASS WALLS (R-6)
* ALL WOOD FRAMED FLOORS BETWEEN HEATED & NON HEATED SPACES (R-19)
* ALL SLAB FLOORS (R-10) (VERTICAL TO TOP OF FOOTING INSIDE EDGE OF STEM)
* ALL BASEMENT WALLS (EITHER R-10 EXTERIOR INSULATION OR R-13 CAVITY INSULATION)
* ALL CRAWL SPACE WALLS (EITHER R-10 EXTERIOR INSULATION OR R-13 CAVITY INSULATION) (ALTERNATIVE TO INSULATING FLOORS OVER CRAWL SPACE))
2. CEILINGS (R-38)
* MARKERS SHALL BE AFFIXED TO THE TRUSSES OR JOIST AND MARKED WITH MINIMUM INITIAL INSTALLED THICKNESS BY 1" HIGH NUMBERS. A MINIMUM OF ONE MARKER SHALL BE INSTALLED FOR EVERY 300 SQ. FT. OF AREA WITH NUMBERS TO FACE THE ATTIC ACCESS OPENING (MARKERS SHALL BE INSTALLED AT COMBO ROUGH-IN INSPECTION OR WALL INSULATION INSPECTION)
3. WOOD FRAMED WALLS
* INSULATION SHALL BE IN SUBSTANTIAL CONTACT WITH THE SURFACE BEING INSTALLED TO AVOID AIR PATHS THAT BYPASS THE INSULATION.
* INSULATION SHALL NOT BE COMPRESSED BY INSET STAPLING OF BATT INSULATION OR OTHER MEANS.
* INSULATION SHALL FILL ALL CAVITIES COMPLETELY BY CUTTING INSULATION AROUND ELECTRICAL OUTLETS AND SWITCHED, AND BY SLICING INSULATION TO FIT BEHIND & IN FRONT OF ELECTRICAL WIRING & PLUMBING PIPING IN THE CAVITY.
4. MASS WALLS (R-6)
* MASS WALLS SHALL BE CONSIDERED WALLS OF CONCRETE BLOCK, CONCRETE, INSULATED CONCRETE FORM (ICF), MASONRY CAVITY, BRICK (OTHER THAN BRICK VENEER), EARTH (ADORE, COMPRESSED EARTH BLOCK, RAMMED EARTH) AND SOLID TIMBERLOGS. MASS WALL R-VALUE REQUIREMENTS. WALLS THAT DO NOT MEET CRITERIA FOR INSULATION PLACEMENT SHALL MEET THE WOOD FRAMED WALL INSULATION REQUIREMENTS OF SECTION 402.1.1 IECC 2006
5. WOOD FRAMED FLOORS
* INSULATION SHALL BE IN SUBSTANTIAL CONTACT WITH THE SURFACE BEING INSULATED TO AVOID AIR PATHS THAT BYPASS THE INSULATION, INSTALLING SUPPORTS (WOOD, LATH, METAL STAVES OR OTHER)
6. BASEMENT WALLS (EITHER R-10 EXTERIOR INSULATION OR R-13 CAVITY INSULATION)
* EACH WALL OF BASEMENT MUST BE CONSIDERED SEPARATE TO DETERMINE WHETHER IT IS A BASEMENT WALL OR EXTERIOR WALL. A WALL THAT IS LESS THEN 50% BELOW GRADE IS AN EXTERIOR WALL AND MUST MEET THE INSULATION REQUIREMENTS FOR WALLS.
7. SLAB FLOORS (R-10 VERTICAL TO TOP OF FOOTING INSIDE EDGE OF STEM)
* MOST OF HEAT LOSS FROM SLAB WILL OCCUR IN THE EDGE THAT IS EXPOSED DIRECTLY TO OUTSIDE AIR. THE INSULATION MUST BE INSTALLED TO THE TOP OF THE SLAB EDGE TO PREVENT THIS HEAT LOSS. THERE ARE SEVERAL METHODS TO ACHIEVE SLAB INSULATING. (SEE SPECIFIC DETAILS ON FOUNDATION PLAN IF APPLICABLE.)
8. CRAWL SPACE WALLS INSULATION SHALL BE PERMANENTLY FASTENED TO THE WALL AND EXTEND DOWNWARD FORM THE FLOOR TO THE FINISHED GRADE LEVEL AND THE VERTICAL AND/OR HORIZONTAL FOR AT LEAST AN ADDITION 24".
* A CONTINUOUS VAPOR RETARDER SHALL BE INSTALLED TO THE EXPOSED EARTH. SEE DETAILS IF APPLICABLE.

PROJECT DATA:

LIVABLE	
GARAGE FLOOR:	894 SF
1ST FLOOR:	1,386 SF
2ND FLOOR:	1,389 SF
TOTAL:	3,669 SF
GARAGE:	762 SF



2ND FLOOR
1/4" = 1'-0"



1ST / GARAGE FLOOR
1/4" = 1'-0"

Date	
Description	
No.	

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DESIGN

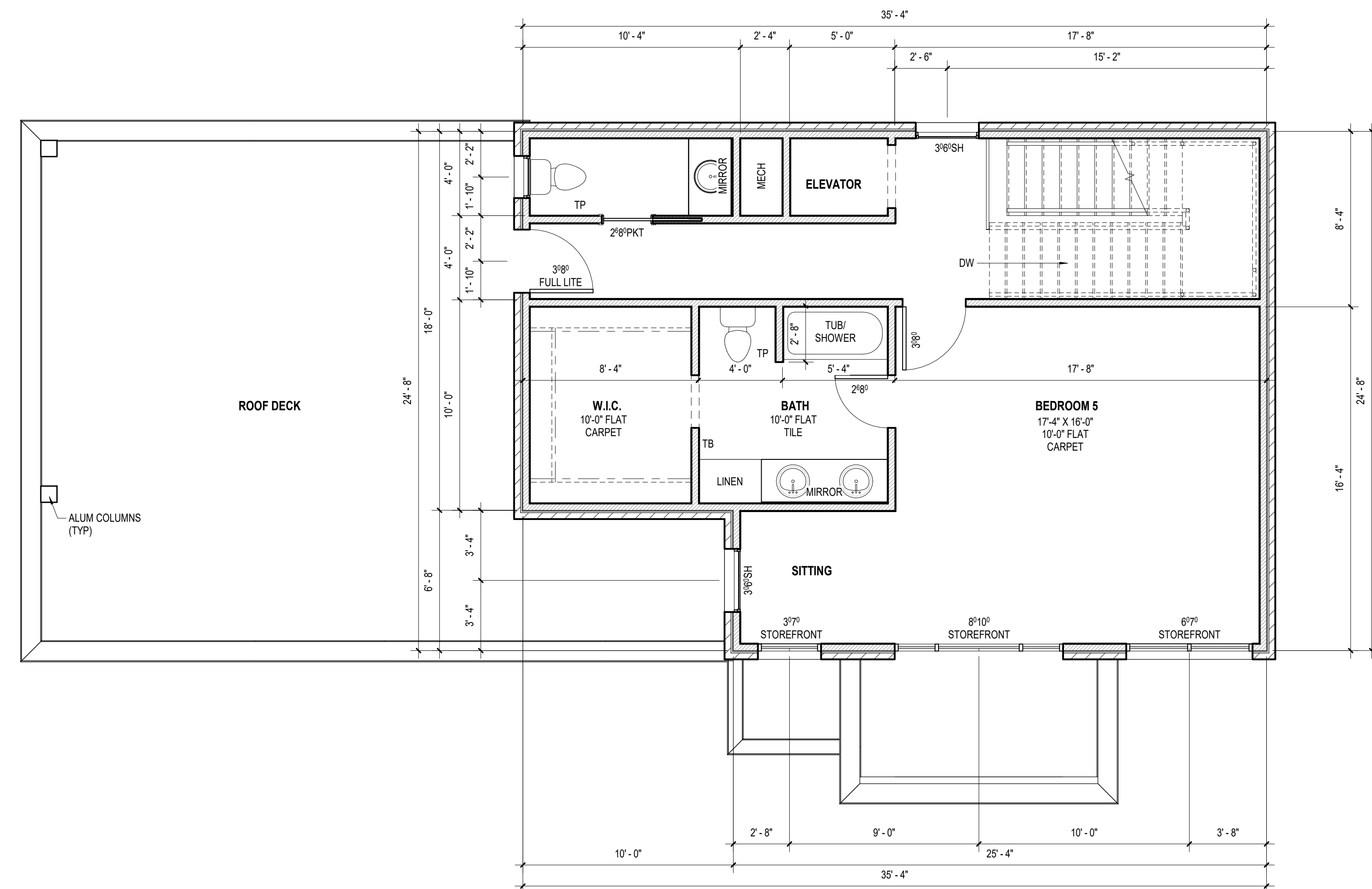
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**8TH STREET
TOWNHOME**

PROJECT #:	21-011
SCALE:	As Indicated
DATE:	11.08.2021
DRAWN BY:	DS
CHECKED BY:	DS

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SHEET:
A1.1



① 4TH FLOOR
1/4" = 1'-0"

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SHEET:

A1.3

PROJECT #: 21-011

21-011

SCALE: 1/4" = 1'-0"

1/4" = 1'-0"

DATE: 11.08.2021

11.08.2021

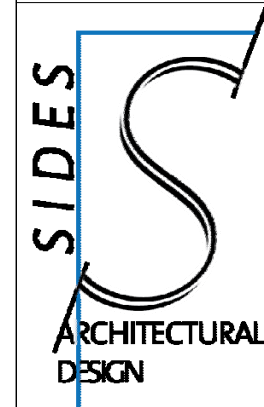
DRAWN BY: DS

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CHECKED BY: DS

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8TH STREET TOWNHOME

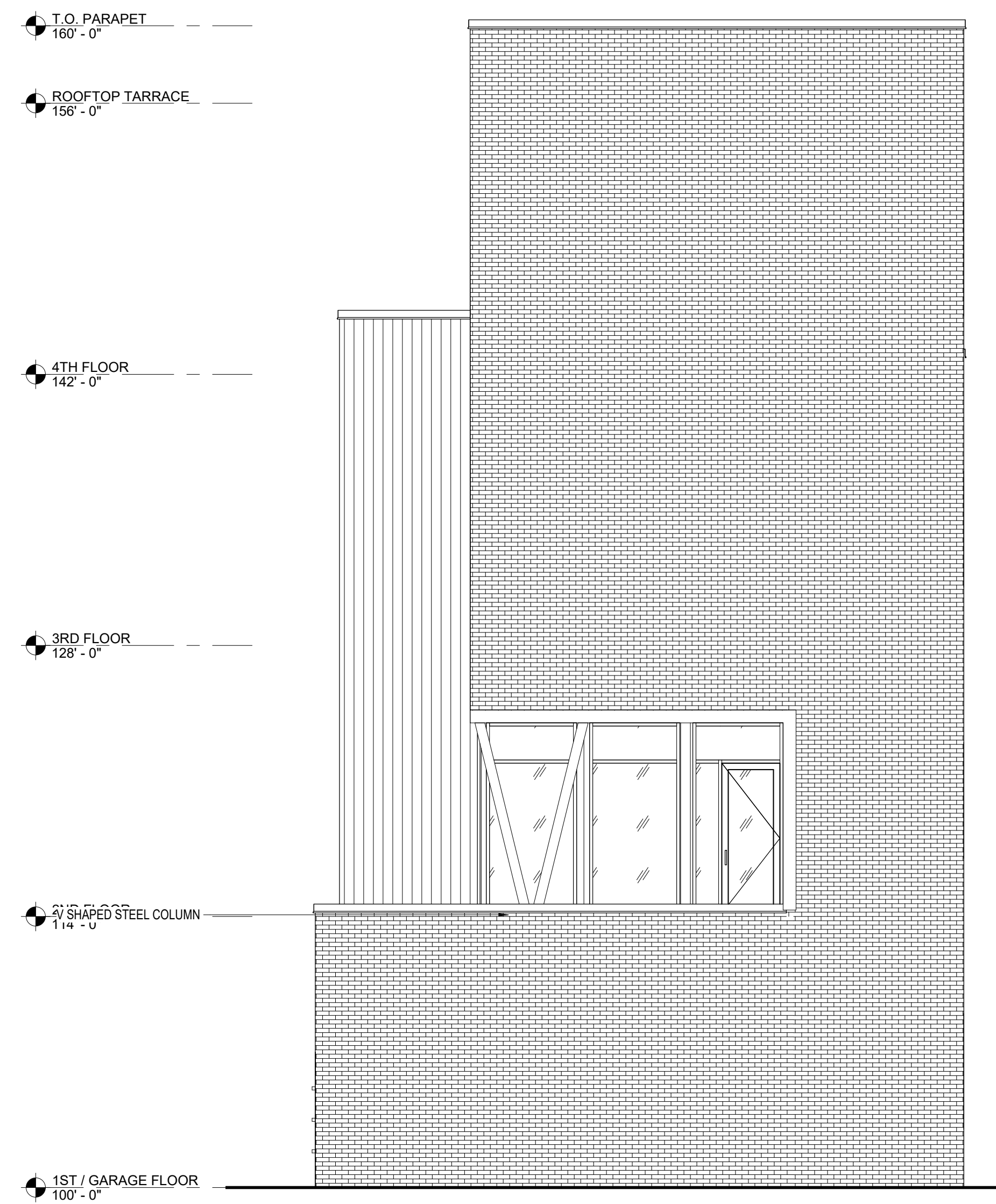


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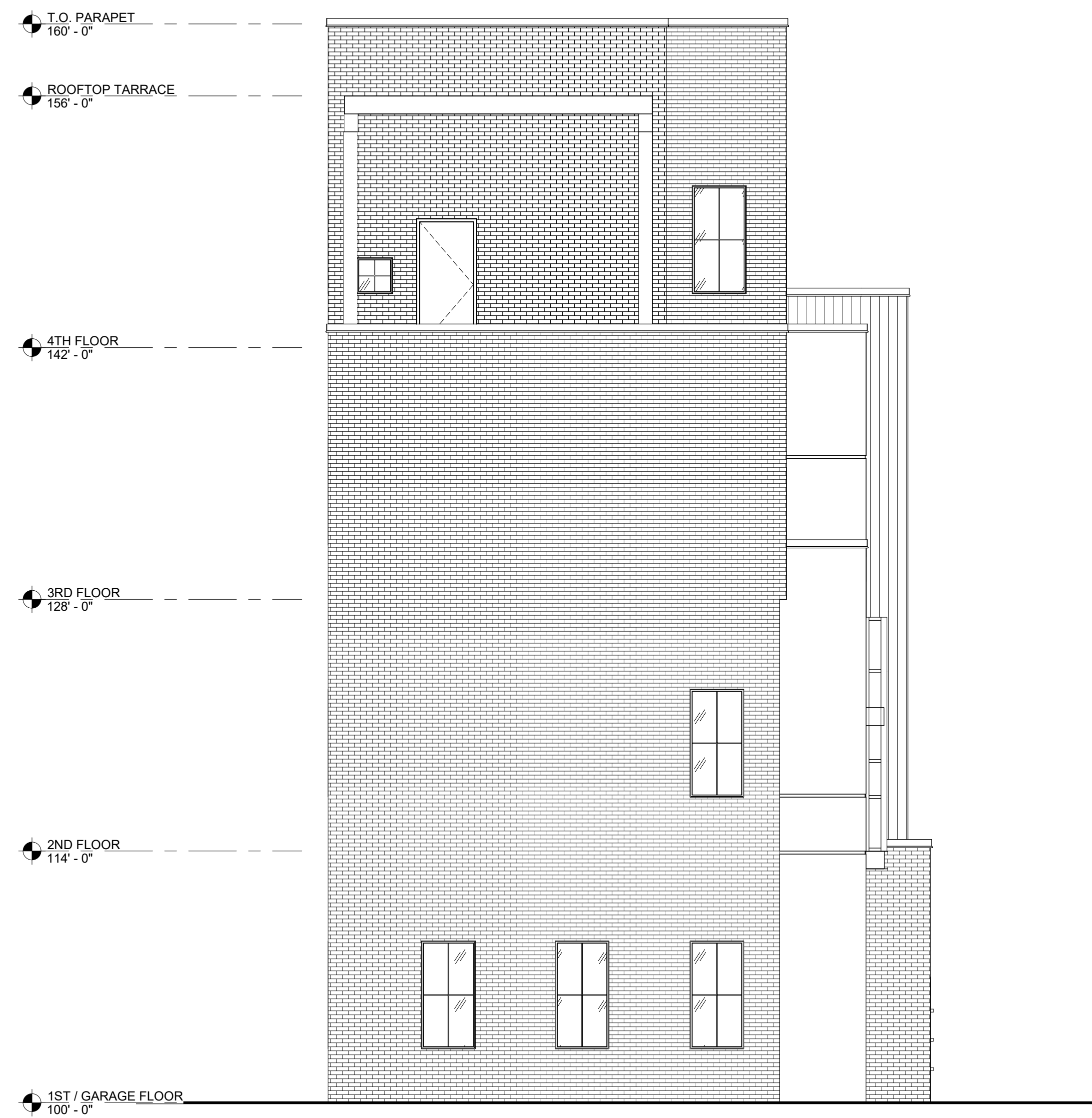
No.	Description	Date
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Description	Date
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Date _____



2 EAST ELEVATION
3/16" = 1'-0"



① WEST ELEVATION
3/16" = 1'-0"

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SHEET:

A1.5

PROJECT #:	21-011
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21-011

SCALE: 3/16" = 1'-0"

$$\frac{3}{16}'' = 1'-0''$$

DATE: 11.08.2021

11.08.2021

DRAWN BY: DS

DS

CHECKED BY:	DS
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DS

8TH STREET
TOWNHOME



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No.	Description	Date
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BOARD OF ADJUSTMENT STAFF REPORT



1003 North Main Street LLC

1003 N Main Street

BOA Date: 11/10/2021

Reviewer: Elizabeth Johnson, Senior Planner, AICP

Project Number	VAR21-0031
Applicant / Current Owner	1003 North Main Street LLC
Site Area	+/- 0.26 acres
Current Zoning	R-1, Low Density Single-Family Residential
Proposed Zoning	DN-2, Downtown Medium-Density Residential
Variance Request	Land Development Code Article 401.07(c)

Property Description

This property is located at 1003 N Main Street. At the time of writing this staff report, this property is currently zoned R-1, Low Density Single-Family Residential, but it is on the agenda for the November 9th City Council meeting to be rezoned to DN-2, Downtown Medium-Density Residential. It is surrounded by R-1, Low Density Single-Family Residential on the north, east, and west, and R-3, Medium-High Density Multifamily Residential to the south.

Regulation

According to Zoning Code Article 401.07(c), DN districts lot and area standards, subsection 1, Standards, the minimum lot width in the DN-2 zoning district for a single-family lot with alley access is 40 feet.

Variance Request

The applicant is requesting a lot width reduction from 40 feet to 36.47 feet for two adjacent lots.

Background

According to the applicant's narrative, when the original three lots (1003 and 1005 N Main) were developed, two houses were built across the lot lines of the three lots. This left the current owner with only being able to acquire a portion of the second lot without impacting the first house. The applicant states that for this reason a variance is necessary in order to be able to split the remaining land into two lots.

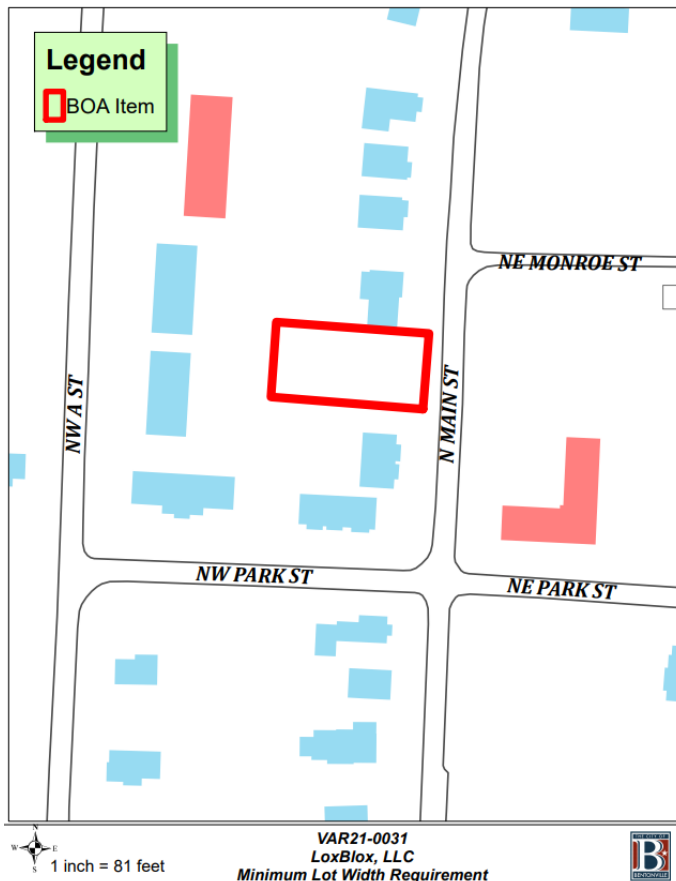
Public Comment

At the time of writing this staff report, staff has not received public comment on this item.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed lot layout, as provided by the applicant within this application.



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.

Legend

 BOA Item

NW A ST

N MAIN ST

NE MONROE ST

NW PARK ST

NE PARK ST



1 inch = 81 feet

VAR21-0031
LoxBlox, LLC
Minimum Lot Width Requirement



Miscellaneous Notes

STATE RECORDING NUMBER:
500-20N-30W-0-30-110-04-1659

COMPLETED FIELD WORK:
MARCH 30, 2021

BASIS OF BEARING:
BEARINGS BASED ON GRID NORTH FOR ARKANSAS COORDINATE
SYSTEM, NORTH ZONE, NAD83.

LATITUDE = 36°23'04.89205"
LONGITUDE = -94°12'32.20297"
CONVERGENCE ANGLE = -1°17'06.51278"

DISTANCES SHOWN ON PLAT ARE GRID. COMBINED SCALE FACTOR
(GRID TO GROUND) = 1.000033368.

REFERENCE DOCUMENTS:
1. WARRANTY DEED FILED IN DEED BOOK 2007 AT PAGE 14656.
2. SURVEY PLAT FILED IN PLAT BOOK A AT PAGES 81 & 119.

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.

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE "X" OF THE
FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05007C0090J,
WHICH BEARS AN EFFECTIVE DATE OF 9/28/2007 AND IS NOT IN A
SPECIAL FLOOD HAZARD AREA.

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

PARENT TRACT (PARCEL #01-04519-000)
LOT 16 AND THE SOUTH 1/2 OF LOT 17, BLOCK 2, W.A. BURKS ADDITION
TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS
SHOWN ON PLAT RECORD A AT PAGES 81 AND 119.

LOT 1
A PART OF LOT 16 AND A PART OF THE SOUTH 1/2 OF LOT 17, BLOCK 2,
W.A. BURKS ADDITION TO THE CITY OF BENTONVILLE, BENTON
COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD A AT PAGES 81
AND 119, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A SET 5/8" CAPPED REBAR PLS #1659 LOCATED ON THE
WESTERN RIGHT OF WAY OF NORTH MAIN STREET, SAID POINT OF
BEGINNING BEING LOCATED N04°01'52"E 36.47' FROM A FOUND 5/8"
REBAR MARKING THE SOUTHEAST CORNER OF THE SAID LOT 16, AND
RUNNING THENCE N86°04'15"W 150.74' TO A SET 5/8" CAPPED REBAR;
THENCE N02°43'07"E 37.36' TO A FOUND 5/8" REBAR; THENCE
S85°44'23"E 151.60' TO A FOUND 5/8" REBAR LOCATED ON THE
WESTERN RIGHT OF WAY OF NORTH MAIN STREET, AND RUNNING
ALONG SAID RIGHT OF WAY S04°01'52"W 36.47' TO THE POINT OF
BEGINNING, CONTAINING IN ALL 0.128 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

LOT 2
A PART OF LOT 16 AND A PART OF THE SOUTH 1/2 OF LOT 17, BLOCK 2,
W.A. BURKS ADDITION TO THE CITY OF BENTONVILLE, BENTON
COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD A AT PAGES 81
AND 119, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A FOUND 5/8" REBAR MARKING THE SOUTHEAST
CORNER OF THE SAID LOT 16, SAID POINT OF BEGINNING ALSO BEING
LOCATED ON THE WESTERN RIGHT OF WAY OF NORTH MAIN STREET,
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Zoning & Setback Information

ZONED: R-1, SINGLE FAMILY RESIDENTIAL

SETBACKS:
FRONT: 20'
SIDE: 7'
REAR: 25'

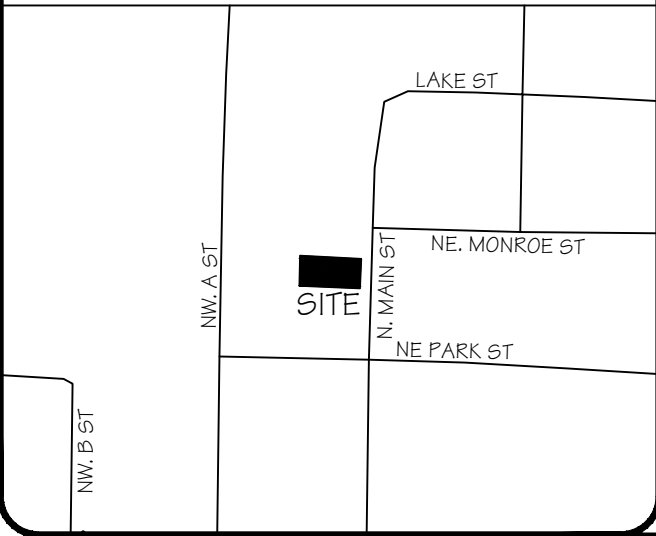
Owner/Developer

SILVER, JACOB A.
10 ROBSON WAY
BENTONVILLE, AR 72712
PARCEL #01-04519-000

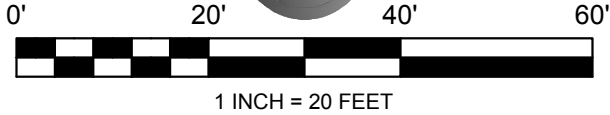
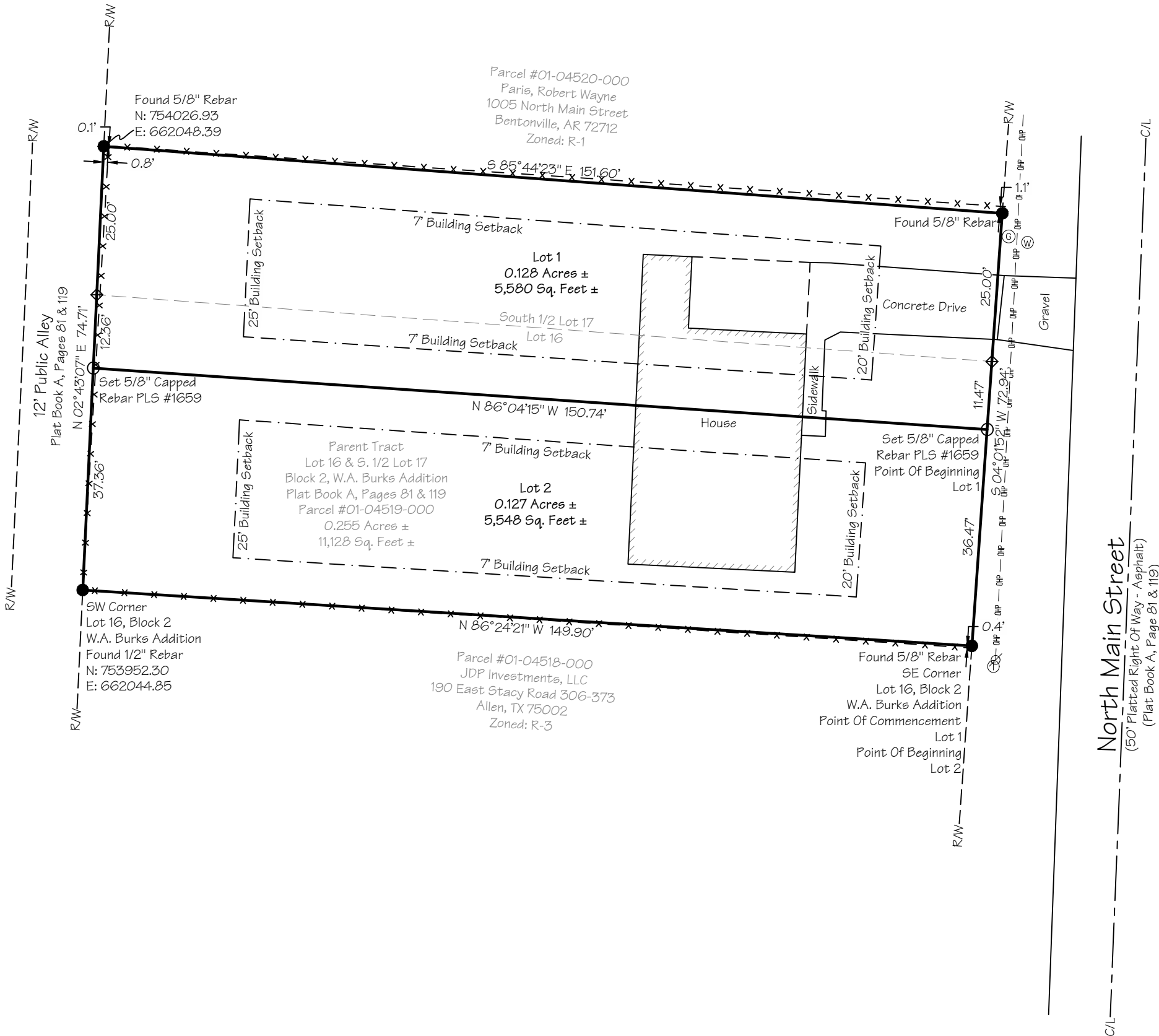
Legend of Symbols & Abbreviations

- BOUNDARY LINE
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- RIGHT-OF-WAY (R/W)
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- OVERHEAD POWER LINE
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- SET MONUMENT AS NOTED
- COMPUTED POINT
- WATER METER
- POWER POLE
- TELEPHONE PEDESTAL
- GAS METER

Vicinity Map



LOT SPLIT



Utility Notes

THE LOCATION OF UTILITIES SHOWN HEREON ARE
FROM OBSERVED EVIDENCE OF ABOVE GROUND
APPURTENANCES ONLY. THE SURVEYOR WAS NOT
PROVIDED WITH UNDERGROUND PLANS OR SURFACE
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CIVIL ENGINEERS & LAND SURVEYORS

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FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com

Certificate of Authorization No 1534

DRAWN BY & DATE: JH 3/31/2021 REVIEWED BY: TPN SURVEYED BY: BA & PA

COUNTY & STATE: BENTON COUNTY, AR JOB NUMBER: 21-1653

LOCATION:
1003 NORTH MAIN STREET, BENTONVILLE, AR 72712

FOR THE USE AND BENEFIT OF:
KEN EHRET

CERTIFICATE OF OWNER:

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND
DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF,
PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT,
SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND
DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS,
ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.

DATE OF EXECUTION: _____

SIGNED: _____
NAME & ADDRESS

SOURCE OF TITLE: D.R. _____ PAGE _____

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I, WILLIAM GAGNER, HEREBY CERTIFY THAT THIS PLAT CORRECTLY
REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY
MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND
THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND
ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM
STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.

DATE OF EXECUTION _____

WILLIAM GAGNER
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. AR 1659
STATE OF ARKANSAS

CERTIFICATE OF FINAL APPROVAL:

PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATIONS AND
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EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND
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DATE OF EXECUTION: _____

SIGNED: _____
BENTONVILLE PLANNING
COMMISSION CHAIRMAN

SIGNED: _____
MAYOR CITY OF BENTONVILLE

SIGNED: _____
CITY CLERK, CITY OF BENTONVILLE

Board of Adjusters Narrative
1003 North Main Street - 01-04519-000

Our goal is to split 1003 North Main Street into two lots to accommodate two moderately priced single family homes. Unfortunately, when the original three lots which consist of 1003 and 1005 were developed in 1983, they disregarded the platted lots and built two houses across three lots. As a result, and indicated by the survey, we are just 7 feet shy of the 80 foot width lot requirement needed to split the lot and accommodate two single family homes.

Instead of building a single large home that would price many people out downtown, we are asking the board of adjusters to grant us 7 feet of variance so that we can build two single family homes with alley access. These homes will add beauty and much needed improvements to the neighborhood while providing more affordable downtown living options.

We thank the board for their consideration and look forward to working together for a better Bentonville.

Miscellaneous Notes

STATE RECORDING NUMBER:
500-20N-30W-0-30-110-04-1659

COMPLETED FIELD WORK:
MARCH 30, 2021

BASIS OF BEARING:
BEARINGS BASED ON GRID NORTH FOR ARKANSAS COORDINATE
SYSTEM, NORTH ZONE, NAD83.

LATITUDE = 36°23'04.89205"
LONGITUDE = -94°12'32.20297"
CONVERGENCE ANGLE = -1°17'06.51278"

DISTANCES SHOWN ON PLAT ARE GRID. COMBINED SCALE FACTOR
(GRID TO GROUND) = 1.000033368.

REFERENCE DOCUMENTS:
1. WARRANTY DEED FILED IN DEED BOOK 2007 AT PAGE 14656.
2. SURVEY PLAT FILED IN PLAT BOOK A AT PAGES 81 & 119.

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.

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE "X" OF THE
FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05007C0090J,
WHICH BEARS AN EFFECTIVE DATE OF 9/28/2007 AND IS NOT IN A
SPECIAL FLOOD HAZARD AREA.

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

PARENT TRACT (PARCEL #01-04519-000)
LOT 16 AND THE SOUTH 1/2 OF LOT 17, BLOCK 2, W.A. BURKS ADDITION
TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS
SHOWN ON PLAT RECORD A AT PAGES 81 AND 119.

LOT 1
A PART OF LOT 16 AND A PART OF THE SOUTH 1/2 OF LOT 17, BLOCK 2,
W.A. BURKS ADDITION TO THE CITY OF BENTONVILLE, BENTON
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AND 119, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
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BEGINNING BEING LOCATED N04°01'52"E 36.47' FROM A FOUND 5/8"
REBAR MARKING THE SOUTHEAST CORNER OF THE SAID LOT 16, AND
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SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

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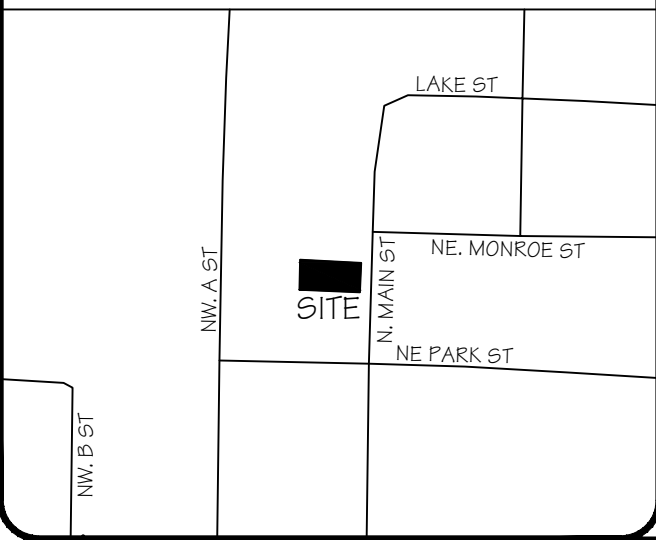
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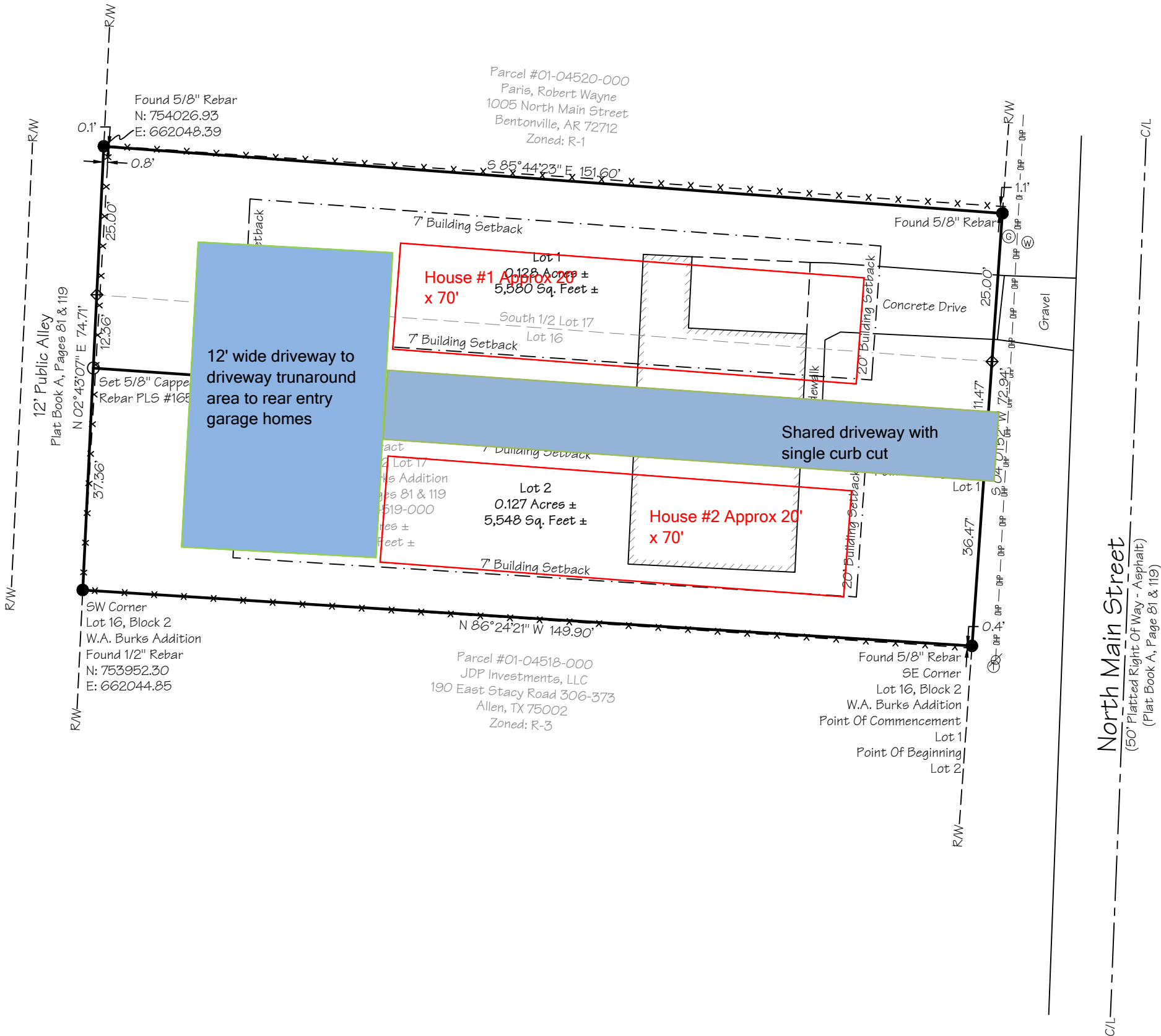
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Vicinity Map



LOT SPLIT

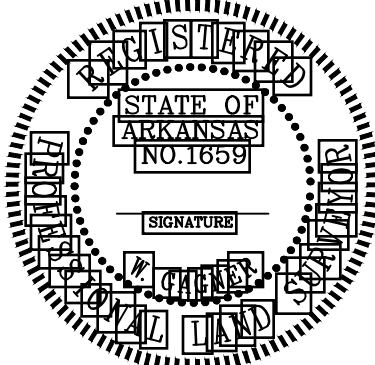


Utility Notes

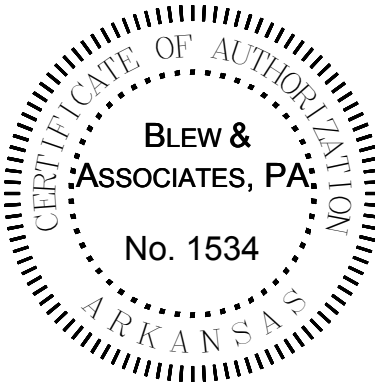
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BENTONVILLE PLANNING
COMMISSION CHAIRMAN

SIGNED: _____
MAYOR CITY OF BENTONVILLE

SIGNED: _____
CITY CLERK, CITY OF BENTONVILLE

BOARD OF ADJUSTMENT STAFF REPORT



Pablo Gardeta Donamaria and Diana Mendez Cizaurre

609 McClain Road

BOA Date: 11/10/2021

Reviewer: Elizabeth Johnson, Senior Planner, AICP

Project Number	VAR21-0034
Applicant / Current Owner	Pablo Gardeta Donamaria and Diana Mendez Cizaurre
Site Area	+/- 0.34 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Article 601.1 Residential District Regulations

Property Description

This property is located at 609 McClain Road and is used as a single-family home. It is currently zoned R-1, Single-Family Residential.

Regulation

According to Zoning Code Article 401.07, Accessory Structures, section d, Setbacks, subsection 1, Standards, states that the side setback for an accessory structure with a building footprint less than or equal to 720 square feet is 7 feet.

Variance Request

The applicant requests a variance to reduce their north interior side setback for an accessory structure to 2 feet.

Background

The applicant installed a pergola in their backyard on October 9th, 2021 two feet away from the north interior side property line. The applicant was unaware of the setback requirements, as this structure did not require a building permit.

The applicant states in their narrative that the pergola was placed in its current position in order to leave adequate spacing away from the existing water line that runs through the eastern portion of the lot and to accommodate room for a future in ground pool.

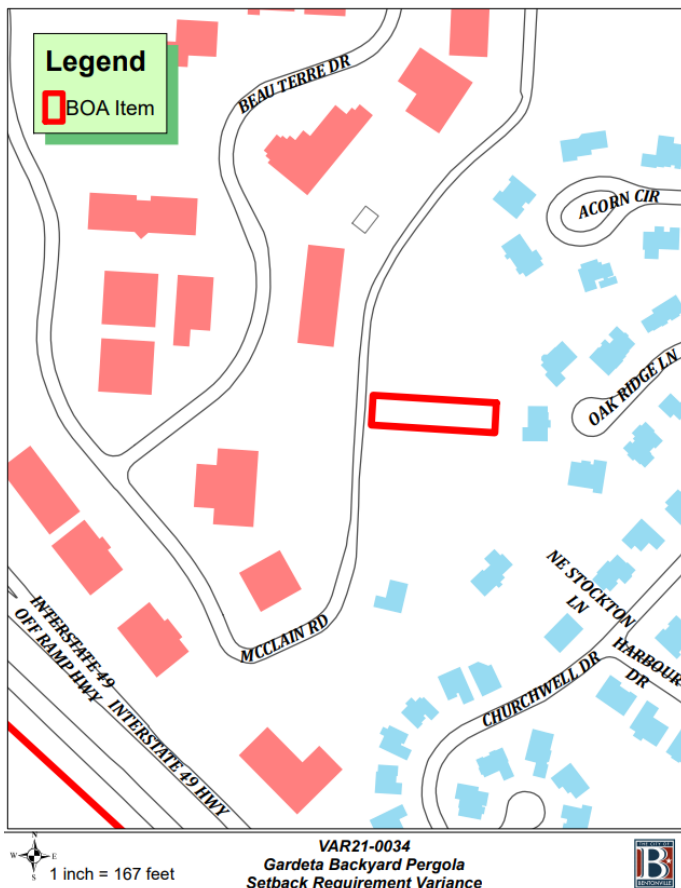
Public Comment

At the time of writing this staff report, staff has not received public comment on this item.

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.



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.

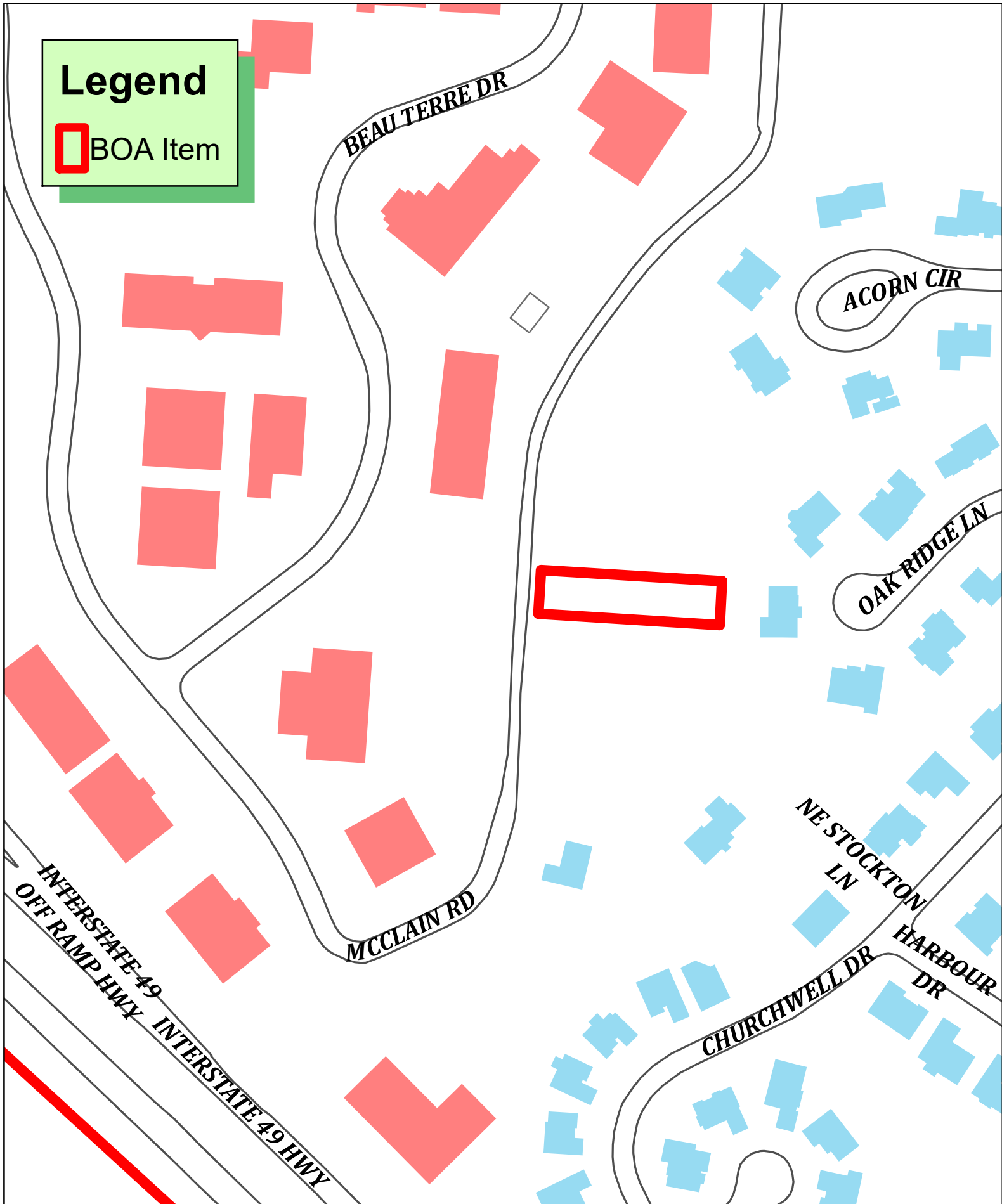
(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(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.

Legend

 BOA Item



1 inch = 167 feet

VAR21-0034
Gardeta Backyard Pergola
Setback Requirement Variance



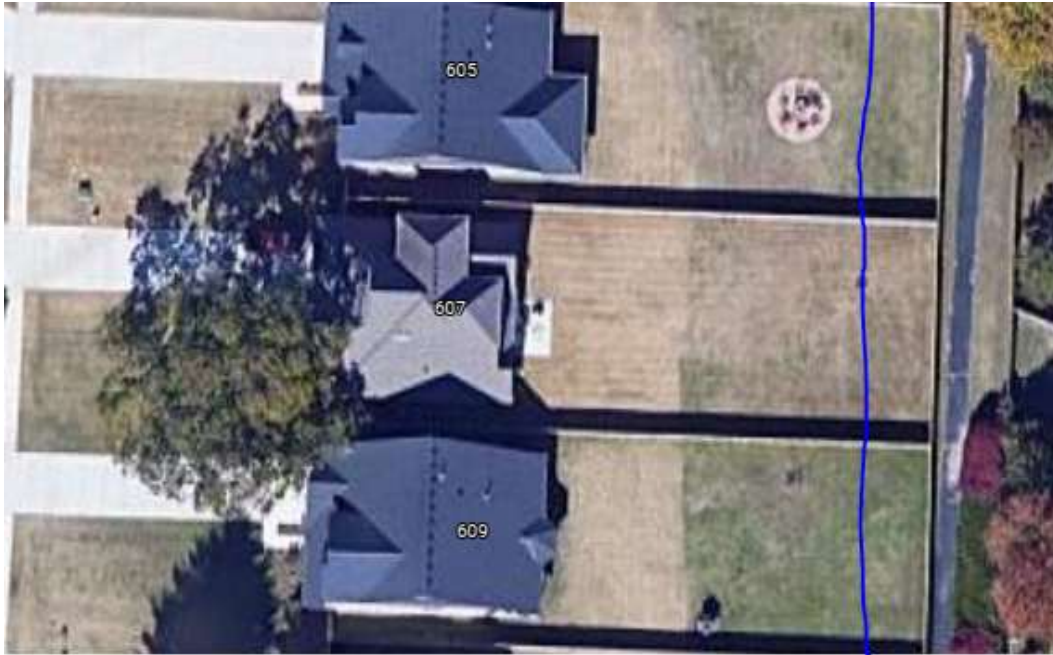
c) Narrative

On October 9th 2021 I built a pergola on my backyard. It is a DIY pergola (18ft x 10 ft) in which you just insert 6x6 inches wooden posts in some metal brackets. I confirmed that the pergola didn't require any type of permits so I went ahead and built it, but I was unaware of the setback requirements (7ft from the property line). I was unaware of it and probably misguided by other developments across the neighborhood that are also placed closer than 7 ft from the property line.



I spoke with a code enforcement officer and he recommended to apply for a variance in order to comply with all the regulations. The below documents the reasons why the pergola needs to be placed there:

1. The slab and pergola do not have any electric or water installation. It is made of pressure treated lumber same quality or better as the lumber used in the fence separating the property line. It does not have roof or walls. This will not create any additional risks to the community. In addition, it is placed in a flat surface that will not have any risks of any kind.
2. There is a water line that runs horizontally in the back of the yard that limits the placement options for the slab and pergola within the yard (blue line in the picture below) if you need to leave a safety distance for any construction/water machinery in case of emergency work required.

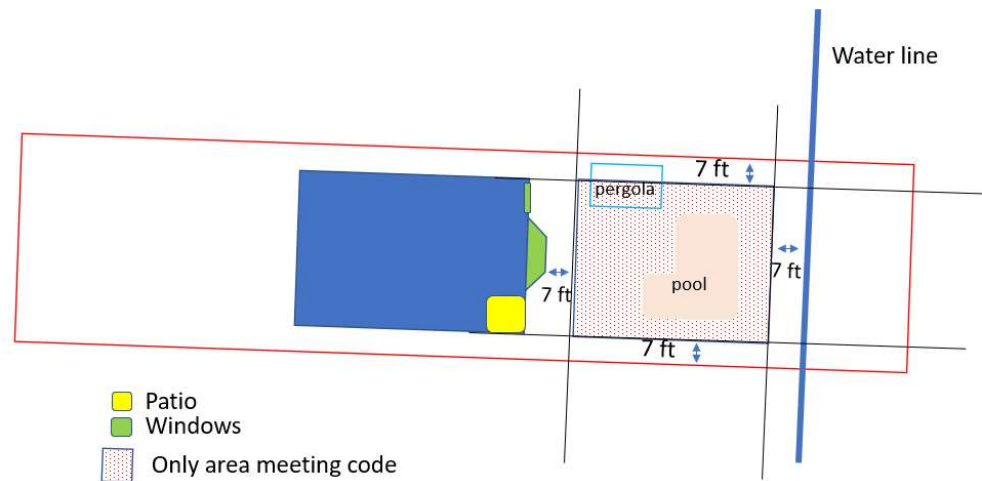


In order to have a safety distance with the water line, as well as meeting the 7ft requirement across all borders, the actual size of the yard that would allow any developments is significantly reduced (as shown in the plan below). Also, I am hoping to have a contractor built an inground pool in the next few months. A pool represents higher risks so would like it to have more than 7ft across all borders to make sure there are no issues in the future (with required repairs or maintenance, potential leaks, etc.) that could affect other homeowners. Also, I would like it to have enough distance to build the required safety fence to protect my daughters from drowning (they are 5 and 1 years old). I also think that, from a safety perspective, it is necessary to have direct sight line from the patio and windows to avoid any blind spots and don't have any tragedies. For this reason, I think the south part of the yard is the best place for the pool. Finally, placing the pergola within the 7ft will block all the views from the windows which would have an increased risk as well as a significantly impact in the property value if views are blocked.

Windows that would get blocked



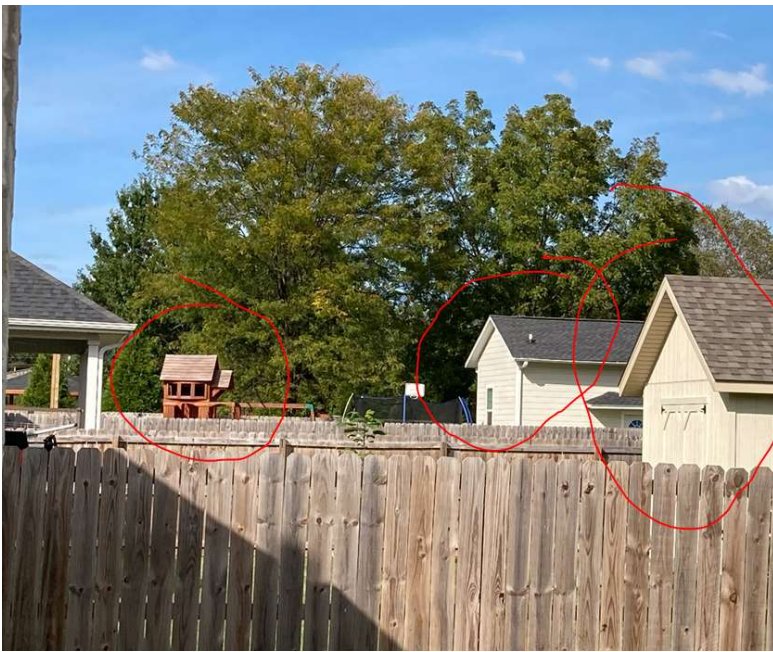
plan



3. The HVAC units are placed in the north side of the house. Since that side is blocked for any construction/water machinery to come in in case of emergency, it is more sensible to leave the south side clear of any obstacles and build the pergola in the north side (see photo below). Also HVAC units across all units are placed less than 7ft from the property line and have higher electric failure risk.



4. There are currently other developments in the area that are higher than the pergola, so pergola will not impact the appearance of the neighborhood. In the same line, views will not be impacted since the vertical post are 8ft long and does not significantly go over the fence (e.g. a trampoline or a playhouse are higher). Also, there are trees planted closer to the fence that will outgrow the fence that in terms of views and risks are the exact the same or riskier than a pergola (see photos below).

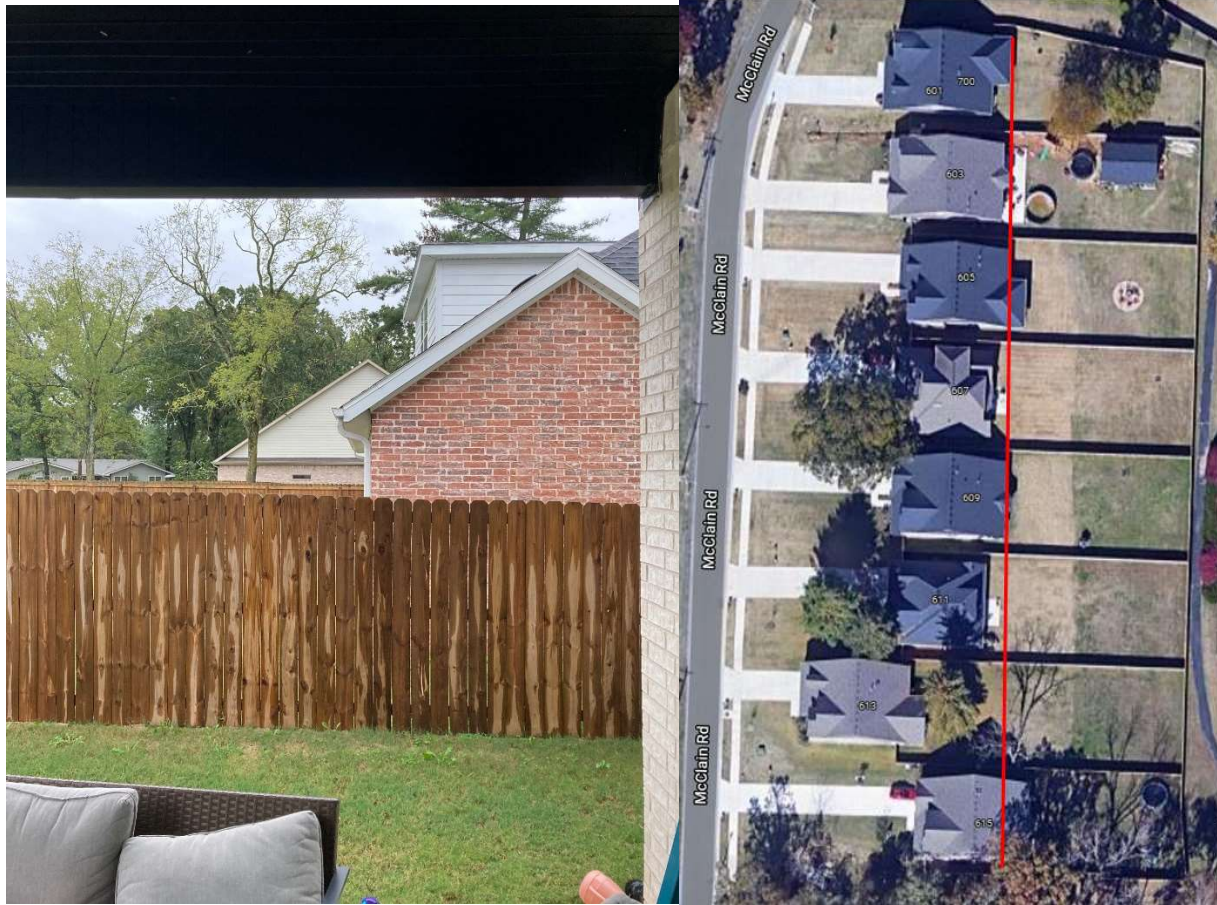




5. There are other developments in the area that are placed closer to the property line than 7ft that are located in the same side and direction of the pergola. The appearance of the neighborhood will not be impacted. In addition, this pergola will not impact negatively in the value of the properties (see photos below).



6. There are other houses in the same street that are built with a different alignment. Although these houses are at 7ft from the property line, they are more disruptive for the views within the community than what the pergola will be (see photos below; red line exemplifies house alignment).

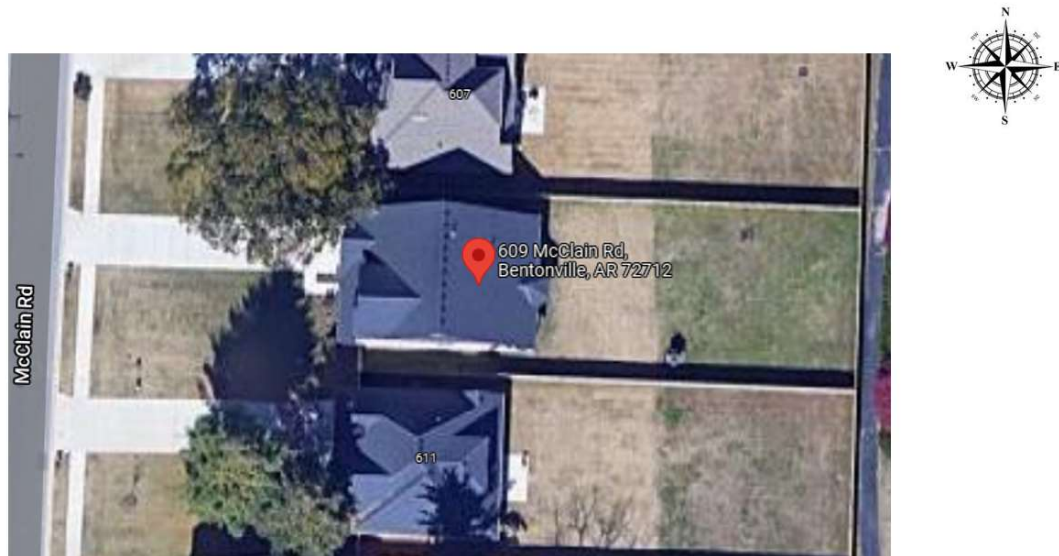


In summary, there will not be any additional risks to anyone in the community and there will not be any cosmetic impacts to neighborhood. Placing the pergola horizontally in the north side will be in line with all the developments of the neighborhood having a more cohesive set up. In addition, placing the pergola within 2ft as opposed to 7ft will not be of any difference in terms of impact and risks, however, given the shape of the yard and the limitations due to the water lines and HVAC, as well as the windows and future development, placing the pergola in a different place may negatively impact the use of the yard and consequently a loss in property value impacting my property as well as other properties in the neighborhood. These are special circumstances that are not under my control or result of my actions.

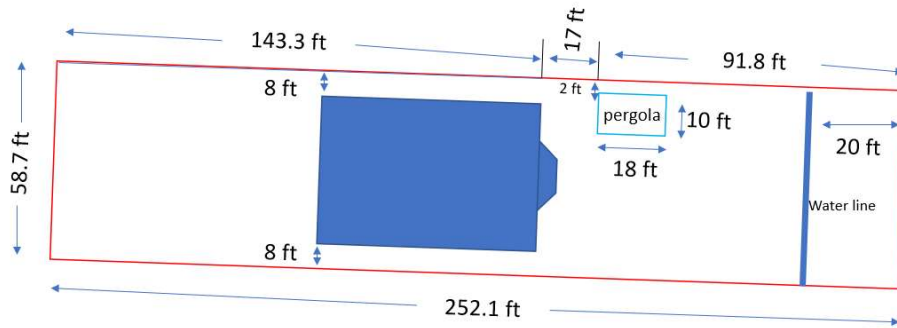
II – Plan set



Name: Pablo
Last name: Gardeta Donamaria
Address: 609 McClain Rd Bentonville, AR 72712



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