

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
April 13th, 2022**

Registration Link: https://us06web.zoom.us/webinar/register/WN_pOZCSdR8RU-6uzLTetzccA

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

- | | |
|--|------------------|
| 1. Bright Gator LLC – New Construction
5288 SW Bright Road (VAR22-0016) <ul style="list-style-type: none">• Fence Height Variance | Variance* |
| 2. RJ Roth Holdings LLC – New Construction
1300 Tunbridge Drive (VAR22-0017) <ul style="list-style-type: none">• Side Setback Variance | Variance* |
| 3. Zachary and Tiffany Prete – Backyard Pool House
1403 SW Madison Avenue (VAR22-0018) <ul style="list-style-type: none">• Rear Setback Variance | Variance* |
| 4. Schuber Mitchell Homes – New Construction
808 NW 13 th Street (VAR22-0019) <ul style="list-style-type: none">• Rear Setback Variance | Variance* |

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BOARD OF ADJUSTMENT

Meeting Minutes

March 23rd, 2022

Meeting Recording:

https://us06web.zoom.us/rec/share/7CKW9_SzbcPweBIFKNBQ8m2OdU3VaiSWBnKpamKWuLdKzLQ7PjVv_qD3fkZYBC9p.dQ2oNI7NErIYGXgK

I. Call to Order:

- Rogers called the meeting to order at 4:00pm

II. Approval of Minutes:

- Pearson motioned to approve the meeting minutes, seconded by Kruithof.
- Approved 5-0

III. Old Business

IV. New Business

1. Railroad Addition – Kendall Family Home

Variance*

250 SE B St ([VAR22-0013](#))

- Side Setback Variance

- Chris reads staff report
- Mr. Rogers opens the floor for public hearing
- Bill Watkins (representing the applicant) spoke on the details of the item
- Public hearing closed
- Discussion amongst committee members and staff
- Approved 5-0

2. Chardonnay Subdivision – Tayyab Covered Porch

Variance*

Lot 20 SW Chardonnay Blvd ([VAR22-0014](#))

- Rear Setback Variance

- Chris reads staff report
- Public hearing opened
- Brian Buzbye (representing the applicant) was going to speak then the applicant showed up to the meeting

- Arsalan Tayyab, (Applicant) 3402 SW 8th St. spoke to more details of the item
- Public hearing closed
- Discussion amongst committee and staff
- Front porch setback vote: Approved 5-0
- Garage setback vote: Approved 5-0

3. Windsong Subdivision – Bull Family Home/Shop

Variance*

8395 Windsong Lane ([VAR22-0015](#))

- Accessory Structure Size Variance
- Chris reads staff report
- Public hearing opened
- John Owen, 8485 Winsong Ln speaks to object the item
- William Miller 840 Winsong Ln speaks to object the item
- David Chen 8700 Winsong Ln speaks to object the item
- Ron Baker 8403 Winsong Ln speaks to object the item
- Gavin Edwards 871 Big One Street, lot owner near the lot in question and also wrote the covenant for the subdivision. Gavin had some concerns.
- Public hearing closed
- Discussion amongst committee and staff
- Denied 5-0

Meeting adjourned

Jana Snyder

Development Coordinator

BOARD OF ADJUSTMENT STAFF REPORT



Preston Park Phase 2

5288 SW Bright Road

BOA Date: 4/13/2022

Reviewer: Christopher Hyatt, Planning Technician

Project Number	VAR22-0016
Applicant / Current Owner	Bright Gator, LLC
Site Area	+/- 18.84 Acres
Current Zoning	PRD – Planned Residential Development
Variance Request	Zoning Code Article: Section 1100.06 (h) (1)

Property Description

This property is located at 5288 SW Bright Road and is currently zoned PRD – Planned Residential Development.

Regulation

Zoning Code Article Section 1100.06 (h) (1) Fence and Wall Requirements allows a maximum fence height of six feet above grade.

Variance Request

The applicant is requesting a variance of 10 inches from the maximum of six feet.

Background

The applicant states that they are requesting this variance in order to build a perimeter fence that includes six foot tall pickets and six foot six inch tall brick posts. The posts on either side of the neighborhood sign will be six foot ten inches tall.

According to the applicant's narrative, this sign and fence is of the exact same design as Preston Park phase one. This design and detail was approved by the City of Bentonville, stamped, and already constructed in phase one.

The applicant concludes that this request will allow the same design as phase one of the Preston Park Subdivision and ensure continuity between phases.

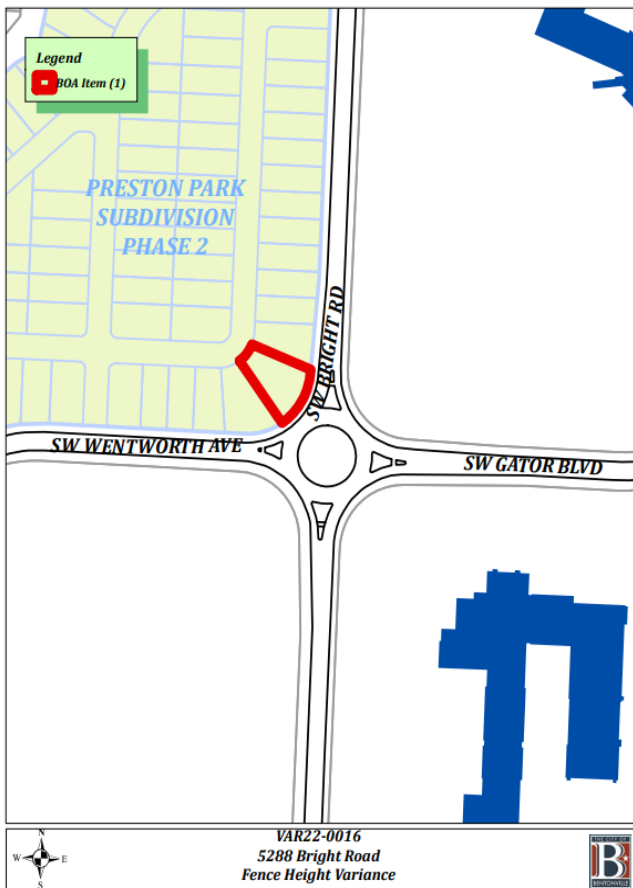
Public Comment

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, as provided by the applicant within this application.
2. The applicant must obtain a building permit before construction begins.



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.

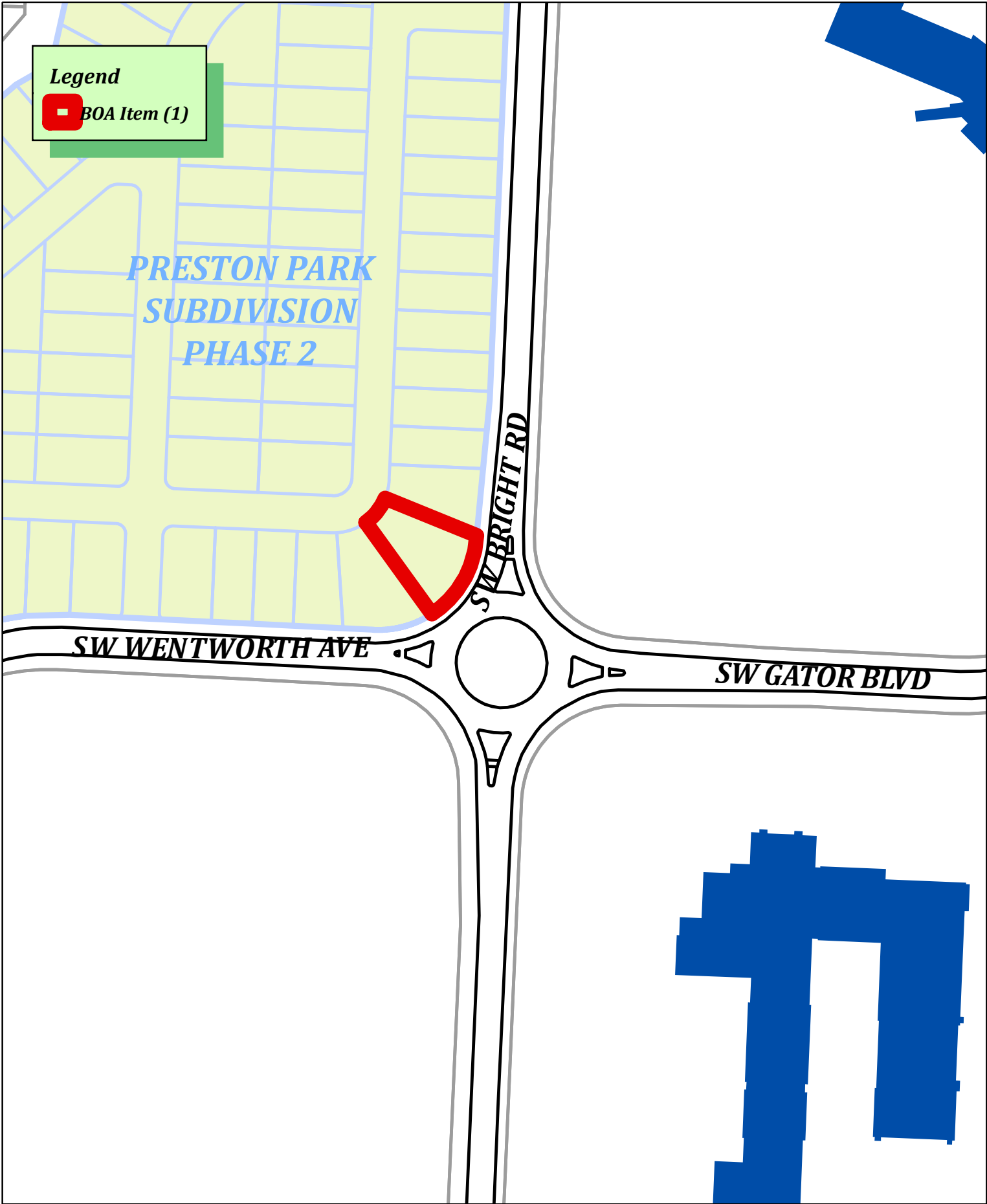
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.





Planning Division
City of Bentonville
305 SW A Street
Bentonville, Arkansas 72712

Re: Preston Park Phase 2 – Variance Request for Fence Height
Bentonville, Arkansas
CTA Job No. 17107601

To whom it may concern,

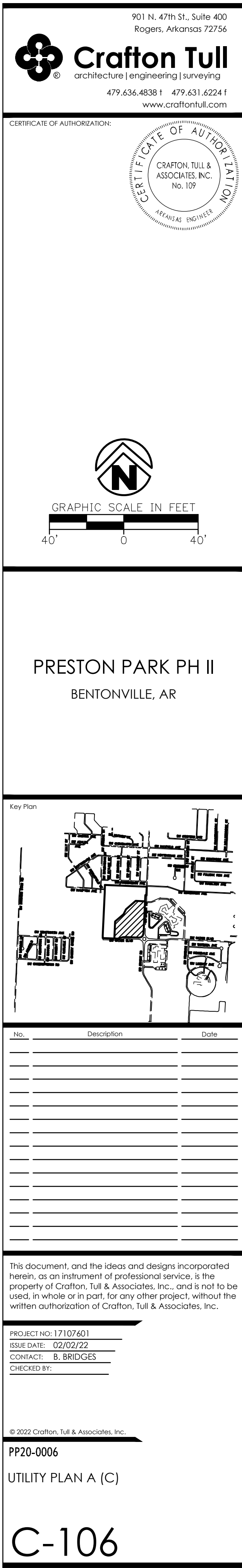
This letter is to formally request a variance from the 6' fence height to a 6'-10" height for Preston Park Phase 2. The fence will be constructed with 6' tall pickets and 6'-6" brick posts. The posts on either side of the neighborhood sign will be 6'-10". This sign and fence is of the exact same design as Preston Park Phase 1. This design and detail was approved by the City of Bentonville, stamped, and already constructed in Phase 1. We are requesting to construct the same design to ensure continuity between phases.

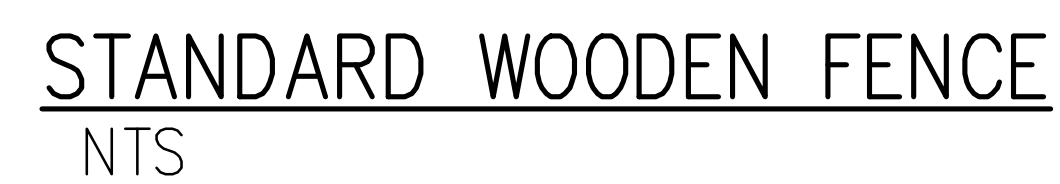
Should you have any questions or require any further information, please contact us at your convenience.

Sincerely,

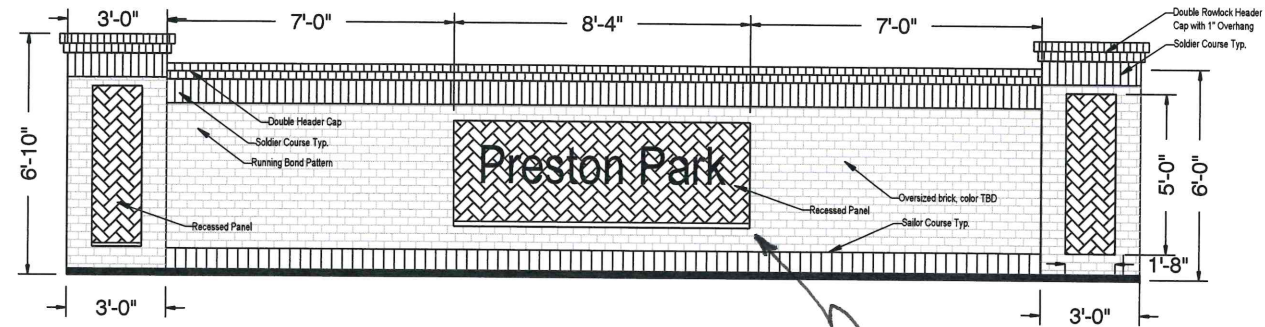
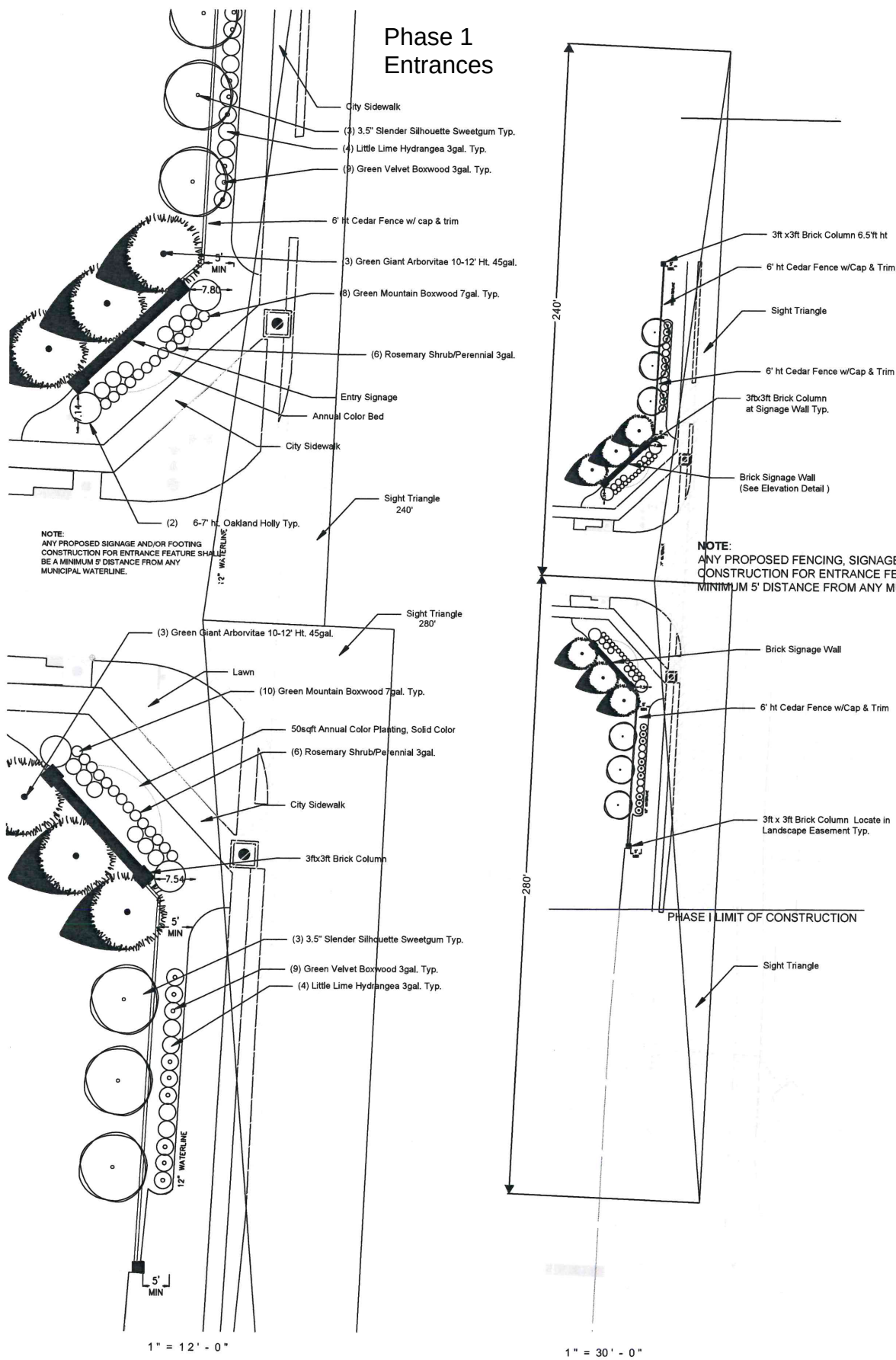
Hunter Collins, EI
Engineer Intern

- DRAWING: G:\1710760\PROSPECT\2\INFRAS\STRUCTURE\CIVIL\DWG\UTILITY PLAN FENCE MARKUP.DWG
LAYOUT: LAYOUT [1], LAST SAVED: HC5214, 2/7/2022 1:31:08 PM
LAST PLOTTED BY: HUNTER COLLINS, 2/7/2022 1:32:06 PM, PLOTTED BY: VALID ON HARD COPY ONLY



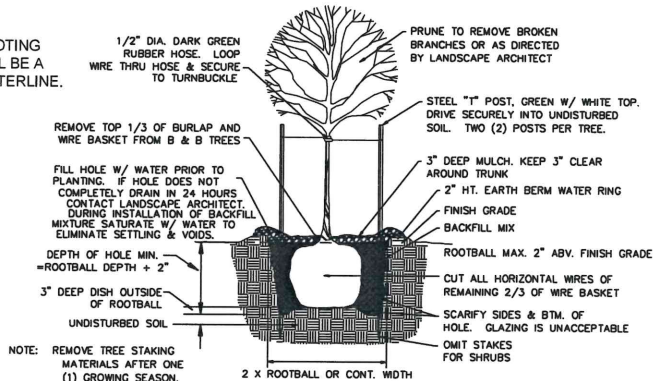


- DRAWING: G:\17107601_PSSR\PH2\INFRASTRUCTURE\CIVIL\DWG\UTILITY PLAN FENCE MARKUP.DWG
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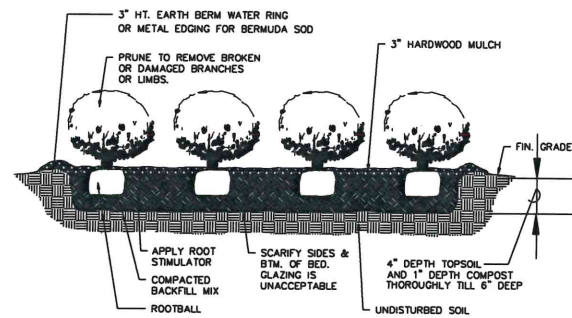


ENTRY FEATURE ELEVATION DETAIL
NTS

SEE SIGN DETAILS



PIT PLANT DETAIL
NTS



BED PLANT DETAIL
NTS

- LANDSCAPE NOTES:**
- CONTRACTOR RESPONSIBLE FOR CALLING ARKANSAS ONE CALL SYSTEM TO LOCATE ALL UTILITIES PRIOR TO BEGINNING ANY WORK ON SITE. MONUMENT SIGN FOOTING SHALL BE LOCATED TO MAINTAIN A 5' DISTANCE FROM ANY MUNICIPAL WATER LINE.
 - ALL PLANT MATERIAL SHALL BE NURSERY GROWN STOCK. SIZE AND GRADING SHALL MEET OR EXCEED THE LATEST EDITION OF AMERICAN STANDARDS FOR NURSERY STOCK.
 - ALL AREAS TO BE PLANTED SHALL BE FREE OF EXISTING VEGETATION.
 - ALL BEDS TO HAVE POSITIVE DRAINAGE SO AS NOT TO HOLD WATER.
 - 3-4" DEPTH DARK BROWN COLOR HARDWOOD MULCH SHALL BE PLACED IN PLANTING AREAS. ALL TREE RINGS IN SOD AREAS SHALL RECEIVE 3" OF HARDWOOD MULCH.
 - BERMUDA SOD SHALL BE USED IN ALL TURF AREAS.
 - KEEP ALL PLANTS A MINIMUM 18" AWAY FROM ANY BUILDING OR SIDEWALK.
 - ALL LANDSCAPE AREAS TO BE WATERED BY AUTOMATIC UNDERGROUND IRRIGATION SYSTEM.
 - TURF AND SHRUB AREAS TO BE WATERED SEPARATELY.
 - ALL SOD AREAS ARE TO RECEIVE 4" OF TOPSOIL TO FINAL GRADE. ALL BED AREAS ARE TO RECEIVE 4" OF TOPSOIL AND 1" OF COMPOST TILLED INTO TOP 6" OF BED AREA. SOILS SHALL BE AMENDED TO ENHANCE FAVORABLE GROWING CONDITIONS.
 - REFER TO SHEET L101 FOR TREE LOCATIONS.
 - EDGING SHALL BE 3/8"x4" UNFINISHED METAL WITH MATCHING STAKES. CHAMFER ENDS WHERE EDGING ABUTS CONCRETE WALKS.
 - FINISH GRADE OF SOIL IN BEDS SHALL BE 1-2" BELOW ADJACENT CONCRETE TO CONTAIN MULCH. DO NOT PLACE EDGING BETWEEN PLANTING BED AND ANY CONCRETE FLATWORK OR BUILDING.
 - ADJUST PLANTING MATERIAL AND BEDS AS NEEDED TO ACCOMMODATE UTILITIES, HVAC UNITS AND ARCHITECTURAL ELEMENTS. DO NOT BLOCK WINDOWS WITH PLANTING MATERIAL. ALL TREE PLANTINGS SHALL MAINTAIN A 5' DISTANCE FROM ANY MUNICIPAL WATER LINE.
 - PROVIDE MAIN IRRIGATION CONTROLS FOR ENTRY SYSTEM AT ENTRY AREA
 - ONCE INSTALLED, LANDSCAPING SHALL BE MAINTAINED IN HEALTHY LIVING CONDITION AND ALL PLANT MATERIAL THAT DIES SHALL BE REPLACED (SEC 1400.5.C-10).
 - TREES SHALL NOT BE TOPPED AT ANY TIME AND PROPER TREE PRUNING TECHNIQUES AS ESTABLISHED BY THE LATEST EDITION OF ANSI A300 "STANDARDS FOR ALL TREE CARE" SHALL BE UTILIZED FOR MAINTENANCE PURPOSES. (SEC 1400.5.C-11).
 - HEALTHY TREES SHALL NOT BE REMOVED AT ANY TIME AND PROPER TREE PRUNING TECHNIQUES AS ESTABLISHED BY THE LATEST EDITION OF ANSI A300 "STANDARDS FOR ALL TREE CARE" SHALL BE UTILIZED FOR MAINTENANCE PURPOSES. (SEC 1400.5.C-12).
 - LIVING MATERIALS, SUCH AS LAWN, GRASS OR HERBACEOUS GROUNDCOVERS LIKE JUNIPER OR LIRIOPE, ETC., SHALL COVER A MINIMUM OF 80% OF THE PLANTING ISLANDS. ONE HUNDRED (100%) OF LIVING MATERIALS IS STRONGLY ENCOURAGED. (SEC 1400.8.G-7).
 - WHERE POTENTIAL UTILITY CONFLICTS WITH LANDSCAPING, UTILITY LOCATIONS SHALL BE FIELD VERIFIED.
 - ALL PROPOSED TREES SHALL BE A MINIMUM OF 5' FROM PUBLIC UTILITIES.



DWG.	REVISIONS
1	7/22/19
2	8/15/19
3	10/28/19
4	5/14/20
5	05/27/20
6	05/28/20

GRASS ROOTS LANDSCAPING, LLC
3538 N. HWY 112
FAYETTEVILLE, AR 72704
www.grassrootsllc.com
479-949-8203

PRESTON PARK SUBDIVISION
BENTONVILLE, ARKANSAS
BUFFINGTON HOMES

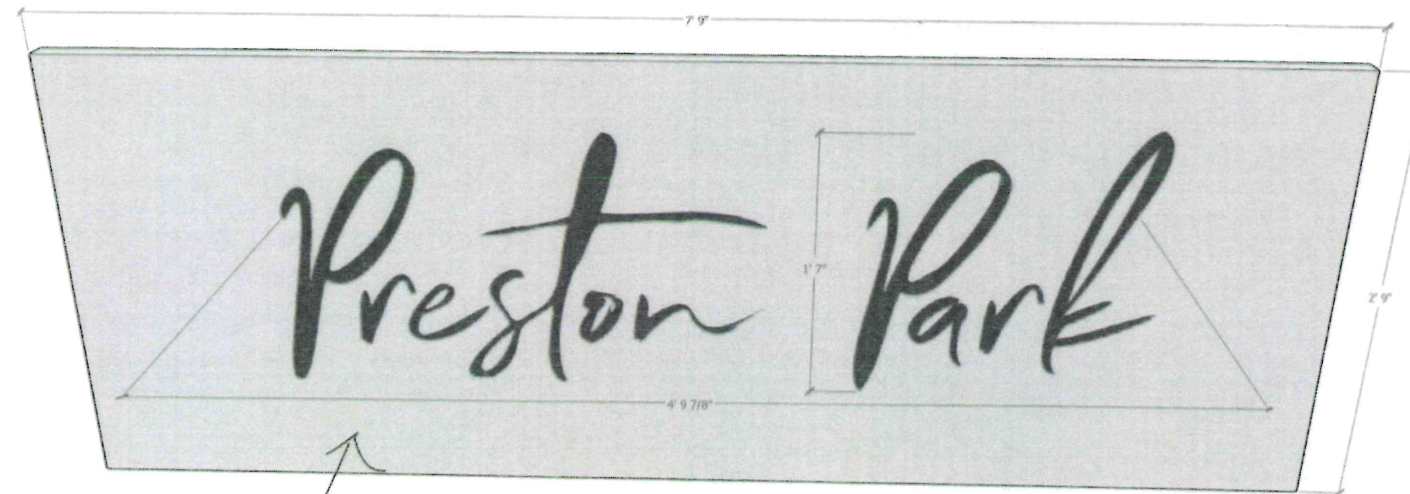
DATE: 8.02.2020
SHEET NO. L-103
Copyright 2020



ENTRANCE FEATURE PLAN

x

0 5 2



SIGN DETAILS

- 16 GAUGE STEEL, 2" THICK HOLLOW CORE
- LED BACKLIGHTING 3D EFFECT,
- BLACK PART OF LETTERS TO BE REMOVED
- 2 SIGNS @ \$2500.- PER SIGN
- BLACKEN'D STEEL PATINA, CLEAR COATED

One sign will be hung at the intersection of
SW Bright Road and SW Gator BLVD

BOARD OF ADJUSTMENT STAFF REPORT



RJ Roth Holdings, LLC

1300 Tunbridge Drive

BOA Date: 4/13/2022

Reviewer: Christopher Hyatt, Planning Technician

Project Number	VAR22-0017
Applicant / Current Owner	RJ Roth Holdings, LLC
Site Area	+/- 5.31 Acres
Current Zoning	A-1 - Agricultural
Variance Request	Zoning Code Article: Section 401.07 (c)

Property Description

This property is located at 1300 Tunbridge Drive and is currently zoned A-1, Agricultural.

Regulation

According to Zoning Code Article Section 401.07 (c), the minimum side setback for properties zoned R-ZL, Residential Zero Lot Line is 12 feet.

Variance Request

The applicant is requesting a variance of five feet from the minimum side setback of 12 feet.

Background

The applicant states that the property is currently zoned A-1, Agricultural and is surrounded by property zoned R-1, Single Family Residential to the West and R-ZL, Residential Zero Lot Line to the East.

According to the applicant's narrative, to stay consistent with what is existing, the applicant intends to rezone this property to R-ZL, Residential Zero Lot Line. The applicant is therefore requesting a seven foot side setback to keep everything consistent with the surrounding subdivisions.

The applicant concludes that there is a hardship with this property in regards to the dimensions of the property itself due to being restricted on all sides by existing infrastructure and development.

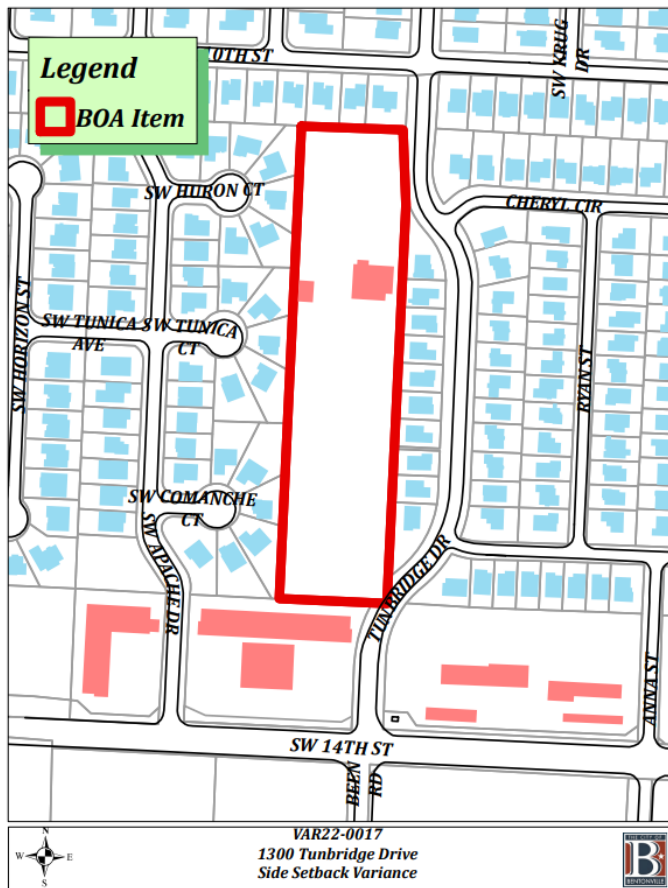
Public Comment

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, as provided by the applicant within this application.
2. The applicant must obtain a building permit before construction begins.



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.



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

7230 S. Pleasant Ridge Dr / Fayetteville, AR 72704
PH: 479-442-9350 * FAX: 479-521-9350

March 14, 2022

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

RE: Setback variance for Tunbridge subdivision

Members of the Board of Adjustment,

The Applicant, R J Roth Holdings LLC , would like to request a variance from setbacks requirements in R-ZL zoning per chapter 106 section 401.07 (c) for the R-ZL zoning setbacks.

Currently, the property is zoned A-1 and is surrounded by property zoned R-1 to the west, and R-ZL to the east. To stay consistent with what is existing, the applicant intends to rezone this property to R-Zl as suggested by planning staff. According to the Bentonville zoning code, the setbacks for R-Zl are as follow: 20' front, 12'/0' side, and 25' rear. we are requesting a 7' side setback to keep everything consistent with the surrounding subdivisions. the hardship for this request is that the dimensions of the property itself is restricted on all sides by existing infrastructure and development.

We were advised by planning staff to seek out this variance first, before completing our rezoning request. If you have any questions or require additional information, please feel free to contact me at your convenience.

Sincerely

Bates & Associates, In

Jake Chavis, E.I.
Project Engineer

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD
ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD
INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR
BENTON COUNTY, ARKANSAS.
(FIRM PANEL #05007C0255K. DATED 06/05/2012)

BUILDING SETBACKS:

FRONT	20ft
SIDE (INTERIOR)	20ft
SIDE (EXTERIOR)	7ft
REAR	25ft

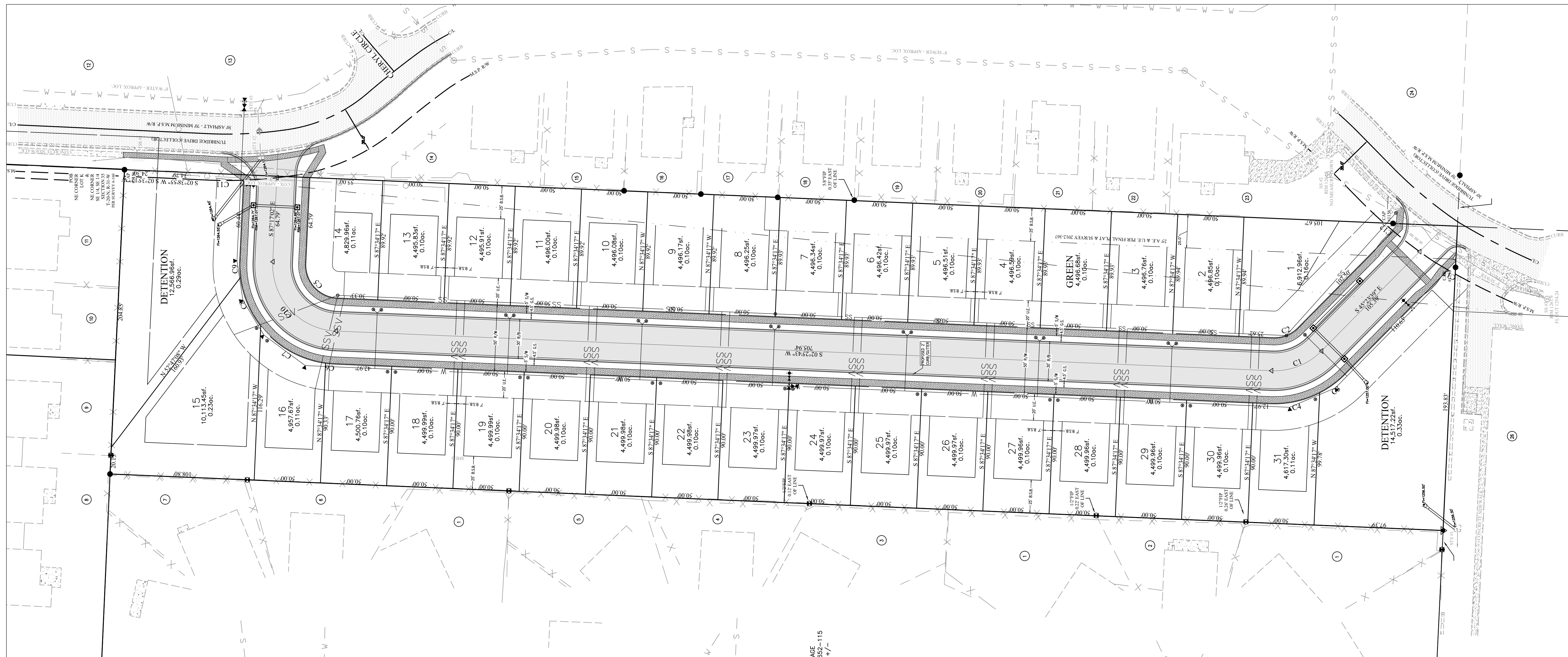
SURVEY DESCRIPTION:
LOT K, WILL-MOORE SUBDIVISION, PHASE II, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD 6 AT PAGE 160 OF THE RECORDS OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN EXISTING REBAR MARKING THE NORTHEAST CORNER OF SAID LOT K AND RUNNING THENCE S02°25'36"W 1006.17', THENCE N87°17'23"W 229.95' TO AN EXISTING REBAR, THENCE N02°25'43"E 1006.19' TO AN EXISTING REBAR, THENCE S87°17'02"E 229.91' TO THE POINT OF BEGINNING, CONTAINING 5.31 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN TUNBRIDGE DRIVE MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST AND SOUTH SIDES OF HEREIN DESCRIBED TRACT AND SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

3) 15" RCP IN (W)
18" RCP IN (SE)
18" RCP OUT (N) 1263.62'
RIM ELEVATION = 1266.25'

I/We, the undersigned, owner(s) of the real estate shown and described herein, do hereby certify that I/we am/are the sole owner(s) of the hereon platted property and have caused said property to be surveyed and platted and do hereby dedicate all rights-of-way and utility, drainage (excluding detention ponds), and conservation easements as shown hereon to the public for the installation, operation, maintenance, and replacement of streets, public and franchise utilities and drainage systems. Easements designated as Utility Easements or UE are for public and franchise utilities according to the Centerton Utility Placement Guide. The respective utility companies shall have access through and along the UE and designated easements for their personnel and equipment at all times. The authority to cut down and keep trimmed trees, hedges and shrubs that may interfere with or endanger such utilities is hereby granted by the property owner(s), their successors & assigns. In the event that fencing of individual lots is desired by future owners, gates shall be provided that permit free ingress and egress to, and upon the dedicated Utilities Easements. No other statements on this plat or hereinafter recorded therefore shall grant any utility special, exclusive or additional privileges.

Printed Name/Company	Owner Signature & title	Date
-----	-----	-----
Printed Name/Company	Owner Signature & title	Date

State of Arkansas
County of _____
Sworn to and subscribed before me this _____ day of _____, 20____
Notary Public _____
My Commission Expires _____



Time: 2:13 pm
Scale: 1=20 (PS)
Date: 5/20/2021

02

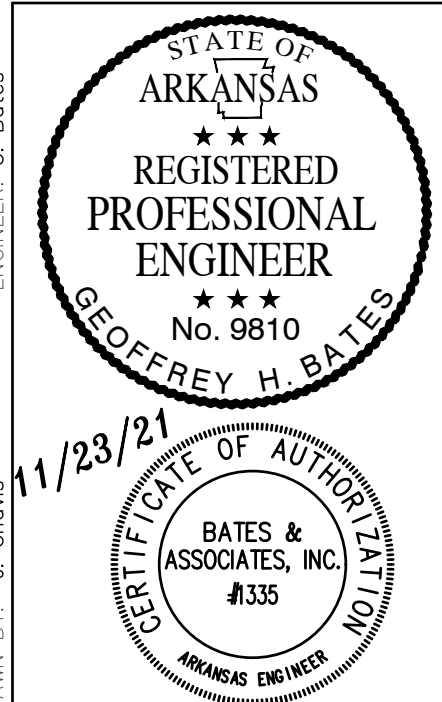


**Bates &
Associates, Inc.**
www.nwabatesinc.com
Civil Engineering & Surveying

727230 S. Pleasant Ridge Dr. Fayetteville, Arkansas 72704 • 479.442.9350 • Fax 479.521.9350

TUNBRIDGE
PRELIMINARY PLAT

BENTONVILLE, ARKANSAS



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BOARD OF ADJUSTMENT STAFF REPORT



Zachary and Tiffany Prete

1403 SW Madison Avenue

BOA Date: 4/13/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0018
Applicant / Current Owner	Zachary and Tiffany Prete
Site Area	+/- 0.23 acres
Current Zoning	R-1, Low Density Single Family Residential
Variance Request	Zoning Code Article: Section 401.07(c)(1)

Property Description

This property is located at 1403 SW Madison Avenue and is currently zoned R-1, Low Density Single Family Residential.

Regulation

Zoning Code Article Section 401.07(c)(1) Minimum Setback Standards requires a minimum rear setback for a detached accessory structure on property zoned R-1, Low Density Single-Family Residential of seven feet from the rear property line. Also, in Zoning Code Article 601.01(d)(4), any accessory structure in excess of 200 square feet shall be located a minimum of 12 feet from the primary structure.

Variance Request

The applicant is requesting a variance of two feet from the minimum rear setback of seven feet, required by code, to allow the construction of a pool and pool house five feet from the rear property line.

Background

The applicant states that the size of their lot combined with a 10 foot utility easement in the rear yard, creates a unique hardship. Their narrative states it is difficult to construct the proposed pool and pool house in a way that meets the setback requirements in the Zoning Code without altering its design to the point it is no longer similar to other pools and outdoor areas enjoyed by other neighbors in their vicinity.

The applicant concluded that, due to the size of their lot and rear yard they would not be able to construct the pool and pool house as proposed without being granted a variance from the accessory structure rear setback requirements.

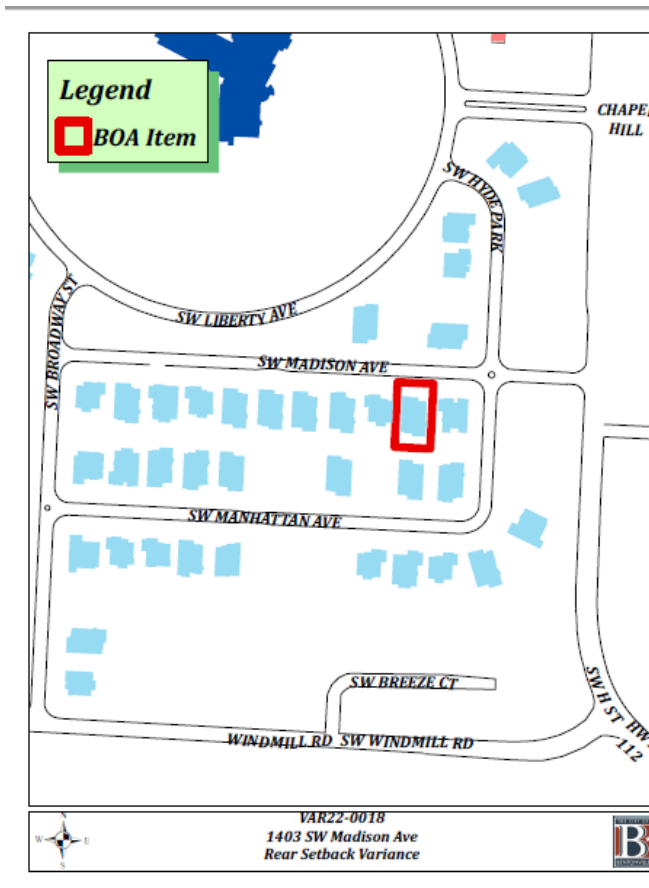
Public Comment

Staff has **NOT** received a 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, as provided by the applicant within this application.
2. The applicant must obtain a building permit before construction.



BOARD OF ADJUSTMENT STAFF REPORT

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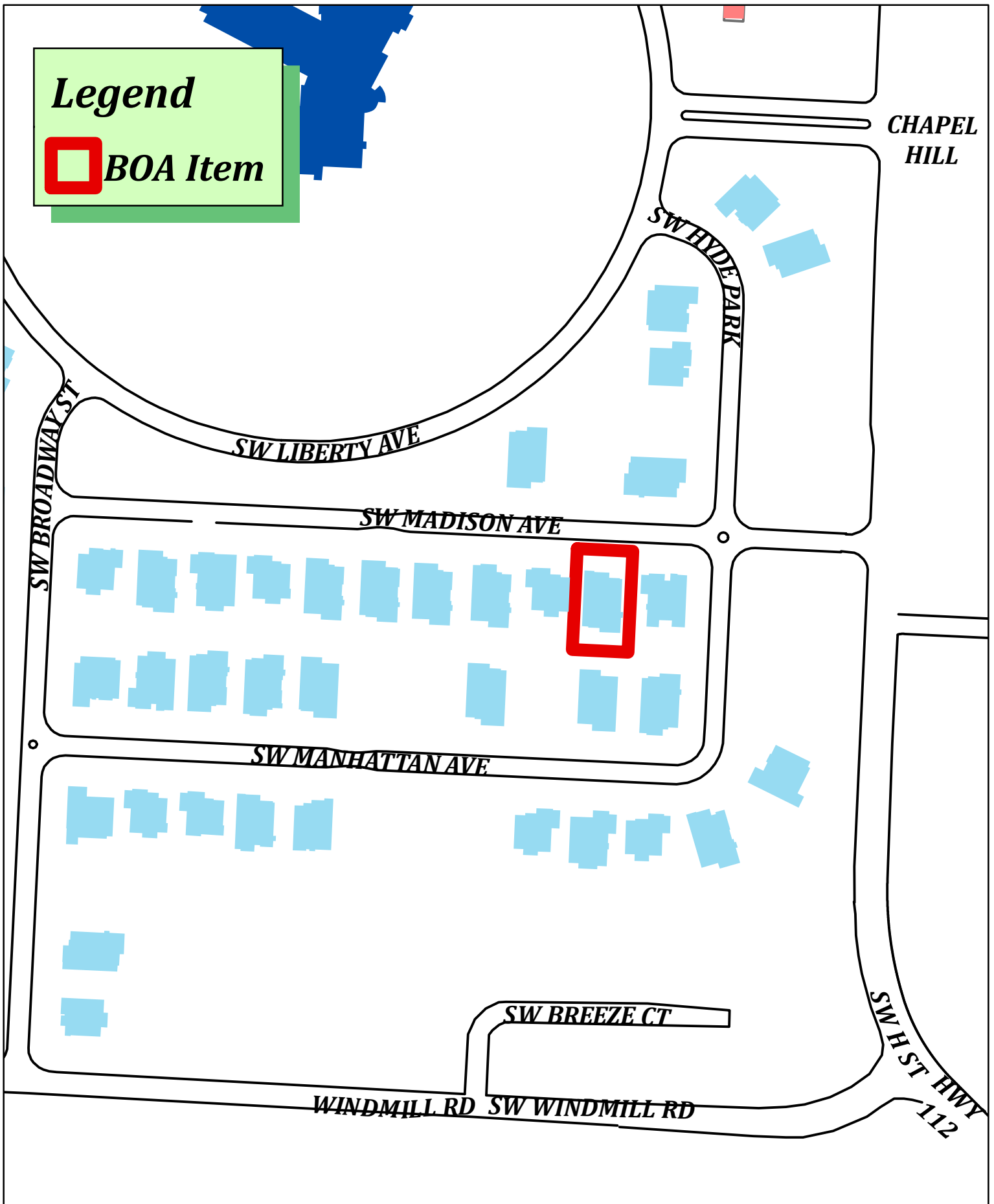
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(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

Legend



BOA Item



VAR22-0018
1403 SW Madison Ave
Rear Setback Variance

Narrative for Variance

City of Bentonville Planning Department

Registration # AEC2863

Lot # 01-17190-000



Narrative. Written explanation of the appeal demonstrating each of the following criteria:

- **That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land structures or buildings in the same district.**
 - Lot coverage and yard dimension further restricts building placement compared to others lots within the same zoning ordinance
- **That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.**
 - The standard **7'** rear setback with a **10'** utility easement, where no utilities exist, deprives the applicant of rights and privileges currently enjoyed by other properties in the vicinity and under the same zoning classification, i.e., small pool and detached pool house
- **That the special conditions and circumstances do not result from the actions of the applicant.**
 - Special conditions and circumstances are a direct result of the lot size, yard dimension and do **not** result from the actions of the applicant.



Existing house

Existing patio

Existing fence

Existing fence

Existing fence

BOARD OF ADJUSTMENT STAFF REPORT



Schuber Mitchell Homes

808 NW 13th Street

BOA Date: 4/13/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0019
Applicant / Current Owner	Schuber Mitchell Homes
Site Area	+/- 0.19 Acres
Current Zoning	R-1, Low Density Single Family Residential
Variance Request	Zoning Code Article: Section 401.07 (c)

Property Description

This property is located at 808 NW 13th Street and is currently zoned R-1, Low Density Single Family Residential.

Regulation

Zoning Code Article Section 401.07 (c) states that the minimum rear setback for properties zoned R-1, Low Density Single Family Residential is 25 feet and the minimum front facing garage setback is 30 feet.

Variance Request

The applicant is requesting a variance of five feet from the minimum front garage setback of 30 feet.

Background

The applicant states that the proposed home to be built on the lot in question, as it is currently designed, features a front facing garage which is flush with the front of the home.

According to the applicant's narrative, to construct the home with this front facing garage and meet the proper front garage setback, the home would need to be pushed north on the lot by five feet. Altering the location of the home as described would push the rear of the home five feet within the rear setback of 25 feet required by code.

The applicant concludes that he would be unable to build the home within the required setbacks without either attaining a variance or altering the design of the home.

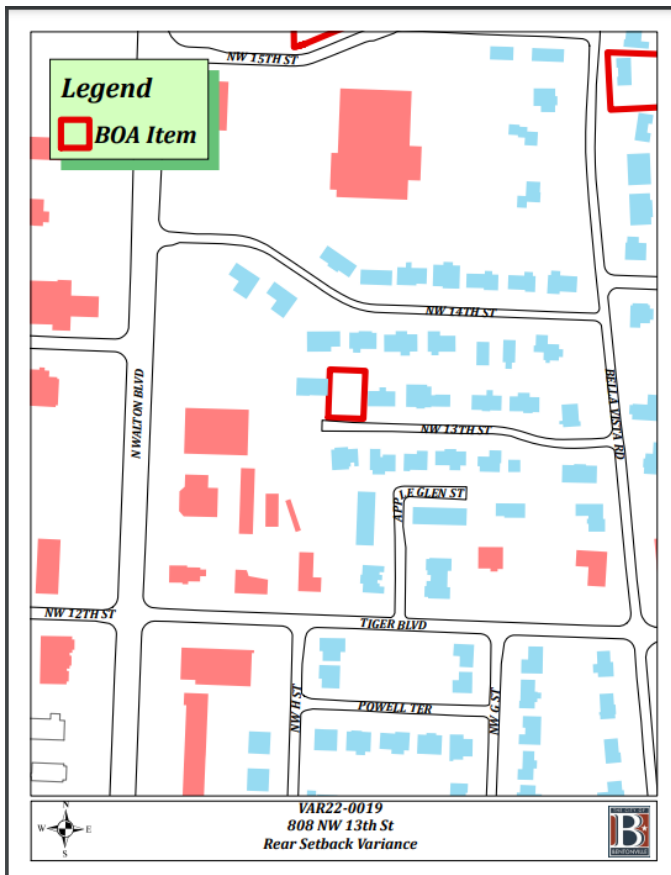
Public Comment

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, as provided by the applicant within this application.
2. The applicant must obtain a building permit before construction begins.



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.

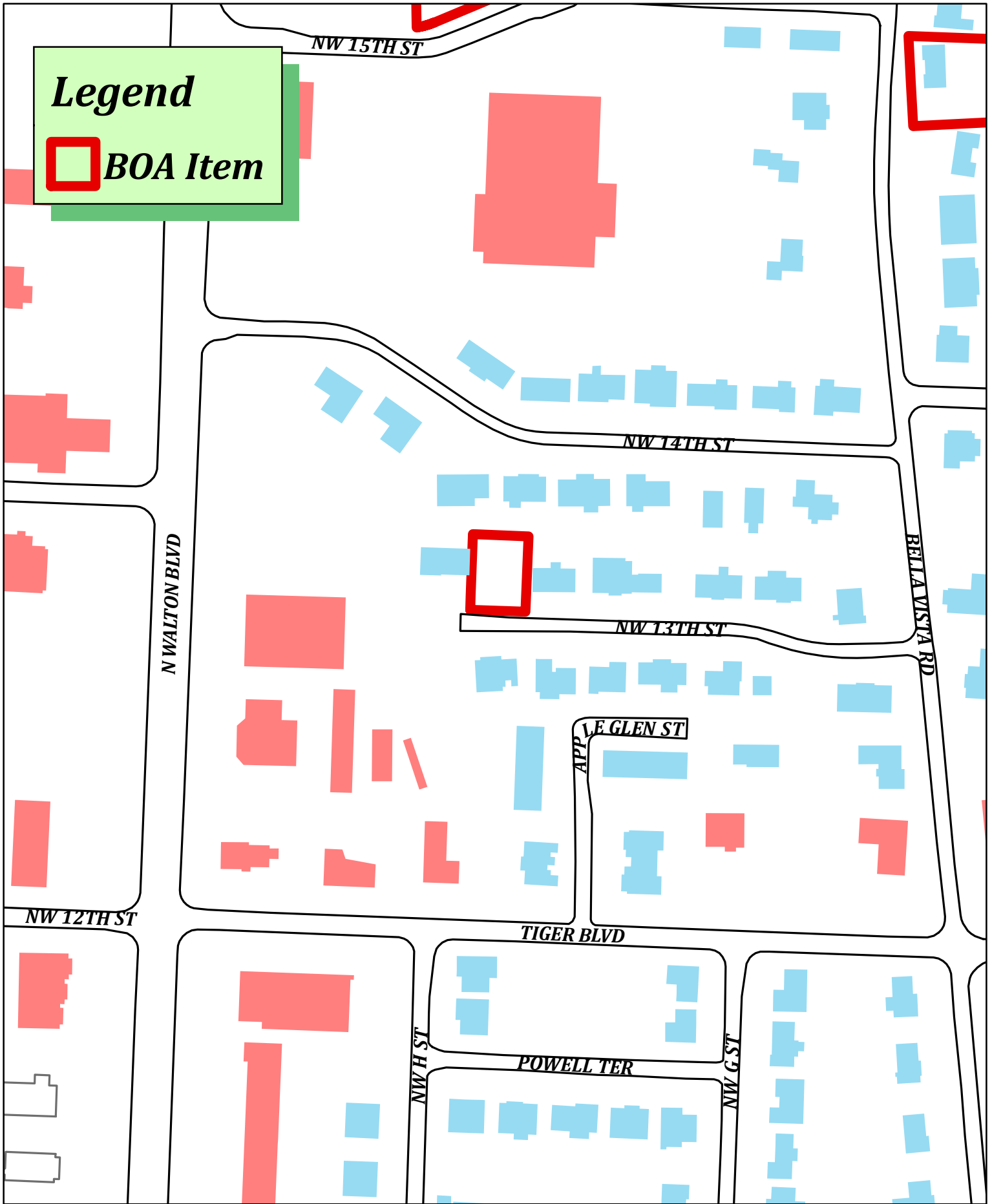
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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

VAR22-0019

808 NW 13th St

Rear Setback Variance

Dear Variance Board of Adjustments,

We would like to apply for a 5' front setback variance at 808 NW 13th St. in Bentonville, AR (lot 10). We are trying to follow the City setback rules, which are 20' front setback for structure and a 30' front setback for the garage.

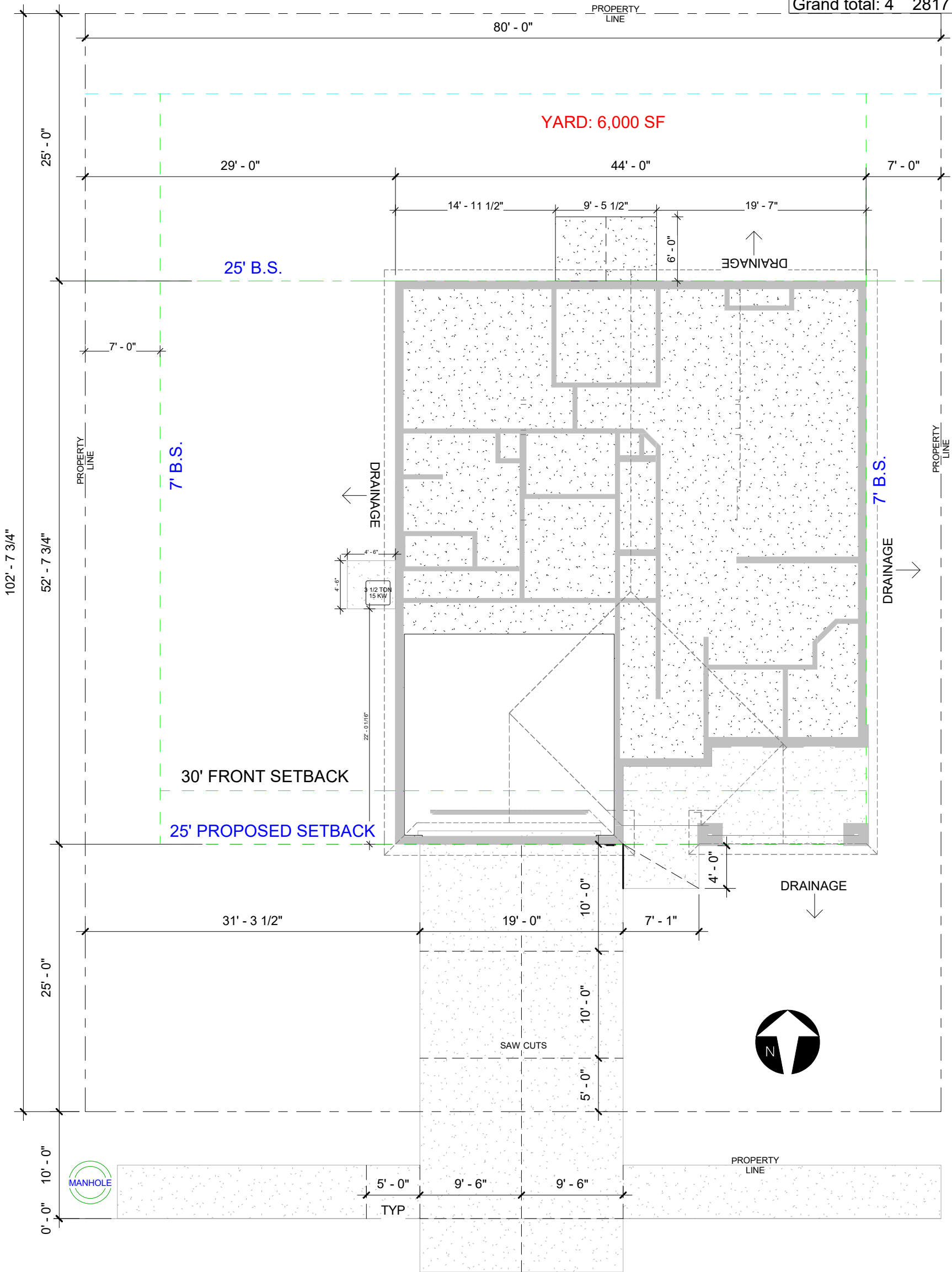
The home we are hoping to build on this lot has the garage flush with the front of the home, therefore according to City rule, the front setback would have to be 30'. The issue is that if the home is placed at a 30' front setback, then we are encroaching over the rear 25' setback by 5'.

We would like to request a front setback that is in-between the established two front setbacks. A 25' front setback would work great for us.

Thank you for your time and consideration.

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Q-2.1 LIVING SQFT (Front Entry)	
Name	Area
1ST FLOOR	1618 SF
2ND FLOOR	512 SF
FRONT PORCH	181 SF
GARAGE	506 SF
Grand total: 4	2817 SF



VERSION Project
Status

PLAN: 2100-2SKP5 NL5
ADDRESS 808 NW 13th St
CUSTOMER Goins

Plans, specifications and pricing subject to change without notification. Plans must be printed at 11"x17" for accurate scale.

SITE

DATE:
Issue Date

C-1.1