

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 27th, 2022**

Registration Link: https://us06web.zoom.us/webinar/register/WN_DozyOKzATmq-hxbJkrIqQw

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

- 1. Flintlock LTD Co. – New Construction** **Variance***
1402 Dogwood Drive ([VAR22-0012](#))
 - Front Garage & Side Setback Variance
- 2. Schuber Mitchell Homes – New Construction** **Variance***
808 NW 13th Street ([VAR22-0019](#))
 - Rear Setback Variance

IV. New Business

- 1. Mercy Health Northwest Arkansas Communities** **Variance***
797 SW 41st St ([VAR22-0021](#))
 - Minimum Lot Size Variance

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**BOARD OF ADJUSTMENT
AGENDA
April 13th, 2022**

Meeting Recording: https://us06web.zoom.us/rec/share/DuO4cwUZ-STetfEyiMvg7YI5Ns70XNGjoEnkMw_J_NhYE5W-kndTij5yYmSfXhTx.ZGc8ovr6GcEK5o-s

Present: Phillips, Pearson, Haynie, Kruithof

Absent: Rogers

Staff: Tyler Overstreet and Christopher Hyatt

I. Call to Order

- Mr. Kruithof called the meeting to order at 4:00pm

II. Approval of Minutes

- Motion to approve by Pearson, seconded by Haynie

III. Old Business

IV. New Business

1. Bright Gator LLC – New Construction

Variance*

5288 SW Bright Road ([VAR22-0016](#))

- Fence Height Variance

- Tyler reads staff report
- Public hearing opened
- Public hearing closed
- Hunter Collins (Engineer) gives more details on the project
- Discussion amongst commissioners and staff
- Motion by Haynie to approve the item, seconded by Phillips
- Approved 4-0

2. RJ Roth Holdings LLC – New Construction

Variance*

1300 Tunbridge Drive ([VAR22-0017](#))

- Side Setback Variance

- Tyler reads staff report
- Public hearing opened
- Public hearing closed
- Jake Chavis from bates and associates (Developer) speaks and answers questions
- Discussion amongst commissioners and staff
- Tyler requests to add 3rd condition of approval making variance approval contingent on approval of rezone (RZ22-0020).
- Motion by Pearson, seconded by Phillips
- Approved 4-0

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.

3. Zachary and Tiffany Prete – Backyard Pool House

Variance*

1403 SW Madison Avenue ([VAR22-0018](#))

- Rear Setback Variance

- Chris reads staff report
- Public hearing opened
- Public hearing closed
- Tiffany Prete (Applicant) gives more details of the item
- Discussion amongst commissioners and staff
- Request to add 3rd condition of approval to have pool house located so that it maintains 12 feet of separation from primary home
- Motion by Haynie for approval of the 12 feet separation, seconded by Pearson.
- Approved 4-0

4. Schuber Mitchell Homes – New Construction

Variance*

808 NW 13th Street ([VAR22-0019](#))

- Rear Setback Variance

- Chris reads staff report
- There were some issues regarding signage for this item so that applicant requested to table.
- Public hearing opened
- Public hearing closed
- Discussion amongst commissioners and staff
- Pearson motioned to table, seconded by Haynie
- Tabled 4-0

Motion to adjourn by Pearson and seconded by Haynie.

BOARD OF ADJUSTMENT STAFF REPORT



Haney – 1402 Dogwood Drive

1402 Dogwood Drive PID# 01-04167-000

BOA Date: 4/27/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0012
Applicant / Current Owner	Mark Haney/Flintlock LTC Co.
Site Area	+/- 0.22 Acres
Current Zoning	R-1 Low Density Single Family Residential
Variance Request	Zoning Code Article: Section 401.07(c)(1), (c)(2)

Regulation

According to Zoning Code Article Section 401.07(c)(1) and (c)(2) Minimum Setback Standards, on property zoned R-1, Low Density Single-Family Residential, the minimum front setback required is 20 feet, the minimum front garage setback required for street-facing garages is 30 feet from the property line the garage faces, and the minimum side setback is 7 feet.

Variance Request

The applicant is requesting a variance of 30 feet from the minimum garage setback of 30 feet, a variance of 7 feet on the east side of the property from the minimum side setback of 7 feet, and a variance of 20 feet from the minimum front setback of 20 feet, required by code. These variances would leave 8 - 11.5 feet from the proposed structure to the front property line and currently platted Right of Way, and 0 feet from the proposed structure to the east property line.

Background

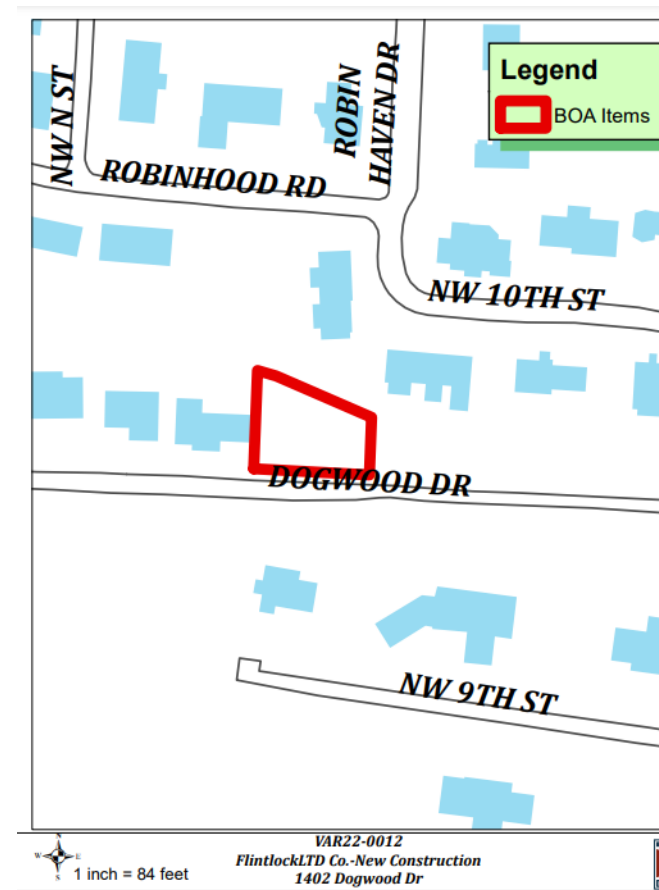
The applicant states that the shape of the lot, on which a home would be constructed, in combination with its topography creates a unique hardship. Their narrative claims it is difficult to position a home in a way that meets the requirements of the Zoning Code, and that with the parcel's flattened triangular shape, the effects of the front and rear setbacks compound with steep topography to make the lot unbuildable. The parcel to the east is already developed on its northern portion and has no buildable area immediately adjacent to this property due to its steep slope.

According to the applicant's narrative, the owner's goal is to secure enough buildable area for a single family home on the most level portion of the site. A survey of comparison lots in the neighborhood reveals a significant disparity in development opportunity for this property – most notably, 26% less buildable area and 32% less buildable garage area by lot size than other neighborhood lots. Of the lot's 9,926 square feet, only 1,778 square feet are currently permissible for a garage and all of it is over 30% grade. The applicant claims constructing a vehicular drive 30 ft from the street would be prohibitively expensive, and driving on it in winter conditions would be potentially dangerous.

The applicant concludes that variances for the front and east setbacks would increase this lot's buildable area from 28% for the main structure and 18% for the garage, up to 51% of the lot for each which would be similar to the buildable areas of other lots in the neighborhood, averaging 55% and 49% respectively.

Public Comment

At the time of writing this staff report, staff has received public comment regarding this request.



Property Description

This property is located at 1402 Dogwood Drive and is currently zoned R-1, Low Density Single Family Residential.

BOARD OF ADJUSTMENT STAFF REPORT

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 on the development.

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.

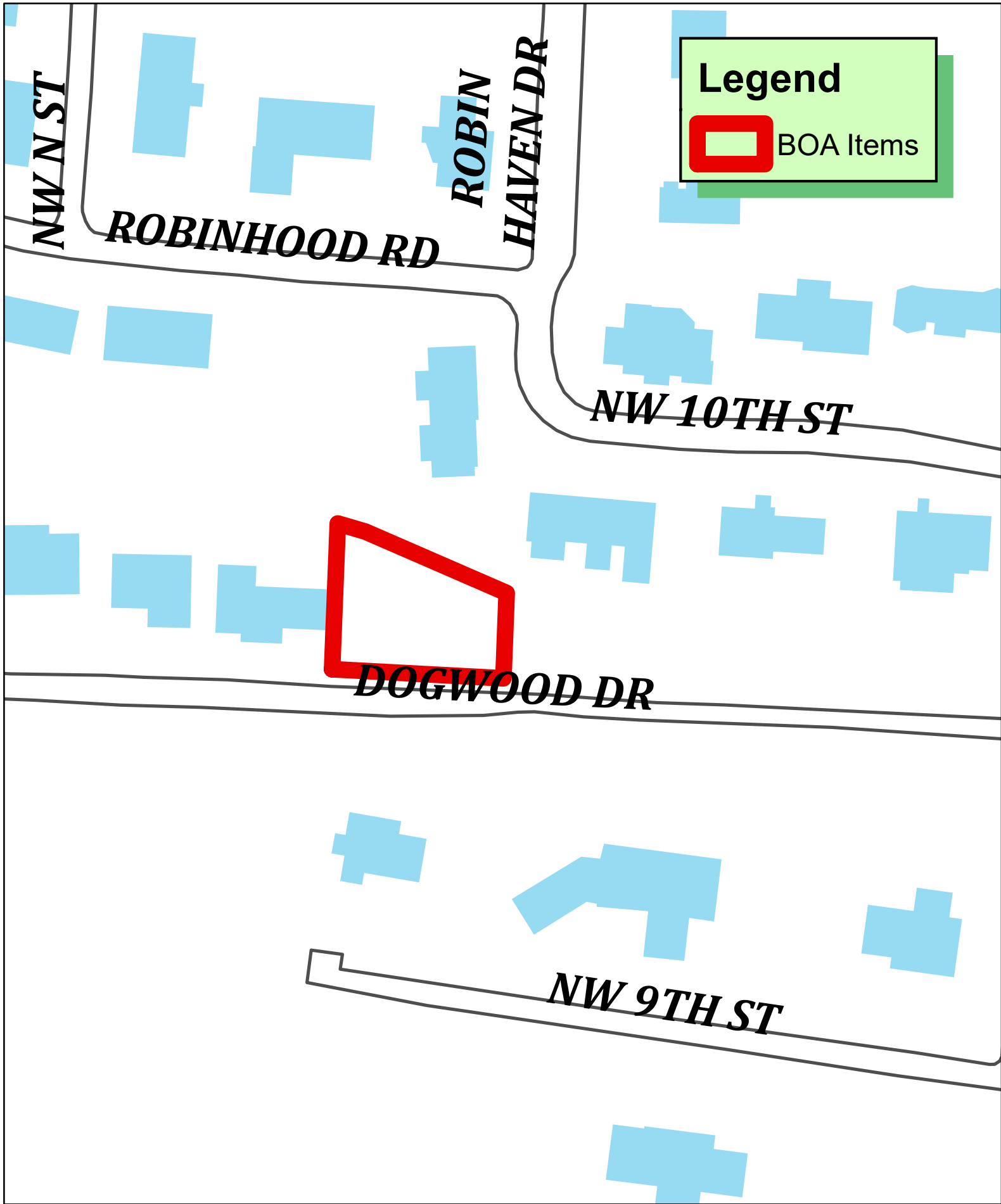
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.



April 15, 2022

PETITION FOR SETBACK VARIANCE

Dear Board of Adjustments members and Planning Department Staff,

Flintlock LTD Co on behalf of Mark Haney respectfully requests a variance to the building setbacks of 1402 Dogwood Drive (304 Vacant Lot, Parcel 01-04167-000). Per Sec.401.07.c.1 and c.2, its R-1 zoning currently requires a front setback of 20', side setbacks of 7', a rear setback of 25', and a front garage setback of 30'. The lot is longer and shallower than adjacent lots, giving it relatively high street frontage and therefore more setback area than narrower and deeper lots. With the parcel's flattened triangular shape, the effects of the front and rear setbacks compound with the steep topography to make the lot unbuildable. The attached survey and Exhibit VE.2 show this graphically along with multiple encroachments into the lot on its western edge.

The existing street-facing garage setback requirement of 30' is also problematic. Of the lot's 9,926 square feet, only 1,778 square feet are currently permissible for a garage. This buildable zone is only 18% of the parcel, and all of it is over 30% grade. To construct a vehicular drive down that far from the street would be prohibitively expensive, and driving on it in winter conditions would be potentially dangerous. Furthermore, this 18% is 32% less than comparable parcels in the neighborhood that average a buildable garage area of 49% of the lot (Exhibit VE.1).

These hardships of lot shape, corresponding setbacks, and topography are due to the unique and unusual existing circumstances of the site. These special conditions are inherent to this lot and are not a result of the actions of applicant.

The owner's goal is to secure enough buildable area for a single family home on the most level portion of the site. Literal interpretation of the provisions of Bentonville Code Sec.401.07.c.1 Setback Standards and Sec.401.07.c.2 Garage Setback Standards would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. A survey of comparison lots (Exhibit VE.1) in the neighborhood reveals the significant disparity in development opportunity for this property – most notably, 26% less buildable area and 32% less buildable garage area by lot size than other neighborhood lots. Even compared with Reference Lot #2 that has a slightly smaller acreage, 1402 Dogwood has 22% less buildable area by lot size and 24% less buildable garage area by lot size.

Flood risk to north (see Exhibit VE.3), encroachments to the west, and steep topography drive us to request a variance to the front and east side setbacks for this parcel. We request the front setback and front garage setback be reduced to the M.S.P. Right of Way, 20' and 30' respectively, and the east side setback be reduced from 7' to 0'. These variances still leave 8'11" to 11'6" from the front property line and produce no negative impact to adjacent properties. The home across the street is set back 96' from the property line of 1402 Dogwood Drive so has sufficient visual separation. The parcel to the east is already developed on its northern portion and has no buildable area immediately adjacent to 1402 Dogwood due to its steep slope at that point, so a side setback reduction would not hamper future development or sufficient lot separation.

Reduction of the front and east setbacks at 1402 Dogwood would bring its buildable areas from 28% of the lot for the main structure and 18% of the lot for the garage up to 51% of the lot for each. This is more in line with the buildable areas of other lots in the neighborhood, averaging 55% and 49% respectively. Additionally, granting of this variance

FIELD WORK:
NOVEMBER 6 & 7, 2021

BASIS OF BEARING:
GPS OBSERVATION - AR NORTH ZONE

BASIS OF ELEVATION:
CITY OF BENTONVILLE GPS MONUMENT #1
NAVD 88 VERTICAL DATUM

CONTOUR INTERVAL:
ONE FOOT

REFERENCE DOCUMENTS:

- 1) FINAL PLAT OF SHERWOOD FOREST ADDITION
FILED IN BOOK K AT PAGE 112
- 2) PLAT OF SURVEY FILED IN
BOOK G AT PAGE 345
- 3) PLAT OF SURVEY FILED IN
BOOK 12 AT PAGE 308
- 4) PLAT OF SURVEY FILED IN
BOOK U AT PAGE 289
- 5) PLAT OF SURVEY FILED IN
BOOK P1 AT PAGE 825
- 6) COMMISSIONER'S DEED FILED IN
BOOK 2003 AT PAGE 36957

PROPERTY ZONED:
R-1

BUILDING SETBACKS:

FRONT	20ft
SIDE	07ft (INTERIOR)
SIDE	20ft (EXTERIOR)
REAR	25ft

<u>GARAGE SETBACKS:</u>	
GARAGE, STREET FACING:	30ft FROM THE PROPERTY LINE THE GARAGE FACES
GARAGE, SIDE-OR-REAR-LOADING:	20ft FROM THE FACING PROPERTY LINE
GARAGE, ALLEY FACING:	20ft FROM PROPERTY LINE AT ALLEY

*APPLICABLE TO ATTACHED AND DETACHED GARAGES

ACCESSORY STRUCTURE SETBACKS:
DETACHED NON-RESIDENTIAL:
 FRONT AS REQUIRED BY THE DISTRICT
 SIDE 07ft
 REAR 07ft
ACCESSORY STRUCTURE SETBACKS CONTINUED
DETACHED ACCESSORY DWELLING:
 FRONT AS REQUIRED BY THE DISTRICT
 SIDE 07ft
 REAR 07ft

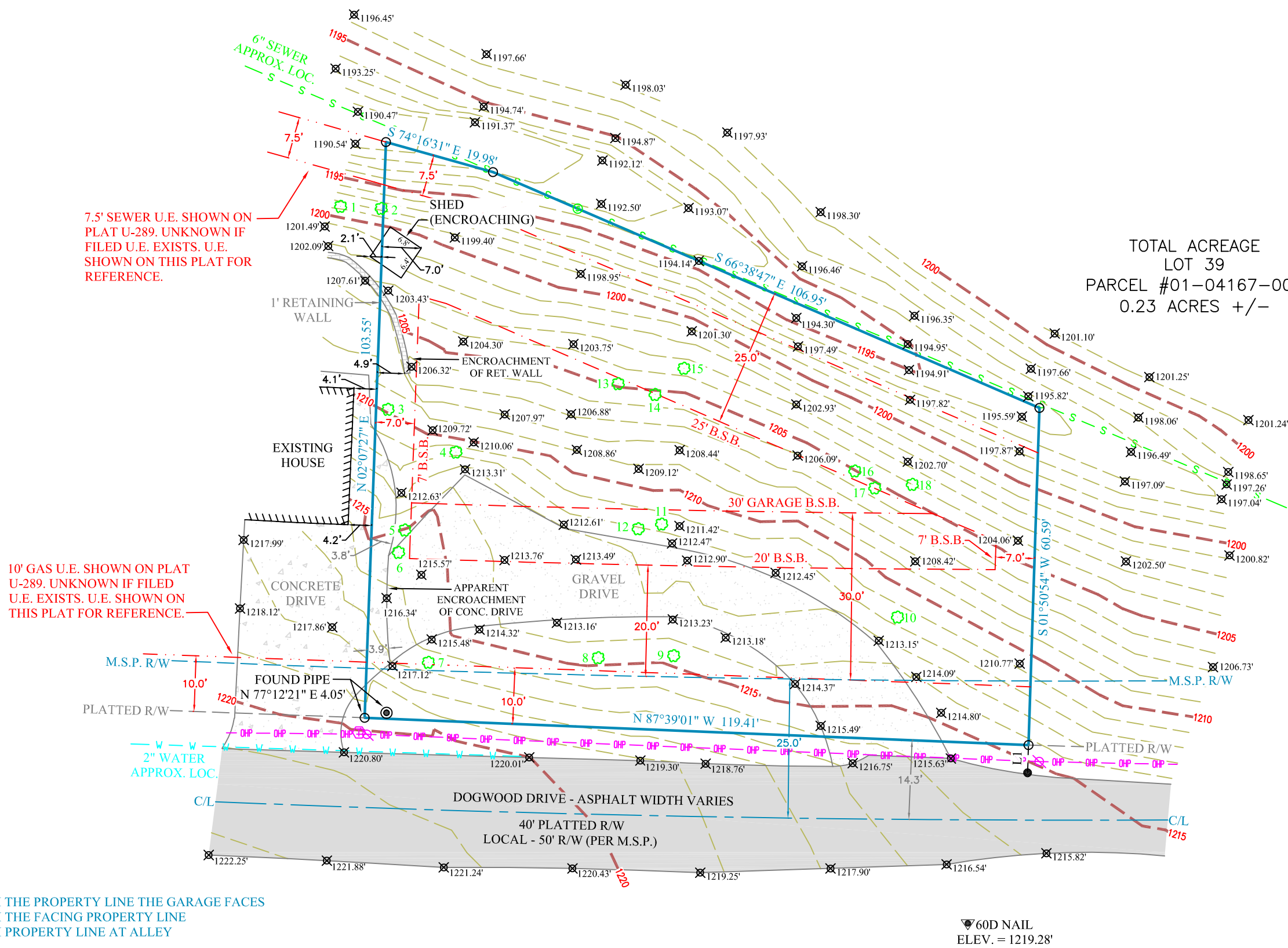
<u>ATTACHED ACCESSORY DWELLING:</u>	
FRONT	AS REQUIRED BY THE DISTRICT
SIDE	AS REQUIRED BY THE DISTRICT
REAR	AS REQUIRED BY THE DISTRICT

*ON CORNER LOTS, STRUCTURES SHALL NOT PROJECT BEYOND THE BUILDING LINE OF THE PRIMARY STRUCTURE OF EXISTING PRIMARY STRUCTURE OF THE ADJACENT LOT.

EXISTING PROPERTY DESCRIPTION:
LOT 39 OF THE REPLAT OF SHERWOOD FOREST ADDITION TO CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, FILED IN BOOK K AT PAGE 112 SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

NOTE:
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES.
ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND NEED TO BE
VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION OR DESIGN. SOME UTILITY LINES MAY ALSO EXIST THAT WERE
NOT SHOWN ON THIS PLAT.

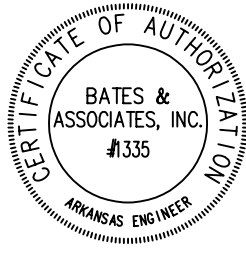
FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL
FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR BENTON COUNTY, ARKANSAS.
(FIRM PANEL #05007C0090J. DATED 09/28/ 2007)



TOTAL ACREAGE
LOT 39
PARCEL #01-04167-000
0.23 ACRES +/-

FREE LIST:	
1) 20" OAK	-40' CANOPY
1) 10" ELM	-25' CANOPY
1) 50" MAPLE	-60' CANOPY
1) 10" DEAD TREE	
1) 12" HICKORY	-30' CANOPY
1) 14" ELM	-30' CANOPY
1) 12" HACKBERRY	-30' CANOPY
1) 10" PERSIMMON	-20' CANOPY
2) 20" HACKBERRY	-35' CANOPY
0) 26" OAK	-50' CANOPY
1) 10" MULBERRY	-20' CANOPY
2) 26" OAK	-50' CANOPY
3) 18" ELM	-45' CANOPY
4) 16" OAK	-40' CANOPY
5) 36" OAK	-60' CANOPY
6) 36" OAK	-60' CANOPY
7) 10" HICKORY	-20' CANOPY
8) 24" OAK	-45' CANOPY

LINE	BEARING	DISTANCE
L1	S 01°50'54" W	5.00'

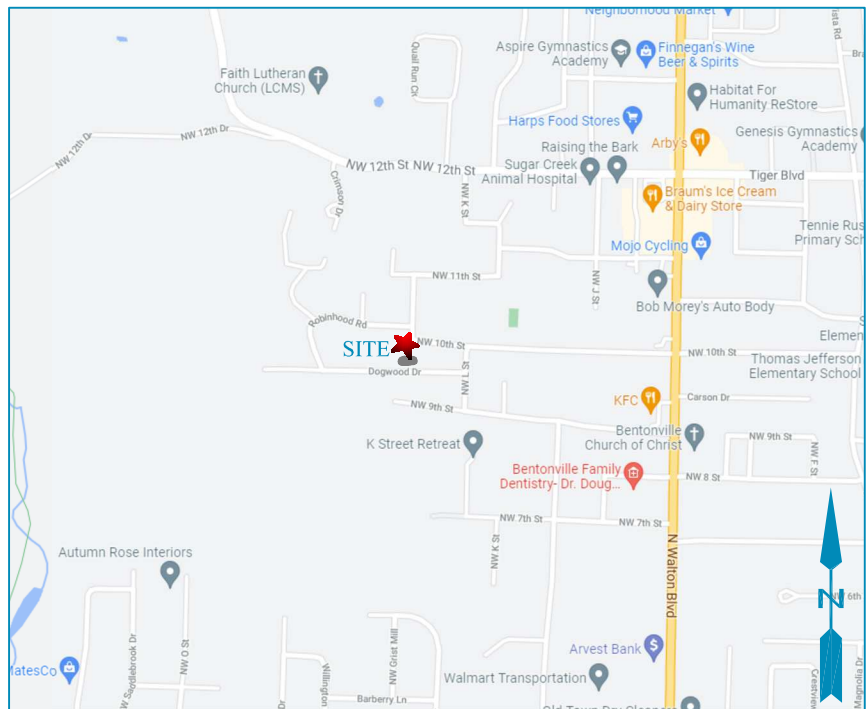


GRAPHIC SCALE (IN FEET)
1 Inch = 20ft.
I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF
ON THIS THE 7TH DAY OF NOVEMBER, 2021.



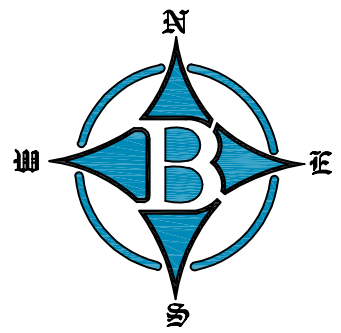
IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

VICINITY MAP



VICINITY MAP NOT TO SCALE

RECORDING NUMBER/DATE



LEGEND:

THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

● FOUND 5.8" REBAR	(R) RECORDED DISTANCE	(M) MEASURED DISTANCE
● FOUND 12" REBAR	⊕ SANITARY SEWER MH	⊕ POWER POLE
● FOUND PIPE	— TIE LINE	— BOUNDARY LINE (MEASURED)
○ SET 5.8" REBAR/CAP	— CENTERLINE OF ROAD	— PLATTED RIGHT-OF-WAY
△ COMPUTED POINT	— M.S.P. RIGHT-OF-WAY	— WATER LINE
● SPOT ELEVATION	— W — W	— OVERHEAD POWER LINE
● 600 NAIL BENCHMARK	— DP — DP	— SEWER LINE
● TELEPHONE PEDESTAL	— S — S	— BUILDING SETBACK
	— — —	— UTILITY EASEMENT



**Bates &
Associates, Inc.**
Engineers • Surveyors • Landscape Architects

FOR USE AND BENEFIT OF:
MARK HANEY

FOR USE AND BENEFIT OF
MARK HANCOCK

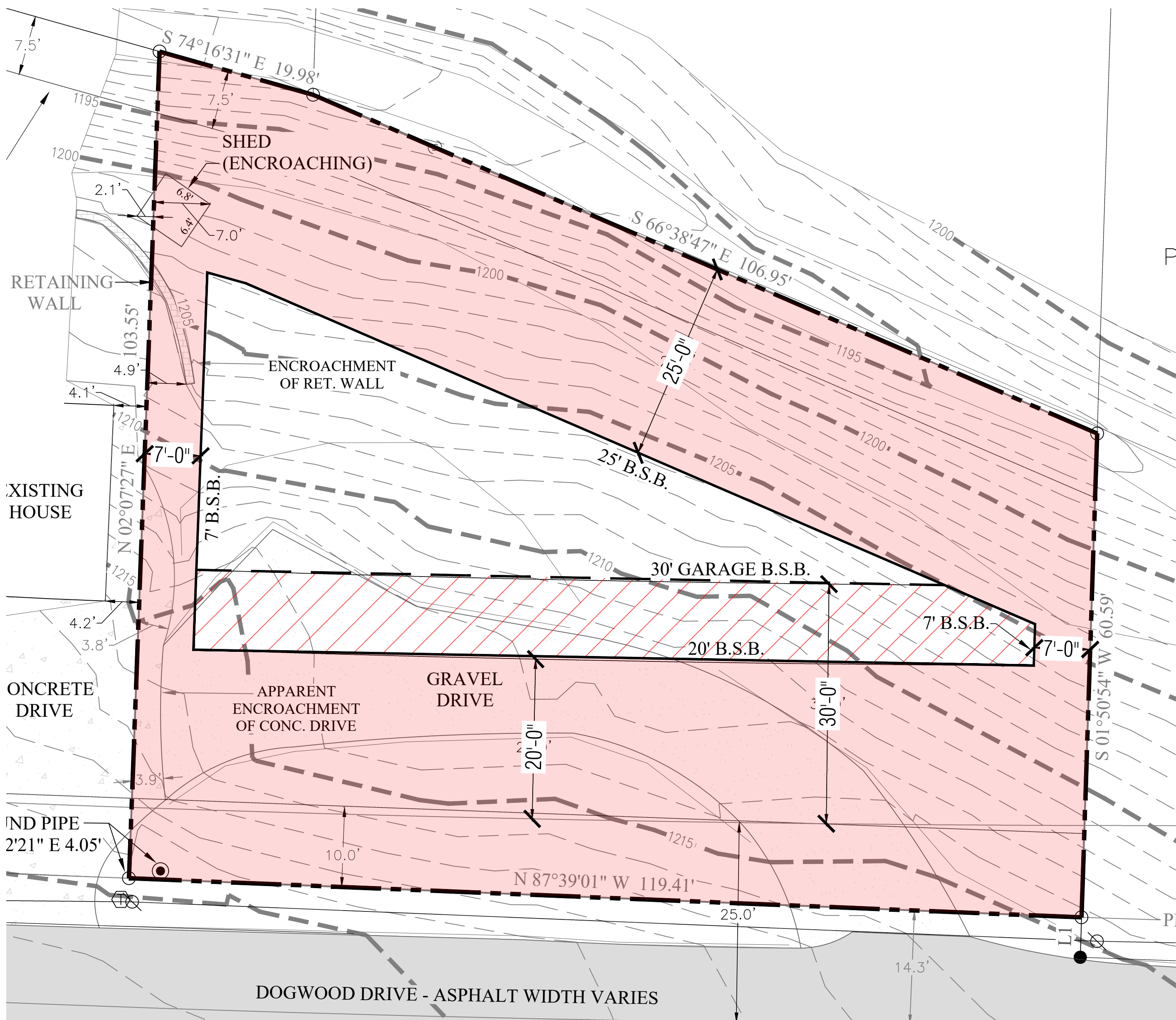
ADDRESS:
304 DOGWOOD DRIVE
BENTONVILLE, ARKANSAS

DRAWING #21-349



LOT COMPARISON							
LOT #	SQUARE FOOTAGE	ACRES	STREET FRONTAGE	SETBACK SF	SETBACK SF AS % OF LOT	GARAGE SF	GARAGE SF AS % OF LOT
1	11,774	0.27	99'	6,280	53%	6,280	53%
2	9,835	0.23	89'	4,912	50%	4,162	42%
3	16,082	0.37	90'	10,116	63%	9,353	58%
4	13,081	0.30	91'	7,429	57%	6,660	51%
5	10,070	0.23	89'	5,029	50%	4,275	42%
AVERAGE	12,168'	0.28	92'	6,753'	55%	6,146'	49%
1402 Dogwood	9,926	0.23	119'	2,794	28%	1,778	18%
DIFFERENCE	2,242'	0.05	27'	3,959'	26%	4,368'	32%





1 EXISTING SETBACKS
VE.2 SCALE: 1" = 10'



2 PROPOSED SETBACKS
VE.2 SCALE: 1" = 10'

PROPOSED AMENDMENTS						
	SQUARE FOOTAGE	ACRES	SETBACK SF	SETBACK SF AS % OF LOT	GARAGE SF	GARAGE SF AS % OF LOT
1402 Dogwood Existing	9,926	0.23	2,794	28%	1,778	18%
			NEIGHBORHOOD AVERAGES			49%
1402 Dogwood Proposed	9,926	0.23	5,061	51%	5,061	51%

BOARD OF ADJUSTMENT STAFF REPORT



Schuber Mitchell Homes

808 NW 13th Street

BOA Date: 4/27/2022

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.

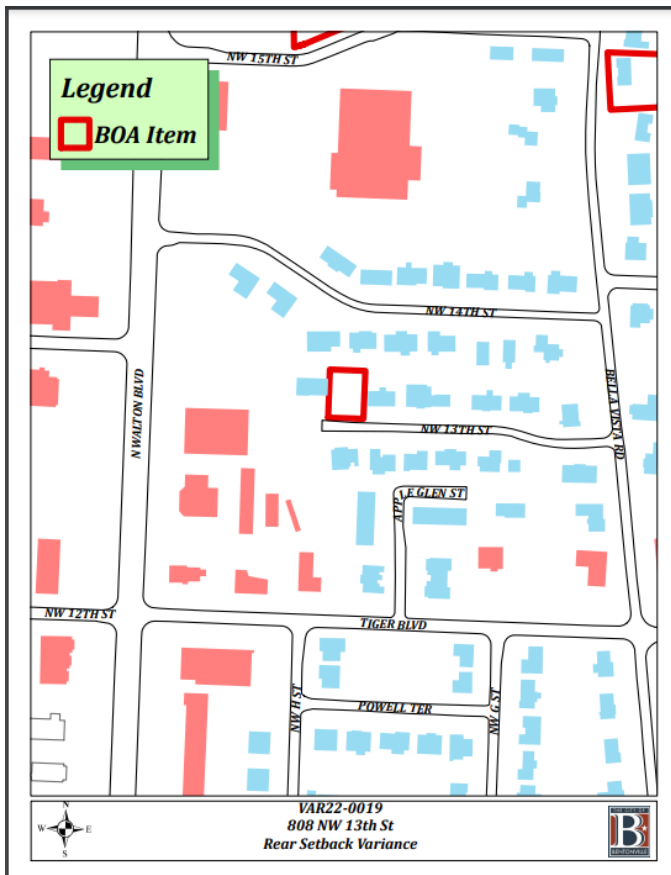
Public Comment

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.

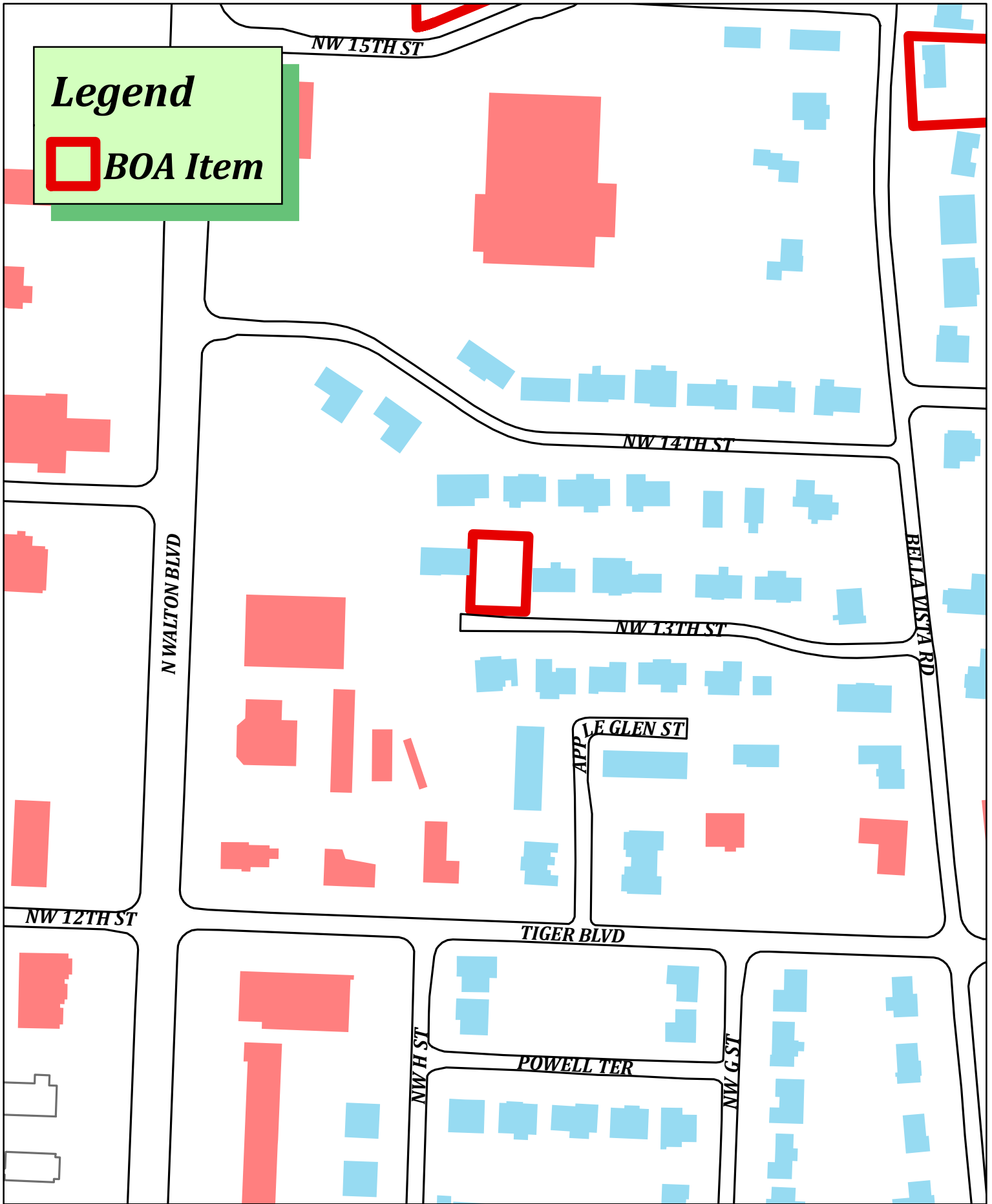
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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

NW 12TH ST

NW 15TH ST

NW 14TH ST

NW 13TH ST

LE GLEN ST

TIGER BLVD

POWELL TER

NW H ST

NW G ST

BETA VISTA RD

N WALTON BLVD



VAR22-0019
808 NW 13th St
Rear Setback Variance

Dear Variance Board of Adjustments,

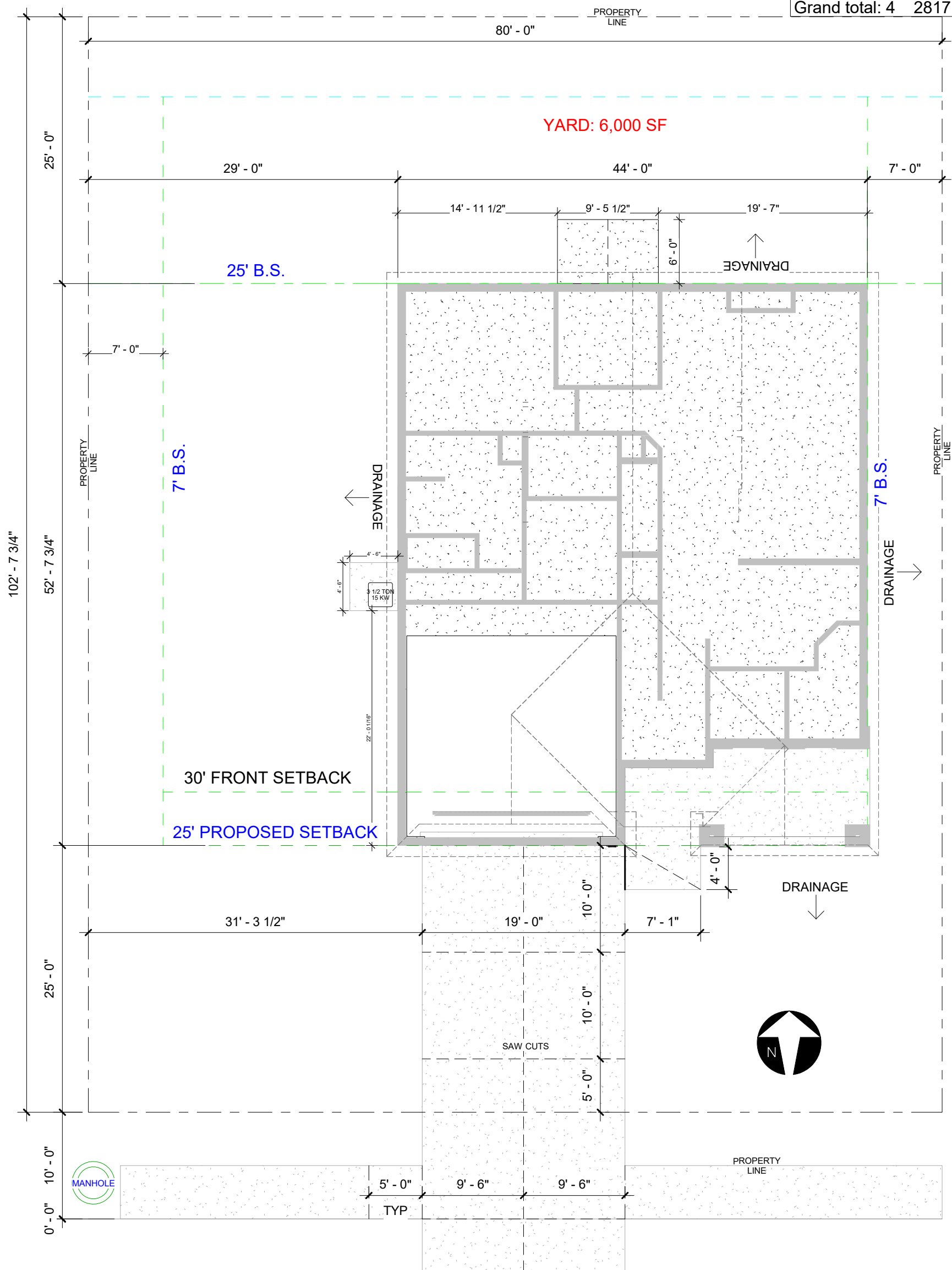
We would like to apply for a 5' front setback variance at 808 NW 13th St. in Bentonville, AR (lot 10). We are trying to follow the City setback rules, which are 20' front setback for structure and a 30' front setback for the garage.

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.

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



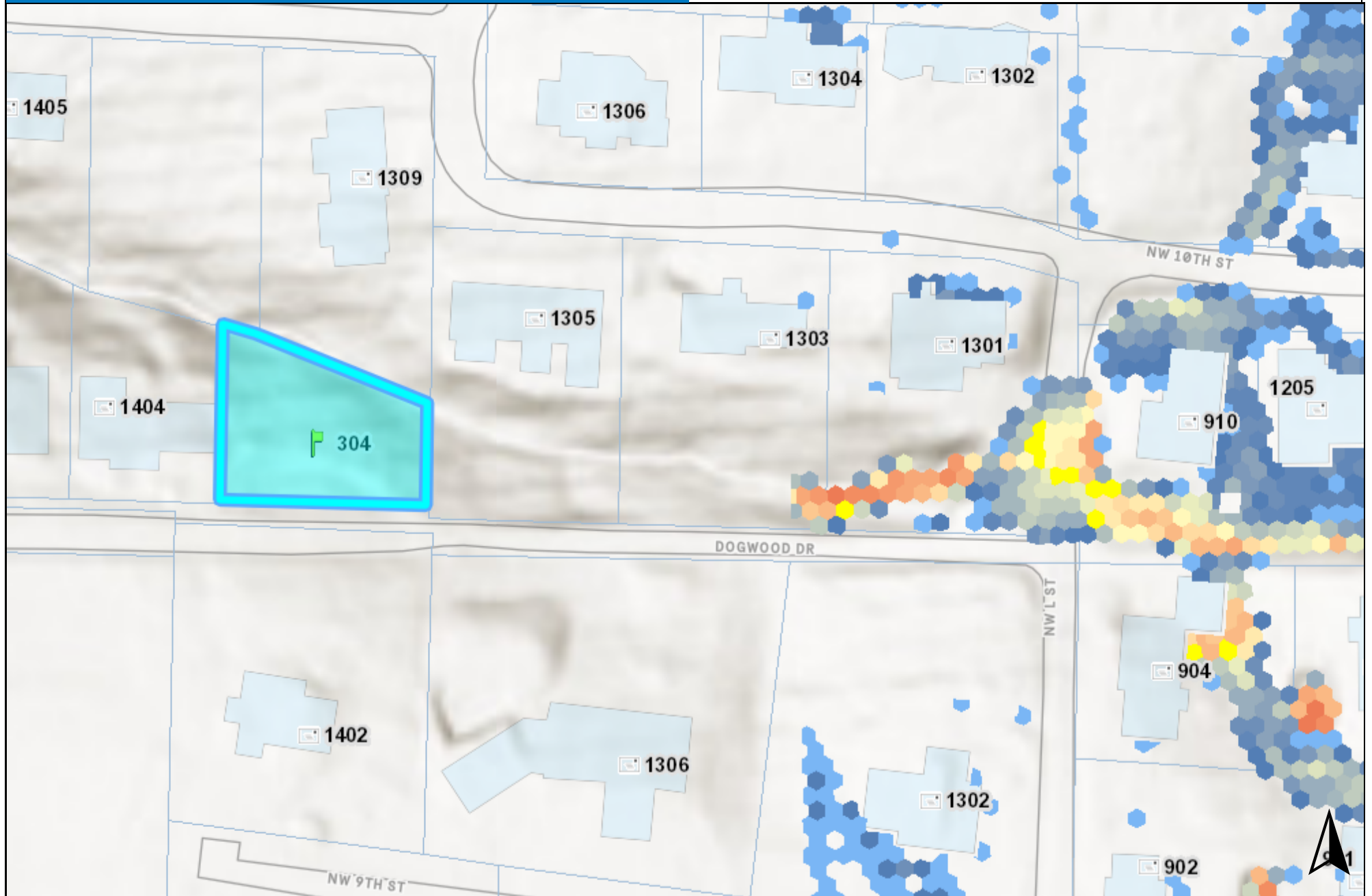
PLAN:	2100-2SKP5 NL5
ADDRESS	808 NW 13th St
CUSTOMER	Golins

SITE

DATE:

Issue Date

C-1.1



The FTN Downtown Flood Study data stops just short of the parcel, yet the hillshade basemap shows how the potentially problematic flood drainage would continue to the west onto the northern part of Vacant Lot 304 (1402 Dogwood Dr.)

BOARD OF ADJUSTMENT STAFF REPORT



Mercy Health Northwest Arkansas Communities

SW 41st and I St

BOA Date: 4/27/2022

Reviewer: Christopher Hyatt, Planning Technician

Project Number	VAR22-0021
Applicant / Current Owner	Taylor Lindley / Mercy Northwest Arkansas Communities
Site Area	+/- 15.71 Acres
Current Zoning	A-1 - Agricultural
Variance Request	Zoning Code Article: Section 401.06 (b) (1)

Property Description

This property is located at SW 41st and I St and is currently zoned A-1, Agricultural.

Regulation

According to Zoning Code Article Section 401.06 (b) (1), the minimum lot area for an A-1, Agricultural zoned property is 217,800 square feet (five acres.)

Variance Request

The applicant is requesting a variance of 37,461.6 square feet (.86 acres.) which would result in an A-1, Agricultural lot of 4.14 acres.

Background

The applicant states that the property is currently zoned A-1, Agricultural and the proposed lot split of Lot 18, via project LS22-0013, would cause the new Lot 27 to be an agricultural zoned property with an area of 4.14 acres.

According to the applicant's narrative, the current owners of the property are engaged with another development group intending to submit a rezoning request for the property in the near future.

The applicant concludes that the proposed lot size will conform with the planned zoning district at 4.14 acres and that the future land use is medium density residential, which has a lower minimum lot size, preventing any detrimental impact caused by this variance.

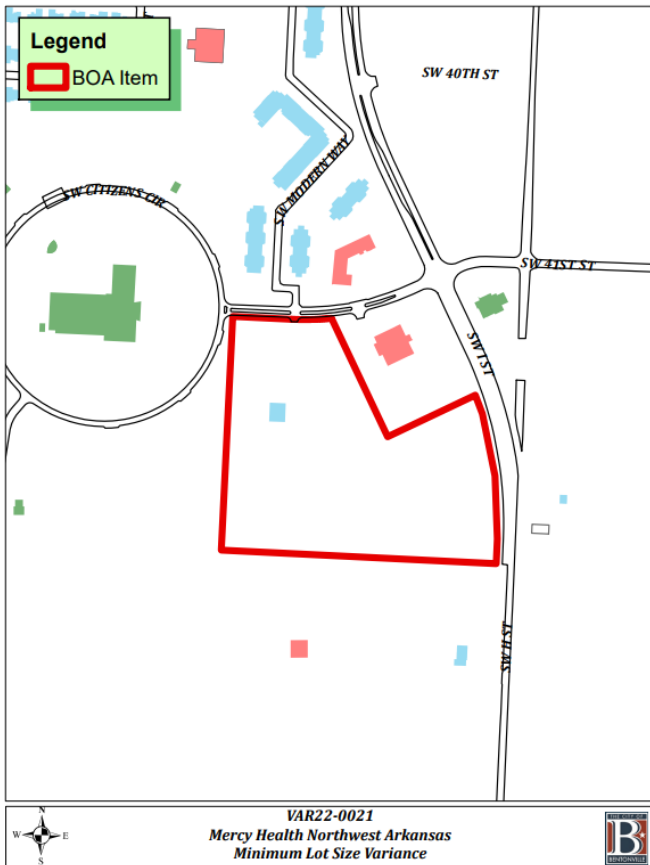
Public Comment

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.

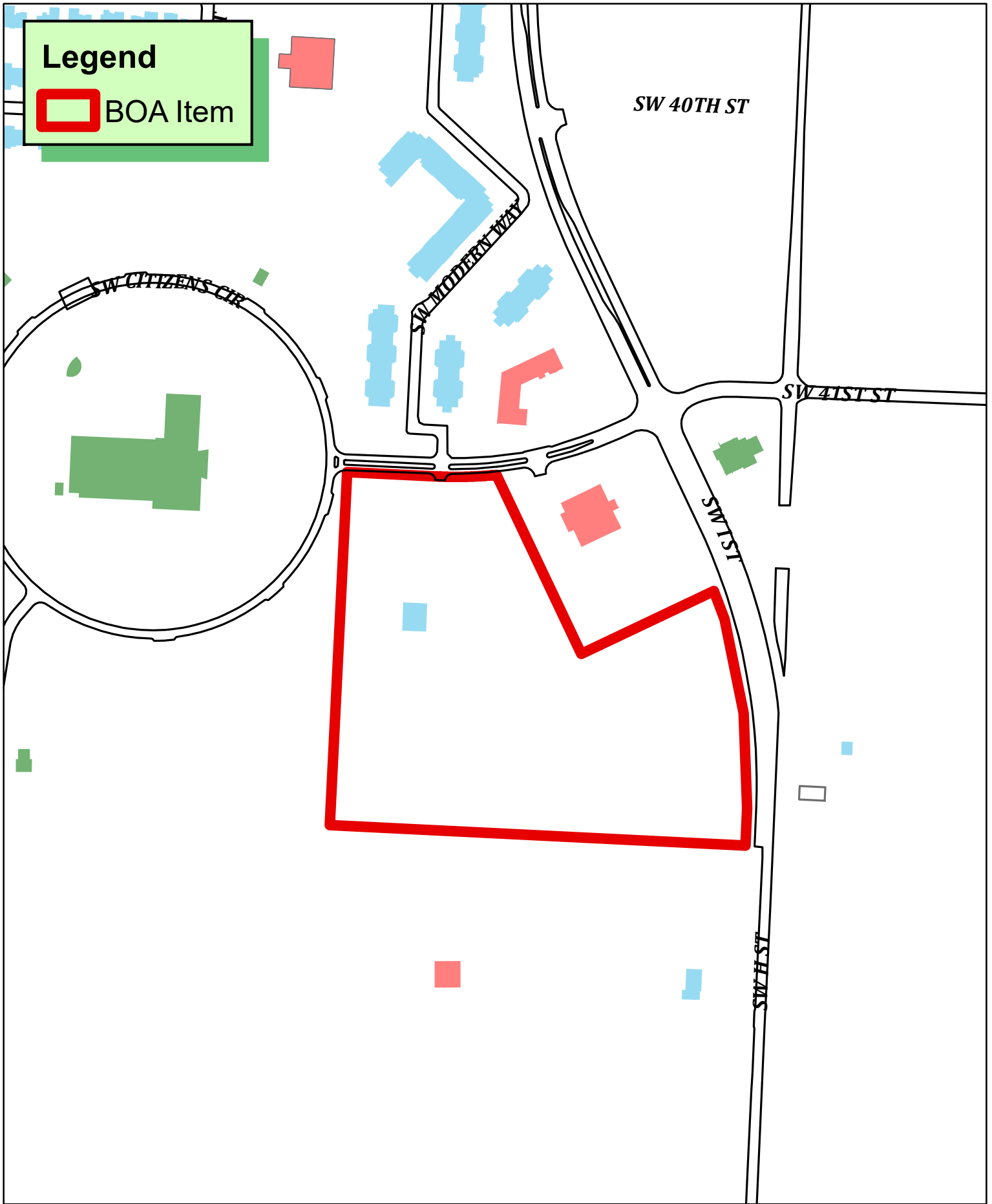
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.



VAR22-0021

***Mercy Health Northwest Arkansas
Minimum Lot Size Variance***



April 4, 2022

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

RE: Lot Split of Lot 18 of Eversole Addition
CTA Job No. 20112100

Please accept this letter as a request for the variance listed below.

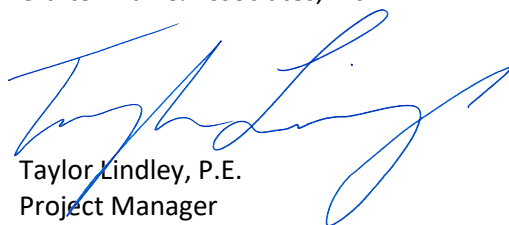
The developer would like to propose a variance from the ordinance 401.06 in order to deviate from the minimum lot size for an agriculture zoned property. The proposed lot split of Lot 18 would cause the new Lot 27 to be an agriculture zoned property with an area of 4.14 acres. The required minimum lot size is 5.0 acres, meaning the new Lot 27 would not meet the requirement.

We would like to request that this minimum lot size of 5.0 acres be waived. The current owners of the property are engaged with another development group intending to submit a rezone in the near future. The proposed lot size will conform with the planned zoning district at 4.14 acres. Furthermore, the future land use is Medium Density Residential, which has a lower minimum lot size and there will be no detrimental impact caused by this variance.

Because of the reasons stated above, we request the minimum lot size of 5.0 acres for an agriculture zoned property be reduced for Lot 27.

Please contact us at your earliest convenience if you have any questions.

Sincerely,
Crafton Tull & Associates, Inc.



Taylor Lindley, P.E.
Project Manager