



**Board of Adjustments
Meeting Agenda
June 26, 2024
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link: <https://us06web.zoom.us/j/83951949452>

I. Call to Order

II. Approval of Minutes

1. May 22nd Meeting Minutes

Approval of Meeting Minutes

III. New Business

1. Haney

Variance*

1003 Northwest A Street ([VAR24-0009](#))

2. BBQ King LLC

Variance*

2505 South Walton Boulevard A ([VAR24-0010](#))

IV. Old Business

V. Other Business

VI. Adjournment



**Board of Adjustments
Meeting Agenda
May 22, 2024
Bentonville City Hall
Meeting Time: 4:00 PM**

Meeting Recording:

I. Call to Order

- Meeting called to order at 4:00 PM by Chairman Kruithof.
- Members present: BJ Phillips, Celia Swanson, Dean Kruithof, Sam Pearson, Joe Haynie
- Members absent:
- Staff present: Tom Adler, Keegan Stanton, Jon Stanley, Brittany Chue, Sophie McAdara

II. Approval of Minutes

1. May 8th Meeting Minutes

Approval of Meeting Minutes

- Motion to approve by Phillips, second by Swanson.
- Minutes are approved 5-0.

III. New Business

1. Stansfield

Variance*

1106 Northwest G Street ([VAR24-0005](#))

Section 601.01 Accessory Structures (e) Height

- Mr. Stanton provides an overview of the staff report.
- Adam Stansfield, representing the project, requests questions from the Board.
- Ms. Swanson asks Mr. Stansfield what he believes his hardship is.
- Mr. Stansfield states that the accessory structure is for his parents, and they cannot build down to accomplish the desired square footage due to terrain, so they would like to build up to achieve the desired 600 sq. ft.
- Chairman Kruithof asks staff about floodplain and height limits.
- Discussion on detached versus attached structures; changing the detached unit to an attached unit with covered walkway would make it easier to build up and avoid the need for a variance.
- Mr. Stansfield requests that the variance be withdrawn.
- Variance was withdrawn.

2. Scissortail Homes of NWA LLC

Appeal of Interpretation*

3801 Southwest Rhythm Avenue ([VAR24-0006](#))

Section 401.07 Residential (R) district setback standards (3.b) Side or rear-loading garage

- Mr. Stanton provides an overview of the staff report.
- Chad Caletka, representing CEI Engineering, provides an overview of the applicant's request.

- Mr. Caletka discusses the ambiguity in the code for side loading garages and how the appeal would ensure consistency with the rest of the project.
- The board discusses agreement with the appeal and the intent of the code.
- Chairman Kruithof recommends this ordinance be rewritten if approved to prevent ambiguities in the future.
- Motion to approve by Phillips, second by Pearson.
- Variance is approved 5-0.

3. SPRINGFIELD SIGN

Variance*

Southeast 8th Street ([VAR24-0007](#))

- Mr. Stanton provides an overview of the staff report.
- Bethany Tindle with Springfield Signs provides an overview of the request.
- Ms. Tindle states that the purpose of sign is to welcome associates, pay homage to the original Walmart store sign, and keep the aesthetic of the campus.
- Chairman Kruithof asks if the city needs to consider the sign as a sign or a piece of art.
- Mr. Stanton states that there is a fine line between art and free speech. Because of the code, the city would consider this to be commercial speech because of the content of the sign.
- The Board inquiries about whether this was being interpreted as a canopy, roof, or awning sign.
- The Board discusses commercial speech versus artwork and the non-impact of the sign on surrounding properties due to the central location within the Walmart Campus.
- Motion to approve by Swanson, seconded by Phillips.
- Variance is approved 4-0; Haney abstained.

IV. Old Business

V. Other Business

VI. Adjournment

- Meeting Adjourned.



Haney

1003 Northwest A Street

BOA Date: 6/26/2024

Staff Report Details

Project Number	[VAR24-0009]
Applicant / Current Owner	Mark Haney
Site Area	+/- [0.68] Acres
Current Zoning	DN-2 Downtown Medium Density Residential
Variance Request	Rear Setback
Related projects	

Property Description

The subject property is located on 1003 Northwest A Street. The property is presently zoned DN-2, Downtown Medium Density with a future land use designation of Medium-Density Residential.

Regulation

Sec. 401.07-B Downtown Neighborhood Districts Regulations (e) DN districts setback standards: DN-2, Downtown Medium Density, allows for a minimum 25' rear setback.

Variance Request

One variance is requested:
Variance 1: A variance to allow for a change from the 25' rear setback requirement to a 5' rear setback.

Background

The applicant states in their narrative that they are seeking a variance request from DN-2,

Background

Downtown Medium Density Residential, rear setback requirements, due to a topographically challenging lot. By the applicant's calculations, if full conformance of setbacks were followed, then the buildable area would be too small to develop the land due to the 20-25' deep ravine that spans 80' across the lot, leaving 20' of buildable lot length after calculating in the required 25' rear setback along the Park Springs Park property line. The applicant requests a change in rear setback requirements from 25' to 5' to have the option to construct an 18x40' home and an accessory dwelling unit (ADU) out of the naturally occurring ravine.

It should be noted, however, that the material provided by the applicant incorrectly labels the front and rear setback labels on the site plan. The proposed change in setback is currently labeled as a "Requested 5' *Front* B.S.B", where that setback should be labeled as the "Requested 5' *Rear* B.S.B". The labeled "25' "rear" setback line should be labeled as the "front" setback line and is only required to be 12' minimum. It should also be noted that the site plan is only an exhibit and approval of the variance does not constitute approval of the site plan.

Additionally, it should be noted that Fire has informed the Planning Department that they will not be responding to any emergency at the property from B Street.

This report will consider and analyze this request based upon the six conditions of approval from the Zoning Code. Said conditions of approval will be bolded to differentiate from staff commentary.

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;

The applicant identifies the ravine and contours of the lot as a special condition that prevents the applicant from following the traditional setback requirements as outlined in the code.

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;

While adjacent lots do also showcase topographical challenges, the topographical features of the site do mean there is less challenging buildable area on the park-facing section of the lot than the lots surrounding the property.

c. That special conditions and circumstances do not result from the actions of the applicant; and

The applicant did not cause the topographical characteristics of the lot.

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.

The applicant is seeking a variance that would allow for a larger buildable area not affected by the topographical challenges, which would allow this area to have a buildable area similar to neighboring properties.

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.

Background

The applicant makes no reference to any nonconformities or properties in neighboring lands or zoning districts.

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.

The applicant has provided a site plan showing a proposed site layout for the subject property and the reasoning for the requested variance.

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.

The variance to the rear setback would allow for the home to front the park, which could change the built environment of the surrounding area. Having a 5' setback would make it the closest home to a park in the neighborhood, as the closest a home could be currently is 7' if a side of a lot abuts the park.

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.

The Board has the authority to attach any conditions to a variance request that it deems appropriate. Any conditions proposed with a variance approval should be clearly stated into the record in the approval motion.

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.

The applicant's request does not include a variance to use.

Conclusion

The applicant's variance request comes from Sec. 401.07-B of the Zoning Code, which houses the lot regulations for Downtown Neighborhood Districts. In DN-2, the minimum rear setback is 25'. The applicant is seeking a variance to change the minimum rear setback of 25' to 5'. As previously mentioned, the site plan is not included in the approval of this variance.

This variance request seems to indicate a number of unique features affecting this property. First, the lot in question is covered by a fair amount of ravine topography. This is exacerbated by the lot having no street frontage, and the orientation of the lot requiring the larger, rear setbacks along the flatter, Park Springs Park side of the lot.

Ultimately, all six standards of approval in the Zoning Code must be met in order for the Board to grant approval of the variance. This request appears to affirm several of the standards of approval.

Public Comment
Has Staff received Public Comment at the time of this report?: No

Conditions of Approval

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, structures 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.



Pending BOA Item

Haney

NW 10TH ST

NW B ST

NW A ST

NW PARK ST



VAR24-0009
Mark Haney
1003 NW A St





May 10, 2024

Dear Bentonville Board of Adjustments,

We are requesting a rear setback variance for 1003 NW A St in order to construct a single family home and ADU on a topographically challenging site. There are currently two platted lots at this address, one with a home facing NW A St, and one with no home or access to a public street. This "Park Lot" was platted in 1978 without street frontage, and it appears that they intention may have been for a future home to front Park Springs Park, as the other three sides are surrounded by private property. The Park Springs Park frontage, in particular the Southwest corner of the lot, is also the only buildable area that falls outside of a 20-25' deep, forested ravine across the majority of the land area.

Although Bentonville code allows for a home to be constructed on this "nonconforming lot of record" as-is, we are proposing to bring this lot into compliance with current code by filing a property line adjustment/lot split flag out to NW A St, allowing for utility and vehicular access to the back of the lot via a shared drive, shared carport, and pedestrian footpath across the ravine. By bringing the lot into conformance, the "front setback" would then be measured by the NW A St frontage, and the "rear setback" would be the Park Springs Park frontage. Our variance request is for a rear setback of 5' instead of 25' to be able to construct the home outside of the natural ravine. This design scheme will also preserve as much tree canopy as possible, and will add both architectural interest to the area around the park and increased safety for the park and neighborhood with additional "eyes on the park," generally considered a positive from a city planning perspective.

Considering the site's unique topographical constraints, our desire to bring the lot into conformance, and our desire to construct a new home in a thoughtful and site-sensitive way, we request a rear setback of 5' on the west lot line. This would allow us to use the only buildable area on the lot and add an attractive home to the neighborhood. Thank you for your thoughtful consideration.

Respectfully,
Mark Haney

Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, Mark Haney am the legal owner of the
(Owner's name, printed)

property located at 1003 NW A St, identified as Parcel
(Address or Street Name)

Identification Number 01-02752-000, located in
(Parcel ID)

Benton County, Arkansas.

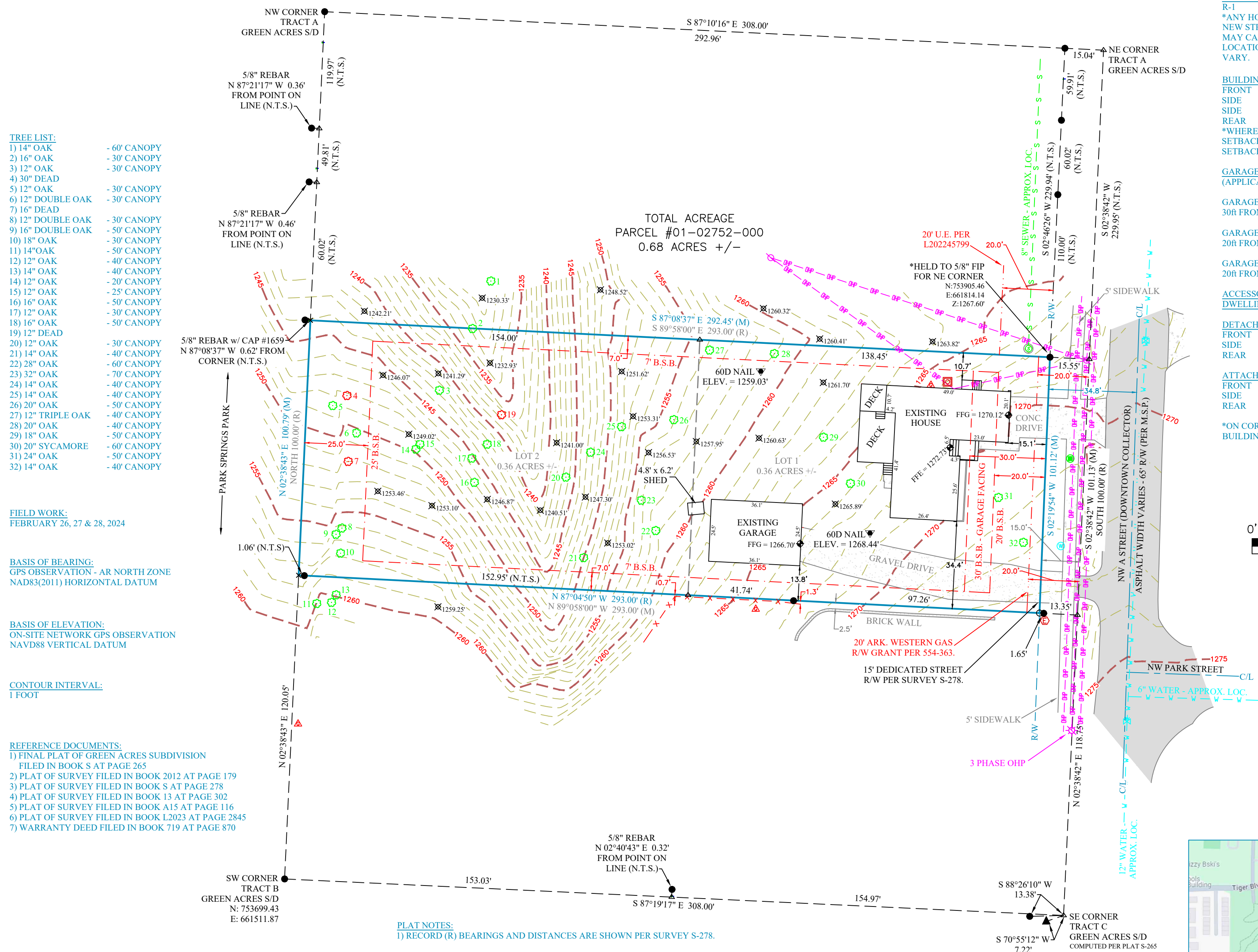
I certify that I am the owner of the property above and that I have read the application and consent to its filing.

Mark Haney
(Property Owner Signature)

May 24, 2024
(Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

BOUNDARY, TOPOGRAPHIC & TREE LOCATION SURVEY

R-1
*ANY HOUSE ADDRESS

*ANY HOUSE ADDITION, GARAGE ADDITION, NEW STRUCTURE, OR LOT SPLITS ON THIS LOT MAY CAUSE THE BUILDING SETBACK LOCATIONS DEPICTED ON THIS SURVEY TO VARY.

FRONT	20ft
SIDE	270 (ENTER)

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

*WHERE A UTILITY EASEMENT EXTENDS BEYOND THE REQUIRED
SETBACK, THE EDGE OF THE UTILITY EASEMENT SHALL BE THE
SETBACK

(APPLICABLE TO ATTACHED AND

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

ACCESSORY STRUCTURES (I.E. GARAGES, STORAGE SHEDS, SEPARATE DWELLING UNITS):

FRONT	AS REQUIRED BY DISTRICT
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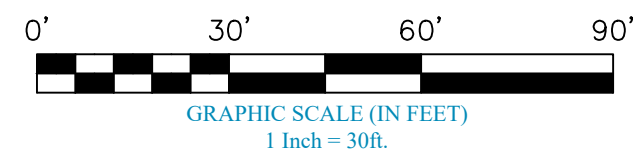
SIDE 07ft
REAR 07ft - SHOWN

FRONT SIDE	AS REQUIRED BY DISTRICT
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FRONT AS REQUIRED BY DISTRICT
SIDE AS REQUIRED BY DISTRICT

SIDE	AS REQUIRED BY DISTRICT
REAR	AS REQUIRED BY DISTRICT

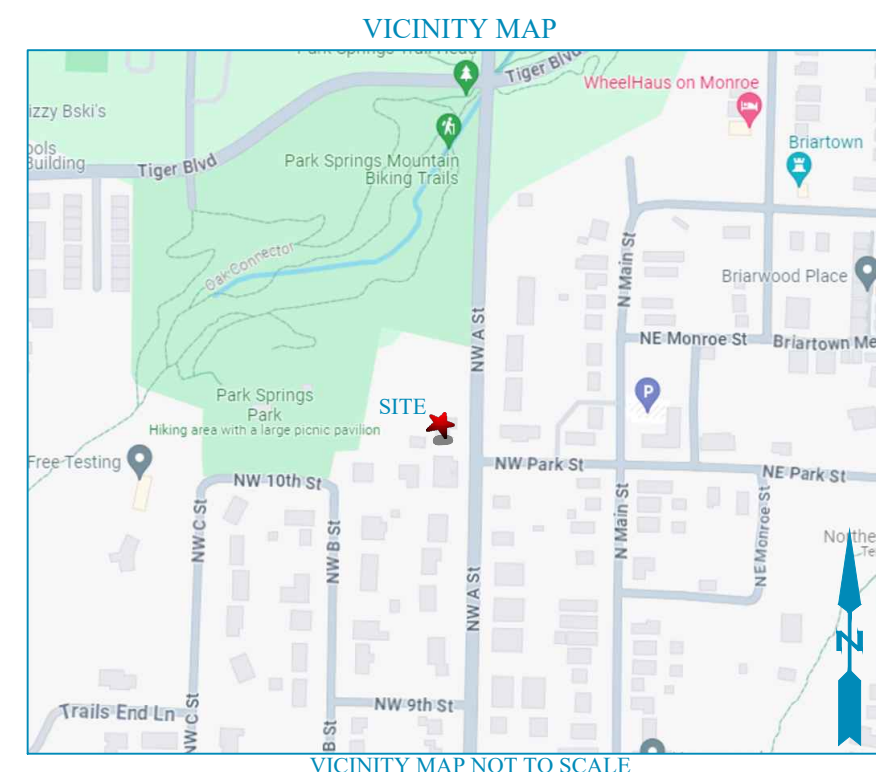
*ON CORNER LOTS: STRUCTURE SHALL NOT PROJECT BEYOND THE BUILDING LINE OF THE PRIMARY STRUCTURE ON THE ADJACENT LOT



I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF
ON THIS THE 28TH DAY OF FEBRUARY, 2024.

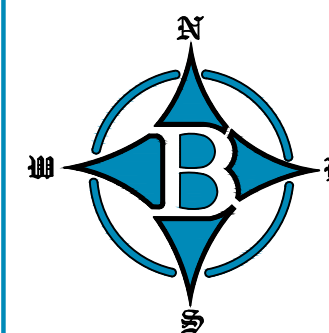


IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



VICINITY MAP NOT TO SCALE

RECORDING NUMBER/DATE



LEGEND:

THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

	WATER VALVE
	WATER METER
	CLEANOUT
	SANITARY SEWER MH
	ELECTRIC PEDISTAL
	GAS CONDENSER UNIT
	GAS METER
	LIGHT
	POWER POLE
	TREE
	600 MAIL BENCHMARK
	FINISHED FLOOR ELEVATION (FFE)
	SPOT ELEVATION
	FOUND 3/8" REBAR
	FOUND RAILROAD SPIKE
	COMPUTED POINT
	SET STAKE
	MEASURED BEARING & DISTANCE



ITC

FOR USE AND BENEFIT OF:		MARK HAN	
ADDRESS:		1003 NORTHWEST A STREET BENTONVILLE, ARKANSAS	
DATE:	03/20/24	SCALE:	SURVEYED BY JURICH
LOCATION:	LOTS 1 & 2		DRAFT D
	GREEN ACRES		REVIEWED
	SUBDIVISION		

**BBQ King LLC**

2505 South Walton Boulevard A

BOA Date: 6/26/2024**Staff Report Details**

Project Number	VAR24-0010
Applicant / Current Owner	BBQ King LLC
Site Area	+/- 0.13 Acres
Current Zoning	C-2, General Commercial
Variance Request	Sec 801.15 Signs Allowed With A Sign Permit
Related projects	SIGN24-0074

Property Description

The subject property is located on South Walton Boulevard. The property is presently zoned C-2, General Commercial with a future land use designation of General Commercial.

Regulation

Sec. 801.15 Signs Allowed with a Sign Permit, (a) Height and area regulations: C-2, General Commercial zoning does not allow for roof signs. Roof signs are only allowed for buildings with 3 or more stories. There can only be 1 roof sign per building. Roof signs cannot exceed 32 sq. ft.

Variance Request

One variance is requested:
Variance 1: A variance to allow for a roof sign in C-2, General Commercial zoning exceeding 32 sq. ft. in a 1-story shared building, which has more than 1 roof sign.

Background

The applicant is requesting a variance to allow for a roof sign in C-2, General Commercial zoning. The sign was originally submitted to the Planning Department as a wall sign permit (SIGN24-0074) but could not be approved because Staff classified the sign as a roof sign, which is not permitted in C-2, General Commercial zoning district per Sec 801.15 of the Municipal Code. A variance to allow for a roof sign in C-2 would be needed to allow the proposed sign to be installed.

Roof signs are only allowed in C-3, Mixed-Use Commercial and Downtown Districts (DC, Downtown Core; DE, Downtown Edge; DN-3, Downtown High Density Residential; and DN-4, Downtown Mixed-Use Residential) in buildings with 3 or more stories, with only 1 roof sign allowed per building, meeting the maximum height allowed in the district, and having a maximum area of 32 sq. ft.

The proposed sign to be constructed is 13.08 feet by 4 feet or approximately 52.32 square feet. The building of the subject property has five suites and a couple of roof signs that were previously installed by other businesses based on Google Street View and the City's GIS map. The building is 1 story tall.

The applicant states that without the sign, the applicant would be unable to communicate the presence and identity of their business, leading to potential loss of foot traffic and revenue.

This report will consider and analyze this request based upon the six conditions of approval from the Zoning Code. Said conditions of approval will be bolded to differentiate from staff commentary.

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;

The applicant states that the property in question exhibits unique characteristics that distinguish it from other properties in the same district. These peculiarities include its irregular shape and its location on a corner lot with significant street frontage, resulting in an unusual visibility challenge. The building has a gabled roof, and windows cover the wall space. The building's architectural design, which includes a prominent facade with limited space for traditional signage, further exacerbates this challenge. These distinctive features necessitate a custom signage solution that is not typically required for other properties in the 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;

The applicant states that a strict, literal interpretation of the current ordinance would unfairly disadvantage the business, preventing the utilization of signage options that are otherwise available to neighboring properties. Without special permission, the applicant would be unable to effectively communicate the presence and identity of their business, leading to potential loss of foot traffic and revenue. This interpretation would thus deprive the applicant of rights and benefits that are commonly enjoyed by other properties in the same district, where standard signage options are feasible and effective.

Background

c. That special conditions and circumstances do not result from the actions of the applicant; and

The applicant states that the unique conditions and circumstances described above are inherent to the property and are not a result of any actions taken by the applicant. The irregular lot shape, corner placement, and architectural design were pre-existing conditions that the applicant inherited upon acquiring the property. Therefore, the need for special signage consideration arises naturally from these existing conditions, rather than from any modifications or actions initiated by the applicant.

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.

Other buildings in the C-2 zoning district on Walton Boulevard have wall signs and some freestanding signs. If a variance is granted there would be a special privilege in allowing a roof sign for a C-2 building. A roof-mounted sign is defined in the Code as "a sign attached to any portion of the highest roof or fascia of a building." The Code does not differentiate between roof types. However, if the variance is not granted, the business owner would be denied the privilege of having a prominent sign identifying the business location that other businesses in the same district have.

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.

The other suites in the same building and C-2 zoning as the applicant have roof signs, which are existing nonconformities.

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.

The applicant has provided renderings of the proposed sign on the proposed building. The sign appears to be in relative proportion to the building.

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.

The building and sign face South Walton Boulevard and will thus interact with the public realm. However, the sign appears to be in relative proportion to the building based on the applicant's site plan and would have little outsized impact on the public space. The variance will not be injurious to the neighborhood or detrimental to public welfare. On the contrary, signage contributes to public welfare by providing clear identification that helps residents and business owners support the local economy.

5. Conditions. In granting any variance, the board of adjustment may prescribe

Background

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.

The Board has the authority to attach any conditions to a variance request that it deems appropriate. Any conditions proposed with a variance approval should be clearly stated into the record in the approval motion.

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.

The applicant's request does not include a variance of use.

Conclusion

The owner, BBQ King LLC, is applying for a roof sign because the building type makes it difficult to have other signs that would be visible in the public right-of-way. However, the other suites in the same building and C-2 zoning as the applicant have roof signs, which are existing nonconformities. Without the sign, the applicant would be unable to effectively communicate the presence and identity of their business, leading to potential loss of foot traffic and revenue. This interpretation would thus deprive the applicant of rights and benefits that are commonly enjoyed by other properties in the same district, where standard signage options are feasible and effective.

Ultimately, the Board must find all six criteria to have been met for the approval of a variance request.

Public Comment

Has Staff received Public Comment at the time of this report?: **No**

Conditions of Approval

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, structures 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.



Pending BOA Item

SE 22ND ST

SE 22ND ST

SW 24TH ST

S WALTON BLVD

SE EXECUTIVE DR



VAR24-0010
ESCORPION LLC
2505 S. Walton Blvd



(Narrative) Document from BBQ KING LLC:

- **Special Conditions and Circumstances:** The property in question exhibits unique characteristics that distinguish it from other properties in the same district. These peculiarities include its irregular shape and its location on a corner lot with significant street frontage, resulting in an unusual visibility challenge. The building's architectural design, which includes a prominent facade with limited space for traditional signage, further exacerbates this challenge. These distinctive features necessitate a custom signage solution that is not typically required for other properties in the district.
- **Deprivation of Rights:** A strict, literal interpretation of the current ordinance would unfairly disadvantage the applicant, preventing the utilization of signage options that are otherwise available to neighboring properties. Without special permission, the applicant would be unable to effectively communicate the presence and identity of their business, leading to potential loss of foot traffic and revenue. This interpretation would thus deprive the applicant of rights and benefits that are commonly enjoyed by other properties in the same district, where standard signage options are feasible and effective.
- **No Applicant-Induced Circumstances:** The unique conditions and circumstances described above are inherent to the property and are not a result of any actions taken by the applicant. The irregular lot shape, corner placement, and architectural design were pre-existing conditions that the applicant inherited upon acquiring the property. Therefore, the need for special signage consideration arises naturally from these existing conditions, rather than from any modifications or actions initiated by the applicant.

Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712 479-271-3122

I, Hugo Ortega am the legal owner of the
(Owner's name, printed)
property located at 2505 SWALTON BLVD, identified as
(Address or Street Name)

Parcel Identification Number _____, located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

Hugo Ortega
(Property Owner Signature)

6/3/24
(Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**



STATE OF ARKANSAS
DEPARTMENT OF FINANCE AND ADMINISTRATION
MISCELLANEOUS TAX SECTION
P.O. BOX 896, LITTLE ROCK, AR 72203-0896

Affidavit of Compliance



Grantee: ESCORPION, LLC
Mailing Address: 2303 S WATSON BLVD
BENTONVILLE AR 727120000

Grantor: HUGO MATEGA AND MARIA S ALMARAZ
Mailing Address: 2303 S WATSON BLVD
BENTONVILLE AR 727120000

Property Purchase Price: \$0.00
Tax Amount:

County: BENTON
Date Issued: 11/14/2018
Affidavit ID: 2038951936

The grantee/grantor claims the following exemption to the Real Estate Transfer Tax:

A transfer price of one hundred dollars (\$100) or less

I certify under penalty of false swearing that documentary stamps or a documentary stamp symbol in the correct amount has been placed on this instrument

Grantee or Agent Name (printed): Escorpion, LLC

Grantee or Agent Name (signature): MCLP

Date: 11/14/18

Address: 2303 S Watson Blvd

City/State/Zip: Bentonville, AR 72712



CERTIFICATE OF RECORD
STATE OF ARKANSAS COUNTY OF BENTON
hereby certify that the instrument was
Filed and Recorded in Official Records
in Doc Num L2018-033
11/14/2018 10:35 AM
Brenda DeShields
BENTON COUNTY Circuit Clerk/Recorder

Waco Title Company

WARRANTY DEED

With Return of Power and Curtesy

File #: 0708421-959

KNOW ALL MEN THESE PRESENTS:

That we Jackie Clay Owens and Jim Owens, wife and husband, hereinafter called Grantor(s), for and in consideration of the sum of ---00/100--- DOLLARS---(\$1.00)---and other good and valuable consideration in hand paid by Hugo Ortega and Maria Almaraz and wife, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto Hugo Ortega and Maria Almaraz, husband and wife, hereinafter called Grantee(s), and unto their heirs and assigns forever, the following lands lying in Benton County, Arkansas to-wit:

SEE ATTACHED EXHIBIT "A"

To have and to hold the same unto the said Grantee(s) and unto their heirs and assigns forever, with all appurtenances thereunto belonging.

And we hereby covenant with the said Grantee(s) that we will forever warrant and defend the title to the said lands against all claims whatsoever.

And we, Jackie Clay Owens, for and in consideration of the sum of money, do hereby release and relinquish unto the said Grantee(s) all our rights of curtesy, dower and homestead in and to the said lands.

WITNESS our hands and seals on this 27th day of December, 2007

I hereby certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

GRANTEE OR AGENT: Hugo Ortega

GRANTEE'S ADDRESS: 1206 N 23rd Pl.
Rogers, AR 72756

Jackie Clay Owens
Jackie Clay Owens
Sister
Firm

Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pg: 2007/51972
Term/Cashier: CASH4/SJOHNSON
12/27/2007 10:09:05AM
Tran: 22334
Total Fees: \$25.00

Book 2007 Page 51972
Recorded in the Above
DEED Book & Page
12/27/2007

WACO COMM
0708421-959

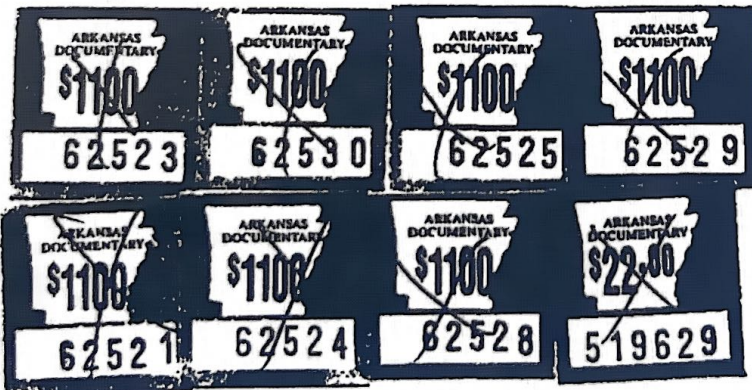


EXHIBIT "A"

TRACT 1:

Part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 6, Township 19 North, Range 30 West, in Benton County, Arkansas, more particularly described as beginning S00°08'00"W 825.00 feet from the NW corner of the said NE1/4 of the SE1/4, said point being on the centerline of South Walton Boulevard; Thence S89°15'20"E 300.00 feet; Thence S00°08'00"W 255.22 feet; Thence N89°18'34"W 300.00 feet to the centerline of South Walton Boulevard; Thence N00°08'00"E 255.50 feet along said centerline to the Point of Beginning, containing 1.76 acres, more or less.

TRACT 2:

Part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 6, Township 19 North, Range 30 West, in Benton County, Arkansas, more particularly described as beginning S00°08'00"W 1075.00 feet from the NW corner of the said NE1/4 of the SE1/4, said point being on the centerline of U.S. Highway 71; Thence S00°08'00"W 250 feet along said centerline; Thence along said highway S89°35'31"E 300 feet; Thence N00°07'51"E 248.35 feet; Thence N89°18'34"W 300 feet to the Point of Beginning, containing 1.72 acres, more or less, also being the same as all of Kimberly Plaza Addition, Bentonville, Arkansas, as shown on Plat Record 28 at Page 136.

LESS AND EXCEPT FROM THE ABOVE TRACTS OF LAND, THAT PARCEL PREVIOUSLY CONVEYED TO THE ARKANSAS STATE HIGHWAY COMMISSION, BY WARRANTY DEED FILED FOR RECORD OCTOBER 28, 2003, AS LAND DOCUMENT NO. 2003-31822, RECORDS OF BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

Part of the Northeast Quarter of the Southeast Quarter, Section 6, Township 19 North, Range 30 West, Benton County, Arkansas, more particularly described as follows: Starting at a 8" X 4" Stone being used as the South 1/4 corner of Sections 5&6; thence North 87° 37' 17" East along the South line of the Northeast Quarter of the Southeast Quarter of Section 6 a distance of 1269.28 feet to a point on the Easterly right of way line of U.S. Hwy. 71B as established by AHTD Job R90072 for the point of beginning; thence continue North 87° 37' 17" West along the South line of the Northeast Quarter of the Southeast Quarter of Section 6 a distance of 11.20 feet to a point on the Easterly right of way line of U.S. Hwy. 71B as established by AHTD Job R90072; thence North 02° 13' 17" East along said right of way line a distance of 505.93 feet to a point; thence South 87° 14' 23" East a distance of 11.18 feet to a point on the Easterly right of way line of U.S. Hwy. 71B as established by AHTD Job R90072; thence South 02° 13' 17" West along said right of way line a distance of 505.85 feet to the point of beginning and containing 0.13 acres more or less as shown on plans prepared by the AHTD referenced as Job R90072.

ACKNOWLEDGMENT

Book 2007 Page 51974
Recorded in the Above
DEED Book & Page
12/27/2007

STATE OF Arkansas
COUNTY OF Benton

SS.

Benton County, AR
I certify this instrument was filed on
12/27/2007 10:09:28AM
and recorded in DEED Book
2007 at pages 0051972 - 0051974
Brenda DeShields-Circuit Clerk

On this the 24 day of December, 2007, before me, a Notary Public, personally appeared, Jackie Clay Owens known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledged that she had executed the same for the consideration and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:



Prepared under the supervision of
Angela G. Henry, Attorney

STATE OF Arkansas

COUNTY OF Benton Washington

SS.

On this the 24 day of December, 2007, before me, a Notary Public, personally appeared, Tim Owens known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledged that she had executed the same for the consideration and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

10-1-09



Prepared under the supervision of
Angela G. Henry, Attorney

Waco Title Company
125 Parkwood, Suite A
PO Box 1910
Lowell, AR 72745

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS,

THAT I/We, **Angelo Ortega and Maria Almaraz**, husband and wife, hereinafter called GRANTORS, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration, is and paid by **Escorpion, LLC**, an Arkansas Limited Liability Company, hereby grant, sell and quitclaim and release and relinquish all our rights of dower, homestead or curtesy unto the said **Escorpion, LLC**, an Arkansas Limited Liability Company, hereinafter called GRANTEE, unto its successors, heirs and assigns forever, all of the interest in and to the following described real estate in the County of Benton, State of Arkansas, to-wit:

Tract 1: Part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 6, township 19 North, Range 30 West, in Benton County, Arkansas, more particularly described as beginning S 00 degrees 08 minutes 00 seconds West 300.00 feet from the NW corner of the said NE 1/4 of the SE 1/4, said point being in the centerline of South Walton boulevard; thence South 89 degrees 15 minutes 20 seconds East 300.00 feet; thence South 00 degrees 08 minutes 00 seconds West 255.22 feet; thence North 89 degrees 18 minutes 34 seconds West 300.00 feet to the centerline of South Walton boulevard; thence North 08 degrees 08 minutes 00 seconds East 255.50 feet along said centerline to the point of beginning, containing 1.76 acres, more or less.

Tract 2: Part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 6, township 19 North, Range 30 West, in Benton County, Arkansas, more particularly described as beginning South 00 degrees 08 minutes West 100 feet from the NW corner of the said NE 1/4 of the SE 1/4, said point being in the centerline of U.S. Highway 71; thence South 00 degrees 08 minutes 00 seconds West 250 feet along said centerline; thence leaving said Highway South 89 degrees 25 minutes 00 seconds East 300 feet; thence North 00 degrees 07 minutes 51 seconds East 248.35 feet thence North 08 degrees 18 minutes 34 seconds West 300 feet to the point of beginning, containing 1.72 acres, more or less. Also being the same as all of Kimberly Plaza, Benton, Bentonville, Arkansas, as shown on Plat Record 28 at page 136.

LESS AND EXCEPT FROM THE ABOVE TRACTS OF LAND, THAT PARCEL PREVIOUSLY CONVEYED TO THE ARKANSAS STATE HIGHWAY COMMISSION BY DEED DOCUMENT NO. 2003-31822, RECORDS OF BENTON COUNTY, ARKANSAS.

BEGINNING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: Part of the Northeast Quarter of the Southeast Quarter, Section 6, Township 19 North, Range 30 West, Benton County, Arkansas, more particularly described as follows: Starting at a 8" X 4" stone being used for the South 1/16 Corner of Sections 5 & 6; thence North 87 degrees 37 minutes 17 seconds West along the South line of the Northeast Quarter of the Southeast Quarter of Section 6 a distance of 1269.28 feet to a point on the Easterly right of way line of U.S. Highway 71B as established by AHTD Job R90072 for the point of beginning; thence continue North 87 degrees 37 minutes 17 seconds West along the South line of the Northeast Quarter of the Southeast Quarter of Section 6, a distance of 11.20 feet to a point on the Easterly right of way line of U.S. Hwy. 71B as established by AHTD Job 481; thence North 02 degrees 13 minutes 17 seconds East along said right of way line a distance of 505.93 feet to a point; thence South 87 degrees 14 minutes 23 seconds East a distance of 11.18 feet to a point on the Easterly right of way line of U.S. Hwy 71B as established by AHTD Job R90072, thence South 02 degrees 13 minutes 09 seconds West along said right of way line a distance of 505.93 feet to the point of beginning and containing 0.13 acre more or less as acre more or less as shown on plan prepared by the AHTD referenced as Job R90072.

To have and to hold the said lands unto the GRANTEE, and unto its successors, heirs and assigns forever, with all appurtenances hereunto belonging.

WITNESS my hand and seal on this 9 day of November, 2018.

Hugo Ortega
Hugo Ortega

Maria S. Almaraz
Maria S. Almaraz

ACKNOWLEDGMENT

STATE OF Arkansas COUNTY OF Benton

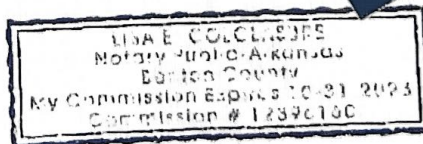
BE IT REMEMBERED, that on this day, personally appeared before me, a Notary Public, duly commissioned and acting in and for the County and State aforesaid, Hugo Ortega and Maria S. Almaraz, husband and wife, well known to me and proven to me the persons named in the above and foregoing instrument, and stated that they executed the same for the purpose and consideration therein contained and set forth, and I so certify.

IN WITNESS WHEREOF, I hereunto set my hand and official seal as such Notary Public, this 9 day of November, 2018.

Lisa E. Colclough
NOTARY PUBLIC

My Commission Expires 10-31-2023

Prepared under the direction and of grantor/grantee



DiscountLED

11261 HARRY HINES BLVD # A120, DALLAS, TX 75229

CONTACT: 833-347-2533

FRONT STORE CHANNEL LETTER SIGN

BBQ KING

Address:

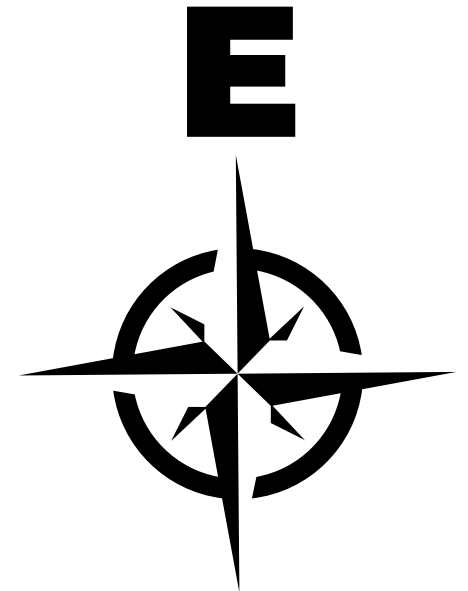
2505 S WALTON BLVD A,
BENTONVILLE, AR 72712, US



SIGN(S) TO BE MANUFACTURED TO U.L. SPECIFICATIONS AND WILL BEAR THE U.L. LABEL(S).
INSTALL IN ACCORDANCE WITH ARTICLE 600 OF
NATIONAL ELECTRIC CODES.



**SIGN
A**



PROPOSE LOCATION OF SIGNAGE

LANDLORD APPROVAL

The undersigned consent to the installation and maintenance of this sign on my property in accordance with the agreement between Discount LED LLC. and my tenant(s) and extensions, renewals or modifications

Property Owner / Authorized Agent :

Date :

DESIGN, SPECIFICATION, & COLOR APPROVALS

THE DRAWING IS THE PROPERTY OF DISCOUNT LED LLC. AND ALL RIGHT TO ITS REPRODUCTION ARE RESERVED BY DISCOUNT LED LLC

Customer :

Date Page 28 of 29

DiscountLED

11261 HARRY HINES BLVD # A120, DALLAS, TX 75229

CONTACT: 833-347-2533

FRONT STORE CHANNEL LETTER SIGN

BBQ KING

Address:

2505 S WALTON BLVD A,
BENTONVILLE, AR 72712, US



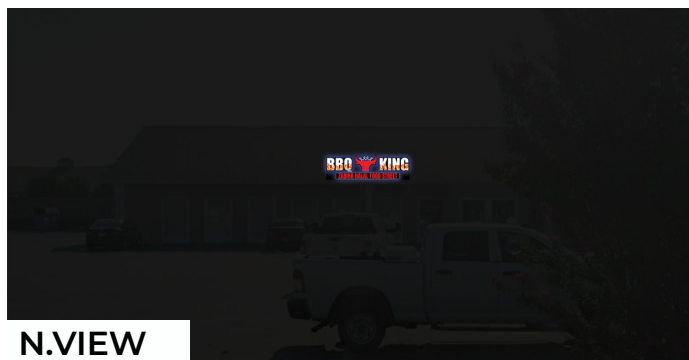
SIGN(S) TO BE MANUFACTURED TO U.L. SPECIFICATIONS AND WILL BEAR THE U.L. LABEL(S).
INSTALL IN ACCORDANCE WITH ARTICLE 600 OF NATIONAL ELECTRIC CODES.



PROPOSED

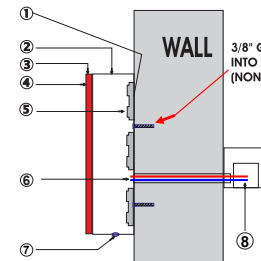


EXISTING



N.VIEW

DIRECT MOUNTED LED CHANNEL BOX



- ① MOUNTING DIRECT TO WALL
- ② RETURN
- ③ TRIM CAP
- ④ ACRYLIC FACE
- ⑤ LEDS
- ⑥ LED 18G WIRE
- ⑦ WEEP HOLED
- ⑧ LED POWER SUPPLY

LANDLORD APPROVAL

The undersigned consent to the installation and maintenance of this sign on my property in accordance with the agreement between Discount LED LLC. and my tenant(s) and extensions, renewals or modifications

Property Owner / Authorized Agent :

Date :

DESIGN, SPECIFICATION, & COLOR APPROVALS

THE DRAWING IS THE PROPERTY OF DISCOUNT LED LLC. AND ALL RIGHT TO ITS REPRODUCTION ARE RESERVED BY DISCOUNT LED LLC

Customer :

Date Page 29 of 29