

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
August 24th, 2022
Bentonville City Hall
305 SW A St
4:00 PM**

Registration Link: https://us06web.zoom.us/webinar/register/WN_h2fYR0RbSzGw2CF0Fo0hLg

- I. Call to Order**
- II. Approval of August 10th Minutes**
- III. Old Business**

- 1. Jacobs Group– New Construction** **Variance***
807 SE 3rd Street ([VAR22-0028](#))
 - Rear Setback Variance

IV. New Business

- 2. Wolfe– Fence** **Variance***
406 NW 7th Street ([VAR22-0032](#))
 - Fence Height Variance
- 2. Willis – Addition** **Variance***
201 NE 7th Street ([VAR22-0033](#))
 - Building Setback Variance



**BOARD OF ADJUSTMENT
AGENDA
August 10th, 2022
Bentonville City Hall
305 SW A St
4:00 PM**

Registration Link: https://us06web.zoom.us/webinar/register/WN_3KUPiRgITqyOKCjgUbHq3g

I. Call to Order

- Meeting called to order at 4:00

II. Approval of July 13th Minutes

- Motion by Pearson to approve the minutes, seconded by Haynie
- Approved 5-0

III. New Business

1. Nuta– Fence

Variance*

1801 NW Mustang Ave ([VAR22-0030](#))

- Fence Height Variance

- Chris reads staff report
- Public hearing opened
- Public hearing closed
- Chris Nuta (owner) speaks
- Discussion amongst commissioners
- Phillips motion to approved, seconded by Kruithoff
- Approved 5-0

2. Roat – Fence

Variance*

400 SE C Street ([VAR22-0031](#))

- Fence Setback Variance

- Luke reads staff report
- Public hearing opened
- Public hearing closed
- Timothy Roat (owner) speaks
- Discussion amongst commissioners
- Amendment to two variance requests for 5 feet each
- Motion by Kruithoff, seconded by Haynie for B Street Variance
- Approved 5-0
- Motion by Haynie, seconded by Phillips for 4th Street Variance
- Approved 5-0

BOARD OF ADJUSTMENT STAFF REPORT



Jacobs Group

807 SE 3rd Street

BOA Date: 8/24/2022

Reviewer: Christopher Hyatt, Planning Technician

Project Number	VAR22-0028
Applicant / Current Owner	Jacobs Group
Site Area	+/- 0.36 Acres
Current Zoning	R-1, Low Density Single-Family Residential
Variance Request	Zoning Code Article: Section 401.07 (d)

Property Description

This property is located at 807 SE 3rd Street and is currently zoned R-1, Low Density Single-Family Residential.

Regulation

Zoning Code Article Section 401.07 (d) states that the minimum rear setback for properties zoned DN-1 is 25 feet and DN-3 is 25 feet.

Variance Request

The applicant is requesting a variance of 13.5 feet from the rear setback of 25 feet for the proposed northern, single family lot located on G Court and 13.5 feet from the rear setback of 25 feet for the proposed southern, rowhomes lot located on 3rd Street.

Background

According to the applicant's narrative, the dual variance request of a total of 27 feet will allow for residential development options for this property, creating urban living with the ability to walk and bike in the downtown area. If approved, the applicant plans to propose a lot split and rezoning to DN-1 for the side facing SE G Court and DN-3 for the side facing SE 3rd Street. This creates the need for a variance request between the two future lots.

Originally the applicant's request for a rezoning to DN-3 was approved by the Planning Commission on 2-15-22, however, when the rezoning request was sent to City Council, they sent the request back to Planning Commission for further consideration, upon which, the Planning Commission ultimately denied the DN-3 request. The request was then brought back to Planning Commission as presented today and was approved on 8/16/22.

In conclusion, the applicant feels this proposal is an attempt to satisfy both the housing needs of Bentonville and the requests of the single-family neighborhood to the north, as well as keeping with the character of the rapidly developing multi-family and mixed use area along SE 3rd Street.

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.
3. The applicant shall submit a lot split request and rezoning request and receive approval from both Planning Commission and City Council.



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.

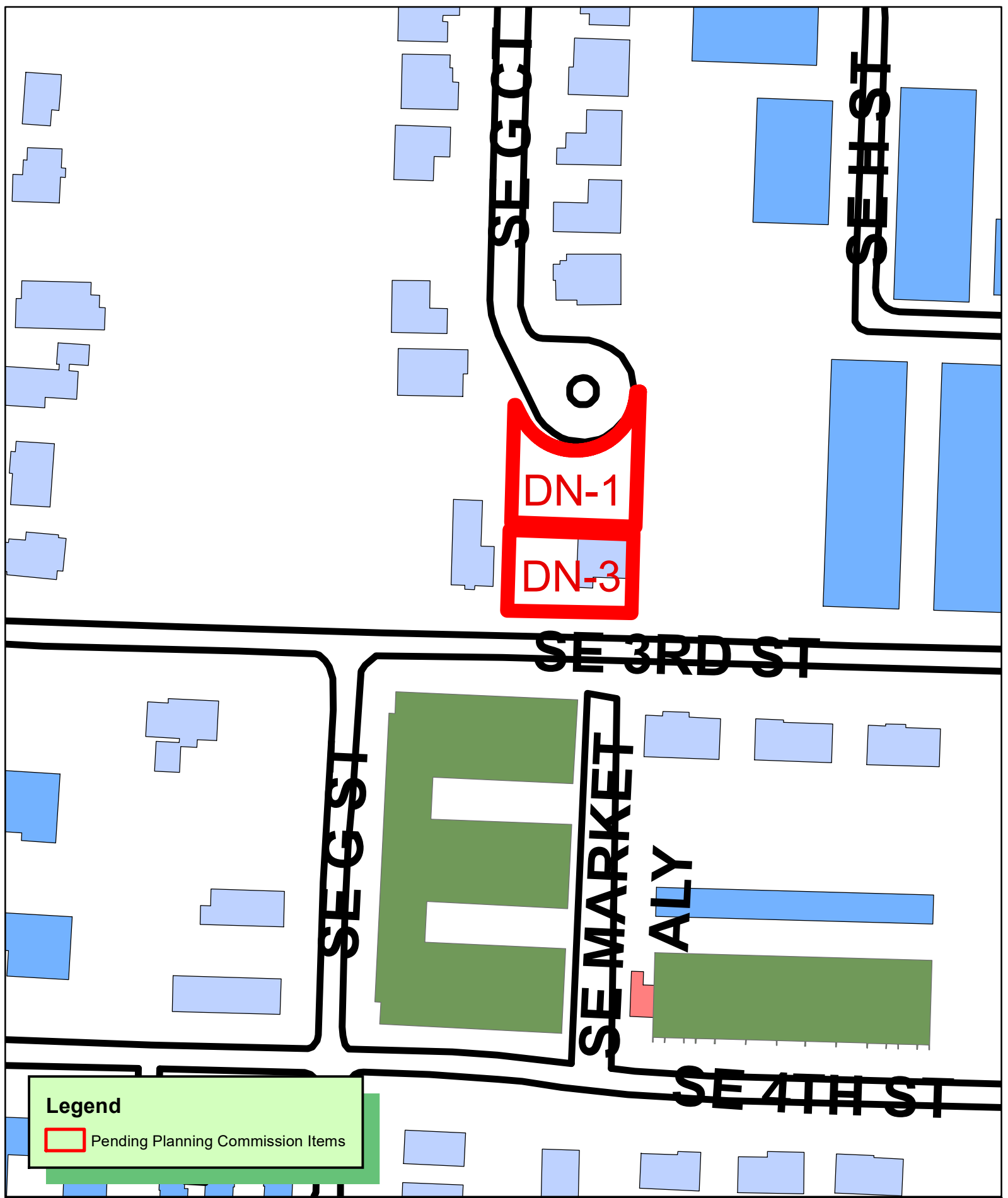
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.

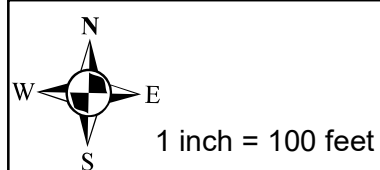
(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of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

 Pending Planning Commission Items



RZ22-0004
REZONE R-1 TO DN-1 & DN-3
RENAISSANCE SUBDIVISION LOT 11
807 SE 3RD ST



6-24-2022

City of Bentonville
305 SW A Street
Bentonville, Arkansas 72712

RE: 807 SE 3rd Street –Variance for Rear Setback via Board of Adjustment

Dear Board of Adjustment Staff,

We are requesting that the property located at **807 SE 3rd Street**, be granted a Rear Setback Variance of 15 feet.

Reason - The Variance request of 15 feet will allow residential development options for this property, creating urban living with the ability to walk and bike in the downtown area. If approved, we plan to propose a lot split, and rezoning to DN-1 (property facing SE G Court) and DN-3(property facing SE 3rd Street). The Variance request is compatible with existing land use patterns occurring on SE 3rd Street and surrounding area, while still being consistent with the properties on the SE G Court side.

Surrounding Properties – This area of downtown has great potential for infill and redevelopment. SE 3rd Street and the surrounded area is currently under construction for many residential projects.

Use - Residential

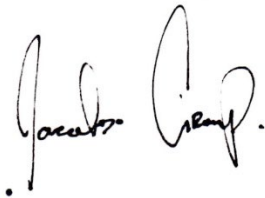
Utilities- Severed by 8” existing water and 8” sewer lines.

Traffic – Additional residential should not have impact on current traffic pattern

Signage – Per Code

Appearance - Contemporary – Brick and siding

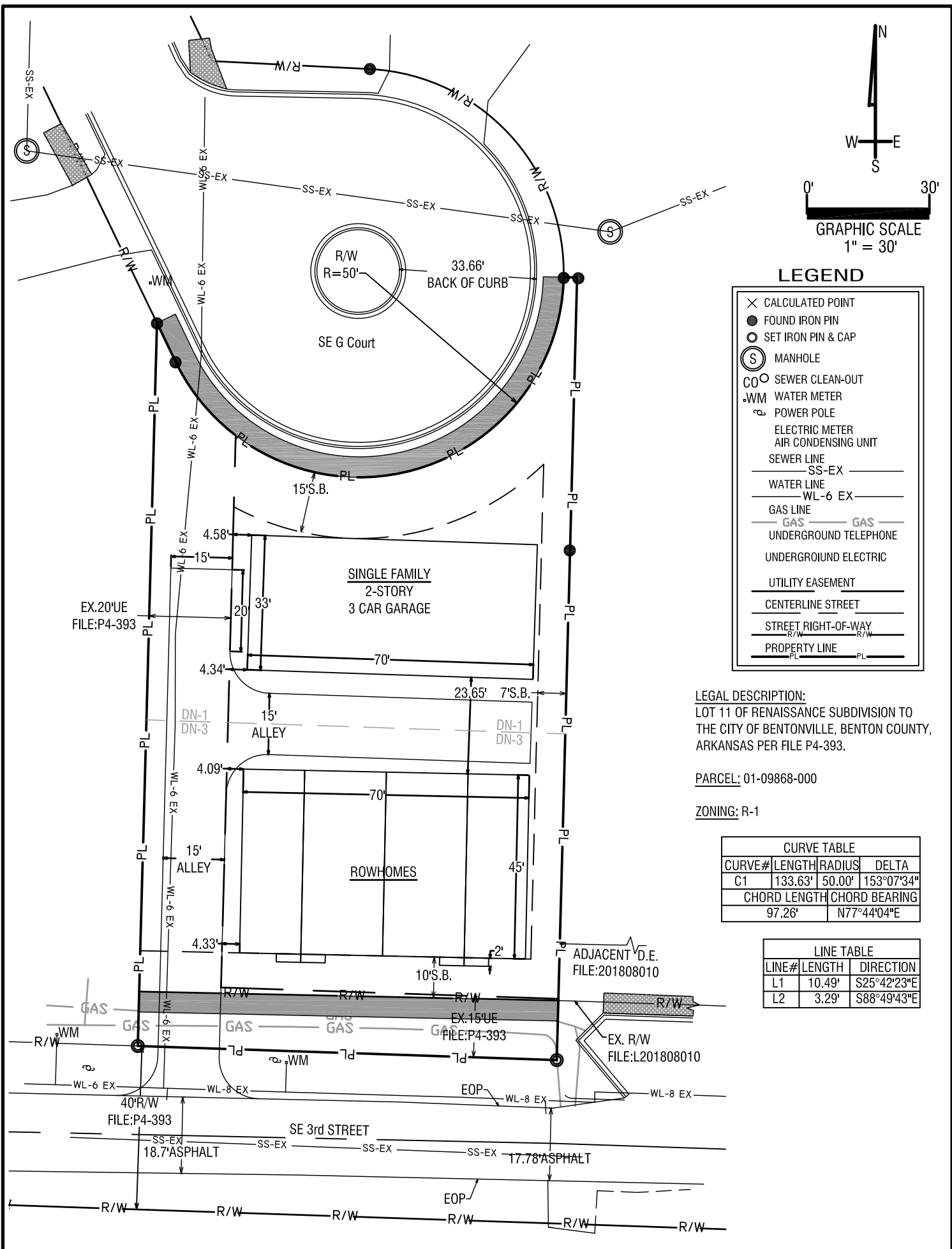
Sincerely,

A handwritten signature in black ink, appearing to read "Jacob Group". The signature is stylized with a large, looped "J" and "G".

Jacobs Group

PO Box 1285

Bentonville, AR 72712



**JORGENSEN
+ASSOCIATES**
Civil Engineering + Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

SCALE: 1"=30'

DATE REVISED

CHECKED BY:

DRAWN BY: PMM

DATE: 25JAN22

DLJ

Z:\LOTS\2022008\SURVEY

BOUNDARY SURVEY

807 SE 3rd STREET, BENTONVILLE, AR

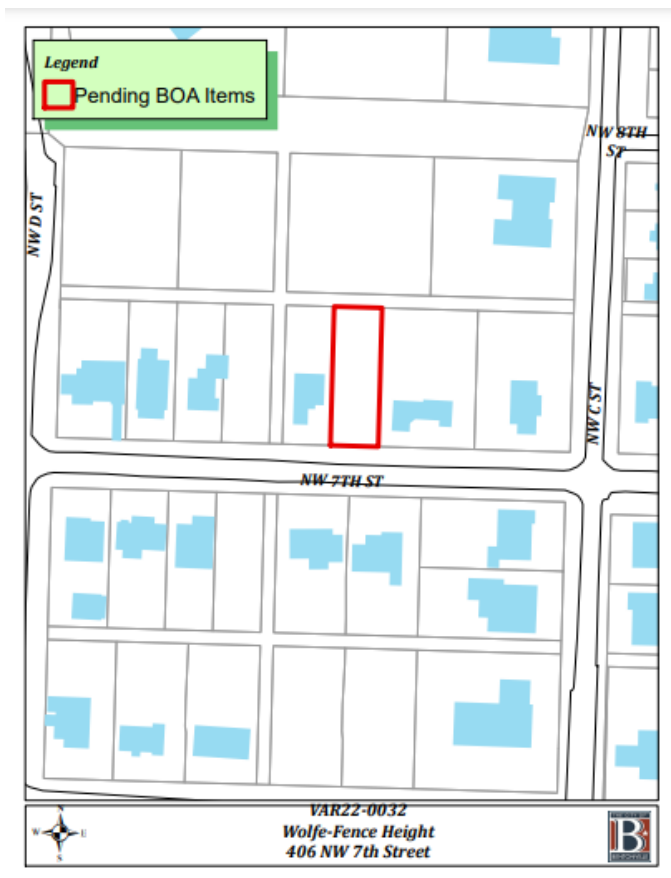
John Wolfe

406 & 410 NW 7th Street

BOA Date: 8/24/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0032
Applicant / Current Owner	John Wolfe & Ashley Hubka
Site Area	+/- 0.34 Acres
Current Zoning	R-1, Low Density Single Family Residential
Variance Request	Land Development Code Article 1100, Development Standards, Section 1100.06 Fence and Wall Requirements, Subsection (h) (1) Fence Height



Property Description

This property is located at 406 & 410 NW 7th Street and is currently zoned R-1 Low Density Single Family Residential.

Regulation

According to Land Development Code Article 1100, Development Standards, Section 1100.06 Fence and Wall Requirements, Subsection (h) (1) Fence Height: The maximum fence height shall be six (6) feet above grade.

Variance Request

The applicant is requesting a variance of two feet from the maximum six-foot fence height allowed by code.

Background

According to the applicant's narrative, this variance is being requested in order to build an 8-foot-tall fence around a newly constructed pool and pool house. The applicant is concerned about the safety of his family and their guests especially the safety and privacy of his daughters (11 and 13 years old) and their young female guests at the new pool.

The neighbor's backyard to the east, at 402 NW 7th Street, includes a raised deck from which frequent house guests, who according to the applicant, often appear and sound intoxicated, will have a full view of their pool and pool deck over a standard 6-foot fence. The applicant is also concerned about his family's safety in regards to a pair of pit bulls, also in their neighbor's backyard to the east. Because the fence that surrounds their neighbor's yard is dilapidated, the pit bulls frequently escape into the applicant's yard. Mr. Wolfe also wishes to use this 8-foot fence to screen his neighbor's yard from view, which he states is unsightly, noting the presence of multiple structures and vehicles in the yard, in various states of disrepair.

The applicant concludes that their unique safety, privacy, and aesthetic concerns provide sufficient hardship to justify this fence height variance request.

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.

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



Pending BOA Items

NW D ST

NW 8TH ST

NW C ST

NW 7TH ST

VAR22-0032

**Wolfe-Fence Height
406 NW 7th Street**



VAR22-0032 Narrative:

My name is John Wolfe, and my wife is Ashley Hubka. Our primary residence is at 410 NW 7th Street. We have been lucky enough to purchase the lot next door: 406 NW 7th, and we are currently improving that lot. I can be reached at johnpwolfe@hotmail.com, or on my mobile phone at 479-319-8664.

This narrative is in support of Project VAR22-0032, a Code Variance from Code Section 1100.06 Fence and Wall Requirements Subsection H1.

We are requesting a variance in order to build an 8-foot-tall fence around our new pool for three reasons:

- 1.) We are concerned about the safety of our family and our guests as it relates to the pair of pit bulls who live unchained in our neighbor's backyard on the east side of our property, at 402 NW 7th Street. Because the fence that surrounds our neighbor's yard is both patched together and dilapidated, the pit bulls frequently escape and run around in our yard. One of the dogs is friendly when alone, the female, but she recently had puppies, and we are afraid that now both she and the male pit bull will be aggressive.
- 2.) We would like to protect the safety and privacy of our two daughters (11 and 13 years old) and their young female guests at the pool. The yard at 402 NW 7th includes a raised deck from which their frequent house guests (who often appear and sound intoxicated) will have a full view of our pool and pool deck over a standard 6-foot fence.
- 3.) We would like to block our view of the neighbor's yard at 402 NW 7th, which is unsightly. In addition to the family of pit bulls and the raised deck, the yard includes 2-4 yard cars, as well as a deteriorating chicken coop and garage.

We believe that the safety, privacy, and aesthetic reasons provide sufficient hardship to justify our variance request. Thank you very much for your consideration, please let us know if you have any questions or need any further information from us.

EXISTING ALLEYWAY

S87°03'26"E 50.00'

S87°03'26"E 50.04'

10' U.E.

10' U.E.

EXISTING
CONCRETE
DRIVEWAY

25' B.S.B.

25' B.S.B.

N01°31'50"E 145.63'

N01°31'50"E 145.63'

N



EXISTING
HOME

POOL

BEDROOM

LIVING/DINING

KITCHEN

BATH

CL.

STORAGE

ELEC. PANEL

WATER METER

GATE

SEWER

AC

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INSTALL 5' WIDE SIDEWALK PER CITY OF BENTONVILLE SPECIFICATIONS
TOOLED CONTROL JOINTS 5' O.C.
NOTE: AT OWNERS REQUEST SIDEWALK WILL ALSO EXTEND ACROSS THEIR ADJACENT PROPERTY
(412 NW 1TH ST.)

NOTE: WATER METER LID
TO BE RAISED TO BE FLUSH
WITH SIDEWALK SURFACE.
CONTACT CITY OF BENTONVILLE WATER DEPT.
TO OBTAIN NEW SPECIAL LID

R.O.W./U.E.

R.O.W./U.E.

N87°28'50"W 50.04'

N87°28'50"W 50.04'

NW 7TH STREET

70' R.O.W.

SITE PLAN
406 NW 7TH
STREET
SCALE 1"=20'

406 NW 7TH ST.
POOL HOUSE ADDITION

Tim McMahon Building Co. Inc.
timbuilds@gmail.com 479-236-4663



Maurice Willis

201 NE 7th Street

BOA Date: 8/24/2022

Reviewer: Christopher Hyatt, Planning Technician

Project Number	VAR22-0033
Applicant / Current Owner	Maurice Willis
Site Area	+/- 0.25 Acres
Current Zoning	R-1, Low Density Single Family Residential
Variance Request	Zoning Code Article 401.07 Section (c) (1)

Property Description

This property is located at 201 NE 7th Street and is currently zoned R-1, Low Density Single Family Residential.

Regulation

Zoning Code Article 401.07 Section (c) (1) The minimum interior side setback shall be seven (7) feet.

Variance Request

The applicant is requesting a variance of two feet from the minimum seven foot interior side setback.

Background

According to the applicant's narrative, he would like a two foot setback variance for an addition to the existing home along the eastern property line. Due to drainage issues and French drains that currently exist to prevent flooding, the Eastern property line is the only area the applicant can extend toward.

The applicant concludes that, there is a walkway from the existing house to the proposed addition that is cantilevered over a waterfall and small creek area that they do not want to disturb, as it catches the water from the three homes to the west of the lot.

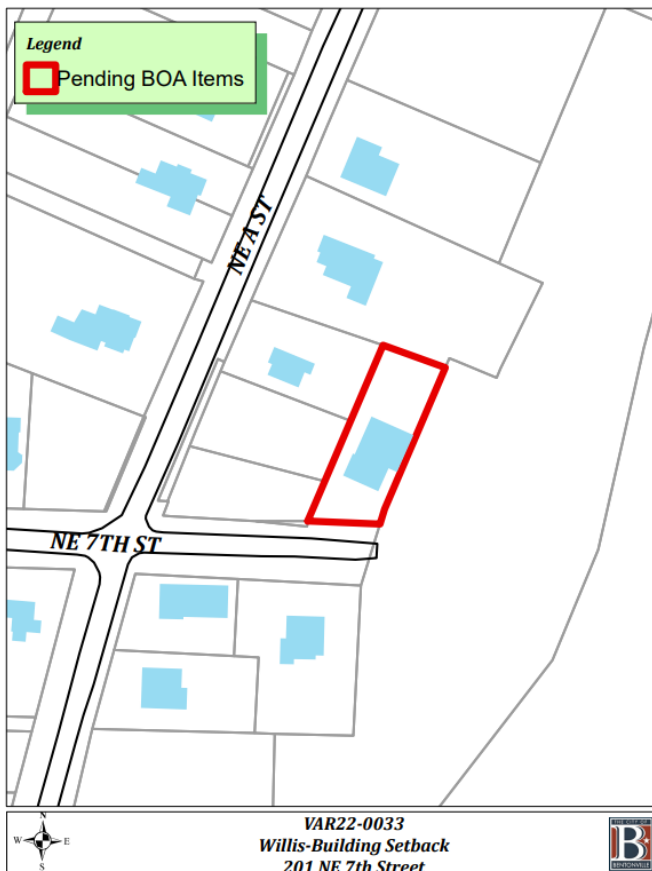
Public Comment

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.



Section 301.10.c, Standards of Approval, of the Zoning Code

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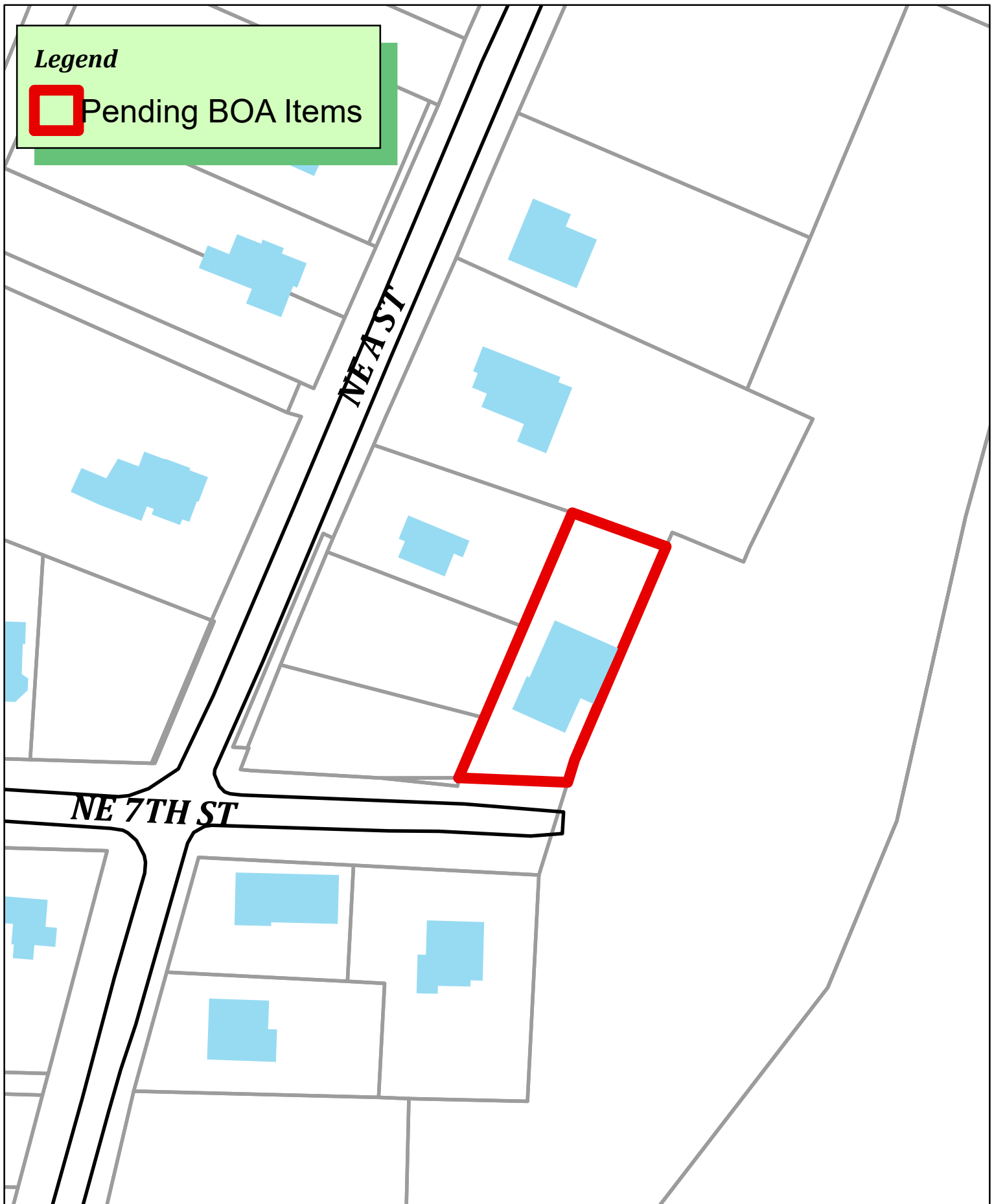
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Legend



Pending BOA Items



VAR22-0033
Willis-Building Setback
201 NE 7th Street

Williams Design Build, LLC

Testa Properties, LLC

City Of Bentonville Planning Dept.

315 SW A Street
Bentonville AR 72712

RE: Lot 27 plat 17-214
Parcel 01-02287-001

To Whom it may concern:

Please accept this letter as a request for a variance to reduce the building set back on lot 27 in Demingo's addition, Bentonville. East side of the lot we are requesting a 2' variance for the addition we are building. We can not move the addition because of drainage issues and French drains that have been put around the area to prevent the house from flooding. Plus this is the only location at the house we can extend the addition.

The long walkway from the existing house to the new addition is cantilevering over a waterfall and little creek area. We do not want to disturb this area as it catches the water from the 3 houses to the west of his lot.

From what the surveyors told me today we need a 2' variance to the current set back which I believe is 7'. We are requesting a 5' setback on the east side towards the trail system.

If you need additional information please do not hesitate to call. 479-236-5830.

Sincerely,

A handwritten signature in blue ink, appearing to be "M. Testa", followed by a period.

Ramsey Surveying, Inc.

Survey Description

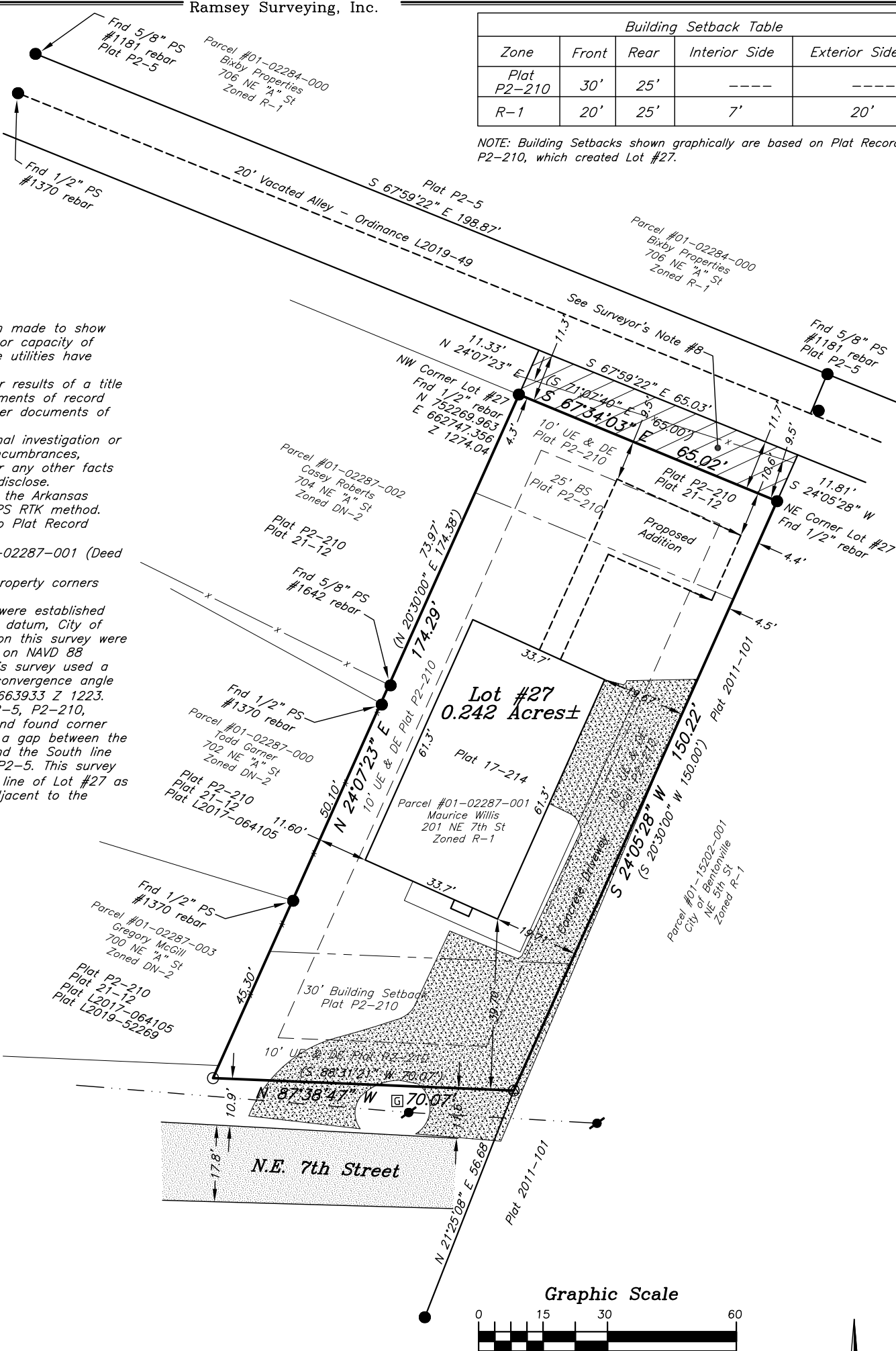
All of Lot 27 of Block 24 of Deming's 2nd Addition in Bentonville, Benton County, Arkansas, as recorded in Plat Record P2-210 in the Circuit Clerk's office in Bentonville.

Surveyor's Notes:

1. In providing this survey, no attempt has been made to show data concerning location, size, depth, condition or capacity of underground utilities existing on site. Only visible utilities have been located on this survey.
2. No abstract of title, nor title commitment, or results of a title search were furnished to the surveyor. All documents of record reviewed are noted hereon. There may exist other documents of record that affect this surveyed parcel.
3. Ramsey Surveying, Inc. has made no additional investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
4. Basis of bearings is Grid North according to the Arkansas Coordinate System, North Zone, derived from GPS RTK method. Record bearings in parentheses are according to Plat Record P2-210.
5. This plat represents a survey of Parcel #01-02287-001 (Deed Record 96-71304).
6. The purpose of this survey is to mark the property corners and to show visible improvements.
7. Horizontal coordinates shown on this survey were established by GPS RTK method and are based on NAD 83 datum, City of Bentonville Reference Station. Elevations shown on this survey were established by GPS RTK method and are based on NAVD 88 datum, City of Bentonville Reference Station. This survey used a combined scale factor of 0.999978117 with a convergence angle of $-1^{\circ}17'00.60236''$ calculated at N 752133 E 663933 Z 1223.
8. Based on Plat Records 17-214, 21-212, P2-5, P2-210, 2011-101, L2017-064105 and L2019-52269 and found corner monuments on said plats, there appears to be a gap between the North boundary of Lots 25 and 27 Block 24 and the South line of the vacated alley as shown on Plat Record P2-5. This survey yielded to found rebars on the North boundary line of Lot #27 as shown on Plat Record P2-210, which is not adjacent to the vacated alley, recorded in Ordinance 2019-49.

Building Setback Table				
Zone	Front	Rear	Interior Side	Exterior Side
Plat P2-210	30'	25'	----	----
R-1	20'	25'	7'	20'

NOTE: Building Setbacks shown graphically are based on Plat Record P2-210, which created Lot #27.



Surveyor's Certification

To Trey Willis: This is to certify that an accurate survey was made of the hereon-described property and that this plat is the results of that survey. The land was surveyed under the supervision of Jim Ramsey, PS #1227, with a plat of said survey filed in the State Land Surveyor's Office in Little Rock, Arkansas.

FLOOD CERTIFICATION: According to this survey, no part of the above described land appears to lay in a known flood area, according to FIRM Community Panel number 05007C0090 J, effective date, September 28, 2007. The property surveyed is located in Zone X. A search for recently completed LOMAs effecting the location of the flood zone has not been completed at this time. This survey was completed on August 5, 2022. This plat was completed on August 5, 2022.

LEGEND

- Found 5/8" Rebar
- Set 5/8" Rebar
- ⊗ Set Copper Marker
- ⊠ Gas Meter
- ⚡ Power Pole
- ⊗ Water Meter
- + Computed
- Property Boundary
- - - - - Centerline
- - - - - UE & DE
- - - - - Building Setback
- - - - - Fence
- - - - - Overhead Electric



RAMSEY SURVEYING, INC.
1729 West Poplar Street
Rogers, Ar. 72758
www.ramseysurveying.com

Job: Lot Survey For Trey Willis	
Scale 1"=30'	Drawn By: JFR
Date: 8/05/22	Rev:
Location: Lot 27 Block 24 Deming's 2nd Addition	
500-20N-30W-0-30-120-04-1227	
Jim F. Ramsey PS #1227 479-631-6663 Arkansas COA #1679	Job Number: 22186