

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
MEETING AGENDA
March 8th, 2023
Bentonville City Hall
305 SW A St
4:00 PM**

Meeting Link: https://us06web.zoom.us/webinar/register/WN_JC7HBB8NR4qWR3be3NNzdw

- I. Call to Order**
- II. Invitation From Mayor Orman**
- III. Approval of February 22nd Meeting Minutes**
- IV. New Business**

1. Walmart Stores Inc

714 SW 8th Street ([VAR23-0005](#))

- Fence Height Variance

Variance*

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**BOARD OF ADJUSTMENT
MEETING MINUTES
February 22nd, 2023
Bentonville City Hall
305 SW A St
4:00 PM**

Meeting Recording:

https://us06web.zoom.us/rec/share/Z06vym6Ra4Q4Q66FA0ld2zJFtoukMS94d1T-JoolWtzXyNNKh21tm6afIYxqSzFz.xwIvjgi_183mxzUm?startTime=1677103197000

Board Members Present: Joe Haynie, Celia Swanson, Dean Kruithof (Chair), Sam Pearson, BJ Phillips

City Staff Present: Luke Aitken

I. Call to Order

- Meeting Called to order at 4:00 PM by Chairman Kruithof

II. Approval of February 8th Meeting Minutes

- Motion by Pearson, second by Phillips to approve the minutes as presented
- February 8th Minutes Approved 5-0

III. New Business

1. Chris Conway

327 4th St (VAR23-0004) Fence Setback Variance

- Mr. Aitken gives an overview of the staff report
- Discussion around fence height and location regulations between Mr. Aitken and Board Members
- Chairman Kruithof opens the public hearing.
- The applicant, Chris Conway speaks to the reasoning for his request, stating that the setback from the pool he constructed, to his property line was not adequately enforced at the time of his pool permit being reviewed.
- The applicant requests to build an 8-foot-tall fence 1 foot away from his western property line and around an exterior side yard pool
- Public Hearing closed

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- Board Members discuss past variance cases that may have set precedent for the decision regarding fence height adjacent to a pool, to allow greater privacy, since a fence is required around the perimeter of the pool.
- Board members discuss that the hardship was not created by the applicants own actions
- Chairman Kruithof Clarifies that there will need to be two votes taken one for the fence height, and another for the fence location adjacent to right of way
- Motion by Haynie, second by Phillips to approve the first variance as presented
- Variance request for fence location is approved 5-0
- Motion by Pearson, second by Phillips to approve the second variance as presented
- Variance request for fence location is approved 5-0

Motion by Pearson, second by Phillips to Adjourn the meeting

Meeting Adjourned

BOARD OF ADJUSTMENT STAFF REPORT



Walmart Stores Inc

714 SW 8th Street

BOA Date: 3/8/2023

Reviewer: Bradley Gavrielides – Planning Technician

Project Number	VAR23-0005
Applicant / Current Owner	John Trahan / Walmart Stores Inc
Site Area	+/- 37.78 Acres
Current Zoning	C-2, General Commercial
Variance Request	Zoning Code Article: Article 1100 Development Standards Section: Sec 1100.06 Fence and Wall (h) Fence design standards (1) Fence Height. Section: Sec 1100.06 Fence and Wall (h) Fence design standards (1) Fence Height.
Related Projects	N/A

Property Description

This property is located at 714 SW 8th Street and is currently zoned C-2, General Commercial.

Regulation

Zoning Code Article 1100 Development Standards, Sec 1100.06 Fence and Wall (h) Fence design standards (1) Fence Height, allows a maximum height of 6 feet for fences.

Variance Request

The applicant is requesting two variances for the fence located along the northern section of the southeast corner of the property.

Variance request one is for a variance of 2 feet from the maximum fence height of 6 feet to allow an 8-foot-tall from grade fence. The applicant states that the taller fence would allow a greater screening between the Walmart Home Office service courtyard and the Bentonville Cemetery as well as screen the chain-link and barbwire fence that is already in place between the two. The applicant states that the chain-link and barbwire fence is proposed to remain in place after the construction of the newly proposed slat fence. The total linear length of this fence is approximately 332 feet, according to the drawings submitted to Staff.

The second variance request is for a variance of 6 feet from the maximum fence height of 6 feet to allow a 12-foot-tall from grade fence located on the western edge going north of the northern part of the fence along the southeastern corner of the property. This section of fence is shown as being approximately 24 feet in length and terminating into the existing chain-link and barbwire fence adjacent to the Walmart International building's southeastern corner. The chain-link and barbwire fence is proposed to remain in place as well.

Background

The applicant states that they want to create a nicer curb appeal to the area. The applicant states that the 12-foot section of fence is necessary in this section only to screen the cemetery. All the newly proposed fencing will be Trex-slat-style and will be attached to an existing concrete wall via 4"x4" galvanized steel tubing.

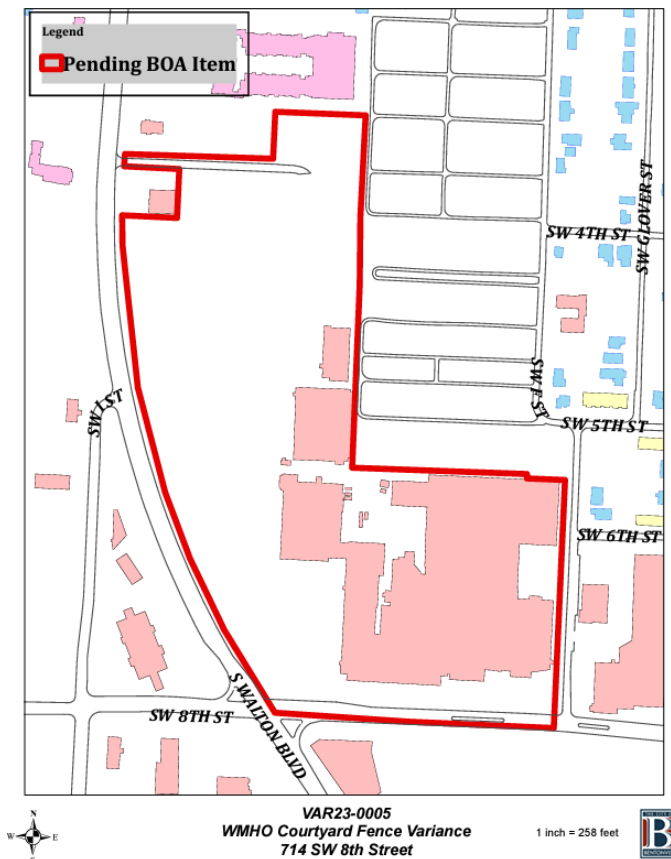
Public Comment

Staff has **NOT** received a public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

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



BOARD OF ADJUSTMENT STAFF REPORT

2. The applicant must obtain a fence permit before construction.
3. The fence must comply with Article 1100 Development Standards, Sec 1100.06 Fence and Wall (h) Fence design standards (1) Fence Height.

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.

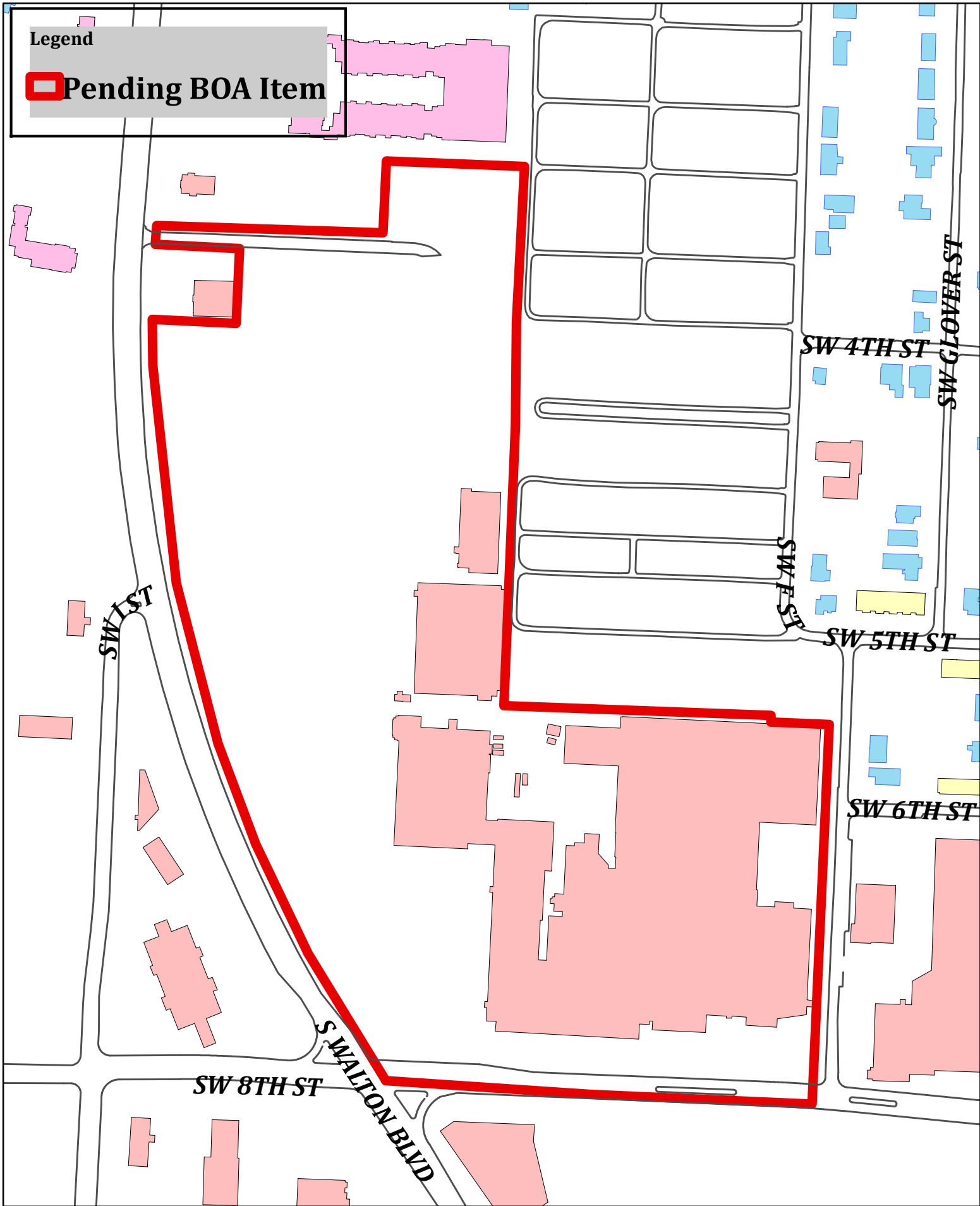
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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 Item



VAR23-0005
WMHO Courtyard Fence Variance
714 SW 8th Street

1 inch = 258 feet





Fence Height Variance

From: Eric Nielsen

Nielsen Architecture

eric@nielsen-architecture.com

479-381-0974

We are requesting a Variance for the overall height of a new fence that will be constructed between the Walmart Home Office service courtyard and the Bentonville Cemetery. This new fence would be attached to an existing retaining wall that is on Walmart Property. The existing 8-foot chain link fence and barbed wire fence will remain along the cemetery property line.

The request for variance is to allow a new 8-foot fence along the northern property line of Walmart as shown on the site plan. This additional height and design are need to screen views of the existing barbed wire fence and cemetery. The additional height needed on the west side is due to the existing height of the building entrance. A 12-foot-tall fence is needed in this location only to screen views of the cemetery.

Sincerely,

Eric Nielsen
Nielsen Architecture

2/16/2023 3:06:25 AM
C:\Users\eric\Documents\Walmart\10_Patio DWG_4796ec.rvt

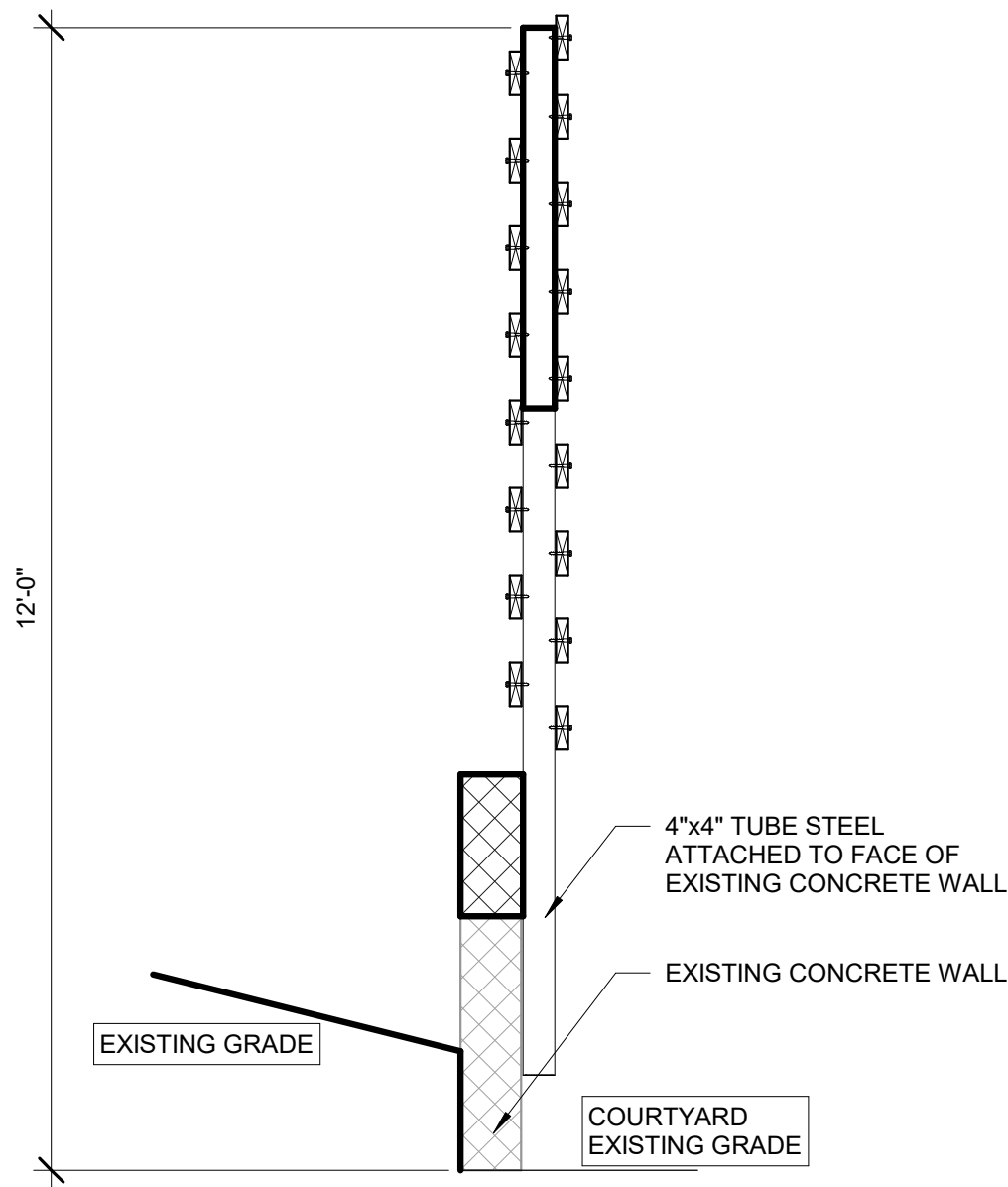
WALMART INTERNATIONAL



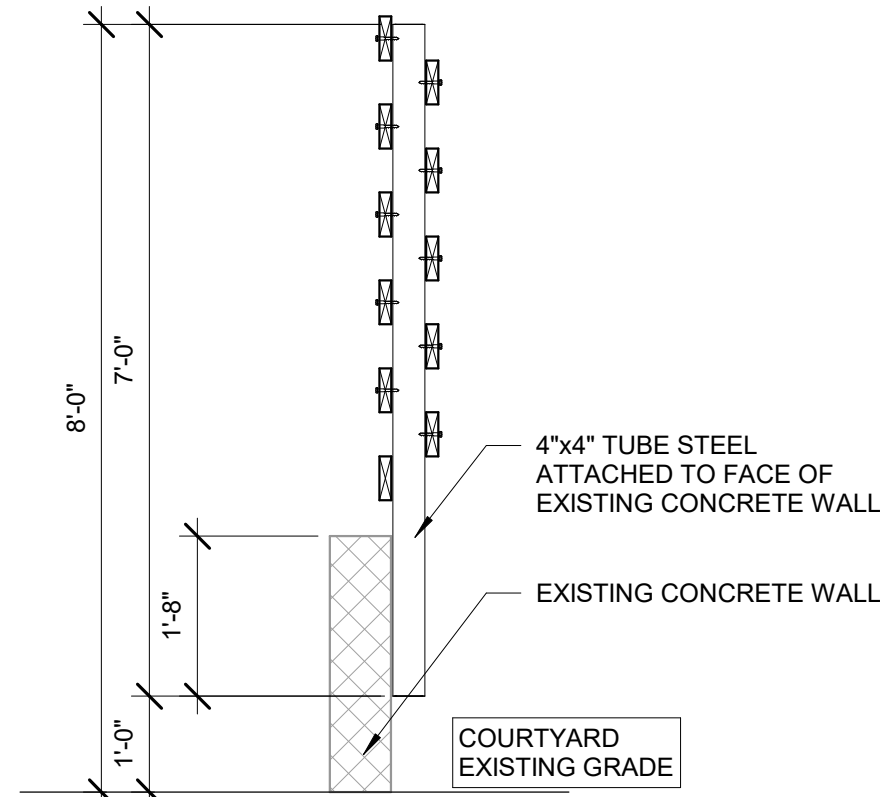
1 EXTERIOR FENCE LOCATION
1" = 20'-0"



FENCE OPTION
TREX FENCE SLATS
4" x 4" x VARIES; GALV. POSTS BOLTED TO THE FACE OF
THE EXISTING CONCRETE WALL @ 4'-0" MAX. SPACING

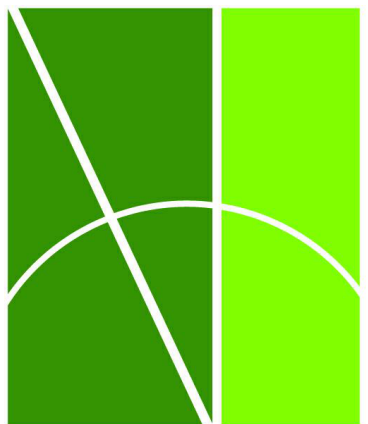


3 SLATWALL SCREEN WALL
1/2" = 1'-0"



2 SLATWALL FENCE SECTION
1/2" = 1'-0"

KEYNOTES - FIRST FLOOR PLAN		
KEY	NOTE	
FP100	PATIO ROOF	



NIELSEN
ARCHITECTURE, LLC
nielsen-architecture.com
1710 SW Commerce Drive
Suite 25
Bentonville, AR 72712
eric@nielsen-architecture.com
479.254.0112

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AND REVIEW ONLY
NOT FOR
CONSTRUCTION

PERTAINING TO ISSUES OF
CONFIDENTIALITY AND COPYRIGHT,
REQUEST FOR THE RELEASE OR
REPRODUCTION OF THESE
DRAWINGS MUST BE APPROVED BY
NIELSEN ARCHITECTURE, LLC.

WALMART H.O. PATIO

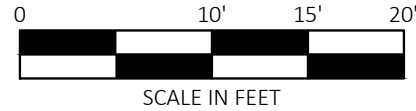
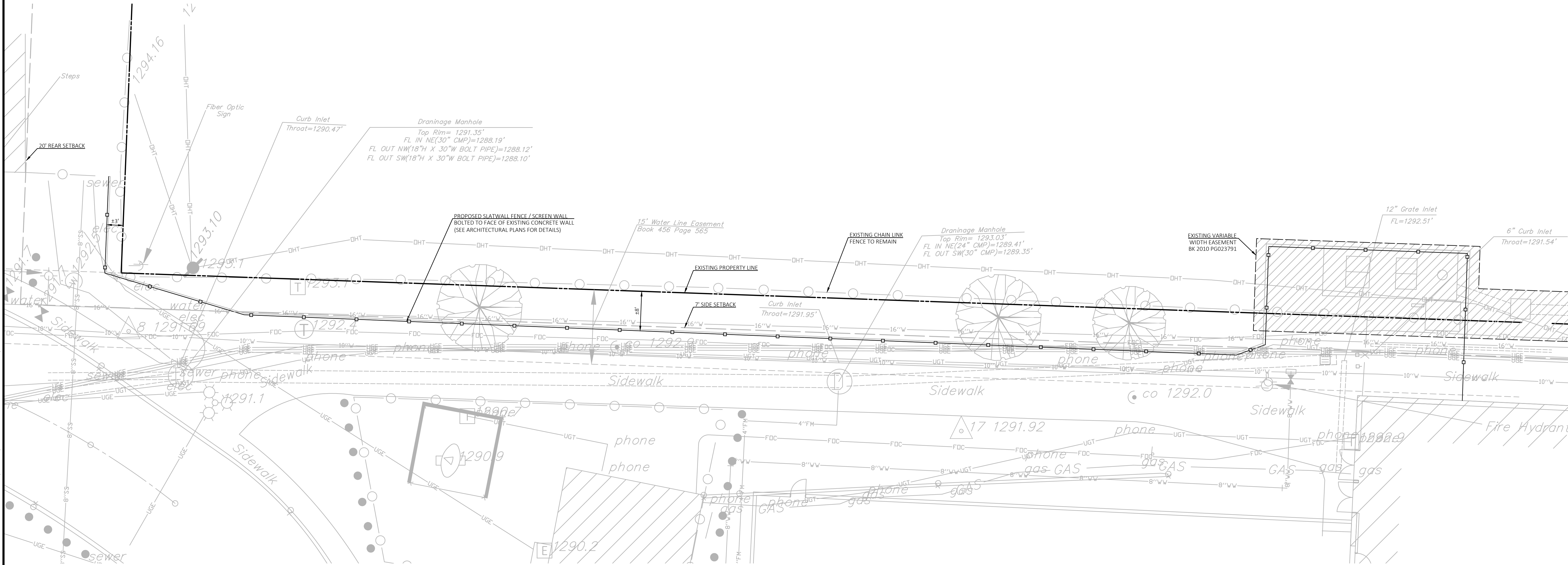
PROJECT NUMBER:		2022-0097
DRAWN BY:		JGK
APPROVED BY:		EJN
ISSUE DATE:		2022/10/14

REVISIONS		
#	DATE	DESCRIPTION

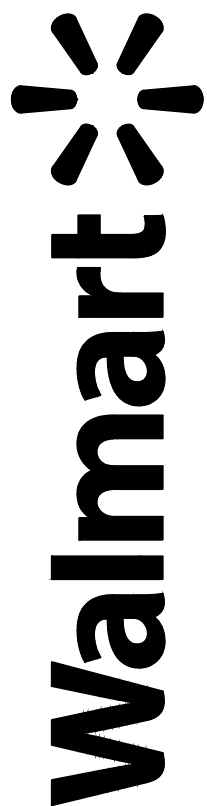
SHEET CONTENTS:

EXTERIOR FENCE

DRAWING LOCATION: P:\30000\101\01\WALMART PROJECTS WITHOUT PROJECT NUMBERS\2023-02-16 HOME OFFICE SCREENING\EXHIBIT.DWG - SAVED BY: ADAMAMS



WMHO SCREEN FENCE
702 SW 8TH STREET
BENTONVILLE, ARKANSAS



PRELIMINARY
NOT FOR
CONSTRUCTION

PROFESSIONAL OF RECORD	NA
PROJECT MANAGER	JT
DESIGNER	MDA
CEI PROJECT NUMBER	#####
DATE	2/28/2023
REVISION	REV-#

SITE PLAN

SHEET TITLE
SHEET NUMBER

C-1



Fence Permit

\$30 Fee (Must be paid in advance by check or money order)

Office Use Only:

Approved: ☐ Yes ☐ No

Approved by: _____

Date: _____

Application & Checklist

Please fill out this form completely, supplying all necessary information and documentation to support your request. Your application will not be processed until the application is completed and required documentation provided. Bring application to 305 SW A St, Bentonville, AR

INSTALLER INFORMATION:

☐ Check if fence will be installed by the owner

Contractor/Owner: Crossland

Contact Name: Joe Wilson

Phone # 479-866-4342

Mobile # 479-866-4342

Fax # _____

Mailing Address: 1800 S. 52nd Street, Suite 300

City: Rogers

State: AR

Zip: 72758

E-Mail Address: joe.wilson@crossland.com

PROPERTY INFORMATION:

☐ Residential OR ☒ Commercial

Address: 702 SW 8th Street

Subdivision: _____

Lot Information: ☒ Interior lot ☒ Corner lot Will the fence be installed in the front yard? ☐ Yes ☒ No

Will the fence be installed adjacent to a street or public right-of-way? ☐ Yes ☒ No

FENCE INFORMATION:

1. Is this fence: ☒ New Construction ☒ An extension of existing fence or wall ☐ Replacement

2. Type of fence: ☐ Chain link ☐ Wood privacy ☐ Wrought iron ☐ Retaining wall ☐ Brick
☒ Other (describe) Trex material with Galv. posts

(Note: Razor wire, barbed wire and electric fences are prohibited in residential zoned areas.)

3. Height of fence: 8'-12' ft.

4. Will the fence enclose a pool or hot tub? ☐ Yes ☒ No

SUBMITTAL CHECKLIST:

- ☐ 1. Application form.
- ☐ 2. Application/Permit fee of \$30.00
- ☐ 3. Site plan. (See next page for site plan requirements.)

A PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED, OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

I hereby certify that I have read and examined this document and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I understand granting of a permit does not presume to give authority to violate or cancel the provisions or any other state or local law regulating construction or the performance of construction.

Date 02/16/23

(SIGNATURE OF OWNER, CONTRACTOR OR AUTHORIZED AGENT)

Note: Inspection of permitted work may reveal violations not discovered during plan review.

REV: JULY 2018