

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 22nd, 2023
Bentonville City Hall
305 SW A St
4:00 PM**

Meeting Link: https://us06web.zoom.us/webinar/register/WN_-Ja6StwdR8KZNaehAJ_5Sw

- I. Call to Order**
- II. Approval of March 8th Meeting Minutes**
- III. New Business**

1. Glen Arbor PRD LLC

Variance*

2910 SW Grandshire Ave ([VAR23-0006](#))

- Fence Setback Variance

2. HSK Homes

Variance*

2004 NE Chaucer St ([VAR23-0007](#))

- Front Building Setback Variance

3. Discussion on Amending Article 1100 Sec 1100.06 Fence and Wall Requirements.

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

Meeting Link:

<https://us06web.zoom.us/rec/share/kAgiWdqzIdseIfc456qd2SdsRXLokdL0glSGxNyZP5OZ05eftfg-LwpbS2XkvnbZ.LBrRetS-EnIupOTj?startTime=1678312634000>

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

City Staff Present: Bradley Gavrielides, Tom Adler, Tyler Overstreet

I. Call to Order

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

II. Approval of February 22nd Meeting Minutes

- Motion by Pearson, second by Haynie to approve the minutes as presented
- February 22nd Minutes Approved 5-0

III. New Business

1. Walmart Stores Inc

Variance*

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

- Mr. Gavrielides gives an overview of the staff report
- Chairman Kruithof explains the variance process to the applicant
- Chairman Kruithof opens the public hearing.
- The engineer, Eric Nielsen, speaks on behalf of the applicant explaining that the fence is proposed to screen the Walmart cafeteria and dining area from the Bentonville Cemetery. Mr. Nielsen also states that the buildings are also a few feet above grade.
- John Trahan Speaks via zoom. Further explains the need for the 12-foot section along the western area.
- Board member Phillips asks why the fence is needed since it has been as it stands for years. Phillips asks how far off the chain-link fence the new fence is proposed.
- Mr. Gavrielides indicates the chain-link is approximately 8 feet from the new fence.

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- Board Member Swanson asks what the hardship is in the application.
- Board discusses what the hardship could be.
- Chairman Kruithof reads through the Standards of Approval for a variance.
- Phillips asks if the applicant would be willing to remove the old chain-link fence and barbwire as a condition of approval.
- Mr. Trahan agrees that the applicant would be willing to do that.
- Motion by Phillips to approve the variances for fence height on the condition that the old chain-link and barbwire fence be removed. Second by Pearson.
- Variance requests for fence height are approved 4-0. Haynie abstained due to conflict of interest.

Invitation by Mr. Overstreet on behalf of Mayor Orman to the board members to the State of the City meeting.

Motion by Pearson, second by Haynie to Adjourn the meeting

Meeting Adjourned

BOARD OF ADJUSTMENT STAFF REPORT



Glen Arbor

2910 SW Grandshire Avenue

BOA Date: 3/22/2023

Reviewer: Bradley Gavrielides – Planning Technician

Project Number	VAR23-0006
Applicant / Current Owner	GlenArborPRD, LLC
Site Area	+/- 0.28 Acres
Current Zoning	PRD, Planned Residential Development
Variance Request	Zoning Code Article: Article 1100 Development Standards Section: Sec 1100.06 Fence and Wall (g) Fence location (2) Adjacent to public right-of-way.
Related Projects	PRD18-0002

Property Description

This property is located at 2910 SW Grandshire Ave and is currently zoned PRD, Planned Residential Development.

Regulation

Zoning Code Article 1100 Development Standards, Sec 1100.06 Fence and Wall (g) Fence location (2) Adjacent to public right-of-way, requires a fence to be located a minimum of 5 feet from the right-of-way boundary.

Variance Request

The applicant is requesting two variances for a new fence to be constructed along Glen Road and along Featherston Road.

Their first variance request is for a variance of 5 feet from the minimum setback of 5 feet from the right of way boundary to allow the fence to be located on the property line along Glen Road. The applicant states that with the fence located on the property line, it allows 18 feet from the edge of the street and 6 feet from the sidewalk. The applicant states that locating the fence 5 feet from the right of way also places the fence on the gas, ATT, and COX utilities, thus requiring the fence to be pushed further back into the property, as there is a required 18-inch buffer from these utilities.

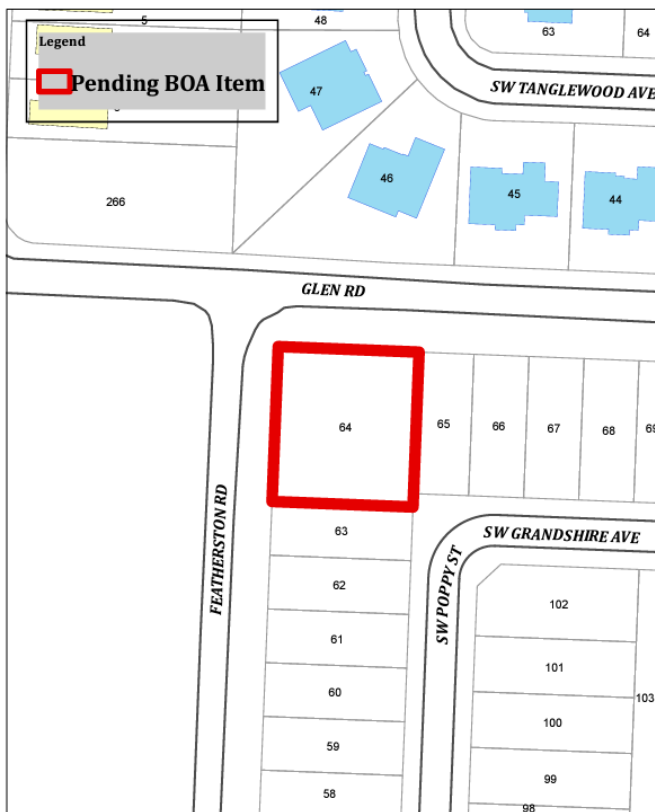
The second variance request is for a variance of 3.5 feet from the minimum setback of 5 feet from the right of way boundary to allow the fence to be located on 1.5 feet from the right-of-way boundary along Featherston Road. The applicant states that with the fence located on 1.5 feet from the right-of-way boundary, it allows 16 feet from the edge of the street and just over 1.5 feet from the sidewalk. This fence location is also restricted by the location of the utilities being nearby.

Background

The applicant states that the requests provide adequate green space on both sides of the fence and adequate buffer from the sidewalk. Applicant states that if the 5-foot setback is required, as well as the additional setback to avoid the utilities, it will deprive the owners of 24% of their rear yard. The applicant states that the PRD was designed to meander the existing street sections of the area and avoid power poles and existing utilities, thus this hardship was not caused directly by the applicant.

Public Comment

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



VAR23-0006
GlenArborPRD, LLC
2910 SW Grandshire Ave-Fence Location

1 inch = 60 feet



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, minus the other conditions, as provided by the applicant within this application.
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 (g) Fence location (2) Adjacent to public right-of-way, minus the approved variances.

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.



VAR23-0006
GlenArborPRD, LLC
2910 SW Grandshire Ave-Fence Location

1 inch = 60 feet





GlenArbor

02/17/23

Planning Staff
305 SW A Street
Bentonville, AR 72712
479-271-3122
Attn: Mr. Tyler Overstreet
RE: Request of Waiver for fence regulation #3

Dear Mr. Overstreet,

GlenArbor PRD has been working to start the remaining amenities and fences at our Neighborhood. We have fenced the dog park and pickle ball courts and are now moving to the perimeter of the neighborhood along SW Glen and Featherston. We will be using black metal fencing at the corner of Glen and Featherston, both entries and east pond front on Glen. Wood privacy fencing will be behind the lots along Glen and Featherston, see attached map.

The reason I am writing today is to request a waiver of the fence requirement #3 stating that the fence must be at least 5' from the street or public right-of-way. I have attached exhibits for Glen and Featherston showing existing conditions and what we are requesting. In Summary, if both fences are placed on the property line the fence on Glen would be 18' from the street and 6' from the sidewalk but at the Right-of-Way. The fence on Featherston would be the would be a min of 16' from the street and 1'7" away from the sidewalk but at the right-of-way, see attachments A and B.

We are asking for a waiver that the fence must be at least 5' from the right-of-way. I have visited with some commissioners and other departments, and it seems the intent of this regulation is to make sure of three basic principals. That the experience walking on the sidewalk does not feel closed off, that our citizens are not walking right on the street edge, and the fence is not right on the edge of the walkway. I believe in all cases we more than satisfy these goals of the regulations.

In addition, if we try to move 5' additionally into the owner's property we then land on the gas, ATT, and Cox utility lines and we must stay 18" from. This would then move the fence into their property even further, taking even more of their property. Given this undue hardship to the owners and our existing green spaces to the property lines we respectfully request the waiver and suggest the following fence placement.

1. We ask that the Glen Road fence be placed on the property line, see attachment A.
2. We would like the Featherston fence to be placed 3 feet off the back of sidewalk or 1'5" into the property, see attachment B.

Both the request keep plenty of green space and room on both sides of the sidewalks. Because the way the PRD was designed this is a unique street section . If we are forced to place the fence 5' from the right-of- way and the additional feet to accommodate utilities, this deprives the owners of 24% use of the back yard property. The street section design was due to the existing road location, power poles and utilities and was not caused directly by us. We believe this would be something approved anywhere else with the same street section, green spaces and walk location.

We ask that this waiver, if possible, could be administratively approved because of the PRD. If it is not possible, we request the earliest hearing at the Board of Adjustments to review our waver request. Let me know how to proceed please. We intended on submitting the fence permit through the GlenArborPRD project in Etraket, like we did the dog park fence. If I need to submit a application for a waiver or hearing request let me know how and in what format you would like.

Thank you for your consideration,

Bill Burckart, Managing Member

Please see attachments

Final plat

Property Owners Consent Form

General fence mark up for reference.

Exhibit of location of attachment A and Blow up of A

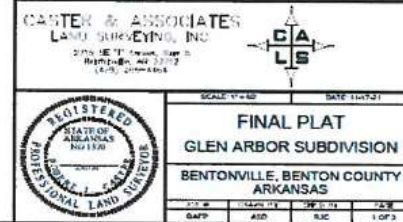
Exhibit of location of attachment B and Blow up of B

2 ←



PART OF THE EAST HALF OF SECTION 28, TOWNSHIP 46 NORTH, RANGE 31 WEST, BROWN COUNTY, MINNESOTA, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NW CORNER OF THE E/4 OF THE S/4 OF SEC. 28; THENCE ALONG THE WEST LINE OF SAID E/4 OF THE S/4 SUBV. BY W/4 1934 37 FEET; THENCE LEAVING SAID WEST LINE 40 HYPOTENUSE BEARING TO THE WEST BY COURSE & DISTANCE OF ONE FEATHERSTONE ROAD AND THE POINT OF BEGINNING, THENCE ALONG A COURSE & DISTANCE OF 120.94 FEET; THENCE LEAVING SAID WEST LINE BY COURSE & DISTANCE OF 120.94 FEET; THENCE ALONG A COURSE & DISTANCE OF 120.94 FEET TO THE POINT OF BEGINNING. CONTAINING 306 AC OR LESS SQUARE FEET OR 0.61 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-PASSY, EASEMENTS AND RESTRICTIVE COVENANTS OF RECORD ON FACE



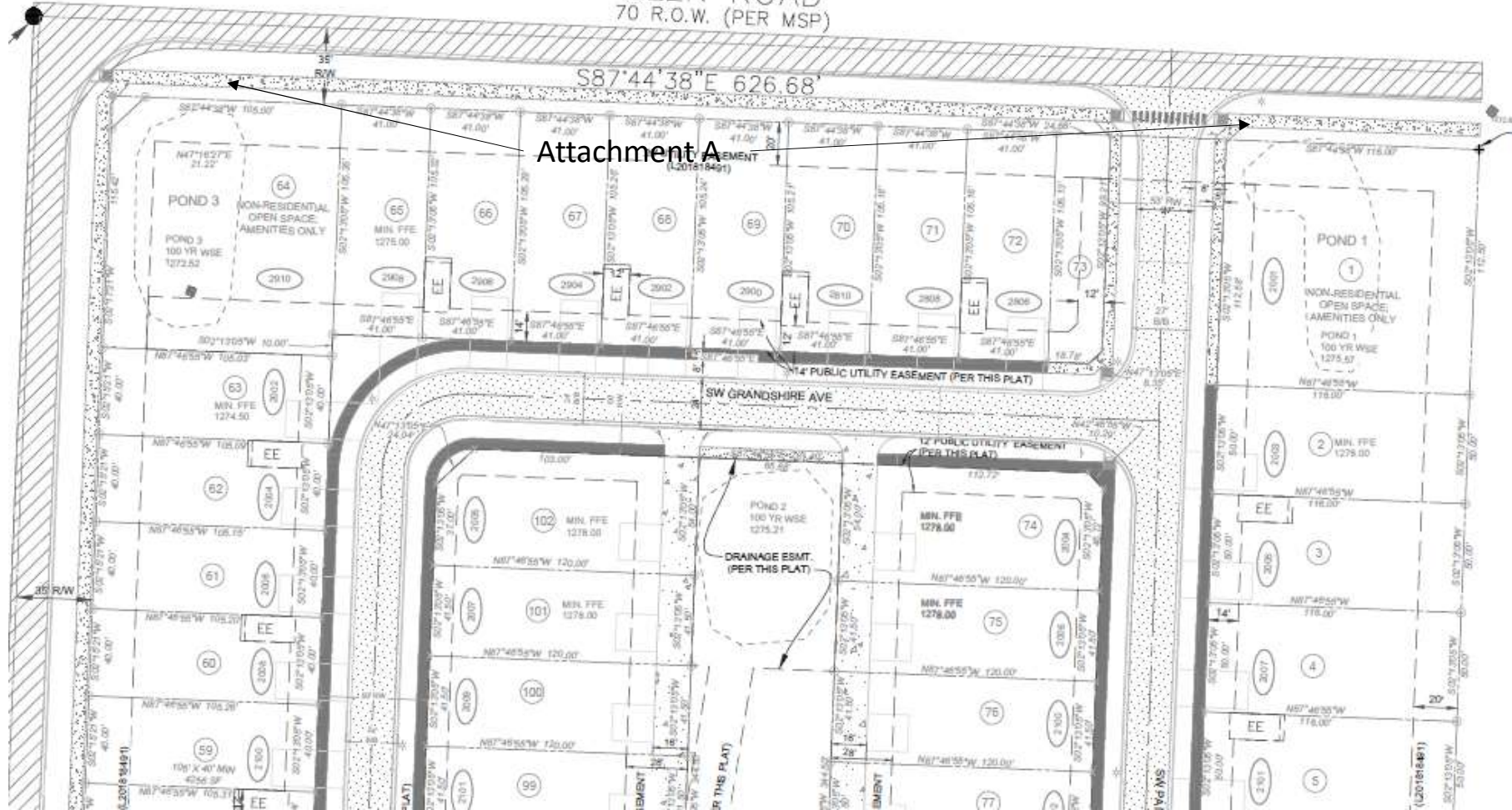
METAL
WOOD
~~CLAY~~

GLEN ROAD
70 R.O.W. (PER MSP)

S87°44'38"E 626.68'

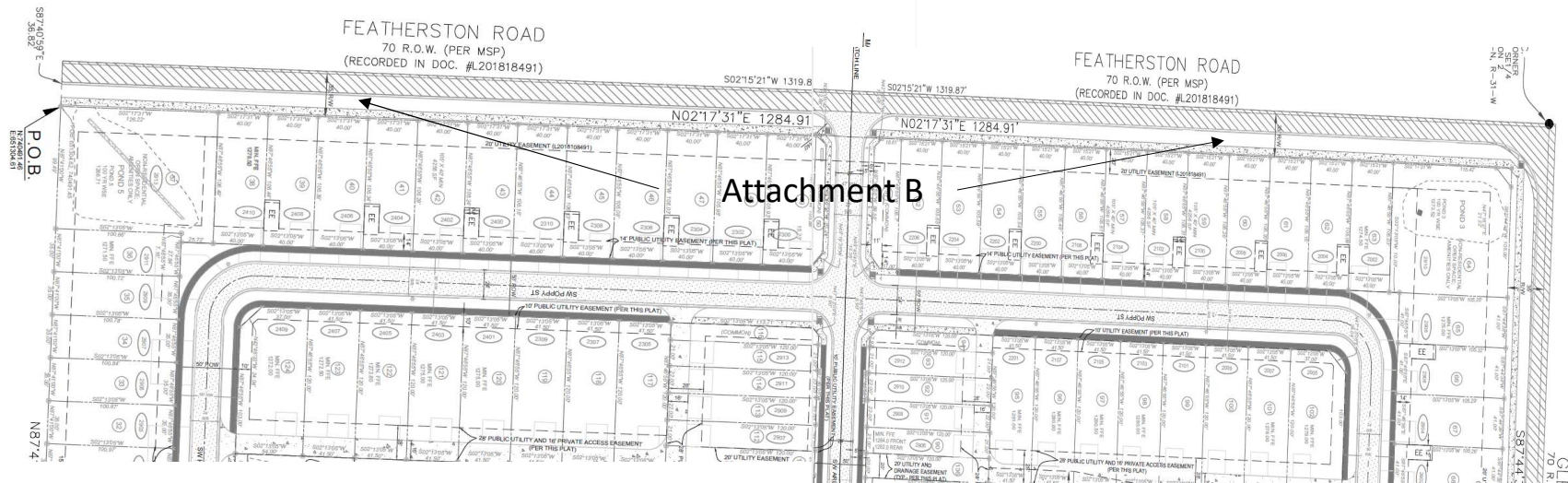
Attachment A

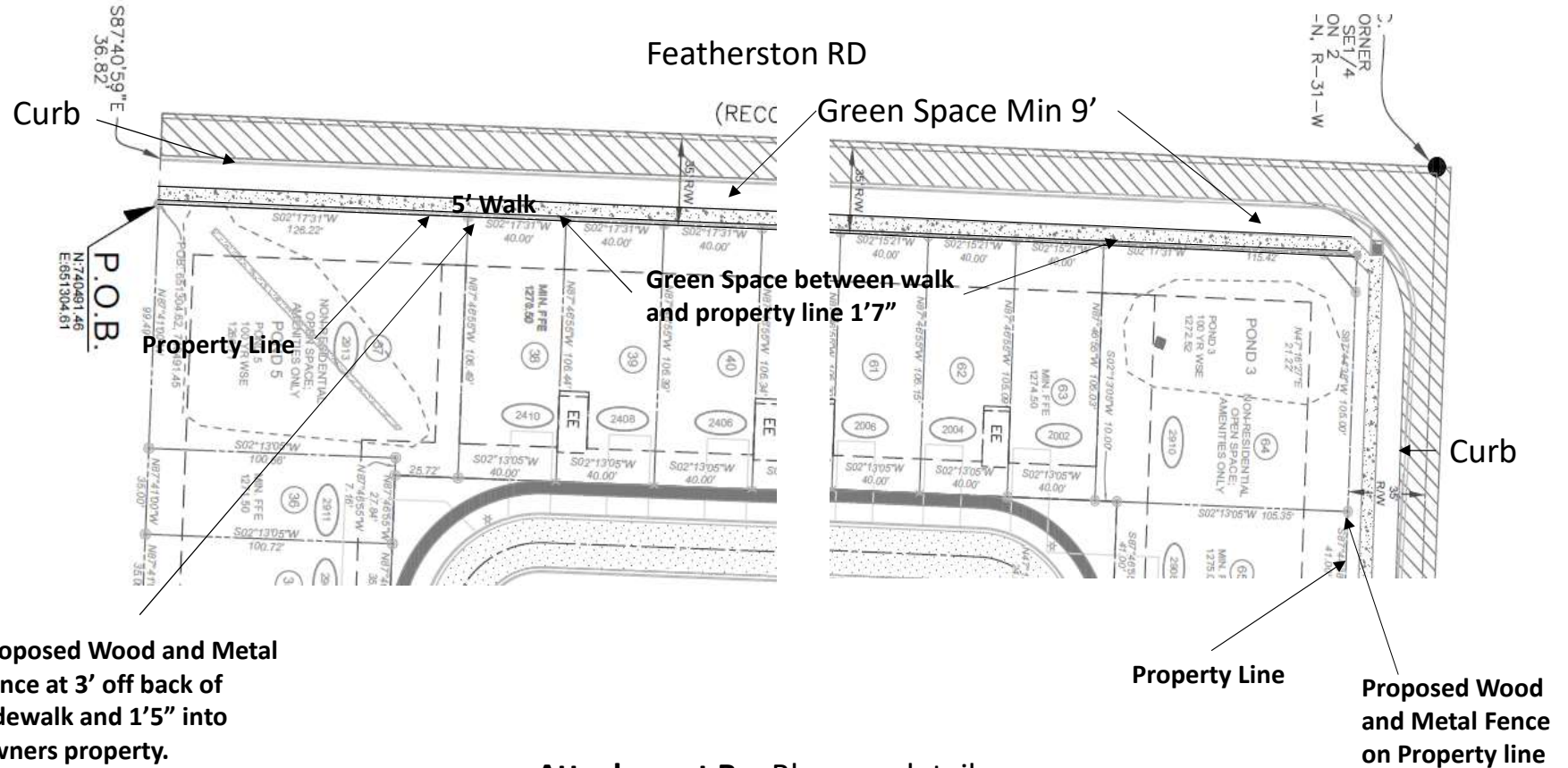
N:741750.67
E:651982.20



GLEN ROAD
70 R.O.W. (PER MSP)







**Attachment B – Blow up detail,
Green space between curb and
walk / Walk and property line**

BOARD OF ADJUSTMENT STAFF REPORT



HSK Homes

2004 & 2006 NE Chaucer Street

BOA Date: 3/22/2023

Reviewer: Bradley Gavrielides – Planning Technician

Project Number	VAR23-0007
Applicant / Current Owner	Phil Swope / HSK Homes LLC
Site Area	+/- 0.19 and 0.21 Acres
Current Zoning	PUD, Planned Unit Development
Variance Request	Zoning Code Article: Article 401 Zoning District Regulations Section: Sec 401.10 PUD, Planned Unit Development (f) Development criteria for PUD districts (3) PUD districts perimeter requirements.
Related Projects	PUD 04-13000004

Property Description

This property is located at 2004 and 2006 NE Chaucer Street and is currently zoned PUD, Planned Unit Development.

Regulation

Article 401 Zoning District Regulations, Sec 401.10 PUD, Planned Unit Development (f) Development criteria for PUD districts (3) PUD districts perimeter requirements, allows a PUD project to produce its own setback requirements and once approved, must be adhered to.

Variance Request

The applicant is requesting a variance from the front setback requirement of PUD 04-13000004 of 30 feet for 2004 and 2006 NE Chaucer Street.

Each variance request is for a variance of six (6) feet ten (10) inches from the 30-foot front setback requirement to allow a front setback of 23 feet and 2 inches. The applicant states that the rear topography of these lots is extreme and creates a hardship for these lots. The applicant states that the existing lot grades appear to be the result of the subdivision design and construction. The applicant states that if the 30-foot front setback is required to be adhered to, a much smaller house would have to be built, thus reducing the neighboring property values. The current design has a garage in the front of the home that is setback 20 feet from the property line.

Background

The applicant states the setback variance meets the standard criteria established for granting variances. The down sloping lot was not directly caused by the applicant.

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.
2. The applicant shall be required to obtain an approved building permit prior to construction.



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.



VAR23-0007
HSK Homes LLC.
2004 NE Chaucer St-Setback Variance

1 inch = 92 feet





February 28th, 2023

City of Bentonville
305 SW A Street
Bentonville, AR

RE: Front Building Setback Variance – 30' to 23'
Lot# 101 and 102, Grammercy Park Subdivision

To whom it may concern, please consider a building setback variance for the referenced project. These lots have its own set of challenges and requires some accommodations to make it work. See the following responses, below, to the required criteria.

The special condition and circumstance that exists for the lots is the rear yard topography. These lots are not buildable well into the rear buildable area of the lots; therefore, the proposed homes need shifted to the front.

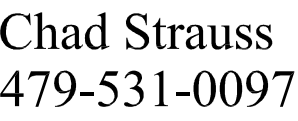
Literal interpretation of the setback ordinance would mean a much smaller house would have to exist on both lots, thereby reducing property values of its neighbors.

The special condition in this case, the lot topography, is not the result of the current lot owner. The existing lot grades appear to be result of subdivision design and construction.

In summary, this setback variance meets the standard criteria established for granting variances. This letter is submitted for your review and approval.

Sincerely,

Phil Swope, PE
Project Engineer



ad Tech is a residential design service not a registered architectural firm. The purchaser and builder of these plans releases Cad Tech from any liability and/or claim that may arise during construction or hereafter. Therefore the builder must carefully inspect all aspects of these drawings, including but not limited to dimensions, details, accuracy and overall integrity. These plans may need to be modified to comply with local and/or governing codes.

LOT 101 GRAMMERCY PARK
2006 N.E. Chaucer St.
Bentonville, AR

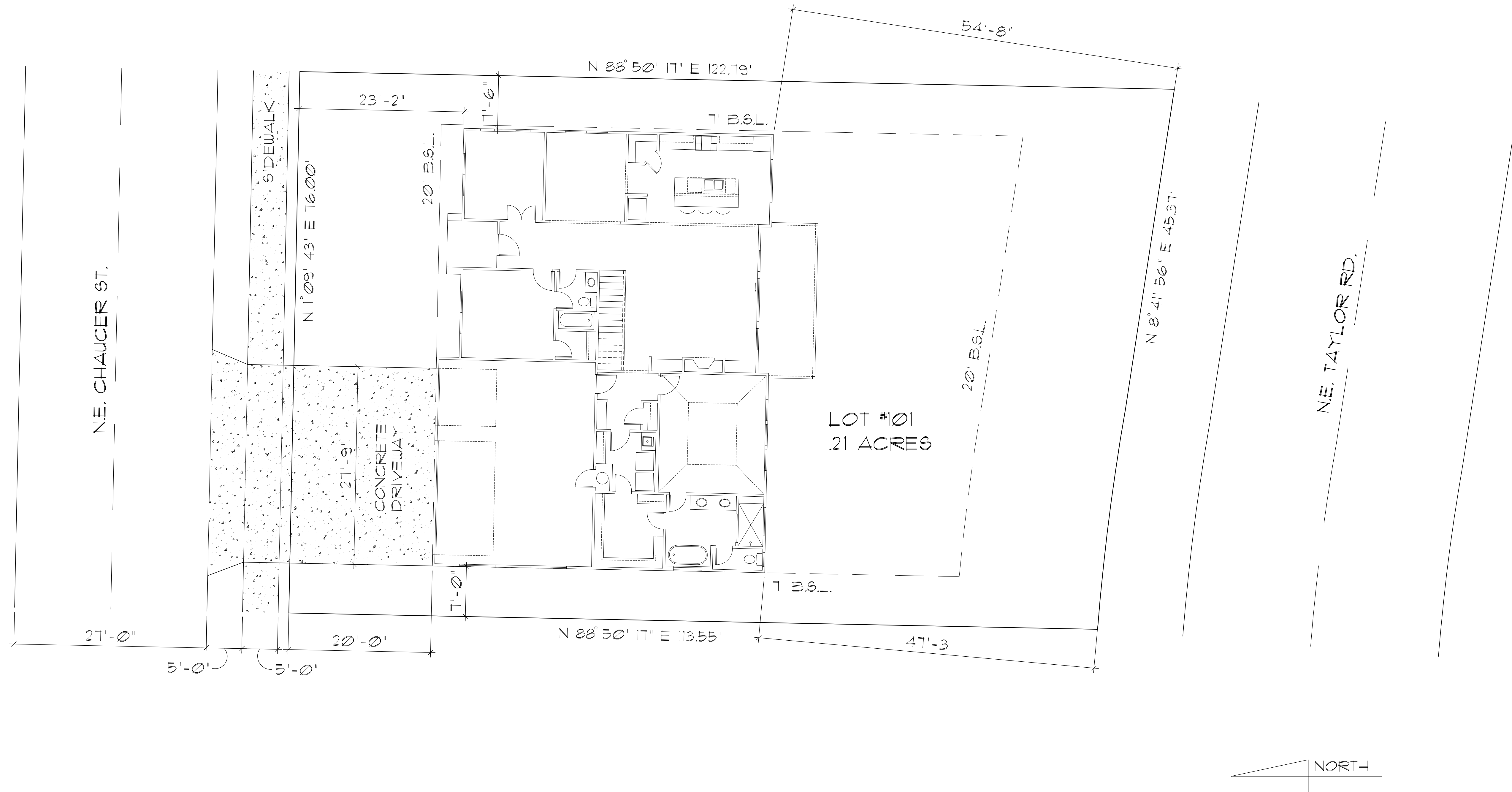
SITE PLAN

Drawn By : CPS
Checked By :
Date: 1-15-23
Project No. HA-03
Revisions:

Sheet 1 of

S1.0

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Contains ▾

Search Value:

RES23-0101

SEARCH

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Review - BUILDING SITE PLAN

Review Group:

AUTO

Review Type:

BUILDING SITE PLAN

Status:

RESUBMITTAL REQUIRED

Date Sent:

2/7/2023

Date Returned:

2/21/2023

Reviewer:

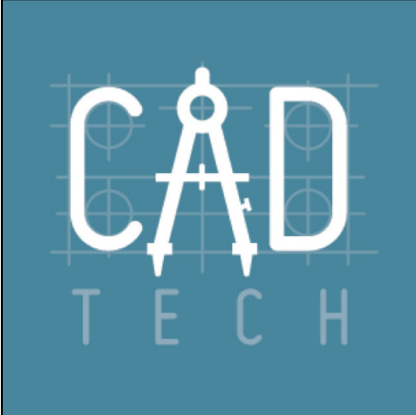
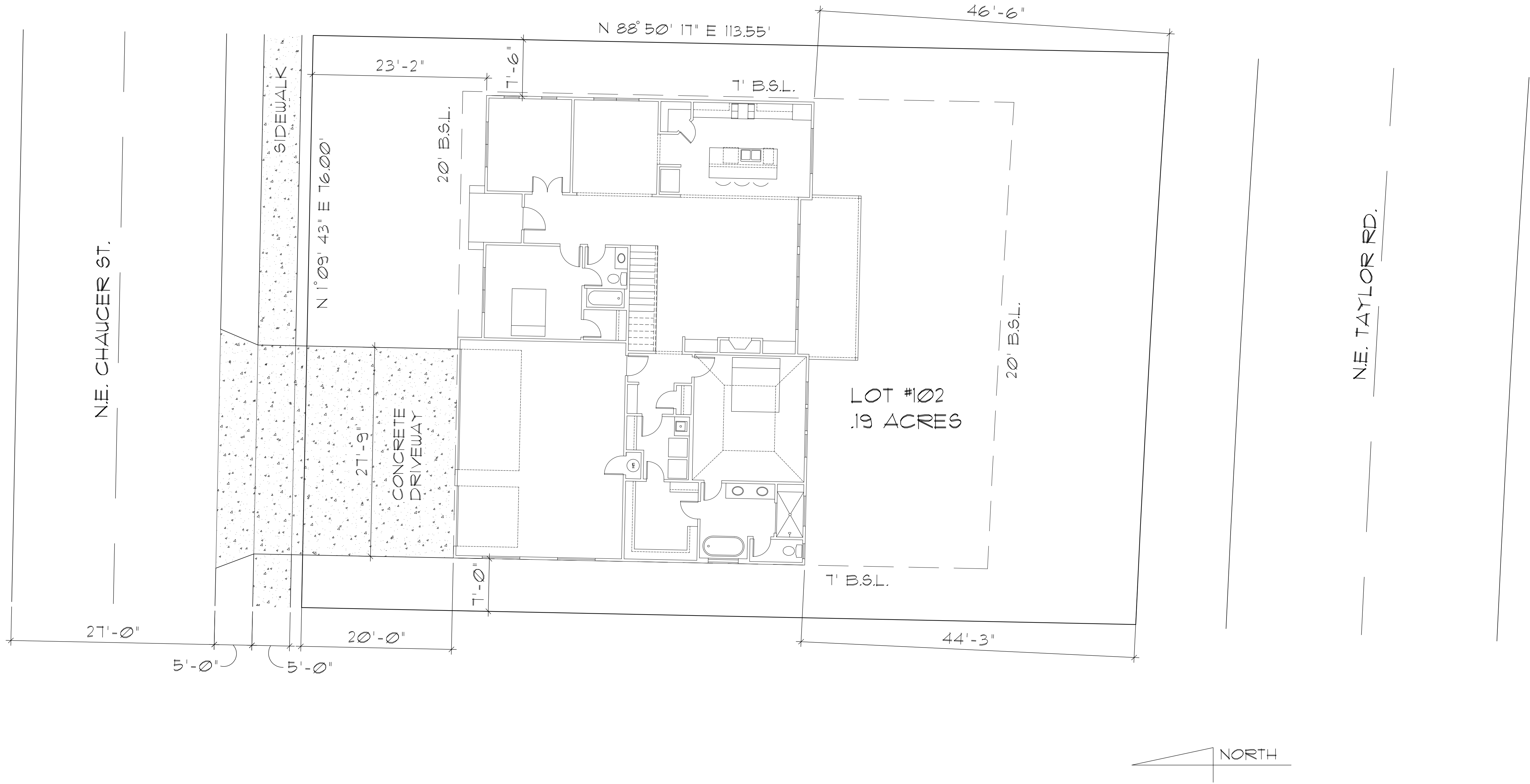
LANCE BLASI

Notes:

2/21/2023 1:46:17 PM - LANCE BLASI

According to the final recorded plat, the front garage setback is 20' and the house setback is 30'. The garage portion setback is ok because it is setback 20', but the house portion is only setback 23'-2". Need to push the house back 7' to meet the house setbacks. Please re-submit. Thank you.

CLOSE



Chad Strauss
479-531-0097

Cad Tech is a residential design service not a registered architectural firm. The purchaser and builder of these plans releases Cad Tech from any liability and/or claim that may arise during construction or thereafter. Therefore the builder must carefully inspect all aspects of these drawings, including but not limited to dimensions, details, accuracy and overall integrity. These plans may need to be modified to comply with local and/or governing codes.

LOT 102 GRAMMERCY PARK
2004 N.E. Chaucer St.
Bentonville, AR

SITE PLAN

Drawn By : CF6
Checked By :
Date: 1-15-23
Project No. HA-02
Revisions:

Sheet 1 of 1

S1.0

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Search Operator: Contains ▾

Search Value: RES23-0102

SEARCH

[Click here for search examples](#)

Review - BUILDING SITE PLAN

Review Group: AUTO

Review Type: BUILDING SITE PLAN

Status: RESUBMITTAL REQUIRED

Date Sent: 2/7/2023

Date Returned: 2/21/2023

Reviewer: LANCE BLASI

Notes:

2/21/2023 1:44:15 PM - LANCE BLASI

According to the final recorded plat, the front garage setback is 20' and the house setback is 30'. The garage portion setback is ok because it is setback 20', but the house portion is only setback 23'-2". Need to push the house back 7' to meet the house setbacks. Please re-submit. Thank you.

CLOSE

Completed	More Info
2023	More Info
1/2023	More Info
2023	More Info
1/2023	More Info

Sec 1100.06 Fence And Wall Requirements

1. *Applicability.* The requirements of this section shall apply in the following instances in all zoning districts, except as exempted in this section:
 1. *New construction.* Construction of a new fence or wall.
 2. *Extension.* Extension of or addition to an existing fence or wall.
 3. *Replacement.*
 1. Replacement of an existing fence or wall that is a different size, at a different location or of a different material (e.g. a chain link fence being replaced by a wood privacy fence); or,
 2. Replacement of more than fifty percent (50%) of the linear length of an existing fence.
2. *Exemptions.* This section shall not apply to replacement of less than fifty percent (50%) of the linear length of an existing fence, except that the portion being replaced shall not:
 1. Impede visibility at the sight triangle;
 2. Impede a natural drainage way;
 3. Be located in certain utility easements that require gated access; or
 4. Encroach into neighboring property lines.
3. *Fence permit required.* A fence permit shall be obtained prior to beginning construction and replacement of all applicable fences and walls, except those shown on an approved preliminary plat or large scale development. The following items shall be submitted:
 1. *Application.* Completed application form.
 2. *Fee.* Pay the fee as indicated on the application form.
 3. *Site plan.* Provide a site plan that shows the following:
 1. Location of all property lines.
 2. Location of all existing structures.
 3. Location of existing or proposed pool or spas.
 4. Location of existing fencing on or adjacent to the property that is to remain in place.
 5. Portions of existing fence that will be replaced.
 6. Location of new fencing.
 7. A note indicating the height of the proposed fence and the type of fence construction (i.e. wood privacy, wrought iron, brick, etc.).
 4. *Cut sheet.* A cut sheet or photo of the fence style, labeling the side of the fence that is the finished surface.
4. *Review and approval.* Once all the required information is submitted, it will be reviewed by the planning department for compliance. If the application is approved, the fence permit will be issued. Any deviations to from the Fence and Wall Requirements shall be reviewed by the Director of Planning for approval. Any proposed deviation from the Fence and Wall Requirements not approved by the Director of Planning may be appealed to the Board of AdjustmentsApproval.

5. *Compliance.* All fences or walls must be installed in compliance with the fence regulations and with the information shown on the approved site plan and fence permit application form.
6. *Inspection required.* The applicant shall contact the building inspection department to request a final inspection upon completion of the fence. If the building inspector determines that the fence is constructed in accordance with the ordinance requirements and the approved fence permit, a Certificate of Compliance will be issued. If the fence does not pass the inspection, the building inspector shall prepare an inspection report detailing the deficiencies.
7. *Fence location.*
 1. *Private property.* All fences and walls shall be located on private property and shall be built with the consent of the property owner. The installer and/or property owner shall be responsible for correctly locating all property lines. Fences and walls shall not encroach into any neighboring property lines.
 2. *Adjacent to public right-of-way.* A fence or wall shall be placed no closer than five (5) feet to the current or proposed public right-of-way as prescribed within the Master Street Plan.
 3. *Utility easements.* Walls used as fences and footings for retaining walls are prohibited in a utility easement. Construction of all other fences in utility easements is allowed, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement(s) shall have a gate installed to allow access to the easement.
 4. *Drainage easements.* Fences or walls shall not impede the normal flow of storm water and shall not cross an open drainage channel. Fences or walls proposed in drainage easements shall be approved on a case by case basis. The city reserves the right to remove any fence found to be impeding the normal flow of storm water and replacement cost of such fence shall be the sole responsibility of the property owner. Except where exigent circumstances exist, reasonable notice to the property owner shall be made or attempted prior to City staff or contractors entering the property to remove a fence.
 5. *Access easement.* Fences or walls shall not be constructed over a public access easement. Fences or walls proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.
 6. *Sight distance requirements.* Fences shall comply with the areas to be kept clear of all sight obstructions as set forth in Sec. 1101(f) Sight Distances at Driveways and Intersections, unless otherwise approved by the city engineer.
8. *Fence design standards.* The following design standards shall apply to any new or replacements of any fence or wall where the length of the replacement exceeds fifty percent (50%) of the length of the existing fence.
 1. *Fence height.* The maximum fence height shall be six (6) feet above grade, with the following exceptions:

1. *Downtown zoning districts.* For properties in all Downtown Neighborhood (DN) zoning districts, the DE Downtown Edge zoning district, and the DC Downtown Core zoning district, the maximum rear yard fence height shall be eight (8) feet above grade.
2. *Front yard.* The maximum fence height for a fence or wall located in the front yard or positioned any closer to the front property line than the front surface of the building for a typical residential lot or commercial lot, shall not exceed four (4) feet in height. Decorative fencing, such as split rail, picket and wrought iron, is allowed.
3. *Side exterior yard.* The maximum fence height for a fence or wall located in the side exterior yard shall not exceed four (4) feet in height. However, if two corner lots have abutting rear property lines and side exterior yards along the same street, a fence or wall located in the side exterior yard shall not exceed six (6) feet in height. Decorative fencing, such as split rail, picket and wrought iron, is allowed.
2. *Finished surface.* Finished surface shall face outward from the property when visible from a public right-of-way. A finished surface shall be the surface of the fence where the pickets or slats are fully exposed to view. Posts, cross members, protruding bolts, and support beams shall be inside the finished surface facing the interior of the yard.
3. *Gates.* All fence segments abutting a thoroughfare, except for corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. An exception may be granted if the city receives a letter from the homeowners' association stating that this area is maintained by the association and not by individual homeowners.
9. *Fence types prohibited.*
 1. *Razor wire.* Razor wire is prohibited.
 2. *Barbed wire.* Barbed wire is prohibited, except in agricultural uses and may be used as an anti-climbing deterrent in industrial zones, but shall not be placed within five (5) feet of the right-of-way of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist.
 3. *Electric fences.* Electric fences are prohibited, except in agricultural uses but shall not be placed within five (5) feet of the right-of-way of a public sidewalk or within five (5) feet of a street right-of-way where a public sidewalk does not exist. Underground electric pet fences are permitted.
10. *Fences for pools and spas.* Outdoor pools, spas and hot tubs shall be protected by an enclosure designed to restrict access by children. If a fence is intended to serve as the required enclosure, it shall meet the following requirements in addition to those that apply to a fence or wall.
 1. *Height.* The minimum height of the fence enclosure shall be at least forty-eight (48) inches. The maximum clearance between the bottom of the fence and the ground shall be two (2) inches.

2. *Gates.* Gates in the enclosing fence shall swing away from the pool/spa area and be designed to be self-closing and self-latching. If the latch or latch release hardware is on the outside of the fence, it shall be at least fifty-four (54) inches above the ground. If the latch hardware is on the inside of the fence, it must be at least three (3) inches below the top of the fence and there shall not be any openings more than a half-inch in width within eighteen (18) inches of the latch. Gates more than five (5) feet in width and designed for equipment access to the fence area are not required to be self-closing or self-latching provided they are locked at all times except when needed for equipment access.
3. *Design.* The fence shall be designed so that there are no openings large enough to allow the passage of a four-inch diameter sphere and so that no "ladder effect" is created on the outside. If a chain link fence material is used, the maximum size of the openings (i.e., the distance between parallel wires) shall not exceed one and a quarter (1¼) inches.
11. *Fences for detention and retention ponds.* If a fence or wall is installed around a detention or retention pond with permanent water two (2) feet deep or more, the fence or wall shall meet the requirements of Subsection (g) Fences for pools and spas above.