



**Board of Adjustments
Meeting Agenda
May 27, 2026
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link: <https://us02web.zoom.us/j/86066909662>

Notice: Fraudulent invoices are being sent to builders and developers who have active projects in the City of Bentonville. The invoices appear to come from the City of Bentonville but ask for a wire transfer of funds. **The City of Bentonville will never ask for a wire transfer of funds.**

I. Call to Order

II. Approval of Minutes

1. **March 25, 2026 Meeting Minutes** **Approval of Meeting Minutes**

III. New Business

1. **Tucker** **Variance***

400 SW C Street ([VAR26-0006](#))

Section 1100.06 (g) (2) of the Land Development Code - Fence and Wall Requirements

2. **Zediker** **Variance***

1023 N Main Street ([VAR26-0007](#))

Section 1100.06 (g) (2) of Land Development Code - Fence and Wall Requirements

IV. Old Business

V. Other Business

VI. Adjournment



**Board of Adjustments
Meeting Agenda
March 25, 2026
Bentonville City Hall
Meeting Time: 4:00 PM**

Recording Link: <https://bentonvillear.portal.civicclerk.com/event/1782/media>

I. Call to Order

- Meeting called to order at 4:00 PM by Chairman Kruithof.
- Members present: Dean Kruithof, Reggie Wright, Kevin Barrington, BJ Phillips, Celia Swanson
- Members absent:
- Staff present: Tom Adler, Casey Hackler, Claire Wise

II. Approval of Minutes

1. January 28th Meeting Minutes

Approval of Meeting Minutes

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

II. New Business

1. Goins

Variance*

Parcels 01-01993-000 and 01-01993-001 on NW 13th Street ([VAR26-0003](#))

Section 401.7 (c)(3)(a) of the Zoning Code – Street-facing garage

- Ms. Hackler gives an overview of the variance request.
- Chairman Kruithof opens the public hearing.
- Chairman Kruithof closes the public hearing.
- Jennifer Watkins, representing the applicant, is present for any questions and gives an overview of the request.
- The board members discuss and deliberate over the request.
- Motion to approve by Phillips with the additional condition that the fence parallel to the house is moved 7 feet away from the corner of the house and all other conditions as recommended by planning staff are met, second by Wright.
- The variance is approved 4-1, with Barrington voting no.

III. Old Business

1. Approval of By-Laws

Vote

- Mr. Adler gives an overview of the modifications to the by-laws.
- Motion to approve by Swanson, second by Phillips.
- By-laws are approved, 5-0.

V. Other Business

VI. Adjournment

- Motion to adjourn by Phillips , second by Swanson.
- Chairman Kruithof adjourns the meeting.



Tucker

400 SW C Street

BOA Date: 5/27/2026

Staff Report Details

Project Number	VAR26-0006
Applicant / Current Owner	Kevin and Katherine Tucker
Site Area	0.08 Acres
Current Zoning	T4.1, Neighborhood General
Variance Request	Fence setback 1' from public right-of-way
Related projects	

Property Description

The subject property is located at 400 SW C Street. The property is zoned T4.1, Neighborhood General under the new Bentonville Community Code with a future land use designation of Walkable Neighborhood. The property was zoned R-C2, Central Residential Medium Density under the former Zoning Code

Regulation

Section 1100.06 Fence and Wall Requirements, g) Fence location, 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. The applicant is seeking a 4-foot variance to have a fence that is 1-foot from the public right-of-way. Additionally, the applicant is seeking an 8' fence height.

Variance Request

This report will consider and analyze this request based upon the six conditions of approval from

Variance Request

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 makes reference to the lot width, the home being an exterior unit of the townhome block, the nearby street intersection, and proximity of the sidewalk to their side door.

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 the reason for wanting the variance is to improve the safety and security of their home.

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

The applicant makes reference to the width of the side yard and right-of-way location. To adhere to the 5-foot setback that is required by Section 1100.06 (g) (2), the applicant states they would have to remove two mature trees along the property line. The applicant does not wish to remove the existing trees as they provide additional shade and comfort to their property.

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 has not provided evidence that this variance would not grant a special privilege over other properties in the zoning 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.

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 claims that this request is the minimum variance necessary to make possible the reasonable use of their outdoor space without having to remove the existing trees.

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.

There is no evidence that this variance would be injurious to the neighborhood or public welfare.

5. Conditions. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable.

Variance Request

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 the Land Development Code, Section 1100.06 (g) (2) Adjacent to public right-of-way. The applicant is requesting a 1-foot fence setback instead of the 5-foot fence setback required by code due to "*the limited width of the side yard, the presence of two trees that would be lost under the standard setback, and the need for privacy and security for [their] side door*"

Background

Public Comment

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

Conditions of Approval

The following conditions of approval are offered for the Board's consideration, if approved:

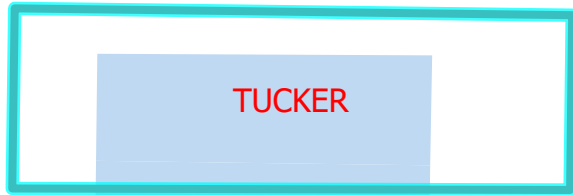
1. The approved variance shall be for the proposed fence location, as provided by the applicant within this application.
2. The applicant shall be required to obtain a building permit for the fence.
3. The applicant shall ensure all proposed work is in conformance with any conditions, covenants, or restrictions recorded against the property by the Home Owners Association, if any.



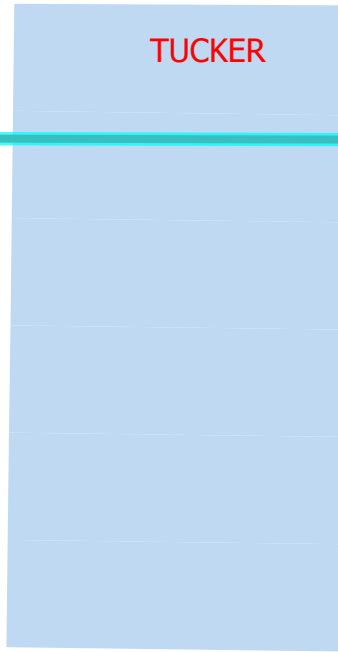
PC Item



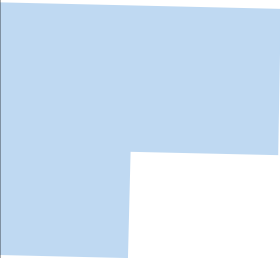
SW 4TH ST



TUCKER



SW C ST



**VAR26-0006
KEVIN TUCKER
400 SW C ST**



Applicant: Kevin and Katherine Tucker

Property: 400 SW C Street, Bentonville, AR

Request: Fence setback variance (1 ft from sidewalk) + 8 ft fence height

We recently purchased a townhome at 400 SW C Street, which is our full-time home. We would like to make better use of the outdoor space on our property and are requesting a setback variance to construct a fence one foot from the sidewalk on the north side and to build it at eight feet tall so we can have privacy, security, and a functional outdoor space. Because of the narrow dimensions of the lot, building in accordance with the required 5-foot fence setback would render our side yard virtually unusable.

With a 5-foot setback, there wouldn't be enough room for normal outdoor use like a grill, small table, or seating. We also have a side door that opens directly into this yard; without a fence, it opens straight onto the public sidewalk and offers no privacy or security. Without a fence, this side door provides no real benefit to the home, rather it is more of a liability given its exposure to the street.

Meeting the 5-foot setback would also require removing two mature trees along the property line. These trees provide shade, privacy, and curb appeal, and removing them would be an unnecessary hardship.

Because the sidewalk runs directly beside the home, the yard is very exposed. A standard 6-foot fence wouldn't provide enough privacy or security for our family or for the side door. An 8-foot fence would allow us to comfortably use the space without feeling like we're sitting next to foot traffic.

We will ensure that the fence is more than 25 feet back from the intersection and out of the sight triangle, maintaining clear visibility for drivers, cyclists, and pedestrians.

We don't expect any negative impact on neighbors or the public. The fence will stay one foot off the sidewalk, remain out of the right-of-way, match the look of the townhome community, preserve the existing trees, and improve the privacy and security of our home.

Because of the narrow lot, the limited width of the side yard, the presence of two trees that would be lost under the standard setback, and the need for privacy and security for our side door, the 5-foot requirement creates a real hardship. We are simply trying to improve our primary residence and make reasonable use of our outdoor space. We respectfully ask for approval of this variance.

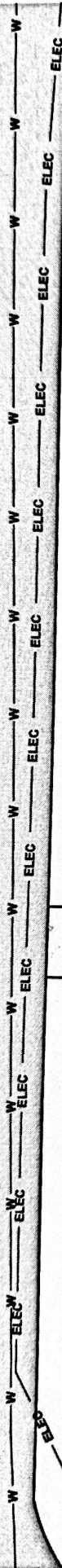
Sincerely,

Kevin and Katherine Tucker

Proposed fence
One foot from sidewalk
on SW 4th
8' in height

SW 4TH ST
26' VARIABLE WIDTH PAVED ASPHALT
52' RW

Street

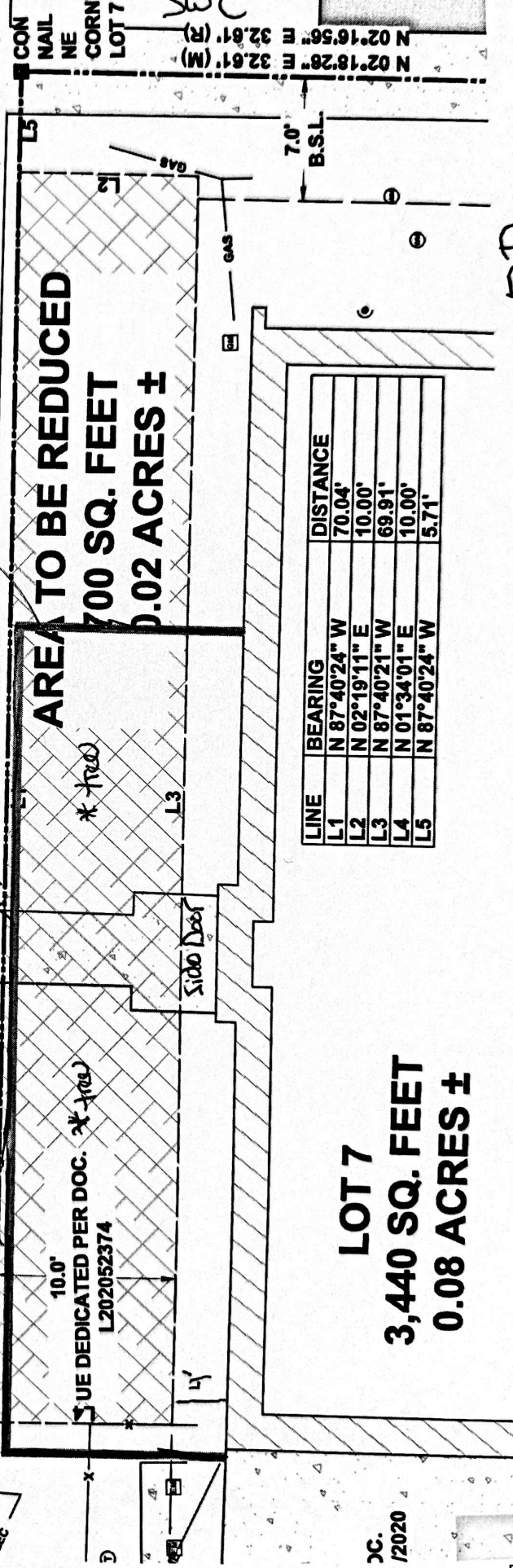


L.A. Row

Sidewalk 1 foot back

Proposed fence
13' x 40 1/2'

S 87°40'21" E 103.91' (R)
S 87°40'21" E 103.91' (M)



AREA TO BE REDUCED
700 SQ. FEET
0.02 ACRES ±

10.0'
TUE DEDICATED PER DOC. * (tree)
L202052374

SIDE DOOR

7.0'
B.S.L.

Front Door

LINE	BEARING	DISTANCE
L1	N 87°40'24" W	70.04'
L2	N 02°19'11" E	10.00'
L3	N 87°40'21" W	69.91'
L4	N 01°34'01" E	10.00'
L5	N 87°40'24" W	5.71'

LOT 7
3,440 SQ. FEET
0.08 ACRES ±

CON NAIL NE CORNER LOT 7
SWC
N 02°18'28" E 32.61' (M)
N 02°16'58" E 32.61' (R)



FINISHED SIDE
TOWARDS STREET.



INTERIOR SIDE

FACING HOUSE

r:\-swope\17-204\external references\17-204su.dwg - Plotted on 8/12/2020 10:26:46 AM @ a scale of 1:1 to dwg to pdf.pc3 by Cassy

Owner: NATHAN, THUSHA
Address: 402 SW 4TH ST
BENTONVILLE AR 72712
Parcel ID: 01-01782-000
Zone: R-1

Owner: VOSS, NICHOLAS RYAN &
MEGAN HOLLAND
Address: 404 SW 4TH ST
BENTONVILLE AR 72712
Parcel ID: 01-01781-000
Zone: R-1

Owner: NATHAN, THUSHA
Address: 402 SW 4TH ST
BENTONVILLE AR 72712
Parcel ID: 01-01782-000
Zone: R-1

Owner: LJMC GROUP LLC
Address: 14829 FRIPP ISLAND CT
NAPLES FL 34119
Parcel ID: 01-02499-000
Zone: R-1

Owner: WHALEN, DANIEL & ANNE
Address: 403 SW D ST
BENTONVILLE AR 7271-5863
Parcel ID: 01-02500-000
Zone: R-1

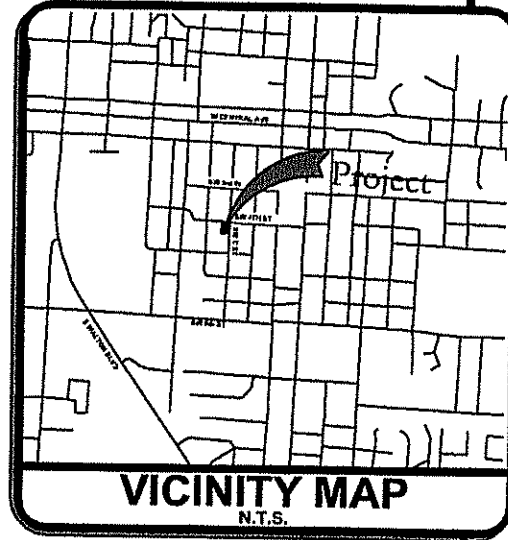
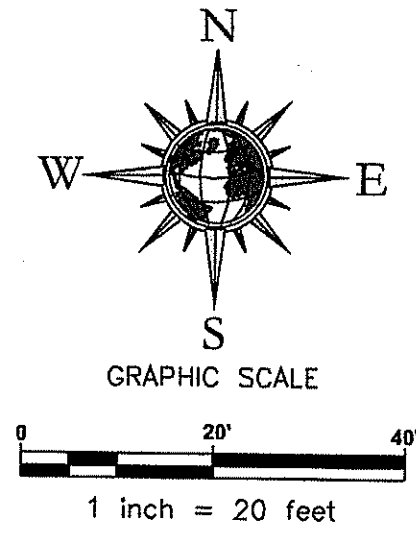
Owner: STAMPS, ANITA P
Address: 424 SW C ST
BENTONVILLE, AR
Parcel ID: 01-04099-000
Zone: R-1

Owner: CONWAY REVOCABLE TRUST,
CHRISTOPHER E
Address: 309 SW 4TH ST
BENTONVILLE, AR
Parcel ID: 01-04094-000
Zone: DN-2

Owner: KATO, SATOKO
Address: 403 SW C ST
BENTONVILLE AR 72712-5850
Parcel ID: 01-04095-000
Zone: DN-2

LEGEND	
SURVEY FEATURES	SURVEYING SYMBOLS
--- BOUNDARY LINE	○ SET/FOUND 1/2" REBAR
--- SECTION LINE	□ SET/FOUND ALUM. MONUMENT
--- CENTERLINE OF ROAD	● SET/FOUND COTTON SPINDLE
--- ROW	⊗ SET X IN CONCRETE
--- FENCE	▽ SET / FOUND P/K NAIL
--- TREE LINE	■ FOUND STONE
(M) FIELD MEASUREMENT	▲ RAILROAD SPIKE
(R) RECORDED MEASUREMENT	⊙ TEMP BENCH MARK (ELEV.)
	⊕ FOUND PIPE
	◇ COMPUTED POINT
	⊗ TREE
EASEMENTS	UTILITY SYMBOLS
--- ACCESS EASEMENT	--- SANITARY SEWER
--- BUILDING SET BACK	--- MANHOLE
--- UTILITY EASEMENT	--- POWER POLE
	--- WATER VALVE
	--- GAS METER
	--- ELECTRICAL BOX
	--- TELEPHONE PEDESTAL
	--- WATER METER
	--- IRRIGATION METER
	--- FIRE HYDRANT
	--- STORM WATER
	--- TRANSFORMER
	SURVEY FEATURE HATCHES
	--- ASPHALT
	--- CONCRETE
	--- POND
	--- GRAVEL
	--- FLOOD ZONE

Recording Block



BASIS OF BEARING
Arkansas State Plane
Coordinate System,
(NAD-83) North Zone.

LOT SPLIT, LOT 1, BLOCK 2, SCOGGAN SUBDIVISION
CREATING LOTS 7, 8, 9, 10, 11, 12, & 13

THE DISTRICT
400-420 SW C STREET, BENTONVILLE, ARKANSAS 72712
BRECK KELLEY/DT DEVELOPMENT
4600 NORTHGATE RD
ROGERS, AR 72758
479-366-7515



FLOOD INFORMATION
This property lies in Zone 'X' (Special Flood Hazard Areas Inundated by 100-year Flood) as determined from the F.I.R.M. maps of Benton County, Arkansas, and Incorporated Areas, Map Number 05007C0255K, effective June 6, 2012.

CERTIFICATE OF SURVEYING ACCURACY
I, TERRY L. GING, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE UNDER MY SUPERVISION AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.
DATE OF EXECUTION: 8/12/2020

SIGNED: *Terry L. Ging*
REGISTERED LAND SURVEYOR
NO. 1301
STATE OF ARKANSAS

PROJECT #LS20-0035

SWOPE ENGINEERING
3511 SE J Street, Suite 9
Bentonville, Arkansas 72712
479.685.8399 office
479.250.4285 fax

Civil Engineering
Construction Management
Municipal Engineering
Land Planning
Land Surveying

Certificate of Authorization No. 2831

DRAWN BY:	CWD	JOB NUMBER	17-204su
SUBMITTAL DATE:	06/15/2020	SCALE	AS NOTED
DRAWING NAME:	17-204su.dwg		
SHEET NUMBER:	2	OF	2

Zone RC-2 Building Setbacks

Front/Exterior Side	10'
Side	0'
Rear	15'



Zediker

1023 N Main Street

BOA Date: 5/27/2026

Staff Report Details

Project Number	VAR26-0007
Applicant / Current Owner	Elizabeth and Timothy Zediker
Site Area	0.13 Acres
Current Zoning	T4.1, Neighborhood General
Variance Request	Fence setback 3' from public right-of-way
Related projects	

Property Description

The subject property is located at 1023 N Main Street. The property is zoned T4.1, Neighborhood General under the new Bentonville Community Code with a future land use designation of Walkable Neighborhood. The property was zoned DN-2, Downtown Medium Density Residential under the former Zoning Code.

Regulation

Section 1100.06 Fence and Wall Requirements, g) Fence location, 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. The applicant is seeking a 2-foot variance to have a fence that is 3 feet from the public right-of-way.

Variance Request

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.

Variance Request

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 does not state any existing special conditions or circumstances which are peculiar to their land and building and which are not applicable to others 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;

The applicant does not state any deprivation of rights commonly enjoyed by other properties in the same district.

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

The applicant does not state if there are special conditions or circumstances that do or do not result from the actions of 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.

The applicant has not provided evidence that this variance would not grant a special privilege over other properties in the zoning 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.

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.

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.

There is no evidence that this variance would be injurious to the neighborhood or 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.

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.

Variance Request

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 the Land Development Code, Section 1100.06 (g) (2) Adjacent to public right-of-way. The applicant is requesting a 3-foot fence setback instead of the 5-foot fence setback required by code to save the existing tree.

Background

Public Comment

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

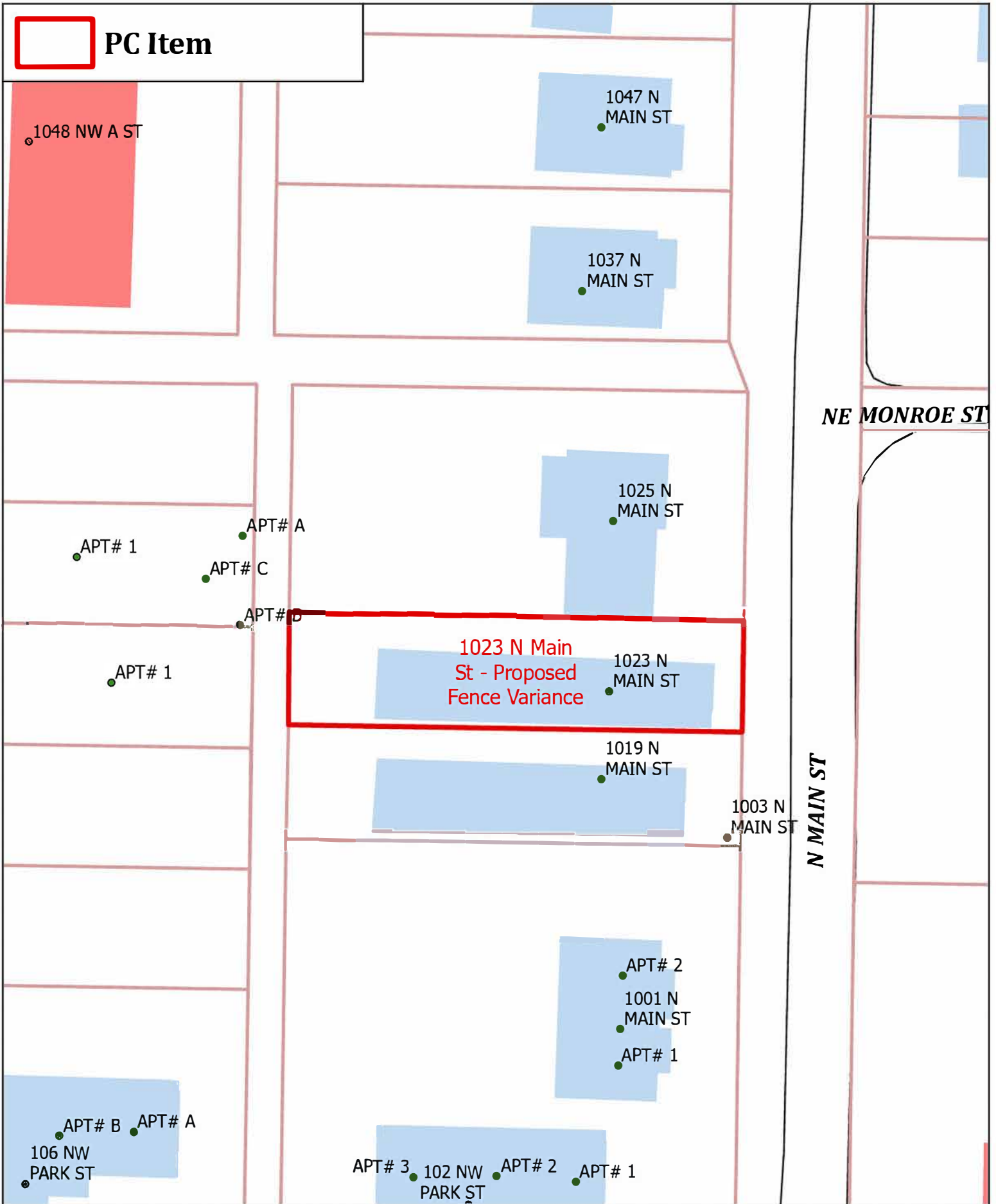
Conditions of Approval

The following conditions of the approval are below.

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved fence permit prior to construction.



PC Item



VAR26-0007
1023 N MAIN ST

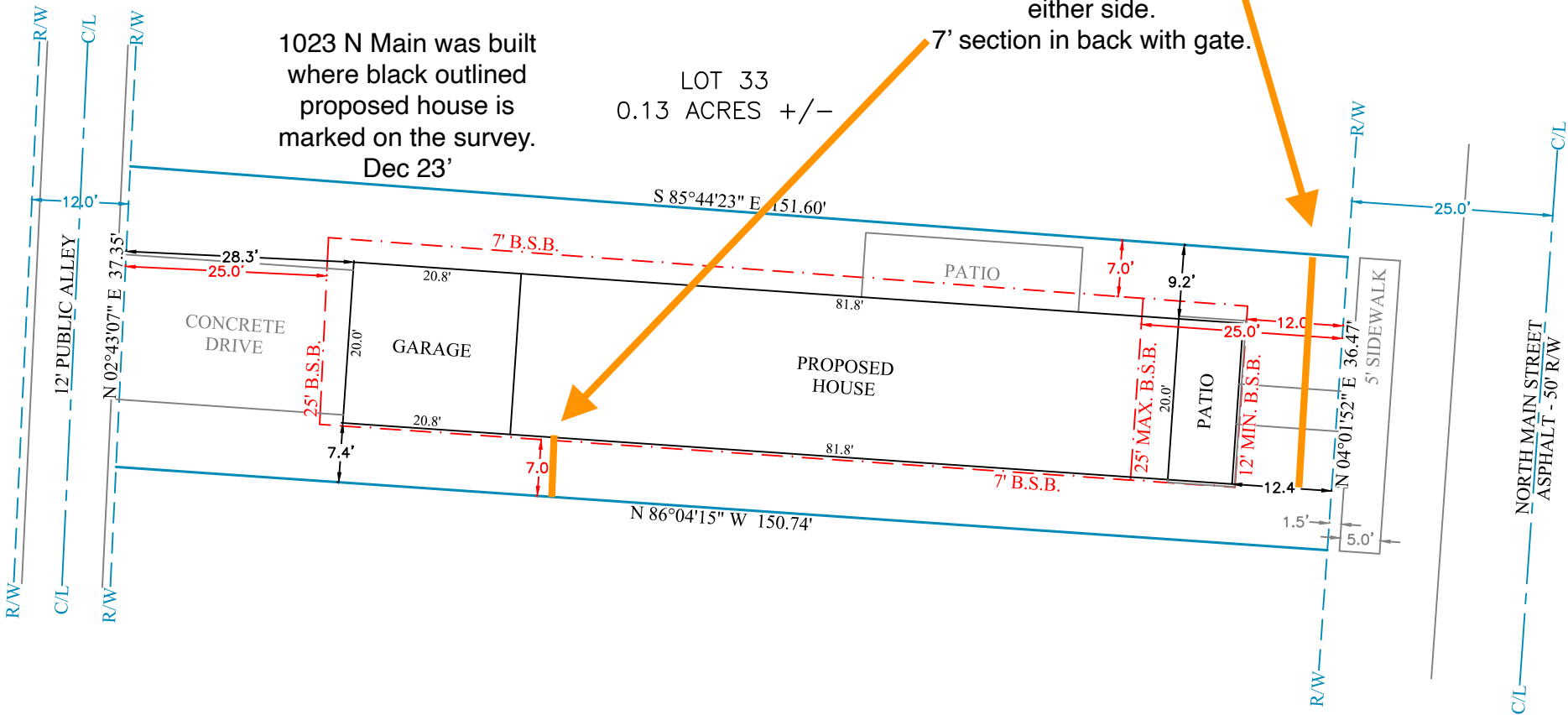
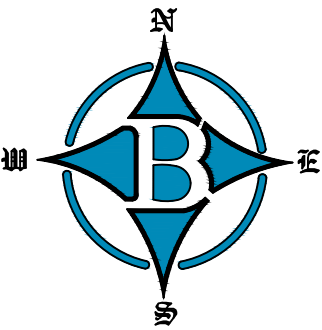


SITE PLAN

Proposed New Fence Sections:

Proposed section of new 4' metal fence with gate. 30' section in front with gate at sidewalk to front door, (lining up with 1019 existing fence), 3' off sidewalk, connecting fences on either side.

7' section in back with gate.



1023 N Main was built where black outlined proposed house is marked on the survey. Dec 23'

LOT 33
0.13 ACRES +/-

HOUSE LAYOUT

- NOTES:
1. DIMENSIONS ARE PERPENDICULAR TO PROPERTY LINES.
 2. THIS PLOT DEPICTS FUTURE CONSTRUCTION OF IMPROVEMENTS AS SHOWN.
 3. THIS IS NOT A BOUNDARY SURVEY, IT IS NOT INTENDED FOR TRANSFER OF TITLE.
 4. ALL DIMENSIONS MEASURED TO WALLS.
 5. THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION OF THE BUILDING AND BUILDING DIMENSIONS SHOWN HEREON MUST BE VERIFIED BEFORE PROCEEDING WITH CONSTRUCTION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THAT THE BUILDING DOES NOT ENCR OACH UPON ANY BUILDING SETBACKS AND OR EASEMENTS.



GRAPHIC SCALE (IN FEET)
1 Inch = 20ft.

Bates & Associates, Inc.
Engineers - Surveyors

7230 S. Pleasant Ridge Dr. Fayetteville, Arkansas 72704 • 479.442.9350 • Fax 479.521.9350

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FOR USE AND BENEFIT OF:

BAUMANN CROSNO

ADDRESS:
**1023 N MAIN ST
BENTONVILLE, ARKANSAS**

DATE: 5/7/2022	SCALE: 1" = 20'
LOCATION: LOT 33 PER LOT SPLIT	SURVEYED: XX
	DRAFTED: JY
	REVIEWED: DT

LEGEND: THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

	BOUNDARY LINE
	CENTERLINE OF ROAD
	RIGHT-OF-WAY
	BUILDING SETBACK
	UTILITY EASEMENT

DRAWING #22-159 LOT 33

Hi Claire,

Thank you for reaching out regarding the fence variance I have requested. I've hopefully helped give the appropriate information you requested, but please let me know if I can assist in any way if the responses I've listed need more explaining or more support. I put my response in blue below the questions. Thank you for your time.

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; *If we place a fence on the approved original property line set back, it will interfere with a tree that is in the front yard. I would like to match the existing fence that the neighbor has directly to the south of my property, with the exact same fence (the 4' iron fence that I requested and along the same line that is 3' off the sidewalk) Our yard is very small and so the added extra feet that the variance would allow us, gives more yard space and gives added security to the front yard.*

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 fence in the area that is closer to the sidewalk will match and look uniform to what the next door neighbor has. I would like to not have to cut down a tree that would interfere with the fence if we were to place it in the current approved location/setback. This fence location also adds front security for our home.*

c. That special conditions and circumstances do not result from the actions of the applicant; and *Placing our fence at the requested 3' setback from the sidewalk will match the existing fence of the next door neighbor and their fence that is 3' distance from the sidewalk. We feel that if our fence matches theirs, it will be more pleasing to the neighborhood from an aesthetic perspective. We would like to continue to support the growing tree that is in the front yard and this 3' setback allows a fence to be installed without interfering with the tree.*

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 has not provided evidence that this variance would not grant a special privilege over other properties in the zoning 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.

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 requested 3' from the sidewalk variance I have requested allows the fence to match the existing exact fence that our neighbor has, it keeps the tree that we would like to continue to support the growth of as well as missing any and all of the incoming utilities to the property.](#)

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. There is no evidence that this variance would be injurious to the neighborhood or 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. 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 Variance Request 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 the Land Development Code, Section 1100.06 (g) (2) Adjacent to public right-of-way. The applicant is requesting a 3-foot fence setback instead of the 5-foot fence setback required by code due to [____ I'd love to keep the tree that is healthy out front that is in the way of the current setback if it stays at 5'. The city utility box is also in the way of a fence if we keep the fence at the 5' setback while the 3' variance setback allows the utility box to be missed. The fence adds security to our front yard. We would like it to match what the neighbor has instead of creating a fence line that doesn't align with anything and looks more like a random fence out in front of our house.](#)

Thank you and please let me know if I can assist further with additional information.

Elizabeth Zediker
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