



The City of  
**NORTH LITTLE ROCK**

OFFICE OF COMMUNITY PLANNING  
120 Main St. • North Little Rock, AR 72114-2134  
Phone (501) 975-8835 • Fax (501) 975-8837

Memorandum

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To: Board of Zoning Adjustment Members

From: Donna James

Date: March 16, 2022

Subject: March 31, 2022, Board of Adjustment Public Hearing Meeting Packet

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Enclosed please find the agenda packet for the March 31, 2022, public hearing. Included with the minute record from the February 17, 2022, public hearing. Also please find the staff analysis for the following item for discussion –

**BOA #2022-06**, a variance request from the area provision of Section 4.3.4, I2, Light Industrial District to allow a reduced rear yard setback along the northern property line for the proposed new construction of warehouse space. A portion of the existing warehouse will be removed to allow for the new construction, located at 1302 E 8<sup>th</sup> Street, North Little Rock, AR, legally described as Lot 2R 8<sup>th</sup> Street Industrial Addition to the City of North Little Rock, Pulaski County, AR.

**BOA #2022-07**, a variance request from the area provision of Section 4.1.6, R5, Townhome District to allow a reduced side yard setback along the eastern property line for a proposed accessory building, located at 435 W 4<sup>th</sup> Street, North Little Rock, AR, legally described as Lot 2A, Block 4, Faucette's Addition to the City of North Little Rock, Pulaski County, AR.

**BOA #2022-08**, a variance request from the area provision of Section 4.1.2, R1, Single-family District to allow the placement of an accessory structure, a swimming pool, within the side yard of this single-family home located at 31 East Lake Drive, North Little Rock, AR, legally described as Lot 29, Block 48, Lakewood 5N Subdivision to the City of North Little Rock, Pulaski County, AR.

The meeting will be held in the **City Council Chambers, 300 Main Street**, beginning at 1:30 pm. Please let me know if you have any questions or if I can provide you with any additional information (501-975-8862 - [DJames@nlr.ar.gov](mailto:DJames@nlr.ar.gov)).



**City of North Little Rock  
Board of Zoning Adjustment Agenda  
Thursday, March 31, 2022 - 1:30 PM  
City Council Chambers – 300 Main Street, NLR, AR 72114**

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**Call to Order** -

**Roll Call and finding of a Quorum** -

**Approval of Minutes** - February 17, 2022

**Public Hearing Items** -

**BOA #2022-06**, a variance request from the area provision of Section 4.3.4, I2, Light Industrial District to allow a reduced rear yard setback along the northern property line for the proposed new construction of warehouse space. A portion of the existing warehouse will be removed to allow for the new construction, located at 1302 E 8<sup>th</sup> Street, North Little Rock, AR, legally described as Lot 2R 8<sup>th</sup> Street Industrial Addition to the City of North Little Rock, Pulaski County, AR.

**BOA #2022-07**, a variance request from the area provision of Section 4.1.6, R5, Townhome District to allow a reduced side yard setback along the eastern property line for a proposed accessory building, located at 435 W 4<sup>th</sup> Street, North Little Rock, AR, legally described as Lot 2A, Block 4, Faucette's Addition to the City of North Little Rock, Pulaski County, AR.

**BOA #2022-08**, a variance request from the area provision of Section 4.1.2, R1, Sing-family District to allow the placement of an accessory structure, a swimming pool, within the side yard of this single-family home located at 31 East Lake Drive, North Little Rock, AR, legally described as Lot 29, Block 48, Lakewood 5N Subdivision to the City of North Little Rock, Pulaski County, AR.

**Administrative** –

**Public Comment** -

**Adjournment** –

**Reminder** -

- Turn off cell phones
- Board of Adjustment Hearing procedures on back of the Agenda
- Visitors sign-in with both name **and** address

**Next Board of Zoning Adjustment Hearing Filing Deadline April 1, 2022 – Hearing April 28, 2022**

***For the Board to grant a variance the applicant must first establish a hardship. A hardship should not be created by the owner, it should be due to unique circumstances existing on the property. For example, it must be demonstrated a strict enforcement of the Zoning Ordinance would prohibit the development of the property or no reasonable use of the property can be made.***



**NORTH LITTLE ROCK  
BOARD OF ZONING ADJUSTMENT  
HEARING PROCEDURES  
(1/1/2019)**

**Order of the Public Hearing:** The regularly scheduled public hearing is generally held on the last Thursday of each month at 1:30 PM in the City Council Chambers, 300 Main Street, North Little Rock, AR. All meetings are open to the public. Typical hearings begin with roll call and finding of a quorum, approval of the previous meeting minutes, correspondence and staff reports, committee reports, unfinished business, new business, public comment and adjournment.

**Voting:** There are five members of the Board. A quorum consists of three members present. "Robert's Rules of Order" apply unless the Board has outlined alternative procedures. All business must be approved by a minimum of three votes.

**Procedure to allow a person to address or approach the Board:**

1. No person shall address or approach the Board without first being recognized by the Chair.
2. After being recognized, each person shall state their name and address for the record.
3. All questions and remarks shall be addressed through the Chair.
4. All remarks shall be addressed to the Board as a whole and not to any individual Board member.
5. When a group of citizens are present to speak on an item, a spokesperson may be selected by the group to address the Board. If multiple individuals of the group desires to speak, the Chair may limit each presentation to three minutes.
6. No person other than members of the Board and the person having the floor shall be permitted to enter into any discussion, either directly, indirectly or through a Board member, without permission of the Chair.
7. Once the question has been called, no person in the audience shall address the Board on the matter at hand without first securing permission to do so by a majority vote of the Board.
8. At least 24-hours prior to the public hearing, anyone wishing to submit exhibits for the record shall provide staff with copies of the exhibits for each Board member, one copy of the exhibit for staff to place in the permanent file and one copy of the exhibit for the legal department.
9. At least 24-hours prior to the public hearing, anyone wishing to read a statement into the record shall provide staff with a written copy of the statement.

**North Little Rock Board of Zoning Adjustment  
Minute Record – February 17, 2022**

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Chairman Tom Brown called the meeting of the North Little Rock Board of Zoning Adjustment to order at 1:30 P.M. in Conference Room B of the City Services Building, 120 Main Street, North Little Rock, AR. Roll call found a quorum to be present; a quorum being three members present.

**Members Present**

Mr. Tom Brown, Chairman  
Mr. Tim Giattina, Vice-Chair  
Mr. Mike Abele  
Mr. Gardner Burton  
Mr. Steve Sparr

**Members Absent**

None

**Staff Present**

Ms. Donna James, City Planner  
Ms. Marie Bernarde-Miller, Deputy City Attorney

**Others Present**

Ms. Myriam Miranda, 2101 Airborne Drive, Jacksonville, AR 72076  
Mr. Sergio Atilano, 1707 W 37<sup>th</sup> Place, North Little Rock, AR 72118  
Mr. Kal Makan, 3900 Vail Court, Little Rock, AR

**Old Business**

None

**Approval of Minutes**

Mr. Sparr formed a motion to approve the minutes from the previous meeting on January 27, 2022. Mr. Burton provided a second to the motion. All members voted in the affirmative. The motion was approved.

**Public Hearing Items -**

**North Little Rock Board of Zoning Adjustment  
Minute Record – February 17, 2022  
Page 2 of 5**

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**BOA 2022-04 - 1707 W 37<sup>th</sup> Place, North Little Rock, AR 72118 - A variance request from the area provisions of Section 5.11.3 to allow the placement of a fence on a currently vacant lot and to allow the placement of the fence within the front building setback and to allow the overall height of the fence within the front and side yard setbacks 7-feet in height. Chairman Brown called the item and requested the applicant's come forward to address the Board on the merits of the request.**

Ms. Myriam Miranda and Mr. Sergio Atilano addressed the Board on the merits of the request. Chairman Brown stated to get the request approved a hardship was to be determined. Chairman Brown requested staff read the definition of a hardship. Chairman Brown then requested Ms. Miranda and Mr. Atilano provide the Board with their hardship and why the fence was needed on a vacant lot. Mr. Atilano stated he wanted to build the fence because people were dumping trash on his property. Mr. Giattina questioned if the fence was for security of the property. Mr. Atilano stated security was a concern. Chairman Brown stated there was not currently a building on the property and questioned Mr. Atilano if a building was proposed in the future. Mr. Atilano stated at some point a building would be constructed but not in the short-term. He stated security for the property was the need for the fence.

There was a general discussion by the Board concerning the property, the need for the fence and the make up on the neighborhood. Chairman Brown stated he was not opposed to the fence but was opposed to barbed wire. He stated barbed wire gave a negative impression of the area. He stated there was no barbed wire in the area.

Mr. Giattina questioned if Mr. Atilano could build the fence now meeting code and once a building was constructed if he had problems come back to the Board and request something different. Staff stated the fence could not meet code due to the lot being a vacant lot. Staff stated per the Zoning Ordinance the Board was to approve the placement of fences on vacant lots.

Mr. Sparr stated he and the Chairman had visited the site along with the neighboring property. He stated the adjacent property owner indicated there was not an issue with crime. Mr. Sparr stated his concern was the placement of the fence and then the site becoming a catch-all with storage of materials.

Chairman Brown questioned the heights of fences allowed on the property. Staff stated if there was a building on the property Mr. Atilano would be allowed a 6-foot tall fence in the side yard behind the front building line and an 8-foot fence in the rear yard.

Mr. Sparr ask what Mr. Atilano was trying to secure. He stated the site was a vacant lot and did not have any trash on the property.

Ms. Miller reminded the Board variances were granted for properties that were unique.

She stated variances should be granted to property owners that were not able to use their property in the similar manner as others in the area. She stated this particular situation was someone wanted to building a fence around a lot that was vacant. She stated there was nothing else particular to the lot that would prohibit the applicant from using the property as others in the area.

Mr. Burton stated Mr. Atilano had brought the request to the Board because Mr. Atilano was concerned there would be an issue with security. He stated the request was to limit the potential of issues in the future. Chairman Brown stated the location had the potential for security in the future. Mr. Burton stated an unfenced lot was not secure. He stated the reason for the request was for security. He stated just because there was not trash on the lot today did not mean there would not be trash on the lot tomorrow.

Chairman Brown stated he was not supportive of the barbed wire on the side and front of the property. He stated he was supportive of allowing barbed wire on the rear of the property. He ask Mr. Atilano if he was willing to amend his application. He replied in the affirmative he was willing to remove the barbed wire from the front and side of the property.

Chairman Brown questioned if any of the Board members had any questions or comments. There being none, he stated he would entertain a motion on the item. Mr. Sparr formed a motion to approve the request based on the unique circumstance of the location of the property and the potential security concerns. The motion included the placement of a 6-foot fence with no barbed wire along the front and side property lines and a 6-foot fence with barbed wire along the rear of the property. Mr. Burton provided a second to the motion. Chairman Brown requested a roll call vote. Members Burton, Sparr and Chairman Brown voted in the affirmative. Members Abele and Giattina voted in the negative. The item was approved.

**BOA 2022-05** - 3900 Vali Court, North Little Rock, AR - A variance request from the area provisions of Section 4.2.6.C to allow an increased height for a proposed hotel increasing the height from the allowable 45-feet to 62-feet in total height. Chairman Brown called the item requesting the applicant come forward and provide his hardship.

Mr. Kal Makan of Makan Hospitality Inc. addressed the Board on the merits of the request. He stated his hardship was the height requirement of the specific brands of hotels. He stated Protho for example in that all the brands had allowed two-story hotels in the past but this was no longer the case. He stated over time this had changed and hotel brands now wanted taller buildings for more of a presence and visually better looking developments. He stated the brands did not want two-story hotels because they do not look grand. He stated if they do not look grand then you do not get grand money. He stated he had owned the property for over 10-years. He stated he had tried

to sell the property on a number of occasions but was not successful. He stated he was in a position to building a hotel on the lot. He stated he owned the hotel next door and felt this model would fit with his existing hotel. He stated the hardship was the hotel brands now required taller buildings.

Mr. Sparr stated the reason for the request was due to the hotel brand and the need for the taller building. Mr. Makan stated this was correct.

Mr. Abele questioned if the hotel next door received a variance. Staff stated a variance was approved for the adjacent hotel as well as a number of the other hotels in the area.

There was a general discussion by the Board concerning the height necessary to meet the brand requirements for hotels and if the Board should consider revising the ordinance to allow hotels to be taller than the underlying zoning district. Staff stated there were other uses within the zoning districts that may not need or the city would not want the additional heights to be allowed. Staff stated these request should be considered on an individual basis on their own merits.

Chairman Brown questioned if any of the Board members had any questions or comments. There being none, he stated he would entertain a motion on the item. Mr. Burton formed a motion to approve the request based on the unique circumstance of the specific brand requirements for additional height requirements. Mr. Sparr provided a second to the motion. Chairman Brown requested a roll call vote. All members voted in the affirmative.

Mr. Makan questioned the time allowance for approval of the variance. Chairman Brown stated 6-months. Chairman Brown questioned if additional time was necessary to secure a building permit. Mr. Makan stated the additional time would likely be needed due to the permitting process and working through the brand reviews and approvals. Chairman Brown stated the Board would be willing to provide a total of 12-months to secure a building permit if this would be helpful. Mr. Makan stated this would allow sufficient time to get through the process and secure the building permit. Chairman Brown called for a motion. Mr. Sparr provided a motion to allow a total of 12-months for securing a building permit. Mr. Burton provided a second. By voice vote all members voted in the affirmative for approval of the additional time, 12-months total time, to secure the building permit.

#### **Administrative -**

There was a discussion concerning a previous approval of the fence on a vacant lot located at 47<sup>th</sup> and Schaer Streets. Chairman Brown stated he did not feel the applicant had meet the requirements of their approval. He requested staff review the request and determine if the fence and gate had been installed to meet the conditions

of the Board's approval. He also requested staff work with Code Enforcement to see if there were any violations from their standpoint.

**Public Comment and Adjournment**

Chairman Brown called for public comment. There being none and there being no further business before the Board and on a motion of Mr. Sparr and by consent of all members present, the meeting was adjourned at 2:05 pm.

**Approved on this** 31<sup>th</sup> **day of** March, 2022

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**Tom Brown, Chairman**



BOA #2022-06  
March 31, 2022

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**Variance Requested:** A variance request from the area provision of Section 4.3.4, I2, Light Industrial District to allow a reduced rear yard setback along the northern property line for the proposed new construction of warehouse space. A portion of the existing warehouse will be removed to allow for the new construction.

**Location of the Request:** 1302 E 8<sup>th</sup> Street, North Little Rock, AR

**Legal Description of the Property:** Lot 2R 8<sup>th</sup> Street Industrial Addition to the City of North Little Rock, Pulaski County, AR

**Owner:** Argenta Logistics LLC, Safe Foods

**Applicant:** Minton Engineering, Josh Minton

**Present Use of the Property:** Warehouse

**Present Zoning of the Property:** I2, Light Industrial District

**Site Characteristics:** The site contains a warehouse building which according to Pulaski County records was constructed in 1921. The building contains 175,880 square feet of space. Safe Foods purchased the property from the previous owner in mid-2020. The applicant, Safe Foods, is now proposing to demolish the eastern most portion of the existing warehouse building and build back on the same footprint. The portion to be removed contains approximately 55,500 square feet of floor area. The street frontage will be off-set from the remaining building façade to allow for the placement of a loading dock.

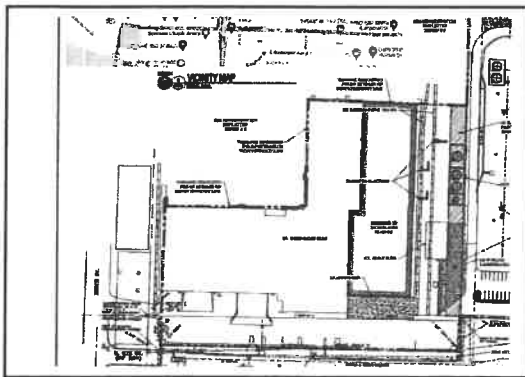
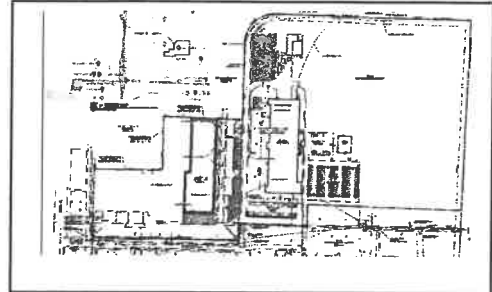
#### **Surrounding Land Use and Zoning**

<b><u>Direction</u></b>	<b><u>Surrounding Zoning</u></b>	<b><u>Surrounding Uses</u></b>
North	I2, Light Industrial District	The Martin Brower Co.
South	I3, Heavy Industrial District	Warehouse
East	I3, Heavy Industrial District	Safe Foods
West	I2, Light Industrial District	Vacant I2, Light Industrial Zoned Property and Purkey's Fleet Electronics

**Justification:** The applicant's justification is presented in an attached letter.

**Staff Analysis:**

Section 4.3.4: I2, Light Industrial District (c) outlines the lot development criteria for I2, Light Industrial District zoned property. The table indicates minimum setbacks of 30-feet from all property lines. The maximum lot coverage allowed including all accessory structures is 60-percent. The applicant is seeking site plan approval and replatting via the North Little Rock Planning Commission which will address the 60-percent lot coverage concern as well as the setback concern for a proposed tank farm east of the proposed warehouse construction. The remaining concern before the Board is the northern building setback which is proposed at zero.



The applicant is seeking a variance to allow the re-building of a portion of the existing warehouse on the property. The existing warehouse was originally constructed on, or encroaching onto, the property (line) to the north. The applicant states in order to re-build the section of warehouse the applicant is proposing to tie the new construction back to the wall of the existing warehouse structure (the new wall will be reduced to allow for the new construction to be located entirely on the owners property). According to the applicant to

require the off-setting of the new north wall 30-feet from the existing north property line will create many construction challenges which in-turn will be a hardship on the current owner. The applicant notes future plans include the replacement of the entire warehouse in the same footprint, which is the reasoning the applicant has stated for seeking a variance along the north property line.

A hardship is a special circumstance, which makes it very difficult for a particular project to meet the Zoning Ordinance requirement. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the code or misinformation at the time of purchase or construction. A hardship generally occurs when the physical characteristics of a property are such that it cannot be developed as permitted by the zoning ordinance. A hardship may be created by surroundings, shape or topographical conditions particular to the specific property. A hardship cannot be self-imposed, or the result of the property owners own action.

Variations should only be granted when the Board can determine the spirit of the zoning ordinance is observed, public safety is secured and substantial justice is done.

Variance may be granted by the Board when the property owner can provide a unique circumstance existing on the property, the unique circumstance was not created by the owner of the property, and is not due to or the result of general conditions in the zoning district in which the property is located. The development or use of the property for which the variance is sought, if limited by a literal enforcement of the provision of the zoning ordinance cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same zoning district.

**Board to Consider:**

1. Is the variance for which the variance is sought due to unique circumstances existing on the property, the unique circumstances were not created by the owner of the property, and are not due to or the result of general conditions in the district in which the property is located? No, the applicant is proposing to remove a portion of the warehouse building and construct a portion of the warehouse as new. Since the building is being removed the applicant could meet the minimum setback requirement of 30-feet but if this occurs the applicant will lose square footage of storage area.
2. Does the variance substantially or permanently injure the appropriate use of adjacent conforming property in the same district? No, the adjacent property to the north is parking for the warehouse building to the north. The property to the east is owned by the applicant and the western portion of the building will remain unchanged in the short-term.
3. Will approval of the variance alter the essential character of the district? No, a number of the buildings in the area do not meet the minimum setback requirements.
4. Will approval of the variance weaken the general intent and purpose of the land use and zoning plan? No, land use and zoning will remain as industrial zonings and light industrial land use.
5. Will the approval of the variance be in harmony with the spirit of the ordinance? No, setbacks are established to provide protection to adjacent properties.
6. Will the approval of the variance adversely affect public health, safety, and general welfare? There will be no impact on the public health, safety and general welfare of the area.

**Approval Allows:**

1. Approval will allow the reconstruction of a portion of an existing warehouse building with a zero setback along the north property line.
2. Approval of this variance request is valid for 275-days (9-Months) from date of approval. If a building permit is not secured within the 275-day (9-Month) period, approval becomes invalid unless, the Board of Zoning Adjustment has approved a request for a time extension. All requests for time extension must be made prior to the expiration of the Board's approval.

# North Little Rock Board of Zoning Adjustment

## BOA Case # 2022-06



To allow the reconstruction  
of a portion of an existing  
warehouse with a reduced  
rear yard setback

### 1302 E 8th Street



375 187.5 0 375 Feet



Map Created 03/09/2022

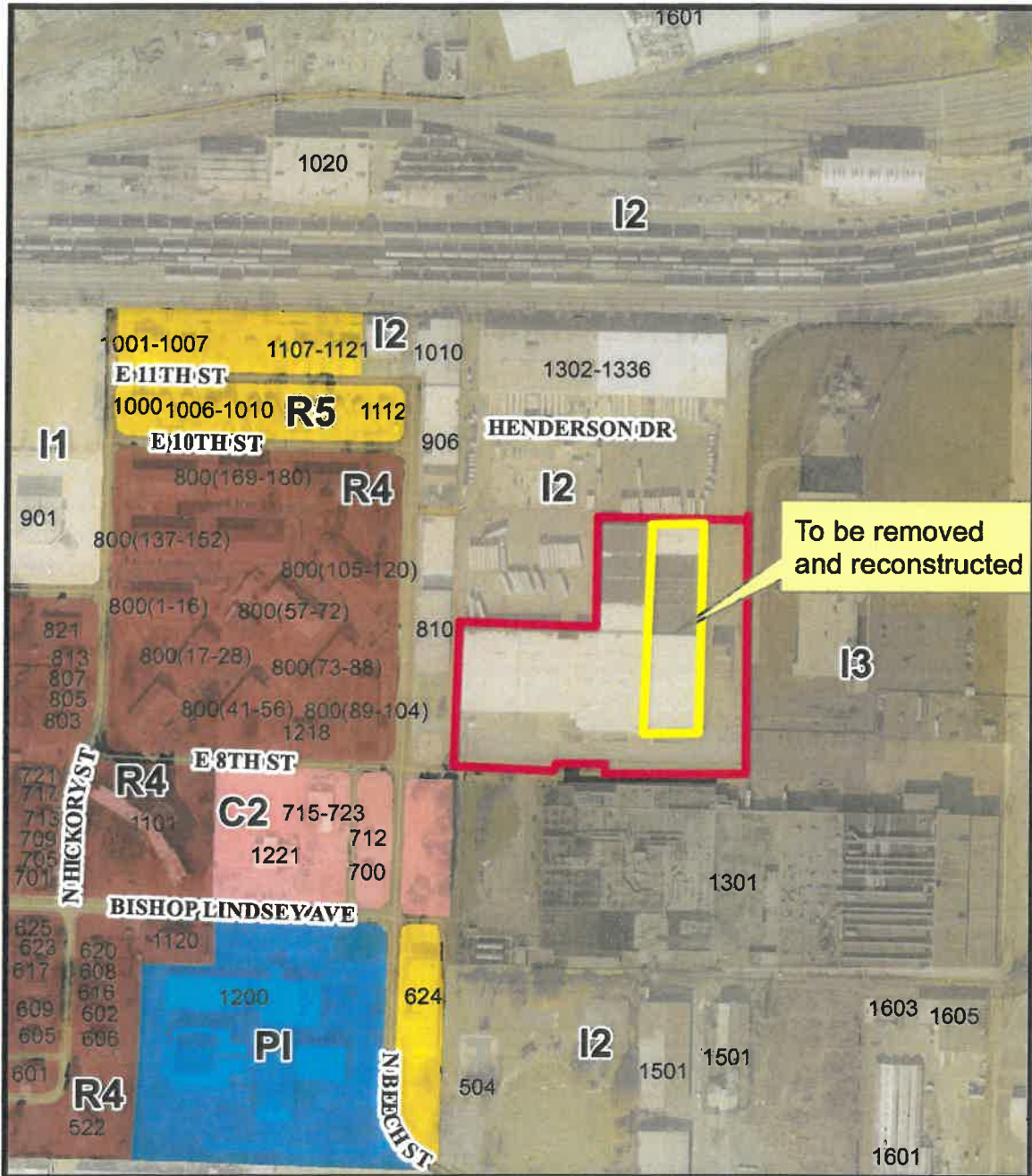
Hearing Date 03/31/2021





# North Little Rock Board of Zoning Adjustment

## BOA Case # 2022-06



To allow the reconstruction  
of a portion of an existing  
warehouse with a reduced  
rear yard setback

### 1302 E 8th Street



Map Created 03/09/2022

Hearing Date 03/31/2021







300 North Port Drive  
Cabot, AR 72023  
(501) 941-5559

February 18, 2022

Mr. Shawn Spencer  
City of NLR - Planning  
120 Main Street  
North Little Rock, AR 72115

Re: Letter of Hardship, Variance Request, Lot 2R, 8<sup>th</sup> Street Industrial Addition, North Little Rock, Arkansas

Mr. Spencer:

This project involves re-building a portion of the existing warehouse on this property. The existing warehouse was originally constructed on or encroaching the north property line. In order to re-build this section we will need to tie back in to the existing warehouse structure. Offsetting the new north wall 30' from the existing north wall will create many construction challenges and will be a hardship on the owner.

The future plan is to replace the entire warehouse, which is why we are requesting a variance along the north property line as highlighted on the attached plan. Please consider this request and let me know if you have any questions, comments or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JM', is written over a large, loopy blue scribble.

Josh Minton, PE  
Project Engineer

Cc: Clayton Vaden, AIA – Lewis Architects

**Variance Requested:** A variance request from the area provision of Section 4.1.6, R5, Townhome District to allow a reduced side yard setback along the eastern property line for a proposed accessory building.

**Location of the Request:** 435 W 4<sup>th</sup> Street, North Little Rock, AR

**Legal Description of the Property:** Lot 2A, Block 4, Faucette's Addition to the City of North Little Rock, Pulaski County, AR

**Owner/Applicant:** Dale Wilson

**Present Use of the Property:** Attached single-family

**Present Zoning of the Property:** R5, Townhome District

**Site Characteristics:** The site contains a townhouse development with 10-units attached fronting on West 4<sup>th</sup> Street and 5-units attached fronting on North Broadway Street. The applicant lives in an interior unit. There is a storage building located in the rear yard area which the applicant indicates will be removed and a new building constructed in its place. There is an office complex located to the south of this site and single-family homes located to the east and north of this site. West of the site is a commercial parking lot, which was approved for the placement of a food truck court, "the Lot".

**Surrounding Land Use and Zoning**

<u>Direction</u>	<u>Surrounding Zoning</u>	<u>Surrounding Uses</u>
North	R5 and R2	Additional townhomes and single-family
South	C6	Office Development – Old World Plaza
East	R5 and R2	Townhomes and single-family
West	R5 and C6	Townhomes and "the Lot" food truck court

**Justification:** The applicant's justification is presented in an attached letter.

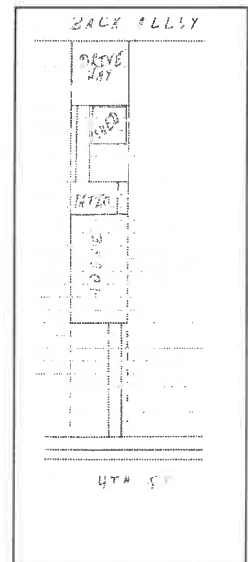
**Staff Analysis:**

Section 4.1.5 R5, Townhome District defines the criteria for development. The table of area requirements outlines the placement of accessory structures. The ordinance states there is to be a minimum side and rear yard setback of 5-feet and a minimum building separation of 10-feet. The applicant's lot is 19-feet in width and 128-feet deep. The unit is 19-feet wide



and 36-feet deep with a 10-foot deep patio located in the rear yard. Parking is also located in the rear yard off the alley. There is a storage building located in the rear yard area which the applicant indicates will be removed and a new building constructed in its place. The applicant notes the building was located on the property prior to his purchase. He states the current building is in disrepair and in need of replacement which he intends to do once the Board approves his variance request.

The applicant is seeking the variance to allow the placement of a 12-foot by 12-foot accessory building within the rear yard area. The building is proposed 12-feet from the principal structure and 20-feet from the rear property line. The building is proposed with a one-foot side yard setback along the eastern property line. There will be approximately 8-feet between the building and the western property line. The applicant notes in the cover letter the building's placement is necessary due to the walkway from the parking to the home. The applicant states there is a privacy fence around the rear yard defining the property lines. He states with the exception of the side yard setback all other accessory structure requirements will be met.



A hardship is a special circumstance, which makes it very difficult for a particular project to meet the Zoning Ordinance requirement. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the code or misinformation at the time of purchase or construction. A hardship generally occurs when the physical characteristics of a property are such that it cannot be developed as permitted by the zoning ordinance. A hardship may be created by surroundings, shape or topographical conditions particular to the specific property. A hardship cannot be self-imposed, or the result of the property owners own action.

Variations should only be granted when the Board can determine the spirit of the zoning ordinance is observed, public safety is secured and substantial justice is done. Variance may be granted by the Board when the property owner can provide a unique circumstance existing on the property, the unique circumstance was not created by the owner of the property, and is not due to or the result of general conditions in the zoning district in which the property is located. The development or use of the property for which the variance is sought, if limited by a literal enforcement of the provision of the zoning ordinance cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same zoning district.

**Board to Consider:**

1. Is the variance for which the variance is sought due to unique circumstances existing on the property, the unique circumstances were not created by the owner of the property, and are not due to or the result of general conditions in the district in which the property is located? No, the applicant is seeking a variance to allow the placement of an

accessory building within the rear yard which does not meet the current setback requirements.

2. Does the variance substantially or permanently injure the appropriate use of adjacent conforming property in the same district? No, the applicant is seeking to place the accessory structure in the rear yard with a 1-foot setback along the common property line.
3. Will approval of the variance alter the essential character of the district? No, there are a number of units in this development which also have storage buildings within the rear yard area.
4. Will approval of the variance weaken the general intent and purpose of the land use and zoning plan? No, the land use and zoning will remain as current residential districts.
5. Will the approval of the variance be in harmony with the spirit of the ordinance? No, the ordinance establishes setbacks to allow for proper separations between uses and structures.
6. Will the approval of the variance adversely affect public health, safety, and general welfare? No, there will be no adverse impact on the public health, safety or general welfare of the area.

**Approval Allows:**

1. Approval will allow the placement of an accessory building with a reduced side yard setback along the eastern property line.
2. Approval of this variance request is valid for 180-days (6-months) from date of approval. If a building permit is not secured within the 180-day (6-month) period, approval becomes invalid unless, the Board of Zoning Adjustment has approved a request for a time extension. All requests for time extension must be made prior to the expiration of the Board's approval.

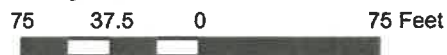
# North Little Rock Board of Zoning Adjustment

**BOA Case # 2022-07**



To allow the placement of an  
accessory structure with a reduced  
side yard setback in the rear yard

**435 W 4th Street**



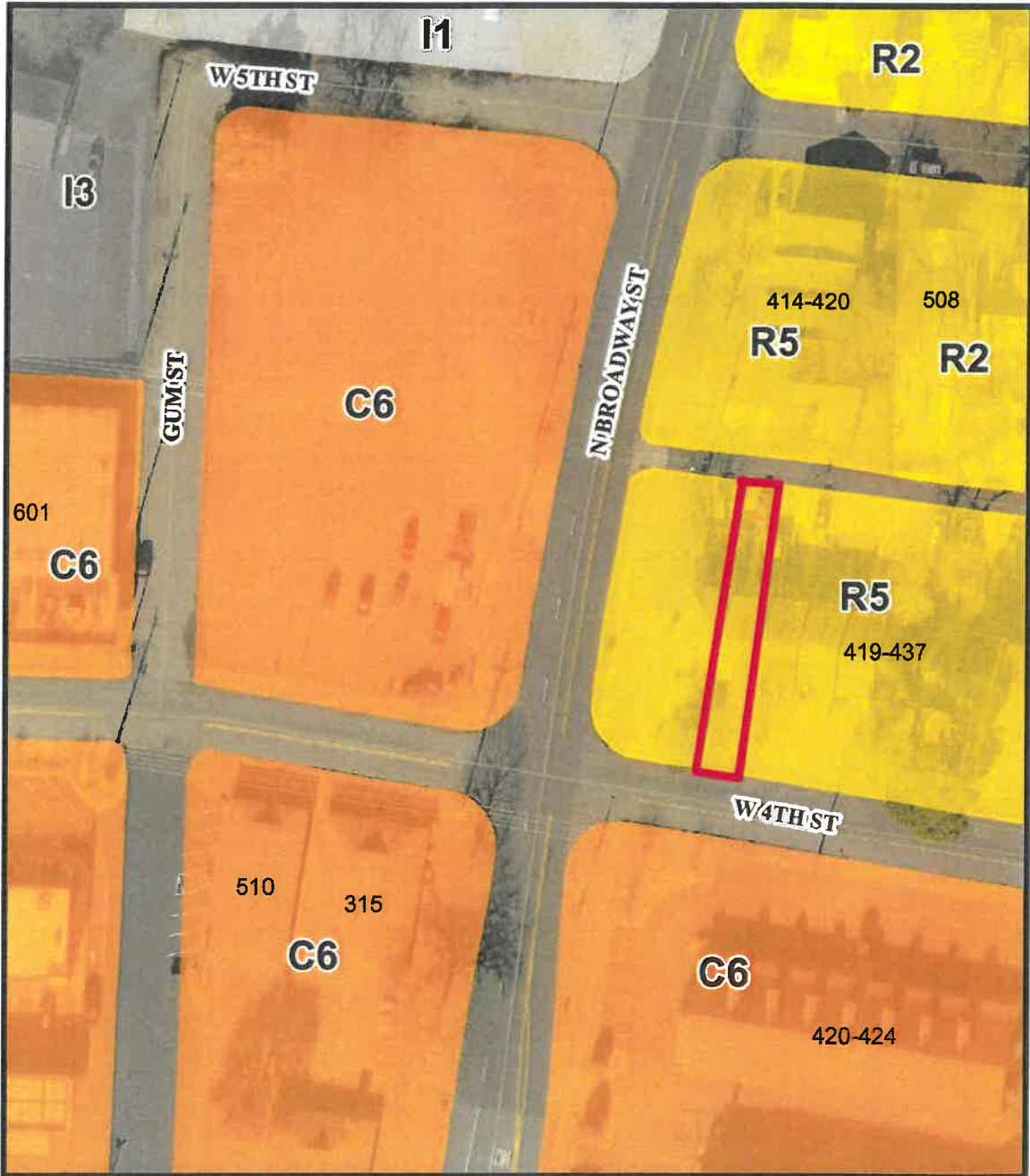
Map Created 03/09/2022

Hearing Date 03/31/2021



# North Little Rock Board of Zoning Adjustment

**BOA Case # 2022-07**



To allow the placement of an  
accessory structure with a reduced  
side yard setback in the rear yard

435 W 4th Street



75 37.5 0 75 Feet



Map Created 03/09/2022

Hearing Date 03/31/2021





ADDENDUM A  
435 W 4TH ST  
NLR AR 72114

BACK ALLEY



DRIVE  
WAY

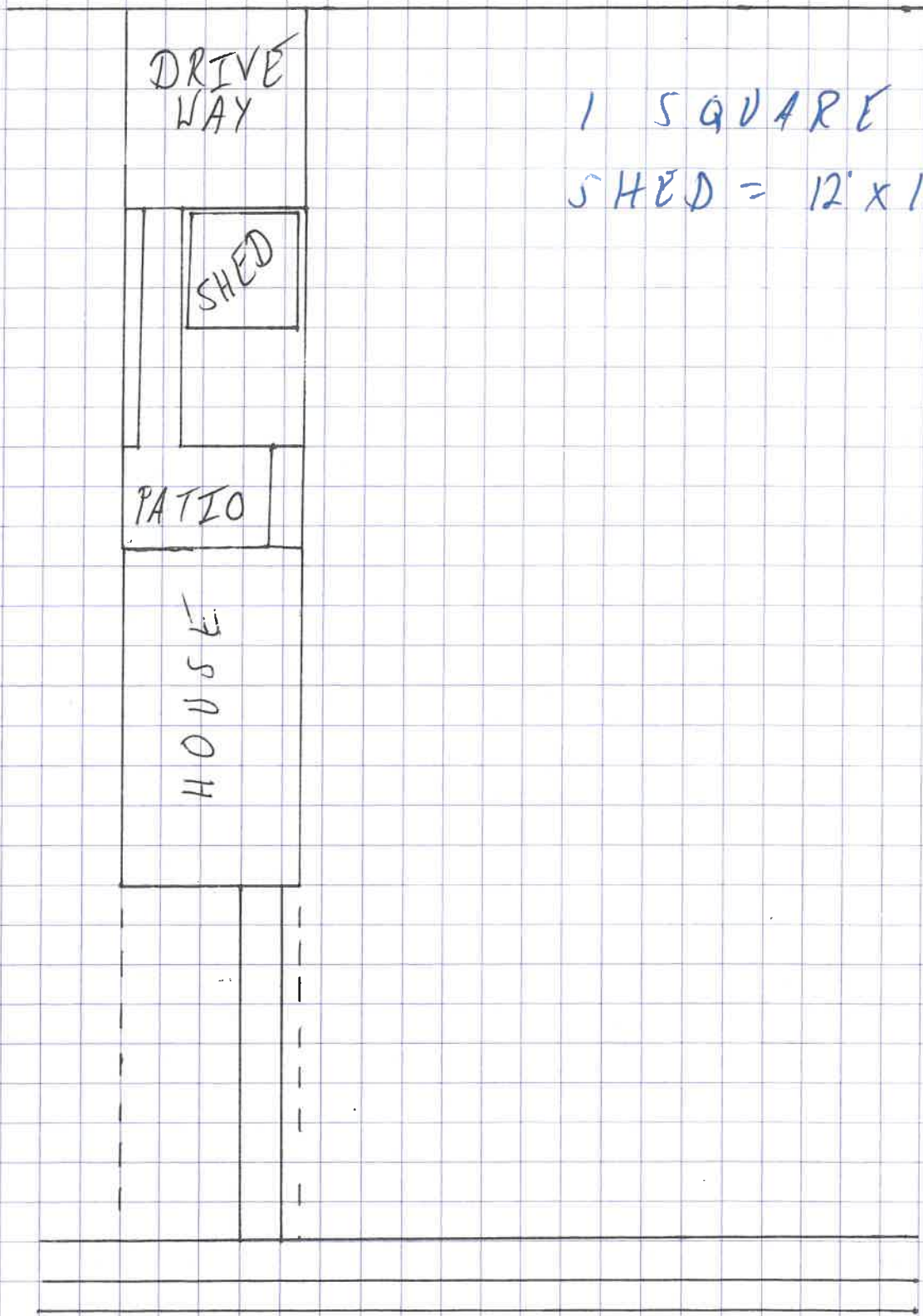
1 SQUARE = 4 FEET  
SHED = 12' x 12'

SHED

PATIO

HOUSE

4TH ST



**Addendum C**

435 W 4<sup>th</sup> St

NLR, AR 72114

4. Letter of Hardship -

*dale.e.wilsonii@gmail.com*  
*501-744-4688*

Board of Zoning,

I am seeking a variance for the setback of my Accessory Building. I live in a R5 Townhome District. The building will need to be put to one side of the Rear Yard due to a walkway from the Principal Building. This will allow for less than a one-foot Setback from the property line on one side. There is a privacy fence around the Rear Yard defining the Property Line. All other Accessory Structure Requirements will be adhered to.

Thank you,

*Dale Wilson*

BOA #2022-08  
March 31, 2022

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**Variance Requested:** a variance request from the area provision of Section 4.1.2, R1, Single-family District to allow the placement of an accessory structure, a swimming pool, within the side yard of this single-family home.

**Location of the Request:** 31 East Lake Drive, North Little Rock, AR

**Legal Description of the Property:** Lot 29, Block 48 Lakewood 5N Subdivision to the City of North Little Rock, Pulaski County, AR

**Owner/Applicant:** Devin S & Gentree L Mergens

**Present Use of the Property:** Single-family

**Present Zoning of the Property:** R1, Single-family District

**Site Characteristics:** The home is located on Lake #2 of the Lakewood Subdivision. Lake #2 has traditionally been known as the fishing lake. It is the largest of the six lakes with an area of approximately 60 acres. The property also has frontage on North Hills Boulevard although no entry or exit access from North Hills is taken by the home.

### **Surrounding Land Use and Zoning**

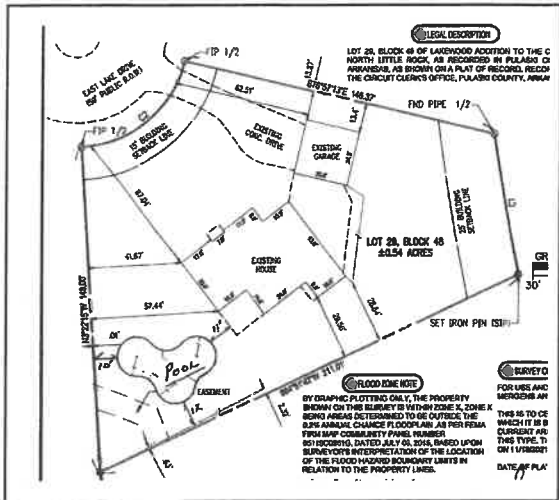
<b><u>Direction</u></b>	<b><u>Surrounding Zoning</u></b>	<b><u>Surrounding Uses</u></b>
North	R1, Single-family	Single Family
South	R1, Single-family	Single Family
East	R1, Single-family	North Hills Boulevard and Single Family Homes
West	R1, Single-family	Lake #2 of the Lakewood Subdivision

**Justification:** The applicant's justification is presented in an attached letter.

**Staff Analysis:**

The applicant is seeking a variance to allow the placement of a swimming pool, an accessory structure, within the side yard of this home. The property is located on East Lake Drive but also has frontage on North Hills Boulevard. The applicant does not take access to the lot from North Hills, only from East Lake Drive. The applicant is seeking a variance based on the lots physical characteristics.

The lot contains just over 1/2-acre and is located at the end of a cul-de-sac. Although the technical front of the home is located on East Lake Drive, the main living of the home is



located in the rear to take advantage of the views of the lake. The home was set with a 67-foot front building setback from East Lake Drive thus reducing the rear yard setback to 28-feet, only 3-feet more than the typical minimum rear yard setback of 25-feet.

The applicant seeks to place the pool in the proposed location to take advantage of the visibility of the pool from the house and to meet the setback requirements for the placement of an accessory structure of 10-feet from the primary structure and a minimum of 5-feet from each property line. There is an area on the lot located on the eastern side

that the pool could potentially be placed and meet the rear yard placement requirement and all other setback requirements but the topography of the lot in this area is very steep causing the need for substantial retaining walls to be constructed.

A hardship is a special circumstance, which makes it very difficult for a particular project to meet the Zoning Ordinance requirement. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the code or misinformation at the time of purchase or construction. A hardship generally occurs when the physical characteristics of a property are such that it cannot be developed as permitted by the zoning ordinance. A hardship may be created by surroundings, shape or topographical conditions particular to the specific property. A hardship cannot be self-imposed, or the result of the property owners own action.

Variations should only be granted when the Board can determine the spirit of the zoning ordinance is observed, public safety is secured and substantial justice is done. Variance may be granted by the Board when the property owner can provide a unique circumstance existing on the property, the unique circumstance was not created by the owner of the property, and is not due to or the result of general conditions in the zoning district in which the property is located. The development or use of the property for which the variance is sought, if limited by a literal enforcement of the provision of the zoning ordinance cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same zoning district.

**Board to Consider:**

1. Is the variance for which the variance is sought due to unique circumstances existing on the property, the unique circumstances were not created by the owner of the property, and are not due to or the result of general conditions in the district in which the property is located? Possibly, the lot was developed with a substantial front yard setback and limited rear yard setback. In addition the lot is steep on the eastern side of the lot reducing the ability to place the pool in this area.



2. Does the variance substantially or permanently injure the appropriate use of adjacent conforming property in the same district? No, the adjacent use is also single-family.
3. Will approval of the variance alter the essential character of the district? No, the area will remain as single-family.
4. Will approval of the variance weaken the general intent and purpose of the land use and zoning plan? No, the land use and zoning will remain as current residential districts.
5. Will the approval of the variance be in harmony with the spirit of the ordinance? No, the placement of accessory structures within the rear yard was established to place non-primary uses to the backs of homes and lots.
6. Will the approval of the variance adversely affect public health, safety, and general welfare? No, there will be no adverse impact on the public health, safety or general welfare of the area.

**Approval Allows:**

1. Approval will allow a variance from the area provision of Section 4.1.2, R1, Single-family District will allow the placement of an accessory structure, a swimming pool, within the side yard of this single-family home.
2. Approval of this variance request is valid for 180-days from date of approval. If a building permit is not secured within the 180-day period, approval becomes invalid unless, the Board of Zoning Adjustment has approved a request for a time extension. All requests for time extension must be made prior to the expiration of the Board's approval.

# North Little Rock Board of Zoning Adjustment

**BOA Case # 2022-08**



To allow the placement of  
an accessory structure within  
the side yard

31 East Lake Drive



150 75 0 150 Feet

Map Created 03/09/2022

Hearing Date 03/31/2021



# North Little Rock Board of Zoning Adjustment

**BOA Case # 2022-08**



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an accessory structure within  
the side yard

**31 East Lake Drive**



150 75 0 150 Feet

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# North Little Rock Board of Zoning Adjustment

**BOA Case # 2022-08**



To allow the placement of  
an accessory structure within  
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**31 East Lake Drive**

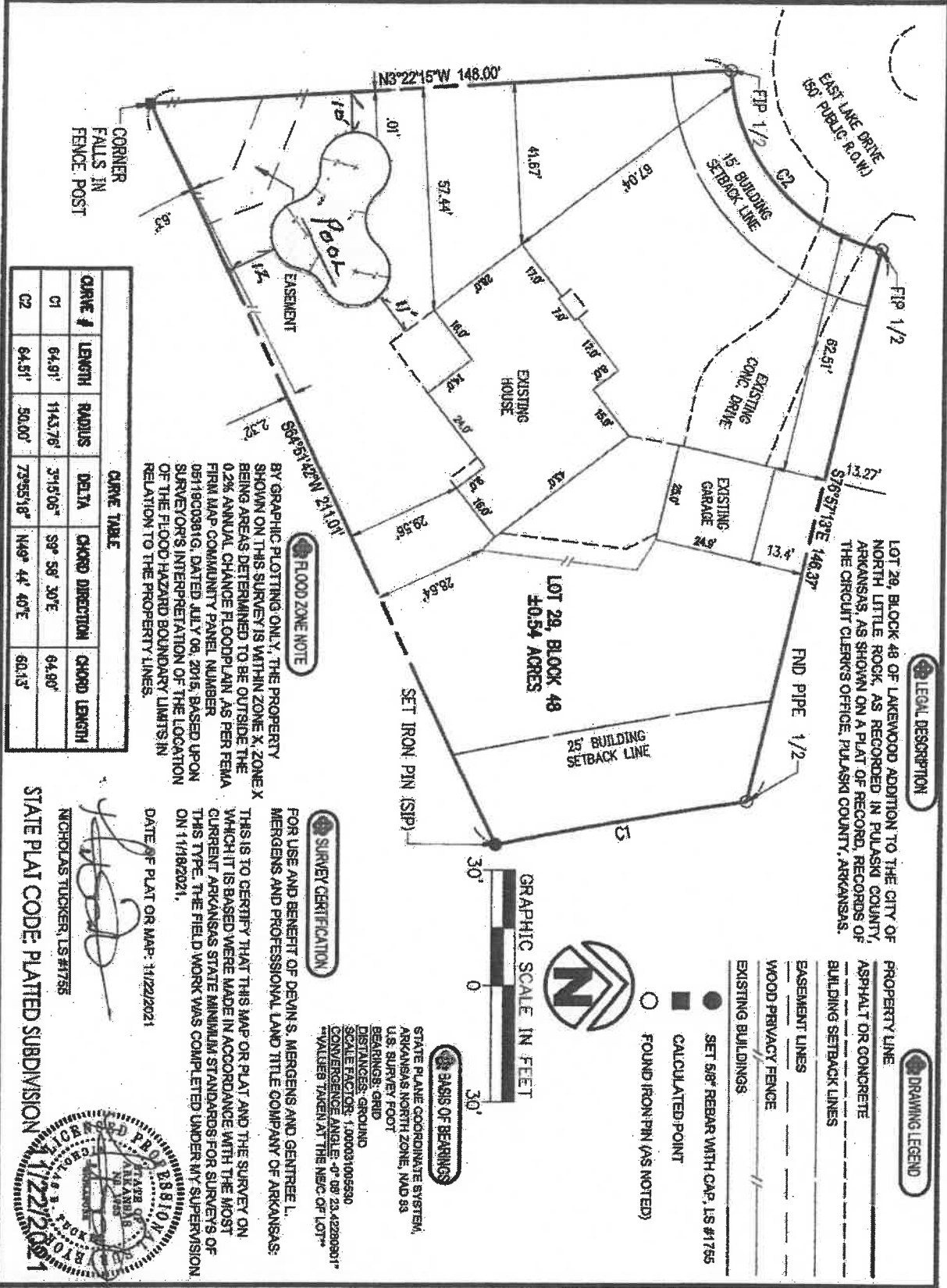


150 75 0 150 Feet

Map Created 03/09/2022

Hearing Date 03/31/2021



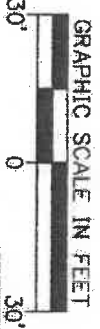


**LEGAL DESCRIPTION**

LOT 29, BLOCK 48 OF LAKEWOOD ADDITION TO THE CITY OF NORTH LITTLE ROCK, AS RECORDED IN PULASKI COUNTY, ARKANSAS, AS SHOWN ON A PLAT OF RECORD, RECORDS OF THE CIRCUIT CLERK'S OFFICE, PULASKI COUNTY, ARKANSAS.

**DRAWING LEGEND**

- PROPERTY LINE
- ASPHALT OR CONCRETE
- BUILDING SETBACK LINES
- EASEMENT LINES
- WOOD PRIVACY FENCE
- EXISTING BUILDINGS
- SET 5/8" REBAR WITH CAP, LS #1756
- CALCULATED POINT
- FOUND IRON PIN (AS NOTED)



**BASIS OF BEARINGS**

STATE PLANE COORDINATE SYSTEM, ARKANSAS NORTH ZONE, NAD 83  
 U.S. SURVEY FOOT  
 BEARINGS: GRID  
 DISTANCES: GROUND  
 SCALE FACTOR: 1.000031005590  
 CONVERGENCE ANGLE: -47.89" 23.42299901"  
 \*\*VALUED TAKEN AT THE NERC OF LOT\*\*

**SURVEY CERTIFICATION**

FOR USE AND BENEFIT OF DEVIN S. MERGENS AND GENTREE L. MERGENS AND PROFESSIONAL LAND TITLE COMPANY OF ARKANSAS, THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE MOST CURRENT ARKANSAS STATE MINIMUM STANDARDS FOR SURVEYS OF THIS TYPE. THE FIELD WORK WAS COMPLETED UNDER MY SUPERVISION ON 11/18/2021.

DATE OF PLAT OR MAP: 11/22/2021

*Nicholas Tucker, LS #1755*

NICHOLAS TUCKER, LS #1755

STATE PLAT CODE: PLATTED SUBDIVISION



BOUNDARY SURVEY  
 LOT 29, BLOCK 48  
 LAKEWOOD ADDITION  
 31 EAST LAKE DRIVE

PREPARED FOR:  
 DEVIN AND GENTREE MERGENS

NORTH LITTLE ROCK, PULASKI COUNTY ARKANSAS

DATE	DESCRIPTION

1000 Lexington Dr  
 Conway, Arkansas 72024  
**Crafton Tull**  
 Professional Surveying  
 501.528.2314 | 501.528.3325 f  
 www.craftontull.com

© 2021 Crafton Tull  
 Project No. 21295700  
 Issue Date: 11/22/2021  
 Drawn By: BFERRELL  
 Approve By: N.TUCKER  
 Sheet No. 1 OF 1

#### **4. Letter of Hardship**

Mergens Residence  
31 East Lake Dr,  
North Little Rock, AR 72116

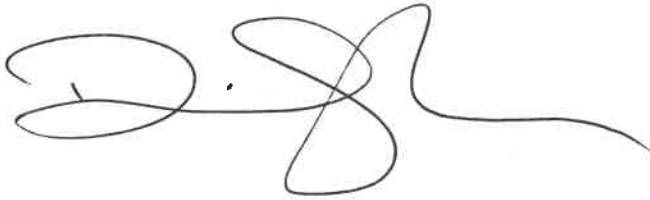
The Lot is laid out in such a way that we are unable to place our pool behind the designated rear wall.

We are at the end of the street on the left side of the cul-de-sac and the house is turned to face the lake.

The pool will be completely fence in and locked. The lot also slopes downward towards the lake and is flat where we will place the pool however the pool will not be visible to traffic.

Thank you for your consideration.

Devin Mergens

A handwritten signature in black ink, appearing to read 'D. Mergens', with a long horizontal line extending to the right.