

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

Meeting Link: https://us06web.zoom.us/webinar/register/WN_abiuoE8lTgy6zzYseqMhgg

- I. Call to Order**
- II. Approval of January 11th Meeting Minutes**
- III. New Business**

1. Jacobs Group

1100 Fillmore Street ([VAR23-0003](#))

- Fence Setback Variance

Variance*

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**BOARD OF ADJUSTMENT
MEETING MINUTES
January 11, 2023
Bentonville City Hall
305 SW A St
4:00 PM**

Recording Link:

https://us06web.zoom.us/rec/share/aYfY6kZpZN4MVjixbceRoKxk42bVu2HeHAr7ZN5py_3LJxwj9UQyxJdZlhn-0ojh.fm_AVeYauHwmmmWP?startTime=1673474381000

Call to Order

- Called to order by Chairman Kruithof at 4:00pm.
- Board Member Present: Sam Pearson, Joe Haynie, Celia Swanson, Dean Kruithof, BJ Phillips.
- City Staff Present: Luke Aitken, Tom Adler, Bradley Gavrielides.

I. Approval of December 14th Meeting Minutes

- Mr. Pearson motions to approve the meetings minutes with the proposed changes. Seconded by Mr. Haynie.
- Minutes approved 5-0.

II. New Business

1. Ovation Homes

Variance*

402 4th Street (VAR22-0043)

- Rear-yard Setback Variance.
- Luke reads staff report.
- Chairman Kruithof opens the public hearing; no members of the public are present to speak. Public hearing closed.
- There is discussion between staff, board members and applicant regarding the details of the proposed site design.
- Luke explains accommodation process through Planning Commission if applicant chooses another route.
- Mr. Phillips motions to approve the request as presented. Seconded by Mr. Pearson.
- Variance approved 5-0.

2. 2023 Election of Officers Election

- Discussion and vote on 2023 officers for Board of Adjustments
 - Kruithof is elected as Chairman.

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- Phillips is elected as Vice Chairman.
- Swanson is elected as Secretary.

III. Adjournment

- Motion by Pearson to adjourn Seconded by Haynie
- Meeting adjourned.

BOARD OF ADJUSTMENT STAFF REPORT



The Jacobs Group

1110 Fillmore Street

BOA Date: 2/8/2023

Reviewer: Bradley Gavrielides – Planning Technician

Project Number	VAR23-0003
Applicant / Current Owner	The Jacobs Group
Site Area	+/- 0.18 Acres
Current Zoning	DN-2, Downtown Medium-Density Residential
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

Property Description

This property is located at 1110 Fillmore Street and is currently zoned DN-2, Downtown Medium-Density Residential.

Regulation

Zoning Code Article Article 1100 Development Standards, requires a minimum setback of 5 feet from the Right of Way line.

Variance Request

The applicant is requesting a variance of 4.5 feet from the minimum rear setback of 5 feet, required by code, to allow the front fence to be 6 inches from the back of sidewalk.

Background

The applicant states that they want to create a more usable front yard and add to the property values in this type of development in downtown Bentonville. The applicant states that there are many other projects around the City of Bentonville that have fences within 6 inches of Right of Way. The distance from the Right of Way is not known at this time for the other properties. Applicant states:

- A. Special Conditions and circumstances exist which are specific to the proposed project. In particular the required 5' fence setback from public sidewalk takes up 35% of the houses front yard. Much of the quoted 35% is due to Right of Way.
- B. Literal Interpretation of the ordinance - Strict enforcement of the zoning code would severely limit the use of the property commonly enjoyed by other projects found in Downtown Bentonville.
- C. The special conditions and circumstances do not result from the actions of the applicant. Currently other projects can be found within the City of Bentonville Downtown where the front fence is located directly up against the public sidewalk, although the new structure did not leave adequate room for the fence setback and no fence is required.

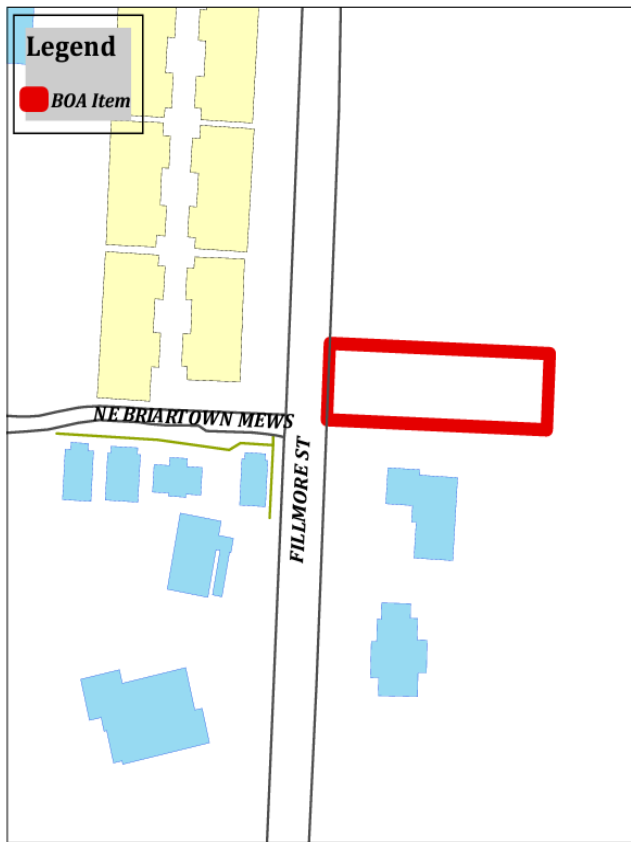
The applicant has already erected the fence as they are proposing within 0.5 feet of the Right Of Way line. Staff could not find a fence permit for the currently constructed fence at the time of writing this staff report.

Public Comment

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

Conditions of Approval

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VAR23-0003
Jacobs Group
1110 Fillmore St

1 inch = 55 feet



BOARD OF ADJUSTMENT STAFF REPORT

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant within this application.
2. The applicant must obtain a fence permit before construction.

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

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure, or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

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

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

Legend

 *BOA Item*

NE BRIARTOWN MEWS

FILLMORE ST



VAR23-0003
Jacobs Group
1110 Fillmore St

1 inch = 55 feet



JACOBS GROUP

Specializing in Downtown Housing

1-20-2023

City of Bentonville
Board of Adjustments
305 SW A Street
Bentonville, AR. 72712

RE: 1110 Fillmore Street, Bentonville – Front Fence Variance Request

Dear Board of Adjustment members,

Jacobs Group requests a variance for the front fence to be located 6” from the back of the public sidewalk. The house is set 15’ back from the sidewalk/right of way. Placing the front fence 5’ back from the public right of way limits the front yard space to an unusable area. Strict enforcement of this code adversely impacts the property values for this type of development in Downtown Bentonville.

Here are recently developed properties located in Downtown Bentonville, with front fences built within 6” of the sidewalk: 920, 928, 935 N. Main Street, 202, 203, 205, 228, 230, 232, 234, 236, 238, 240, 244 SWD Street. Either these fences were permitted with variances or are illegally built fences. Assuming this set back requirement is an essential part of downtown development, we would expect to see illegally built fences brought into compliance or a greater number of variances allowed.

For the reasons listed above, I ask that you find the following:

- A. Special Conditions and circumstances exist which are specific to the proposed project. *In particular the required 5’ fence setback from public sidewalk takes up 35% of the houses front yard.*
- B. Literal Interpretation of the ordinance - *Strict enforcement of the zoning code would severely limit the use of the property commonly enjoyed by other projects found in Downtown Bentonville.*
- C. The special conditions and circumstances do not result from the actions of the applicant. *Currently other projects can be found within the City of Bentonville Downtown where the front fence is located directly up against the public sidewalk.*

JACOBS GROUP

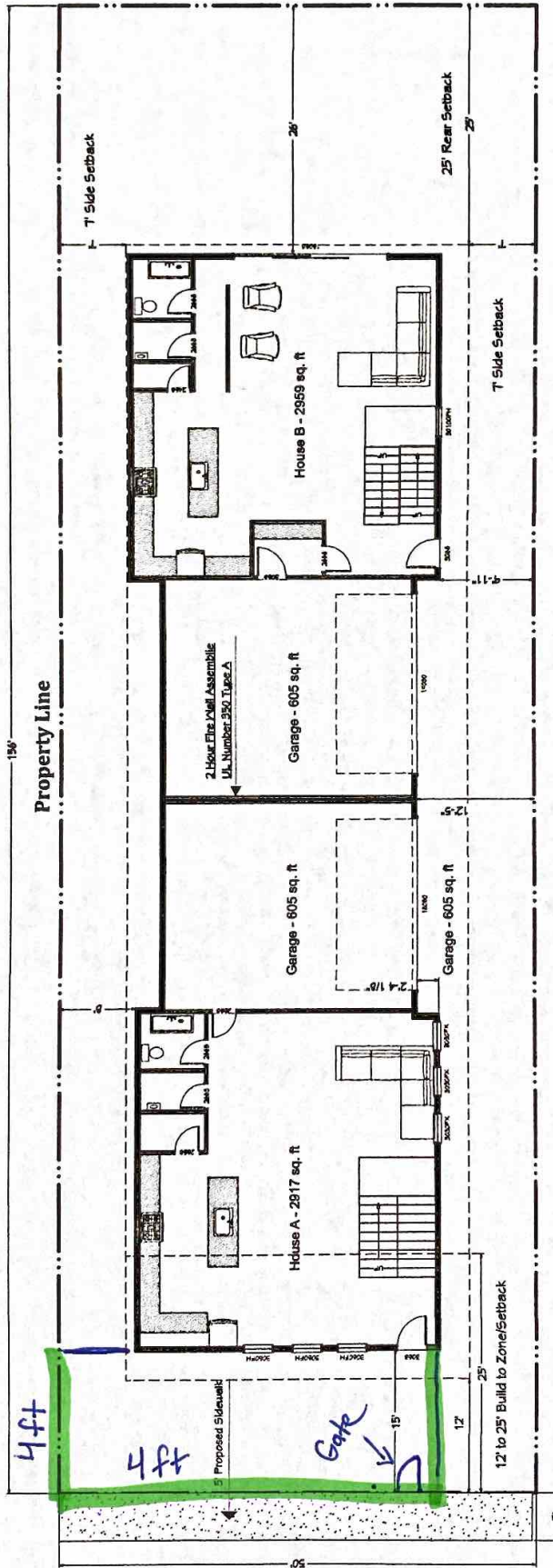
Specializing in Downtown Housing

Sincerely,

A handwritten signature in black ink, appearing to read "Jacobs Group". The signature is stylized and cursive, with the first name "Jacobs" and the word "Group" written in a fluid, connected script.

Jacobs Group
PO Box 1285
Bentonville AR, 72712
479-936-4374

4ft = 4ft.



14' Public Alley- Built to City Standards, Specs and Details

StormWater LID

- 1485 Sq ft of existing impervious area
- 4117 Sq ft of New impervious area
- 2632 Sq ft Difference
- = 526 Cubic Feet

Site Plan

PROJECT DESCRIPTION: 1113 NE Filmore St. Bentonville, AR		DRAWINGS PROVIDED BY: JACOBS GROUP P.O. Box 1285 Bentonville, AR 72712	
SHEET TITLE: Site Plan		DATE: 1-8-21	SCALE: 1/8" = 1'-0"
NO. DESCRIPTION BY DATE		SHEET: 1-3	
1 12' Front SB Added 12-26-19		PERMIT AND BID SET	