



**BOARD OF ADJUSTMENT
AGENDA
April 10, 2019**

I. Call to Order

II. Approval of Minutes

III. New Business:

1. Faciszewski

1235, 1237 1239 & 1241 NE Monroe Street ([VAR19-0006](#))

- Front Yard Fence Location
- Front Yard Fence Height

Variances*

2. Hall

2 Bonita Court ([VAR19-0007](#))

- Use Regulations, Accessory Non Residential Building Setback

Variance*

3. Moriarty

935 North Main Street ([VAR19-0008](#))

- Fence Location – Adjacent to Public Right-of-Way

Variance*

IV. Other Business

V. Adjournment

BOA STAFF REPORT

VAR19-0006, Faciszewski, Front Yard Fence Location & Height

TO: Bentonville Board of Adjustment Members
THRU: Ellen Norvell, Community Development Director
FROM: Jon Stanley, Senior Planning
BOA DATE: April 10, 2019

GENERAL INFORMATION:

Representative: Jared & Sonia Faciszewski

Applicant: Jared & Sonia Faciszewski

Location: 1235, 1237, 1239 & 1241 NE Monroe Street

Existing Zoning: DN-2, Downtown Medium Density Residential

Existing Land Use: Single Family Residences

REQUEST: Variance(s)

Front Yard Fence Location Variance		
	Regulation	Request
Article 1400, Sec1400.15.2.D Fence Location/Front Yard	Shall not be positioned any closer to the front property line than the front surface of the building for a typical residential lot. (Existing Home at 1207 is at 20')	Request of: 15' Variance of : 5'

Front Yard Fence Height Variance		
	Regulation	Request
Article 1400, Sec1400.15.D.2 Fence Height/Front Yard	Maximum Height shall be three (3) feet above grade	Request of: 6' Variance of : 3'

SURROUNDING ZONING:

Direction	Zoning
North	DN-2, Downtown Medium Density Residential
South	R-1, Single Family Residential
East	R-1, Single Family Residential
West	R-1, Single Family Residential

BACKGROUND:

The applicant has submitted a variance request to the fence location requirements for a front yard fence located at 1235, 1237, 1239 & 1241 NE Monroe Street. The applicant is requesting to place the fence at a setback of 15 feet, which is a variance of 5’ feet from the 20 feet allowed by ordinance due to the existing home at 1207 NE Monroe Street that was constructed with a 20’ setback under the R-1 zoning district requirements.

Additionally, the applicant is also requesting a variance to the Front Yard fence height requirements. The applicant is requesting that a 6-foot tall front yard fence be allowed, which is a variance of 3 feet from the 3 feet allowed by ordinance. At the time of this request, there are no utility easements, drainage easements nor overhead electric that would be impeded with the proposed variance.

For additional information, please reference the attached documents.

PUBLIC COMMENT:

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

CONDITIONS OF APPROVAL:

If approved, the following condition(s) shall apply:

1. The approved variance shall be for the proposed height, location and materials of the fence only, as provided by the applicant within this application.
2. The fence shall maintain a minimum of 5’ of separation from any public right-of-way.
3. The fence shall maintain a minimum of 5’ of separation from any public utility.
4. The applicant shall obtain an approved fence permit prior to constructing the fence.

Sonia and Jared Faciszewski
1210 NE Monroe
Bentonville, AR 72712

March 23, 2019

Bentonville Planning Commission
305 SW A St.
Bentonville, AR 72712

Dear Planning Commission:

We wish to apply for a variance for the construction of a 6' privacy fence on 3 empty lots located at 1235, 1237, and 1239 NE Monroe. Below is an overview of the request and more detailed information and justification. Thank you for your consideration.

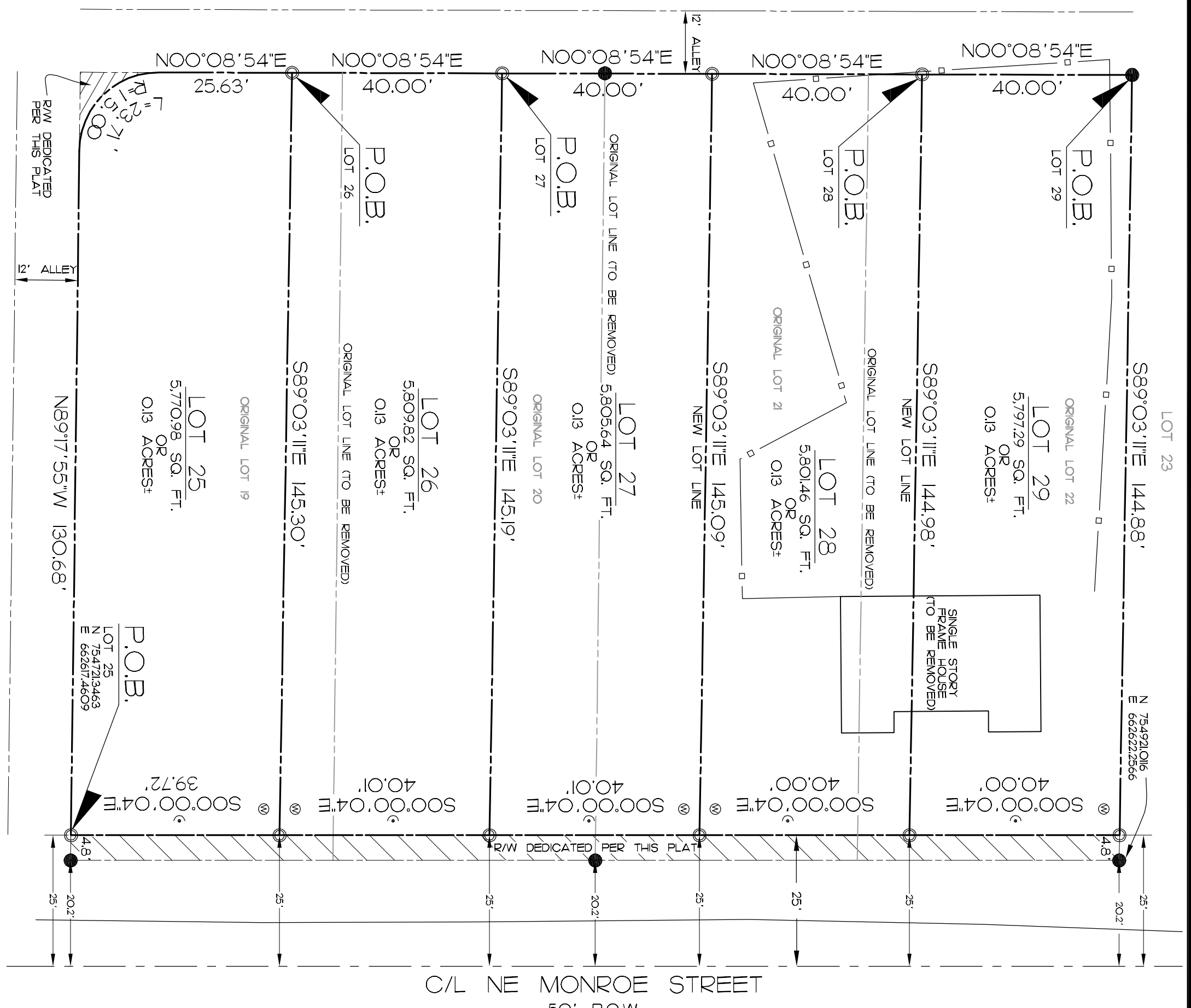
Overview:

We would like to build a 6' fence across the east side of the above-mentioned three empty lots with a 15' setback from the front property line. The lots are zoned DN-2 and have a minimum front setback of 15' when the lots are ultimately developed. We are requesting a variance because a fence with a 15' setback would be approximately 5-6' closer to the front property than several houses on the block currently. The south, west, and north sides of the fence would be built according to code.

A drawing of the proposed fence location is shown below.

We are requesting exemption from the current code because:

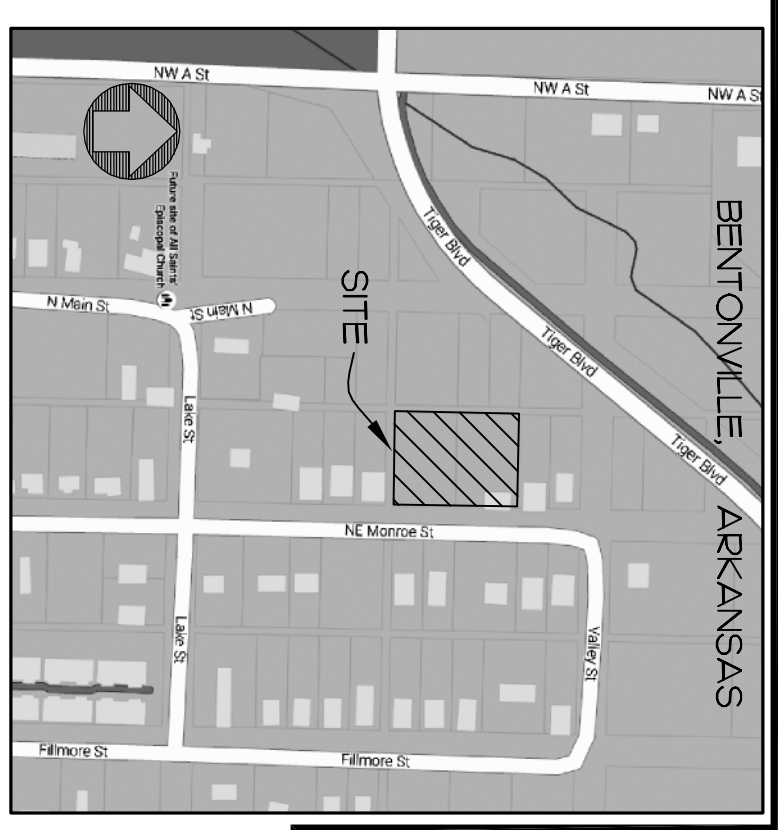
1. There are several trees (5) that would be required to be relocated or destroyed to place the fence even with the front of adjacent houses.
2. The neighborhood is quickly redeveloping with both DN-2, R-3, and C-1 zoning already present in the neighborhood. As such, future development is likely to build within 15' of street right-of-way on this block in the near future.
3. We own the house (1241 NE Monroe) that is directly to the north of these three empty lots and as such would be the most heavily impacted property owner if variance is approved. The house to the south (1207 NE Monroe) is separated from 1235 NE Monroe (the southernmost lot where the proposed fence would be built) by a 12' alley and corresponding side setbacks. The fence will not block visibility and safety for traffic on Monroe Street in any way.
4. We will build a high quality, aesthetically pleasing cedar fence (pictures below).
5. We would like to maximize the use of these empty lots as a safe play area for children and pets.
6. Bentonville zoning code does not directly address the placement of fences on empty lots. The code simply states: "**Front Yard.** A fence 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, shall not exceed three (3) feet in height. Decorative fencing is permitted." As such, we are not asking to place this 6' fence any closer to the front property line than what we would be able to do if we developed these lots.



LEGEND

- FOUND REBAR
- SET W/ REBAR W/OP. L.S. 1970
- PROPOSED WATER METER
- PROPOSED SEWER TAP
- WOOD FENCE
- PROPERTY LINE
- RIGHT-OF-WAY LINE

PARENT TRACT:
 LOTS 19, 20, 21 AND 22, BLOCK 7 OF W.A. BURKS ADDITION, CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN IN PLAT BOOK 2012, PAGE 16 OF THE BENTON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS:



VICINITY MAP (N.T.S.)

CERTIFICATE OF OWNERSHIP AND DEDICATION:

WE, THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAD OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY CERTIFY THAT WE HAVE LAD OFF, PLATTED, AND SUBDIVIDED WITH THIS PLAT AND DO HEREBY CERTIFY THAT THE STATE OF ARKANSAS HAS BEEN ADVISED OF THE PLATTING OF THIS PLAT AND THE PLATTING OF THIS PLAT AND THE PLATTING OF THIS PLAT AND THE PLATTING OF THIS PLAT AS SHOWN ON SAID PLAT.

DATE OF EXECUTION: _____
 PRINT NAME: _____
 SIGNATURE: _____

STATE OF ARKANSAS, COUNTY OF BENTON, SUBSCRIBED AND SWORN BEFORE ME THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC
 MY COMMISSION EXPIRES: _____

CERTIFICATE OF APPROVAL:

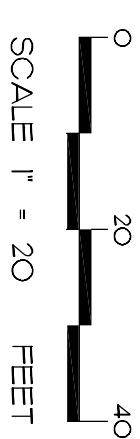
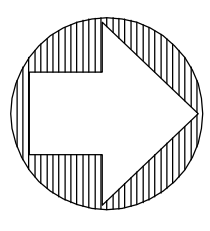
PURSUANT TO THE BENTONVILLE SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF EXECUTION: _____
 SIGNED: _____
 BENTONVILLE PLANNING COMMISSION CHAIRMAN

DATE OF EXECUTION: _____
 SIGNED: _____
 MAYOR, CITY OF BENTONVILLE

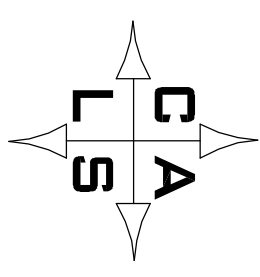
DATE OF EXECUTION: _____
 SIGNED: _____
 CITY CLERK, CITY OF BENTONVILLE

ATLAS PAGE: NO. 39



CASTER & ASSOCIATES
 LAND SURVEYING, INC.

2715 SE T^h Street, Suite 5
 Bentonville, AR 72712
 Telephone 479-268-4464



SCALE: 1" = 20' DATE: 11-20-15

LOT LINE ADJUSTMENT OF LOTS 19, 20, 21 & 22, BLOCK 7 W.A. BURKS ADDITION CREATING LOTS 25, 26, 27, 28 & 29

1209 & 1211 NE MONROE STREET BENTONVILLE, BENTON COUNTY, ARKANSAS

JOB #	DRAWN BY	CHK'D BY	PAGE
B-143	ASD	RJC	1 OF 1

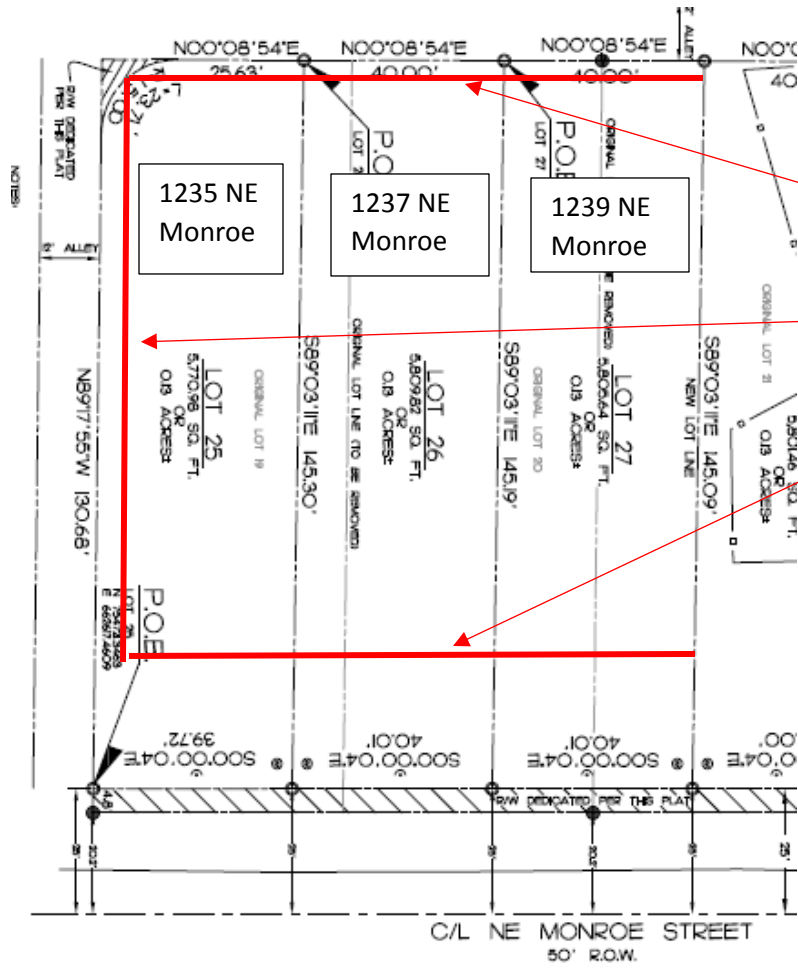
- NOTES:**
1. EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT REPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE, EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY, BUILDING RESTRICTIONS, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, ZONING OR OTHER LAND-USE REGULATIONS AND ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE COMMITMENT MAY DISCLOSE.
 2. BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE.
 3. SURVEY REPRESENTS A BOUNDARY SURVEY OF A PARCEL, DESCRIBED IN BENTON COUNTY DEED RECORDS AT PLAT BOOK 2012, PAGE 16.
 4. DECLARATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
 5. THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
 6. THE PROPERTY SHOWN HEREON IS ZONED R-1 (SINGLE FAMILY RESIDENTIAL) AND IS WITHIN THE CITY LIMITS OF BENTONVILLE, ARKANSAS. THE FRONT, SIDE AND REAR YARD REGULATIONS ARE AS FOLLOWS:
 GARAGE FRONT: 30 FEET
 FRONT YARD: 20 FEET
 SIDE YARD: 7 FEET (INTERIOR), 20 FEET (EXTERIOR)
 REAR YARD: 25 FEET
 7. THIS IS PER THE REQUIREMENTS OF THE CITY OF BENTONVILLE, ARKANSAS.
 7. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD ENCUMBRANCES, RESTRICTIVE COVENANTS OWNERSHIP TITLE EVIDENCE OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE COMMITMENT MAY DISCLOSE.
 8. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER/OWNER AT TIME OF BUILDING PERMIT ISSUANCE.
 9. BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO CONTACT THE CITY OF BENTONVILLE ENGINEERING AND TRANSPORTATION DEPARTMENTS AND NOTIFY SAID DEPARTMENTS ON THE INTENT AND TYPE OF THE WORK THAT WILL TAKE PLACE WITHIN THE RIGHT-OF-WAY.
 10. OWNER/DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO INSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.

FLOOD CERTIFICATION:
 I, CERTIFY THAT I HAVE EXAMINED THE F.I.A. OFFICIAL FLOOD INSURANCE MAP AND DATE 11/19/2015 AND FOUND THE DESCRIBED PROPERTY IS IN ZONE X, ANY AREA HAVING NO SPECIAL FLOOD HAZARDS.

CERTIFICATE OF SURVEY ACCURACY:
 I, ROBERT J. CASTER, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN.

ROBERT J. CASTER, P.L.S. NO.13710, ARKANSAS DATE _____

Fence Location (Thick Red Line is Fence)



5' from rear property line/alley (per code)
 5' from side property line/alley (per code)
 15' from front property line

Fence Design (Cap and Trim Cedar, Board to Board)

