



Board of Zoning Adjustment Meeting Agenda

Date: Monday, August 12, 2024
Time: 4:30 PM

Location: Bella Vista District Court
2483 Forest Hills Blvd

Board of Zoning Adjustment meetings are live streamed and archived for your convenience. View the meeting at its scheduled time or after at:

<https://bit.ly/bvmeetingslive>.

I. Call to Order

II. Roll Call

Members: Daniel Ellis, PE, Chairman; Doug Farner, Vice-Chairman; Gail Klesen, Secretary; Clayton Sedberry, JB Portillo; Susan Duell, and Linda Lloyd.

III. Consideration of Minutes

A. Board of Zoning Adjustment Meeting Minutes - July 8, 2024

IV. Unfinished Business

A. **ZVR-2024-54671:** A zoning variance request on interior parking lot landscaping and outdoor lighting modifications for a proposed large-scale development at 504 Memorial Drive; Parcel 16-40224-000; Presented by Planner Workman.

V. New Business

A. **Public Hearing ZVR-2024-55150:** A zoning variance request on the Residential Estate (R-E) District minimum rear setback for a proposed non-residential accessory structure located at 8801 Bethnal Road; Parcel 16-77809-003; Presented by Planner Workman.

VI. Open Discussion

VII. Announcements

A. The August Planning Commission Regular Meeting will start immediately upon the adjournment of this meeting.

VIII. Adjournment



Board of Zoning Adjustment Meeting Minutes

July 8, 2024
2483 Forest Hills Blvd

I. CALL TO ORDER

Chairman Ellis called the meeting to order at 4:30 PM.

II. ROLL CALL

Members Present: Daniel Ellis, PE, Chairman; Doug Farner, Vice-Chairman; Gail Klesen, Secretary; Clayton Sedberry; JB Portillo; Susan Duell, and Linda Lloyd.

Member Absent: Gail Klesen

III. CONSIDERATION OF MINUTES

A. *Regular Meeting Minutes – June 10, 2024*

On a motion by Mr. Farner, and a second by Ms. Portillo, the June 10, 2024 minutes were approved by voice vote.

IV. UNFINISHED BUSINESS

None.

V. NEW BUSINESS

A. **Public Hearing: ZVR-2024-54671: A zoning variance request on interior parking lot landscaping and outdoor lighting modification for a proposed LSD at 504 Memorial Dr; Parcel 16-40224-000; Presented by Planner Workman.**

1. Ms. Workman presented the staff report in the packet.
2. Applicant Scarlett Basore, President of the Board of Cooper Chapel was present for questions.
3. Applicant Matthew Holland, Project Manager was present for questions and to reiterate intent.
4. Mr. Ellis asked to see a tree survey or scientific data showing the canopy is shading the parking lot. "We have to have actual data that shows you are meeting the intent of our code. Hire an arborist or a lighting specialist to conduct a study... You need to have a drawing that depicts what's existing today to justify the ask to not meet the landscape ordinance."
5. Mr. Kelley added "The law puts the burden on you to make a showing that it's a hardship or that a variance is justified. The board of adjustment cannot assume that, they have to have evidence to base their decision on."

6. Mr. Ellis asked "if we take action on the variances tonight can they come back next month if they have additional information? So we can keep the large scale moving forward?"
 7. Mr. Kelley responded "I would suggest perhaps you table it until next months meeting and give them the chance to put together some additional data for you..."
 8. Matthew Holland requested to table the variance and waive the 60 day review timeline.
 9. Mr. Ellis opened the public hearing.
 10. Mr. Ellis closed the public hearing.
 11. A motion to table the variance to the August 12th meeting was made by Ms. Portillo and a second was made by Mr. Farner.
 - Clayton Sedberry – Y
 - Gail Klesen -
 - Linda Lloyd - Y
 - Doug Farner - Y
 - JB Portillo - Y
 - Susan Duell - Y
 - Daniel Ellis - Y
- Motion Passed 6 – 0

B. Public Hearing: ZVR-2024-54679; A zoning variance request on architectural standards for residential garage placement for a PZD referenced as Owl Commons at 102 Fairway Dr.; Presented by Planner Robertson

1. Ms. Robertson presented the staff report in the packet.
2. Mr. Kelley stated for the record that "Ms. Lloyd is the applicant, she stepped away and is not considering anything on this."
3. Mr. Farner asked, "If we grant this, they have no setback requirements for garages?"
4. Ms. Robertson clarified "They would be able to write their own setbacks, which is the intent of the PZD."
5. Mr. Farner questioned further, "which means they could have garages that would open onto the street?"
6. Ms. Robertson answered "they would write their own setback for it."
7. Mr. Ellis clarified "When they come back with the PZD they will negotiate with the commission on what the setbacks would be. All this variance is doing is giving them the ability to preform a PZD. Right now, they have some constraints because the way our code is written that doesn't truly allow them to prepare a PZD."
8. The applicant, Linda Lloyd, 102 Fairway Dr. was present to reiterate intent.
9. Mr. Farner asked "Will the homeowners own an actual piece of property?"
10. Ms. Lloyd answered "It would be either a condo or a lot, it is still to be determined."
11. Mr. Ellis opened the public hearing.
 - i. Denise Klinger, 29 Bassingham Dr. spoke in support of the variance.
 - ii. Larry Wilms, 109 Mayfair Dr. spoke in support of the variance.
 - iii. Charlie Teal, 95 Mayfair Dr. spoke in support of the variance.
 - iv. Bill Winzig, Fairway Dr. spoke in opposition of the variance.
 - v. Rebecca Rains, 300 NW Redbarn Circle, spoke in support of the variance.
12. Mr. Ellis closed the public hearing.
13. A motion to approve the zoning variance was made by Mr. Farner and a second was made by Ms. Duell.
 - Susan Duell - Y
 - Clayton Sedberry - Y
 - Gail Klesen -

Linda Lloyd - Abstain
Doug Farner - Y
JB Portillo - Y
Daniel Ellis - Y
Motion Passed 5 – 0 with 1 abstain

VI. OPEN DISCUSSION

VII. ANNOUNCEMENTS

A summary of upcoming meetings were announced.

VIII. ADJOURNMENT

Chairman Ellis adjourned the meeting at 5:02 pm.

SUBMITTED BY:

Sarah Costa, Planning Technician
City of Bella Vista

APPROVED AND ACCEPTED THIS 12TH DAY OF AUGUST, 2024:

Daniel Ellis, P.E., Chairman
Bella Vista Board of Zoning Adjustment

Gail Klesen, Secretary
Bella Vista Board of Zoning Adjustment.

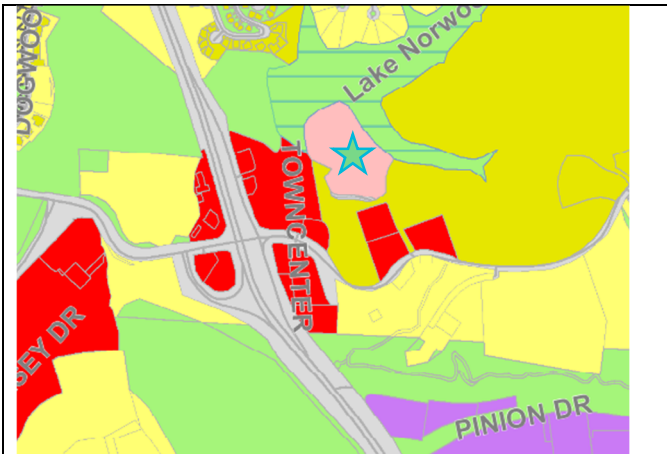
**Meeting Information:**

2483 Forest Hills Blvd
August 12, 2024 at 4:30 pm

Reviewer:

Megan Workman
Planner

Project Number	ZVR-2024-54671
Applicant	Cathy Barnes
Address/Location	504 Memorial Drive
Current Zoning	C-1, Neighborhood Commercial District
Site Area	9.87 Acres
Nature of Request	Seeking a variance on Sec. 109-218; and Sec. 109-290

**Zoning Map****Future Land Use****Property Description**

This property is located in central Bella Vista, within the city limits, on Parcel #16-40224-000; Tract 2 as shown on instrument L202427636 in the Benton County Book of Records

Regulation

Zoning Code Sec. 109-218 requires a percentage of a parking lot to be dedicated to interior landscaping. Sec. 109-290 requires modification of existing outdoor lighting for non-residential developments to minimize light trespass.

Request

The applicant proposes a non-residential addition to the subject site without modifications of the existing parking lot landscaping or outdoor site lighting for a proposed large scale development.

Background

The subject site is located within a neighborhood center node, adjacent to an identified priority 1 bike route. The corridor development should be tree-lined, trail and pedestrian connected, accessible by multiple modes of transportation with well-buffered parking areas. The proposed development does not include modifications to the existing parking lot or site lighting; however, the scope of work requires these items to come into compliance with the current code. A third-party photometric study determined the existing lights to support the intent of the ordinance, as there was no evidence of light trespass on adjacent properties or public right-of-way. The applicant provided a tree canopy coverage drawing for the interior parking lot landscaping. However, the drawing was not stamped by a licensed landscape architect as previously requested by the Board of Zoning Adjustment.

Public Comment

None at the time of this report.

Legal Notifications

Staff published a legal ad notifying the public of this hearing in the Weekly Vista on Wednesday, June 26, 2024, and posted a public hearing sign on Monday, June 24, 2024. A public hearing was conducted on July 10, 2024.

Outstanding Technical Comments

- Sec. 109-218(c)(4)(a) – Interior Parking Lot Landscaping
- The applicant shall provide a tree canopy study signed by a licensed landscape architect. If the applicant's request to vary this section fails, three shade trees shall be provided within the parking lot islands.

Recommendation

Staff recommends approval of a Sec. 109-290. Outdoor Lighting variance and a denial of a Sec. 109-218(c)(4)(a). Interior Parking Lot Landscaping variance.

Sec. 109-42(d) Variances: Standards for Approval

- e) **Findings.** A variance from the terms of this zoning ordinance shall not be granted by the Board of Zoning Adjustment unless and until the applicant demonstrates that:
 - 1. Strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration;
 - 2. The unique circumstances of the subject property do not result from the applicant's actions; and
 - 3. The applicant demonstrates that the granting of the variance will be in keeping with the spirit and intent of the zoning ordinance
- f) **Grounds.** Non-conforming use of neighboring lands, structures, or buildings in the same district, nor permitted or non-conforming uses in other districts shall be considered grounds for the issuance of a variance.
- g) **Conditions.** In granting any variance, the board of zoning adjustment may prescribe additional appropriate conditions and safeguards that it deems necessary or desirable.
- h) **Violations.** 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 zoning ordinance.
- i) **Uses.** Under no circumstances shall the board of zoning adjustment grant a variance to allow a use that is not permissible under the terms of this section in the district involved, or any use expressly or by implication prohibited by the terms of this zoning ordinance in said district.

Bella Vista Planning Commission

616 W. Lancashire Boulevard

Bella Vista, Arkansas 72715

P: 479.28.4980

E: www.bellavistaar.gov

Bell Construction Solutions

PO Box 8

Cave Springs, Arkansas 72718

P: 479.270.7632

E: cathy.barnes@bellconsolutions.com

DATE: June 06, 2024

PROJECT ID: Cooper Operations Building

RE: Variance Application/Landscaping (Sec. 109-218)

To Whom It May Concern,

This letter is being submitted as a formal request for a variance to Bella Vista Section 109-218 - Interior Parking Lot Landscaping. The Code states that for the interior parking area, one shade tree per every 14 parking spaces is to be planted within a planting island. This translates to 3 new trees. Parking for the new Operations Building is in the existing parking lot, which has served the Chapel and Office for many years. The shared site, along with the area around the parking lot and frontage along Memorial Drive, is heavily wooded with mature trees and native undergrowth. The design intent of the Project Architect, David McKee, is consistent with the vision of the Chapel's Architect, E. Fay Jones. Cooper Chapel is widely praised for its design excellence, but it is also recognized for its intimate relationship with nature. Both Architects designed structures that are uniquely sited and detailed so that they appear to be an extension of the site itself. And they use materials, colors, and forms that further blend structure with site. As a matter of principle and priority, an effort has been made to minimize disruption to the site and embrace the native vegetation so that the buildings may be viewed and experienced in their natural setting. We do not feel that there is any need to add additional trees or congest the site with ornamental landscaping. The architecture is powerful enough to not need further embellishment.

I thank you for your consideration in this matter.

Matthew J. Holland

Project Manager

Bell Construction Solutions

TREE CANOPY SURVEY OF
SUBJECT TRACT 2 OF A LOT SPLIT OF PARCEL
#16-70224-006 & #16-40224-000 COOPER
COMMUNITIES INC L2024425368)
BELLA VISTA, ARKANSAS.

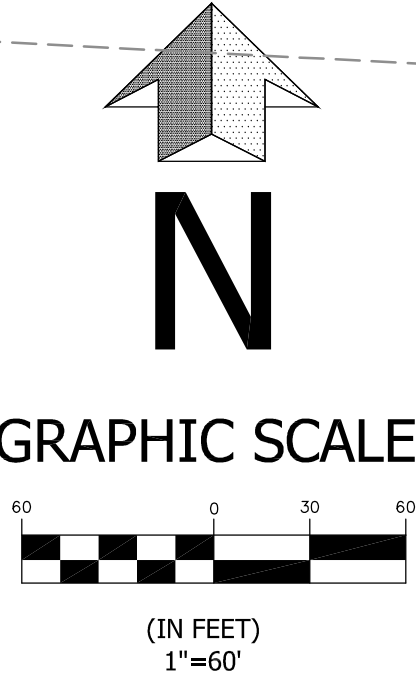
SITE TREE CANPOY COVERAGE:
TOTAL LAND: 429,972.46 SF (9.87 AC M/L)
TOTAL BUILDING: 1,657.00 ST
TOTAL CANOPY COVERAGE: 412,341.22 SF (9.54 AC M/L)
96% CANOPY COVERAGE

AREA OUTSIDE OF TREE CANOPY
14,317.24 sq. ft.
0.33 acres

EXISTING SITE CONTAINS HUNDREDS OF
MATURE OAKS, CEDARS, PINES, CHERRY
AND DOGWOOD TREES.

ANYTHING PLANTED WILL NOT RECIEVE ENOUGH
SUNLIGHT TO SURVIVE.

MEMORIAL DR.
40' R/W PER DEED
BK. 2015, PG. 395
(ASPHALT)



FILE STAMP

LEGEND:		
---	BOUNDARY LINE	
---	RIGHT-OF-WAY	
---	SECTION LINE	
---	EASEMENT LINE	
---	ROCK WALL	
---	PARKING STRIP	
---	SANITARY CLEANOUT	
---	SIGN	
#	REVISION	DATE
BELLA VISTA BENTON COUNTY STATE OF ARKANSAS		
OWNER: Mildred B Cooper Chapel 903 N. 47th Street Rogers, Arkansas, 72756		
BELL CONSTRUCTION SOLUTIONS LLC. PO BOX 8 CAVE SPRINGS, AR. 72718 PHONE: (479) 366-0640 chuck.bell@bellconsolutions.com		
MICHAEL D. MILLION LAND SURVEYOR 12 NEFFWOOD LANE BELLA VISTA, AR 72715 PHONE: (479) 571-0654		
FIELD WORK COMPLETED: 07/22/24		
DRAWN BY: CEB	SCALE: 1" = 60'	
FIELD CREW: STEVE	DATE: 07/24/24	
CHECKED BY: MDM	DWG: 2314.01	
PG 1 OF 1		

Bella Vista Planning Commission

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E: cathy.barnes@bellconsolutions.com

DATE: June 06, 2024

PROJECT ID: Cooper Operations Building

RE: Variance Application/Outdoor Lighting (Sec. 109-290)

To Whom It May Concern,

This letter is being submitted as a formal request for a variance to Bella Vista Section 109-290 – Outdoor Lighting. The Code requires existing lights on non-residential projects to be modified so that they comply with the new lighting ordinance. Since much of the existing site lighting was designed by Architect E. Fay Jones specifically for Cooper Chapel, and since the fixtures are sculptural and iconic and integral to the architecture of the Chapel itself, it would be an injustice to remove and/or replace them with modern fixtures. It would be impractical, if not impossible, to modify the fixtures so that they face down. And lastly, it would greatly compromise the aesthetic integrity of the fixtures if they were outfitted with a hood or a shield as recommended by the lighting code. Given the fact that the Chapel is recognized globally as an architectural masterpiece and serves as a destination for so many visitors, we feel strongly that the outdoor lighting should be left in its original state. It succeeds in providing safety to both person and property, yet is not excessive or a nuisance to neighboring properties or motorists. Most of the existing site and architectural lighting is subtle, yet strategic. By design, it plays an important role in accenting the architecture of the Chapel and adds ambiance to the site in the evening and at night. Aesthetically, the path lights act as a unifying element that further enrich the pedestrian experience. The same level of care will be applied when lighting the new Operations Building.

I thank you for your consideration in this matter.

Matthew J. Holland

Project Manager

Bell Construction Solutions

August 5, 2024

Bella Vista Planning Commission
Bella Vista, AR

Re: Cooper Chapel Existing Site Lighting

To whom it may concern:

After observing the existing lighting on the site at Cooper Chapel and doing a study of the existing light levels using a light meter, it is my opinion that the existing site lighting does not infringe on any adjacent neighbors of the property and that the existing lights are architectural in nature and designed to only illuminate the areas which they serve. This applies to both the pole lights in the parking lot as well as the bollard lights along the trail.

Sincerely,



Scott Geurin, P.E.
Brown Engineers, LLC
Principal

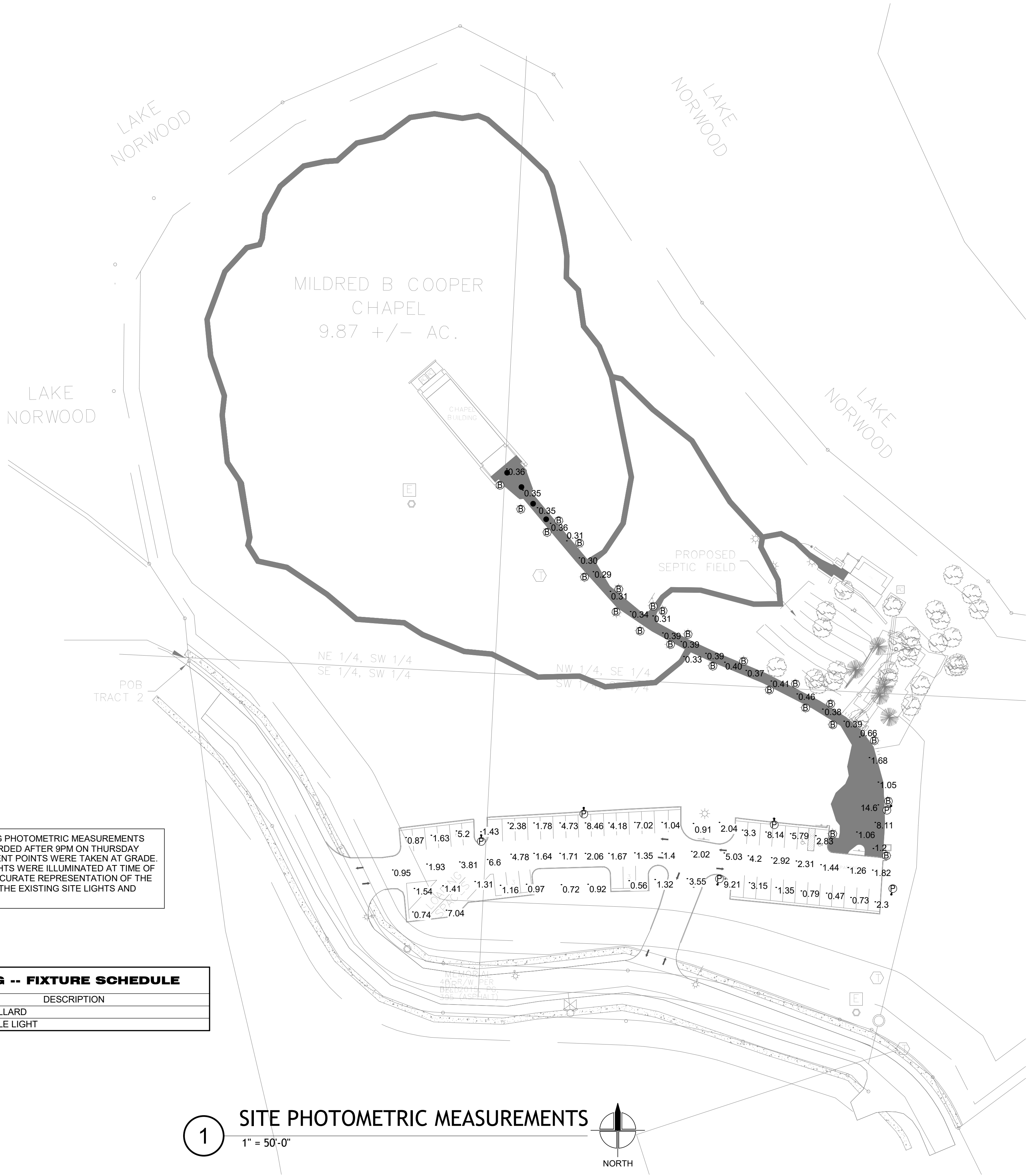
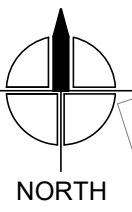
THESE SITE LIGHTING PHOTOMETRIC MEASUREMENTS SHOWN WERE RECORDED AFTER 9PM ON THURSDAY JULY 18. MEASUREMENT POINTS WERE TAKEN AT GRADE. ALL FUNCTIONAL LIGHTS WERE ILLUMINATED AT TIME OF VISIT AND ARE AN ACCURATE REPRESENTATION OF THE LIGHT LEVELS FROM THE EXISTING SITE LIGHTS AND BOLLARDS.

LIGHTING -- FIXTURE SCHEDULE	
MARK	DESCRIPTION
B	EXISTING BOLLARD
P	EXISTING POLE LIGHT

1

SITE PHOTOMETRIC MEASUREMENTS

1" = 50'-0"



		Comments		DATE	
Rev					











**Meeting Information:**

2483 Forest Hills Blvd
August 12, 2024 at 4:30 pm

Reviewer:

Megan Workman
Planner

Property Description

This property is located in the northwest area of Bella Vista City Limits near Loch Lomond and is located on Parcel #16-77809-003; Tract 1 as shown on Benton County Plat Book 2003, Page 894.

Regulation

Zoning Code Sec. 109-74 sets a minimum 50' rear setback within the R-E District.

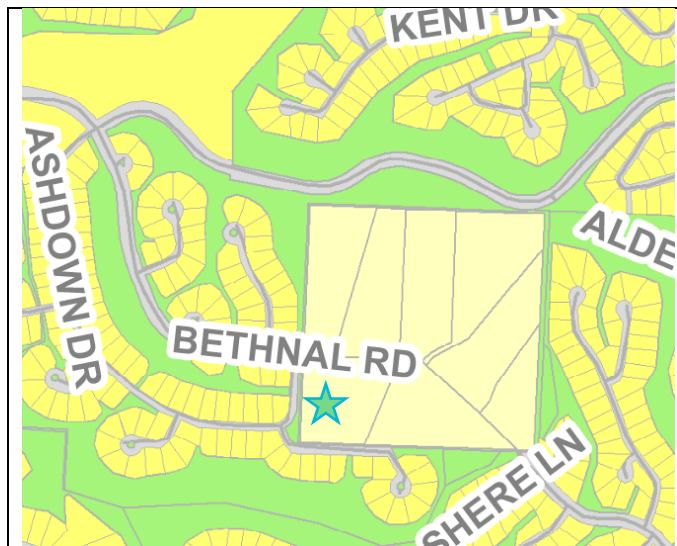
Project Number	ZVR-2024-55150
Applicant	Tim Marta
Address/Location	8801 Bethnal Road
Current Zoning	R-E, Residential Estate
Site Area	5.05 AC
Nature of Request	Seeking a variance on Sec. 109-74(b)(3)(c)

Request

The applicant requests a 20-foot reduction of the R-E, Residential Estate District minimum rear setback from 50 feet to 30 feet for a proposed 45-foot by 80-foot non-residential accessory structure.

Background

Code permits up to three accessory structures on the same lot as the primary dwelling so long as the lot contains more than 4 acres, the accessory structure located behind the front plane of the primary dwelling, and underlying zoning district setbacks are met. This request satisfies the bulk, front, and side setback requirements. The primary dwelling was constructed 30 feet from the rear property line, prior to city establishment. The legal non-conforming location of the dwelling creates a challenge for the applicant to successfully meet the 50-foot rear setback and remain behind the front plane of the home to meet the accessory structure setback. Staff finds the request to support the intent of the R-E District. The improvement area is well-buffered with natural vegetation. This request does not exceed the 25% max coverage for the district; proposed coverage totals .04% of the 5.05-acre tract. Development is concentrated at the rear of the property, supporting an open space park-like atmosphere that is protective of the natural environment and topography to the north. Staff find the location of the primary dwelling, placement of site utilities, and natural topography to be not of the applicant's doing, supporting a hardship for this request.

**Zoning Map****Future Land Use****Public Comment**

None at the time of this report.

Legal Notifications

Staff published a legal ad notifying the public of this hearing in the *Weekly Vista* on Wednesday, July 24, 2024 and posted the public hearing sign on the subject property on Friday, August 1, 2024.

Recommendation

Staff is recommending approval as the analysis found all three requirements to be met.

Sec. 109-42(d) Variances: Standards for Approval

1. **Findings.** A variance from the terms of this zoning ordinance shall not be granted by the Board of Zoning Adjustment unless and until the applicant demonstrates that:
 - a. Strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration;
 - b. The unique circumstances of the subject property do not result from the applicant's actions; and
 - c. The applicant demonstrates that the granting of the variance will be in keeping with the spirit and intent of the zoning ordinance
2. **Grounds.** Non-conforming use of neighboring lands, structures, or buildings in the same district, nor permitted or non-conforming uses in other districts shall be considered grounds for the issuance of a variance.
3. **Conditions.** In granting any variance, the board of zoning adjustment may prescribe additional appropriate conditions and safeguards that it deems necessary or desirable.
4. **Violations.** 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 zoning ordinance.
5. **Uses.** Under no circumstances shall the board of zoning adjustment grant a variance to allow a use that is not permissible under the terms of this section in the district involved, or any use expressly or by implication prohibited by the terms of this zoning ordinance in said district.

July 10, 2024

Bella Vista Planning Commission

City of Bella Vista

616 W. Lancashire Blvd.

Bella Vista, AR. 72714

RE: Building Setback Variance

To Whom it May Concern:

The purpose of this letter is to request a variance of the rear setback of the property located at 8801 Bethnal Road. Section 109-74 assigns a 50' rear setback to all property zoned as Residential Estate District.

This property was annexed into Bella Vista after the construction of the main residence on the property which was constructed approximately 30' from the rear property line. The rear of the property borders an approximately 10' wide strip of common ground and a 50' wide roadway easement for Whitehaven Lane.

The variance is requested to allow for construction of a 45' x 80' shop building housing a 2 bay RV garage, with shop area, storage area, and bathroom. The owner would like to build the shop in line with the existing residence. The current City requirements also do not allow for the front of a shop to extend beyond the front of the existing residence. Without this variance the shop would not meet that requirement with the current 50' setback. Additionally, the topography of the lot would prevent adequate space required to safely enter and exit the front of the building with the owner's RV's. The 50' setback also creates drainage and septic issues. With a 30' setback, the shop would be built at the highest area of the lot allowing for easy runoff drainage around the building. Also, since the buildings bathroom will share the existing residence septic system, which was oversized when installed to allow this addition, a 30' setback allows the shop to be built with the required amount of slope to the septic system eliminating the necessity for a grinder pump system.

In conclusion, a shop building of this size is allowed by Bella Vista code due to the size of the residence. All other zoning classifications in Bella Vista have a 15' or 20' rear setback other than Residential Estate District Zoning. The rear of the property is bordered by 10' of tree lined common ground and 50' roadway easement which means the back of this building if built 30' from the rear property line would still be 90' from the front of the nearest buildable lot.

Best Regards,

Marta Home Builders, LLC

Tim Marta



