



**CITY OF DENISON  
ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING  
AGENDA**

**Thursday, April 18, 2024**

After determining that a quorum is present, the Zoning Board of Adjustments and Appeals Meeting of the City of Denison, Texas will convene in a Regular Meeting on **Thursday, April 18, 2024, at 11:00 AM** in the Council Chambers at City Hall, 300 W. Main Street, Denison, Texas at which the following items will be considered:

**1. CALL TO ORDER**

**2. PUBLIC COMMENTS**

Citizens may speak on items listed on the Agenda. A “Request to Speak Card” should be completed and returned to the City Clerk upon arrival, prior to the Board reaching the Public Comment section of the agenda. Citizen comments are limited to three (3) minutes, unless otherwise required by law. Comments related to the Public Hearings listed below, will be heard when the specific hearing starts.

**3. ROLL CALL**

A. Receive a report, hold a discussion and take action on approving the Minutes from the Zoning Board of Adjustments Meeting held on March 14, 2023.

B. Receive a report, hold a discussion and take action on approving the Minutes from the Zoning Board of Adjustments Meeting held on September 28, 2023.

**4. PUBLIC HEARINGS**

A. Receive a report, hold a discussion, conduct a public hearing, and take action on a variance to alleviate an encroachment onto Lot 29, Block 2 of the Witten’s Addition. Property is located on part of Lots 28 & 29, Block 2, Witten’s Addition, GCAD Property ID 259523, commonly known as 2901 W. Washington Street. (Case No. 2024-021V).

**5. ADJOURNMENT**

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front windows of City Hall readily accessible to the general public at all times and posted on the City of Denison website on the 12<sup>th</sup> day of April 2024.

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Karen L. Avery, Deputy City Clerk

In compliance with the Americans With Disabilities Act, the City of Denison will provide for reasonable accommodations for persons attending the Zoning Board of Adjustments and Appeals meeting. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk’s Office at 903-465-2720, Ext: 2437.



**CITY OF DENISON  
ZONING BOARD OF ADJUSTMENTS AND APPEALS  
MINUTES**

**Tuesday, March 14, 2023**

**1. CALL TO ORDER**

Announce the presence of a quorum.

Chair George Mason called the meeting to order at 11:02 a.m.

Board Members present were Chair George Mason, Mike Zapata, Lester Fleming and Jeff Thompson. Regular Board Member Linwood Smith was absent.

Staff present were Julie Fort, City Attorney, Mary Tate, Director of Development Services, Dianne York, Planner, Felecia Winfrey, Management Assistant – Development Services, and Christine Wallentine, City Clerk.

**2. ROLL CALL**

Christine Wallentine, City Clerk, conducted a roll call to confirm the Board Members listed above were in fact present.

**3. PUBLIC COMMENTS**

Chair Mason called for any public comments at this time and reminded those wanting to comment of the guidelines limiting comments to three minutes. Comments related to public hearings listed on the agenda will be heard when the specific hearing is called. Chair Mason then asked City Clerk, Christine Wallentine, if any Request to Speak Cards were received. Ms. Wallentine confirmed no Request to Speak Cards were received by this point in the meeting. Therefore, no public comments were received.

**4. ITEMS FOR INDIVIDUAL CONSIDERATION**

Although this heading was included on the Agenda, there were no items listed under this heading. Therefore, no items were considered for action under this Agenda heading.

Before opening the public hearings, Chair Mason asked if there were any requests for postponement or jurisdictional issues that anyone would like to raise, to which there were none. Chair Mason then administered Oaths to those intending to speak or provide testimony, which included the applicant, and Dianne York, Planner.

## 5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing and take action on a variance request to increase the fence height from 4' to 6' and to adjust the North and East property setbacks to be on the property line for property located on Lot 7 & E 25 of 8, consisting of 0.2583 acres, Lot 6, consisting of 0.1722 acres, Lot 5, consisting of 0.1722 acres, Lot 4, consisting of 0.1722 acres, Lot 3, consisting of 0.1722 acres and Lots 1 & 2, Block 11, of the Westend Addition, GCAD Property ID Nos. 141144, 141145, 141146, 141147, 141148, 141149, also known as 1728 W. Morton Street. (Case No. 2023-022V)

### Board Action

Dianne York, Planner, presented this agenda item. Ms. York provided an aerial map of the subject property, which consists of several lots. It is commonly known as 1728 W. Morton Street. The property is zoned Commercial and also falls within the Morton Street Overlay Boundary. Staff was made aware of the request for this particular fence via permit. The applicant was requesting approval of a fence permit six feet in height, to be erected along the property lines on the north portion of Morton Street and then down the eastern side of what is North Bush Avenue right of way. Staff then provided feedback to the contractor stating this was non-compliant with the zoning ordinance, Section 28.53.5, non-residential fences and walls subsection A., which calls for the requirement of or the maximum height to be four feet and then also placed 10 feet from the property line. This requirement is also the same for the eastern portion because the property abuts up to a street even though it is unimproved. After this was made aware to the applicant for the permit, they then pursued requesting a variance to this requirement. The applicant is proposing a six-foot fence to be erected on the property lines for the North and eastern portions and stated they have a hardship because the front setback, per ordinance, is not in alignment with the neighboring property setbacks, and the fence height required does not allow for security of the property. There are some structures along Morton Street that do not meet the setback requirements. However, these are non-conforming structures, that if they were to pursue any kind of redevelopment additions, or if they were to expand, they would have to become compliant with the ordinance. This property is being constructed new and therefore has to abide by the ordinance as it is stated. Furthermore, staff has not been made aware of what is going on with the property, how it is going to be developed or redeveloped. We hold pre-application meetings in order to try and guide applicants or developers towards compliance with the ordinance or provide opportunity for something different. Staff has not been made aware of what's going on this property or how it's going to be redeveloped. It is possible that whatever type of development is being pursued at this location would require other applications such as replatting, as well as a site plan which would then have to be approved by the Planning and Zoning Commission as this falls within an overlay district. Based off of the site plan provided, these are individually platted lots. If the applicant were to push the fence back to the 25 feet, which is the front yard requirement and the front yard setback requirements for the Commercial Zoning District, then the applicant would also need to replatt these lots in order to avoid erecting something over property lines. So, there is quite a few things that kind of play into the site as it sits right now. Furthermore, Ms. York reported the site currently has had gravel trucked in on it and she is not sure what that purpose is. However, gravel is prohibited by the zoning ordinance, but staff has not been made aware of why that gravel is there. The applicant states because of prior setbacks and the inability to utilize the property for its intended or their intended use. However, these do not meet the requirements of a hardship. For this reason, staff is recommending denial of the variance request.

Chair Mason asked Ms. York if the resubmitted plan brings them into compliance with the setbacks. Ms. York responded they are still wanting to erect a six-foot fence and then place it on the property lines, which does not. Ms. York understands this is 50% open or it is at least somewhat open, which does help with visibility. However, the ordinance still states that it cannot be any taller than four feet and it has to be set back 10 feet from the property line.

Chair Mason then asked if there was anyone present who wished to speak to this agenda item. Mr. Goins came forward and provided the following information for the record:

Name: Tracy Goins

Address: None provided.

Mr. Goins stated that the ordinance allows for site improvement, clean up and so forth. Mr. Goins said he has been acquiring this property over the course of the last 15 years. This is why there are individual lots because he has had to invest the money and the time to buy each one independently. The ordinance requires a hard surface, be it concrete and/or asphalt. So, they are creating a base and packing that base over time during the winter months. It will be asphalted or a chip seal hard surface. Chair Mason asked what type of business Mr. Goins planned to put in this location. Mr. Goins replied with a very nice, really clean home center. Mr. Goins added this is about a \$100,000 fence. Mr. Goins' business partner was also present, who did not state his name and address for the record, but stated a permit application has been submitted to the Building Department for a home improvement center. So, the lot will serve as a storage facility for materials, things like that. Chair Mason responded that he is still concerned about the setback, and he understands there are buildings that are not in compliance with zoning laws the way they are right now, but those businesses and buildings were in place before those changes were made to the zoning code. So, as Ms. York mentioned, if they want to do something with their property later than they will have to bring their property into compliance. Mr. Goins said since this is just a fence, and it falls in line with all the other businesses and the fences running east and west on Morton Street and they feel it will be very, very attractive. If it is setback, Mr. Goins thinks it will look or appear to be out of place. Chair Mason reiterated that the zoning does not allow for six-foot fences. Mr. Goins stated, again, if you look at all the fences east and west on Morton Street, they are six feet tall, and a four-foot fence does not allow you to secure product. The way the ordinance is written is it is kind of unusual because a fence of this caliber typically only goes on to very high-end residential housing, and those fences are typically about four foot tall, but in reality, this is a wrought iron fence which is six foot tall with decorative toppings because you can get it in four foot or six feet. Chair Mason said he agreed there are a lot of six-foot-tall fences up and down Morton Street, but these were in place before the zoning code was changed. So, if they ever change anything on their property or want to repair that fence, they will have to come into compliance. Chair Mason asked Mr. Goins to explain how this would be a hardship to him. Mr. Goins' business partner answered that without the six-foot-tall fence, it would not be able to be converted into a home improvement center because of security purposes. So, that's hardship number one. The other one is with the setback. In order to create the roadway around the storage, for emergency vehicles, fire ambulance, whatever might need to be out there, we needed the additional 10 foot of the property to accomplish that 24-foot Lane in order to have required emergency vehicles come through the property, if ever needed. Mr. Goins added the number one complaint anytime you ask for anything is the citizens are always concerned about traffic. How is the traffic going to be impacted. We wanted to hold all of that traffic on site. So, there would be no debate over the traffic issue. Chair Mason asked if they had an entrance on Bush Avenue. The entrance would be on Bush Avenue and the exit would be onto Morton Street. Ms. York asked for clarification as to what is going on the property

as she is trying to understand the fire lane. Ms. York said she appreciates the applicant being mindful of emergency access, but she does not understand. This is one of the reasons why it would be helpful if we had a pre-application meeting to understand how exactly they want to redevelop the location and how staff can provide better feedback on the ordinances or what is required. Ms. York said to her, when you start putting in infrastructure, such as a fire lane, you are looking at a site plan and you are looking at staff reviewing as well as the Public Works Department, Fire Marshals approving, etc. So, Ms. York said she is concerned about exactly what is going on the property and if they are utilizing Bush Avenue, there may be other requirements from Public Works, because that is an unimproved surface over there. So, these are a couple of things to think about when looking at the site plan and hearing now that they are wanting to put in the fire lane. It opens up a lot of other concerns. Board Member Zapata asked if the applicant will be required to replat. Ms. York confirmed they would. With a fire lane, or any kind of improvements like this would require a replat. Any kind of expansion to the building that exists would require a replat. Board Member Zapata asked if he was correct in assuming none of this process has taken place. Ms. York confirmed he was correct. Mr. Goins said if they have to go through all this lengthy process, then they might as well just break it down into individual lots and sell off the individual lots rather than create a multimillion-dollar business for the City of Denison, and of course themselves. Mr. Goins said he may have misspoken by referencing a fire lane. They just do not want the traffic to have to come on and go off of Morton Street and have to fight that public perception. Chair Mason said it is still not clear to him why the applicant needs a six-foot fence. Mr. Goins responded that there are several things of value such as pots, panels, etc., that they just do not want somebody to step over and be able to pick it up and carry it off. Mr. Goins then referred to a few businesses around his property that have six-foot fences to protect inventory. There is just no way to protect the facility if the people walk up and down Morton Street have the ability to step over and steal their inventory. Board Member Zapata said he feels like this is putting the cart before the horse. Even just to do the improvement on the property, the applicant still needs to go through the City's permitting process and the development process to even get to this point where he is wanting to do the fence. Board Member Zapata said he thinks the applicant is way ahead of where he should be and should have started with the development process. Ms. York clarified the City does not require a flat work permit. So, if the applicant is pursuing a parking lot at this location, there is not a permit for this. Staff's concern is that they have not yet been told what is going here. Mr. Goins' business partner provided a little more clarification as to what the yard is used for. It is storage, but the drive is for customers to come in and out to load and unload, and to enter and exit the facility. So, the customer drives in, they pick up their order, and then they drive out. It is not a fire lane, but it is just a traffic lane for customers to come in to get their merchandise. Board Member Zapata asked if his understanding was correct that there has not been a use assigned to this property yet. Mary Tate, Director of Development Services, replied that we have not gotten to the point yet where the applicant would come before zoning for approval. In terms of having access onto Bush, any development that comes through, if the surface has to be improved, then that is on the developer to do that. So, Bush will have to be brought up to the standards for that road if they are not so already. As Ms. York stated, if we have pre-development meetings, that is where we get to all of this stuff. Ms. Tate went on to say they could have avoided getting to this meeting. Staff would have told the applicant they had to replat these lots into one. They would have told the applicant what was expected from the fire lane standpoint, as well as the road improvements, as well as the approaches on Morton Street, which involves other departments as well.

Chair Mason then asked if there was anyone else present who wished to speak to this agenda item, to which there were none. With that, Chair Mason closed the public hearing.

There was no further discussion or questions from the Board.

On motion by Board Member Zapata, seconded by Board Member Fleming, the Zoning Board of Adjustments and Appeals unanimously denied the variance request as presented.

There being no further business to come before the Board, the meeting was adjourned at 11:34 a.m.

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GEORGE MASON, Board Chair

ATTEST:

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Christine Wallentine, City Clerk



**CITY OF DENISON  
ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING  
MINUTES**

**Thursday, September 28, 2023**

**1. CALL TO ORDER**

Announce the presence of a quorum.

Chair George Mason called the meeting to order at 11:00 a.m.

Board Members present were Chair George Mason, Lester Fleming, Spence Redwine, Jeff Thompson, and Mike Zapata.

Staff present were Mary Tate, Director of Development Services; Felecia Winfrey, Development Coordinator; and Karen Avery, Deputy City Clerk.

**2. PUBLIC COMMENTS**

Chair Mason called for any public comments at this time and reminded those wanting to comment of the guidelines limiting comments to three minutes. Comments related to public hearings listed on the agenda will be heard when the specific hearing is called. Chair Mason then asked Deputy City Clerk, Karen Avery, if any Request to Speak Cards were received. Ms. Avery confirmed no Request to Speak Cards were received at this point in the meeting. Therefore, no public comments were received.

**3. ITEMS FOR INDIVIDUAL CONSIDERATION**

- A. Receive a report, hold a discussion, and take action on approving the Minutes from the Zoning Board of Adjustments and Appeals Meeting held on December 8, 2022.

Board Action

On motion by Board Member Redwine, seconded by Board Member Fleming, the Zoning Board of Adjustments and Appeals unanimously approved the Minutes from the Zoning Board of Adjustments and Appeals Meeting held on December 8, 2022.

**4. PUBLIC HEARINGS**

Before opening the public hearing, Chair Mason asked if there were any requests for postponement or jurisdictional issues that anyone would like to raise, to which there were none.

Chair Mason then administered Oaths to those intending to speak or provide testimony.

## Zoning Board of Adjustments and Appeals

September 28, 2023, Meeting Minutes

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Chair Mason stated that staff received a letter in opposition to the request from Leslie Remy, Member of TX Mockingbird Enterprises, LLC.

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on a variance to change the required lot depth of the SF-7.5, Single Family Residential Zoning District from one hundred (100) feet to eighty-eight (88) feet and to change the lot size requirement from seven thousand five hundred (7,500) square feet to six thousand six hundred (6,600) square feet for property known as 413 S. Eddy Avenue. (Case No. 2023-093V).

Felicia Winfrey, Development Coordinator, presented this agenda item. Ms. Winfrey provided an aerial map of the subject property. The property is commonly known as 413 S. Eddy Avenue. Ms. Winfrey stated that the property is at the corner of Eddy Avenue and Morgan Street. The property is zoned SF-7.5, Single Family Residential Zoning District and this zoning district requires a lot depth of one hundred (100) feet and a lot area of seven thousand, five hundred (7,500) square feet. Ms. Winfrey stated that Applicant is requesting a variance to the lot size and lot depth requirement for this zoning district. Ms. Winfrey stated that the subject property was illegally subdivided in the past and a replat will clean up the lot lines and legal description creating a legal lot of record. She stated that, to develop the property, the property must be platted into a legal lot of record. Staff recommended approval of the proposed variance.

Chair Mason then asked if there was anyone present who wished to speak to this agenda item. Mr. Clayton Gilbert came forward and apologized for being late. Chair Mason then administered the Oath to Mr. Gilbert since he was not present when the initial Oaths were administered. Mr. Gilbert then provided the following information for the record:

Name: Mr. Clayton Gilbert, Applicant

Address: 801 E. Taylor Street  
Sherman, TX

Mr. Gilbert stated that this is their lot and there was an existing house on the lot that was condemned. He stated that their site plan and footprint is going to put the house almost exactly where the house used to be sitting and they are going to utilize the same driveway location off Eddy Avenue. Mr. Gilbert stated that the house is going to be a little larger than what was originally there, but they will be able to meet all the setback requirements. He stated that it will also conform to all the requirements for the SF-7.5, including the masonry and so forth, with a two-car garage and everything. Mr. Gilbert stated that they do not meet the minimum square footage or lot minimum depth compared to the size next door. He stated that it will be roughly within 200 to 300 square feet of all the surrounding houses. Mr. Gilbert stated that he was concerned about the City's tree policy but was informed that it only applies to properties over five acres. They will only have to remove two of the hackberry trees and then will be able to save all the larger trees.

Chair Mason then asked if there was anyone else present who wished to speak to this agenda item, to which there were none. With that, the public hearing was closed.



**Zoning Board of Adjustments and Appeals**

**September 28, 2023, Meeting Minutes**

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On motion by Board Member Redwine, seconded by Board Member Thompson, the Zoning Board of Adjustments and Appeals unanimously approved the variance request to reduce the lot depth and lot size requirement for the subject property.

**5. ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 11:09 a.m.

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GEORGE MASON, Board Chair

ATTEST:

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Karen L. Avery, Deputy City Clerk

# Zoning Board of Adjustments and Appeals Staff Report



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## Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on a variance to alleviate an encroachment onto Lot 29, Block 2 of the Witten's' Addition. Property is located on part of Lots 28 & 29, Block 2, Witten's Addition, GCAD Property ID 259523, commonly known as 2901 W. Washington Street. (Case No. 2024-021V).

## Staff Contact

Dianne York, Planner  
dyork@cityofdenison.com  
903-465-2720

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## Summary

- The property is located within the SF-7.5, Single Family Residential Zoning District.
- A single-family dwelling located on Lot 28 encroaches onto Lot 29.
- Applicant is seeking approval of the proposed plat creating width of fifty-three (53) feet for Lot 28 and a width of forty-seven (47) feet for Lot 29.
- The proposed Lot 29A will have a lot size of seven thousand and fifty (7,050) square feet.

## Staff Recommendation

Staff recommends approval of the proposed variance.

## Recommended Motion

"I move to approve the variance request to reduce the lot width requirement for the proposed Lot 28A and Lot 29A and the lot size requirement for Lot 29A, to alleviate an encroachment of the existing single-family structure located on Lot 28."

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## Background Information and Analysis

The applicant is seeking a variance to the lot width for the proposed Lot 28A and Lot 29A, Block 2 of the Witten's Addition as well as a variance to the lot size requirement for Lot 29A, in order to alleviate an encroachment of an existing single-family structure located on Lot 28 from Lot 29. The subject property is zoned SF-7.5, Single Family Residential. Per Section 28.23.4.A.2., the minimum lot width required in the SF-7.5, Single Family Residential zoning district is sixty (60) feet, and the minimum lot size requirement is seven thousand five hundred (7,500) square feet. At the time of the original plat for the Witten's Addition, both Lot 28 and 29 were platted as lots with a width of fifty (50) feet and a depth of one hundred and fifty (150) feet. As the current zoning district did not exist at the time of the original plat, per Section 28.9.9. of the Zoning Ordinance these lots are considered legal nonconforming lots. A non-conforming use cannot be altered or expanded upon thus creating a hard ship for the applicant as they are unable to meet the minimum lot width requirements or lot size requirements established in the zoning district given that the lots originally were not platted in this manner and the encroachment cannot be alleviated and meet the width requirements established by the zoning district. The applicant is proposing that Lot 28A have a width of fifty-three (53) feet and Lot 29A have a width of forty-seven (47) feet and a lot size of seven thousand and fifty (7,050) square feet. This reduction in width and square

foot requirement will allow for the encroaching structure to exist solely within the property lines of Lot 28A and allow for Lot 29A to be developed in a single-family manner.

**Financial Considerations**

N/A

**Prior Board or Council Action**

N/A

**Alternatives**

The Board may approve, deny, or table the request.

**Aerial of Subject Property**



### Zoning Variance Questionnaire

Please complete this questionnaire and return with a completed application.

State the request:

The pre-existing house next door located at 2905 W Washington is encroaching by 5 ft onto the property 2901 W Washington

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In order to make a finding of hardship and to grant a variance, the Zoning Board of Adjustments & Appeals must determine that all of the following conditions are met. State how your request meets these conditions. **Please note that the stated hardship shall not be financial nor self-induced.**

1. State the undue hardship that exists:

The neighbors house is encroaching onto the property by 5 ft.

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2. The requested variance is in harmony with the spirit and purpose of the Zoning Ordinance:

Yes the variance is in harmony with the spirit to build/provide a single family home. We plan to follow all guidelines and zoning ordinance policies.

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3. Special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land:

Yes - I will not be able to build a home on my property for my family to enjoy.

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4. The hardship is not self-created or personal in nature:

No, I purchased this property not knowing there was a neighboring house encroaching onto the property. It was after I purchased the property that I was notified of the house encroachment.

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5. The hardship is not financial or economic in nature:

No, a house can not be built unless the city approves the variance. I will lose my ability to build within my own property lines.

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6. The requested variance is necessary for the preservation and enjoyment of a substantial property right of the applicant:

Yes, the variance is absolutely necessary in order to obtain a builder permit from the city. We need their approval.

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7. Granting the request will not be detrimental to the public health, safety, or wellbeing, nor injurious to other property in the area:

No, we are building a house that will NOT be detrimental to the public health, safety or wellbeing, nor injurious to other property in the area. We are building a house that not only families can greatly benefit but also the city of Denison.

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8. The situation causing the hardship does not generally affect all or most properties in the same zoning district as the subject:

No, it will only effect my property line.

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9. Will the denial of this request cause a substantial burden on religious activities of the property owner / user?       Yes       No

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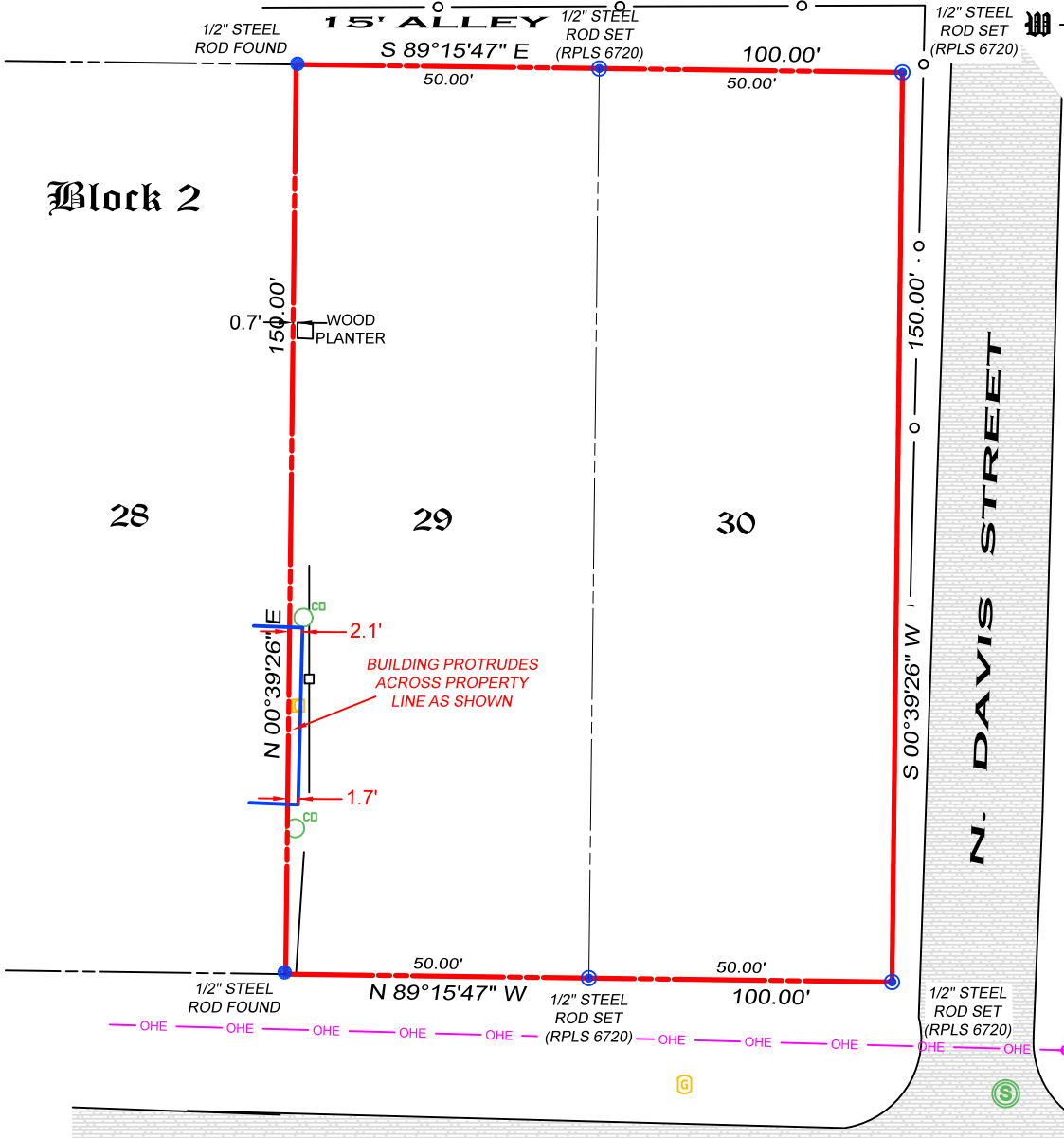
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~ PROPERTY ADDRESS ~  
2901 W. WASHINGTON STREET  
DENISON, TEXAS

3 2 1



W. WASHINGTON STREET

~ BASIS OF BEARINGS ~  
GRID NORTH, NAD 83  
TEXAS STATE PLANE COORDINATE SYSTEM  
NORTH CENTRAL ZONE (4202)



SCALE ~ 1" = 30'

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Legend

- SEWER MANHOLE
- SEWER CLEANOUT
- POWER POLE
- GAS METER
- NATURAL GAS MARKER
- BOUNDARY LINE
- PROPERTY LINE
- OVERHEAD ELECTRIC
- CHAINLINK FENCE
- EAVE OF HOUSE
- ASPHALT

I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 3rd day of January, 2024, a survey was made on the ground of the property shown hereon, described as **Lot 29, Block 2, WITTEN'S ADDITION**, an addition to the City of Denison, Texas, as shown by plat of record in Volume No. 291, Page 614, Deed Records, Grayson County, Texas and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

John C. Copley  
Registered Professional  
Land Surveyor No. 6720  
Firm No. 10194429



**Copley Land Surveying**

5904 Texoma Parkway, Sherman, Texas 75090  
TX 903-415-0643

john@copleylandsurveying.com

CLS Job# 23120567

