



COMMUNITY DEVELOPMENT PLANNING DIVISION
301 W. CHESTNUT
planning@rogersar.gov
(479) 621-1186

ROGERS BOARD OF ADJUSTMENT MEETING AGENDA

Date:	October 14, 2021
Location:	Rogers City Hall
	Community Room
Meeting Time:	4:00 PM

CALL TO ORDER

OLD BUSINESS

NEW BUSINESS

1. (VAR 21-32) A request by Lee & Lee Investments, LLC to allow an additional wall sign in the C-2 (Highway Commercial) zoning district at 1001 S. 52nd Street.
 - *STAFF: Lori Ericson*
 - *REPRESENTED BY: Bill Watkins*

ACTION ON MINUTES

1. Draft of September 23, 2021 meeting minutes

ADJOURN



COMMUNITY DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
planning@rogersar.gov
(479) 621-1186

MEETING DATE
October 14, 2021

TO: BOARD OF ADJUSTMENT
RE: **STAFF SUMMARY REPORT**
VARIANCE – #21-32 Lee & Lee Investments
PL202101166

STAFF: Lori Ericson, Zoning Administrator

REQUEST DETAILS

ADDRESS/LOCATION:	1001 S. 52 nd Street
SUBDIVISION:	Metro Park South
CURRENT ZONING:	C-2 (Highway Commercial)
APPLICANT/REPRESENTATIVE:	Bill Watkins for Lee & Lee Investments, LLC
PROPERTY OWNER:	Pepsi Bentonville, LLC
NATURE OF REQUEST:	Allow additional wall signage
AUTHORITY:	Sec. 14-724, Rogers Code of Ordinances

SUMMARY

This request is to allow additional wall signage.

Community Development recommends approval of the request.

STAFF REVIEW

1. BOARD OF ADJUSTMENT DUTIES PER SEC. 14-724(e)(1):
 - a) Hear appeals from the decision of the Department of Community Development in respect to the enforcement and application of the zoning ordinance, Chapter 14, and the sign permitting provisions contained in Chapter 44, and may affirm or reverse, in whole or in part, said decision of the Department of Community Development; and
 - b) Hear requests for variance from the literal provisions of the zoning ordinance in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance.
2. SUBJECT REQUEST:
 - a) Allow additional wall signage facing I-49 where the building has no frontage.
3. GENERAL FINDINGS:
 - a) Businesses located within the structure are allowed one wall sign on the building's front facing S. 52nd St. per Rogers Code Section 44-9.
 - b) Although, signage is located on both the west and east elevations of the existing structure, there appear to be no sign permits issued for any of the signs on the existing signage. And no variances for the signage in opposition to code.
 - c) The applicant doesn't cite a hardship basis for varying from city code but notes that there is no development on the 1.56-acre tract between the building and I-49. The application also notes the vacant tract is a detention basin for the Metro Park South Subdivision.
 - d) Staff agrees there is no true hardship, but supports the idea that the detention pond should not void the visibility the business might enjoy along I-49.
 - e) Staff would also note the existing signage has been on the building without complaint for a number of years.
 - f) Staff supports approval of the variance.
4. ZONING:

C-2 (Highway Commercial)
The C-2 zoning district is intended for commercial uses, which depend upon high visibility, generate high traffic volumens or cater to the traveling public.
5. PUBLIC INPUT RECEIVED:

Staff has not received any comments from the public regarding this request.
6. RECOMMENDATIONS:
 - a) Approve the request.

DIRECTOR'S COMMENTS

1. Agree with recommendation.



JOHN C. MCCURDY, Director
Community Development

SUGGESTED MOTIONS

1. IF APPROVING AS PRESENTED:

Move to approve the request as presented.
2. IF APPROVING SUBJECT TO OTHER ACTIONS:

Move to approve the request subject to (conditions or contingencies).
3. IF DENYING:

Move to deny the request as presented.

4. **IF TABLING:**

Move to table the request (indefinite or date certain).

TABS

1. Variance application with supplements
2. Vicinity map (aerial)
3. Public Notice
4. Final plat of Metro Park South



DEPT. OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
PHONE: (479) 621-1186
FAX: (479) 986-6896

OFFICE USE ONLY

Permit Fee: \$100 fee (\$100)
Zoning: C-2
App Number: 21-32
CityView Application: PL202101166
Date: 9-24-2021

VARIANCE APPLICATION

APPLICANT: Lee & Lee Investments, LLC

ADDRESS: 408 N. Walton Blvd., Bentonville, AR 72712 SUITE #: _____

GENERAL LOCATION OF PROPERTY: 1001 S. 52nd St., Rogers, AR 72758

PHONE #: 479-636-2168 Bill Watkins EMAIL: bwatkins@watkinslawoffice.com

PROPERTY OWNER: Pepsi Bentonville, LLC PHONE #: 212-743-3232

REQUEST to ALLOW: Allow wall signage on the East side of the building facing I-49

HARDSHIP JUSTIFICATION to VARY FROM CODE: While not technically "street frontage"
the only property between the subject property and I-49 is a detention basin, The
current occupant presently has such signage.

Applicant Signature

Date

Attachment Checklist:

- ☒ Legal description of property
☐ Survey, elevations, sign proofs and/or other documents as needed to illustrate request

PLANNING STAFF PROVIDES:

DATE FILED: 9-24-2021

PUBLIC HEARING DATE: 10-14-2021

BOARD OF ADJUSTMENT DECISION: _____

SECRETARY, BOARD OF ADJUSTMENT

DATE

PARCEL #02-20827-000
METRO PARK SOUTH LOT 13-A

**WATKINS, BOYER,
GRAY & CURRY, PLLC**

WILLIAM P. WATKINS, III, P.A.
RONALD L. BOYER, P.A.
JENNIFER E. GRAY, P.A.*
ANDREW T. CURRY, P.A.
WILLIAM A. KELLSTROM
JOHN E. JENNINGS (OF COUNSEL)
* ALSO LICENSED IN MISSOURI

ATTORNEYS AT LAW

WRITER'S DIRECT E-MAIL
bwatkins@watkinslawoffice.com

DELYNN HALE, SECRETARY
AMY BENSON, PARALEGAL
WHITNEY DUCKER, OFFICE MANAGER

September 24, 2021

City Planning Staff
Uploaded via City View Only

**Re: Lee & Lee Variance Request
1001 S. 52nd St. - Wall signs as street frontage**

Dear Staff:

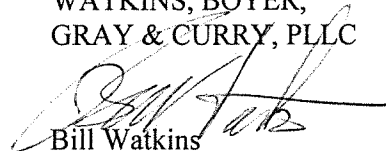
This variance is filed asking that the east side of the building at the above address be treated as street frontage as defined under the City Code. At present the property does not fit this definition as there is a detention basin between the subject building and I-49. There are no improvements within the detention basin nor can there ever be. The character of the property on that side is as street frontage. The hardship justifying this request is the presence of this detention basin, a condition not suffered by any other neighboring property.

The building presently has a sign on the wall on this side, thus it appears that such a variance has been granted previously. Most, if not all, other buildings adjoining I-49 in this area have wall signs on their east sides. The signage requested here would not be out of character for the area.

If you have any questions please do not hesitate to contact me.

Sincerely,

WATKINS, BOYER,
GRAY & CURRY, PLLC



Bill Watkins

BW:mos



DEPT. OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
PHONE: (479) 621-1186
FAX: (479) 986-6896

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the **Board of Adjustment** in an online meeting on Zoom (instructions to be posted under the BOA at www.rogersar.gov) on **October 14, 2021 at 4:00 p.m.** regarding an application by **Lee & Lee Investments, LLC** under the provisions of the City of Rogers Code of Ordinances, for a variance to **allow an additional wall sign** in the C-2 (Highway Commercial) zoning district at **1001 S. 52nd Street**, more particularly described as follows:

LEGAL DESCRIPTION:

Lot 13-A, Metro Park South Subdivision, Rogers, as recorded in Benton County, AR

LAYMAN'S DESCRIPTION:

1001 S. 52nd Street

Josh Allen, Secretary
Board of Adjustment

PUBLISH ONE TIME ONLY: **October 3, 2021**
BILL THE CITY OF ROGERS





Graphic Scale

0 25 50 100 200

Surveyor's Certification

To Whom It May Concern: This is to certify that an accurate survey was made of the herein described property and that this plat is the true and correct copy of the original survey filed in the office of the Surveyor General, State of Arkansas, at Little Rock, Arkansas, on August 17, 2006. The survey was completed on August 17, 2006.

Final Plat Of

Metro Park South

Horsebarn Road

Sheet #1 of 2

VICINITY MAP

LEGEND

- Found 5/8" Rebar
- Set 5/8" Rebar
- Aluminum Monument
- R/W Marker
- Computed
- Concrete Monument
- Concrete Monument
- Property Boundary
- Centerline
- Utility Easement
- Quarter-quarter line
- Building Setback
- Interstate Right-of-Way
- Sidewalk
- Curb

REGISTERED

STATE OF ARKANSAS

NO. 1227

JIM F. RAMSEY

PROFESSIONAL LAND SURVEYOR

Job Final Plat of

Metro Park South

Scale 1"=100'

Sheet #1 of 2

Date: 8/17/06

Drawn By: ARS

Rev:

Location: Pl. of SW 1/4 NW 1/4 & Pt. of NW 1/4 SW 1/4

Sec 16, Twp 19 N, Rg 30 W

500-19N-30W-0-16-30-04-1227

RAMSEY SURVEYING, INC.

Job Number:

476-531-5953 476-592-4977 Fax 476-592-4428 06020

CURVE	DELTA	RADIUS	LENGTH	CHORD	DIRECTION
C1	28°51'43"	1096.50'	514.07'	509.38'	S11°13'12"E
C2	28°03'39"	540.00'	264.47'	261.83'	N18°05'41"E
C3	9°38'08"	760.00'	127.81'	127.66'	S27°18'26"W
C4	13°31'07"	760.00'	179.32'	178.90'	S15°43'49"W
C5	12°58'15"	760.00'	172.05'	171.69'	S02°29'07"W
C6	13°30'48"	760.00'	179.25'	178.83'	S10°45'24"E
C7	3°07'12"	1040.00'	56.63'	56.62'	N15°57'13"W
C8	12°49'13"	1040.00'	232.71'	232.22'	N07°59'00"W
C9	12°43'39"	980.00'	213.25'	212.81'	N07°56'13"W
C10	3°12'46"	980.00'	53.83'	53.82'	N15°54'25"W
C11	1°33'53"	840.00'	22.94'	22.94'	S16°43'52"E
C12	8°32'59"	30.00'	43.67'	39.91'	N57°38'55"W
C13	25°35'22"	330.00'	147.38'	146.16'	S86°33'14"E
C14	26°02'10"	330.00'	149.96'	148.67'	S60°44'28"E
C15	20°08'04"	95.00'	33.38'	33.21'	S36°26'34"W
C16	18°52'29"	1056.50'	348.04'	346.47'	S15°12'49"E
C17	01°50'38"	25.00'	40.07'	35.92'	S48°07'59"W
C18	29°19'41"	270.00'	373.82'	344.67'	S37°27'11"E
C19	22°13'54"	270.00'	104.76'	104.11'	S88°13'58"E
C20	88°40'58"	30.00'	46.43'	41.94'	N36°18'36"E
C21	18°52'46"	840.00'	276.79'	275.54'	S01°24'30"W
C22	17°12'17"	840.00'	252.24'	251.29'	S18°27'02"W
C23	4°04'19"	840.00'	59.70'	59.68'	S30°05'20"W
C24	2°08'44"	480.00'	16.96'	16.96'	N31°04'08"E
C25	25°56'49"	480.00'	208.31'	208.54'	N17°02'21"E

2006 1014
Recorded in the Above
Plat Book & Page
09-23-2006 12:37:13 PM
Brenda Deshields-Circuit Clerk
Benton County, AR

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD	DIRECTION
C1	26°51'43"	1086.50'	514.07'	509.38'	S11°13'12"E
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C8	12°49'13"	1040.00'	232.21'	232.22'	N07°59'00"W
C9	12°43'39"	960.00'	215.25'	212.61'	N07°56'13"W
C10	3°12'46"	960.00'	53.83'	53.82'	N15°54'25"W
C11	1°33'53"	840.00'	22.94'	22.94'	S16°43'52"E
C12	83°23'59"	30.00'	43.67'	39.91'	N57°38'55"W
C13	25°35'22"	330.00'	147.38'	146.16'	S85°33'14"E
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C25	25°56'49"	460.00'	208.31'	206.34'	N17°02'21"E

Survey Description

Located in a part of the SW 1/4 of the NW 1/4 and in a part of the NW 1/4 of the SW 1/4 of Section 16, Township 19 North, Range 30 West in Rogers, Benton County, Arkansas, more precisely described as follows: Starting at the SW Corner of the SW 1/4 of the NW 1/4 of Section 16; thence North 02 degrees 12 minutes 40 seconds East, 430.36 feet to the true POINT OF BEGINNING; thence along the West line of the SW 1/4 of the NW 1/4, North 02 degrees 12 minutes 40 seconds East 853.64 feet; thence South 85 degrees 56 minutes 42 seconds East, 1058.83 feet; thence along the Westerly right of way of Interstate Highway #540 the following courses: South 02 degrees 01 minutes 12 seconds West, 258.56 feet; thence South 01 degrees 38 minutes 16 seconds East, 200.51 feet; thence South 05 degrees 39 minutes 25 seconds West, 200.52 feet; thence South 08 degrees 28 minutes 36 seconds West, 301.22 feet; thence South 07 degrees 30 minutes 10 seconds West, 301.01 feet; thence South 04 degrees 11 minutes 01 seconds West, 200.12 feet; thence South 00 degrees 07 minutes 58 seconds East, 54.69 feet; thence leaving said right of way, North 86 degrees 12 minutes 05 seconds West, 788.26 feet; thence along the centerline of Horsebarn Road the following courses: North 24 degrees 39 minutes 03 seconds West, 196.98 feet; thence along a curve to the right having a radius of 1086.50 feet, an arc length of 514.07 feet, and a chord of North 11 degrees 13 minutes 12 seconds West, 509.38 feet to the true POINT OF BEGINNING containing 35.073 acres more or less and being subject to the rights of way of Horsebarn Road and Interstate Highway #540 and any easements of record.

Surveyor's Notes:

- In providing this survey, no attempt has been made to show data concerning size, depth, condition or capacity of underground utilities existing on site. Only visible utilities have been located on this survey.
- No abstract of title or results of a title search were furnished to the surveyor. All documents of record reviewed were provided by WACO Title and are noted herein. There may exist other documents of record that may affect this surveyed parcel.
- No additional investigation or independent search has been made by Ramsey Surveying, Inc. for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
- Basis of Bearings is Grid North according to the Arkansas Coordinate System, North Zone, derived from solar observations.
- Traverse loop closure error was 0.12' with a precision of 1:31709 and an elevation error of 0.17'.
- This plot represents a survey of a Deed Record 528 page 367 (parent tract), Quitclaim Deed Record 704 page 726 (Robert Lawrence to Cecilia Lawrence), Deed Record 2005 9077 (parcel sold to Northwest Arkansas Radiation Therapy Institute) and Deed Record 2005 12375 (parcel sold to Harris & Harris Properties, LLC).
- The purpose of this survey is to subdivide the parent tract, Parcel #02-01671-047, interior lot corners and right-of-way angle points will be monumented per City of Rogers ordinances and Arkansas Minimum Standards for Property Boundary Surveys and Plats with 5/8" rebar.
- This survey yielded to found 5/8" rebar shown on a survey by Gene Buescher for the South line of the North 14 rods of the NW 1/4 of the SW 1/4.
- This survey yielded to found 5/8" rebar shown on Plat Record 2004-180 for the North line of the SW 1/4 of the NW 1/4.
- A 5/8" rebar with an aluminum cap was set at the SW Corner of the SW 1/4 of the NW 1/4 computed from Plat Record 2004-180.
- Elevations shown on this survey are based on NGVD 29 datum.
- Horizontal coordinates shown on this survey were established from City of Rogers GPS Monument #13 and are based on NAD 83 datum.
- Onsite benchmark is City of Rogers GPS Monument #13 (1272.36').

Owner/Developer:
CH Office Development
Properties 2, LLC
599 Horsebarn Road, Suite 100
Rogers, AR 72758
479-464-8622
Land Surveyor:
Ramsey Surveying, Inc.
Jim Ramsey PLS #1227
1729 W Poplar St.
Rogers, AR 72756
479-631-8863
Engineer: Tim Sorey
Sand Creek Engineering and
Landscape Architecture, Inc.
1610 NW 12th Street
Bentonville, AR 72712
479-464-9282

Owner's Certification and Dedication

We, the undersigned owners of the real estate shown and described herein, do hereby dedicate to the public all detention ponds & structures, streets, alleys, parks, and other public lands shown upon this plat and do hereby establish the easements shown upon this plat. Said easements shall be for the benefit of the City of Rogers and all utility companies, including cable television companies, and said easements shall be for the purpose of constructing, maintaining, repairing and replacing utility lines, cable television lines, and drainage structures. The City of Rogers, and all utility companies, and all cable television companies shall have the right of ingress and egress to said easements and shall have the right to remove or trim trees within said easements and the right to prohibit the erection of buildings, structures, or fences within said easements.

Date: 8-18-06 Owner: [Signature]
Date: _____ Owner: _____
Date: _____ Owner: _____
Date: _____ Owner: _____
Date: _____ Owner: _____
Date: _____ Owner: _____

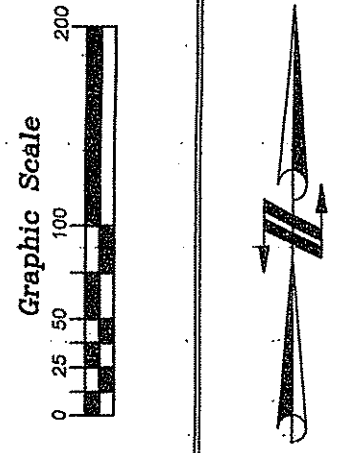
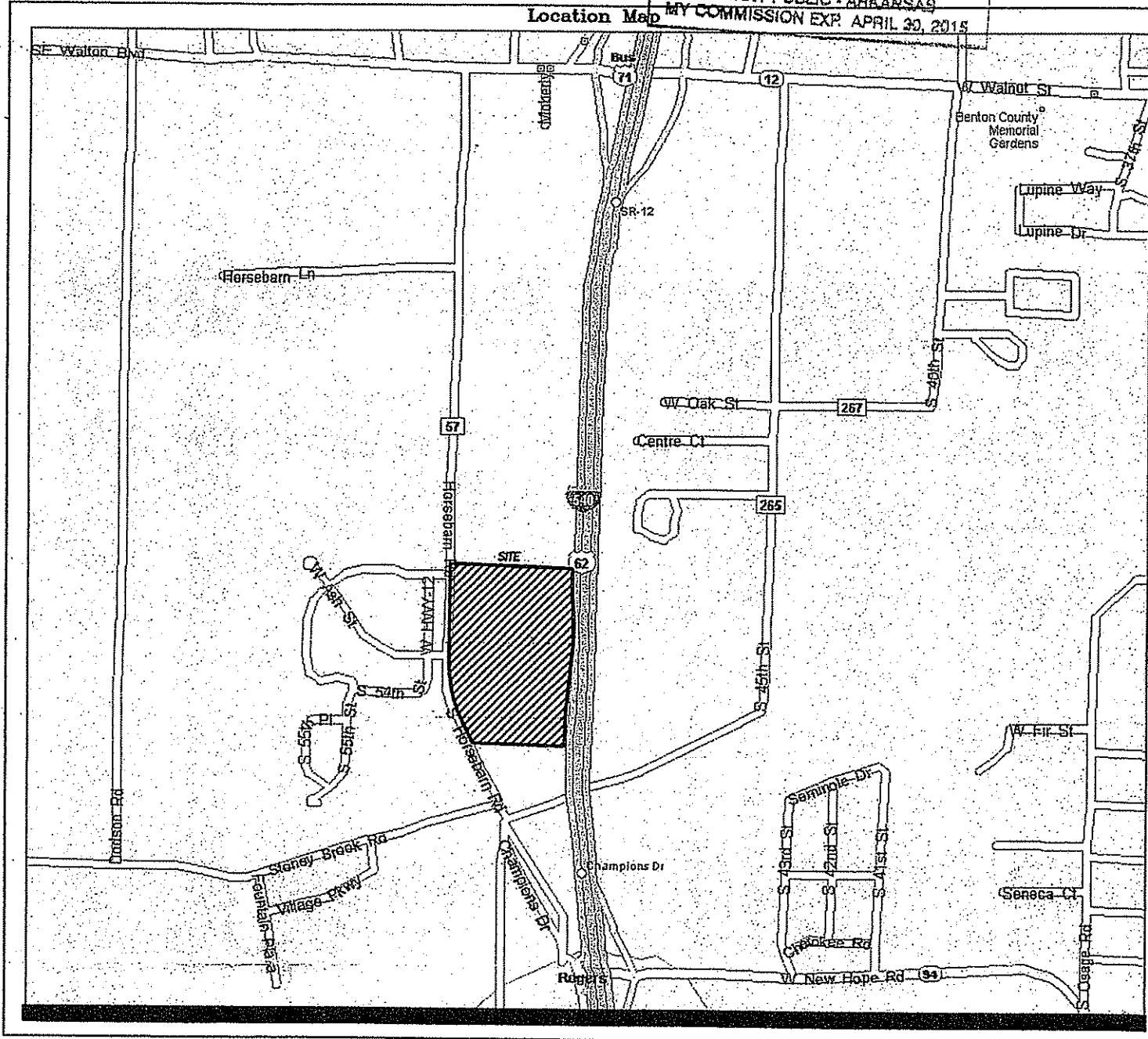
State of Arkansas

County of Benton
Subscribed and sworn before me this 18th day of August 2006
Notary Public: Sara Hartwick
My commission expires April 30, 2015

Acceptance

Approved and accepted by the City of Rogers Planning Division
this 15th day of August 2006
Chairman: [Signature]
Acceptance
Approved and accepted by the City of Rogers City Council
this 15th day of August 2006
Mayor: [Signature]
Secretary: [Signature]

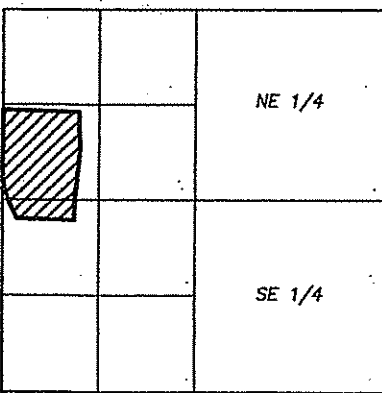
OFFICIAL SEAL
SARA HARTWICK
WASHINGTON COUNTY
NOTARY PUBLIC - ARKANSAS
MY COMMISSION EXPIRES APRIL 30, 2015



Surveyor's Certification
To: Haynes Limited. This is to certify that an accurate survey was made of the herein described property and that this plat is the true and correct copy of the original survey filed in the Office of the Circuit Clerk of Benton County, Arkansas. According to this survey, no part of the above FLOOD CERTIFICATION appears to lie in a known flood area, according to FEMA Flood and appears to lie in a known flood area, according to FEMA Flood and appears to lie in a known flood area, according to FEMA Flood. December 20, 2000, the property surveyed is located in zone X. This survey and plat was completed on August 17, 2006.

Final Plat Of Metro Park South Horsebarn Road Sheet #2 of 2

VICINITY MAP



LEGEND

- Found 5/8" Rebar
- Set 5/8" Rebar
- Aluminum Monument
- R/W Marker
- Computed Concrete Monument
- Property Boundary
- Centerline
- Utility Easement
- Quarter-quarter line
- Building Setback
- Interstate Right-of-Way
- Sidewalk
- Curb



Job: Final Plat of Metro Park South
Scale: 1"=100'
Date: 8/17/06
Location: Pl. of SW 1/4 NW 1/4 & Pt. of NW 1/4 SW 1/4
Sec 16, Twp 19 N, Rg 30 W
500-13N-30W-0-16-30A-04-1227
Jim F. Ramsey PLS #1227
1729 West Poplar Street
Rogers, Ar. 72756
surveyjim@globalnet.net
Drawn By: ARS
Rev: [Blank]
Sheet #2 of 2
Job Number:
RAMSEY SURVEYING, INC.
479-631-8863 479-682-4977 Fax 479-639-4489 06020







DEPT. OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
PHONE: (479) 621-1186
FAX: (479) 986-6896

**BOARD OF ADJUSTMENT
MINUTES
September 23, 2021**

MEMBERS PRESENT:

Hunter Fry
Josh Allen
Hannah Cicioni
Aaron Smith
John Schmelzle

STAFF ATTENDING:

John McCurdy, Community Development Director
Lori Ericson, Zoning Administrator

Chairman Hunter Fry called the meeting to order at 4:00 pm. via Zoom.

NEW BUSINESS

- 1. (VAR 21-31) A request by David Sadler to allow an increase in maximum height for an accessory structure in the R-SF (Residential Single Family) zoning district at 1206 W. Cherry Street.**

Zoning Administrator Lori Ericson presented the staff report, recommending consideration of the request:

- Accessory building height is limited at 16 feet in the R-SF zoning district.
- The garden tower is planned with a platform height of 16 feet and a height to the top of the roof of 27 feet. The structure will be a total of 96 sf.
- The applicant doesn't cite a hardship basis for varying from city code but states that the garden tower will be for the property owner's personal use and believes it will not negatively impact any neighbors.
- Staff would note that the lot is 0.25 acres with the proposed garden tower to be built 38 feet from the east side property line, 41 feet from the west side property line and 41 feet from the rear property line, resulting in little to no impact for neighboring property owners.

Homeowner David Sadler explained that he'd like the garden tower to be high enough that he can enjoy the skyline above his house. He noted that he spoke with neighbors about the plan and none had any objections.

Board members discussed the height of Sadler's house, and the possibility of reducing the planned height of the tower. Sadler said it could be built shorter but he might not be able to get the full impact he'd hoped for viewing the skyline.

Hannah Cicioni questioned what the Board should consider a hardship.

Schmelzle said he also struggled to see Lori Ericson noted that it's a subjective question that isn't as clear in the case as it is with some setback issues, etc. She said the fact that he can't enjoy the tower the way he hopes could be considered a hardship for Mr. Sadler.

After questioning Sadler about the height of his house, Cicioni agreed that the peak of the house would interfere with the hoped for view, and stated she could get behind approval of the variance with consideration of the house height as hardship,

Motion by Cicioni to APPROVE the variance. Second by Smith.

Voice vote: YES – Unanimous **Motion carried**
APPROVED

ACTION ON MINUTES

Previous minutes: August 12, 2021

Motion by Schmelzle to accept the prepared minutes for the August 12, 2021 meeting of the Board of Adjustment as presented. Second by Smith.

Voice vote: YES - Unanimous **Motion carried**
APPROVED

OTHER BUSINESS

ADJOURNMENT

Meeting adjourned at 4:17 pm. by Chairman Fry.

As recorded by:

Lori Ericson
Zoning Administrator
Community Development Department
City of Rogers

Approved by vote of the Board of Adjustment on: