



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

**BOARD OF ADJUSTMENT
MINUTES
November 15, 2022**

MEMBERS PRESENT:

Hannah Cicioni
Matthew Loos
Aaron Smith
Kevin Jensen
Josh Allen

STAFF ATTENDING:

John McCurdy, Director of Community Development
Lance Jobe, Dep. Director of Engineering Services
Kris Paxton, Dev. Compliance Manager
John Pesek, Senior Staff Attorney
Kyle Belt, Planner I
Zachery Birdsong, Planner I
Karen Perez, Planning Technician

Board Member Aaron Smith called the meeting to order at 4:00 pm in the Community Room at Rogers City Hall.

Board members attending as noted above.

NEW BUSINESS

- 1. (VAR 22-43) A request by Robert Caster for Palmer Property to allow a reduction of the front, interior, and exterior side setbacks at 115 W. Kelley Drive in the I-1 (Light Industrial) zoning district.**

Planner Kyle Belt said the subject property was located just south of the Rogers Airport at the intersection of Kelly and NE Hudson, in the I-1 light industrial zoning district. Applicant is requesting setback reductions on three sides of an existing structure. The structure crosses the property line by two inches on the interior side. The adjacent parcel is under the same ownership and owner plans to sell but needs to correct the encroachment first. The requested reductions include: front from 50 feet to as little as 36.5 feet; exterior side setback from 50 feet to 39.4 feet; and, interior setback from 25 feet to 2 feet at its closet point. The applicant stated hardship is the

existing building is encroaching the front and side setbacks. It was also stated on the application that if the reduction is approved this will open up the west lot to be better suited for development considering the larger setbacks in the industrial sector.

Robert Caster, representative, stated that if the property line is moved to the required 25 feet then it would reduce the area by about 2530-sf. At that point there would be no use for that lot in the I-1 zoning district. He then mentions that we would be solving one hardship but creating another.

Smith opened the public hearing. There were no comments.
The public hearing was closed.

Cicioni recused herself.

McCurdy explained that the two lots function as a single lot because of the fact that the building crosses the property line. If the reduction is approved that would allow the west lot to become buildable by reducing the existing setback. The question to the BOA is the property owner entitled to treat this as two lots? Is there actually room based on the setback requirements to create two lots out of this?

Jensen spoke on there not being a real hardship due to I-1 not having a minimum acreage. He also questioned if the board was comfortable with a potential new building being that close together with the purposed setbacks.

Loos asked for confirmation that the total acreage was about one and a quarter acres total. Belt confirmed.

Jensen stated he didn't mind the other requests to clean up the existing building. The board would not make anyone tear down an existing building. He did not agree with granting a variance to let somebody build a bigger building on a small lot.

Caster clarified that this was two separate lots, two separate parcel numbers, and two separate legal descriptions. There is a building encroaching on the other property.

Jensen agreed that something needed to be done to rectify the encroachment. But questioned if the board should allow the reduction where the applicant is purposing now and there be an encroachment with the existing building, or push it over twenty feet to where code wants it, and have a new building encroach at that time or building something smaller to avoid the encroachment. He then purposed the variance come back when they are ready to develop, so the board has a better idea of what is being built or approved with the reduction.

Caster stated there was no intent to build at this time but agreed that 20-foot less building space is a lot less desirable place for an I-1 lot.

Smith asked for clarification if this was three separate requests. Kyle replied it was one variance request with multiple setback reductions.

Jensen has no issues with the front or exterior setback. Smith agreed. Allen agreed.

Jensen motioned to approve the front and exterior setback reduction but deny the interior setback reduction.

Motion by Jensen to APPROVE the front and exterior setback reduction. Second by Allen.

Voice vote: 4 YES/1 ABSTAIN(Cicioni) **Motion carried**

Motion by Jensen to DENY the interior setback reduction. Second by Allen.

Voice vote: 4 YES/1 ABSTAIN(Cicioni) **Motion carried**

APPROVED

- 2. (VAR 22-46) A request by Milosz Golik to allow a 12-foot reduction of the rear setback at 8102 W. Kettering Ct., the N-R (Neighborhood Residential) zoning district.**

Planner Zachery Birdsong stated the applicant formally withdrew the request due to construction issues.

- 3. (VAR 22-47) A request by Gateway Starbucks to allow a reduction of the front building setback from 75 feet to 30 feet on ±3.25 acres at the intersection of 8th and Hudson Rd., the C-2 (Highway Commercial) zoning district.**

Planner Kyle Belt said the property was located just southeast of the intersection of West Hudson and N. 8th street, in the C-2 commercial overlay district. The request is to reduce the 75-foot front setback by 45 feet. The stated hardship from the applicant is that a future roundabout will require a large right away dedication that will push the purposed development into the floodplain. Belt added that the entire site is located within a special flood hazard area and the purposed roundabout is not significantly further into the property with the existing stub out. This appears to be an attempt to place more on the site than there is room for therefore staff recommends denial.

Libby Topping, representative, requested to table the variance until they can work through site issues and potentially revise the narrative explaining the hardships. Topping added she was happy to answer any questions.

Jensen stated she received good feedback from city staff.

Motion by Jensen to TABLE the variance. Second by Cicioni.

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

TABLED

ACTION ON MINUTES

Previous minutes: November 1st, 2022

Motion by Cicioni to accept the prepared minutes for the November 1st, 2022 meeting of the Board of Adjustment as presented. Second by Loos.

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

APPROVED

ADJOURNMENT

Meeting adjourned at 5:21 pm. by Board Member Aaron Smith.

As recorded by:

Karen Perez

Planning Technician

Community Development Department

City of Rogers

Approved by vote of the Board of Adjustment on:

Matthew Loos, BOA Secretary