



DEPT. OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
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**BOARD OF ADJUSTMENT
MINUTES
October 18, 2022**

MEMBERS PRESENT:

Hannah Cicioni
Kevin Jensen
Matthew Loos
Aaron Smith

STAFF ATTENDING:

John McCurdy, Community Development Director
Shawn Grindstaff, Dep. Director of Community Development
Kristifler Paxton, Dev. Compliance Manager
Bailey B. Crossett, Staff Attorney
Kyle Belt, Planner I
Zachery Birdsong, Planner I
Christina Moore, 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 22-38) A request by Dan Cole for Superior Storage to allow a setback reduction of the exterior side setback at 2836 S. 8th Street in the I-1 (Light Industrial) zoning district.**

Planner Kyle Belt said the subject property was located in southeast Rogers. The large-scale development proposal is an addition to an existing storage facility. The reduction will be in the northwest corner of the property going from 50 feet to 26 feet. The stated hardship is that the applicant is being required to dedicate right-of-way for this project, as well as in conjunction for another large-scale project.

Dole Cole, representative, stated he was more than happy to help the adjacent property owner with that right-of-way dedication. The dedication would create a non-conformity and the reason why the variance is needed.

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

Cicioni asked for clarification that this is to that future project that is going to be happening directly west of the applicant.

Development Compliance Manager Kris Paxton stated city engineering staff worked with the applicant and with the applicant of the project to the west. The project to the west of this has a stub out that connects to the right-of-way. This was all discussed with staff and recommended by staff.

Cicioni recused herself.

Jensen commented he didn't see any issues with this request, applicant has been working with city staff.

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

Voice vote: 3 YES/1 ABSTAINED (Cicioni) **Motion carried**

APPROVED

2. (VAR 22-39) A request by Hollywood Signs for Pho Kitchen to allow an increase in sign area and an additional wall sign in the rear elevation at 4501 W. Walnut Street, Unit 4 in the C-2 (Highway Commercial) zoning district.

Planning Technician Karen Perez stated the applicant was requesting an increase in sign area and an additional wall sign for the rear elevation. This site is only allowed one wall sign at 50 square feet. The applicant lists no site-specific hardship but does note they would like to match the existing plaza signs. And, the other tenants have been granted variances dating back to 2013.

Reina Ramos, representative, had nothing to add and was open for questions.

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

Cicioni stated she was a part of the Freddy's variance and this is very similar, and if this is in line with the sizing of the other existing tenant signs. She found this to be a reasonable request.

Loos questioned if there was an existing sign at this location. Smith said this used to be the old Quiznos location and found this to be a reasonable request.

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

Voice vote: YES-UNANIMOUS *Motion carried*

APPROVED

3. (VAR 22-40) A request by Chase Allison for Rogers Elementary #17 to allow a variance from the requires 25-foot buffer adjacent to wetland areas to allow a double run of the silt fence in areas adjacent to wetlands area onsite at the intersection of Stratton Road and 2nd Street in the A-1 (Agricultural) zoning district.

Planner Christina Moore stated this request is for a large-scale development; a new school in north Rogers to the west of the airport. This variance is only for the duration of construction. The stated hardship is that their proposed driveway is less than 25 feet from the wetland and the double run of silt fence would meet the intent of the buffer to protect the wetland during construction. City Engineering staff has mentioned that Chapter 8 of The Drainage Criteria Manual, regarding Construction Site Stormwater Management, states that a vegetated buffer can be used in an area that supports vegetation near wetland with buffering. Staff recommends approval of the request for the two rows of silt fence during construction for the protection of the wetland areas.

Chase Allison, representative, referred to the plan sheet and said they will have a 5-foot buffer of the wetland and then the double run after that.

Smith opened the public hearing. One neighbor commented as follows:

- Tim Sorey, representing his wife and property owners adjacent to the school/wetlands, concerned about the wetlands their properties buffer and the wetlands directly draining onto their properties. He references sections of The Drainage Criteria Manual and stated that the nine acres of undeveloped property can be used to reconfigure this in a different manner that doesn't require a variance from the code.

The public hearing was declared closed.

Jensen asked if the variance being requested is only during construction and if the end result would meet the requirements. Patrick Foy with Halff Associates and Kris Paxton confirm that it will in regard to both questions.

Paxton stated that this request was previously approved for a different project two years ago. He says one row of silt fence is intended to provide 80% sediment retention and if a second layer is added, you have additional protection of that wetland while the area is disturbed. Paxton noted that this project is still under large scale review and other concerns Sorey addressed, such as sediment basins and detention, would be part of the LSDP approval.

Jensen asked for clarification that what was up for approval was not the intricate engineering of whether or not this request would meet code, but rather could they add a second fence during construction?

Paxton confirmed that to be correct.

Cicioni added but that this included a reduction and requested an estimated timeline for construction. Allison answered that it would probably be a 12-18 month.

Cicioni voiced concern she lived off North Drive and traveled 95 daily for some farm land she has north of this development. There is a lot of flooding from the Nabholz area to North Drive and beyond. The amount of water that is constantly on this property often times has caused cars to flood in to ditches. The double slit fence will not do much. Cicioni wanted to make sure before any reductions are given that the amount of water that ran onto the property along with it being adjacent to wetlands not just a flood zone was noted.

Jensen asked what was required and what it was being reduced to? Paxton answered if you go off the construction fence, its five feet with the silt fence at seven.

Smith questioned the hardship.

Allison answered the request was driven by the long lane needed to stack cars for drop-off of kids. The reason is to make a long lane and enough parking for the staff. He mentioned they looked at other layouts, but for fluid and the traffic flow that comes with a school this is what led to get the stacking and drop off.

Cicioni asked for clarification: does Rogers School District also own the parcel directly along 94 as well? Allison answered that was correct. They owned the lot to the east, along 94.

Loos asked what is the distance from the wetland to the back of the curve? Allison answered 25 feet.

Jensen questioned the double silt fence is adequate protection in lieu of a 25-foot buffer? That is not a matter of opinion that is engineering, he said, and someone from engineering speak on that?

Paxton stated it was really a matter of opinion with two rows of slit fence. The silt fence will be going into the ground up to six inches and all the water will be filtered through two times versus grass. There will be an inspector for this project that will verify during the LSDP that the slit fence is well maintained. To Cicioni's concern, with the amount of water that goes through there, it does look like there is a temporary check dam in place or that volume of water, this is not channelized water, this is sheet flow water. A slit fence can act equally to a 25-foot buffer, especially if it's double.

Cicioni asked if there was another site-specific reason? Allison responded that 6-foot walls were mentioned but with is being a school they refrained. Smith stated he appreciated hearing the fact that the walls were looked at as an option but negated due to the fact that it was a school. He mentioned being torn with not seeing any other options and doesn't know exactly what was evaluated. That makes it a little unclear for him as far as hardship.

Loos questioned how often will they be checking erosion control, after every event or every 14 days? Allison answered not only does the City have inspectors, an engineer for Halff will also have an observer out there as well. Also, there will be an onsite contractor.

Cicioni pointed out that the site-specific hardship isn't necessarily site specific.

Jensen added that there is a vigilant neighbor paying close attention to this as well.

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

Voice vote: 3 YES/1 NO (Smith) **Motion carried**

APPROVED

4. (VAR 22-41) A request by James Lefevre to allow an increase in height for an accessory structure at 2801 S. 24th Street in the R-SF (Residential Single Family) zoning district.

Planner Zachry Birdsong stated that is site is located in south central Rogers just east of I 49 and in the Creekside subdivision the request is for a height increase for an accessory structure. The applicant is specifically asking for a garage at height of 19 feet and 3 inches. The stated hardship is that the POA covenants require detached garage to match the architectural style and materials of the primary residence. The covenants also state that any building may not exceed the height allowed by the city. The variance is mainly needed for the large pitch of the roof. The applicant stated that other similar request has been approved in the past for this area. POA members have also voiced their approval.

Mr. Lefevre, applicant, said Birdsong covered his request and spoke with some details on his future plans.

Smith opened the public hearing.

- Paul Johnson, neighbor at 2803 S. 24th Street, spoke on how greatly encouraged with the work Mr. Lefevre had done to make sure that the new build matches the house.

The public hearing was declared closed.

Cicioni questioned the location of the accessory structure and if there was any other comments from other neighbors? Birdsong confirmed there was not.

Jensen stated that he imagined the intent of limiting this to 16 feet is so things are not out of character with the neighborhood.

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

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

APPROVED

ACTION ON MINUTES

Previous minutes: October 4, 2022

Cicioni questioned if it had been Loos that voted against variance 22-28?

Loos confirmed.

Cicioni requested that the vote on variance 22-28 be changed.

Motion by Cicioni to accept the prepared minutes for the October 4th, 2022 meeting of the Board of Adjustment as presented. Second by Jensen.

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

APPROVED

ADJOURNMENT

Meeting adjourned at 5:47 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