



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

**BOARD OF ADJUSTMENT MEETING AGENDA
SEPTEMBER 5, 2023
5:30 PM**

ONLINE VIEWING: [HTTPS://US02WEB.ZOOM.US/J/88203105461](https://us02web.zoom.us/j/88203105461)

DISCLAIMER: THE CITY OF ROGERS MAKES NO CLAIMS, PROMISES, OR GUARANTEES REGARDING THE PARTICIPANTS ABILITY TO ATTEND ANY PUBLIC MEETING VIRTUALLY. TECHNOLOGY RESOURCES, VIRTUAL MEETING PLATFORMS, AND THE INTERNET MAY OCCASIONALLY BE INTERRUPTED OR MADE UNAVAILABLE BY CAUSES BEYOND THE CITY'S REASONABLE CONTROL. THE CITY CANNOT GUARANTEE THAT PARTICIPANTS WILL HAVE THE OPPORTUNITY TO PARTICIPATE VIRTUALLY AT ALL TIMES. PUBLIC FORUMS, PUBLIC HEARINGS, AND SCHEDULED ITEMS OF BUSINESS WILL NOT BE TABLED OR POSTPONED DUE TO TECHNOLOGICAL ISSUES. IF YOU ARE REPRESENTING A PUBLISHED ITEM OF BUSINESS OR WISH TO SPEAK AT A PUBLIC HEARING, IN PERSON ATTENDANCE IS REQUIRED.

AGENDA

CALL TO ORDER:

ROLL CALL:

NEW BUSINESS:

1.
(VAR 23-29) A request by 2nd Street Commercial Park for a variance to allow a reduction in building setbacks on 11.09 acres near the southwest corner of W. Hudson Road & N. 2nd Street in the C-2 (Highway Commercial, Light Industrial) zoning district.
 - *STAFF: Zachery Birdsong*
 - *REPRESENTED BY: Jake Chavis, Bates & Associates*

2.
(VAR 23-30) A request by Kurtis and Haley Hahn for a variance to allow a reduction in the rear building setback at 5402 S. 45th Ct. in the RSF-5 (Residential Single Family, 5 units per acre) zoning district.
 - *STAFF: Nick Little*
 - *REPRESENTED BY: Kurtis and Haley Hahn*

ACTION ON MINUTES:



**DEPT. OF COMMUNITY
DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
PHONE: (479) 621-1186
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ADJOURN:

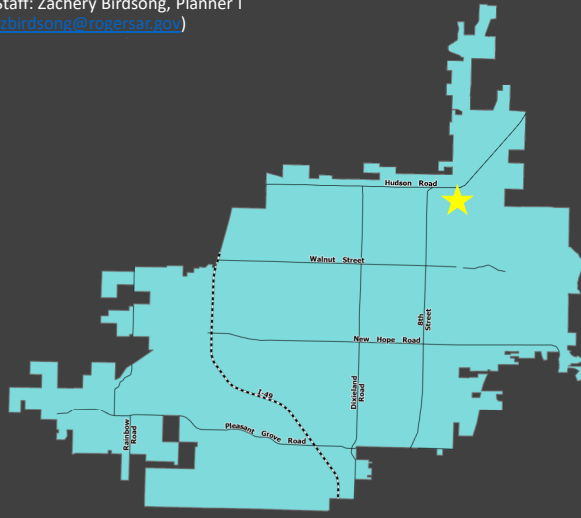


Variance

PLANNING

2nd Street Commercial

Staff: Zachery Birdsong, Planner I
(zbirdsong@rogersar.gov)



Vicinity Map

Location

Near the SW corner of W Hudson and N 2nd Street

Nature of Request

To allow for a reduction in front and exterior side setbacks from internal streets

Zoning

I-1 (Light Industrial) and C-2 (Highway Commercial)

Proposed Use

Manufacturing, Wholesale and Distribution

Representative

Jake Chavis, Bates and Associates

Summary:

This site is located in northeast Rogers near the southwest corner of West Hudson and North 2nd Street. The proposed use is for manufacturing, wholesale and distribution.

Growth Designation:

Employment Center

Growth Designation Purpose: "To maintain existing industrial activity while providing a location for activities like vehicle repair, construction yards, technology centers, and other physically and visually intense uses with high environmental impacts." CGM Page 1

Allowed Zoning Districts:

C-4, W-O, I-1, I-2

Growth Designation:

Access Corridor

Growth Designation Purpose: "To improve existing commercial corridors by reducing traffic congestion and pedestrian unfriendliness through redevelopment and integration of residential uses." CGM Page 1

Allowed Zoning Districts:

R-MF, R-O, C-2



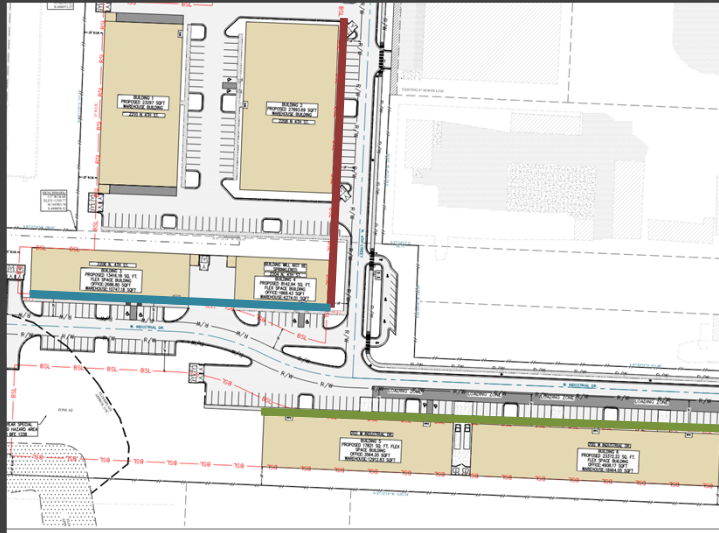
(e) Appeals; powers and duties. Sec. 14-724(e)(1)(a)(b)

(1) The Board of Adjustment shall hear the following appeals as provided by state law:

- a. Hear appeals from the decision of the Department of Community Development in respect to the enforcement and application of the zoning ordinance 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.

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 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.



Site Plan

Request

- To vary from front and external side setbacks from the internal streets
- Required Setbacks
 - Front yard: 50 feet
 - Exterior side yard: 50 feet
- Proposed Setbacks:
 - South side of W Industrial: 41' (shown in green)
 - North side of W Industrial: 29' (shown in blue)
 - West side of N 4th: 28' (shown in red)

Request:

- The applicant is requesting to vary from the front and external side setbacks from the interior proposed streets.

Required Setbacks:

- The front and external side setbacks are both 50 feet.

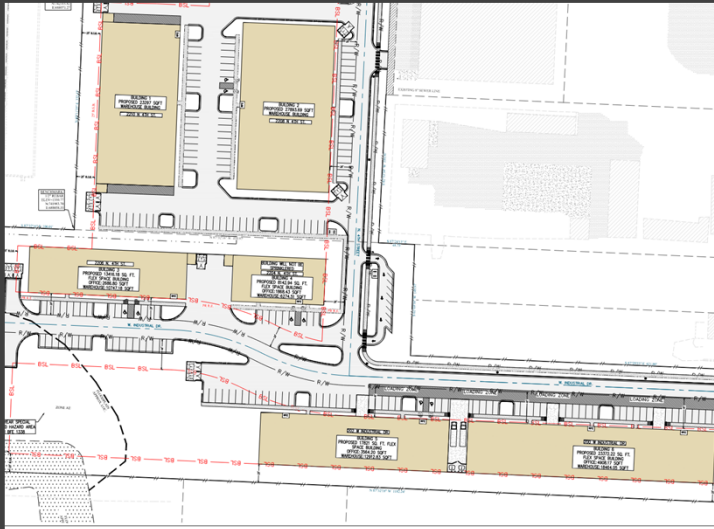
Proposed Setbacks:

- On the south side of West Industrial, the applicant is proposing, at most, a 9-foot reduction to 41 feet.
- On the north side of West Industrial, the applicant is proposing, at most, a 21-foot reduction to 29 feet.
- On the west side of North 4th, the applicant is proposing, at most, a 22-foot reduction to 28 feet.



Variance 2nd Street Commercial

PLANNING



Site Plan

Applicant Hardship

“The oddly shaped lot and site development area leaves the fact that it is surrounded by industrial use with very little to no public frontage, causing requirements for a new street to be built down the center of the site drastically reducing development area with 50’ setbacks.”

Applicant Spirit and Intent

“I believe that the intent of the code for these areas should be rear and *external side setbacks, not front setbacks down this new road. The road alone will only be used for the businesses in the commercial park, and people trying to cut through. This development is also separated from any major roads, and not encroaching on any other landowner.”

Stated Hardship:

- “The oddly shaped lot and site development area leaves the fact that it is surrounded by industrial use with very little to no public frontage, causing requirements for a new street to be built down the center of the site drastically reducing development area with 50’ setbacks.”

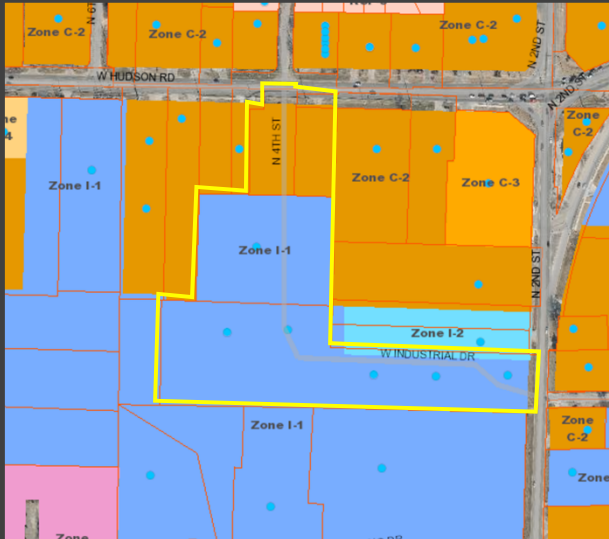
Spirit and Intent:

- “I believe that the intent of the code for these areas should be rear and *external side setbacks, not front setbacks down this new road. The road alone will only be used for the businesses in the commercial park, and people trying to cut through. This development is also separated from any major roads, and not encroaching on any other landowner.”

*Note: Applicant likely meant internal side setbacks given that external side setbacks are the same as the front at 50 feet.



2nd Street Commercial



Zoning

Analysis

- The intent of the large front and exterior side setbacks is to ensure industrial uses are adequately separated from dissimilar uses and designated areas.
- The adjacent properties to the north and east of the internal road are zoned for commercial and industrial use and do not benefit from increased setbacks.
- Evergreen screening is being provided where appropriate.

Analysis:

- The intent of the large front and exterior side setbacks is to ensure industrial uses are adequately separated from dissimilar uses and designated areas.
- The adjacent properties to the north and east of the internal road are zoned for commercial and industrial use and do not benefit from increased setbacks.
- Evergreen screening is being provided where appropriate.

Zoning I-1 (Light Industrial):

The purpose and intent of the I-1 zoning district is “to allow industrial operations and activities that do not create appreciable nuisances or hazards. It also is to provide areas within the City for the storage and transfer of goods. All industrial operations and activities are permitted provided they are conducted inside a building, although related outdoor storage and display are permitted. This district is situated close to heavy commercial and industrial areas and is intended to be located along rail lines and arterial and collector streets as identified by the master street plan.” Sec. 14-713(a)

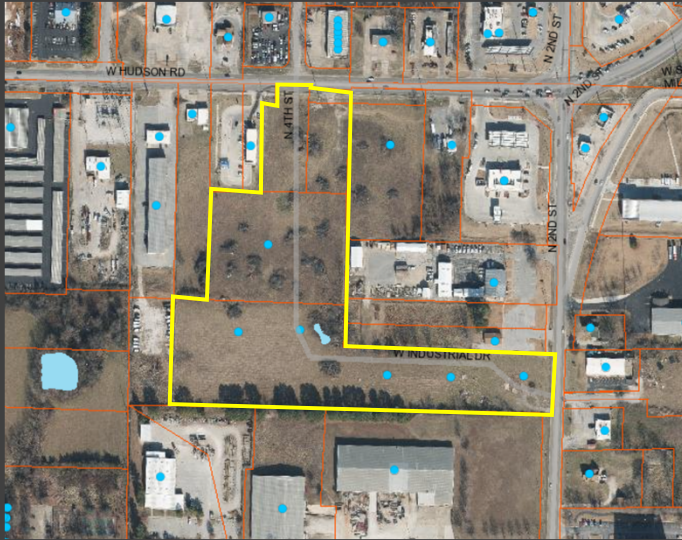
Zoning C-2 (Highway Commercial):

The purpose and intent of the I-1 zoning district is “for commercial uses, which depend upon high visibility, generate high traffic volumes or cater to the traveling public. These characteristics dictate that this district be located along or at the intersections of arterial classification streets or along frontage roads adjacent to the interstate or other limited-access streets.” Sec. 14-709



Variance 2nd Street Commercial

PLANNING



Aerial Map

Recommendation

- APPROVE

Recommendation:

Approve

Public Input:

None



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

OFFICE USE ONLY

Permit Fee: _____ (\$100) Zoning: _____

App Number: 23-29

CityView Application: PL202300819

Date: 8/19/2023

VARIANCE APPLICATION

2nd Street Commercial Park

APPLICANT: Josan Properties Arkansas, LLC W/ bates and associates representing applicant

ADDRESS: 1508 N 2nd street SUITE #: _____

GENERAL LOCATION OF PROPERTY: 4th street and W Industrial drive

PHONE #: 4794429350 EMAIL: Jake@batesnwa.com

PROPERTY OWNER: Josan Gurmeet PHONE #: 1508 N 2nd street

REQUEST to ALLOW: a reduction of front setbacks from 50' to 41' along the south side of W. Industrial drive, 50' to 29' along the n side of W. industrial drive, and 50' to 28' on the west side of N. 4th street.

Sec. 14-724(e)(1)(b) requires variance applicants to respond to these two questions for variance consideration:

How does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property? The oddly shaped lot and site development area leaves the fact that it is surrounded by industrial use with very little to no public frontage, causing requirements for a new street to be build down the center of the site drastically reducing development area with 50' setbacks. (See letter and exhibit attached)

How will approval of this variance be in keeping with the "spirit and intent" of the code being varied?
i believe that the intent of the code for these areas should be rear and external side setbacks, not front setbacks down this new road. the road alone will only be used for the businesses in the commercial park, and people trying to cut through. This development is also separated from any major roads, and not encroaching on any other landowner. (see letter and exhibit attached.)

Gurmeet Josan

8-10-23

Applicant Signature

Date

Attachment Checklist:

- Legal description of property
- If needed, additional sheet for above required responses
- Survey, elevations, sign proofs and/or other documents as needed to illustrate request

PLANNING STAFF PROVIDES:

BOARD OF ADJUSTMENT DECISION: _____

SECRETARY, BOARD OF ADJUSTMENT

DATE of PUBLIC HEARING



Bates & Associates, Inc.

Civil Engineering & Surveying

7230 S. Pleasant Ridge Dr / Fayetteville, AR 72704
PH: 479-442-9350 * FAX: 479-521-9350

August 10, 2023

Board of Adjustments
City of Rogers
301 W. Chestnut Street
Rogers, AR 72756

RE: 2nd street commercial (CityView Project #20230002600102) – Variance Request Letter

Dear Commissioners,

Bates & Associates, inc., on behalf of the Owner and Developer of the 2nd street commercial Large Scale Development, respectfully requests one variances and a waiver for this proposed development.

Building Setback Variance Request:

Per the City of Rogers' Code of Ordinances Zoning Requirements for I-1 (Sec. 14-713.d.2), the required Front Building Setback is 50' from the Right-of-Way. City Staff is requiring that this development dedicate a public street right-of-way throughout the site, even though this street section is not on the master street plan. If the development was required to adhere to a 50' setback requirement from the proposed Right-of-Way, the reduction of buildable area would create a situation where the Owner/Developer could not develop this site as allowed by-right in the I-1 zoning district.

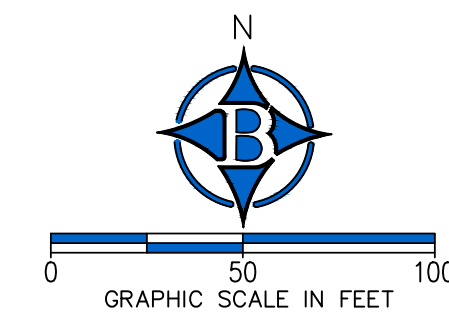
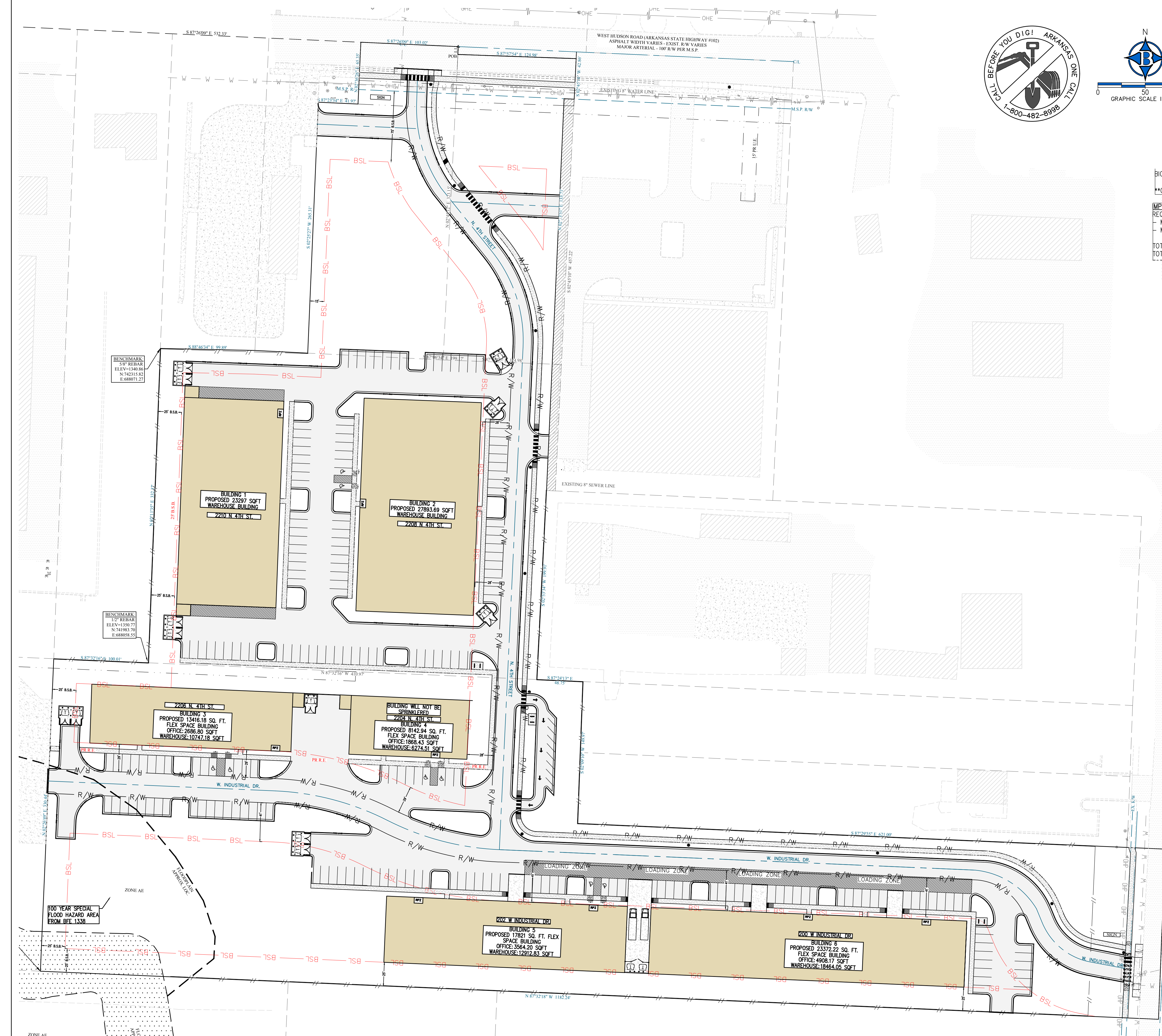
As mentioned in the application our hardship is the oddly shaped lot and site development area that leaves the fact that it is surrounded by industrial uses with little to no public frontage, causing requirements for a new public street to be build down the center of the project drastically reducing the development area with 50' setbacks. The project is separated from any major roads, making the argument that the proposed street should be seen as a thru street instead of collector/ arterial which is what the intent of the 50' setbacks are. The intent of the code is for these side streets should be seen as rear or external side setbacks for traffic control, and a denser feel since there will primarily be cut through traffic and commercial park employees using these roads.

These proposed roads are not encroaching on any other neighboring property and all properties surrounding it are all industrial/ heavy commercial uses such as an army core of Engineers storage facility for equipment/ offices, an auto parts store, and commercial warehousing along Hudson.

We propose reducing the front setbacks from the required 50' to 41' on the south side of W. industrial Drive, 50' to 29' on the north side of W. industrial drive, and 50' to 28' on the west side of N. 4th street.

Please let me know if you have any questions.

Jake Chavis
Bates and Associates.



DISTRICT REGULATIONS SEC. 14-713
I-1 LIGHT INDUSTRIAL DISTRICT

HVAC AND OTHER MECHANICAL EQUIPMENT
MUST BE SCREENED FROM PUBLIC VIEW

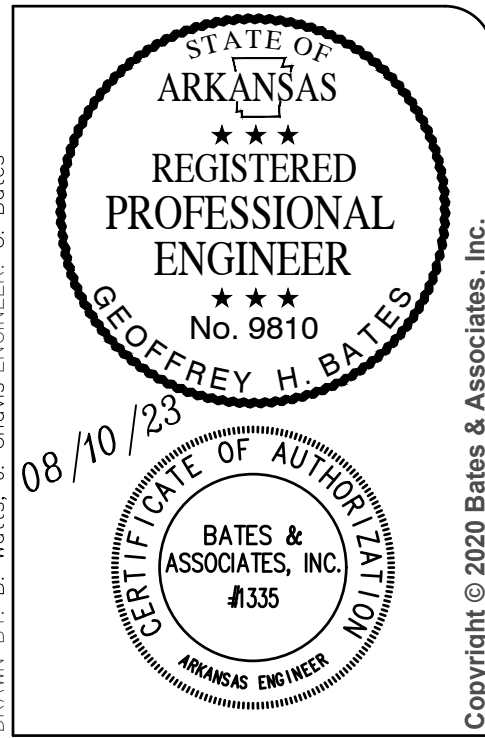
BICYCLE PARKING PROVIDED 12

**CONTINGENT ON LOCATION OF BAY DOORS/OVERHEAD DOORS

IMPERVIOUS AREA/OPEN SPACE CALCULATIONS:

REQUIREMENTS:	
- MINIMUM OPEN SPACE:	20%
- MAXIMUM IMPERVIOUS AREA:	80%
TOTAL AREA OF SITE:	517341.19 SQ FT
TOTAL AREA AFTER R.O.W. DEDICATION:	500200.06 SQ FT

- ADJACENT LAND OWNERS**
- | | |
|--|---|
| 1) AYALA FAMILY TRUST, JOSE M. & ELOISA P.
4276 KINGSBURY CV
SPRINGDALE AR 72762
PARCEL #02-08231-000
ZONED: C-2 | 10) D & L PROPERTY INVESTMENTS LLC
22608 WESTWOOD DR
SILOAM SPRINGS AR 72761-8235
PARCEL #02-00053-000
ZONED: C-2 |
| 2) HUDSON FOURTH LLC
340 OLD MILL RD #194
SANTA BARBARA CA 93110-3852
PARCEL #02-08232-000
ZONED: C-2 | 11) TRIO INVESTMENTS LLC
PO BOX 2090
CONWAY AR 72033-2090
PARCEL #02-13553-001
ZONED: I-1 |
| 3) OZARK LUBES REALTY LLC
929 BOSTON POST RD E
MARLBOROUGH MA 01752
PARCEL #02-02135-002
ZONED: C-2 | 12) FROUD, LOUIS & SHANNON
PO BOX 609
SEARCY AR 72145
PARCEL #02-13553-002
ZONED: I-1 |
| 4) JOSAN PROPERTIES ARKANSAS LLC
1508 N 2ND ST
ROGERS AR 72756
PARCEL #02-00728-002
ZONED: C-2 | 13) SOUTHWESTERN ELECTRIC POWER CO
C/O AMERICAN ELECTRIC POWER
PO BOX 16428
COLUMBUS OH 43216-6428
PARCEL #02-13553-000
ZONED: I-1 |
| 5) USA
PO BOX 867
LITTLE ROCK AR 72203-0867
PARCEL #02-00729-000
ZONED: C-2 | 14) WIGGINS INCORPORATED
1404 FURNANCE ST
MONTGOMERY AL 36104
PARCEL #02-00741-001
ZONED: I-1 |
| 6) UNITED STATES OF AMERICA
PO BOX 867
LITTLE ROCK AR 72203-0867
PARCEL #02-00739-000
ZONED: I-2 | 15) WIGGINS INCORPORATED
1404 FURNANCE ST
MONTGOMERY AL 36104
PARCEL #02-00733-000
ZONED: C-2 |
| 7) UNITED STATES OF AMERICA
PO BOX 867
LITTLE ROCK AR 72203-0867
PARCEL #02-00740-000
ZONED: I-2 | 16) SMITH COMMUNICATIONS LLC
400 W HUDSON RD
ROGERS AR 72756
PARCEL #02-00734-000
ZONED: C-2 |
| 8) BARKER, MARK C TRUSTEE
9045 VALLEY VIEW PL
ROGERS AR 72756
PARCEL #02-00052-000
ZONED: C-2 | 17) SSOP LLC
ATTN MCLAIN, SCOTT
1590 E JOYCE BLVD STE 10440
FAYETTEVILLE AR 72703
PARCEL #02-00738-000
ZONED: C-2 |
| 9) NWA HEADSTART HUMAN SERVICES INC
2109 SE J ST
BENTONVILLE AR 72712-3860 | 18) SSOP LLC
ATTN MCLAIN, SCOTT
1590 E JOYCE BLVD STE 10440
FAYETTEVILLE AR 72703
PARCEL #02-00737-002
ZONED: C-2 |



DATE	REVISIONS
07/07/22	REVISED PER ADH 01-07 LETTER
07/14/22	MOVED SEWER & FM 6.5' EAST ALONG MOCK ST TO AVOID FIBER
03/23/22	MOVED LIFT STATION & PORTION OF SEWER & FM LINES OFF SITE
07/19/22	REVISED PER ADH 07-07 LETTER
11/29/22	MOVED MANHOLE A-2 SOUTH TO LINE UP WITH OFF SITE
12/12/22	REVISED NORTHERN LAYOUT
12/14/22	RE-ORDERED PAGES AND PLOTTED NEW PLAN SET
01/04/23	DRAINAGE UPDATE
06/29/23	DETAIL UPDATE
07/12/23	SIDEWALK AND GREENSPACE UPDATE
08/10/23	REVISED PER PHASE 1 CONSTRUCTION

WAGNON'S SPRINGS SUBDIVISION PH. 2
CONSTRUCTION PLANS
OVERALL SITE PLAN

PRAIRIE GROVE, ARKANSAS

Bates & Associates, Inc.
Civil Engineering & Surveying

www.bateswa.com
7280 S Pleasant Ridge Dr.
Fayetteville, Arkansas 72704

Phone - 479-442-9350 Fax 479-821-9350

PROJECT NO 21-034

DRAWING NO 03



KW COMMERCIAL
DEVELOPMENT POTENTIAL
479-231-1355
KWCOMMERCIAL.COM

NOTICE OF PUBLIC HEARING
VARIANCE
A variance is defined as a relaxation or modification of the requirements of a zoning ordinance or other applicable ordinance of the City of Proger, Georgia, for the purpose of allowing a use, structure, or other development to conform to the requirements of the ordinance.
2nd Street Commercial (C2) zoning
Variance for a 2nd Street Commercial (C2) zoning
Site: 1000 2nd Street, Proger, GA 31556
Applicant: [Name Redacted]
Date of Application: [Date Redacted]
Date of Hearing: [Date Redacted]
Time of Hearing: 7:00 PM
Location: City of Proger, Georgia
Planning Division
1000 2nd Street, Proger, GA 31556
Phone: 479-231-1356
Planning@proger.gov

Club
CARWASH

Children's
Miracle Network
Hospitals

TEN DOLLAR
TUESDAY
EVERY TUESDAY



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 **Rogers Board of Adjustment** on **September 5, 2023** at **5:30 p.m.** at Rogers City Hall regarding an application by **2nd Street Commercial Park** under the provisions of the City of Rogers Code of Ordinances, for variances to **allow a reduction in building setbacks** on **11.09 acres near the southwest corner of W. Hudson Road & N. 2nd Street** in the C-2, I-1 (Highway Commercial, Light Industrial) zoning districts more particularly described as follows:

PARCEL NUMBER:

02-00737-000; 02-00737-001; 02-00741-000

LOCATION:

11.03 acres near the southwest corner of W. Hudson Road & N. 2nd Street

Ed McClure, Secretary
Board of Adjustment

PUBLISH ONE TIME ONLY: Sunday August 20, 2023
BILL THE CITY OF ROGERS

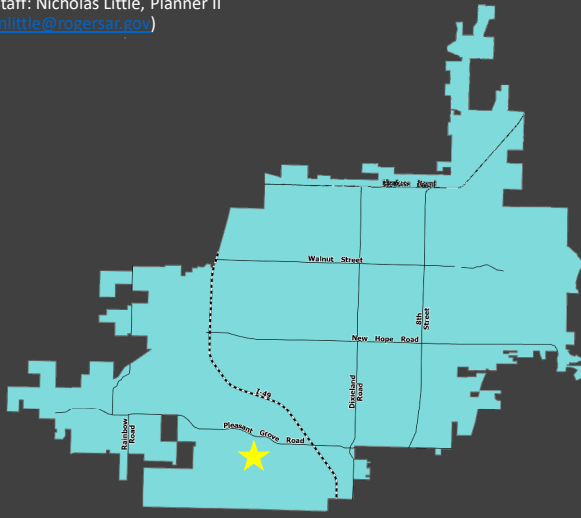


Variance

Hahn

PLANNING

Staff: Nicholas Little, Planner II
(nlittle@rogersar.gov)



Vicinity Map

Location

5402 S 45th Court

Nature of Request

To allow for a reduction in the rear yard setback for a deck addition

Zoning

RSF-5 (Residential Single Family, 5 units per acre)

Proposed Use

Residential

Representative

Randall Hurban, rh Architectural Designs

Summary:

This request is for a reduction in the rear yard setback for a deck addition.

Zoning:

R-SF (Residential Single Family): This district is intended primarily for single-family detached dwellings at low residential densities. Certain other structures and uses necessary to serve governmental, educational, religious, recreational, and other needs of neighborhood areas are allowed as permitted or conditional uses subject to restrictions intended to preserve and protect the single-family residential character of the district. Internal stability, harmony, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and by consideration of proper functional relationship and arrangement of the different uses permitted in this district. This zoning district replaces the former R-1, R-1A and R-1B zoning districts. Sec. 14-699(a)

Growth Designation:

Neighborhood

Growth Designation Purpose:

To protect and maintain existing residential areas in between other Growth Designation nodes while encouraging low-density infill. (CGM PAGE 1)

Growth Designation Character:

Single-use residential areas connected by collector and local streets that may feature community-oriented non-residential uses such as schools, resource centers, and places of worship. Goals include preserving locations for low-density residential while limiting its proliferation in areas proposed for higher-intensity development.(CGM PAGE 1)

Allowed Zoning Districts:
R-SF, N-R, R-DP, R-MF



(e) Appeals; powers and duties. Sec. 14-724(e)(1)(a)(b)

(1) The Board of Adjustment shall hear the following appeals as provided by state law:

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- 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.

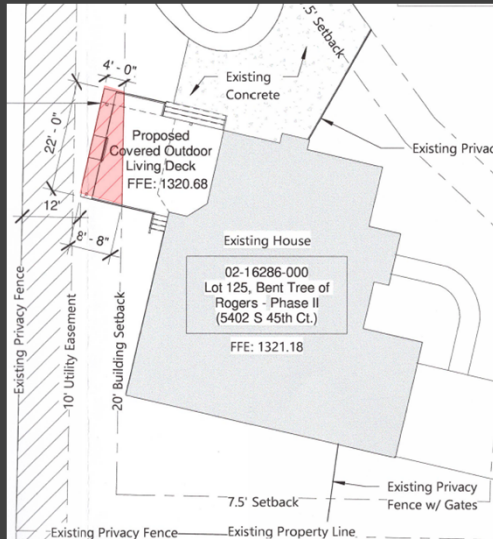
Board of Adjustment Duties Per Sec. 14-724(e)(1):

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- 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.



Variance Hahn

PLANNING



Site Plan

Request

- To vary from the rear setback requirement.
- Bent Tree II Subdivision has a rear setback of 20'
- Plan shows 8'-8" of setback encroachment
- Closest point of the proposed deck addition is about 12' from the western property boundary.

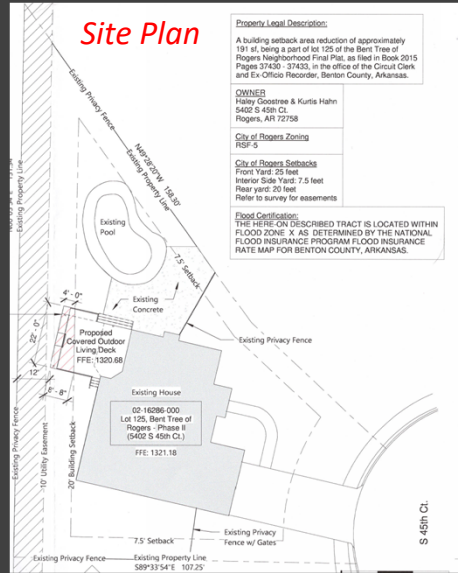
Request:

- The applicant is requesting to vary from the rear yard setback requirement.
- Rear yard setback in Bent Tree II is 20'
- Greatest point of encroachment is 8'-8"
- Closest the proposed deck is to the western property boundary is about 12'



Variance Hahn

PLANNING



Applicant Hardship

“Due to the abnormal geometry of the site and the existing setbacks/easements, any realistic addition to this house would encroach into the setbacks, hence the need to apply for this variance.”

Applicant Spirit and Intent

“The rear setback will only slightly be reduced for a portion of the existing house footprint as shown on the included plan. The proposed covered outdoor deck will tie into the existing house with style and scale and will increase the outdoor living appeal/value to the home. The proposed deck has been reviewed with adjacent homeowners in each direction and with the neighborhood POA without any opposition.”

Stated Hardship:

- The applicant states that the angular geometry of the lot wouldn't allow an addition that doesn't encroach setbacks.

Spirit and Intent:

- The applicant also states that the deck addition only creates a slight encroachment (8'-8" of 20' setback). They also state that the deck would fit with the style and scale of the home, and that surrounding neighbors and POA have reviewed the addition without opposition.
 - Staff did receive 2 email chains, showing correspondence between the homeowner and their neighbor to the south, as well as a Steven Zapata, who is assumedly the POA President for Bent Tree Phase II. In the email to Zapata, the homeowner claims that the neighbor to the west in Warren Glen Subdivision was in favor of the proposal, being that it would give the Warren Glen neighbor more privacy, because the subject lot sits higher in elevation.



Site Aerial



Analysis

- Very angular subdivision lot that abuts a different subdivision to the west.
- Purpose and intent of residential building setbacks is to protect neighbors from unsightly or unpleasant developments on adjacent properties.
- Addition of a roof over the raised deck that encroaches the western setback creates an unnecessary nuisance for the western neighbor.
- More thoughtful design or not covering the whole deck could result in a more reasonable request.

Analysis:

- Lot is a strange shape because of the bounds of the parent parcel and the shape of the cul-de-sac.
- Purpose and intent of setbacks in a residential area is to protect adjacent properties from their neighbors.
- The provision of a roof is what's making this request unreasonable. Unless the roof utilizes a low angle that slopes toward the west, the pitched roof will create an unnecessary visual impediment that building setbacks are designed to alleviate.
- The design of the deck could be more linear and jut towards the pool, instead of deploying a square shape that encroaches the setback. The applicant could refrain from roofing the entire deck, as well, only covering the portion that is not encroaching the building setback.



Variance Hahn

PLANNING

Site Aerial



Recommendation

- **DENY** variance allowing for a reduction of the rear yard setback.

Recommendation:

- Staff recommends denial of the request.

July 24, 2023

Board of Adjustment,

On behalf of the owners, please accept this variance application for the property located at 5402 S 45th Ct., Bent Tree Subdivision Phase II in Rogers, AR. We would like to request a rear lot setback reduction for the construction of a covered deck addition. The request is located near the center of the property adjacent to the existing pool and connected to the existing covered deck, approximately 22'-6" long with a depth ranging from 4'-0" to 8'-8" area. Due to the abnormal geometry of the site and the existing setbacks/easements, any realistic addition to this house would encroach into the setbacks, hence the need to apply for this variance. The proposed covered outdoor deck will tie into the existing house with style and scale and will increase the outdoor living appeal/value of the home. This request has been presented and preliminarily approved by the neighborhood POA and all adjacent neighbors.

If you have any questions, please feel free to contact me at the number or email below.

Thank you,



Randall Hurban

rh Architectural Designs, LLC

479-841-5541

randallhurban@outlook.com

Owners Certification and Dedication

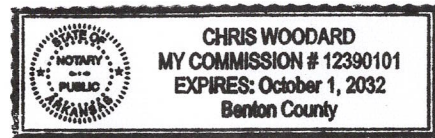
We, the undersigned owners of the real estate shown and described herein, do hereby acknowledge that we have the legal right and authority to make the property interest grants contained on and within this document. We, the undersigned owners of the real estate shown and described herein, do hereby establish, grant, and dedicate to the City of Rogers, Arkansas the rights-of-way, easements, streets, and alleys as shown on this plat for public use, benefit, and access. The City of Rogers is further granted the rights of ingress and egress to and from said rights-of-way, easements, streets, and alleys. The City of Rogers is also granted the right and authority to maintain, service, and improve said rights-of-way, easements, streets, and alleys and the improvements contained therein. Any right or authority granted above specifically regarding maintenance, service, or improvement shall be exercised in a manner chosen at the discretion of the City of Rogers. Said rights-of-way, easements, streets, and alleys shall be for the benefit of the City of Rogers and all of its franchised utility providers. The City of Rogers and its franchised utility providers shall have the right and authority to cut, trim, or remove trees, shrubs, and other vegetation within said rights-of-way, easements, streets, and alleys. The City of Rogers and all of its franchised utility providers shall also have the right and authority to prohibit the erection of building, structures, or fences within said rights-of-way, easements, streets, and alleys.

Owner: Kurtis Hahn Date: 7/25/2023

State of Arkansas
County of Benton

Subscribed and sworn before me this the 25th day of July, 2023.

Notary Public:



My commission expires: 10.1.2032

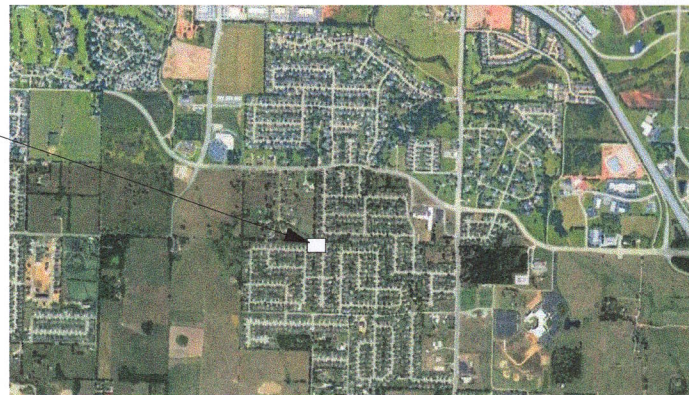
Approved And Recommended For Acceptance By The
Rogers Department Of Community Development

This ____ Day of _____, 2023

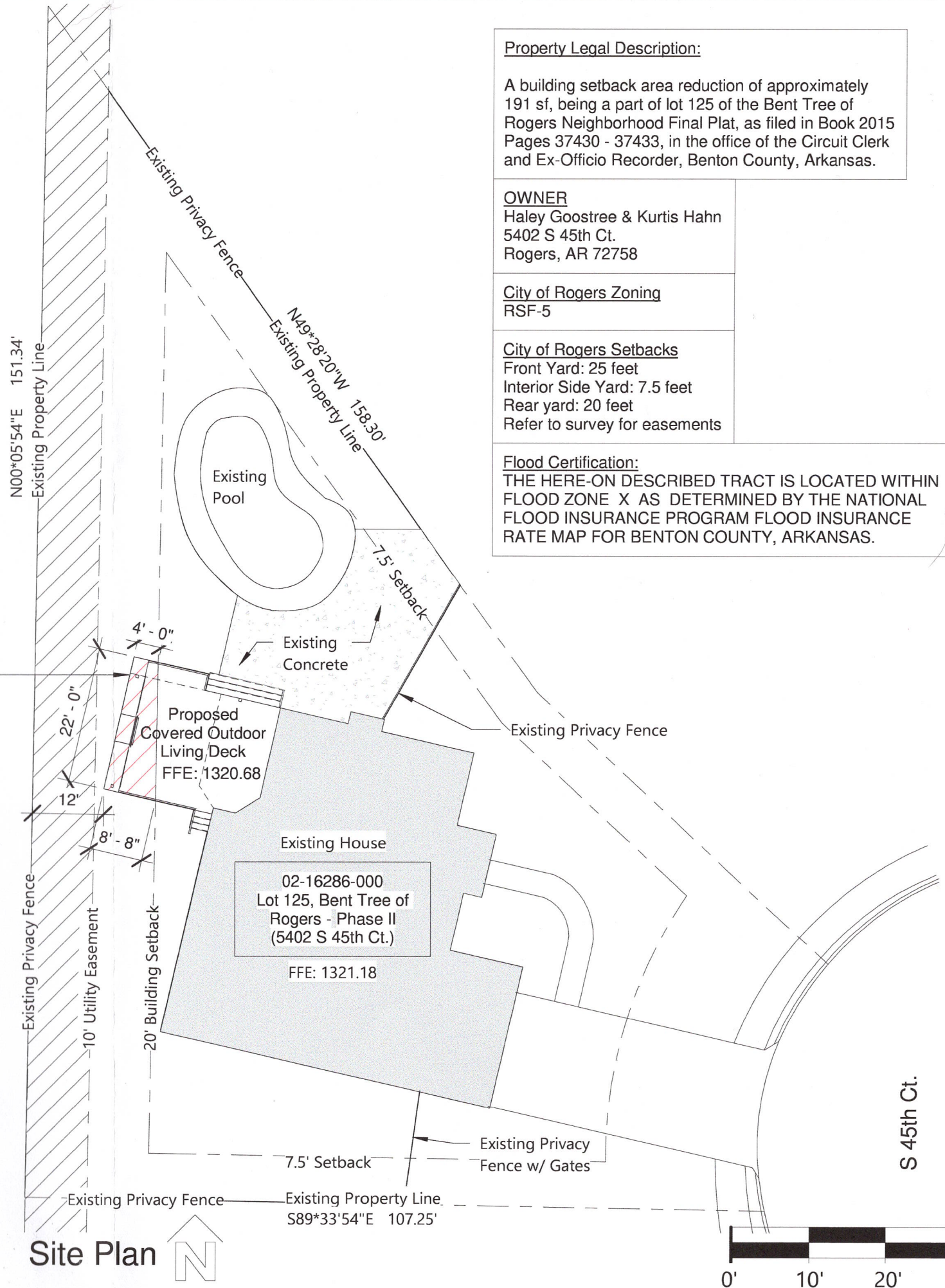
City of Rogers _____ Date _____
Director of Community Development

Secretary _____ Date _____
Board of Adjustment

Project Location



Vicinity Map



Property Legal Description:

A building setback area reduction of approximately 191 sf, being a part of lot 125 of the Bent Tree of Rogers Neighborhood Final Plat, as filed in Book 2015 Pages 37430 - 37433, in the office of the Circuit Clerk and Ex-Officio Recorder, Benton County, Arkansas.

OWNER

Haley Goostree & Kurtis Hahn
5402 S 45th Ct.
Rogers, AR 72758

City of Rogers Zoning

RSF-5

City of Rogers Setbacks
Front Yard: 25 feet
Interior Side Yard: 7.5 feet
Rear yard: 20 feet
Refer to survey for easements

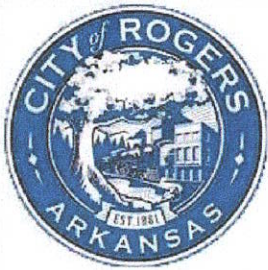
Flood Certification:

THE HERE-ON DESCRIBED TRACT IS LOCATED WITHIN FLOOD ZONE X AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR BENTON COUNTY, ARKANSAS.

Hahn Outdoor Living Addition

5402 S 45th Ct., Rogers, AR

07.24.2023



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

OFFICE USE ONLY

Permit Fee: _____ (\$100) Zoning: _____
 App Number: _____
 CityView Application: _____
 Date: _____

VARIANCE APPLICATION

APPLICANT: Kurtis Hahn

ADDRESS: 5402 S 45th Ct., Rogers, AR, 72758 SUITE #: _____

GENERAL LOCATION OF PROPERTY: Bent Tree Subdivision, Phase II

PHONE #: 479-619-5275 EMAIL: kurtis.hahn@gmail.com

PROPERTY OWNER: Kurtis and Haley Hahn PHONE #: 479-619-5275

REQUEST to ALLOW: _____

Sec. 14-729(b) requires variance applicants to respond to these two questions for variance consideration:

How does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?

Due to the abnormal geometry of the site and the existing setbacks/easements, any realistic addition to this house would encroach into the setbacks, hence the need to apply for this variance.

How will approval of this variance be in keeping with the "spirit and intent" of the code being varied?

The rear setback will only slightly be reduced for a portion of the existing house footprint as shown on the included plan. The proposed covered outdoor deck will tie into the existing house with style and scale and will increase the outdoor living appeal/value of the home. The proposed deck has been reviewed with the adjacent homeowners in each direction and with the neighborhood POA without any opposition.

Kurtis Hahn

Applicant Signature

7/25/2023

Date

Attachment Checklist:

- Legal description of property
- If needed, additional sheet for above required responses
- Survey, elevations, sign proofs and/or other documents as needed to illustrate request

PLANNING STAFF PROVIDES:

BOARD OF ADJUSTMENT DECISION: _____

SECRETARY, BOARD OF ADJUSTMENT

DATE of PUBLIC HEARING

From: Steven Zapata <steven.reed.zapata@gmail.com>
Sent: Wednesday, May 31, 2023 9:52 AM
To: Kurtis Hahn
Subject: Re: Hahn Patio Covered Patio - 5402 S. 45th CT.

Hey, Kurtis. Not a problem. We reviewed the request and don't have any concerns. You will likely need to get approval from the city of Rogers for the setback variance; so, please contact them. If they don't have any issues, you're all good! Do me a favor and let me know how it goes - I've been following your contractor for a while, contemplating my own patio remodel.

Thanks,
Steven
214.293.0041

Sent from my iPhone

> On May 30, 2023, at 4:24 PM, Kurtis Hahn <kurtis.hahn@gmail.com> wrote:
>
>
> Steven,
>
> Thank you for following up with my wife via FB.
>
> Attached are the plans for the covered patio we are wanting to put in. Due to our irregular lot shape it would go into the 20' setback.
>
> We back up to Warren Glen and our back neighbor is good with it. He actually wants it for more privacy as our lot sits higher.
>
> The patio would be a gable roof that would tie into our existing roof. J & E Home Remodeling is the contracting company we have been working with.
>
> Please reach out with any questions or if additional information is needed.
>
> -Kurtis Hahn
> 479-619-5275
>
> <Hahn Outdoor Living 20230512.pdf>

From: joshua glass <joshuaglass@att.net>
Sent: Monday, August 28, 2023 9:14 AM
To: Kurtis Hahn
Subject: Re: Hahn - Rear Setback Consent

Kurtis, thanks for sending over. Confirming approval from the Glass family (neighbors) who reside at 5404 S 45th Ct. If they have any questions or concerns feel free to have them contact me. Thanks.

- Josh Glass 479-799-2008

Sent from my iPhone

> On Aug 28, 2023, at 9:05 AM, Kurtis Hahn <kurtis.hahn@gmail.com> wrote:

>

>

>

>

> Josh,

>

> Attached is the drawing for the proposed patio extension. The drawing has the patio going 10ft into the rear setback. 10ft would be max, but current plans call for it to be 8'8" into the setback. We have verbally discussed the plans and you are aligned but please respond back to this email with your approval. I will share this email with the city planning commission. Thanks.

>

> -Kurtis

> <Hahn Outdoor Living 20230512 (1).pdf>