



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

BOARD OF ADJUSTMENT MEETING AGENDA

NOVEMBER 21, 2023

5:30 PM

ONLINE VIEWING: [HTTPS://US02WEB.ZOOM.US/J/89599757285](https://us02web.zoom.us/j/89599757285)

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 23-35) A request by Jose Villanueva to allow variances caused by an active lot spilt for a reduction in building setbacks and the minimum lot size requirements at 1008 N. D Street in the R-DP (Residential Duplex Patio) zoning districts

- *STAFF: Christina Moore*
- *REPRESENTED BY: Jose Villanueva*

ACTION ON MINUTES:

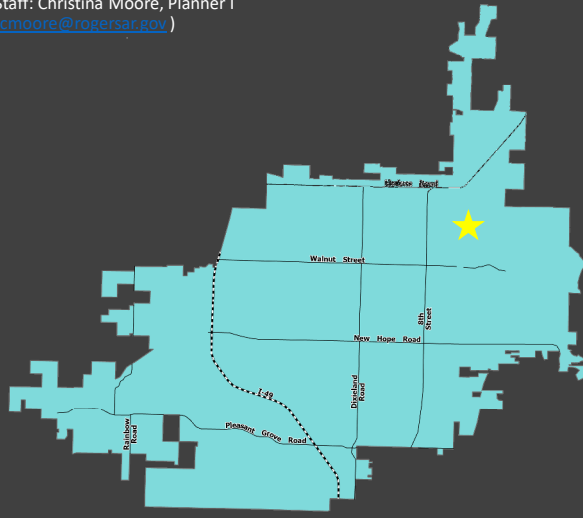
ADJOURN:



Variance Villanueva

PLANNING

Staff: Christina Moore, Planner I
(cmoore@rogersar.gov)



Vicinity Map

Location
1008 N D Street

Nature of Request
To allow variances caused by an active lot split request by the applicant

Zoning
R-DP (Residential Duplex & Patio Home)

Proposed Use
Duplex

Representative
Jose Villanueva

Summary:

The Department of Community Development has received a variance request linked to an active lot split application submitted by the applicant.

Zoning:

- *R-DP (Residential Duplex and Patio Home):* This district is established to provide areas for the development of one- or two-family residential structures. The district may be located in developed areas or undeveloped areas of the City where an environment compatible with moderate density residential development can also be established. Sec. 14-701(a)

Growth Designation:

Neighborhood

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 center, and places of worship. Goals include preserving locations for low-density residential while limiting its proliferation in areas proposed for higher-intensity development.

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:

- 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.



Summary:

The subject lot is located at the corner of N D St and Hemlock St to the east of the Rogers skate park.

Zoning:

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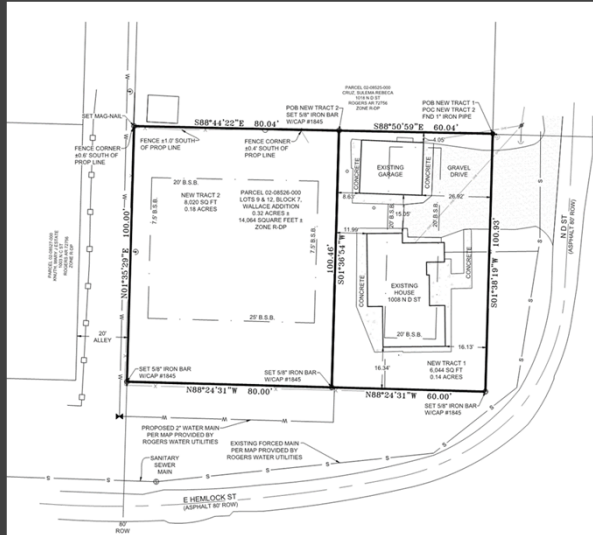
Allowed Zoning Districts:

R-SF; N-R; R-DP; R-MF



Variance Villanueva

PLANNING



Lot Split Survey

Applicant Hardship:

“The current restrictions do not allow me to use the lot space to the fullest and best extent, thus wasting space that can be used properly, hindering its ability to be used for contemporary purposes. These types of initiatives can improve property value and utility in an older area like this. Strict enforcement may discourage other homeowners from investing in the neighborhood, as this empty lot gives an appearance of abandonment.”

Applicant Spirit and Intent

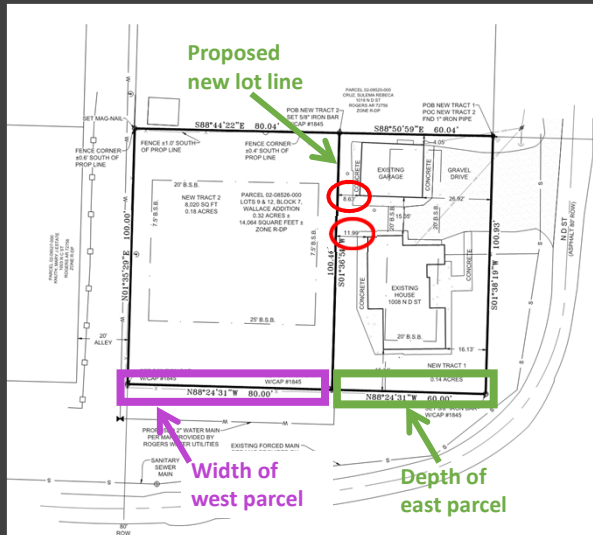
“This request is conducive to the current neighborhood environment, several new buildings have been built (duplexes, additional dwelling units) using their lot space to the full extent in a manner that is safe.”

Stated Hardship:

- The applicant states that the code is restricting him from using his lot to the fullest extent.
- Strict enforcement of this code may discourage others from improving the neighborhood.

Spirit and Intent:

- This proposal is like other developments in the area.



Lot Split Survey

Implications of Proposed Lot Split

- The proposed lot line divides the parcel into an east and west lot.
- Existing Structures (east parcel)
 - The new lot line creates a new rear setback.
 - The existing structures are now encroaching in the rear setback (red circles).
 - The depth of the east parcel now does not meet minimum requirements
- New Construction (west parcel)
 - The applicant intends on building a duplex on the west parcel
 - The west parcel does not meet the minimum lot area nor lot width for a two-family residence.

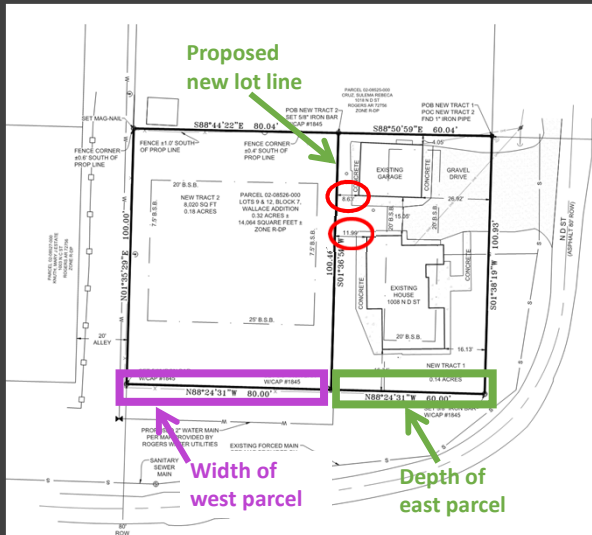
Request:

The lot split proposes a new demarcation line that would bifurcate the current lot into east and west parcels. As a result of the proposed division, the existing structures on the east parcel and the planned new structures on the west parcel will not comply with the newly defined setback and lot dimension requirements.



Variance Villanueva

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Lot Split Survey

Applicant's Request

- Existing Structures (east parcel)
 - Reduce the rear setback from 20ft to 8.63ft
 - Reduce the minimum depth requirement from 100ft to 60ft.
- New Construction (west parcel)
 - Reduce the lot width for a two family residence from 85ft to 80ft.
 - Reduce the minimum lot area for a two family residence from 12,000 square feet to 8,000 square feet.

Request:

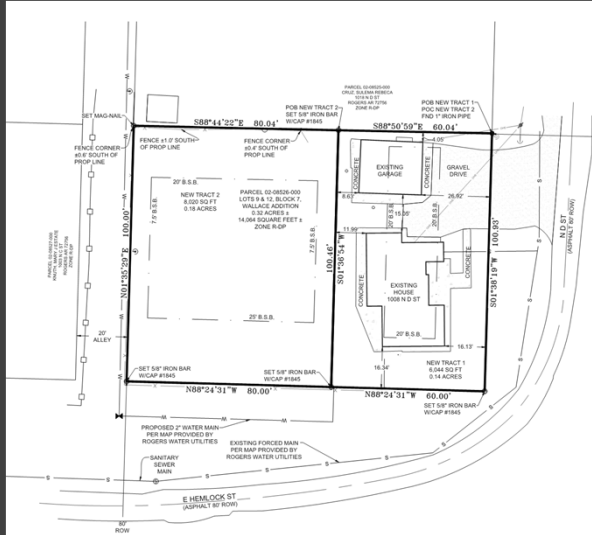
The applicant is seeking variances to accommodate the new lot line and proposed development: specifically, a reduction in the rear setback from 20ft to 8.63ft for the east lot, and a reduction in the minimum lot depth from 100ft to 60ft for the east lot. Additionally, the applicant requests a reduction in the lot width of the western lot from 85ft to 80ft and a reduction in the minimum lot area from 12,000 square feet to 8,000 square feet to accommodate a new duplex.

Traditionally, the city does not endorse variances for standard violations that result from the applicant's own decisions. Currently, the lot [does/does not] exhibit any setback encroachments, which reinforces [the city's position/the need for further review].



Variance Villanueva

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Lot Split Survey

City Policy

- The City does not generally support variances that are standard violations caused by the applicant's own actions.
- The existing structures encroach in the front, interior and exterior side setbacks.
- The proposed lot split increases the non-conformity where there was once compliance.
- The Community Development Director has the authority to approve simple lot splits without variances.

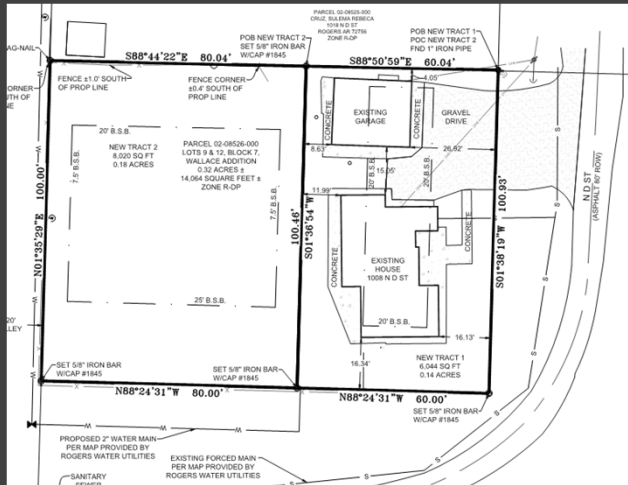
Request:

According to the city's policy, simple lot splits are within the purview of the Director of Community Development's approval, provided that it can be demonstrated that each resultant parcel can be developed lawfully without necessitating a variance. In this case, the self-imposed hardship imposed by the proposed lot split does not justify a departure from established protocols, particularly since the parcel in question is characteristic of downtown Rogers.



Variance Villanueva

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Survey

Analysis

- The current existing structures limit the property to an Accessory Dwelling Unit (ADU)
 - The size of the ADU can be 50% of the primary residence or 1200 square feet; whichever is greater
- If the applicant wants to pursue a lot split:
 - The east parcel would need to be addressed from Hemlock St to change the southern property line to the front property width line.
 - The western parcel could meet the standards for single family residence.



Variance Villanueva

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Surrounding Area

Analysis

- There was a similar variance granted from a property across the street from the subject property in 2019.
- The existing size and dimensions of the property made it unbuildable and a variance was required to build anything on the lot.
- The subject property of this request is buildable in its current state. The action of the lot split is causing the requested variances.

Upon review, the staff concludes that the lot split generates the need for variances and, as such, does not support the application for either the lot split or the associated variances. The recommendation for denial is predicated on the premise that the proposed lot split would create a self-inflicted noncompliance with the city's zoning regulations.



Variance Villanueva

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Aerial

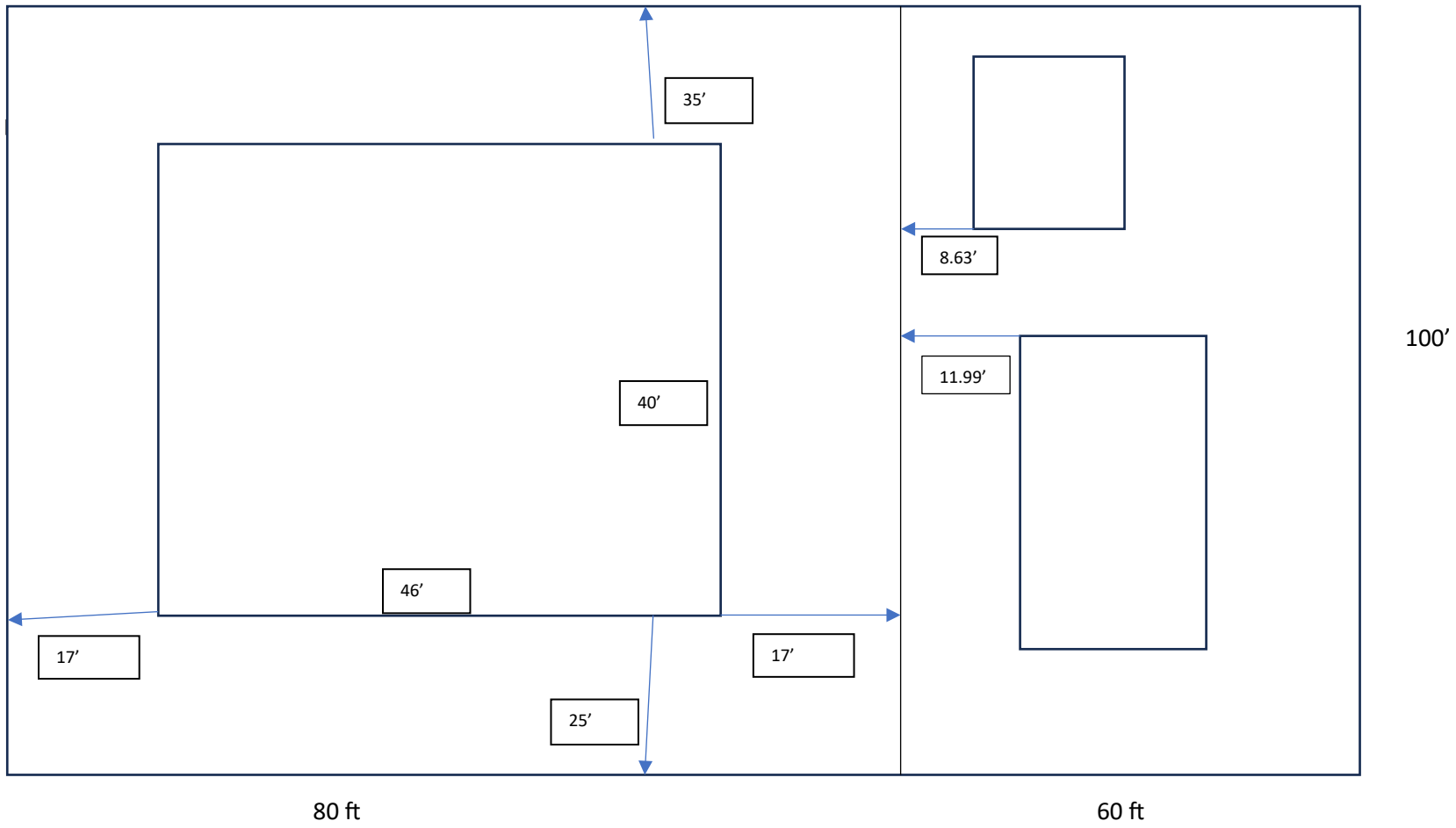
Recommendation

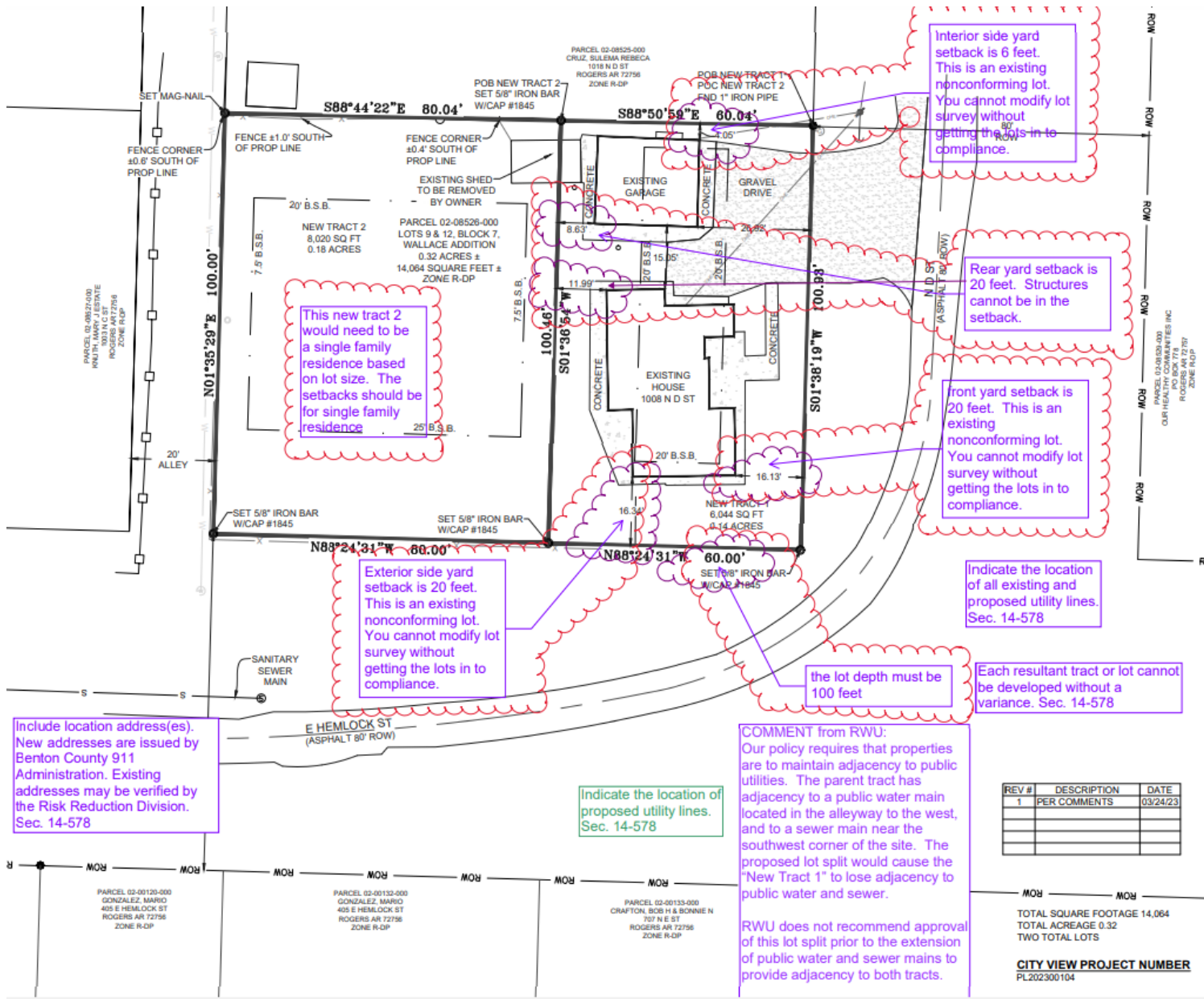
- DENY variance for setbacks, density and lot size requirements

In summary, the staff recommends the denial of the requested variances on the grounds that they are self-created and do not align with the city's strategic approach to growth and development. This recommendation upholds our commitment to maintaining the integrity of the city's planning standards and the orderly development of the community.

Recommendation:

- Staff recommends DENIAL of the request.





This new tract 2 would need to be a single family residence based on lot size. The setbacks should be for single family residence

Interior side yard setback is 6 feet. This is an existing nonconforming lot. You cannot modify lot survey without getting the lots in to compliance.

Rear yard setback is 20 feet. Structures cannot be in the setback.

front yard setback is 20 feet. This is an existing nonconforming lot. You cannot modify lot survey without getting the lots in to compliance.

Exterior side yard setback is 20 feet. This is an existing nonconforming lot. You cannot modify lot survey without getting the lots in to compliance.

the lot depth must be 100 feet

Indicate the location of all existing and proposed utility lines. Sec. 14-578

Each resultant tract or lot cannot be developed without a variance. Sec. 14-578

Include location address(es). New addresses are issued by Benton County 911 Administration. Existing addresses may be verified by the Risk Reduction Division. Sec. 14-578

Indicate the location of proposed utility lines. Sec. 14-578

COMMENT from RWU: Our policy requires that properties are to maintain adjacency to public utilities. The parent tract has adjacency to a public water main located in the alleyway to the west, and to a sewer main near the southwest corner of the site. The proposed lot split would cause the "New Tract 1" to lose adjacency to public water and sewer.

RWU does not recommend approval of this lot split prior to the extension of public water and sewer mains to provide adjacency to both tracts.

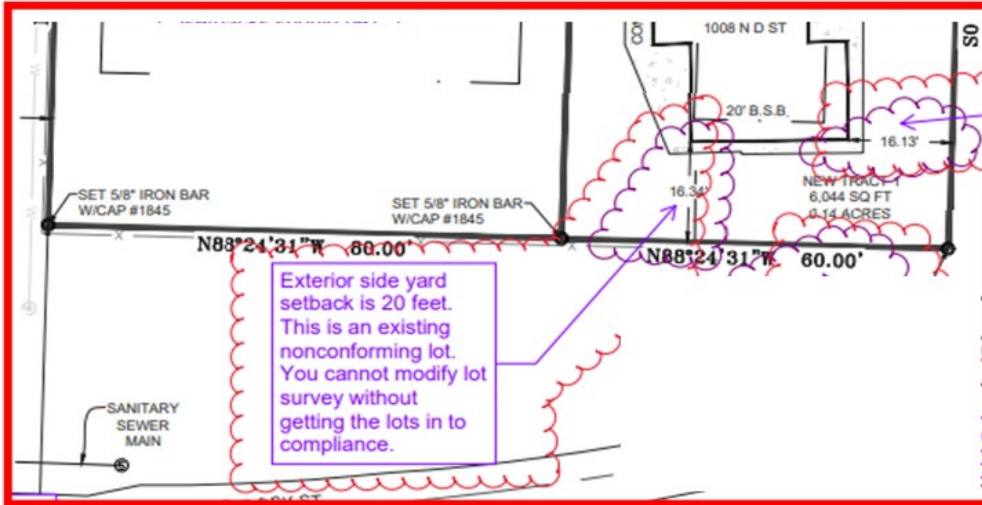
REV #	DESCRIPTION	DATE
1	PER COMMENTS	03/24/23

TOTAL SQUARE FOOTAGE 14,064
TOTAL ACREAGE 0.32
TWO TOTAL LOTS

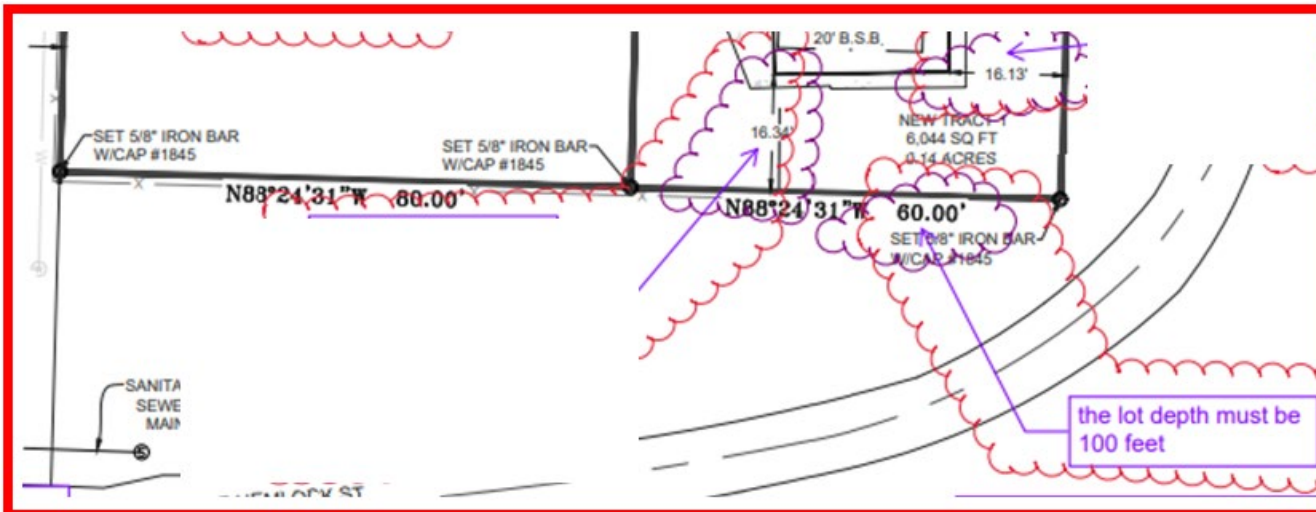
CITY VIEW PROJECT NUMBER
PL202300104

REQUEST VARAINCES (Existing House)

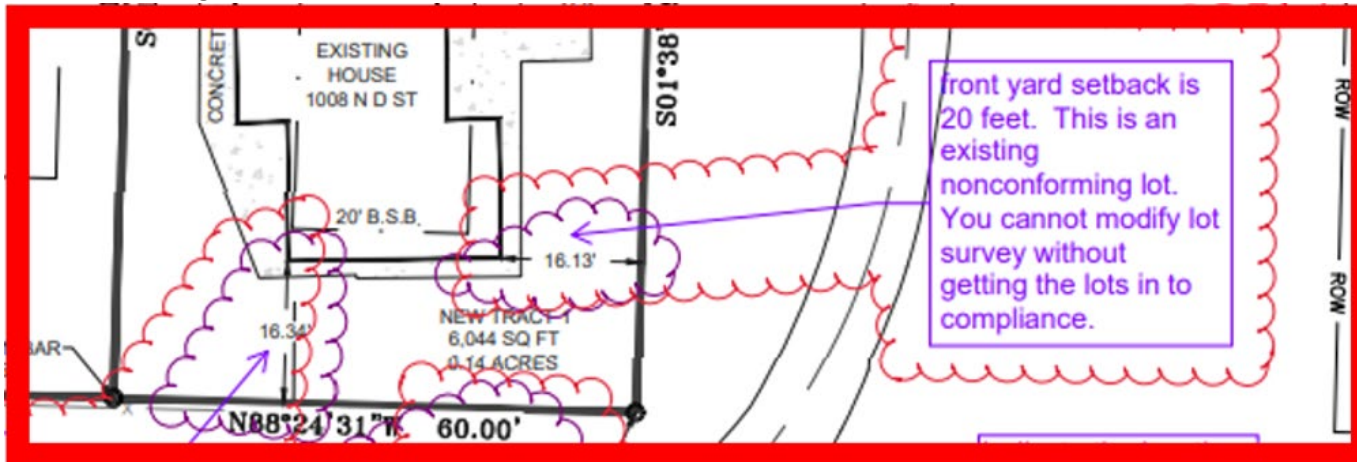
1. **Exterior side yard setback must be 20 feet.** Current setback measures **16.34 feet**. This is an existing non-conforming lot. I cannot modify lot survey without getting lots into compliance. Home was purchased in November 2017 and no modification was made to the sq footage since then. This marks a difference of **3.66 feet** (see Image below)



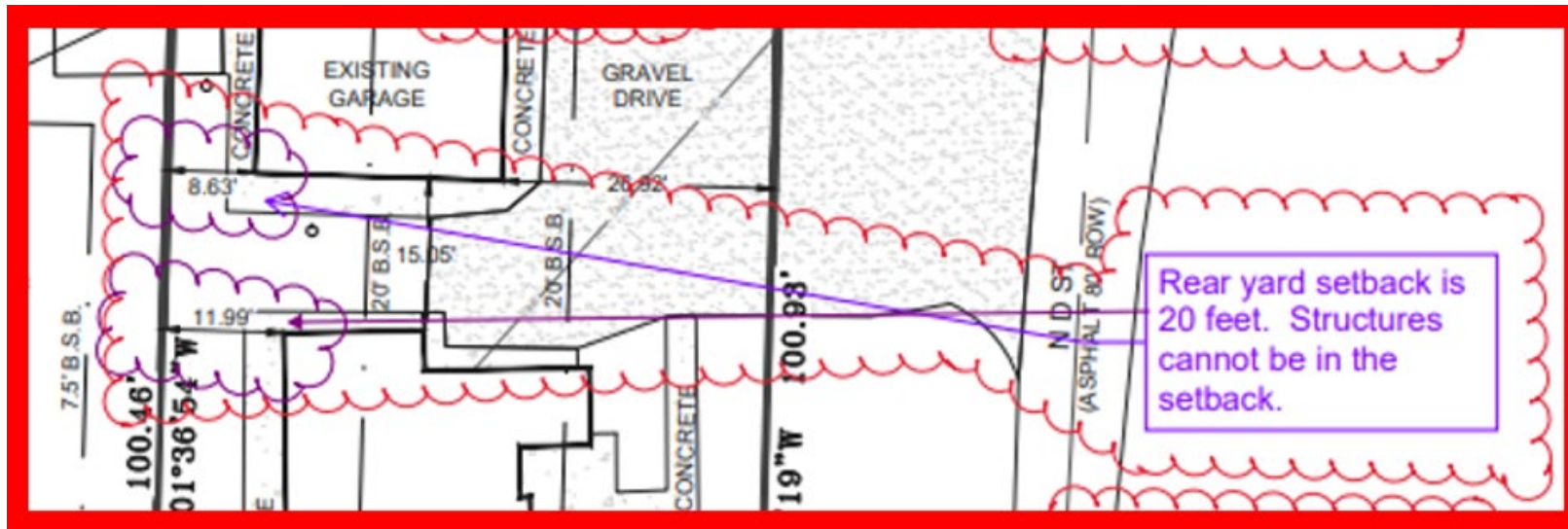
2. **The lot depth must be 100 feet.** Proposed lot split measures **60 feet**. I am asking to reduce this area **40 feet** to utilize the available space to build. (See image below)



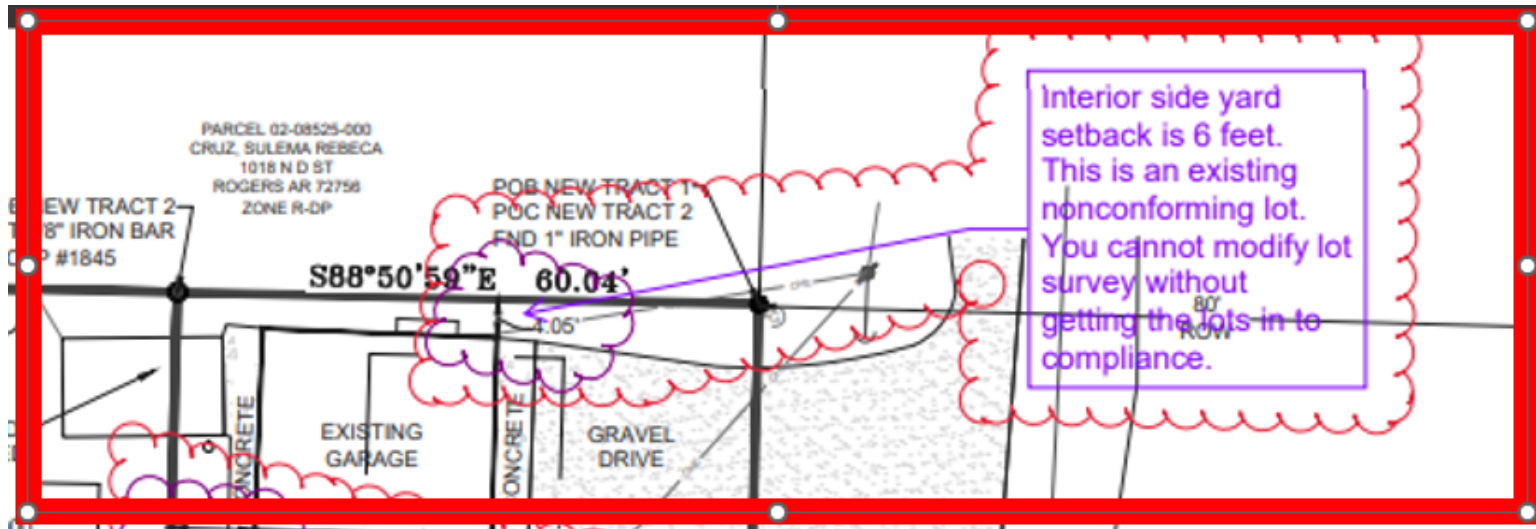
3. **Front yard setback is 20 feet.** Current setback measures **16.13 feet**. This is an existing non-conforming lot. I cannot modify lot survey without getting lots into compliance. Home was purchased in November 2017 and no modification was made to the sq footage since then. This marks a difference of **3.87 feet** (see Image below)



4. **Rear yard setback is 20 feet.** Proposed lot split leaves rear yard setback at **8.63 feet**. I am asking to reduce this area **11.37 feet** to utilize the available space to build. (See image below)

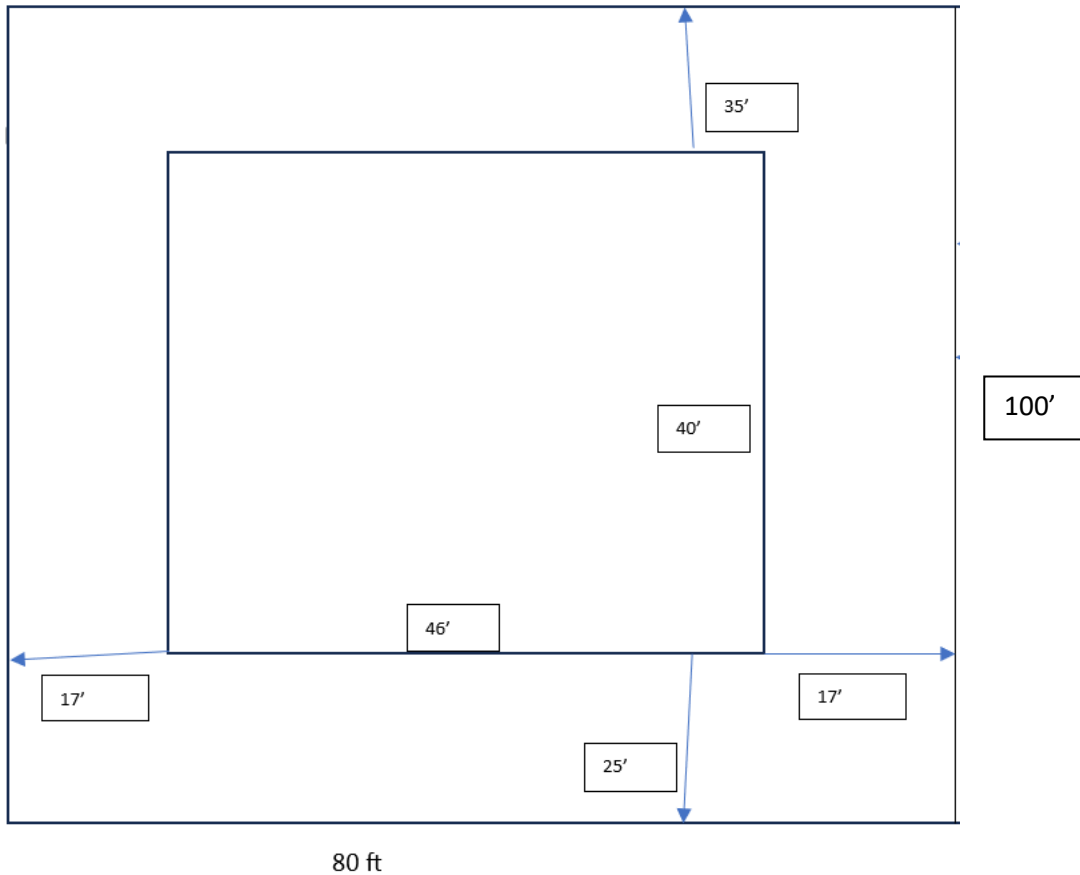


5. **Interior side yard setback is 6 feet.** Current setback measures **4.05 feet**. This is an existing non-conforming lot. I cannot modify lot survey without getting lots into compliance. Home was purchased in November 2017 and no modification was made to the sq footage since then. This marks a difference of **1.95 feet** (see Image below)



6. Note. Shed was completely removed.

REQUEST VARAINCES (New Construction)



1. Minimum lot area for two family residence 12,000 square feet. The total lot area of the proposed split is 8,000 square feet. I am requesting a variance on the 4,000 square feet difference.
2. Minimum lot width for a two-family residence is 85 feet. The lot width after approval of proposed split is 80 feet. This is a 5 feet difference.

Utilities Companies Confirmation

----- Forwarded message -----

From: **Brian Sartain** <bjriansartain@rwu.org>

Date: Wed, Aug 16, 2023 at 4:16 PM

Subject: RE: PL202300104 - Lot Split Review

To: Moore, Christina <cmoore@rogersar.gov>

CC: Stephen Ponder <Stephenponder@rwu.org>, Jose Dejesus Villanueva <villanueva.idj@gmail.com>

Christina,

The applicant has approved plans for a waterline extension and has procured a contractor to complete the water main extension which was a condition of our approval. At this point, we are comfortable with granting the approval of the lot split with the understanding that service cannot be provided to the new lot until the work is completed.

Thanks,

Brian Sartain, P.E. | Utility Engineer

Rogers Water Utilities | www.rwu.org

601 S. 2nd Street, Rogers, AR 72756

(479) 936-5426



Lorena,

Since Carroll Electric does not service this area, we will not have any easement requests related to your proposed lot split. Since we are a franchised utility within the City of Rogers, we will be required to sign off on any easement vacation but not for any new easement being granted.

Thanks,

Derek Thurman

Manager, Engineering Support

PO Box 329 | 707 SE Walton Blvd | Bentonville, AR 72712

Phone: (800) 432-9720 ext. 2690 | Fax: (479) 271-1231

dthurman@carrollecc.com | www.carrollecc.com



**Carroll Electric
Cooperative Corporation**

Your Local Energy Partner

"We exist to serve our members with safe, reliable, and affordable electricity."



JUSTIN KUMPE

12:46 PM

To: Lorena Araujo >

Re: Lot Split

We can serve that from the road right of way so no dedicated easement required.

Thanks

Justin Kumpe

Mgr OSP Planning & Engineering Design

AT&T Network Engineering & Operations

Office: [479-435-2762](tel:479-435-2762)

Cell: [501-773-7443](tel:501-773-7443)



NOTICE OF PUBLIC HEARING

VARIANCE

DESCRIPTION:
 Application for a Variance to the
 Ordinance 12.02.010, Zoning Ordinance
 to allow for a single-family detached
 residential structure on a lot zoned
 R-1 (Single-Family Residential).

APPLICANT:
 Robert J. & Susan M. Johnson

MEETING DATE/TIME:
 November 27, 2023 at 6:30 PM

PUBLIC COMMENTS:
 Hearing Room, 100 W. 4th Street, 1st
 Floor, Des Moines, IA 50319
 Hearing Room Hours: 9:00 AM - 5:00 PM

FOR MORE INFORMATION:
 Planning Division, 100 W. 4th Street, 1st Floor
 Des Moines, IA 50319
 Phone: 515.281.1186
 Email: planning@rogensar.gov

**COMMUNITY DEVELOPMENT
 PLANNING DIVISION**
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