



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

## BOARD OF ADJUSTMENT MEETING AGENDA

NOVEMBER 5, 2024

5:30 PM

LOCATION: COUNCIL CHAMBERS, 301 W. CHESTNUT STREET

ONLINE VIEWING:

BOARD OF ADJUSTMENT: [HTTPS://US02WEB.ZOOM.US/J/84776080971](https://us02web.zoom.us/j/84776080971)

**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. **22<sup>nd</sup> Street Business Park**

Requesting a variance to allow reductions in setback requirements and a reduction in the rear Overlay District Buffer yard depth at the northwest corner of W. Hudson and N. 22<sup>nd</sup> Street in the T5.2 zoning district (formerly C-2 zoning and Overlay district).

*STAFF: Zachery Birdsong*

*REPRESENTED BY: Jason Appel*

2. **Cottages at Bellview, LLC**

Requesting a variances from Section 4.7.1.7.C., stating garages shall be rear or side-loaded and Section 5.2.3.D: Driveways, where permitted in exterior yards, shall be separated by a minimum of 60' on 20.34 acres in the northwest of the intersection of W. Garrett Road and S. Bellview Road in the T4.1 zoning district.

*STAFF: Nick Little*



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*REPRESENTED BY: Libby Topping*

**ACTION ON MINUTES:**

**ADJOURN:**

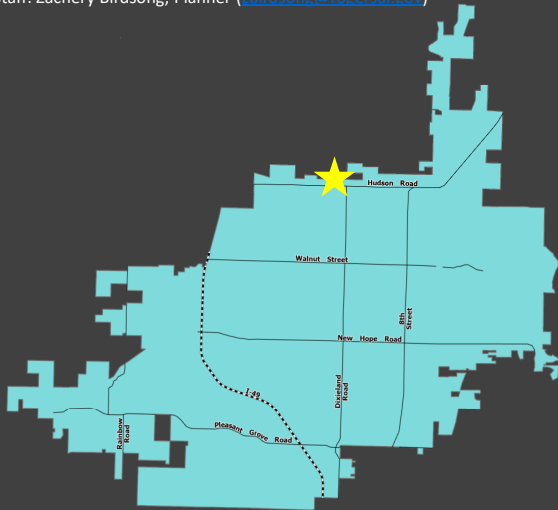


# Variance

# PLANNING

## 22<sup>nd</sup> Street Business Park (Applicable under Ch. 14)

Staff: Zachery Birdsong, Planner ([zbirdsong@rogersar.gov](mailto:zbirdsong@rogersar.gov))



Vicinity Map

### Location

2255 W Hudson Road

### Nature of Request

- To allow a reduction in the exterior side yard setback off the northern east/west access easement from 45' to 25' for the building
- To allow the dumpster location to be within the setback.
- To allow a rear landscape yard of 4.5' instead of the required 10' within the Overlay District.

### Zoning

C-2 (Highway Commercial) and Overlay District

### Proposed Use

Vehicle Sales and Rentals

### Representative

Chaz Russo, Engineering Services Inc.

### **Summary:**

This site is located in north central Rogers, near the northwest intersection of W Hudson and N Dixieland.



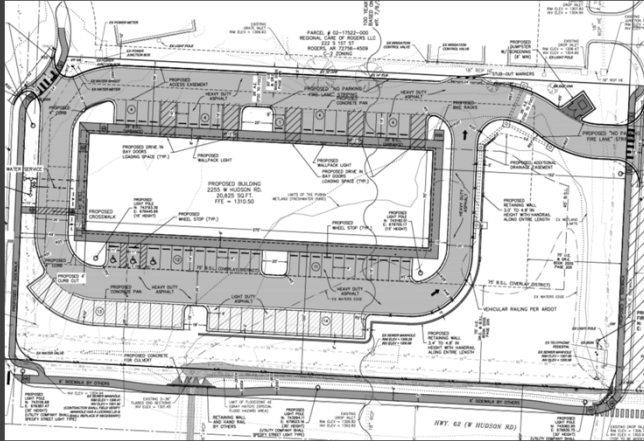
### *(e) Appeals; powers and duties. Sec. 14-724(e)(1)(a)(b)*

(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.

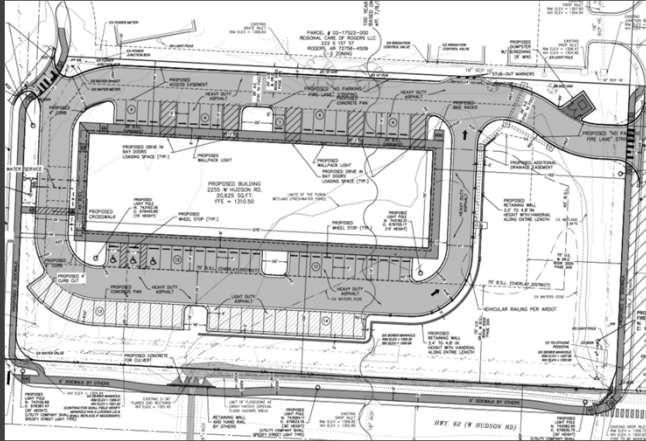


**Project History:**

- This large scale was previously approved by Planning Commission on July 19, 2022. However, approval expired and a resubmittal was required.
- The variances being requested are the same as the original submittal and were approved.

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Site Conditions:

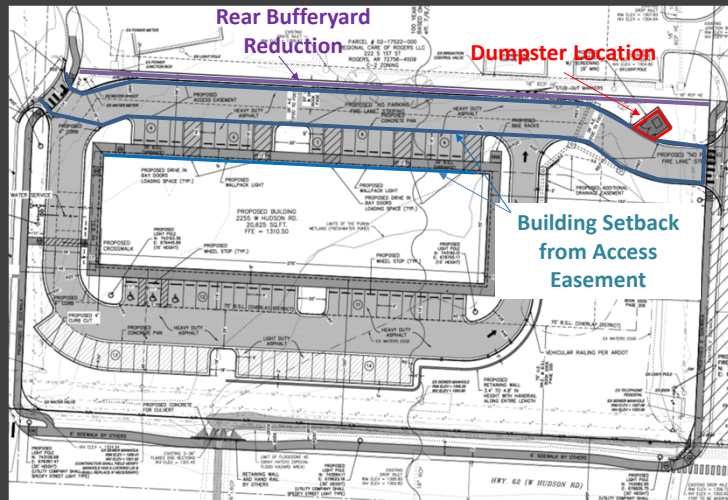
- Floodplain and wetlands exist on-site constraining the buildable area.

Site Conditions:

- Floodplain and wetlands exist on-site constraining the buildable area.



22nd Street Business Park



Site Plan

Request

- To allow a reduction in the exterior side yard setback off the northern east/west access easement from 45' to 25' and to allow the dumpster location to be within the setback.
- The applicant is also requesting that the required 10' rear bufferyard be reduced to 4.5'

Request:

- To allow a reduction in the exterior side yard setback off the northern east/west access easement for the building
- To allow the dumpster location to be within the setback.
- To allow a reduction in the rear bufferyard

Proposal:

- The applicant is proposing that the exterior side yard for the building be reduced by 20', from 45' to 25'.
- The applicant is proposing to have the dumpster placed in the northeast corner of the site, off of the access drive.
- The applicant is proposing to reduce the rear bufferyard from 10' to, at least, 4.5'.



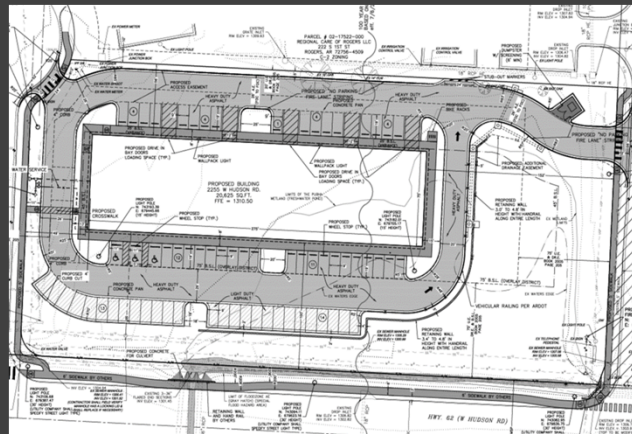


Variance Request Factors

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

Strict enforcement would cause undue hardship. The existing wetlands/floodplain does cover part of the southern and eastern portions of the site.

To remain out of the wetlands and floodplain as much as possible, this requires the building to be shifted north bringing the building closer to the access drive and reducing the width of the rear bufferyard.



Site Plan

**Analysis:**

- Strict enforcement would cause undue hardship. The existing wetlands/floodplain does cover part of the southern and eastern portions of the site. To remain out of the wetlands and floodplain as much as possible, this requires the building to be shifted north bringing the building closer to the access drive and reducing the width of the rear bufferyard.

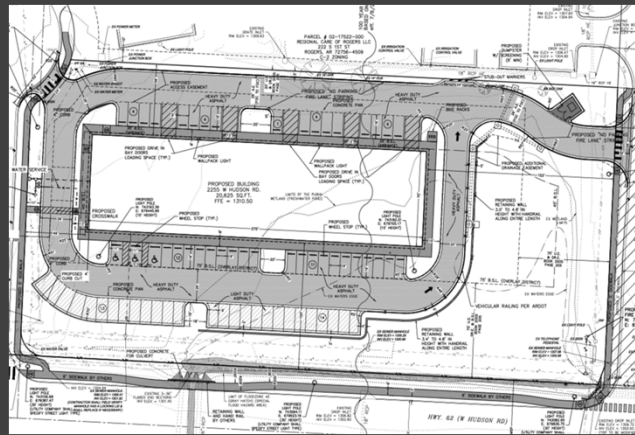
C-2 (Highway Commercial): "This district is intended for commercial uses, which depend upon high visibility, generate high traffic volumes or cater to the traveling public. These characteristics dictate that this district be located along or at the intersections of arterial classification streets or along frontage roads adjacent to the interstate or other limited-access streets." Sec. 14-709 (a).



Staff Analysis of Request

Variance Request Factors

How is the spirit and intent of the code being met?	Staff has requested that an access easement be placed on the northern east/west drive for site circulation and cross access. The access easement requires a 45' setback, however that would place the building further into the wetlands/floodplain.  Increasing the rear bufferyard would also require placing the access drive and building further south.
Can the difficulty be obviated by some feasible method other than a variance?	The applicant could propose a smaller building footprint and form that could possibly bring the proposal into compliance. However, this still could be difficult due to the natural constraints on site and the access drive.



Site Plan

**Analysis:**

- Staff has requested that an access easement be placed on the northern east/west drive for site circulation and cross access. The access easement requires a 45' setback, however that would place the building further into the wetlands/floodplain. Increasing the rear bufferyard would also require placing the access drive and building further south.
- The applicant could propose a smaller building footprint and form that could possibly bring the proposal into compliance. However, this still could be difficult due to the natural constraints on site and the access drive.



## Variance

**PLANNING**

### 22<sup>nd</sup> Street Business Park



*Aerial Map*

#### Recommendation

- **APPROVE** the request to allow a reduction in the exterior side yard setback off the northern east/west access easement from 45' to 25' for the building
- **APPROVE** the request to allow the dumpster location to be within the setback.
- **APPROVE** the request to allow a rear landscape yard of 4.5' instead of the required 10' within the Overlay District.

#### **Public Input:**

None provided

#### **Recommendation:**

**APPROVE** the request to allow a reduction in the exterior side yard setback off the northern east/west access easement from 45' to 25' for the building

**APPROVE** the request to allow the dumpster location to be within the setback.

**APPROVE** the request to allow a rear landscape yard of 4.5' instead of the required 10' within the Overlay District.



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

<u>OFFICE USE ONLY</u>	
Permit Fee: _____ (\$100)	Zoning: _____
App Number: _____	
CityView Application: _____	
Date: _____	

### VARIANCE APPLICATION

APPLICANT: Engineering Services, Inc.  
 ADDRESS: 1207 S Old Missouri Rd. Springdale, AR SUITE #: \_\_\_\_\_  
 GENERAL LOCATION OF PROPERTY: 2255 W Hudson Rd  
 PHONE #: 985-300-4731 EMAIL: crusso@engineeringservices.com  
 PROPERTY OWNER: Louis and Shannon Froud PHONE #: 727-530-3535

REQUEST to ALLOW(Cite Variation[s] from Applicable Section[s] of Code and Proposal): Sec. 14-709  
 The variance is a reduction from a 45' setback to a 25' setback for the building; Another Variance is requested for the rear yard to be less than the required 10' deep within the Overlay District per Sec. 14-285(4). The proposed rear yard depth is 4.5'.

**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?

There is a hardship for this property from the existing wetlands/ floodplain on site.

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

As a result, the building cannot be moved further south away from the proposed access easement in order to meet the setback requirement or to meet the rear yard requirement.

*[Signature]*  
 Applicant Signature

6-25-24  
 Date

**Attachment Checklist:**

- Owner Signature on Letter or Application       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





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PLANNING DIVISION  
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## NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the **Rogers Board of Adjustment** on **November 5, 2024 at 5:30 p.m.** at Rogers City Hall under the provisions of the City of Rogers Code of Ordinances, regarding an application by **22<sup>nd</sup> Street Business Park** for a variance to allow **reductions in setback requirements and a reduction in the rear Overlay District bufferyard depth** at the northwest corner of W Hudson Road and N 22<sup>nd</sup> Street in the T5.2 zoning district, (formerly C-2 zoning and Overlay districts) more particularly described as follows:

**PARCEL NUMBER:**

02-17521-000

**LOCATION:**

The northwest corner of W Hudson Road and N 22<sup>nd</sup> Street

Derek Burnett, Secretary  
Board of Adjustment

**PUBLISH ONE TIME ONLY:** **Sunday October 20, 2024**  
**BILL THE CITY OF ROGERS**



**NOTICE OF PUBLIC HEARING**  
REZONE

**NOTICE OF PUBLIC HEARING**  
REZONE

Application No. 19-001-0001  
Subject: 1101 W. 10th St., Moorhead, MN 58201  
Applicant: [Name Redacted]  
Address: 1101 W. 10th St., Moorhead, MN 58201  
Map Sheet: [Map Sheet Number]  
Map Section: [Map Section Number]

**COMMUNITY DEVELOPMENT  
PLANNING DIVISION  
707E 321 5100  
[Website]**



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 301 W. CHESTNUT  
 PHONE: (479) 621-1186  
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<u>OFFICE USE ONLY</u>	
Permit Fee: _____ (\$500)	Zoning: _____
App. Number _____	
CityView Application: _____	
Date: _____	

## VARIANCE APPLICATION

APPLICANT: Crafton Tull on behalf of Dobbie Development Group, LLC

ADDRESS: 1220 Claremont Drive Boulder, CO 80305 SUITE #: \_\_\_\_\_

GENERAL LOCATION OF PROPERTY: NW of the intersection of W Garrett rd and S Bellview Rd on parcel 02-14175-405

PHONE #: 479-878-2474 EMAIL: Libby.Topping@craftontull.com

PROPERTY OWNER: Cottages at Bellview, LLC PHONE #: \_\_\_\_\_

REQUEST to ALLOW(Cite Variation[s] from Applicable Section[s] of Code and Proposal):  
Variance from Sec. 4.7.1.7(C): Garages shall be rear or side-loaded. Along the western and southern portion of the site as seen in the attached markup.

**Sec. 2.12.2 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?  
Please see the attached Letter

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

  
Applicant Signature

10/28/2024  
Date

**Attachment Checklist:**

- Owner Signature on Letter or Application       If needed, additional sheet for above required responses
- Survey, elevations, sign proofs and/or other documents as needed to illustrate request
- Director's Minimum Submittal Requirements(required at time of application)

PLANNING STAFF PROVIDES:

BOARD OF ADJUSTMENT DECISION: \_\_\_\_\_

SECRETARY, BOARD OF ADJUSTMENT

DATE of PUBLIC HEARING



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OFFICE USE ONLY

Permit Fee: \_\_\_\_\_ (\$500)    Zoning: \_\_\_\_\_

App. Number \_\_\_\_\_

CityView Application: \_\_\_\_\_

Date: \_\_\_\_\_

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PROPERTY OWNER: Cottages at Bellview, LLC PHONE #: \_\_\_\_\_

REQUEST to ALLOW(Cite Variation[s] from Applicable Section[s] of Code and Proposal): \_\_\_\_\_

Variance from Article 5 section 2.3 item D: Driveways, where permitted in exterior yards, shall be separated by a minimum of 60'. Along the western and southern portion of the site as seen in the attached markup.

**Sec. 2.12.2 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?

Please see the attached Letter

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

Please see the attached Letter

*B. T. Tull*

**Applicant Signature**

**Date** 10/08/2024

**Attachment Checklist:**

- Owner Signature** on Letter or **Application**       If needed, additional sheet for above required responses
- Survey, elevations, sign proofs and/or other documents as needed to illustrate request
- Director's Minimum Submittal Requirements(required at time of application)

PLANNING STAFF PROVIDES:

BOARD OF ADJUSTMENT DECISION: \_\_\_\_\_

SECRETARY, BOARD OF ADJUSTMENT

DATE of PUBLIC HEARING



## PROPERTY DESCRIPTION

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 19 NORTH, RANGE 30 WEST, BENTON COUNTY, ARKANSAS; THENCE NORTH  $87^{\circ}40'47''$  WEST A DISTANCE OF 1337.91 FEET; THENCE NORTH  $03^{\circ}11'32''$  EAST A DISTANCE OF 651.27 FEET TO THE POINT OF BEGINNING; THENCE NORTH  $03^{\circ}11'32''$  EAST A DISTANCE OF 688.23 FEET; THENCE SOUTH  $87^{\circ}03'09''$  EAST A DISTANCE OF 1274.79 FEET; THENCE SOUTH  $02^{\circ}13'11''$  WEST A DISTANCE OF 657.92 FEET; THENCE NORTH  $82^{\circ}30'35''$  WEST A DISTANCE OF 100.77 FEET; THENCE NORTH  $75^{\circ}30'39''$  WEST A DISTANCE OF 129.09 FEET; THENCE NORTH  $81^{\circ}54'19''$  WEST A DISTANCE OF 132.35 FEET; THENCE SOUTH  $86^{\circ}20'09''$  WEST A DISTANCE OF 137.49 FEET; THENCE SOUTH  $81^{\circ}18'54''$  WEST A DISTANCE OF 136.29 FEET; THENCE NORTH  $81^{\circ}34'03''$  WEST A DISTANCE OF 40.90 FEET; THENCE SOUTH  $79^{\circ}00'54''$  WEST A DISTANCE OF 100.29 FEET; THENCE SOUTH  $48^{\circ}18'23''$  WEST A DISTANCE OF 80.46 FEET; THENCE SOUTH  $60^{\circ}16'54''$  WEST A DISTANCE OF 43.32 FEET; THENCE SOUTH  $68^{\circ}49'13''$  WEST A DISTANCE OF 218.29 FEET; THENCE SOUTH  $64^{\circ}42'54''$  WEST A DISTANCE OF 63.86 FEET; THENCE NORTH  $42^{\circ}32'56''$  WEST A DISTANCE OF 30.08 FEET; THENCE NORTH  $25^{\circ}32'48''$  WEST A DISTANCE OF 57.37 FEET; THENCE NORTH  $04^{\circ}48'24''$  WEST A DISTANCE OF 41.03 FEET; THENCE NORTH  $02^{\circ}20'28''$  EAST A DISTANCE OF 76.66 FEET; THENCE NORTH  $88^{\circ}01'32''$  WEST A DISTANCE OF 114.86 FEET TO THE POINT OF BEGINNING. CONTAINING 20.34 ACRES MORE OR LESS. SUBJECT TO ANY EASEMENTS OF RECORD OR FACT.



October 10<sup>th</sup>, 2024  
City of Rogers  
Community Development  
301 W Chestnut St.  
Rogers, AR 72756

Re: Waiver Request – Bellview for Zeal  
CTA Job No. 24108900

I am writing this letter to request a variance from Article 5, Section 2.3 of the Unified Development Code, which mandates a minimum separation of 60 feet between driveways accessed from a public street. This request specifically pertains to the western and southern portions of the Bellview for Zeal site. Please see the site map, where these constraints are highlighted further.

Due to several site layout constraints, including the presence of a floodplain to the south, Bentonville Water Utilities' Right-of-Way, existing utility easements, and existing roadway alignments, the ability to configure access points for the proposed cottages and townhomes is significantly limited.

On the western edge of the property along 42<sup>nd</sup> Street access is limited due to the need to align this road with the existing roadway alignment to the north. The townhomes are positioned at the edge of the building setback lines. This design does not permit room for the construction of an alley for rear access, necessitating that all driveways in this location be accessed directly from 42<sup>nd</sup> Street.

Similarly, on the property's southern edge, the cottages and townhomes along W Langmead Drive have limitations. The layout and proximity to the road and floodplain preclude the possibility of developing an alley for rear access. Furthermore, allowing for front-load access to these townhomes allows for more greenspace, less impervious area, and more privacy with each unit having its own backyard, and an aesthetically pleasing townhome product.

By granting this variance, we aim to achieve a practical solution that adheres to the overall spirit and intent of the code, ensuring safe and functional access for all residents while respecting the existing environment. Attached to this letter is a package that includes the site layout as well as how the driveways and landscaping will look.

Should you have any questions or concerns, feel free to contact us at your earliest convenience.

Sincerely,  
Crafton Tull and Associates

  
Courtney Austin, E.I.



October 28, 2024  
City of Rogers  
Community Development  
301 W Chestnut St.  
Rogers, AR 72756

Re: Variance Request – Bellview for Zeal  
CTA Job No. 24108900

I am writing this letter to request a variance from Sec. 4.7.1.7(C) of the Unified Development Code, which requires garages for townhomes to be rear or side-loaded. This request specifically pertains to the western and southern portions of the Bellview for Zeal site. Please see the site map, where these constraints are highlighted further.

Due to several site layout constraints, including the presence of a floodplain to the south, Bentonville Water Utilities' Right-of-Way, existing utility easements, and existing roadway alignments, the ability to configure access points for the proposed cottages and townhomes is significantly limited.

On the western edge of the property along 42<sup>nd</sup> Street access is limited due to the need to align this road with the existing roadway alignment to the north. The townhomes are positioned at the edge of the building setback lines. This design does not permit room for the construction of an alley for rear access, necessitating that all driveways in this location be accessed directly from 42<sup>nd</sup> Street and the townhomes to be front loaded.

Similarly, on the property's southern edge, the cottages and townhomes along W Langmead Drive have limitations. The layout and proximity to the road and floodplain preclude the possibility of developing an alley for rear access. Furthermore, allowing for front-load access to these townhomes allows for more greenspace, less impervious area, and more privacy with each unit having its own backyard, and an aesthetically pleasing townhome product.

By granting this variance, we aim to achieve a practical solution that adheres to the overall spirit and intent of the code, ensuring safe and functional access for all residents while respecting the existing environment. Attached to this letter is a package that includes the site layout as well as how the driveways and landscaping will look.

Should you have any questions or concerns, feel free to contact us at your earliest convenience.

Sincerely,  
Crafton Tull and Associates

*Elizabeth Topping*  
*Libby Topping*  
Libby Topping, P.E.



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PLANNING DIVISION  
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## NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the **Rogers Board of Adjustment** on **November 5, 2024 at 5:30 p.m.** at Rogers City Hall under the provisions of the City of Rogers Code of Ordinances, regarding an application by **Cottages at Bellview, LLC** for a variance from **article 5 section 2.3 item D: Driveways, where permitted in exterior yards, shall be separated by a minimum of 60'** on 20.34 acres in the northwest of the intersection of W. Garrett Road and S. Bellview Road in the T4.1 zoning district more particularly described as follows:

**PARCEL NUMBER:**

02-14175-405

**LOCATION:**

20.34 acres in the northwest of the intersection of W. Garrett Road and S. Bellview Road.

Derek Burnett, Secretary  
Board of Adjustment

**PUBLISH ONE TIME ONLY:** **Sunday October 13, 2024**  
**BILL THE CITY OF ROGERS**

# REVISED SITE PLAN

- NOTES:
1. STREETSCAPE TREE SPECIES VARY BASED ON APPROVED COUNTY/CITY TREE LIST
  2. CONDITION MAY VARY, SEE PLAN
  3. FINAL PLANTING DESIGN AND SPECIES MAY VARY BASED ON SITE SPECIFIC
  4. RENDERINGS SHOWN FOR ILLUSTRATIVE AND DESIGN INTENT PURPOSE ONLY. FINAL DIMENSION, MATERIALS, AND DESIGN MAY VARY BASED ON SITE SPECIFIC



DEVELOPMENT TABULATIONS			
TOTAL SITE AREA	20.34 ac		
UNIT TYPE	QUANTITY	PARKING TYPE	QUANTITY
COTTAGES (1X1)	20 du (13%)	GARAGE	112 sp
COTTAGES (2X2)	24 du (15%)	DRIVEWAY	86 sp
T.H. REAR LOAD	26 du (17%)	DEDICATED SURFACE	88 sp
T.H. FRONT LOAD	86 du (55%)	ADDITIONAL	105 sp
<b>TOTAL UNITS</b>	<b>156 du</b>	<b>TOTAL SPACES</b>	<b>391 sp</b>
<b>ZEAL DENSITY</b>	<b>7.67 du/ac</b>	<b>ZEAL RATIO</b>	<b>2.5 sp/du</b>

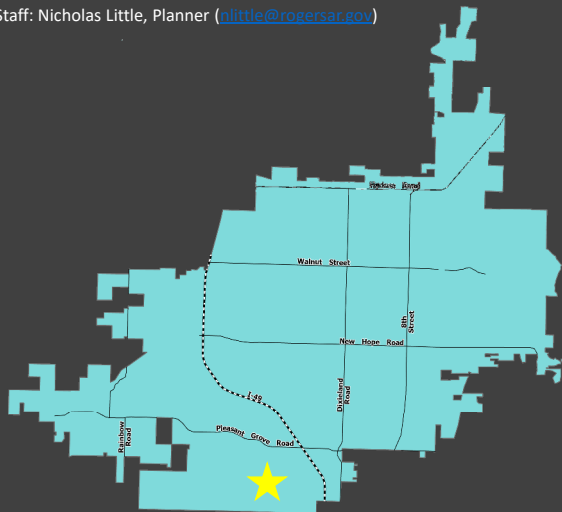


# Variance

# PLANNING

## Well Zeal Driveways

Staff: Nicholas Little, Planner ([nlittle@rogersar.gov](mailto:nlittle@rogersar.gov))



Vicinity Map

### Location

Northwest of intersection of S Bellview Road and W Garrett Road.  
Parcel 02-14175-405

### Nature of Request

- To allow driveways in “front” exterior yards for townhomes
- To exceed the 60’ minimum separation of residential driveways in exterior yards

### Zoning

T4.1 (Neighborhood Medium-Intensity)

### Proposed Use

Residential (Townhomes, Cottages)

### Representative

Libby Topping, Crafton Tull

### Summary:

This site is located in south Rogers, just northwest of the intersection of S Bellview and W Garrett Roads.



## Section 2.12 Variances

### 2.12.1 Purpose & Intent

The Board of Adjustment is authorized to grant a variance or waive from any provision of this UDC where strict enforcement of the provision would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances or waivers only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the UDC.

### 2.12.2 Review Criteria

The Board of Adjustment shall consider the following in determining whether or not to grant a variance or waiver:

- A. Would the variance or waiver cause undue hardship to the property owner due to circumstances unique to the property; and
- B. Is the hardship a result of any action taken by the property owner or on their behalf; and
- C. Is the variance or waiver requested the minimum amount necessary to carry out the project; and
- D. Is there another reasonable method of avoiding the need for a variance or waiver; and
- E. Any other factor the Board feels is important to consider in keeping with the purpose and intent of this UDC.

## Section 2.12 Variances

### 2.12.1 Purpose & Intent

The Board of Adjustment is authorized to grant a variance or waive from any provision of this UDC where strict enforcement of the provision would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances or waivers only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the UDC.

### 2.12.2 Review Criteria

The Board of Adjustment shall consider the following in determining whether or not to grant a variance or waiver:

Would the variance or waiver cause undue hardship to the property owner due to circumstances unique to the property; and

Is the hardship a result of any action taken by the property owner or on their behalf; and

Is the variance or waiver requested the minimum amount necessary to carry out the project; and

Is there another reasonable method of avoiding the need for a variance or waiver; and

Any other factor the Board feels is important to consider in keeping with the purpose and intent of this UDC.



# Variance

## Well Zeal Driveways

# PLANNING



Site Plan

### Request

- 1. To vary from the requirement that all townhome garages must be rear or side-loaded. (Sec. 4.7.1.7.C)
- 2. To exceed the driveway minimum separation distance in exterior yards of 60'. (Sec. 5.2.3.D)

### Request:

- 1. To vary from the requirement that all townhome garages must be either rear or side-loaded.
- 2. To exceed the driveway minimum separation distance in exterior yards of 60'

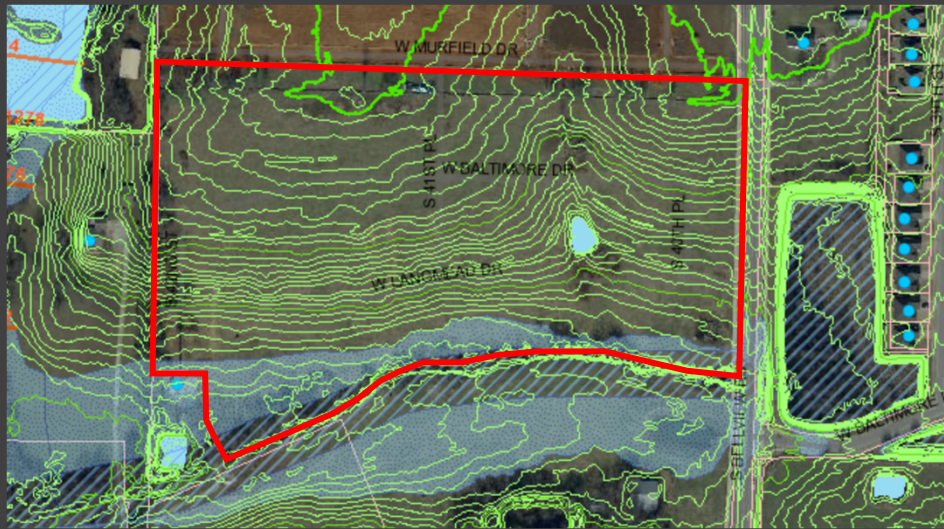
### Proposal:

- The applicant is proposing 42 front-loaded townhomes along public streets
- In their proposal, the average distance between driveway groupings is just under 40', with the shortest separation being roughly 20'.



Well Zeal Driveways

Site Conditions



SITE CONDITIONS

- Floodplain/Floodway on the south end of the property
- Western property boundary borders existing T2 single-family use.



Well Zeal Driveways



Site Plan

**Applicant Hardship**

“Due to several site layout constraints, including the presence of a floodplain to the south, Bentonville Water Utilities’ Right-of-Way, existing utility easements, and existing roadway alignments, the ability to configure access points for the proposed cottages and townhomes is significantly limited.

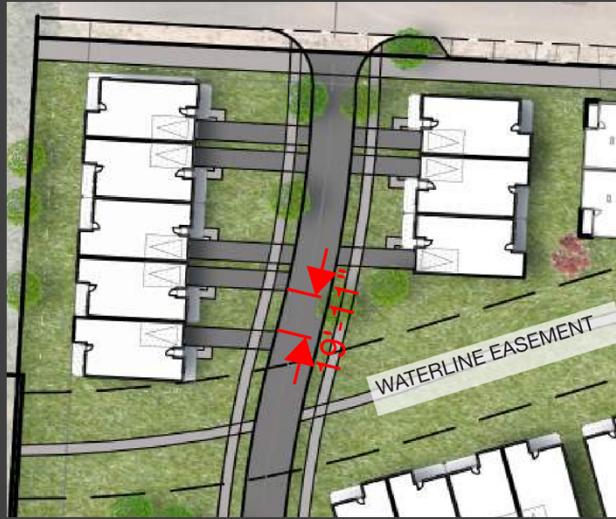
On the western edge of the property along 42nd Street access is limited due to the need to align this road with the existing roadway alignment to the north. The townhomes are positioned at the edge of the building setback lines. This design does not permit room for the construction of an alley for rear access, necessitating that all driveways in this location be accessed directly from 42nd Street and the townhomes to be front loaded.”

**Stated Hardship:**

- The applicant sites several factors that contribute to this variance request, like a large 50’ Bentonville Water easement that is essentially undevelopable, floodplain on the southern end of the property, and required street alignment with the subdivision to the north.



Well Zeal Driveways



Site Plan

**Applicant Hardship (cont.)**

“Similarly, on the property's southern edge, the cottages and townhomes along W Langmead Drive have limitations. The layout and proximity to the road and floodplain preclude the possibility of developing an alley for rear access. Furthermore, allowing for front-load access to these townhomes allows for more greenspace, less impervious area, and more privacy with each unit having its own backyard, and an aesthetically pleasing townhome product.”

**Applicant Spirit and Intent**

“By granting this variance, we aim to achieve a practical solution that adheres to the overall spirit and intent of the code, ensuring safe and functional access for all residents while respecting the existing environment.”

**Stated Hardship:**

- The applicant cites several factors that contribute to this variance request, like a large 50' Bentonville Water easement that is essentially undevelopable, floodplain on the southern end of the property, and required street alignment with the subdivision to the north.

**Spirit and Intent:**

- The applicant states they are meeting the spirit and intent by creating safe and functional access to the units. Although the current proposed separation of the driveways does not meet the regulations, the development proposes grouped driveways when possible.



Well Zeal Driveways

Staff Analysis of Request

Variance Request Factors	
Does strict enforcement of the code cause undue hardship due to circumstances that are unique to this property?	Strict enforcement in part causes undue hardship unique to the property. While there is legitimate site-specific hardship, like the floodplain area and the existing Bentonville Utilities easement, connecting with existing adjacent streets and developing along an existing property line are not seen by staff as legitimate hardship.



Site

**Analysis:**

- Staff finds some of the factors stated in the hardship claim to be legitimate, but not all factors. Meeting the street connectivity code is not a site-specific hardship, nor is the location/development along a property boundary.



Well Zeal Driveways

Staff Analysis of Request

Variance Request Factors

How is the spirit and intent of the code being met?	While the proposed variances would differ from what the code calls for verbatim, the design of the development as a whole meets the spirit and intent of the zoning and applicable code sections at this location. These streets are shown to be designed in a manner that would naturally slow traffic, with narrow driving lanes, ample street trees, good pedestrian connectivity and on-street parking
Can the difficulty be obviated by some feasible method other than a variance?	Yes, a redesign proposing alleys and rear-loaded townhome garages could alleviate the need for variances here.



Site Plan

**Analysis:**

- Staff finds the spirit and intent of the code is mostly being met, given the complete context of the development and the design of the streets of which house these front loaded townhomes.
- The variance can be avoided, but would require a redesign that may result in a loss of overall units, or specific unit types.



Well Zeal Driveways



Aerial Map

Recommendation

- **CONSIDER** the request to allow front-loaded townhome garages
- **CONSIDER** the request to exceed the minimum 60' driveway separation for exterior yard driveways, all the way down to 20' separation.

**Public Input:**

No public input received.

**Recommendation:**

**CONSIDER** the request to allow front-loaded townhome garages  
**CONSIDER** the request to exceed the minimum 60' driveway separation for exterior yard driveways, all the way down to 20' separation.