



DEPT. OF COMMUNITY DEVELOPMENT
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**BOARD OF ADJUSTMENT
MINUTES
September 5, 2023**

The **Rogers Board of Adjustment** met for a public meeting at Rogers City Hall at 301 W. Chestnut Street on September 5, 2023 at 6:06 P.M. The meeting was called to order by Chairman Mandel Samuels.

ROLL CALL

Board members attending: Ed McClure, Hannah Cicioni, and Mandel Samuels.

ACTION ON MINUTES

Previous minutes: August 15, 2023

Motion by McClure to accept the prepared minutes for the August 15, 2023 meeting of the Board of Adjustment as presented. Second by Cicioni.

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

APPROVED

NEW BUSINESS

- 1. (VAR 23-29) A request 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.**

Planner Nick Little stated the request concerns a property in northeast Rogers proposed use is for manufacturing wholesale and distribution. The applicant is requesting to vary from the required 50-foot front and external side setbacks from the interior right-of-way being proposed within the development. On the south side of West Industrial, the applicant is proposing a 9-foot reduction to 41 feet. On the north side of West Industrial, the applicant is proposing a 21-foot reduction to 29 feet. On the west side of N. 4th Street, the applicant is proposing a 28-foot reduction to 28 feet. The applicant's stated hardship is the lot is oddly shaped and that the site is surrounded by industrial use. The applicant states the intent of the code for these areas should be rear and external side setbacks. The applicant likely meant internal side setbacks. Front and rear setbacks for I-1 are both 50 feet. Rear and interior side setbacks are both 25 feet.

Staff finds the intent of the large front and exterior side setbacks is to adequately separate industrial uses from dissimilar uses and designated areas. The lot is oddly shaped and adjacent properties to the north and east of the internal road are commercial and industrial use and do not benefit from increased setbacks. Evergreen screening is also being provided where appropriate. There was no public input for this request. Staff recommends approval.

Representative Jeffrey Chavis with Bates and Associates had nothing to add.

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

Board and representative discussed the stated hardship.

McClure questioned why the requested reductions were so extreme. Jeffrey Chavis explained typically with a with an I-1 zoning, you would have 50 feet of setback, along a major arterial or collector street. This is not going to be any kind of collector street. This is going to be a local street section that we are providing to the city of Rogers, for the purpose of cross connectivity and cross access. This is not a major road, this is not a major thoroughfare. This is just for cross connectivity. So, the only people who are going to be using this are people who are cutting through and people who work in this indirect in this commercial park.

Chairman Samuels asked if the City Engineer have any comment? Nick Little answered none that he knew of. Cicioni agreed with staff's report and with no outside public input, motioned.

Motion by Cicioni to APPROVE the variance. Second by McClure
Voice vote: APPROVE-UNANIMOUS Motion carried
APPROVE

2. (VAR 23-30) A request by Kurtis and Haley Hahn under the provisions of the City of Rogers Code of Ordinances, for variances 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.

Planner Nick Little stated the project is located at 5402 South 45th Court. The applicant is requesting a reduction of the 20-foot rear yard setback for deck addition onto the back of their home. The current design creates a significant setback encroachment. The plan shows an eight-foot eight-inch encroachment at its deepest point. Given the angle of the addition that puts the raised and covered deck extension roughly 12 foot from the western property boundary. The adjacent western neighbor's property sits a bit lower than the subject property and is within a different subdivision, which is Warren Glen, to the west. The applicant states that their hardship on the property is an abnormal geometry of the site. There is already a swimming pool on the north side of this home. The applicants letter states, the west side of the home would be the only realistic location for a deck addition. The applicant also states that the spirit and intent of the code is being met due to the reduction being slight. The addition will match the style and scale of the existing home and that the adjacent homeowners were aware of their plans and were not

opposed to it. Upon review, it is apparent that the lot does have a strange angular shape due to the bounds of the subdivision in the cul de sac that serves as the home. Staff determined that the intent of the setbacks in a residential zone is to protect neighbors from unsightly and unpleasant additions to be built too close to another residential property. The proposed addition is shown as being covered which will accentuate the visual nuisance for the neighbor to the west. Staff also feels that the deck design could have been changed to lessen the encroachment or eliminate the encroachment altogether if it didn't utilize a square shape. Upon discussion with the western adjacent neighbor, it became clear that they were actually opposed to the deck addition. The western neighbor cited privacy and drainage as their main concerns. Given that the subject property sits slightly higher than the neighbor's lot and the lack of a site-specific hardship. Staff recommends denial of the request.

Representative Randall Hurban with rh Architectural Designs stated the owner was traveling and couldn't attend the meeting. He added that the Hahn's had originally spoke with the owner to the west and gotten the okay. He asked the item be postponed until the next meeting so they could get exact heights and the screening. Both the Hahn's and the homeowner to the west want privacy. Requested time to get more detail to bring to all parties.

Chairman Samuels opened the public hearing.

Jeff Ressler, 5601, South 45th street, the owner to the west. He shares 180 feet of fence line with the Hahn's. His concern is privacy, not knowing the deck height and having only a 6-foot fence. He did not receive the site plan until just last Friday. He has asked for dimension and height of purposed deck and is yet to receive anything.

The public hearing was closed.

Board and representative discussed.

Motion by McClure to TABLED the variance. Second by Cicioni.
Voice vote: TABLED TO THE 9/19 MEETING-UNANIMOUS Motion carried
TABLED TO THE 9/19 MEETING


ADJOURNMENT

Meeting adjourned at 6:27 PM by Chairman Mandel Samuels.

As recorded by:

Karen Perez
Planning Technician
Community Development Department
City of Rogers

Approved by vote of the Board of Adjustment on:



Ed McClure, BOA Secretary