



COMMUNITY DEVELOPMENT  
PLANNING DIVISION  
301 W. CHESTNUT  
planning@rogersar.gov  
(479) 621-1186

**MEETING DATE**  
**MAY 14 2020**

TO: BOARD OF ADJUSTMENT

RE: **STAFF SUMMARY REPORT**  
**VARIANCE – ED & MARY SIMPSON**

STAFF: ASHON ROBINSON, PLANNER I

**REQUEST DETAILS**

ADDRESS/LOCATION:	5708 South Berry Farm Drive
SUBDIVISION:	0.29± acres
CURRENT ZONING:	RSF-5 (Residential Single Family)
CURRENT USE:	Residential
APPLICANT/REPRESENTATIVE:	Ed Simpson
PROPERTY OWNER:	Ed & Mary Courtney Simpson
NATURE OF REQUEST:	Approval of Variance
AUTHORITY:	Sec. 14-724, Rogers Code of Ordinances

**SUMMARY**

This request is to allow a 5' rear setback reduction for a proposed accessory structure. See STAFF REVIEW for additional findings.

Community Development recommends approval of this request.

## STAFF REVIEW

1. 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.

2. SUBJECT REQUEST:

- a) The applicant is requesting a variance for a rear setback reduction, from 20 feet to 15 feet, to place a pool shed in their rear yard. The shed, being 10 feet in width with a 3-foot overhang, would encroach into the setback by 5 feet.

3. GENERAL FINDINGS:

- a) The applicant stated in their hardship letter that there is excessive stormwater runoff coming from the property to their north during heavy rain falls. To account for the excessive stormwater runoff from the north, the applicant stated that in-ground drainage improvements will be necessary requiring 10 feet between the house's rear façade and the proposed pool house.

4. ZONING:

- a) *R-SF(Residential Single Family):*

The purpose and intent of the R-SF zoning district is "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)).

5. PUBLIC INPUT RECEIVED:

Staff has not received any comments from the public regarding this request.

6. RECOMMENDATIONS:

- a) Approve request.

**DIRECTOR'S COMMENTS**

1. Agree with recommendations.



JOHN C. McCURDY, Director  
Community Development

**SUGGESTED MOTIONS**

1. IF APPROVING AS PRESENTED:  
Move to approve the request as presented.
2. IF APPROVING SUBJECT TO OTHER ACTIONS:  
Move to approve the request subject to [conditions or contingencies].
3. IF DENYING:  
Move to deny the request as presented.
4. IF TABLING:  
Move to table the request as presented [indefinite or date certain].

**TABS**

1. Vicinity map (aerial)
2. Variance application with required supplements

SIMPSON AERIAL MAP:







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

OFFICE USE ONLY

Permit Fee: \$100 CR (\$100)  
Zoning: RSF-5  
App Number: 20-11  
CityView Application: PL202000312  
Date: 4/30/2020

VARIANCE APPLICATION

APPLICANT: Ed & Mary Courtney Simpson

ADDRESS: 5708 S Berry Farm Dr, Rogers, AR 72758 SUITE #: \_\_\_\_\_

GENERAL LOCATION OF PROPERTY: NW corner of Berry Farm Dr & Blue Ray Cir. rear west line property side.

PHONE #: 479-636-2211 EMAIL: Ed@FirstREALTORS.com

PROPERTY OWNER: Mary Courtney Simpson PHONE #: 479-366-3126

NATURE OF APPEAL:

- ☐ Appeal from decision of enforcement officer
- ☐ Variance from zoning ordinance

EXPLAIN REQUEST: Request to reduce rear 20 foot building setback to 15 foot to install a pool shed and inground swimming pool. The pool shed will exceed 10 feet in height. Lot 36 Berry Farm Phase 1, Rogers, Benton Co, Arkansas.

*Ed Simpson*

04/30/2020

Applicant Signature

Date

Attachment Checklist:

- ☒ Letter explaining hardship or reason for request
- ☒ Legal description of property
- ☒ Relevant supporting documents
- ☒ Survey or sign proofs as needed

PLANNING STAFF PROVIDES:

DATE FILED: 4/30/2020 PUBLIC HEARING DATE: 5/14/2020

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

SECRETARY, BOARD OF ADJUSTMENT

DATE

Ed Simpson  
Mary Courtney Simpson  
5708 Berry Farm Dr  
Rogers, AR 72758  
479-636-2211

To:

Rogers Community Development and Planning

Variance Request of Building Setback Line from 20 feet to 15 feet rear western property line.

Mary and I would like to build an inground pool approximately 12 feet wide by 20 feet long more or less, and a pool shed approximately 10 feet by 12 feet. I am a residential builder, First Real Estate Investments, LLC and our home is on a corner lot in Berry Farm Subdivision. Currently from the rear west of house there is 18 feet space m/l from wall to the rear BSL. Currently the homes to the north rear ground water runs excessively across our rear back yard during heavy rain falls. It will be necessary to raise the top of pool and base pad of pool shed higher than the finished floor elevation of our patio and slab. To properly shed ground water coming from the north to the south, I will need to contour the grade between the pool and house wall plus necessary inground drainage requiring at least 10 foot of space between structure. Therefore, I am requesting a reduction of setback from 20 feet to 15 feet.

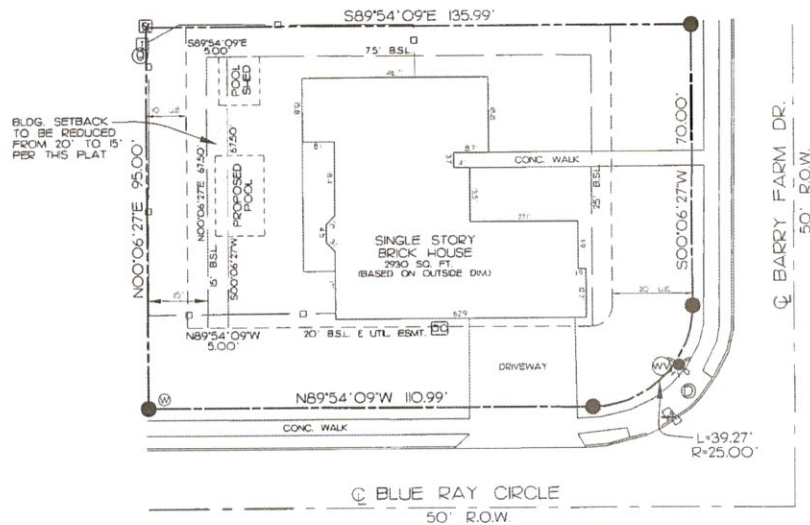
The proposed shed walls being 10' x 12' shed will have roof overhangs being 16 feet by 18 feet. There is only 18 feet from the house wall to the current 20' BSL which I would like to maintain 8 feet from the house wall to the shed overhangs wall for fire barrier separation and potential machinery access. Therefore, the maximum 8 foot house wall to furthest shed overhang (16' + 8') requires 22' spacing to BSL instead of the current 18 foot spacing between house wall and current BSL. As drawn on the on the survey plot plan the shed wall structure has been placed at 18' instead of the current 20' BSL to rear property line. However, the roof overhangs will be 3 feet maximum because of the shed building design.

In the photographs, the white painted line is the current 20' building setback line, the orange painted corners represent the shed wall structure (not the overhang) and the pool in ground wall structure. There is a 10 foot utility easement which with a 15' BSL neither there would be 18' spacing to the shed wall structure and 19' spacing to the pool wall structure.

Also, I am including an elevation not to scale to demonstrate the spacing of the shed to the house walls, overhangs and BSL and showing drainage grade contour example. The rain photos were taken April 2017 during a torrential rainfall which has been the worst we ever saw the rain. Afterwards, on the north side of the house I have already installed a 10 foot wide French drain but with the pool and pool shed I will have to interconnect drainage. Therefore I need additional spacing between the pool, pool shed and house.

Thank You

Ed Simpson

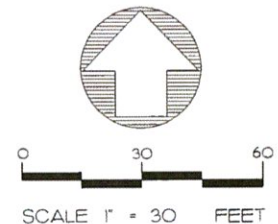
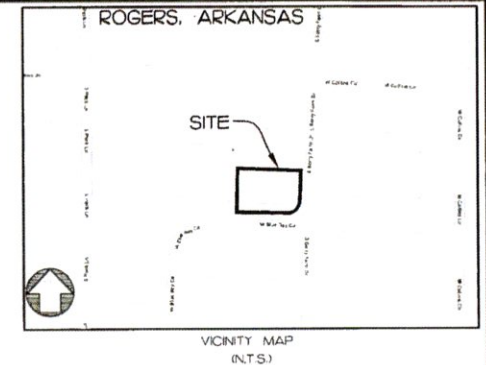


## LEGEND

	FOUND REBAR
	FIRE HYDRANT
	WATER METER
	WOOD FENCE
	PROPERTY LINE
	RIGHT-OF-WAY LINE
	SETBACK LINE
	EASEMENT LINE
	CENTER LINE
	GAS LINE
	WATER LINE
	SANITARY SEWER LINE

### NOTES:

- EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY, BUILDING SETBACK LINES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, ZONING OR OTHER LAND-USE REGULATIONS, AND ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE COMMITMENT MAY DISCLOSE.
- DECLARATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
- THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
- SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP, TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE COMMITMENT MAY DISCLOSE.
- BASIS OF BEARINGS: STATE PLANE NAD 83.



### LEGAL DESCRIPTION:

LOT 36 OF BERRY FARM, PHASE I, CITY OF ROGERS, BENTON COUNTY, ARKANSAS, AS SHOWN IN PLAT BOOK 4, PAGE 886 OF THE BENTON COUNTY RECORDS.

### SETBACK REDUCTION DESCRIPTION:

PART OF LOT 36 BERRY, FARM PHASE I, CITY OF ROGERS, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT BOOK 4, PAGE 886 OF THE BENTON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NW CORNER OF SAID LOT 36, THENCE S89°54'09"E 15.00 FEET, THENCE S00°06'27"W 7.50 FEET TO THE POINT OF BEGINNING, THENCE S89°54'09"E 5.00 FEET, THENCE S00°06'27"W 67.50 FEET, THENCE N89°54'09"W 5.00 FEET, THENCE N00°06'27"E 67.50 FEET TO THE POINT OF BEGINNING, CONTAINING 337.50 SQUARE FEET.

### FLOOD CERTIFICATION:

I CERTIFY THAT I HAVE EXAMINED THE F.I.A. OFFICIAL FLOOD INSURANCE HAZARD RATE MAP PANEL NO. 05007C0265K (EFFECTIVE DATE JUNE 5, 2012) AND FOUND THE DESCRIBED PROPERTY HEREON LIES IN ZONE "X", AN AREA WITH NO SPECIAL FLOOD HAZARDS.

### SURVEYOR'S CERTIFICATE:

I CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE ABOVE DESCRIBED PROPERTY. THE PROPERTY LINES AND CORNER MONUMENTS ARE TO THE BEST OF MY KNOWLEDGE AND ABILITY, CORRECTLY ESTABLISHED, AND THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT AS SHOWN ON THIS PLAT. THIS SURVEY MEETS THE CURRENT MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS, PER THE STATE OF ARKANSAS.

ROBERT J. CASTER, P.L.S. NO.1370, ARKANSAS

DATE

CERTIFICATE OF AUTHORIZATION  
COA CERTIFICATE NUMBER: 3049

CASTER & ASSOCIATES  
LAND SURVEYING, INC.  
2715 SE T Street, Suite 5  
Bentonville, AR 72712  
Telephone 479-268-4464



SCALE: 1" = 30' DATE: 4-29-20

LOT 36  
BERRY FARM, PHASE I  
BUILDING SETBACK  
REDUCTION PLAT

5708 BERRY FARM DRIVE  
ROGERS, BENTON COUNTY,  
ARKANSAS

JOB #	DRAWN BY:	CHECKED BY:	PAGE
14-031 SBR	ASD	RJC	1 OF 1













**5708 Berry Farm Dr**  
**Lot 36 Berry Farm Phase 1 Rogers,**  
**Benton County AR**

