



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 – JENNIFER LEUKER**

STAFF: ASHON ROBINSON, PLANNER I

**REQUEST DETAILS**

ADDRESS/LOCATION:	102 Sarah Lane
SUBDIVISION:	1.05± acres
CURRENT ZONING:	R-SF (Residential Single Family)
CURRENT USE:	Residential
APPLICANT/REPRESENTATIVE:	Jennifer Lueker
PROPERTY OWNER:	Jennifer Lueker & George Ducharme
NATURE OF REQUEST:	Approval of Variance
AUTHORITY:	Sec. 14-724, Rogers Code of Ordinances

**SUMMARY**

This request is to allow a 9.62' front setback reduction for an existing house. 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 requests a front setback reduction from 30' to 20.38'.

### 3. GENERAL FINDINGS:

- a) Staff has not identified any circumstances unique to the individual property where strict enforcement of the zoning ordinance would cause undue hardship.
- b) Despite the lack of a physical site-specific hardship, it appears based on property records that this house was constructed in violation of the front setback requirement and was not addressed during subsequent sales. This request would "clean up" an existing condition and is not detrimental to surrounding property.

### 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

LUEKER 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)

Zoning: \_\_\_\_\_

App Number: \_\_\_\_\_

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

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

**VARIANCE APPLICATION**

APPLICANT: Jennifer Lueker

ADDRESS: 102 Sarah Lane, Rogers, AR 72756 SUITE #: \_\_\_\_\_

GENERAL LOCATION OF PROPERTY: 102 Sarah Lane, Rogers, AR (Lake Atlanta)

PHONE #: 479-466-4875 EMAIL: jennifer@jld-law.com

PROPERTY OWNER: Jennifer Lueker & George DuCharme PHONE #: 479-466-4875

NATURE OF APPEAL:

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

EXPLAIN REQUEST: Home was built in 1990s. Recent survey shows few feet of front of home encroach upon the 30 foot setback in place at time home built.

Jennifer Lueker

Applicant Signature

4-30-20

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: \_\_\_\_\_ PUBLIC HEARING DATE: \_\_\_\_\_

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

SECRETARY, BOARD OF ADJUSTMENT

DATE

JENNIFER LUEKER DUCHARME  
**Attorney at Law**  
JLD LAW  
2890 WEST WALNUT ST., SUITE A2  
ROGERS, AR 72756  
CALL / FAX 479.345.8333  
EMAIL: JENNIFER@JLD-LAW.COM



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April 30, 2020

City of Rogers  
Dept. of Community Development  
Planning Division  
301 W. Chestnut  
Rogers, AR 72756

RE: Variance Application – 102 Sarah Lane

Dear Board:

I am respectfully requesting a variance be allowed on my residence located at 102 Sarah Lane, Rogers, Arkansas. The home was built in the 1990's on a beautiful cul-de-sac near Lake Atalanta. At the time of the build, there was a 30-foot setback requirement. A recent survey indicates that this setback was not adhered to and that a few feet of the front entryway of the home encroach upon the setback area.

This error was not discovered at the time of the build nor in the several transactions where the house has been sold since that time. I purchased the house in 2018 and was unaware of the issue until this week. I am under contract with buyers to sell the home and am scheduled to close on the house in May. Due to the encroachment, I cannot transfer clear title to the new home buyers.

I do not believe a variance would cause a hardship to the city or our neighbors, as is evidenced by the decades that the error has gone unnoticed. However, failure to obtain a variance would cause great hardship to my husband and I as such a decision would effectively render the home non-transferable. It would also cause hardship to the purchasers of the home as they are relocating to the state for an economic opportunity and failure to obtain the variance would inevitably interfere with those plans.

Thank you for your consideration in this matter. Should you have any further questions or need further information, please feel free to contact me at [jennifer@jld-law.com](mailto:jennifer@jld-law.com) or on my cell phone, (479) 466-4875.

Sincerely,

  
Jennifer Lueker DuCharme

*Prepared under the supervision of:  
Chance Combs - Attorney  
1526 Plaza Place  
Springdale, AR 72764*

(Reference ETC#17-35424-007)

### **WARRANTY DEED**

#### **KNOW ALL MEN BY THESE PRESENTS:**

**THAT WE, Mark E. McGuire and Kimberly K. McGuire, husband and wife, GRANTORS,** for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration paid by **George W. DuCharme and Jennifer D. Lueker, husband and wife, GRANTEES,** the receipt and sufficiency of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Grantees and unto Grantees' heirs, successors and assigns forever the following described lands situated in the **County of Benton, State of Arkansas:**

**Lots 1 and 2, Park View Estates Subdivision, to the City of Rogers, Benton County, Arkansas, as shown on Plat Record "19" at Page 61.**

**Subject to easements, rights of way of record, and other restrictions of record, if any.**

**TO HAVE AND TO HOLD** the above described property, together with all and singular the rights and appurtenances, tenements and hereditaments thereof, to the same being, belonging or in anyway appertaining to the use, benefit and behalf of the said Grantees, Grantees' heirs, successors and assigns, forever in fee simple.

And Grantors hereby covenant with said Grantees that Grantors will forever warrant and defend the title to said lands against all lawful claims whatsoever.

And Grantors do hereby release and relinquish unto the said Grantees and unto Grantees' heirs, successors and assigns forever, all rights and possibility of dower/curtesy and homestead, statutory or otherwise, in and to the above-described real property.

IN WITNESS WHEREOF, the Grantors have hereunto affixed their names and seals on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mark E. McGuire – Grantor

\_\_\_\_\_  
Kimberly K. McGuire – Grantor

*I hereby certify under penalty of false swearing  
that the legally correct amount of documentary  
stamps or a documentary symbol have been  
placed on this instrument.*

George W. DuCharme and Jennifer D. Lueker

/s/ \_\_\_\_\_, Agent for Grantee

\_\_\_\_\_  
Mail Tax Statements to Addressee/Address Above

STATE OF ARKANSAS

}

} ss.

COUNTY OF \_\_\_\_\_

}

**Acknowledgment**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me the undersigned officer, personally appeared **Mark E. McGuire and Kimberly K. McGuire, husband and wife**, well known to me to be (or sufficiently proven to be) the persons whose names are subscribed to the within instrument, the grantors herein, and they did acknowledge before me that they had executed the same for the consideration, uses and purposes therein contained and set forth.

**WITNESS** my hand and official seal on the date above written.

My Commission Expires:


\_\_\_\_\_  
Notary Public





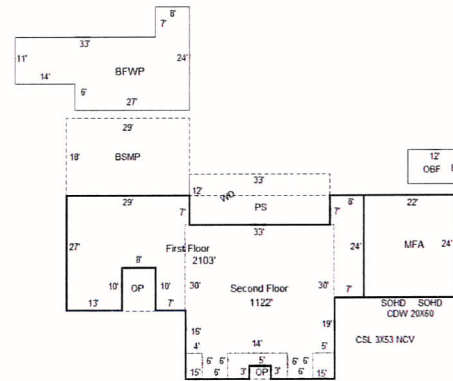
# DUCHARME, GEORGE W & LUEKER, JENNIFER D

102 S SARAH LN  
ROGERS, AR


[Basic](#)
[Land](#)
[Sales](#)
[Valuation](#)
[Improvements](#)
[Parcel Boundary](#)


## Residential Improvements

### Residential Improvement #1



Sketch by Arden 12/14

Living Area 1st Floor	2,103	Basement Unfinished	0
Living Area 2nd Floor	1,122	Basement Finished w/Partitions	669
		Basement Finished w/o Partitions	0
<b>Living Area Total SF</b>	<b>3,225</b>	<b>Basement Total SF</b>	<b>669</b>
Occupancy Type:	Single Family		
Grade:	D2-5		
Story Height:	1 Plus		
Year Built:	1996		
Effective Age:	15		
Construction Type:	Combo Brick Frame		
Roof Type:	Fiberglass		
Heat / AC:	Central		
Fireplace:	1 Single 1-Story Good		
Bathrooms:	3 full 1 half		
Foundation Type:	Closed Piers		
Floor Type:	Wood Subfloor		

## Floor Covering:

carpet:	2,920	sq ft
hardwood sheath:	974	sq ft

## Additive Items:

Additive Item	Quantity	Size	Description
MFA	528		MAS FIN ATTACHED
PS	231		PATIO SLAB
WD	396		WOOD DECKS
OP	80		OPEN PORCH
OP	15		OPEN PORCH
BSMP	522		BRICK/STONE MTR PAV
CDW	1200	20 x 60	CONCRETE DRIVEWAY
USER DEFINED	0		CSL NCV

## Outbuildings / Yard Improvements:

OBYI Item	Quantity	Size	Description
OBFLAT	1		FRAME OUTBLDG FLAT
WFX6	308		6' WOOD PRIVACY