

CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

Tuesday, January 09, 2018 at 5:30 p.m.
City Administration Building
400 N. Broadway

AGENDA

I. Board of Adjustment

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes of the Meeting on November 14, 2017
- D. Appeal Request

- 1. Appeal, A17-01
505 E. Helena St.
Owner/ Agent: Bill Parker

E. Annual Board of Adjustment and Planning Commission Training

The role of the Planning Commission and Board of Adjustment

Presenter: Tim Conklin, AICP, Transportation Programs Manager with the
Northwest Arkansas Regional Planning Commission

F. Adjourn the Board of Adjustment

MINUTES OF THE REGULAR MEETING
OF THE BOARD OF ADJUSTMENT OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY,
ARKANSAS, HELD NOVEMBER 14, 2017

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building on November 14, 2017.

The meeting was called to order by Chairman Mounger.

Roll Call:

Blakely, Nation, Mounger, Driscoll, Smith – Present.

Song, Engle -Absent.

City Clerk, Renea Ellis; City Planner, Ben Rhoads; City Engineer, Justin Bland and City Attorney, Jay Williams; all present.

A copy of the August 8, 2017, minutes had previously been given to each Commissioner. A motion was made by Smith and seconded by Nation to accept the minutes. A voice vote was called. Motion passed unanimously

Item D1. Setback Variance Development Permit, BOA17-08, 500 E. Tahlequah St. Ben Rhoads briefed the item. Sandra Melton, 306 Siloam Place, asked if additional traffic would be using Benton Street. Rhoads said the back gate on Benton Street would be locked and the entrance from Tahlequah Street would be used. Following comments from the Commission, a Motion to approve was made by Driscoll and seconded by Smith. Additional comments and questions were received from the Commission which were addressed by Rhoads and Bland. Motion passed 4/1 with Blakely being the no vote.

Item D2. Parking and Driveway Variance Development Permit, BOA17-09, 2251 S. Lincoln St. Rhoads briefed the item. A Motion to approve was made by Blakely and seconded by Driscoll. Motion passed unanimously.

There being no further business, a Motion was made by Smith and seconded by Driscoll to adjourn. A Voice Vote was called. Motion passed 4/1 with Smith being the no vote.

Meeting Adjourned.

ATTEST:

APPROVED:

Renea Ellis, City Clerk

Karl B. Mounger, Chairman

(SEAL)



STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner *BR*
and James Harris, Code Enforcement Manager
Cc: Don Clark, Community Services Director
DATE: December 18, 2017
RE: Appeal, A17-01, 505 E. Helena St.

Recommendation: City staff does not provide recommendations for appeals.

Background:

APPLICATION REVIEW DATE

Board of Adjustment Review: January 08, 2018

APPLICANT AND AGENT

Agent/Owner: Bill Parker

SUBJECT PROPERTY ADDRESS

505 E. Helena St.

INTERNET MAP INFORMATION

Planning staff has created a map made with Google My Maps.

Attribution: Map data ©2017 Google Imagery ©2017, Arkansas GIS, DigitalGlobe, Landsat, State of Arkansas, USDA Farm Service Agency Washington County.

Please click on the following link to access. This link will only operate if reading this report digitally.

<https://drive.google.com/open?id=1-U2-c4sEWAOUHCX04XkKanLW25buU5E3&usp=sharing>

PROJECT INTENT

Appeal of the administrative application of Municipal Code 66-82(23), the City's Property Maintenance and Nuisance Abatement Code, with respect to the use and application of tarping at a residential structure. This appeal is not a Zoning Code variance, but rather an appeal related to a Code Enforcement notice of a violation of the said Code section. Chapter 66 requires that the Board of Adjustment make rulings on appeals within the Code section.

APPLICABLE CODE REQUIREMENTS
§66-82 of the Siloam Springs Municipal Code.

Excerpt from Section 66-82 – Declaration of certain nuisances:

“ * * * *

23. The use of tarpaulins, canvas, plastic, oil cloth, sheeting and other similar materials as fencing or to shield or enclose any structure (including, without limitation, openings for windows, doors, walls, roofs, garage doors or carports) except when temporarily necessary to perform repairs under a properly issued building permit.

* * * *”

APPEAL REVIEW CRITERIA

The following process is set forth in Code Section 66-4(e). – Violations and 66-7(a) through (g). – Appeals.

- (e) *Board of adjustment.* The authority of the Siloam Springs Board of Adjustment is specifically restricted to administrative matters. The board of adjustment is not authorized to adjudicate citations or the appeal of citations.
- (a) *Administrative appeal.* Administrative determinations may be appealed to the Siloam Springs Board of Adjustment. The following actions are not subject to administrative appeal and shall be appealed in the manner provided by law for those particular actions:
- (1) Citations heard in Siloam Springs District Court; and
 - (2) Condemnations heard by the city board of directors or a court of law.
- (b) *Timely submission of appeal.* Unless otherwise provided in this code, any person affected by a “notice of violation” or other administrative determination under this code may appeal the determination by submitting a written application to the community development department or the code enforcement division within seven days, excluding weekends and holidays, after the date the notice was personally served or posted, or from the date the notice was mailed. If no appeal is requested, it will be assumed that all elements of the notice are clearly understood and abatement action will proceed as directed.
- (c) *Contents of appeal.* A request for an administrative appeal must be made upon forms approved by the community development department or in any written form that contains the following information:
- (1) The date the appeal is submitted;
 - (2) The name and address of the appellant;
 - (3) The address of affected property;
 - (4) A description of the administrative decision being appealed; and
 - (5) The desire that the administrative decision be overturned or reviewed.
- (d) *Notice of hearing.* The board of adjustment shall consider the appeal at the next available date. The appellant shall be provided notice, by the city, of the hearing by first class mail sent to the address shown on the request for administrative appeal no less than seven days prior to the hearing.

(e) *Actions pending appeal.* No code enforcement officer may take action based upon an administrative decision while that decision is being appealed except for citations issued under section 66-4(c).

(f) *Conduct of hearing.* Hearings shall be conducted in an open forum according to such procedural rules as may be adopted by the board of adjustment. No administrative decision of a code enforcement officer may be overturned unless a determination is made that:

- (1) The true intent of this code or the rules legally adopted there under have been incorrectly interpreted;**
- (2) The provisions of this code do not fully apply; or**
- (3) The requirements of this code are adequately satisfied by other means.**

(g) *Orders.* Upon the conclusion of an appeal, the board of adjustment shall issue a written decision. Such written decision shall include notification to the person involved. The findings of the board of adjustment will be final and conclusive and, if a violation is found to exist, it shall be ordered to be corrected within a time reasonable under the circumstances.

STAFF DISCUSSION

On November 20, 2017, Code Enforcement informed Mr. Bill Parker of violations on his property. One of the violations was of Municipal Code 66-82(23), which states, “The use of tarpaulins, canvas, plastic, oil cloth, sheeting and other similar materials as fencing or to shield or enclose any structure (including, without limitation, openings for windows, doors, walls, roofs, garage doors or carports) except when temporarily necessary to perform repairs under a properly issued building permit.” Mr. Parker was in violation of this Code by having his porch on the west side of his home covered in a blue tarp and a canvas in front of the garage. Staff informed Mr. Parker that the tarps must be taken down and gave him until December 31, 2017 to do so. This giving him time to remove items from the porch or to build walls onto the porch. Mr. Parker also stated that he normally covered his windows with plastic during the winter and Code Enforcement informed Mr. Parker that that was not allowed but that he could cover them on the inside of the house.

On December 1, 2017, Mr. Parker filed an appeal of staff’s decision pertaining to the above code. Staff informed Mr. Parker that staff would assign his appeal on the next available agenda for the Board of Adjustment. On December 12, 2017 Code Enforcement did a reinspection of the house at 505 E. Helena and saw that Mr. Parker had enclosed the porch with wood siding but did still have tarps covering the doorway and the window. Mr. Parker had also removed the canvas from in front of the garage. Code Enforcement contacted Mr. Parker and asked if he was still wanting to appeal the decision of Code Enforcement and he stated yes because he plans on putting plastic over the windows and the porch may not be finished and does not require a building permit. Please note: the subject violation is shown in the first two paragraphs of the attached letter.

LEGAL NOTICE

See notice of hearing in sub-section “d” under Appeal Review Criteria in this report.

- Site posted: Not Applicable.
- Newspaper legal notification: Not Applicable.
- Letter legal notification: December 19, 2017 (Letter was signed for on December 21st).

Fiscal Impact

None anticipated related to the appeal request.

Attachments

Site Photos; Notice of Violation Letter; Appeal Application





12/1/17

Bill Parker
505 E. Helena
Siloam Springs, AR 72761

Dear Mr. Parker,

The property is in violation of City Municipal Code 66-82(23) which states, "The use of tarpaulins, canvas, plastic, oil cloth, sheeting and other similar materials as fencing or to shield or enclose any structure (including, without limitation, openings for windows, doors, walls, roofs, garage doors or carports) except when temporarily necessary to perform repairs under a properly issued building permit."

The blue tarp that is around the porch on the west side of your house is what is in violation of this code.

The property is also in violation of City Municipal Code 102-45 (b) which states, "Planned uses . Units 2 and 3; provided, however, that no more than one dwelling unit shall occupy any lot. See Municipal Code Section 102-72 for additional regulations for accessory structures.

The use of the RV for people sleeping in makes that a second dwelling unit on the property and is not allowed by this code.

You are requested to abate the above violations January 1, 2018 or request a hearing within 7 days from the mailing date of the notice.

Failure to abate the nuisance as directed or request a hearing within the required period from receipt of the notice will be cause for issuance of a citation for violation of this chapter.

Additional costs will be assessed should city resources be necessary to cause abatement of the nuisance and a lien placed on the property to recoup expenses incurred.

If you have any questions, feel free to contact me. Your cooperation is greatly appreciated.

Sincerely,

James Harris
Code Enforcement Manager
City of Siloam Springs
Jharris1@siloamsprings.com
(479) 524-6535

Received 12/1/2017
12:45 pm JSM
BA



Siloam Springs

**PLANNING COMMISSION
AND STAFF APPEAL APPLICATION REQUEST**

NOTE: COMPLETE SECTIONS IN WHITE

Application #	Date <u>12/1/2017</u>	Reviewed By
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Subject Property Address 505 E. Helena

Owner/Developer <u>Bill Parker</u>	Address <u>505 E. Helena</u>
Phone <u>238-8219</u>	Fax
	E-mail

Surveyor	Address
Phone	Fax
	E-mail

Agent for Owner	Address
Phone	Fax
	E-mail

Zoning District R-2
Present Use Residential Proposed Use Notice given applicant cease using travel trailer by 11/1/2018, and not to place plastic over outside of window

Legal Description	Lot <u>Request to</u>	Block	Addition
Specific Appeal Requested	<u>utilize travel trailer on property while clearing up residence to sell. Family to use bathroom in home. Request to place plastic over windows & back porch</u>		

Application Fee	Account Number: 08-01-475000-000	Cost \$100.00	Letter
Legal Notification	<u>to cut down cold wind. I desire to have this administrative decision overturned.</u>		

APPLICANT: I, THE UNDERSIGNED APPLICANT, DO HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAW AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW.

I/We, Bill Parker, ("Owner") am/are all of the owner(s) of real property ("Property") generally located at _____, consisting of approximately ___ acres, as shown in the evidence of ownership, Exhibit A, attached to this Agreement, and made a part hereto as though set out word for word herein. The Property is subject to the regulatory programs of the City of Siloam Springs, Arkansas. For purposes of this Waiver, "regulatory programs: shall be defined as set forth in Act 1002 of 2015. I/We have requested that the City take/approve the land use action ("Requested Action") herein set forth: _____

I/We acknowledge that as the request is processed for approval, changes may be made to the details and requirements for approval of the request. Some of these changes may materially alter the request, so that the final approval may be substantially different than originally requested. I hereby acknowledge and agree that this waiver shall include and apply to any and all such changes, regardless of execution of an additional waiver applicable thereto.

I/We acknowledge that the Requested Action may alter my/our rights to use, divide, sell or possess our Property, and that, by signing this Agreement, I/we hereby agree to waive any and all claims for diminution in value for the Property which may arise pursuant to Act 1002 of 2015 or otherwise as a result of the City's actions, including but not limited to approvals, denials or conditions of approvals with respect to the above-described Requested Action.

I/we hereby further understand that the City is acting in reliance upon my/our representations in this waiver.

APPLICATION AND WAIVER OF CLAIMS FOR DIMINUTION OF VALUE SIGNATURE

Bill Parker
PROPERTY OWNER

12-1-17
DATE

BOD APPROVED	DENIED
BOD SIGNATURE	