

CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

Tuesday, May 12, 2020 at 5:30 p.m.
City Administration Building
400 N. Broadway

VIRTUAL MEETING DUE TO COVID-19

AGENDA

I. Board of Adjustment

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes of the Regular Meeting on January 14, 2020
- D. Variance Request
 - 1. Sign Variance, BOA20-01
2396 E. Tahlequah St.
Owner: Lightning Bolt Advertising
Agent: Nathanael Stone
- E. Adjourn the Board of Adjustment

MINUTES OF THE REGULAR MEETING
OF THE BOARD OF ADJUSTMENT OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY, ARKANSAS
JANUARY 14th, 2020

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building on January 14th, 2020.

Prior to start of the Board of Adjustment Meeting, Renea Ellis, City Clerk administered the oath of office to all members of the Planning Commission.

The meeting was called to order by Chairman Colvin.

Roll Call: Montgomery, Salley, McKinney, Smith, Driscoll, Colvin, Song-Present.

Permit Technician, Brian Phillips; Community Development Director, Don Clark, Senior City Planner, Ben Rhoads; City Engineer, Justin Bland; and City Attorney, Jay Williams; all present.

A copy of the October 8th, 2019, minutes had previously been given to each Commissioner. A motion was made by Song and seconded by Driscoll to accept the minutes. A voice vote was called. Motion passed unanimously.

Item D1. Driveway and Greenspace Variance, BOA19-07, 2690 and 2500 Hwy. 412 East. Ben Rhoads briefed the item simultaneously with Item F1 of the Planning Commission agenda. Justin Bland, City Engineer, explained traffic conditions on Hwy. 412 and how the drive will help with safety. Kenny Lambert, 2690 Hwy 412 East, passed out a photo to members illustrating flooding on his property during a recent rain event. Lambert is concerned about the driveway design, people driving on his lot, and where rain will go. He would like a barrier prohibiting driving on his land and would like to have input on the design. Following discussion by the commission, a motion was made by Smith and seconded by Song to approve the item with staff's recommended conditions. Motion passed unanimously.

There being no further business, a Motion was made by Song and seconded by Driscoll to adjourn. A Voice Vote was called. Motion passed unanimously. Meeting Adjourned.

ATTEST:

APPROVED:

Renea Ellis, City Clerk

Todd Colvin, Chairman

(SEAL)



STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner *BR*
Cc: Don Clark, Community Development Director
DATE: April 19, 2020
RE: Variance Development Permit, BOA20-01 / 2396 E. Tahlequah St.

Recommendation: Based on the hardship presented by the applicant, staff does not recommend approval of BOA20-01 (Sign Variance).

However, if the Board of Adjustment desires to grant the sign variance for BOA20-01, staff recommends with the following condition:

- 1.) The applicant shall construct a monument sign as presented with the sign variance application for permit ID BOA20-01.

Section A: Background:

A-1) APPLICATION REVIEW DATE

Board of Adjustment Review: May 12, 2020

A-2) APPLICANT AND AGENT

Applicant/Owner: Nathanael Stone
Agent: Nathanael Stone

A-3) SUBJECT PROPERTY ADDRESS

2396 E. Tahlequah St.

A-4) PROJECT SUMMARY

The applicant desires TO CONSTRUCT A SECOND FREESTANDING SIGN on property in the C-1A (Light Commercial) zone. This is a direct code violation of §81-37(3)(a) of the Siloam Springs Municipal Code.

A-5) EXISTING LAND USES AND ZONING¹

<i>EXISTING LAND USE</i>	<i>EXISTING ZONING</i>
Commercial - retail	C-1A District (Roadway Commercial)
<i>PROPOSED LAND USE</i>	<i>PROPOSED ZONING</i>
No land use change is proposed	No zoning change is proposed
<i>SURROUNDING LAND USE</i>	<i>SURROUNDING ZONING</i>
North: Vacant / Wetlands	North: A-1 District (Agricultural)
South: Residential, single-family	South: R-2 District (Residential, medium) / G-I District (General Institutional)
East: Vacant	East: C-2 District (Roadway Commercial)
West: Institutional – special needs facility	West: G-I District (General Institutional)

Figure A-5 (1): General Area Map

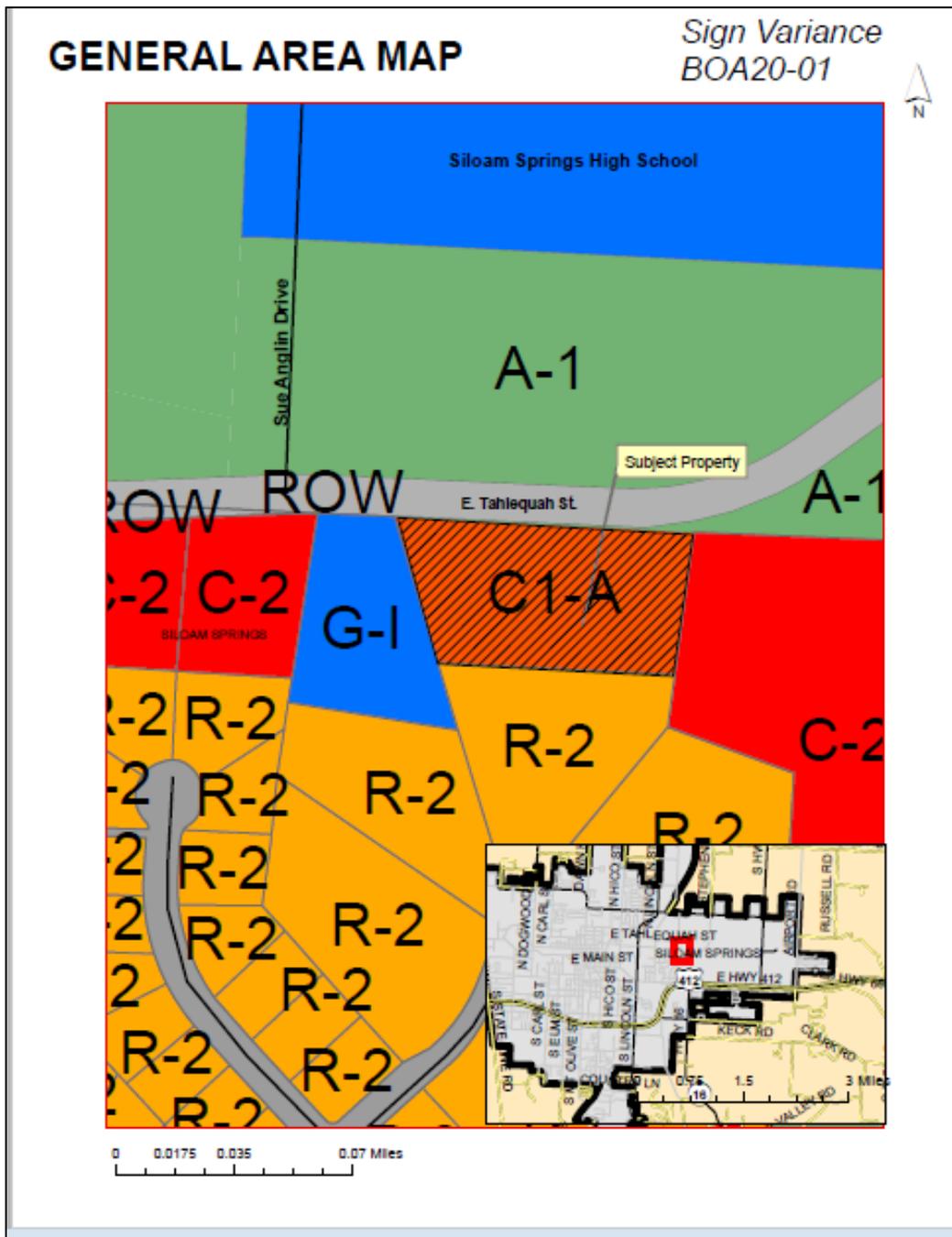


Figure A-5 (2): Site View

South



A-7) APPLICABLE CODE REQUIREMENTS

Section 81-37(3)(a) of the Siloam Springs Municipal Code.

Excerpt from Section 81-37(3) C Districts; Historic District

“ * * * * ”

a. Only one freestanding sign shall be permitted on a lot in the "C" and Historic Downtown (H-1DT) zoning districts, including at a shopping center or at a mall; provided, only one freestanding sign shall be permitted where any business is operating on two or more adjoining lots. Businesses located at an intersection of a major street may have one freestanding sign facing each intersecting street.

* * * * ”

Section B: Site Analysis

B-1) PROJECT ANALYSIS AND APPROVAL CRITERIA

Unlike traditional permit applications that are reviewed by the Planning Commission, variances do not receive a standard staff recommendation. Approval of variances are based on the Board of Adjustment’s determination as to if there is a legitimate hardship. Hardships cannot be caused by the applicant and/or be financial in nature.

The requirements necessary for the approval of a sign variance vary slightly from those requirements normally associated with Board of Adjustment variance review. For a sign variance, the Board of Adjustment is charged with deciding whether the strict enforcement of the sign code would cause practical difficulties due to the unique circumstances of the individual sign rather than finding an undue hardship related to the characteristics of the subject property.

The Sign Code Section 81-41(2) states:

The board of adjustment shall have the following powers and duties: To hear requests for variances from the provisions of this chapter (Sign Code) in instances where strict enforcement of this chapter would cause extraordinary practical difficulties due to circumstances unique to

the individual sign under consideration, and grant such variance only when it is demonstrated that such action will be in keeping with the spirit and intent of this chapter.

Additional standards found to approve a variance are found in Code chapter 54-35 shown below:

(2) The board's determination of whether approval of the development permit [sign permit] would be "in keeping with the spirit and intent of the Code" shall reflect whether, and the degree to which, the applicant has convincingly demonstrated that the proposed variance:

a. Will not substantially damage any property value in the neighborhood;

An additional free standing sign in this area is not anticipated to impact property values because it will generally aesthetically enhance the area and is spaced far enough from the secondary freestanding sign so as to not appear to be jumbled with the existing sign.

b. Will be compatible with and respect the context of its location and the character of the surrounding existing neighborhood;

The proposed sign will be consistent with other signs, to the east and west, along the same side of the street. When limiting this review strictly to the corridor's signage presentation, the proposed sign does not, on its face, appear to be out of character with the surrounding neighborhood signage context.

c. Will not substantially impair the neighborhood's quality of life, including without limitation, sound and traffic levels, pedestrian and vehicular access, visual presentment, and character;

The sign is not anticipated to hinder or harm the area's general quality of life. Its placement will not impact existing traffic levels or access to the site and its visual presentation and character is generally consistent with other signs in the area in terms of size, height, and materials.

d. Will not, by the nature of the variance, tend to burden the present or future use of neighboring properties in accordance with current zoning standards; and

No burdens appear to be generated by the proposed sign. It will be positioned on a portion of the lot that will not impact visibility to or from the subject property.

e. Is mitigated in part by permanent characteristics of the lot or adjacent uses of land including, without limitation, natural features or permanent easements.

Staff is unable to determine any existing mitigating features with the subject property, or adjacent properties, that lessens the need for a sign variance.

B-2) STAFF ANALYSIS

General Summary

The applicant is requesting a sign variance to allow two free-standing signs, the proposed sign being a monument sign, on one platted lot.

Code Violation

The Code violation is that only one free standing sign is permissible for each lot.

Hardship

The applicant's primary desire for the secondary sign is tied to the desired aesthetic improvement to the signage scheme on the site and, by extension, to the neighborhood. The building benefiting from the sign already has a wall sign for identification purposes, however the sign is only the company's logo. The proposed monument sign will contain the sign company's logo and a copy text with the business's name: Lighting Bolt Advertising.

The applicant makes an argument that the existing sign code is too restrictive in that it will not permit the applicant from adding the second sign in front of the advertising business. City staff suggested that he consider a lot split, which would allow each building to be on its own lot; however, the applicant did not pursue that solution to the Code issue believing it to not be the most appropriate remedy and has pursued this sign variance request instead.

The applicant argues the following as a rationalization of the practical difficulties presented in this case. He states, "because this large lot houses two separate and unique businesses, this [proposed] sign will help to clearly define the nature of the business it fronts. Lacking this sign results in client confusion regarding the building's purpose. This omission discourages business traffic because of the frustration it creates in customers who are wishing to speedily get in, get out, and get on with their busy day."

The primary argument presented is that of site legibility to the customer and public. While it can be argued that the sound recording studio, the building to the east of the advertising company, enjoys the existing free standing sign, staff remains puzzled as to why customers cannot distinguish between the two buildings when there is already a prominent wall sign above the door of the advertising company with the logo of that company. If site legibility is a legitimate issue, the applicant could add copy text to the existing wall sign, similar to what is shown on the proposed monument sign, to better identify the location of the advertising company.

The applicant goes on to argue, "Also, although the two businesses and parking lot are owned and operated by the same person, even the locals driving past the property would have no way of knowing this and would clearly be puzzled and even irritated that the businesses are not clearly defined by signage." City staff asked for documentation, complaints, or testimonials from customers puzzled by the ill-defined businesses and no additional documentation was presented by the applicant.

In terms of hardships, staff does not concur that there is one in this case. As a reminder, the approval criteria for a sign variance, as copied in Section B-1 of this report, primarily rests on the applicant's ability to demonstrate extraordinary practical difficulties unique to the specific circumstance of the individual sign under consideration (not the property as a whole). Furthermore, that granting a sign variance must be in keeping with the overall spirit and intent of the sign code. The applicant also argues that, "If approved, this sign will complement other signs currently facing E. Tahlequah due to its similar design and construction matching other businesses located on the street. Additionally, should the owner wish to split the lot into two parcels at some future date, both signs would be compliant with the city's sign code."

The applicant argument, when distilled down to its base characteristic, is one of aesthetics. The applicant wants to erect a high-quality monument sign to better improve the overall presentment of the business and to better mirror the sign that is already in place on the east side of the main entrance. The business benefiting from the proposed sign primarily deals with signs and advertising, so this plays into the desire for the proposed sign as a demonstrative feature of the company's products. While this is an admirable effort on the part of the applicant, staff is unable to determine how this desire for aesthetics can be deemed an extraordinary practical difficulty for want of advertising and business identification. The applicant has a variety of options he could pursue to address this Code issue. These are to A) split the lot with a shared access drive so each business is on its own lot; B) construct a monument sign that would function as a joint identification sign (similar to what is seen in a shopping center) so that both businesses are identified with one sign structure; or C) improve the existing wall sign displayed at the advertising business so the same content proposed on the monument sign is displayed on the business's wall. Each building is permitted up to 4 wall signs, so the existing sign over the front door could remain with a new sign added to the front, north-facing, wall.

Finally, the second part of the approval criteria specifically for sign variances states that an approved variance shall be in keeping with the general spirit and intent of the sign code. The sign code limits the number of free-standing signs on a property, in part, to avoid sign stacking, where multiple signs are placed in close proximity so the end result is a cluttered, incoherent mass of competing messages distracting to the viewer, usually a motorist, and generally visually unattractive. Staff finds that the request for a second sign is on a lot large enough that it could be split in the future, thus allowing for the second sign. As such, the signs are spaced far enough apart that if the variance is granted, it would not be out of keeping with the spirit of the regulations.

Conditions and Staff Conclusions

Based on the hardships presented by the applicant, staff is unresponsive of the claim of a legitimate hardship unique to the sign under consideration. If the Board of Adjustments desires to grant the variance, staff recommends that the applicant be required to construct the monument sign design that is presented with this application.

B-3) LEGAL NOTICE

- Site posted: April 8, 2020.
- Newspaper legal notification: April 22, 2020 (Herald Leader).
- Letter legal notification: April 13, 2020.
- Staff received no calls or correspondence on the request.

Section C: Fiscal Impact

There is no fiscal impact anticipated at this time.

Attachments:

Statement of Hardship
Sign Plan



SIGN VARIANCE
STATEMENT OF HARDSHIP

Name: Nathanael Stone Circle one: Agent for Owner / Owner

Address or description of property:

2396 E Tahlequah St., Siloam Springs

The Board of Adjustment may approve a sign variance permit *only* after determining from the evidence and arguments presented that the conditions listed below do exist. Please describe how your request satisfies each of these conditions.

1. The need for this variance arises from the unique aspect of the sign which causes practical difficulties.
Because this large lot houses two separate and unique businesses, this sign will help to clearly define the nature of the business it fronts. Lacking this sign results in client confusion regarding the building's purpose. This omission discourages business traffic because of the frustration it creates in customers who are wishing to speedily get in, get out, and get on with their busy day. Also, although the two businesses and parking lot are owned and operated by the same person, even the locals driving past the property would have no way of knowing this and would clearly be puzzled and even irritated that the businesses are not clearly defined by signage.
2. If approved, this variance will not burden the present or future use of neighboring properties and will not damage any property value or quality of life in the neighborhood:
If approved, this sign will complement other signs currently facing E. Tahlequah due to its similar design and construction matching other businesses located on the street. Additionally, should the owner wish to split the lot into two parcels at some future date, both signs would be compliant with the city's sign code.

Lightning Bolt Advertising

Page 2/3: Monument Sign



Cut vinyl and metal letters on ACP 48 x 96"



Please check all spelling, numerical, and quantitative elements before approving.

Approved By _____

Date _____

Lightning Bolt Advertising

Page 3/3: Monument Sign



Cut vinyl and metal letters on ACP 48 x 96"



Please check all spelling, numerical, and quantitative elements before approving.

Approved By

Date