

CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

Tuesday, September 14, 2021 at 5:30 p.m.
City Administration Building
400 N. Broadway

AGENDA

I. Board of Adjustment

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of Minutes of the Regular Meeting on November 10, 2020
- E. Variance Request
 - 1. Lot Width Variance, BOA21-01
882 S. Lincoln St.
Owner & Agent: Homeland Investors, Inc., Floyd Reed
- 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
NOVEMBER 10, 2020

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building on November 10, 2020.

The meeting was called to order by Chairman Smith.

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

Present City Staff: Senior City Planner, Ben Rhoads; City Engineer, Justin Bland; City Attorney, Jay Williams; and Permit Technician, Brian Phillips; all present.

A copy of the May 12, 2020, minutes had previously been given to each Commissioner. A motion was made by Driscoll and seconded by Salley to accept the minutes. A Voice Vote was called. Motion passed unanimously.

Item D1. Open Space Variance, BOA20-02, 2500 Hwy. 412 East. Ben Rhoads briefed the item. Following discussion by the commission, a motion was made by McKenzie and seconded by McKinney to approve the item. 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

J.W. Smith, Chairman

(SEAL)



STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner *BR*
Cc: Don Clark, Community Development Director
DATE: August 19, 2021
RE: Variance Development Permit, BOA21-01 / 882 S. Lincoln St.

Recommendation: Based on the hardship presented by the applicant, staff recommends approval BOA21-01 (Variance).

Section A: Background:

A-1) APPLICATION REVIEW DATE

Board of Adjustment Review: September 14, 2021

A-2) APPLICANT AND AGENT

Owner & Agent: Homeland Investors, Inc., Floyd Reed

A-3) SUBJECT PROPERTY ADDRESS

882 S. Lincoln St.

A-4) PROJECT SUMMARY

The applicant desires to CONSTRUCT AN OFFICE USE ON A LOT FIVE FEET LESS THAN THE REQUIRED LOT WIDTH, on property in the R-3 (Residential, two family) zone. This is a direct code violation of §102-46(d)(2) of the Siloam Springs Municipal Code.

A-5) LEGAL NOTICE

- Site posted: August 6, 2021.
- Newspaper legal notification: August 25, 2021 (Herald Leader).
- Letter legal notification: August 18, 2021.
- Staff received no calls or correspondence on the request.

A-6) REFERENCE APPLICATIONS

The following application is associated with this request:

- SU21-09 (Special-Use Development Permit).

This application was heard at the August 10, 2021 regular meeting of the Planning Commission.

A-7) EXISTING LAND USES AND ZONING

<i>EXISTING LAND USE</i>	<i>EXISTING ZONING</i>
Vacant ¹	R-3 District (Residential, two-family)
<i>PROPOSED LAND USE</i>	<i>PROPOSED ZONING</i>
Small Office (Use Unit 8)	No zoning change is proposed
<i>SURROUNDING LAND USE</i>	<i>SURROUNDING ZONING</i>
North: Commercial services / retail	North: C-2 District (Roadway Commercial) ² / R-3 District (Residential, two-family) ²
South: Vacant	South: R-3 District (Residential, two-family)
East: Light Industrial <i>Separated by S. Lincoln St.</i>	East: C-2 District (Roadway Commercial) <i>Separated by S. Lincoln St.</i>
West: Vacant	West: R-3 District (Residential, two-family)

¹The property was recently made vacant due to the demolition of the previous derelict structure on the site.

²This property is also in the H-1 (Historic) overlay zoning district.

Figure A-7 (1): General Area Map

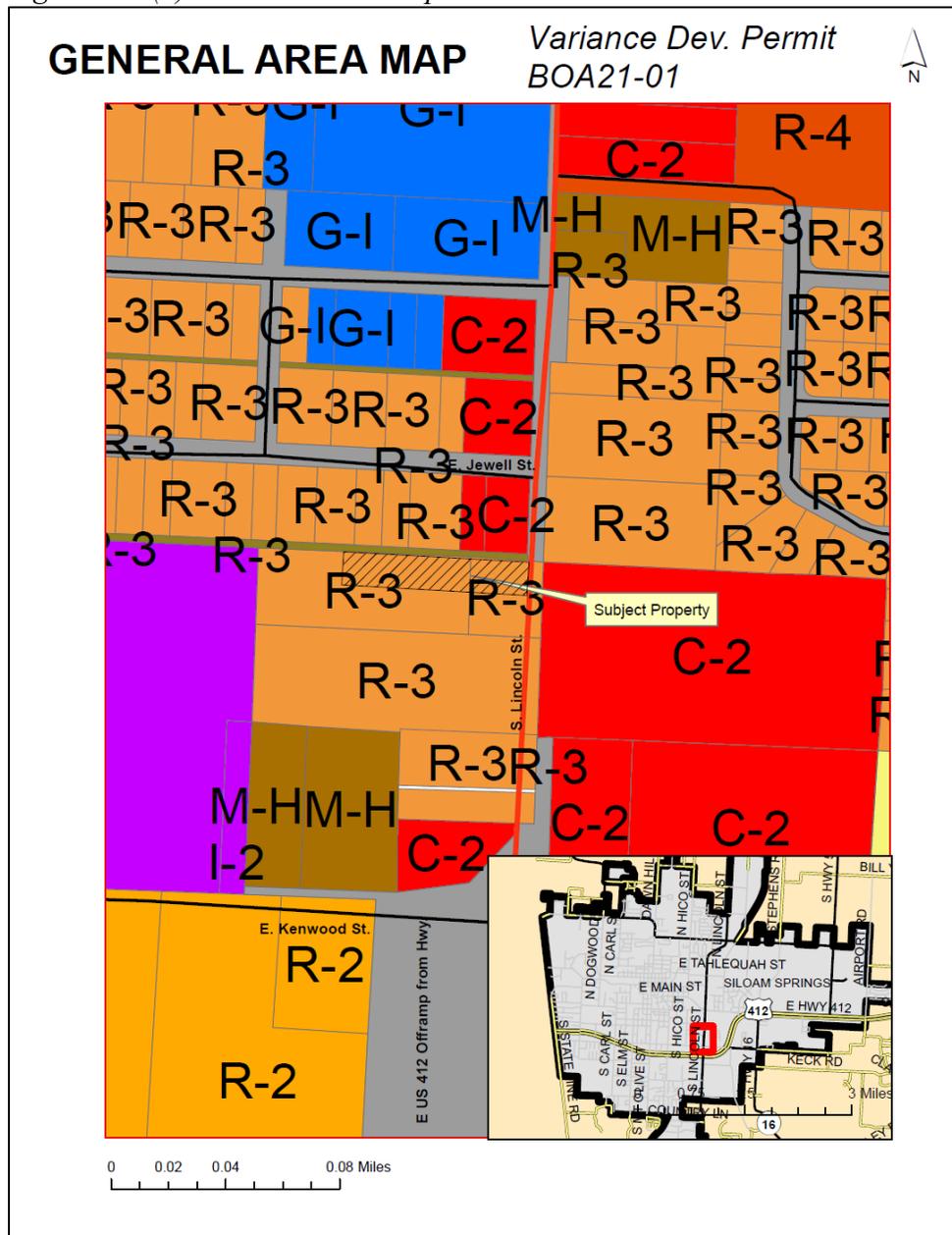


Figure A-7 (2): Site View

North



(Note, the dwelling in light blue, shown in the photo above, is now demolished)

A-8) APPLICABLE CODE REQUIREMENTS

Section 102-46 of the Siloam Springs Municipal Code.

Excerpt from Section 102-46(d) Lot dimensions

“ * * * * ”

(2) *Minimum lot width:*

- a. 60 feet for lots containing one single-family dwelling only; and
- b. 70 feet for all other lots.

* * * * ”

Section B: Site Analysis

B-1) PROJECT ANALYSIS AND APPROVAL CRITERIA

Unlike traditional permit applications that are reviewed by the Planning Commission, variances receive a staff recommendation based on whether there is a perceived legitimate hardship. Approval of variances are based on the Board of Adjustment’s determination as to if there is a hardship based on the following criteria shown in Section 54-35 of the Municipal Code.

- (1) The board’s determination of whether there is “undue hardship unique to the property” should reflect whether, and the degree to which, the applicant has convincingly demonstrated that:
 - a. The need for the variance arises from a uniqueness of the property not frequently occurring in the zone; and that

- b. The uniqueness of the property was not caused, allowed, or known prior to purchase, by the owner, **or** has existed for a minimum of 15 years.

The undue hardship identified to the property is the unusually narrow lot width compared to its peers, this hardship has existed for 15 years. According to land records, it appears that the lot size, as determined by a deed from 1952, has been in place for over 15 years.

- c. The identified hardship relates to a measurable aspect of the property and is not financial in nature.

A lot width variance was triggered by the applicant changing the land use on the lot from single-family residential to office. The lot width required for a single-family home is 60 feet, the lot width required for any other use (not single-family) is 70 feet. The lot width is measured at 65 feet wide. The applicant has indicated in their attached Statement of Hardship that this is not a financial hardship.

- d. The variance granted is the minimum necessary to alleviate such practical difficulties or the identified undue hardship upon the owner of the property.

A lot width variance is not permitting a new improvement to violate code, rather it is to use a lot in such a manner as to permit a more narrow lot width than is otherwise required. Therefore, the nature of the variance is the most minimum necessary to alleviate the difficulty of not being able to use the lot for anything other than a single-family dwelling.

(See the attached Statement of Hardship form for the applicant's argument for a hardship.)

- (2) The board's determination of whether approval of the development 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;

A lot width variance in this area is not anticipated to impact property values because the proposal is not making physical changes to the lot configuration. The proposal is merely using the lot for a land use that is not a single-family dwelling. Given that this lot fronts on a major commercial thoroughfare, it is staff's opinion that a commercial use will not negatively impact existing property values.

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

City staff is aware of no evidence that the proposed lot width variance will be inconsistent with the neighborhood context and character. The variance will allow for a small office use, this is consistent with the current built environment on S. Lincoln St. A retail business is located next door to the property to the north.

- 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;

City staff is aware of no evidence that the proposed lot width variance will cause a consistent disturbance to the peace and enjoyment of the neighboring properties. Quality of life criteria such as traffic impact, sound emissions, pedestrian and vehicular access, the visual presentment, and the character associated with a granted variance are not anticipated to change negatively on the neighborhood. The proposed use is a small office, this will appear visually similar to the former dwelling that is now demolished.

- 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

City staff is aware of no evidence that the proposed lot width variance will cause a use disturbance. Commercial properties will be permitted to operate and be used in the same manner, as others in the neighborhood, if this variance request is granted.

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

Because the variance is a matter of providing a new land use on the property, rather than a physical change to the property, this criterion is not applicable to the proposed variance. The lot width is remaining the same, it is the land use that is changing and the Code requires a wider lot width for the proposed land use.

(3) *Conditions.* The development permit allowing variance from land regulations may require, as a material condition essential to any authorization it confers, that any lots and any construction be located and designed in a manner which best:

- a. Provides safe and convenient traffic flow;
- b. Maximizes the effectiveness of all drainage patterns and facilities; and
- c. Remains compatible with neighborhood architecture and layout, and with city growth and planning.

The applicant's failure to fully perform the conditions shall render the development permit void and invalid and of no further effect, and the use shall immediately be conformed to the applicable regular zoning standards of this Code without any period of nonconformity.

The proposed variance will not impede or disrupt existing traffic flow. Further design of the office in terms of the effectiveness or drainage patterns and facilities on the site, and in the area, remains to be determined. However, there are no indications that there will be issues in this area. The variance will not impact the neighborhood architecture and layout. As mentioned, a commercial use in this area is suitable for the neighborhood given the predominance of like uses in the vicinity.

B-2) STAFF ANALYSIS

General Summary and Code Violation

The applicant is requesting a lot width variance of five feet, allowing a small office use on a 65 foot wide lot. The Code requires R-3 lots to be at least 70 feet for land uses that are not single-family. The small office is a special use in the R-3 zone and a separate special use permit is also under consideration for the office use. This requested variance is not dependent on the approval of the office special use, which was recommended for approval by the Planning Commission on August 10th, provided this variance application is approved. The variance is unusual in that it does not involve making physical alterations to anything in a manner that violates the Code, rather it is a land use question. The question being if the requested variance is appropriate to allow for another land use that is not single family on a lot that is five feet too narrow than the minimum lot width required by Code. The current lot width condition cannot be considered legal nonconforming, i.e. “grandfathered”, because the previous land use on the lot was a single-family home. When the house was on the lot, the minimum required lot width was 60 feet; this changed once the house was demolished, the lot lost its status as a single-family lot.

Hardship

Staff concurs that there is a hardship in this case. The applicant argues that “most R-3 lots are 70 feet wide, this is an unusual lot size and is substandard. Converting the use as a small office is a logical step.” The applicant goes on to argue that “the lot size has not changed in years.” Staff checked the ownership status of the property and deed records dating back to 1952 confirms that this condition has been in place for at least 15 years. In terms of the unique aspects of the property, the root of the problem is not the lot width per se, but the lot’s somewhat unique location. Most single-family and two-family lots in the R-3 zone tend to be within residential neighborhoods, this lot fronts on S. Lincoln St. Commercial and industrial uses exist to the north and east of the subject property. Broadly speaking, S. Lincoln St. is described as a commercial and industrial corridor. Therefore, the addition of a new office makes sense in this location from a land use perspective and is likely a better fit with the area than a single-family house due to the high traffic impact affecting the quality of life of a residence fronting on a major commercial corridor.

As seen on the general area map, the R-3 zone is common along S. Lincoln St., and much of this zoning is mismatched with the existing land uses which are all considered legal nonconforming. Nonetheless, should one of these residentially used properties seek a future special use permit for a small office, they are all well over 65 feet in width. For example, the R-3 lot to the south of the subject property is 99 feet wide and the one located to the northeast is 157 feet wide. With one other exception for parcel 03-00097-001, which is located on the east side of S. Lincoln St. across from the Veterans of Foreign Wars Post 1674 facility, all other R-3 lots fronting on S. Lincoln are wider than 70 feet. The exception lot, in fact, could be counted as wider if the larger section at the rear was used for the construction, which is wider than 70 feet, and the setbacks are pushed to this wider section of the lot. By definition, lot width is measured at the front setback line. This singles out the subject property as one of a kind in terms of its width and use status. The analysis of the neighboring R-3 lot’s widths is important as it establishes the presented hardship as unique, not frequently occurring in its designated zone district. This is one of the primary criteria used to determine a legitimate hardship.

Conditions and Staff Conclusions

Staff affirms that there is a legitimate hardship for the proposed variance, no suggested conditions are needed. Staff will ensure that future building on the property meets the minimum standards set forth in the R-3 zone and relevant building codes.

Section C: Fiscal Impact

A street fee will be collected upon building permit issuance.

Attachment:

Statement of Hardship

9/9/2021 P.N. 03-00079-000. BOA21-01



CITY OF
Siloam Springs
It's a natural.

STATEMENT OF HARDSHIP

Name: HomeLand Investors, Inc , Floyd Reed, President

Check one:

Agent for Owner

Owner

Address or description of property:

882 S Lincoln , Siloam Springs , AR

The Board of Adjustment and/or Board of Directors may approve a variance development 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 a uniqueness of the property not frequently occurring in the zoning district:

The lot known as 882 S. Lincoln is 65' in width, most R-3 lots are 70' wide, this is an unusual lot size and is sub-standard. Converting the use as a small office is a logical step.

2. This uniqueness of the property was not caused, allowed, or known prior to purchase by the owner or has existed for a minimum of fifteen (15) years:

This property has been used in the past as a junk/salvage yard and most recently as a residence. The lot size has not changed for years - I inherited (purchased) the lot "as is".

3. 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:

As I see it this variance will not burden nor disrupt the current nor future use and/or neighboring property owners. In fact, I believe this variance will prove to be beneficial to all parties concerned.

Thank You!
Floyd Reed