

# **CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT**

Tuesday, October 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 July 10, 2018
- D. Variance Request
  - 1. Setback Variance, BOA18-04  
511 W. Tulsa St.  
Owner and Agent: Overdrive Church, Inc. – Tyler Daugherty and Rev. Chris Whitaker
- E. Adjourn the Board of Adjustment





## STAFF REPORT

TO: Board of Adjustment  
FROM: Ben Rhoads, AICP, Senior Planner *BR*  
Cc: Don Clark, Community Development Director  
DATE: September 19, 2018  
RE: Variance Development Permit, BOA18-04

**Recommendation:** City staff does not provide recommendations for variances.

### **Background:**

#### APPLICATION REVIEW DATE

Board of Adjustment Review: October 09, 2018

#### APPLICANT AND AGENT

Applicant/Owner: Overdrive Church  
Agent: Overdrive Church – Tyler Daugherty

#### SUBJECT PROPERTY ADDRESS

511 W. Tulsa St.

#### PROJECT INTENT

The applicant desires to UTILIZE A PLACED STORAGE CONTAINER ACCESSORY STRUCTURE THAT ENCROACHES 4.0 FEET INTO ITS 8-FOOT REAR SETBACK AND ENCROACHES 3.0 FEET INTO THE REQUIRED 8-FOOT BUILDING-TO-BUILDING SEPARATION, on property in the C-2 (Roadway Commercial) zone. This is a direct code violation of §102-72(2)(a) and (c) of the Siloam Springs Municipal Code.

#### INTERNET MAP INFORMATION

Planning staff has created a map made with Google My Maps.  
Attribution: Map data ©2018 Google Imagery ©2018, 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=1FghWFIAePDoXpPthzSPPjcDVeiRXS6Tr&usp=sharing>



(See the attached Statement of Hardship form for the applicant's argument for a hardship. Hardships cannot be financial in nature.)

- (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, without fair recompense, any property value in the neighborhood;
  - b. 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;
  - c. 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
  - d. Is mitigated in impact by permanent characteristics of the lot or adjacent uses of land including, without limitation, natural features or permanent easements.
- (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.

### **STAFF DISCUSSION**

The applicant is requesting an accessory building setback variance of 4.0 feet, the maximum possible, on the 8-foot rear setback and an encroachment of 3.0 feet into the required building-to-building separation on Lot 14 of the Carl's Addition. The request originated when the applicant installed a metal shipping container, see the attached drone view, at the rear northwest corner of the property. The accessory building application was flagged by Code Enforcement as a violation of the Code requirements for placement of such structures. The applicant has elected to apply for a variance to continue to use the structure as shown. The container structure is a pre-fabricated unit, constructed off site, with the dimensions of 8-ft wide by 40-ft. deep. The total space behind the shopping center, which does not meet current C-2 setbacks, is 17 feet. The required rear building setback is 35 feet. If the structure was placed 8 feet from the rear property line, that would only leave 1'-0" from the side wall of the unit to the rear wall of the shopping center. Not only does this increase the building-to-building separation encroachment beyond 50% of its value, this would inhibit the safe fire egress of two of the suites within the shopping center, one of which is presently leased out to a different entity, the other suite remains unleased at this point. The proposed positioning allows for a 5-foot wide passage between the shopping center and the storage container. This is wide enough to allow for the rear doors to open for safe pedestrian egress. The doors open to the right, with egress to the west. The Fire Marshal reviewed this area and finds it acceptable for safe fire egress.

The applicant explored other locations on the lot to place the 320 sq. ft. container, however due to the design of the shopping center, there are no locations that would not use needed parking, inhibit access to the dumpster area, inhibit drive access, or would conceal the unit as it is not aesthetically complementary to the shopping center or neighborhood. This can be clearly observed when looking at the drone photos showing that the site is maxed out on developable space. This limitation should be taken into account, as the property does not represent a typical development

pattern for a C-2 lot due to its lot coverage and setback encroachments, which are considered legal-nonconforming to the Zoning Code. Furthermore, the Zoning Code does not permit this unit to be placed in the green lawn area that is located at the southwest corner of the site due to rules that such structures must not encroach into the principal building's front setback area.

In terms of hardships, staff concurs that there is one in this case. The applicant argues that relocating the container will "result in the church and our current tenants losing valuable parking spaces." The applicant goes on to argue that "placing it on the west side of the building will hinder access to our sanitation dumpster and cardboard container." In terms of the unique aspects of the property, the root of the problem is the existing development pattern; the shopping center is too large for the lot it was built on when utilizing the current Code standards. Property records suggest that the center may have been built in 1988, which pre-dates the current zoning standards. The applicant argues that "we learned that when the building was first built it was not built within the guidelines of city codes as they are today. This places an unforeseen additional hardship in meeting current city code." Staff concurs that the placement of the container does not damage existing property values. The residential homes to the north are screened from the container, and no contact has been made from the occupants of these residences regarding this request.

#### LEGAL NOTICE

- The site was posted: September 05, 2018.
- Newspaper legal notification: September 19, 2018 (Herald-Leader).
- Letter legal notification: September 13, 2018.
- Staff received no phone calls or correspondence on the request.

#### **Fiscal Impact**

None Anticipated.

#### **Attachments**

Statement of Hardship  
Site Plan  
Drone View  
General Area Map





CITY OF  
**Siloam Springs**  
*It's a natural*

Name: Overdrive Church, Inc. Telephone: 855.456.5437

Address: 511 W. Tulsa St. Suite 104

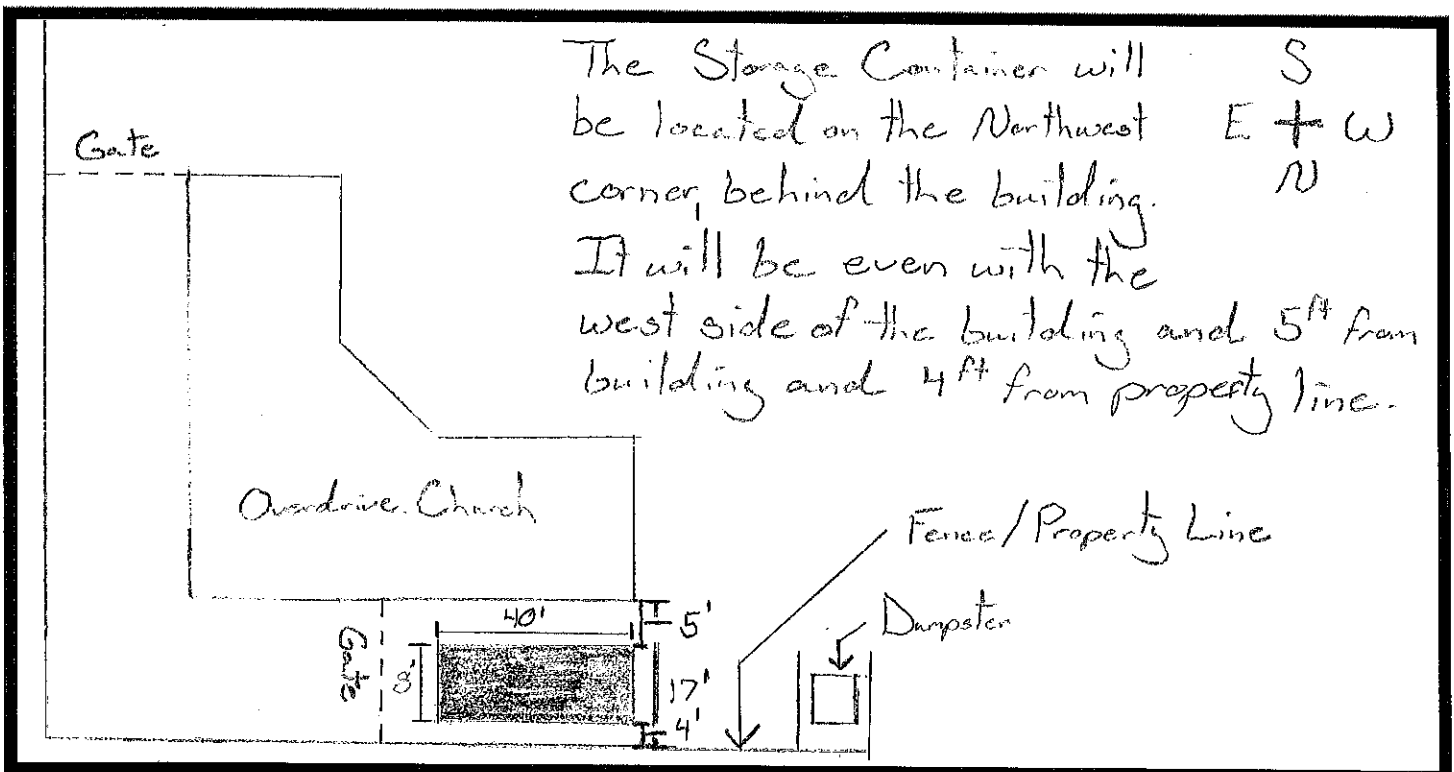
Property Owner's Name: Tyler Daugherty Telephone: 479-549-7100

Email: tyler@overdrive.church

Accessory Building Dimensions: length 40<sup>ft</sup> x width 8<sup>ft</sup> = Total square footage: 320<sup>sq/ft</sup>

If you do not own the property, the property owner will have to be notified and give us verbal permission before permit will be issued.

Below please draw where the accessory building will be located on the property giving distance from rear property line, side property line, and principal structure. Please include the principal structure in the drawing.





# BOA18-04 – Overdrive Church

# Drone View Looking East



# GENERAL AREA MAP

Setback Variance  
BOA18-04

