# CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

(Special-Called)

Tuesday, January 12, 2016 at 4:00 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 regular Meeting on September 22, 2015
D. Variance Permit Approval

1. Sign Variance Development Permit, BOA15-08
   4703 Hwy. 412 East
   Owner: Cobb-Vantress
   Agent: Arkansas Sign & Banner – Joe Conway

2. Variance Development Permit, BOA15-09
   405 E. Cornell St. 413 W. Elgin St., 601 N. Elm St.
   Owner: Alpine Homes, LLC / Rusty White
   Agent: Blew and Associates, PA – Heath Myers

3. Variance Development Permit, BOA15-10
   2500 Hwy 412 East
   Owner: Quad SS, LLC/ Tim Clower
   Agent: Blew and Associates, PA. – Jorge Du Quesne, PE

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, HELD SEPTEMBER 22, 2015

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building, September 22, 2015.

The meeting was called to order by Chairman Mounger.

Roll Call:
Blakely, Brown, Mounger, Williams, Smith – Present.
Colvin, Stewart – Absent

City Clerk, Renea Ellis; Steve Miller, acting for Jay Williams, City Attorney; Justin Bland, City Engineer; and Senior City Planner, Ben Rhoads.

A copy of the Special-Called meeting on April 14, 2015 minutes had previously been given to each Commissioner. A motion was made by Smith and seconded by Williams that the minutes of the April 14, 2015, meeting be approved as presented. Chairman Mounger called for a voice vote on the motion, all ayes. Motion passed.

The only agenda item was a Variance Development Permit Approval, BOA15-05 for 228 Lake Francis Drive (City of Siloam Springs), Justin Bland, PE, City Engineer. Ben Rhoads, Senior Planner, briefed the item. A motion was made by Brown and seconded by Williams to approve the Variance Development Permit Approval, BOA15-05 for 228 Lake Francis Drive (City of Siloam Springs).
Roll Call:
Blakely, Brown, Mounger, Williams, Smith – Aye.
5 Ayes. No Nays. Motion Approved.

Chairman Mounger stated he is glad to see a park on the South Side.

There being no further business, a Motion was made by Williams and seconded by Brown to adjourn. A voice vote was taken. All ayes. 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
Cc: Don Clark, Community Services Director
DATE: December 10, 2015
RE: Sign Variance Development Permit, BOA15-08

**Recommendation:** City staff does not provide recommendations for variances. City staff concurs that there is a legitimate hardship in this case.

**Background:**

APPLICATION REVIEW DATES
Special-Called Board of Adjustment Review: January 12, 2016

APPLICANT AND AGENT
Applicant/Owner: Cobb-Vantress
Agent: Arkansas Sign and Banner – Joe Conway

SUBJECT PROPERTY ADDRESS
4703 Hwy 412 East

PROJECT INTENT
The applicant desires TO CONSTRUCT FREESTANDING MONUMENT SIGN IN AN I-1 (INDUSTRIAL) ZONE AND TO ILLUMINATE THE SIGN BY DIRECT ILLUMINATION. This is a direct code violation of Section 81-39.2 and 81-39.2(1) of the Municipal Code.

INTERNET MAP INFORMATION
Planning staff has created a map made with Google My Maps.
Attribution: Map data ©2015 Google Imagery ©2015, 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://www.google.com/maps/d/edit?mid=zHgGzzL4Wl4o.ki3-qR6ZMqEk&usp=sharing

(Note: Additional applications appear on this map that are not set for review at the 1/12/16 B.o.A. meeting, these will be reviewed at the 1/26/16 meeting)

| EXISTING LAND USE | EXISTING ZONING |
|---|---|
| Office | I-1 District (Industrial) |
| **SURROUNDING LAND USE** | **SURROUNDING ZONING** |
| North: Municipal Airport | North: I-1 District (Industrial) |
| South: Industrial/Retail/Office | South: C-2 District (Roadway Commercial)/ I-1 District (Industrial) |
| East: Municipal Airport | East: I-1 District (Industrial) |
| West: Industrial Processing | West: I-1 District (Industrial) |

APPLICABLE CODE REQUIREMENTS

Sec. 81-39.2 thru Sec. 81-39.2(1) of the Siloam Springs Municipal Code.

*Excerpt from Section 81-39.2 Monument Signs:*

" * * * *

Monument signs shall be permitted only in the A, R, C, G-I, and H zoning districts, and shall meet the following standards:

(1) Illuminated monument signs shall use indirect lighting only;

* * * *"

STAFF DISCUSSION

Unlike traditional permit applications that are reviewed by the Planning Commission, variances do not receive a 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.

The applicant desires to construct a new freestanding monument sign at the location of the corporate headquarters of Cobb-Vantress, Inc., a poultry processing industry. The offices and processing facilities are located on abutting lots, all associated lots are zoned I-1 (Industrial). I-1 allows for both industrial office uses and processing. Signage is permitted in industrial zones, but monuments signs are not. This is more than likely an assumption that the headquarters of an industry, being more office use than industrial processing, would be zoned C-2, which would permit such signs. Incidentally, it is unclear

why the Sign Code would exclude these signs in any zone, given they are generally an attractive alternative to a typical pole sign. Monument signs are defined as free standing signs that do not use a pole, or similar structure, to erect the sign facing. These signs are generally made of natural materials, such as brick or stone, and are set lower to the ground. Finally, the applicant is requesting that the sign have direct illumination. The Sign Code specifies that monument signs cannot be internally lit, or that illumination be indirect, which means an exterior light source is directed to shine on the sign's surface, similar to older styled signs that have exterior lights that hang over the face and illuminate the sign's area below.

The applicant states in their Statement of Hardship (attached) that the sign will improve the overall aesthetics of the community and will emit less light pollution when compared to a traditional pole sign design. The applicant also indicates that they were not aware that the lot in question was zoned industrial, as it could be assumed to be commercial given the use for this particular lot is office and not industrial processing.

Finally, with regards to the lighting, the applicant's agent makes the following statement. "We work with many, many municipalities and with few exceptions we have had to move away from all externally illuminated signs to internally illuminated signs for three compelling reasons. The first is driver / roadway safety. Internally illuminated signs provide significantly longer visibility for drivers allowing drivers to maintain a more constant speed with prevailing traffic. The second factor is environmental. Externally illuminated signs by their nature throw light at a sign and reflect light off the sign sideways and upward. This creates light going to unintended areas. Internally illuminated lighting on the other hand is lighting a specific surface with light not projecting upward, sideways or in any manner away from the sign. The third element involves safety as well. Inadvertently the devices that illuminate externally illuminated signs are damaged or broken by lawnmowers, weed eaters or vandalism with the result of the light moving away from the sign to unintended areas, possibly even the roadway creating glare and a resulting safety crisis. Internally illuminated signs prevent this from possibly occurring due to the lighting being self-contained, within the sign."

In the next Sign Code update, staff intents to add industrial zones to the allowed zones permitting monument signs. The fact that these signs are prohibited in industrial zones is more than likely the assumption that industrial uses would not disburse the added expense for these types of signs. This is clearly not the case and the City encourages the use of these signs as much as possible to improve the overall aesthetics of Hwy. 412 and other areas. It could also be argued that the practical difficulty, in this case is the restriction of sign design options available to the applicant, particularly in the case where a company's headquarters desires to use an upgraded sign display to reflect their image to their customers and the community. Therefore, prohibiting monument signs creates practical difficulties on the applicant. Staff believes permitting a monument sign at this location is in keeping with the general spirit and intent of the Sign Code. Staff concurs that the applicant has provided a compelling argument against indirect sign illumination. Staff believes there can be arguments made on either side of the issue, but is willing to take the issues raised by the applicant under consideration. It is assumed that the Code restricts lighting to indirect only primarily for aesthetic purposes, but given the preponderate signage along Hwy. 412, an internally lit sign will not be out of character with the neighborhood, or detrimentally impact surrounding properties. Due to the Sign Code limitations aforementioned, staff believes the applicant has legitimate hardships.

LEGAL NOTICE

Staff received no information that:

- the proposal interferes with the reasonable peace or enjoyment of the neighboring properties;
- the property values will be substantially damaged;
- the proposal is not adequately supported by infrastructure.

- Site posted: December 02, 2015.
- Newspaper legal notification: December 23, 2015 (Herald-Leader).
- Letter legal notification: December 21-24, 2015.
- Staff received no phone calls or correspondence on the request.

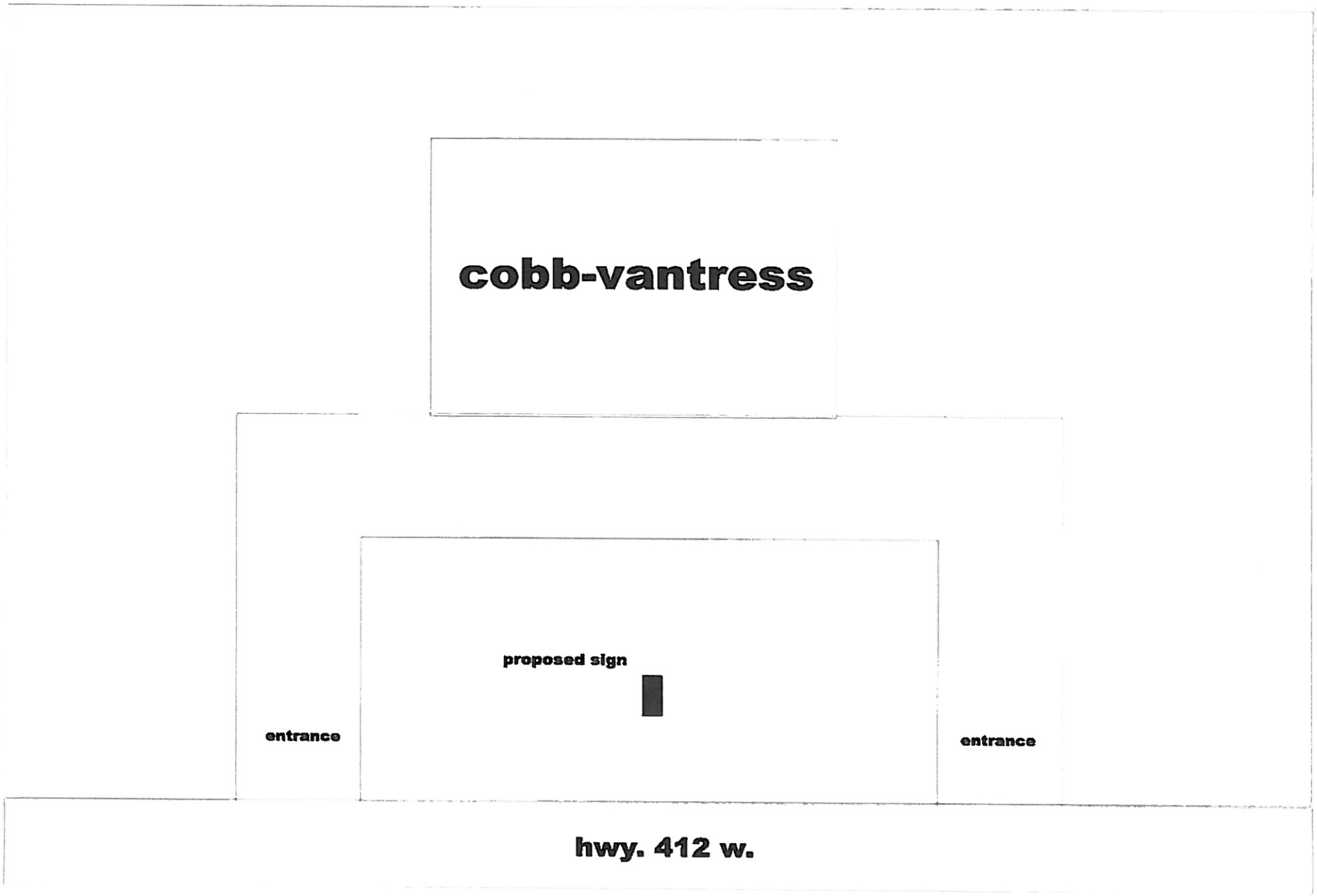
**Fiscal Impact**

None

**Attachments**

Sign Exhibit
Statement of Hardship
General Area Map

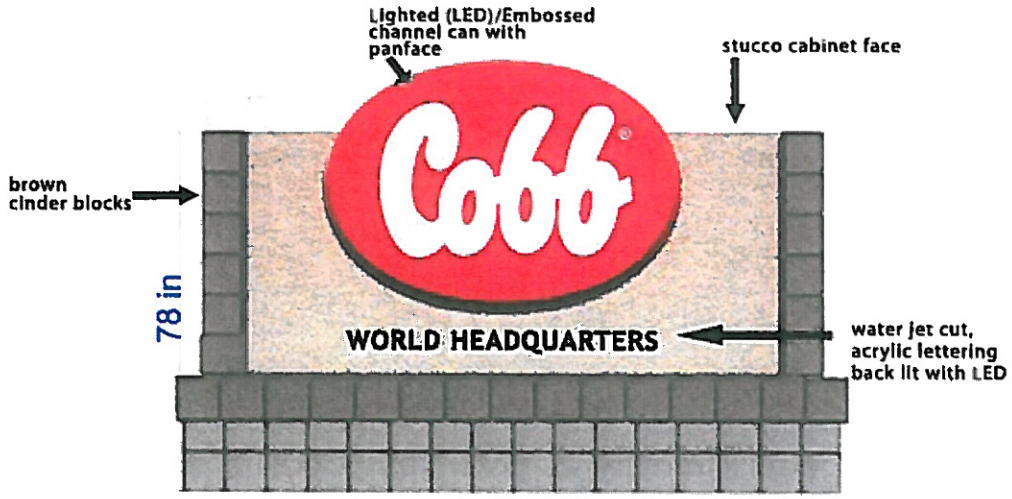
1st Submittal



ASB ARKANSAS SIGN & BANNER
1914 S Walton Blvd Suite 4 • Bentonville, AR 72712
Contact: Clint Elam
clint@arkansassign.net
Bus: 479-271-9722 • Fax: 479-271-9762

Contact: Kendall Layman Company: Cobb-Vantress Date: 10/26/15 Due:

Phone: 479-427-6004
Email: kendall.layman@cobb-vantress.com




W W W . A R K A N S A S S I G N . N E T

## PRODUCT

94"x144" Double Sided Monument sign

## MATERIAL

## INSTALLATION

INFO:

Every effort has been made to ensure the accuracy of this document. Since there is always the possibility of incorrect interpretation or typesetting errors, it is your responsibility to check for any and all errors. We are not responsible for any spelling, grammatical or syntactical errors within provided files.
Upon your approval and signature, your job will be completed as is, or adjusted with any noted alterations. Any additions or corrections requested after proof approval will be at the customer's expense.

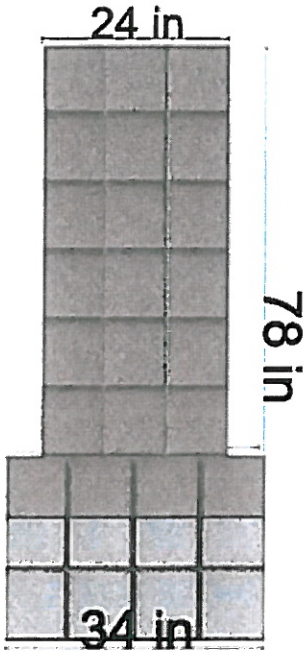
X _____ Date _____

☐ I HAVE MARKED CORRECTIONS ON THE PROOF or via email. I wish to see another proof
☐ THE PROOF IS CORRECT. Please proceed with printing
☐ I HAVE MARKED CORRECTIONS ON THE PROOF or in email. I DO NOT WISH TO SEE ANOTHER PROOF. Make the indicated changes and print. I accept full responsibility for any errors which may occur

Installer Name:

X _____

Date _____


24 in
78 in
34 in

145.24 in
Cobb®
WORLD HEADQUARTERS
78 in
94 in
144 in

Siloam Springs
It's a natural

STATEMENT OF HARDSHIP

Name: Joe Conway Circle one: Agent for Owner / Owner

Address or description of property:
4703 U.S. Highway 412 East / Cobb-Vantress

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:
Working with many municipalities, we have learned few continue to permit internally illuminated signs for the following reasons 1) Safety. Drivers can better see internally illuminated signs allowing for better, more consistent traffic flow. 2) Less light pollution. Light does not travel upwards or sideways from internally illuminated signs 3) Again safety. Inadvertantly externally illuminated signs are damaged by →

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:
Cobb/Vantress was unaware their property was zoned industrial.

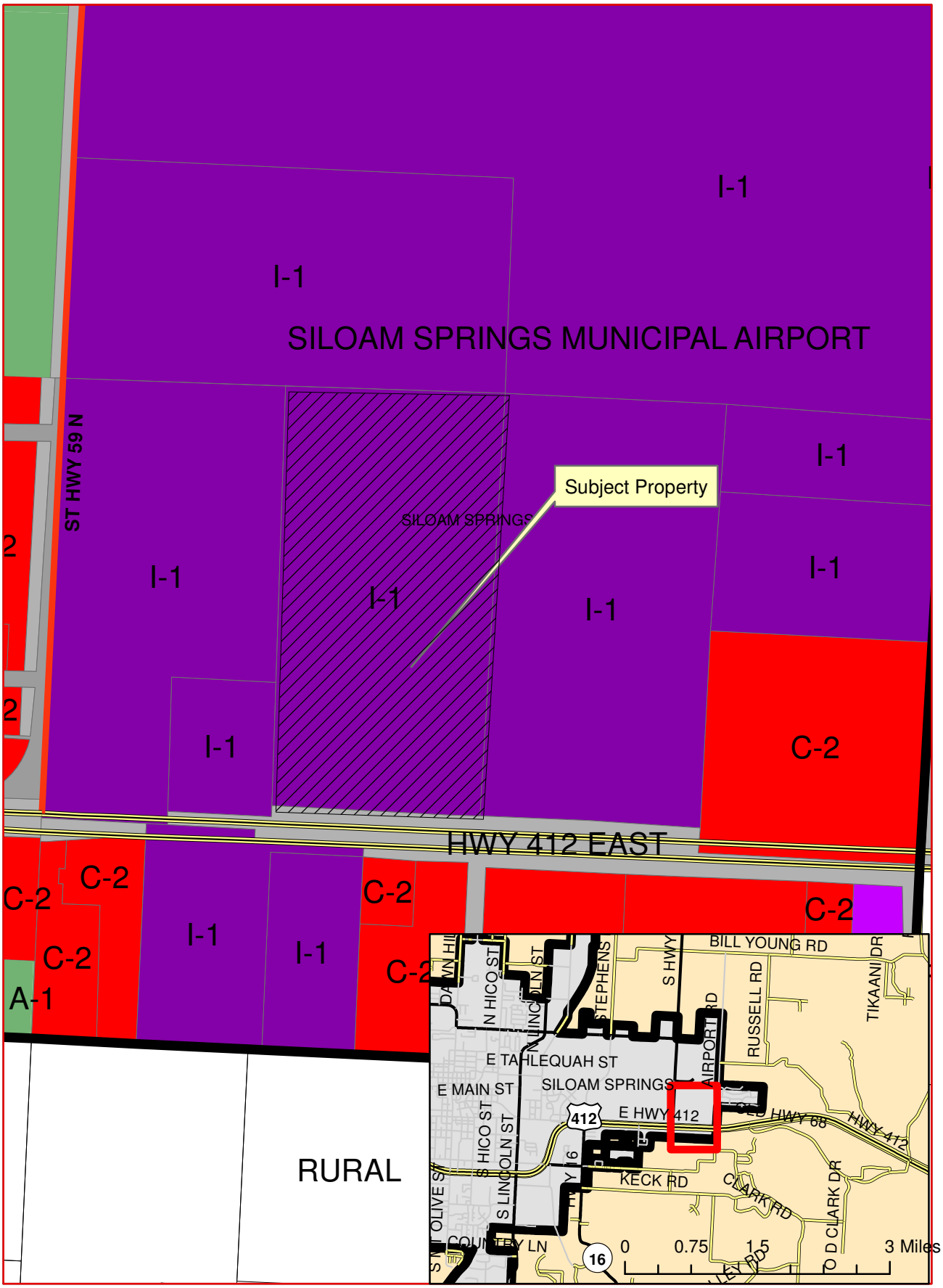
3. If approved, this variance will not burden the present or future use of neighboring properties and will not damage any property value or quality of life in the neighborhood:
A well designed monument sign is far more attractive than a pole sign & does not pose the risk of light pollution that an externally lit sign does.

are damaged by lawn mowers, weedeaters, etc with the result of unintended light pollution or the light being directed towards the roadway. Internally illuminated signs do not have these risks.

# GENERAL AREA MAP

*Sign Variance Permit*
*BOA15-08*

N




0 0.0425 0.085 0.17 Miles

# STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner
Cc: Don Clark, Community Services Director
DATE: December 10, 2015
RE: Variance Development Permit, BOA15-09

**Recommendation:** City staff does not provide recommendations for variances. City staff concurs that there is a legitimate hardship in this case.

**Background:**

APPLICATION REVIEW DATES
Special-Called Board of Adjustment Review: January 12, 2016

APPLICANT AND AGENT
Applicant/Owner: Alpine Homes, LLC / Rusty White
Agent: Blew & Associates, PA. – Heath Myers, PE

SUBJECT PROPERTY ADDRESSES
405 W. Cornell St., 413 W. Elgin St., 601 N. Elm St

PROJECT INTENT
The applicant desires TO PLAT NEW LOT LINES THAT CAUSES A 6.89 FEET STRUCTURAL ZONING SETBACK ENCROACHMENT IN THE REAR OF TRACT 7A AND TO PLAT A NEW LOT LINE THAT CAUSES A 4 FOOT (COMBINED) DRIVEWAY SETBACK ENCROACHMENT. This is a direct code violation of Section 102-50(d)(1)(e) and 102-50(e)(1)(a).

INTERNET MAP INFORMATION
Planning staff has created a map made with Google My Maps.
Attribution: Map data ©2015 Google Imagery ©2015, 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://www.google.com/maps/d/edit?mid=zHgGzzL4Wl4o.ki3-qR6ZMqEk&usp=sharing

(Note: Additional applications appear on this map that are not set for review at the 1/12/16 B.o.A. meeting, these will be reviewed at the 1/26/16 meeting)

| EXISTING LAND USE | EXISTING ZONING |
|---|---|
| Single Family Residential | R-3 District (Residential, two-family)/<br>H-1 Overlay District (Historic) |
| **SURROUNDING LAND USE** | **SURROUNDING ZONING** |
| North: Elementary School (Northside) | North: R-2 District (Residential, medium) |
| South: Residential, single-family | South: R-3 District (Residential, two-family)/<br>H-1 Overlay District (Historic) |
| East: Residential, single-family | East: R-3 District (Residential, two-family)/<br>H-1 Overlay District (Historic) |
| West: Residential, single-family | West: R-3 District (Residential, two-family)/<br>H-1 Overlay District (Historic) |

APPLICABLE CODE REQUIREMENTS

Sec. 102-50(d)(1)(e) and 102-50(e)(1)(a) of the Siloam Springs Municipal Code.

*Excerpt from Section 102-50(d)(1) Building limits:*

" * * * *

e. Rear: 15 feet.

* * * *"

*Excerpt from Section 102-50(e)(1) Residential driveways:*

" * * * *

a. Two feet from all boundaries of the lot, except the boundary abutting the intersected sub-collector street;….

* * * *"

**STAFF DISCUSSION**

Unlike traditional permit applications that are reviewed by the Planning Commission, variances do not receive a staff recommendation. Approval of variances are based on the Board of Adjustment's determination as to if there is a hardship. All variances must have a legitimate hardship associated with the property that is not caused by the applicant and is not financial in nature (see attached Statement of Hardship). The hardship must be unique to the property, must not be caused by the applicant, or must have existed for a minimum of 15 years.

The applicant is requesting to re-plat lots 7-9 in Block 9 of the W.M. C. Tates Addition. This block is located north of Cornell St., east of N. Elm St., and south of W. Elgin St., due south of Northside Elementary School. The purpose of this re-plat is to adjust the size and orientation of the three lots so that three existing single-family residences are located on their own lots. Presently these houses are straddling the existing lot lines. The re-platting effort will improve the existing setback encroachment issues, however, due to the minimum lot size requirement of 4,000 sq. ft., the H-1 property line to building setbacks cannot be maintained, even after adjusting the lot lines. The requested variances are to allow the existing house, addressed as 413 W. Elgin, located on the proposed Lot 7A, to encroach by 6.89 feet into its rear yard setback, and to add a property line which causes encroachments on the 2 ft. residential driveway setback. Due to the existing driveway locations and house locations, it is impossible for this line to be drawn in a manner that would maintain the 2 foot driveway setback and also maintain the necessary lot sizes. Lot 8A and 9A are both at the minimum lot size requirement of 4,000 sq. ft. A variance is not possible for reducing the lot size due to Section 102-3(c) of the Municipal Code. This Code section states that no lot may be smaller than permitted, allowing an otherwise greater housing density than allowed in the base zone.

The applicant states in their Statement of Hardship that because the houses are pre-existing and have been in place prior to the adoption of the current zoning regulations, and that the houses sit on a street corner, there are sufficient reasons why the setbacks cannot be honored notwithstanding any proposed lot configuration. Staff concurs that the existing conditions do not lend for a proposed lot configuration that would allow each existing house to have its own lot and be the minimum lot size, and yet still meet all H-1 setbacks. Therefore, if the effort of this request is to reduce existing non-conformities, in this case allowing each house to have its own lot, staff believes the applicant has presented sufficient hardships to warrant a both the building setback and driveway setback variances. The key point to note in this case is that all structures, driveway and the house, both exist (not proposed).

LEGAL NOTICE

Staff received no information that:

- the proposal interferes with the reasonable peace or enjoyment of the neighboring properties;
- the property values will be substantially damaged;
- the proposal is not adequately supported by infrastructure.

- Site posted: December 02, 2015.
- Newspaper legal notification: December 27, 2015 (Herald-Leader).
- Letter legal notification: December 22-26, 2015.
- Staff received no phone calls or correspondence on the request.

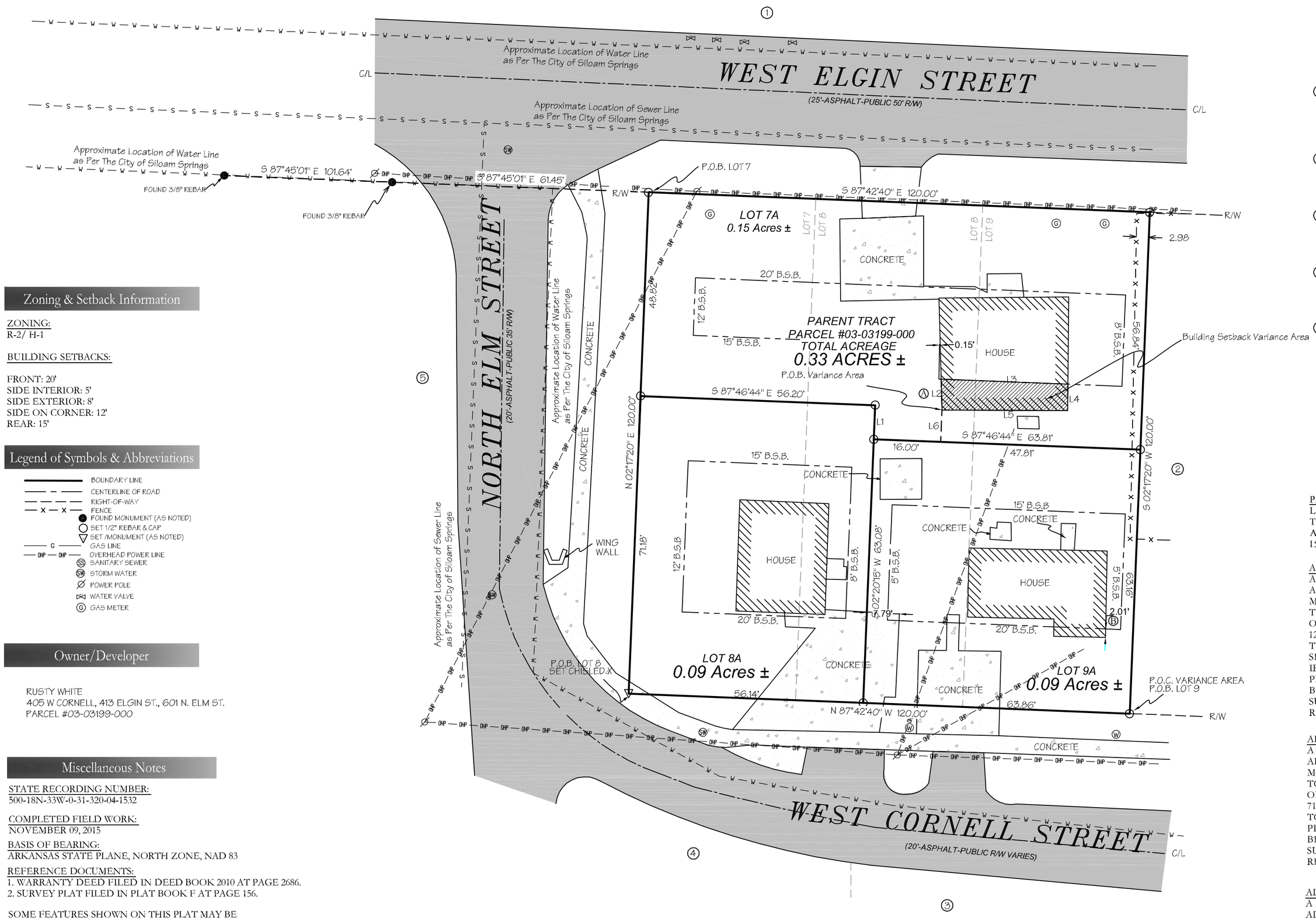
**Fiscal Impact**

None

**Attachments**

Site Plan
Statement of Hardship
General Area Map

# LOT LINE ADJUSTMENT




## Zoning & Setback Information

ZONING:
R-2/ H-1

BUILDING SETBACKS:

FRONT: 20'
SIDE INTERIOR: 5'
SIDE EXTERIOR: 8'
SIDE ON CORNER: 12'
REAR: 15'

## Legend of Symbols & Abbreviations

- BOUNDARY LINE
- CENTERLINE OF ROAD
- RIGHT-OF-WAY
- FENCE
- FOUND MONUMENT (AS NOTED)
- SET 1/2" REBAR & CAP
- SET /MONUMENT (AS NOTED)
- GAS LINE
- OVERHEAD POWER LINE
- SANITARY SEWER
- STORM WATER
- POWER POLE
- WATER VALVE
- GAS METER

## Owner/Developer

RUSTY WHITE
405 W CORNELL, 413 ELGIN ST., 601 N. ELM ST.
PARCEL #03-03199-000

## Miscellaneous Notes

STATE RECORDING NUMBER:
500-18N-33W-0-31-320-04-1532

COMPLETED FIELD WORK:
NOVEMBER 09, 2015

BASIS OF BEARING:
ARKANSAS STATE PLANE, NORTH ZONE, NAD 83

REFERENCE DOCUMENTS:
1. WARRANTY DEED FILED IN DEED BOOK 2010 AT PAGE 2686.
2. SURVEY PLAT FILED IN PLAT BOOK F AT PAGE 156.

SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY

DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

BY GRAPHIC PLOTTING ONLY, NO PORTION OF THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 050007C0360J, WHICH BEARS AN EFFECTIVE DATE OF 09/28/2007 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

A NEW VARIANCE WILL BE NEEDED FOR THE DRIVEWAY TO PROPERTY LINE SETBACK, THIS IS TWO FEET, HOWEVER A NEW PROPERTY LINE IS PROPOSED TO BISECT AND EXISTING DRIVE SETBACK, REQUIRING

## Significant Observations

Ⓐ HOUSE GOES OVER SETBACK BY AS MUCH AS 6.89'

Ⓑ HOUSE GOES OVER SETBACK BY AS MUCH AS 2.01'

## Line Table

| LINE | BEARING | DISTANCE |
|---|---|---|
| L1 | S 02°20'15" W | 8.17' |
| L2 | S 01°27'23" E | 7.40' |
| L3 | N 87°46'44" W | 30.37' |
| L4 | N 00°30'54" E | 6.31' |
| L5 | S 89°50'25" E | 30.11' |
| L6 | S 02°13'16" W | 7.61' |

THIS PLAT IS HEREBY ACCEPTED THIS _____DAY OF _____, 2015 BY THE SENIOR PLANNER OF OF THE SILOAM SPRINGS PLANNING DEPARTMENT ON BEHALF OF THE PLANNING BOARD.

_____

SENIOR PLANNER

BENTON COUNTY CERTIFICATE OF DEDICATION: WE, THE UNDERSIGNED, DO HEREBY SWEAR THAT WE ARE THE SOLE OWNERS OF THE HEREON PLATTED PROPERTY AND DO HEREBY DEDICATE ALL STREET AND EASEMENTS FOR USE BY THE GENERAL PUBLIC AND FOR THE INSTALLATION OF UTILITIES.

_____
OWNER
_____
DATE

_____
OWNER
_____
DATE

## Adjacent Land Owners

1. NORTHSIDE ELEMENTARY
SILOAM SPRINGS SCHOOL DISTRICT
501 WEST ELGIN STREET
PARCEL #03-02282-000
ZONE: R-2

2. KING, ADAM & JENNIFER K
403 W CORNELL
PARCEL #03-03200-000
ZONE: R-2 / H-1 OVERLAY

3. GENTRY EQUIPMENT LEASING LLC
406 W CORNELL ST
PARCEL #03-03170-000
ZONE: R-2 / H-1 OVERLAY

4. RANKIN, CARSON R & SARAH J
418 W CORNELL ST
PARCEL #03-03171-000
ZONE: R-2 / H-1 OVERLAY

5. WILLIAMS FAMILY
REVOCABLE LIVING TRUST-
BRUCE M & JOYCE L
602 N ELM
PARCEL #03-01686-000
ZONE: R-2 / H-1 OVERLAY

## Survey Description

PARENT TRACT
LOTS 7, 8, AND 9, BLOCK 9, WM. C. TATES ADDITION TO THE CITY OF SILOAM SPRINGS, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "F" AT PAGE 156.

ADJUSTED LOT 7:
A PART OF LOTS 7, 8 & 9, BLOCK 9, WM. C. TATES ADDITION, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 7 AND RUNNING THENCE S87°42'40"E 120.00' TO A SET IRON PIN , THENCE S02°17'20"W 57.34' TO A SET IRON PIN , THENCE N87°46'44"W 63.81' TO A SET IRON PIN , THENCE N02°20'15"E 8.67' TO A SET IRON PIN , THENCE N87°46'44"W 56.20' TO A SET IRON PIN , THENCE N02°17'20"E 48.82' TO THE POINT OF BEGINNING. CONTAINING 0.15 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

ADJUSTED LOT 8:
A PART OF LOTS 7 & 8 , BLOCK 9, WM. C. TATES ADDITION, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 7 AND RUNNING THENCE N 02°17'20" E 71.18' TO A SET IRON PIN , THENCE S 87°46'44" E 56.20' TO A SET IRON PIN , S 02°20'15" W 71.25' TO A SET IRON PIN , THENCE N 87°42'40" W 56.14' TO THE POINT OF BEGINNING. CONTAINING 0.09 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

ADJUSTED LOT 9:
A PART OF LOTS 8 & 9 , BLOCK 9, WM. C. TATES ADDITION, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 9 AND RUNNING THENCE N87°42'40"W 63.86' TO A SET IRON PIN , THENCE N02°20'15"E 63.08' TO A SET IRON PIN , THENCE S87°46'44"E 63.81' TO A SET IRON PIN , THENCE S02°17'20"W 63.16' TO THE POINT OF BEGINNING. CONTAINING 0.09 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

VARIANCE AREA:
A PART OF LOTS 8 & 9 , BLOCK 9, WM. C. TATES ADDITION, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 9 AND RUNNING THENCE N02°17'20"E 62.66', THENCE N87°46'44"W 47.81', THENCE N02°13'16"E 8.11' TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE N01°27'23"W 7.40', THENCE S87°46'44"E 30.37', THENCE S00°30'54"W 6.31', THENCE N89°50'25"W 30.11' TO THE POINT OF BEGINNING. CONTAINING 191.91 SQUARE FEET MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

## Vicinity Map

## Utility Notes

THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

BEFORE DIGGING IN THIS AREA, CALL "ONE CALL" 811 FOR FIELD LOCATIONS (REQUEST FOR GROUND MARKINGS) OF UNDERGROUND UTILITY LINES

0 20 40 60
1 INCH = 20 FEET

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 9TH DAY OF NOVEMBER, 2015.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1532
SIGNATURE
BUCKLEY D. BLEW

IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.


FIRM:
BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS
524 W. SYCAMORE ST, SUITE 4
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com
Certificate of Authorization № 1534


| DRAWN BY & DATE: G.A.M. 11/23/2015 | REVIEWED BY: H.M. | SURVEYED BY: R.S. |
|---|---|---|
| COUNTY & STATE: BENTON COUNTY, ARKANSAS | JOB NUMBER: 15-1257 | |

LOCATION: LOTS 7, 8, & 9 TATES ADDITION

FOR THE USE AND BENEFIT OF:
RUSTY WHITE

City of Siloam Springs
It's a natural

STATEMENT OF HARDSHIP

Name: Heath Myers (Blew + Associates) Circle one: Agent for Owner / Owner

Address or description of property: 1405 W. Cornell St.

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:

   This property has 3 houses built on one parcel of land. Also it is surrounded on 3 sides by roads creating 3 front building setbacks. Also the existing houses are old and the current zoning setbacks more than likely differs from when the houses were constructed.

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:

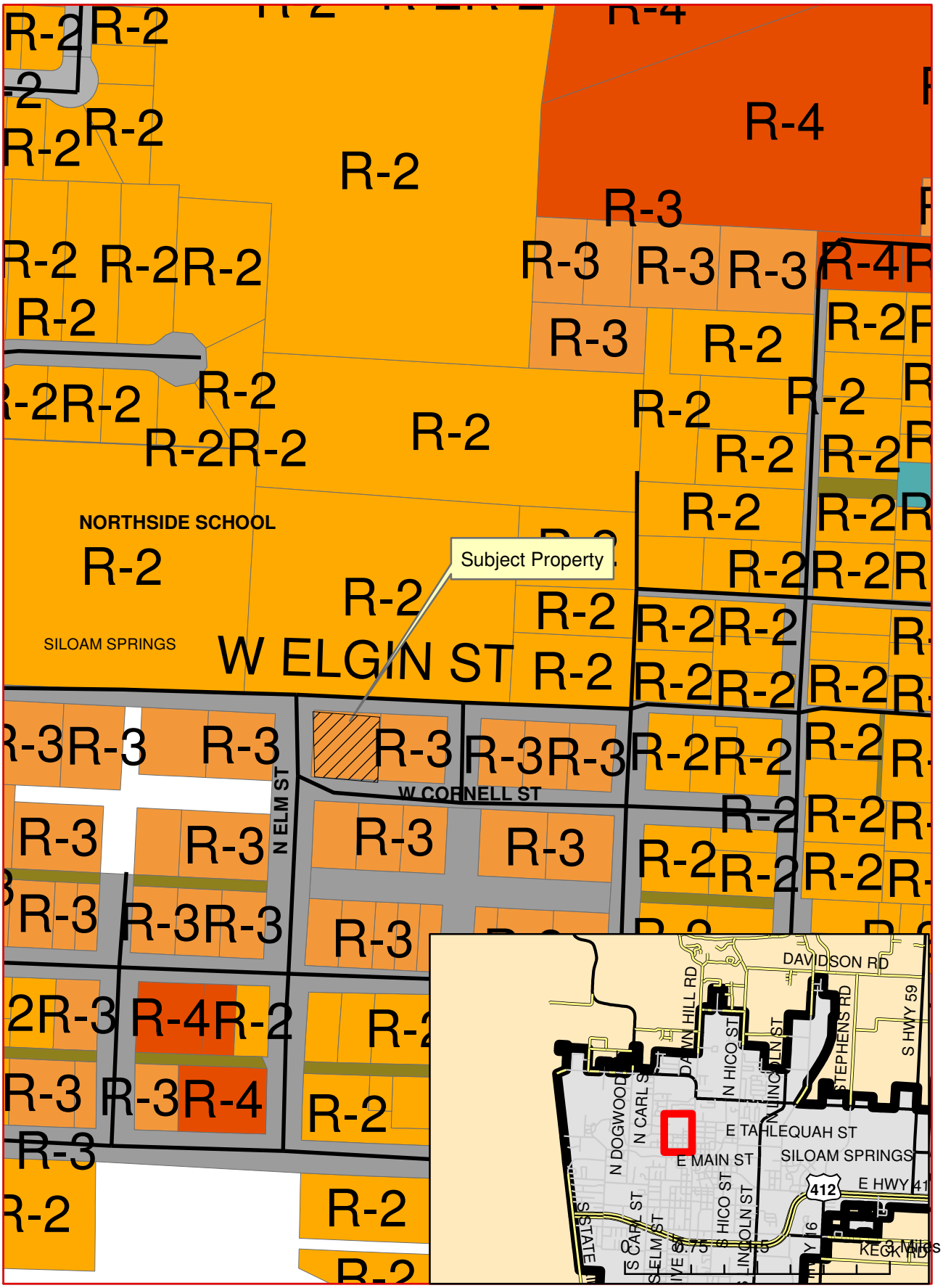
   The houses that encroach the building setbacks have been in existence for over 15 years.

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:

   If approved this variance will have no negative effect on the neighborhood in any way.

# GENERAL AREA MAP

*Variance Permit*
*BOA15-09*




0 0.025 0.05 0.1 Miles

# STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner
Cc: Don Clark, Community Services Director
DATE: December 14, 2015
RE: Variance Development Permit, BOA15-10

**Recommendation:** City staff does not provide recommendations for variances. City staff concurs that there is a legitimate hardship in this case.

**Background:**

APPLICATION REVIEW DATES
Special-Called Board of Adjustment Review: January 12, 2016

APPLICANT AND AGENT
Applicant/Owner: Quad SS, LLC – Tim Clower, managing member.
Agent: Blew & Associates, PA – Jorge DuQuesne, PE

SUBJECT PROPERTY ADDRESS
2500 Hwy. 412 E.

PROJECT INTENT
The applicant desires TO CONSTRUCT A DRIVEWAY THAT ENCROACHES 36 FEET INTO ITS 50 FOOT DRIVE SETBACK FROM THE REAR PROPERTY LINE, TO CONSTRUCT AN INTERNAL DRIVEWAY AND PARKING LANE THAT ENCROACHES 27.49 FEET INTO THE 75 FOOT RIGHT-OF-WAY TO DRIVEWAY SETBACK, ON PROPERTY ZONED C-2 (ROADWAY COMMERCIAL). This is a direct code violation of Section 102-78(a)(1)(c) and 102-77(4)(a) of the Municipal Code.

INTERNET MAP INFORMATION
Planning staff has created a map made with Google My Maps.
Attribution: Map data ©2015 Google Imagery ©2015, 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://www.google.com/maps/d/edit?mid=zHgGzzL4Wl4o.ki3-qR6ZMqEk&usp=sharing

(Note: Additional applications appear on this map that are not set for review at the 1/12/16 B.o.A. meeting, these will be reviewed at the 1/26/16 meeting)

REFERENCE APPLICATION
The following application is related to this request:
SD15-13 (Significant Development Permit).

EXISTING LAND USES AND ZONING

| EXISTING LAND USE | EXISTING ZONING |
|---|---|
| Retail / Portable Storage Building Sales | C-2 District (Roadway Commercial) |
| SURROUNDING LAND USE | SURROUNDING ZONING |
| North: Retail | North: C-2 District (Roadway Commercial) |
| South: Residential, multi-family | South: C-2 District (Roadway Commercial) |
| East: Retail | East: C-2 District (Roadway Commercial) |
| West: Retail – Shopping Center | West: C-1 District (General Commercial) |

APPLICABLE CODE REQUIREMENTS
Section 102-78(a)(1)(c) and 102-77(4)(a) of the Municipal Code.

*Excerpt from Section 102-78(a)(1) Arterial (and larger) streets:*

" * * * *

c. 50 feet from all boundaries of the lot, except the boundary abutting the intersected arterial (or larger) street.

* * * *"

*Excerpt from Section 102-77(4) Interior drive setback*

" * * * *

a. No driveway which serves more than 30 parking spaces, and which connects with a public street, shall itself be intersected by *an interior driveway or parking lane* within 75 feet of the public right-of-way of an arterial or higher street class.

* * * *"

STAFF DISCUSSION
Unlike traditional permit applications that are reviewed by the Planning Commission, variances do not receive a staff recommendation. Approval of variances are based on the Board of Adjustment's determination as to if there is a hardship. All variances must have a legitimate hardship associated with the property that is not caused by the applicant and is not financial in nature (see attached Statement of Hardship). The hardship must be unique to the property, must not be caused by the applicant, or must have existed for a minimum of 15 years.

The applicant is requesting to construct two driveways for a new fast food restaurant, which will be reviewed by a separate application by the Planning Commission at the January 12, 2016 regular meeting. Two separate variances are needed for two Code violations related to two proposed driveways. These will be discussed separately.

The first Code violation is related to the driveway to property line setback. The new Zoning Code requires this to be 50 feet from the boundary line of the lot, in cases when the driveway is accessing an arterial street class or higher, as defined by the City's Master Street Plan. The drive in question is on

the southern side of the lot and is intended to be a one-way exit drive onto Hwy. 16 via an existing 20 ft. access easement which burdens the lot to the east of the subject property. Because of the limited depth of the lot, when factoring in the placement of a drive-thru lane, parking and the building placement, there appears to be no feasible way to allow the drive to be offset by 50 feet from the rear property line. Furthermore, the nature of the access easement is such that it burdens the lot to the east on its southern property line, so in order to make use of this easement, the applicant is forced to construct the drive within this rear setback. After review from City staff, there appears to be no negative impacts on traffic if this variance is granted.

The drive will align with an existing bank drive on Hwy. 16. If the 50 foot setback was honored, this drive alignment would be impossible, further complicating the traffic interaction of both drives. Therefore, it could be argued that the proposal is safer than what would occur if the drive setback was honored in this case. The applicant states that the drive is needed for improved ingress and egress, especially for vehicles during to travel west, as making a left turn on Hwy. 412 would be impossible when a future planned median is constructed as part of a potential future widening of Hwy. 412 in this area.

The second requested variance is related to an encroachment to the driveway spacing setback to Hwy. 412, which is also classified as an arterial street by the City's Master Street Plan. In this case, there is an interior drive and parking lane which are both encroaching within a 75 ft. prescribed setback. The interior drive ties the drive-thru lane back to the main drive. This drive is needed, as the second drive-thru drive is restricted as a right out only drive. So if a customer wanted to travel west on Hwy. 412 from the drive-thru lane, they would need to access the main drive in order to do this, or they would be forced to make a U-turn at the Hwy. 16 and Hwy. 412 intersection. It should be noted that for safety reasons, left turn movements will not be permitted from the northeastern (drive-thru) drive. The drive is design to prevent left turns. The lot is not deep enough to accommodate 75 feet of spacing from the Hwy. 412 right-of-way, to the needed connection from the drive-thru lane to the main entry/exit drive. See the attached exhibit site plan to visually see this connection. The same conditions also apply to the first parking lane for the parking lot. Even if the parking spaces on the north side of the lot were deleted, it would not remove the need for a parking lane to access the rear portion of the parking lot well within the 75 ft. setback buffer. Staff checked with the City Engineer and it is confirmed that both the internal drive and the parking lane will not likely cause vehicular stacking impacts on Hwy. 412 due to the overall site design for the facility.

The applicant states in his Statement of Hardship that there is a need for an exit into a secondly street to allow for safe left turns back onto Hwy. 412. This is referring to the rear exit drive onto Hwy. 16. Vehicles could use this exit to turn left (west) onto Hwy. 412 at the Hwy. 16/Hwy. 412 signalized intersection. Furthermore, the 20 ft. rear access easement has been in place since 1983, and therefore meets the test that the uniqueness of the property, in this case the access easement, has been in place for more than 15 years. With regards to the 75 foot drive setback from the Hwy. 412 right-of-way, the applicant argues that the smaller commercial property, being only 197 feet deep, is not of a sufficient size to honor the 75 foot spacing requirements and also contain the other essential site design aspects needed, i.e. drives, parking, the building footprint, etc. If the first internal connecting drive was designed per Code, 75 ft. from the right-of-way, the drive would be at 38% of the lot's depth and thereby would not allow for a feasible arrangement of the aforementioned site design elements.

Due to the limitations pre-existing on the lot with respects to the existing access easement and the diminutive lot depth, staff believes the lot contains certain unique characteristics not frequently occurring in the C-2 zone district. It also appears that these characteristics have existed for a minimum of 15 years. Due to these limitations, staff concurs that the applicant has a legitimate hardship.

LEGAL NOTICE

Staff received no information that:

- the proposal interferes with the reasonable peace or enjoyment of the neighboring properties;
- the property values will be substantially damaged;
- the proposal is not adequately supported by infrastructure.

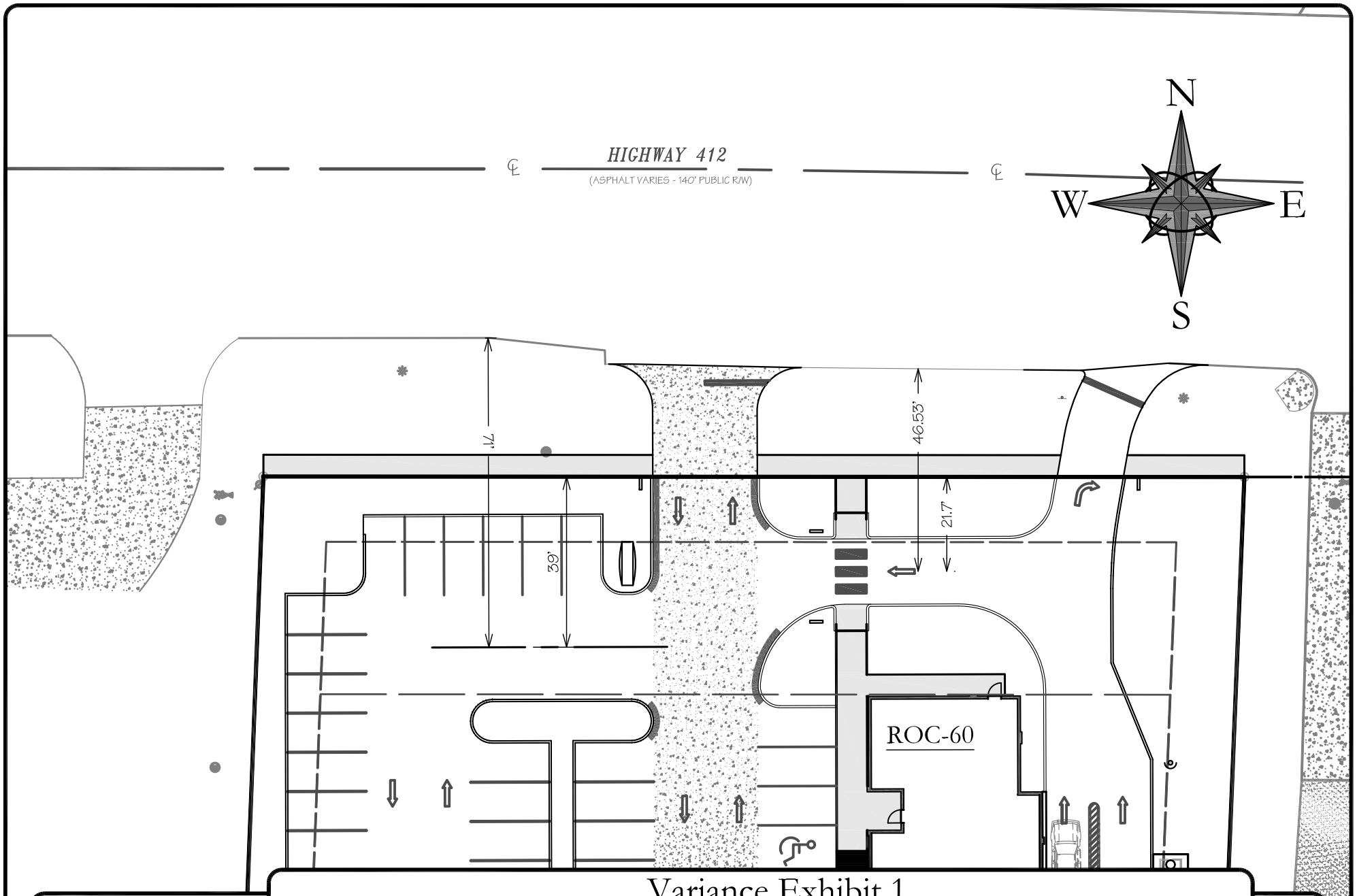
- Site posted: December 02, 2015.
- Newspaper legal notification: December 27, 2015 (Herald-Leader).
- Letter legal notification: December 22-26, 2015.
- Staff received no phone calls or correspondence on the request.

**Fiscal Impact**

No fiscal impact is anticipated.

**Attachments**

Site Plan
Statement of Hardship
General Area Map




# Variance Exhibit 1

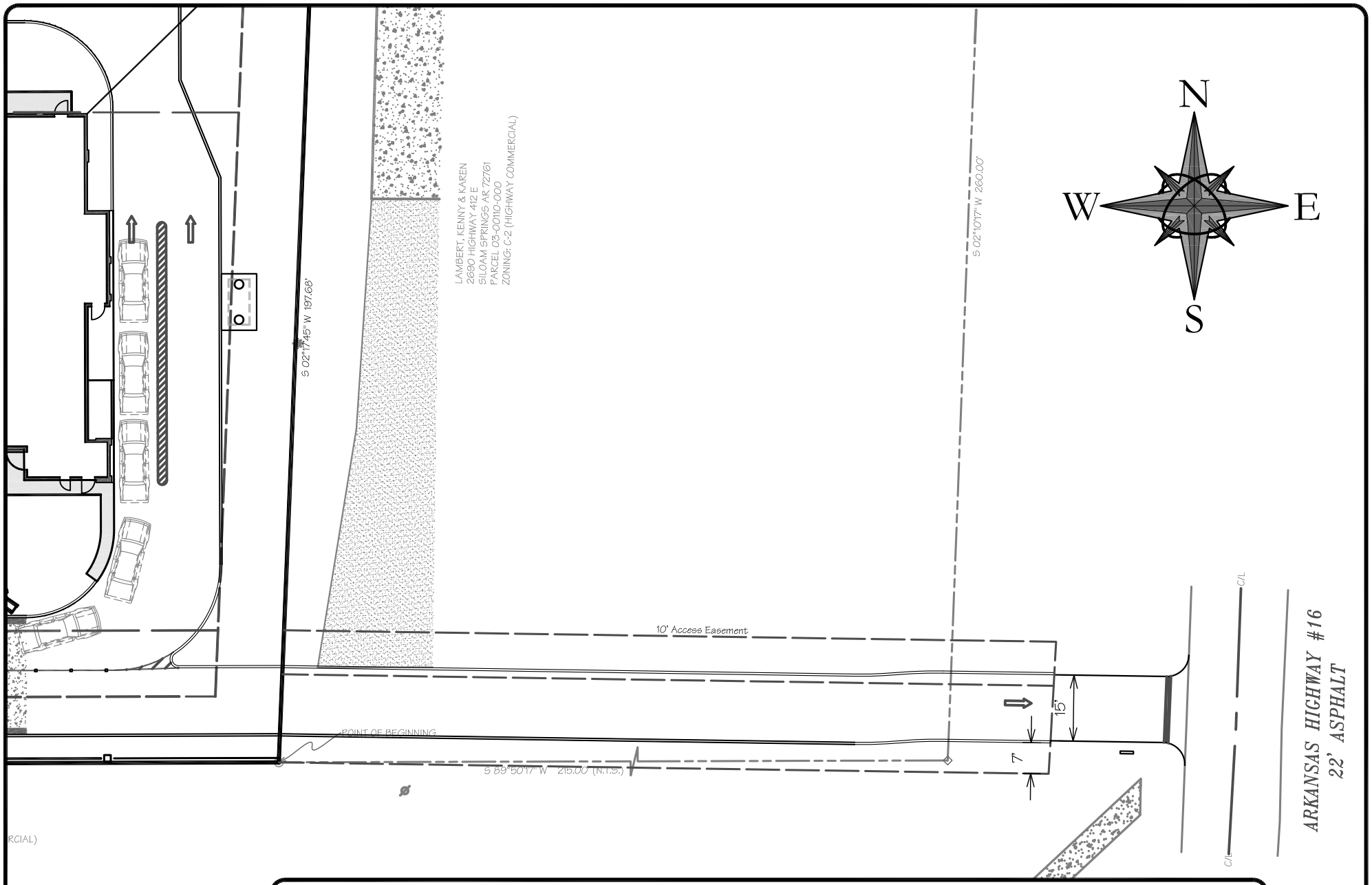
BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

30' 0 15' 30' 60'

1 inch = 30 ft

Project Number: 15-1164 Burger King of Siloam Springs Certificate of Authorization № 1534 Date: 12/04/2015

524 W. Sycamore Street, Suite 4 ♦ Fayetteville, Arkansas 72703 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax




# Variance Exhibit 1 of 2

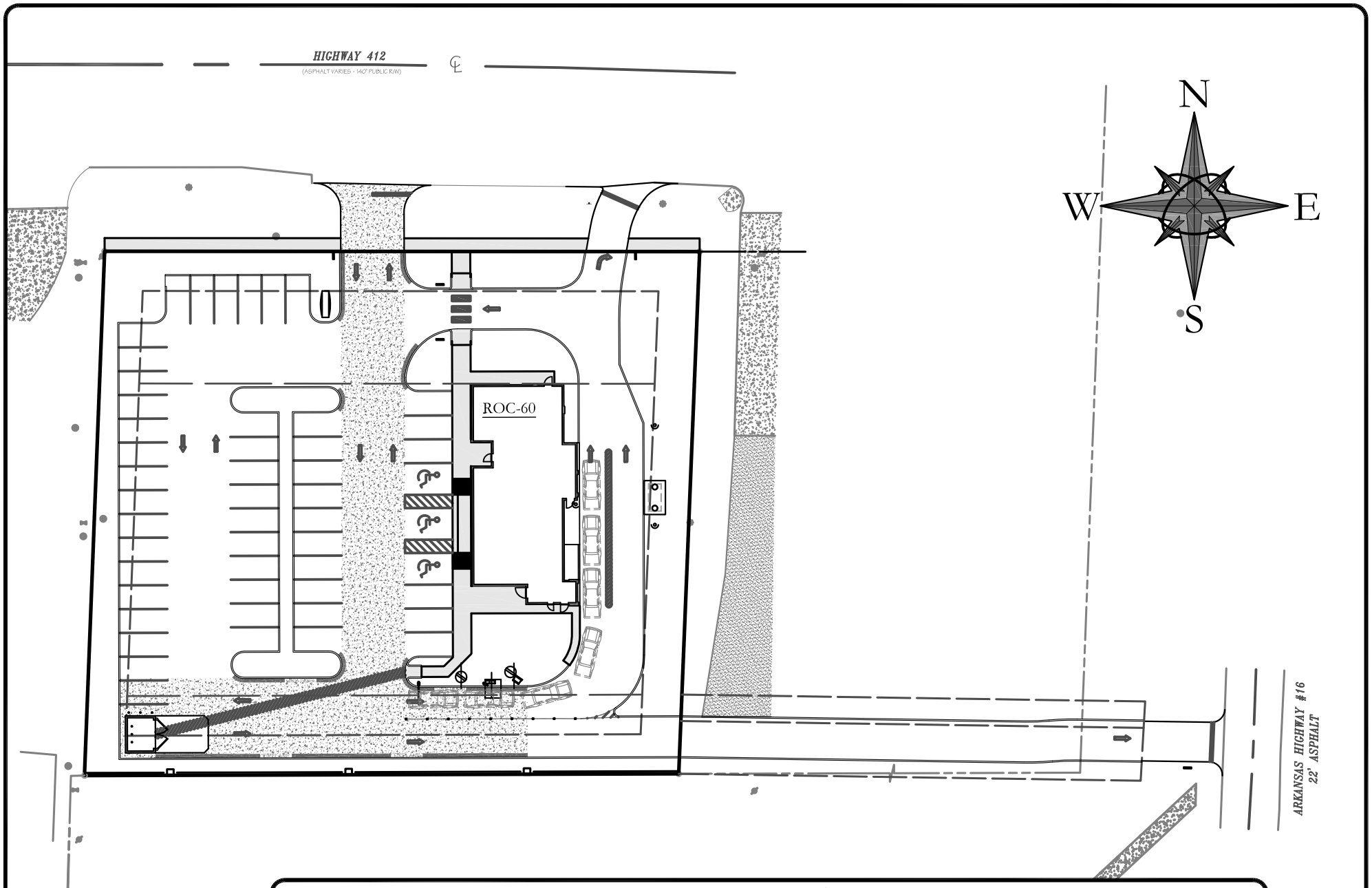
BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

30' 0 15' 30' 60'

1 inch = 30 ft

Project Number: 15-1164 Burger King of Siloam Springs Certificate of Authorization № 1534 Date: 12/04/2015

524 W. Sycamore Street, Suite 4 ♦ Fayetteville, Arkansas 72703 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax




# Variance Exhibit 2 of 2

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

30' 0 15' 30' 60'

1 inch = 30 ft

Project Number: 15-1164 Burger King of Siloam Springs Certificate of Authorization № 1534 Date: 12/04/2015

524 W. Sycamore Street, Suite 4 ♦ Fayetteville, Arkansas 72703 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax

CITY OF Siloam Springs
It's a natural

STATEMENT OF HARDSHIP

Name: Jorge Du Quesne, Blew & Associates, PA Circle one: Agent for Owner / Owner

Address or description of property:
2500 Highway 412 East

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:
   There is a need for an exit into a second primary street that would allow left turns onto westbound lane of Hwy 412. The access onto Hwy 16 allows the customer access to a signalized Intersection. The access easement has been in place since 1983 to allow for this access.

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:
   A 20' access easement has been in place since 1983 to facilitate another access point that would allow for safe left turns onto the west bound lane of Hwy 412 from a signalized intersection.

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:
   The 20' access easement has been in place since 1983 but does not impact any of the existing developments The apartments to the south have an existing driveway access and the commercial center to the north has Access onto Hwy 412 and Hwy 16. There does not appear to be any further need for driveways off of those two properties.

# GENERAL AREA MAP

*VariancePermit*
*BOA 15-10*

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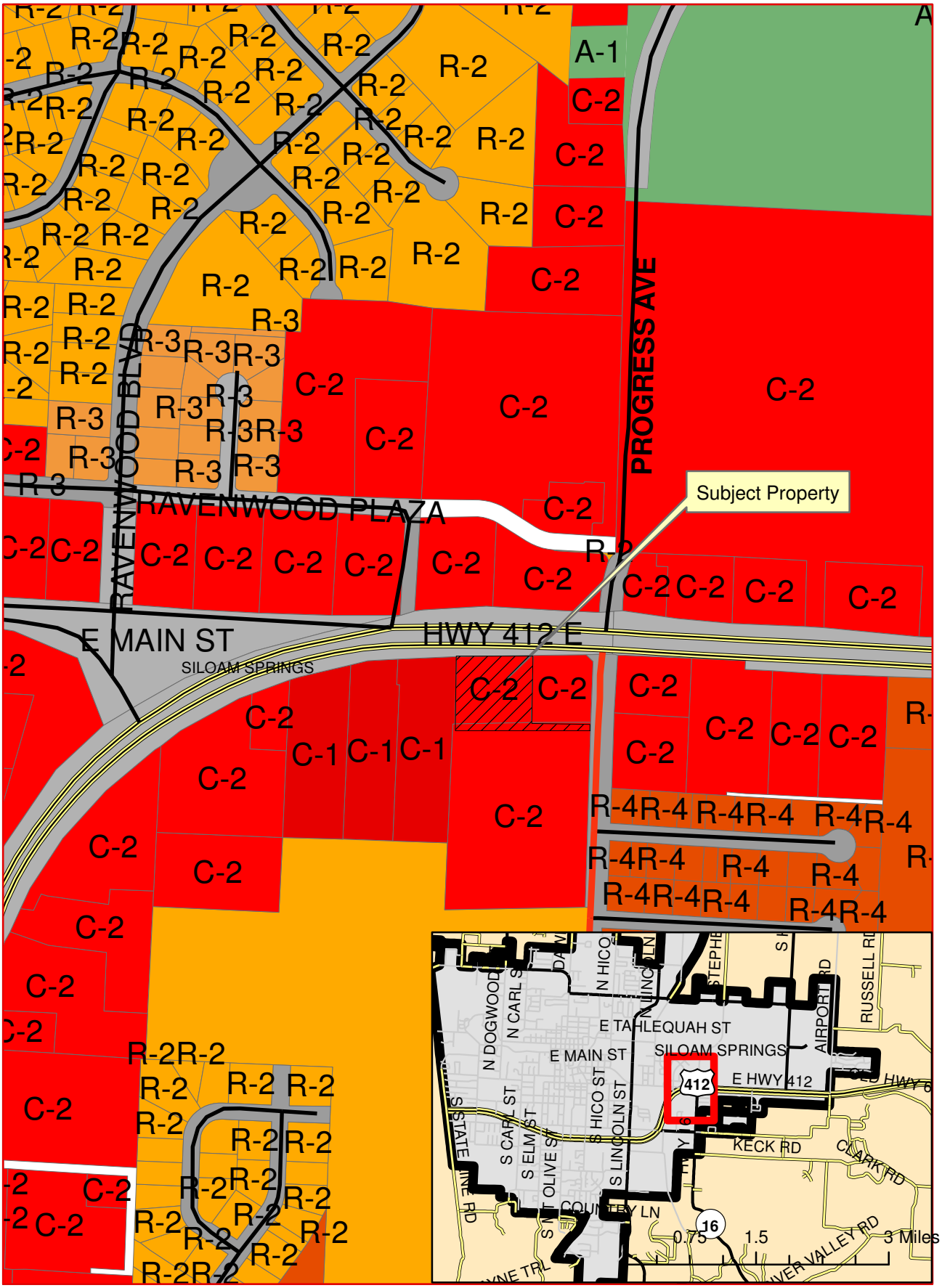


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