

CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

Tuesday, January 26, 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 special-called Meeting on January 12, 2016
- D. Variance Permit Approval
 - 1. Sign Variance Development Permit, BOA15-06
470 W. Tulsa St.
Owner: Jeff Yates
Agent: Speckled Pup – Sherri Kollman
 - 2. Sign Variance Development Permit, BOA15-07
2400 block of Hwy. 412 East
Owner: Bank of the Ozarks
Agent: Cuerden Sign Co., Inc. – Jasper Burton
- E. Adjourn the Board of Adjustment

MINUTES OF THE SPECIAL-CALLED MEETING
OF THE BOARD OF ADJUSTMENT OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY,
ARKANSAS, HELD JANUARY 12, 2016

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in a special called session at the City Administration Building, January 12, 2016.

The meeting was called to order by Chairman Mounger.

Roll Call:

Colvin, Engle, Blakely, Nation, Mounger, Williams, Smith – Present.

City Administrator, Phillip Patterson; Mayor, John Mark Turner; City Clerk, Renea Ellis; Senior Planner, Ben Rhoads; City Engineer, Justin Bland; City Attorney, Jay Williams; Community Services Director, Don Clark; all present.

A copy of the September 22, 2015 regular minutes had previously been given to each Commissioner. A motion was made by Smith and seconded by Williams to accept the minutes.

Mounger called for a voice vote.

All Ayes. No Nays. Motion passed.

The first agenda item was a Sign Variance Development Permit, BOA15-08, 4703 Hwy. 412 East, Cobb-Vantress, Arkansas Sign & Banner – Joe Conway.

Ben Rhoads, Senior Planner, briefed the item. Joe Conway, 1914 S. Walton Blvd, Bentonville, spoke on behalf of Cobb and showed photos of the proposed sign. Smith asked how much light is emitted from sign. Conway stated it is self-contained and not like the Casino light. A motion was made by Colvin and seconded by Blakely to approve the Sign Variance Development Permit, BOA15-08 at 4703 Hwy. 412 East.

Roll Call:

Engle, Blakely, Nation, Mounger, Williams, Smith, Colvin – Aye.

7 Ayes. No Nays. Motion Approved.

The next agenda item was a Variance Development Permit, BOA15-09, 405 E. Cornell St., 413 W. Elgin St., 601 N. Elm St., Alpine Homes, LLC / Rusty White, Blew and Associates, PA – Heath Myers.

Ben Rhoads, Senior Planner, briefed the item. Williams asked why this wasn't considered when originally built and will this set precedence. Rhoads stated it was most likely built before setbacks, and no, it will not set precedence. A motion was made by Williams and seconded by Smith to approve the Variance Development Permit, BOA15-09 at 405 E. Cornell St., 413 W. Elgin St., and 601 N. Elm St..

Roll Call:

Blakely, Nation, Mounger, Williams, Smith, Colvin, Engle – Aye.

7 Ayes. No Nays. Motion Approved.

The next agenda item was a Variance Development Permit, BOA15-10, 2500 Hwy 412 East, Quad SS, LLC / Tim Clower, Blew and Associates, PA – Jorge DuQuesne, PE.

Ben Rhoads, Senior Planner, briefed the item and corrected himself with regard to an error in the Staff Memorandum. Justin Bland, City Engineer, went over traffic report. Jorge DuQuesne, 524 W.

Sycamore, Fayetteville, stated the owner requested additional land but could not obtain. Smith stated Burger King was aware of the lot size and asked if when initially looked at, if it was sufficiently big enough for it. Tim Clower, Corpus Christie, Texas, stated the variance needs were not known until work started with the architect and engineer. Nation asked if easements were attempted to be gained by property owners to the East and South. Rhoads stated it was to the East at Kenny's Auto; and that he never personally spoke with them regarding it. He stated Ward Jones had the discussion with the property owner. Chairman Mounger stated staff concurs there is a hardship in these variances. A motion was made by Blakely and seconded by Nation to approve the Variance Development Permit, BOA15-10 at 2500 Hwy 412 East.

Roll Call:

Nation, Mounger, Williams, Colvin, Engle, Blakely – Aye.

Smith –Nay.

6 Ayes. 1 Nay. Motion Approved.

There being no further business, a Motion was made by Smith and seconded by Williams to adjourn. A voice vote was taken. All ayes.

Meeting Adjourned.

ATTEST:

APPROVED:

Renea Ellis, City Clerk

Karl B. Mounger, Chairman

(SEAL)



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STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner *ZLR*
Cc: Don Clark, Community Services Director
DATE: January 13, 2016
RE: Sign Variance Development Permit, BOA15-06

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

Background:

APPLICATION REVIEW DATE

Board of Adjustment Review: January 26, 2016

APPLICANT AND AGENT

Applicant/Owner: Jeff Yates

Agent: Speckled Pup – Sherri Kollman

SUBJECT PROPERTY ADDRESS

470 W. Tulsa St.

PROJECT INTENT

The applicant desires TO REPLACE AN EXISTING SIGN THAT IS ERECTED OVER A ROOF SURFACE, ON PROPERTY ZONED C-2 (ROADWAY COMMERCIAL). This is a direct code violation of Section 81-35 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>

EXISTING LAND USE	EXISTING ZONING
Retail Commercial	C-2 District (Roadway Commercial)
SURROUNDING LAND USE	SURROUNDING ZONING
North: Retail Commercial	North: C-2 District (Residential, medium)
South: Residential, single-family	South: R-2 District (Residential, medium)
East: Retail Commercial	East: C-2 District (Residential, medium)
West: Home Office	West: R-O District (Residential, office)

APPLICABLE CODE REQUIREMENTS

Sec. 81-35 of the Siloam Springs Municipal Code.

Excerpt from Section 81-35 – Rood Signs:

“ * * * * ”

Roof signs shall not be permitted except by resolution of the board of adjustment. The board of adjustment may grant a variance for a roof sign only where the applicant demonstrates unusual practical difficulties in utilizing a wall sign. The sign variance must be in keeping with the spirit and intent of this chapter.

* * * * ”

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 is requesting to replace an existing non-conforming roof sign, see attachment, at 470 W. Tulsa St. The sign will be located at an existing pet grooming business. The applicant desires to install an internally lit sign with the identical dimensions of the existing roof sign. The sole violation with the Code is that the proposed sign sits on top of a hip roof, in front of a protruding gable. It is unclear how long the existing sign has been in place, however it is expected to pre-date the sign Code prohibition on roof signs that was enacted circa 1996.

The prime limiting factor on the property is the non-conforming nature of the building and site, which is expected to have been built sometime in the 1970s. The site, as seen in exhibit B, taken from AR Countydata.com, clearly indicates how the parking lot covers the entire frontage, limiting the feasible location for a traditional pylon or pole sign. A pole sign can only be erected in a small grassy strip right at the corner of S. Elm St. and W. Tulsa St., however this location is in the sight distance triangle, so its location cannot be used for a freestanding sign. Furthermore, there are overhead utility lines above this location. No pole sign can be erected within 15 feet of overhead utilities for safety reasons. The Code specifies also that all other locations on the site, specifically relating to potential wall sign locations, have been exhausted and are deemed impractical for the best location and visibility of the sign in question. Staff reached out to the applicant and she has indicated her reasoning for the proposed roof sign location in her attached Statement of Hardship. The applicant states in the attached Statement of Hardship that the proposed sign would not adversely impact the area and that there “isn’t a location on the body of the building to mount a sign where it can be seen by both east and westbound traffic.”

Upon further analysis, it appears that placing a wall sign facing north would pose difficulties for vehicles to view the sign on the east/west axis of W. Tulsa St. Signs along Tulsa are generally oriented east/west in order to best improve visibility by traffic traveling in these directions. Having a legible, visible sign is essential for users to identify the business location to existing and potential customers. When looking at a wall location that is facing west, a second issue emerges. That is the limited height of the wall and the close proximity of on-site parking. As mentioned earlier, the site is unique in its limitation of lot space. The parking is positioned less than 5 feet from the exterior wall. Therefore, should a high profile vehicle park in front of a potential wall sign location, the visibility of all or part of the sign will likely be compromised. A wall sign may be installed on the west facing wall that is located on the southern end of the property. However, this location poses even more challenges for visibility from Tulsa St. due to fencing and other visual impediments. Furthermore, signs facing west will not be visible to vehicles which are traveling westbound. The same would be true if a wall sign was mounted on the building’s east facing wall, eastbound traffic will miss it.

It is staff’s opinion that the proposed replacement of the existing roof sign falls within the general spirit and intent of the Sign Code. The Sign Code, by restricting roof signs, intends to reduce unsightly and aesthetically displeasing clutter by disrupting the rooftop along a given streetscape. Generally speaking, roof signs compromise the architectural integrity of buildings. However, in this case, should a pole sign be erected in front of the business in question (which is impossible for setback reasons) the visual impact would remain nearly identical. A much greater negative impact would ensue should a roof sign be erected on the peak of the main roof gable, being higher and potentially larger. This placement would not be in keeping with the spirit and intent of the Sign Code. However, the proposed location is considerably lower and less intrusive to the building’s roofline. Due to the aforementioned limitations, staff believes 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 2, 2015, reposted on January 4, 2016.
 - Newspaper legal notification: January 10, 2016 (Herald-Leader).
 - Letter legal notification: January 4-7, 2016.
 - Staff received one phone call of a questioning nature, wishing to ascertain the purpose of the variance. Information was provided to the caller. Staff received no correspondence on the request.

Fiscal Impact

None

Attachments

Sign Exhibit A

Sign Exhibit B

Statement of Hardship (2 pages)

General Area Map



SIGN EXHIBIT B

Looking East



IT'S A FAX

FROM THE



TO: Ben Rhodes
per Brian Phillips

DATE: 12-18-15

RE: planning

NO. OF PAGES INCL COVER: 2



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STATEMENT OF HARDSHIP

Name: Sherri Kollman Circle one: Agent for Owner / Owner

Address or description of property: 470 W. Tulsa

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:

Prior written statement considered.
Additionally, there isn't a location on the "body" of the building to mount a sign that can be seen by both east/west bound traffic. The sign will be on a dropped shingled portion (Gablet or Dutch Gablet)

~~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:~~

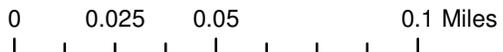
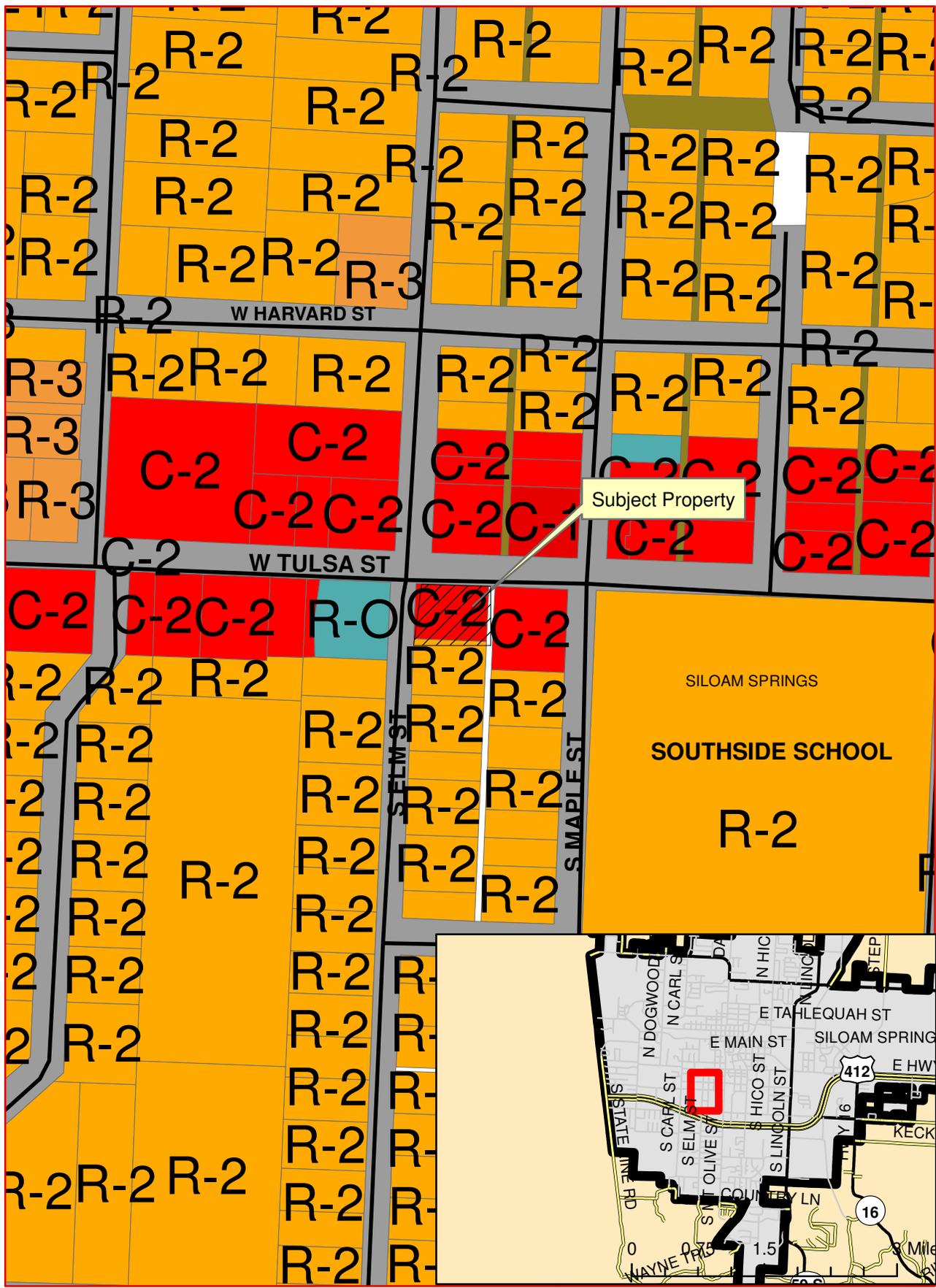
of roof that, when mounted, will not exceed the actual peak of roof. In other words, it won't technically be on the roof of the building.

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 sign will be simple, "classic", & to the point. It will be a great improvement over the worn out sign (that cannot be noticed) presently in place. Also, as a small business owner, it will be affordable.

GENERAL AREA MAP

Sign Variance
BOA15-06





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STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner *BR*
Cc: Don Clark, Community Services Director
DATE: January 13, 2016
RE: Sign Variance Development Permit, BOA15-07

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

Board of Adjustment Review: January 12, 2016

APPLICANT AND AGENT

Applicant/Owner: Bank of the Ozarks – Melvin Edwards

Agent: Cuerden Sign Co., Inc. – Jasper Burton

SUBJECT PROPERTY ADDRESS

2400 block of Hwy 412 East

PROJECT INTENT

The applicant desires TO CONSTRUCT FREESTANDING SIGN ON THE SAME LOT WHERE AN EXISTING FREESTANDING SIGN IS PRESENTLY ERECTED AND TO ILLUMINATE THE SIGN BY DIRECT ILLUMINATION. This is a direct code violation of Section 81-37(3)(a) 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>

EXISTING LAND USE	EXISTING ZONING
Under construction (future bank)	C-2 District (Roadway Commercial)
SURROUNDING LAND USE	SURROUNDING ZONING
North: Hotel/ Vacant	North: C-2 District (Roadway Commercial)
South: Motel/ Vacant	South: C-1 District (Residential, medium)/ C-2 District (Roadway Commercial)
East: Bank	East: C-2 District (Roadway Commercial)
West: Vacant	West: C-2 District (Roadway Commercial)

APPLICABLE CODE REQUIREMENTS

Sec. 102-37(3)(a) and Sec. 81-39.2(1) of the Siloam Springs Municipal Code.

Excerpt from Section 102-37(3) C District; 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.

* * * * ”

Excerpt from Section 81-39.2. Monument Signs:

“ * * * * ”

(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 a recently approved bank at the corner of N. Hampton St. and E. Main St. The variance is needed because the sign code expressly prohibits two freestanding signs per building lot. In this particular case, an abnormality exists in that the freestanding pole sign for the Hampton Inn hotel is presently existing on the bank's lot. When the Hampton Inn was constructed, in 2006, the owners obtained permission, through a sign easement, burdening the bank's property. The easement allowed a free standing sign on the, then vacant, lot. The purpose of this was to allow for easier visibility of the Hampton Inn location, since it is not located directly on Hwy. 412. At the time this was not an issue (no variances were needed) since the lot was vacant. The issue of a second sign was in a sense commuted until the time of the subject property's eventual development.

Staff met with the applicant and explored several options. The first was to add the new bank sign on N. Hampton St. As seen in the Code excerpt on page 2 of this report, the Code does make an exception for two free standing signs if they are fronting on different streets. This option was rejected by the applicant as traffic is primarily running east/west, along E. Main St. and Hwy. 412. Adding the freestanding sign on N. Hampton would not require a variance, but the sign in a north/south orientation, which would—as stated earlier—impact visibility from the majority of traffic in the area. The proposed sign, as seen in the attached site plan exhibit, will be of a sufficient spacing west of the Hampton Inn sign as to not create a conflict or sign stacking issue between both signs.

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 signs area below.

The applicant states in the attached Statement of Hardship that the sign ordinance does not take into consideration the present limiting situation of an off-premise freestanding sign on the same lot. Furthermore, the bank argues that they were not made aware of the easement until after the property was purchased, and furthermore were unaware that the Hampton Inn sign would inhibit additional sign development on the property. The bank requests a sign variance to rectify the issue rather than litigation. If approved, the proposed bank sign will enhance the bank's ability to successfully operate a new financial institution, and furthermore promote economic development. Finally, with regards to the lighting, the applicant argues that the proposed scheme is standard for the bank and that if they constructed a pylon sign, internal lighting would be allowed. The bank, however, cannot construct a standard pole/pylon sign due to overhead wires in the area, so the sign must be lower to the ground. The overhead powerlines create a practical difficulty requiring a monument sign.

Staff believes the proposed sign, when positioned west of the existing Hampton Inn sign, will not create a negative impact, and is in keeping with the spirit and intent of the Sign Code. The Sign Code limits excessive free standing signs on a given lot in order to prevent sign clutter and sign stacking issues. Sign stacking occurs when multiple signs are placed within very close proximity resulting in a disorderly and cluttered appearance, visually overwhelming the motoring public. As the applicant stated, the Code does not address situations where there is an off-premise sign already established on a vacant lot. There is a unique practical difficulty when a vacant lot is developed and the land contains pre-existing signage for an independent, unrelated business entity. With regards to the lighting, 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 this 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 would it detrimentally impact surrounding properties. Due to the aforementioned limitations and unique circumstances, 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 2, 2015, reposted on January 4, 2016.
- Newspaper legal notification: January 10, 2016 (Herald-Leader).
- Letter legal notification: January 6-9, 2016.
- Staff received one question, upon posting the property from the project foreman. Staff explained the purpose of the proposal; there were no further questions or comments. Staff received no phone calls or correspondence on the request.

Fiscal Impact

None

Attachments

Sign Exhibits and Site Plan
Statement of Hardship
General Area Map

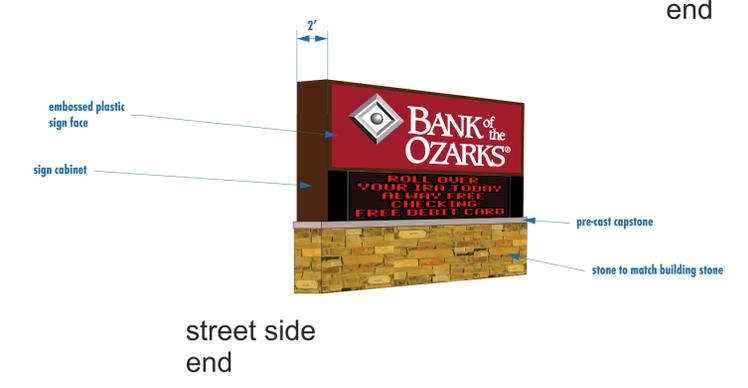
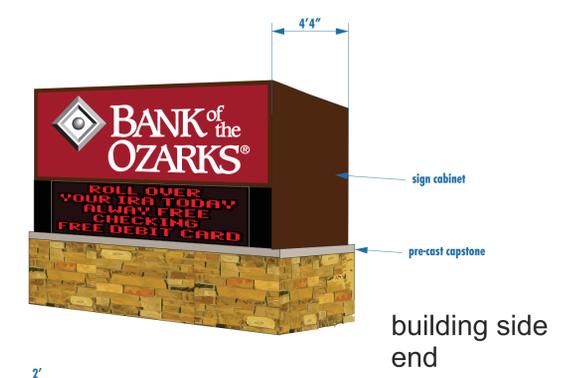
Hampton Inn



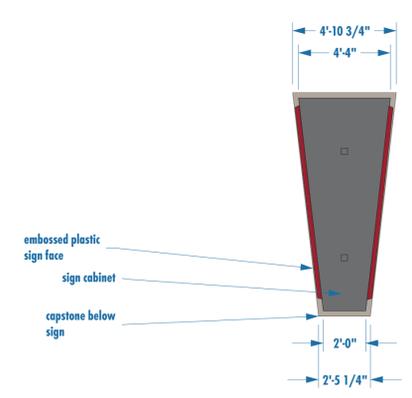
BANK of the OZARKS
SOUTH OZARKS
COMMUNITY BANK
MEMPHIS, TN
1000 S. MAIN ST.
MEMPHIS, TN 38103

ADMIT & DRIVING
LITTER CONTROL
NEED A BILL
LASSALLE CHURCH
100 S. MAIN

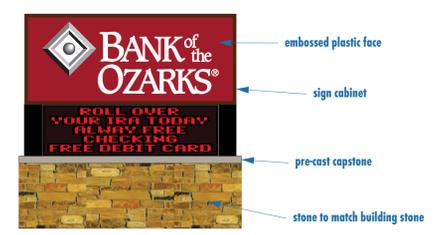




top view



front view







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STATEMENT OF HARDSHIP

Name: Jasper Burton, Cuerden Sign Co., Inc. Circle one: Agent for Owner / Owner

Address or description of property:
2400 Block of Hwy 412 East, at the corner of Ravenwood & Hwy 412

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 sign ordinance allows for 2 signs to be located on a corner lot providing that they face opposing streets. There is currently a Hampton Inn sign located on the subject property, which is an off premise sign, facing Hwy 412. The Bank of the Ozarks would like to install a new primary identification sign, and to have that sign face highway 412. Since the sign is to be located in the center of the property and since there is an existing power line running across the front of the property, the sign would have to be very low to the ground, therefore we propose a monument sign. However your definition of a monument sign requires indirect illumination. Bank of the Ozarks standard signs are internally illuminated plastic signs. We are allowed by right to have a pylon sign, therefore we should be allowed the same type of illumination as a pylon sign. The only reason for this to be a monument sign is due to the powerline issue.~~
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 bank was unaware of an easement allowing the Hampton Inn sign, apparently the easement was filed after the bank purchased the property. I am sure they were unaware that the Hampton Inn sign might prevent their use of a sign fronting 412. They can probably force the removal of the Hampton Inn sign, but would prefer to avoid the litigation and the associated delays.~~
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 enhance the value of the neighboring properties by allowing for the successful operation of a new financial institution, which will promote the development of other successful businesses in the immediate vicinity.~~

GENERAL AREA MAP

Sign Variance Permit
BOA15-07

