

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

Tuesday, March 22, 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 January 26, 2016
- D. Variance Permit Approval
  - 1. Variance Development Permit, BOA16-01  
205 W. Alpine St.  
Owner: Mike Rediske  
Agent: Mike Rediske
- 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 JANUARY 26, 2016

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building, January 26, 2016.

The meeting was called to order by Chairman Mounger.

Roll Call:

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

City Clerk, Renea Ellis; Jay Williams, City Attorney; and Senior Planner, Ben Rhoads.

A copy of the minutes of the Special-Called of January 12, 2016 had previously been given to each Commissioner. A motion was made by Blakely and seconded by Williams that the minutes of the January 12, 2016, Special-Called meeting be approved as presented. Chairman Mounger called for a voice vote on the motion, all ayes. Motion passed.

The first agenda item was a Sign Variance Development Permit, BOA 15-06, 470 W. Tulsa St., Jeff Yates, Speckled Pup – Sherri Kollman. Ben Rhoads, Senior Planner, briefed the item. Engle asked if the current Ordinance allowed wall signs on both sides. Rhoads responded yes. Sherri Kollman, 470 W. Tulsa, stated wall signs couldn't be lit and that it would be obstructed by trees. A motion was made by Colvin and seconded by Blakely to approve the Sign Variance Development Permit, BOA15-06 for 470 W. Tulsa St.

Roll Call:

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

7 Ayes. No Nays. Motion Approved.

The next agenda item was Sign Variance Development Permit, BOA 15-07, 2400 Block of Hwy 412 East, Bank of the Ozarks, Cuerden Sign Co., Inc. Ben Rhoads, Senior Planner, briefed the item. Blakely asked how to go about changing the code to avoid the internally lit sign variances. Rhoads stated it could be considered when the sign code is revised. Williams asked if LED will be modulated. Jasper Burton, of Cuerden Sign Co., answered it will automatically dim. A motion was made by Williams and seconded by Engle to approve the Sign Variance Development Permit, BOA 15-07, 2400 Block of Hwy 412 East.

Roll Call:

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

7 Ayes. No Nays. Motion Approved.

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

ATTEST:

APPROVED:

\_\_\_\_\_  
Renea Ellis, City Clerk  
(SEAL)

\_\_\_\_\_  
Karl B. Mounger, Chairman



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

## STAFF REPORT

TO: Board of Adjustment  
FROM: Ben Rhoads, AICP, Senior Planner *ZLR*  
Cc: Don Clark, Community Services Director  
DATE: March 11, 2016  
RE: Variance Development Permit, BOA16-01

**Recommendation:** City staff does not provide recommendations for variances. City staff concurs that there is a legitimate hardship in this case. If the variance is approved, the applicant must relocate the structure 13 feet to the north to meet the 20 ft. front yard setback, within 45 days of the variance approval.

### **Background:**

#### APPLICATION REVIEW DATES

Board of Adjustment Review: March 22, 2016

#### APPLICANT AND AGENT

Applicant/Owner: Mike Rediske

Agent: Mike Rediske

#### SUBJECT PROPERTY ADDRESSES

205 W. Alpine St.

#### PROJECT INTENT

The applicant desires CONSTRUCT AN ACCESSORY STRUCTURE THAT IS LOCATED CLOSER TO THE FRONT SETBACK THAN THE FRONT FACING WALL OF THE PRINCIPAL STRUCTURE on property located in the R-3 (two-family) zone and in the H-1 (Historic) overlay zone. This is a direct code violation of Section 102-72(5) of the Siloam Springs Municipal Code.

#### INTERNET MAP INFORMATION

Planning staff has created a map made with Google My Maps.

Attribution: Map data ©2016 Google Imagery ©2016, 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=zHgGzzL4W14o.kNgOH84TNIn8&usp=sharing>

<b>EXISTING LAND USE</b>	<b>EXISTING ZONING</b>
Single-Family Residential	R-3 District (Residential, two-family)/ H-1 Overlay District (Historic)
<b>SURROUNDING LAND USE</b>	<b>SURROUNDING ZONING</b>
North: Vacant / Sager Creek	North: R-3 District (Residential, two-family)/ H-1 Overlay District (Historic)
South: Residential, single-family	South: R-3 District (Residential, two-family)/ H-1 Overlay District (Historic)
East: Vacant / Sager Creek	East: R-3 District (Residential, two-family)/ H-1 Overlay District (Historic)
West: Residential, single-family	West: R-3 District (Residential, two-family)/ H-1 Overlay District (Historic)

**APPLICABLE CODE REQUIREMENTS**

Sec. 102-72(5) of the Siloam Springs Municipal Code.

*Excerpt from Section 102-72 Accessory Buildings, residential:*

“ \* \* \* \*

(5) No part of the accessory building shall be located closer to the front setback than the front facing wall of the principal structure, unless it is used as a garage or carport; and

\* \* \* \*”

**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 allow for the continued use of an accessory structure on a residential property, located in the Carl’s Addition, at 205 W. Alpine St. The accessory structure was illegally relocated from the rear yard to the front yard location late last year (the exact date is undetermined). When Code Enforcement noticed the structure, the applicant was asked to either move it to be in Code compliance, or to request a variance. The accessory structure is used as auxiliary storage space/ workshop shed (see attached photos). The Code requires that non-habitable secondary accessory structures be placed either in the side yard or the rear yard of the structure. The purpose of this regulation is purely aesthetic, as these structures are intended for the more utilitarian areas of the property, which typically are the side or rear yards of a residential lot.

Upon further investigation, it was discovered that the shed was relocated by the home owner on account of the construction of a new detached garage at the original location of the shed. The applicant elected to move it to the front yard, as the house sits far back on its lot (approximately 60 feet from the street), allowing for a very large front yard and diminutive rear and side yards. The shed was placed 7 ft. from the front property line, this does *not* meet the 20 ft. front building setback proscribed in the H-1 overlay historic district. If the variance is approved, the applicant must relocate the shed to meet the front setback within 45 days of the approval; this is added to the recommendation. Approximately 50 percent of the lot is occupied by the front yard, which is defined as the area of the lot that is beyond the front wall of the principal structure. When taking into account the new garage, driveway, building footprint of the dwelling, and the steep drop off to Sager Creek, there are limited locations where a 12 ft. by 16 ft., or 192 sq. ft., accessory structure can be relocated and still be maintained 8 or more feet from the main structure. Accessory buildings less than 350 sq. ft. must be at least 8 feet from the

principal structure. This rule supports fire prevention in the event the structure catches fire, the fire can be contained to the structure and not be spread to the main house.

The applicant states, in his Statement of Hardship, that he engages in mechanical and woodworking activities and is in need of the structure for these purposes. He states that he built the structure a few years ago, but when he added the garage, it needed to be relocated. When he moved the shed to the front of the property, he was unaware that there were any Code violations. He argues that there are no other locations on the property to relocate the structure, due to the side property line angling in. There is only a 20 ft. lot width in the rear, whereas along the frontage there is 120 ft. in lot width. This equates to a very wide front yard area and narrow side and rear yard areas. The applicant goes on to argue that the property's shape is unique in that there is no substantial rear or side yards when compared to peer lots of the neighborhood. Furthermore, there are other site features, a gazebo and two swing set play areas situated in the front and east side yard, as the applicant has safety concerns with using the rear (north) yard for these features due to the steep drop off, especially when factoring children at play. The front and east side yards have effectively become the "back yard" of the house. Therefore, it is argued that the only feasible location on the lot for the relocated accessory building is in the front yard area. Finally, the applicant argues in his Statement of Hardship, Question No. 3, that the structure is attractive and blends in well with the historic neighborhood and he has not received any complaints about it from the neighbors, nor does it impede anyone's view into the downtown.

Staff concurs that features exist that make the lot unique when compared to peer lots in the same zone district. These unique characteristics include the odd triangular shaped lot, which creates an expansive front yard and diminutive rear yard, and the sharp topographic drop off when traveling north and east, which poses safety concerns for children who may venture too close to the edge. The Code allows for two accessory structures per lot, and this structure would be the second after counting the existing gazebo on the property. Given that these accessory structures are a use by right, the property owner should be given permission for both accessory buildings and be allowed to use them in the same manner others in the neighborhood are permitted. The attached site plan shows the limited open locations on the property where the accessory structures can be relocated, especially when factoring the new detached garage, mature trees, gazebo, and the view sheds in the north and east yards. These conditions, when taken in whole, leads staff to concur that the need for the variance arises out of uniqueness on the property and that the applicant has demonstrated that the "uniqueness of the property has existed for a minimum of fifteen (15) years." In this case, these unique conditions include the lot's shape and topography. Therefore, staff concurs that there is a legitimate hardship in this case meeting the proscribed variance approval tests.

#### 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: March 02, 2016.
  - Newspaper legal notification: March 6, 2016 (Herald-Leader).
  - Letter legal notification: March 01-04, 2016.
  - Staff received no phone calls or correspondence on the request.

#### **Fiscal Impact**

None

#### **Attachments**

- Site Plan
- Site Photos
- Statement of Hardship
- General Area Map

↑  
NORTH

20'

45'

80'

HILL SIDE

6'

54'

68' ±

TO PROPERTY  
LINE

6'

40'

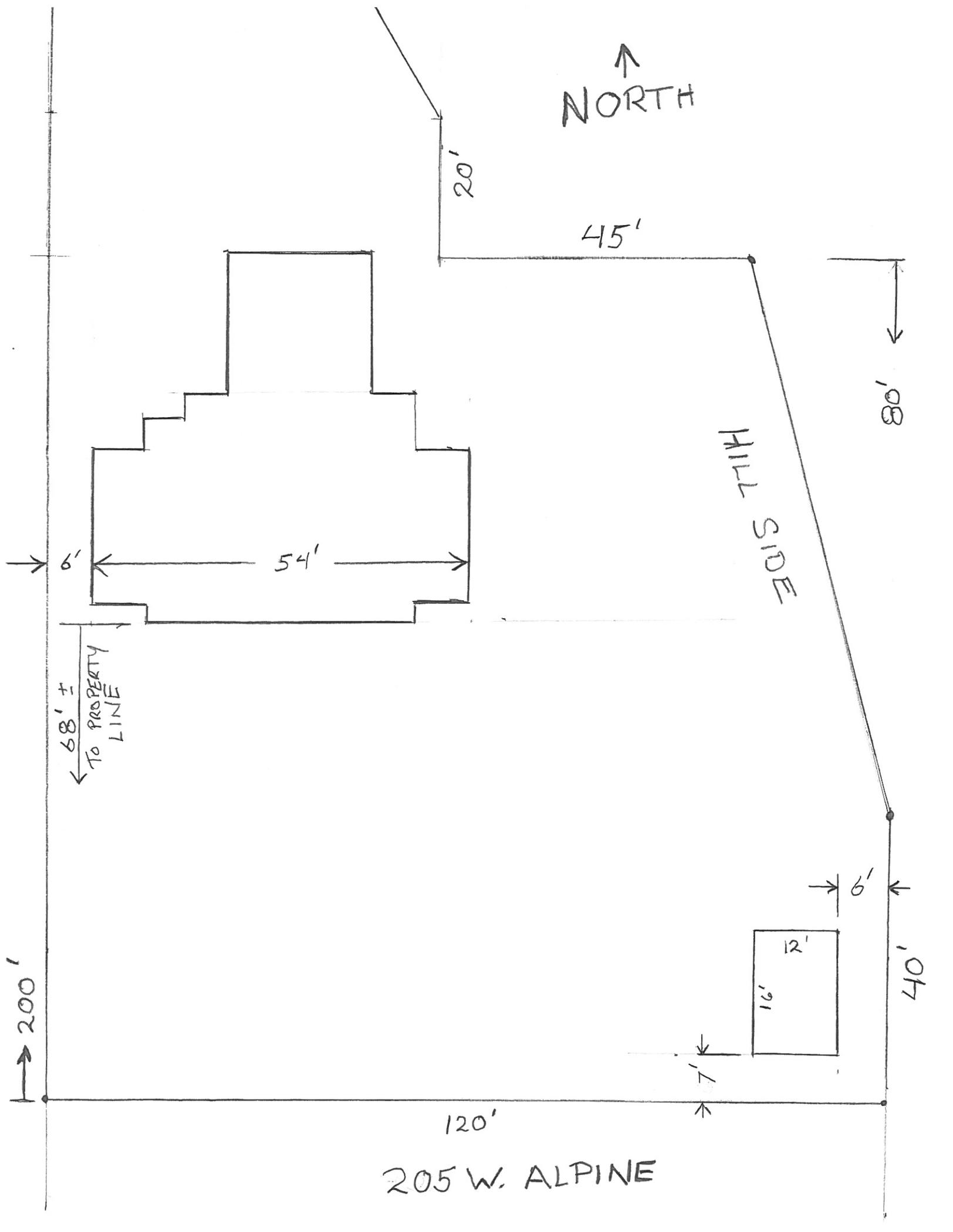
16'  
12'

7'

120'

205 W. ALPINE

200'

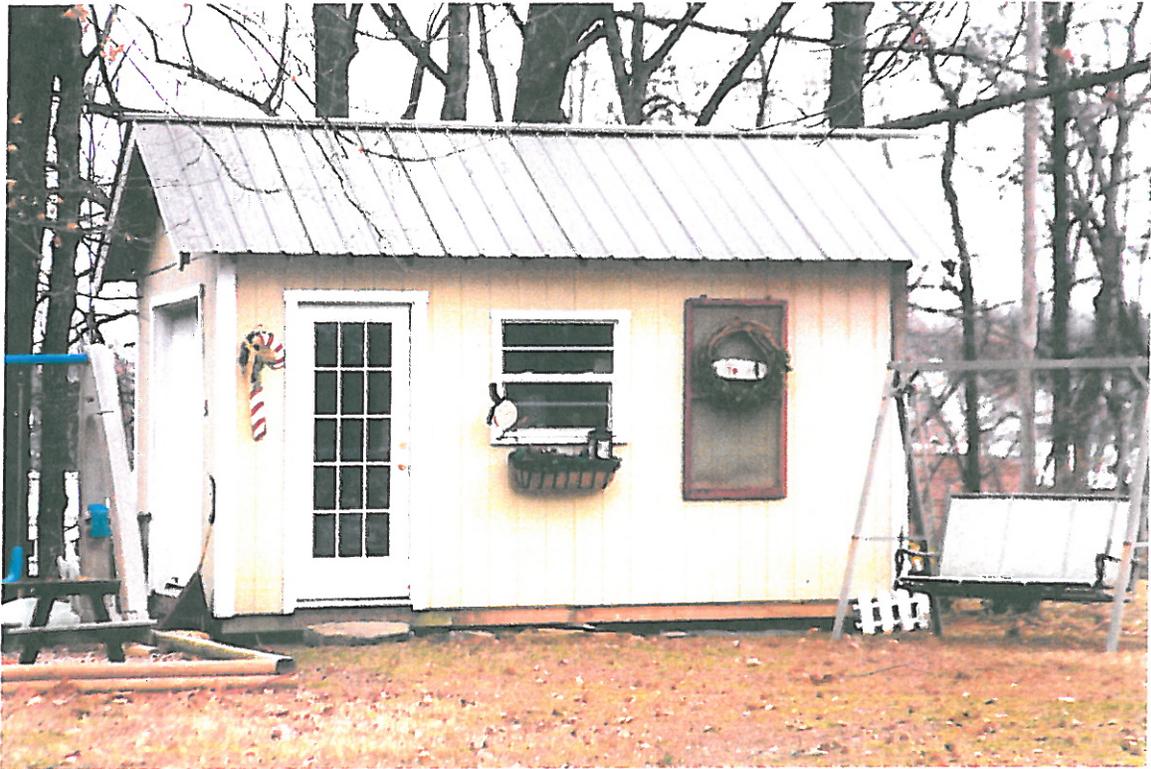




picture # 1  
from ~~across~~ street  
(across)



picture # 2  
Side view



#3  
Small portable  
building

# BOA16-01 Shed Variance



# BOA16-01 Shed Variance



# BOA16-01 Shed Variance



Bird's eye view of property



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

STATEMENT OF HARDSHIP

Name: Mike and Kristi Rediske Circle one: Agent for Owner  Owner

Address or description of property: 205 W Alpine St 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:

\_\_\_\_\_  
\_\_\_\_\_  
See attached  
\_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_  
See attached  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_  
See attached  
\_\_\_\_\_

# Statement of Friendship

1.) The shop building I used for mechanical and woodwork sold creating the need to build a garage/shop. The 12x16 portable building I built several years ago sat in the location the garage had to be. I moved the portable building to the front of the property unaware of the code violation. There is no other place on the property to locate it. This lot is 120' wide in the front, the house is located approximately 60' back from the street. The property line angles, ending up 20' wide at the back. This lot is unique to the neighborhood as well as most of the city. Because of the limited area behind the house and the dangerously steep hillside going down to Sugar Creek, we put the swingset/play area for the grandkids in the front side yard. The portable building sits up against the play area. The garage size in the back is limited by the lot size so the extra building is needed to store lawn care equipment, bikes, toys, etc. Because of the lot configuration & the large setback of the house, the east edge of the front yard has functioned as the "backyard" for the kids.

2.) This property with house location has existed for around 100 years or more.

3.) The building blends in quite nicely with the tree scape at this corner. It does not interfere with any of the neighbors view looking over downtown Siloam Springs. When approved we will be landscaping around the building with small white picket fence and shrubs and flowers to make an attractive addition to the yard as we have strived to do with the street view of the home since we moved into the house around six years ago.

# GENERAL AREA MAP

Variance Permit  
BOA 16-01

