

CITY OF SILOAM SPRINGS BOARD OF ADJUSTMENT

Tuesday, April 11, 2023 at 5:30 p.m.
City Administration Building
400 N. Broadway

AGENDA

I. Board of Adjustment

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of Minutes of the Regular Meeting on July 12, 2022
- E. Variance Request
 - 1. Setback Variance, BOA23-02
3299 Highway 412 East
Owner: Siloam Crossing, LLC
Agent: Burk Collins & Co., Ltd. -Tom Winn
Staff Presenter: Ben Rhoads, AICP
- F. Adjourn the Board of Adjustment

MINUTES OF THE REGULAR MEETING
OF THE BOARD OF ADJUSTMENT OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY, ARKANSAS
JULY 12, 2022

The Board of Adjustment of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building on July 12, 2022.

The meeting was called to order by Chairman Smith.

Roll Call: Song, Salley, McKinney, Smith, Rennard, Williams - Present. Montgomery - Absent

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

A copy of the February 8, 2022, minutes had previously been given to each Commissioner. A motion was made by Salley and seconded by Williams to accept the minutes. A Voice Vote was called. Motion passed unanimously.

Item E1. Setback Variance, BOA22-01, 800 Block of East Harvard St. Ben Rhoads briefed the item. Following discussion by the commission, a motion was made by Salley and seconded by Song to approve the item with conditions. Motion passed unanimously

There being no further business, a Motion was made by Rennard and seconded by Williams to adjourn. A Voice Vote was called. Motion passed unanimously. Meeting Adjourned.

ATTEST:

APPROVED:

Renea Ellis, City Clerk CAMC/CMC

J.W. Smith, Chairman

(SEAL)



CITY OF
Siloam Springs
It's a natural.

STAFF REPORT

TO: Board of Adjustment
FROM: Ben Rhoads, AICP, Senior Planner *BR*
Cc: Don Clark, Community Development Director
Maegan Thomas, Planner 1
DATE: March 14, 2023
RE: Variance Development Permit, BOA23-02 / 3299 Hwy. 412 E.

Recommendation: Based on the hardship presented by the applicant, staff recommends approval of BOA23-02 (Variance).

Section A: Background:

A-1) APPLICATION REVIEW DATE

Board of Adjustment Review: April 11, 2023

A-2) APPLICANT AND AGENT

Applicant/Owner: Siloam Crossing, LLC

Agent: Burk-Collins, Inc. – Steve Harriman and Tom Winn

A-3) SUBJECT PROPERTY ADDRESS

3299 Hwy. 412 East

A-4) PROJECT SUMMARY

The applicant desires to ENCROACH INTO THE 10 FOOT SIDE SETBACK BY 3.72 FEET on property in the C-2 (Roadway Commercial) zone. This is a direct code violation of §102-53(e)(1)(a)(2) of the Siloam Springs Municipal Code.

A-5) LEGAL NOTICE

- Site posted: March 7, 2023.
- Newspaper legal notification: March 12, 2023 (NWA Democrat-Gazette).
- Letter legal notification: March 13-16, 2023.
- Staff received one phone call of a questioning nature on the purpose of the request and no correspondence on the request.

A-6) REFERENCE APPLICATIONS

The following applications are associated with this request:

- SD23-05 (Significant Development Permit).
This application will be heard at the April 11, 2023 regular meeting of the Planning Commission.
- ROW23-01 (Easement Vacation Permit)
The easement closure will be heard at the April 18, 2023 regular meeting of the Board of Directors.

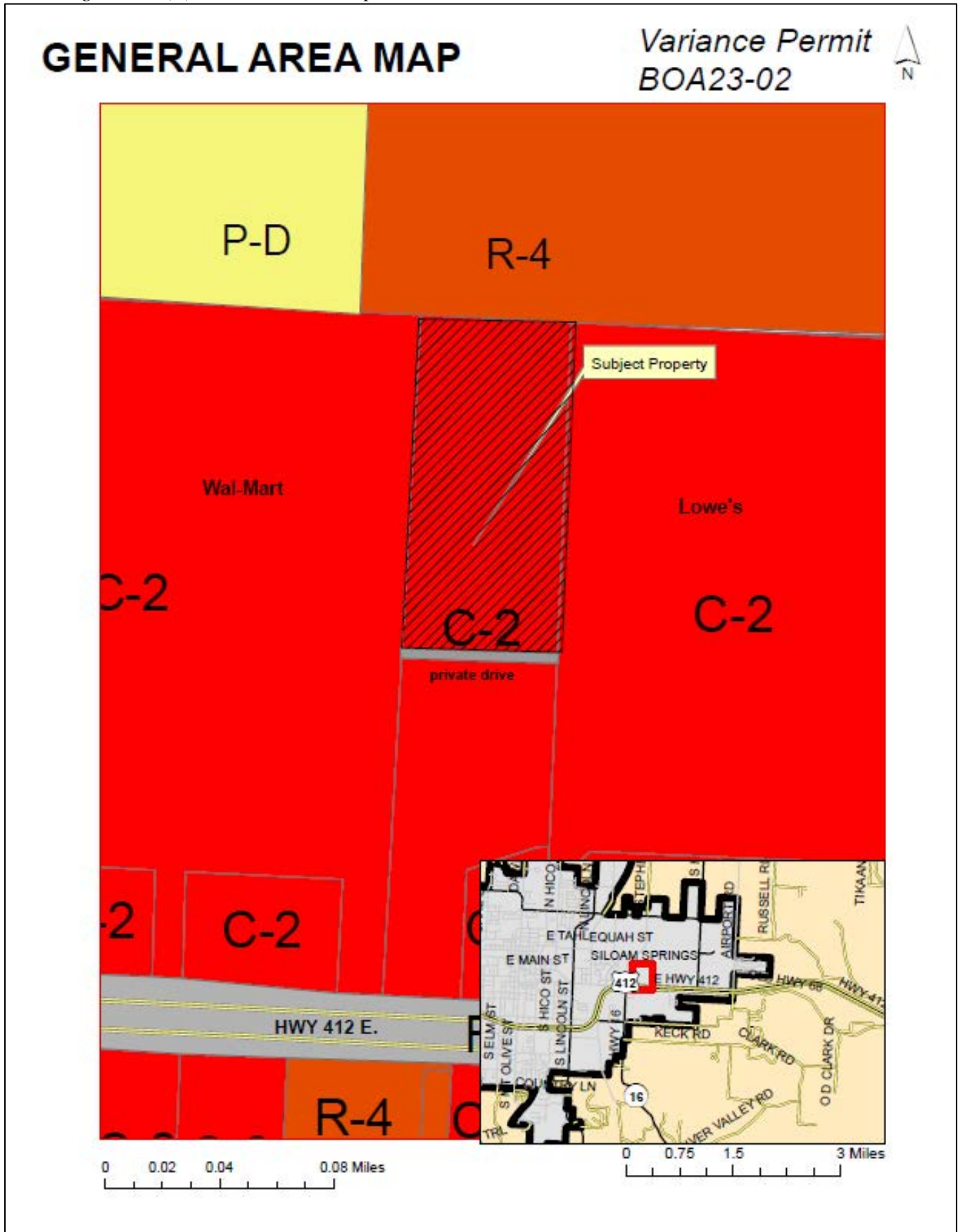
A-7) EXISTING LAND USES AND ZONING

<i>EXISTING LAND USE</i>		<i>EXISTING ZONING</i>	
Vacant		C-2 District (Roadway Commercial)	
<i>PROPOSED LAND USE</i>		<i>PROPOSED ZONING</i>	
Office / Retail (Use Unit 18)		No zoning change is proposed	
<i>SURROUNDING LAND USE</i>		<i>SURROUNDING ZONING</i>	
North:	Vacant (future multifamily)	North:	R-4 District (Residential, multifamily)
South:	Commercial / restaurant and retail <i>Separated by a private street</i>	South:	C-2 District (Roadway Commercial) / <i>Separated by a private street</i>
East:	Large Impact Retail (Lowe's)	East:	C-2 District (Roadway Commercial)
West:	Large Impact Retail (Wal-Mart)	West:	C-2 District (Roadway Commercial)

Figure A-7 (1): Site View



Figure A-7 (2): General Area Map



A-8) APPLICABLE CODE REQUIREMENTS
Section 102-53 of the Siloam Springs Municipal Code.

Excerpt from Section 102-53(e)(1) Setbacks

“ * * * * ”

- c. Setback required from boundaries abutting an arterial street or larger:

2.Side (except side on corner): Ten feet.

* * * * ”

Section B: Site Analysis

B-1) PROJECT ANALYSIS AND APPROVAL CRITERIA

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

- (1) The board’s determination of whether there is “undue hardship unique to the property” should reflect whether, and the degree to which, the applicant has convincingly demonstrated that:

- a. The need for the variance arises from a uniqueness of the property not frequently occurring in the zone; and that:
- b. The uniqueness of the property was not caused, allowed, or known prior to purchase, by the owner, **or** has existed for a minimum of 15 years.

The undue hardship identified to the property is its narrow width, this hardship has existed for 15 years, not frequently occurring in the C-2 zone for lots designated as large lot commercial/retail centers.

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

A setback variance is a measurable aspect of the building’s width compared to the existing lot width, as a measurement of the building to the east property line. The applicant has indicated that this is not a financial hardship.

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

The setback variance is shown to encroach 3.72 feet into the 10-foot side setback, this is shown to be the narrowest encroachment possible for the required building widths.

(2) The board’s determination of whether approval of the development permit would be “in keeping with the spirit and intent of the Code” shall reflect whether, and the degree to which, the applicant has convincingly demonstrated that the proposed variance:

a. Will not substantially damage any property value in the neighborhood;

A setback variance in this area is not anticipated to impact property values because the increase in width is negligible compared to the overall scope of the project. The total allowed building envelop width, for the subject property, is 262.5 feet. The requested variance is 1.41 percent of the building area.

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

City staff is aware of no evidence that the proposed setback variance will be inconsistent with the neighborhood context and character. The variance will increase the front width of the building, which will be consistent with the current built environment associated with the neighboring properties, Wal-Mart and Lowe’s.

c. Will not substantially impair the neighborhood’s quality of life, including without limitation, sound and traffic levels, pedestrian and vehicular access, visual presentment, and character;

City staff is aware of no evidence that the proposed setback variance will cause a consistent disturbance to the peace and enjoyment of the neighboring properties. Quality of life criteria such as traffic impact, sound emission, pedestrian and vehicular access, the visual presentment, and the character associated with a granted variance are not anticipated to change negatively on the neighborhood. The change is merely a 3.72-foot wider building. Neighboring properties are not anticipated to be negatively impacted by the wider building.

d. Will not, by the nature of the variance, tend to burden the present or future use of neighboring properties in accordance with current zoning standards; and

City staff is aware of no evidence that the proposed setback variance will cause a use disturbance. Commercial properties will be permitted to operate and be used in the same manner as today after this variance request is granted.

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

A setback variance in this area is mitigated by the following permanent characteristic: limited lot width and area for the parking lot.

- (3) *Conditions.* The development permit allowing variance from land regulations may require, as a material condition essential to any authorization it confers, that any lots and any construction be located and designed in a manner which best:
- a. Provides safe and convenient traffic flow;
 - b. Maximizes the effectiveness of all drainage patterns and facilities; and
 - c. Remains compatible with neighborhood architecture and layout, and with city growth and planning.

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

The variance will not impede or disrupt existing traffic flow, it is also designed in such a way as maximize the effectiveness or drainage patters and facilities on the site and in the area. Finally, it will remain compatible with the existing neighborhood architecture and layout and with the general city growth and planning.

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

B-2) STAFF ANALYSIS

General Summary

The applicant is requesting a 3.72 side setback variance on the east side of a proposed structure associated with a building on SD23-05.

Code Violation

In the C-2 zone, the side setbacks is 10 feet from the property boundary line to the building footing. The applicant is proposing a building that is 6.28 feet from the side property line, or an encroachment of 3.72 feet into the side setback boundary (no build zone).

Hardship

In terms of hardships, staff concurs that there is one in this case. The applicant argues that "due to the dimensions of the building envelope, we are seeking a hardship request necessary for our development requirements for the planned three national credit tenants. The limitations of the site totaling 6.587 acres is due to the width representing 25% of the depth making the parcel unique in comparison to normal dimensions found for junior anchor retail development. The tract was specifically chosen by the national tenants due to its locale in relationship to retail anchors Walmart and Lowe's. We presented alternative sites in the city, and each was negated by the two primary tenants. Necessary modifications that were needed to conform to the narrowness of the tract mandated the two larger tenants breaking with their prototypes from 110 feet down to 105 [feet], and the smaller of the three reducing their prototype from 58 feet to 55 feet."

In terms of the unique aspects of the property, the root of the problem is the narrow lot width at only 272.5 feet wide. While this may be considered a wide lot in other contexts, in this location, it is considerably narrower compared to its peers in the neighborhood. The lot to the east (Lowe's) is 642.3 feet wide, or approximately 58 percent wider than the subject property. To the west (Wal-Mart), the lot is 949 feet wide, or 71.3 percent wider. Finally, as a third comparable, looking at the lot for Signature Plaza, to the west of Wal-Mart, it is 500 feet wide (excluding Zaxby's), or 46 percent wider. The wider lots, excluding the out lots along Hwy. 412, paints a picture of larger rear or anchor store lots

appropriate for regional based retail centers such as Wal-Mart, Lowe's, and similar shopping center plazas.

The lot width for the Shoppes of Siloam, located on the south side of Hwy. 412, is 344 feet, thus making the subject property the smallest of its kind, being a larger lot located behind the frontage out lots intended for quick service restaurants and smaller retailers. The applicant, in good faith, has made efforts to reduce the width of the proposed stores as much as possible. Therefore, he is requesting a variance to the minimum extent possible for the lot.

Conditions and Staff Conclusions

The root of the issue for the needed variance is the limited lot width. This was created when the R & M Fiertz Addition (Wal-Mart) was created, leaving the subject property as the residual remainder through a deed transfer from 2002. This condition has been in place for over 15 years, thus meeting the time requirement for longstanding hardships. It can be argued that the marketability of this remainder lot has been at a disadvantage due to its condition not being suitable as a shopping center lot or for a "big box" store. Staff worked with the applicant over a period of several months to propose various solutions to the width issue, such as requiring stores to face east or west, rather than south, but the proposed tenants did not find this solution acceptable for their needs. In sum, if this lot is ever to be developed, a variance as requested will likely be needed due to the lack of suitable development types that would successfully fit in the space between two major retail stores. Staff concludes that there is a reasonable hardship in this case. See the image below illustrating the subject width property, compared to its peers.

Figure B-2: Neighborhood Lot Width Comparisons



Section C: Fiscal Impact

There is no fiscal impact anticipated at this time.

Attachments:

- Statement of Hardship
- Site Plan



STATEMENT OF HARDSHIP

Name: Siloam Springs, LLC

Check one:

- Agent for Owner
- Owner

Address or description of property:
3299 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:

Request variance of set back C2 zone

Due to the dimensions of the building envelope, we are seeking a hardship request necessary for our development requirements for the planned three national credit tenants. The limitations of the site totalling 6.587 acres is due to the width representing 25% of the depth making the parcel unique in comparison to normal dimensions found for junior anchor retail development. The tract was specifically chosen by the national tenants due to its locale in relationship to retail anchors Walmart and Lowe's. We presented alternative sites in the city, and each was rejected by the two primary tenants. Necessary modifications that were needed to conform to the narrowness of the tract mandated the two larger tenants breaking with their prototypes from 110 feet down to 105, and the smaller of the three reducing their prototype from 58 feet to 55 feet. Seemingly a modest request but when you request that of national tenants who have mastered over the years their respective prototypes, the formal process takes months for the approval especially when it alters their floor merchandising and "raceway" in the least bit.

Therefore, we respectfully request a variance from the Board of Adjustment for side yard setbacks allowing the 3 tenants the minimum standards they have approved and executed in their leases.

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:

Size lot to accomodate development

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:

No.

Site Plan

