



## Planning and Zoning Commission Staff Report Demeyer – Variance – PH2017-1

Hearing Date: February 16, 2017

Development Services Department

<p><b><u>Owner/Applicant:</u></b> Troy Demeyer</p> <p><b><u>Staff:</u></b> Dan Lister, 455-5959 <a href="mailto:dlister@canyonco.org">dlister@canyonco.org</a></p> <p><b><u>Tax ID:</u></b> R21908</p> <p><b><u>Current Zone:</u></b> “AG” (Agricultural)</p> <p><b><u>Comprehensive Plan:</u></b> 2020 Canyon County Comprehensive Plan</p> <p><b><u>Lot Size/Project Area:</u></b> 0.56 acres</p> <p><b><u>Current Uses:</u></b> Single Family Residential</p> <p><b><u>Applicable Regulations:</u></b> §07-10-21: Setbacks §07-08-03: Variance Criteria</p> <p><b><u>Notification:</u></b></p> <ul style="list-style-type: none"><li>• January 12, 2017 – Agencies</li><li>• January 18, 2017 – Property Owners</li><li>• January 29, 2017 – Legal Publication</li><li>• February 6, 2017 – Property Posting</li></ul> <p><b><u>Exhibits:</u></b></p> <ol style="list-style-type: none"><li>1. Draft FCO’s</li><li>2. Letter of Intent/Site Plan</li><li>3. Aerial Map</li><li>4. Highway District Setback Waiver</li><li>5. Comment Letter: Southwest District Health</li></ol>	<p><b><u>Request</u></b></p> <p>Troy Demeyer, property owner, is requesting a variance to reduce the 30 foot front setback required by Canyon County Code §07-10-21 to 15 feet to allow the construction of a detached garage. The subject property is addressed as 17254 Elmcrest Drive, Caldwell. The 0.56 acre parcel is also known as tax parcel R21908 and located in a portion of the NE quarter of Section 19, Township 5N, Range 3W, BM, Canyon County, Idaho.</p> <p><b><u>Background</u></b></p> <p>The subject parcel is an original 0.56 acre lot created by the Elm-Crest Subdivision in 1973. The parcel is a corner lot located adjacent to Goodson Road and Elmcrest Drive. The subject parcel is developed with a single-family dwelling, attached garage and utility shed.</p> <p>The variance is in conjunction with the section line setback reduction approved by the Notus-Parma Highway District (Exhibit #4). Goodson Road is located on a section line which requires a 70 foot setback (measured from the centerline of the road) or approval by the highway district to reduce or waive the setback requirement (§07-10-19 CCZO). The highway district reduced the section line setback from 70 feet to 55 feet. The 55 foot section line setback, when measured from the centerline of Goodson Road, encroaches into the property 15 feet. Therefore, the variance is requesting a setback reduction to match the resulting highway district setback reduction.</p> <p><b><u>Analysis</u></b></p> <p>To approve a variance, Canyon County Code §07-08-03 (2) requires the Commission to make the following findings:</p> <ol style="list-style-type: none"><li>A. <i>Will granting the variance be consistent with the comprehensive plan;</i></li><li>B. <i>Do characteristics of the site create an undue hardship; and</i></li><li>C. <i>Is the variance in conflict with the public interest?</i></li></ol> <p><b><u>§07-10-21 SETBACKS</u></b></p> <p>Pursuant to §07-10-21 of the Canyon County Zoning Ordinance, structures on agriculturally-zoned properties require a 30 foot front setback measured from the property line. The applicant is seeking a variance to reduce the front setback to 15 feet to accommodate the construction of a detached garage (Exhibit #2).</p> <p><b><u>§07-08-03(2)(A) CONSISTENCY WITH COMPREHENSIVE PLAN</u></b></p> <p>The subject property is currently designated “Agriculture” with a designation of “Residential” on the Canyon County Comprehensive Plan Future Land Use Map. The property is a residential lot created in 1973 as part of the Elm-Crest Subdivision. The property contains residential uses. Therefore the proposed variance does not appear to conflict with agricultural uses within the vicinity.</p> <p>In addition, staff has determined the following Comprehensive Plan Goals and Policies are relevant to this case:</p>
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- Property Rights Policy No. 1- “*No person shall be deprived of private property without due process of law.*” The proposed variance does not deprive property owners of private property.
- Property Rights Policy No. 11- “*Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.*” There is no evidence on the record that a variance for a front setback reduction will negatively impact surrounding neighbors or neighborhoods.

**§07-08-03(2)(B) UNDUE HARDSHIP AND IDAHO CODE 67-6516 VARIANCE**

Canyon County Code or Idaho Code does not define undue hardship for the purposes of a variance. However, undue hardship can be deduced from the criteria for a variance listed in Idaho Code §67-6516. Section 67-6516 allows the county to grant a variance if the characteristics of the site create a hardship that prevents an applicant from complying with a portion of county code eligible for a variance. Should the characteristics of the site prohibit the applicant from complying with Canyon County Code §07-10-21, staff would support the approval of the applicant’s request.

As stated in the applicant’s letter of intent and site plan (Exhibit #2), due to the lot size, location of existing residential structures and existing septic system and well at the rear of the property, no alternative location is available on the property other than the proposed location.

**§07-08-03(2)(C) CONFLICTS WITH THE PUBLIC INTEREST**

Staff defines the public interest to be the welfare or well-being of the public. Staff finds no evidence that the placement of the structure 15 feet from the front property line would create conditions that conflict with the welfare or well-being of the public.

Staff finds no evidence the variance would deprive adjacent property owners of property rights. The variance does not appear to create material injury or unsafe conditions to adjacent property owners or deprive them from the use of their property.

**Comments**

Property owners within 300 feet from the exterior boundaries of the subject parcel were notified on January 18, 2017. No comments were received.

Affected agencies were notified on January 12, 2017. Only comment received was from Southwest District Health on January 12, 2017 which stated that the applicant has an approved permit for Southwest District Health (Exhibit #5a).

**Options**

The Commission has the following options in this case:

- 1) The Planning and Zoning Commission may approve the variance;
- 2) The Planning and Zoning Commission may deny the variance and direct staff to make findings of fact to support this decision; or
- 3) The Planning and Zoning Commission may continue the discussion and request additional information on specific items.

**Recommendation**

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed variance. Staff is recommending approval of variance application PH2017-1.

Staff has provided draft findings of fact, conclusions of law and decision for the Planning and Zoning Commission’s consideration (Exhibit #1).