



Planning and Zoning Commission Staff Report Fillmore – Variance – PH2017-14

Hearing Date: May 4, 2017

Development Services Department

<p><u>Owner/Applicant:</u> Jacob & Marnie Fillmore</p> <p><u>Staff:</u> Dan Lister, Planner II (208) 455-5959 dlister@canyonco.org</p> <p><u>Tax ID:</u> R36382-011</p> <p><u>Current Zone:</u> “AG” (Agricultural)</p> <p><u>Comprehensive Plan:</u> 2020 Canyon County Comprehensive Plan</p> <p><u>City Impact Area:</u> City of Greenleaf</p> <p><u>Lot Size:</u> 11.96</p> <p><u>Current Uses:</u> Single Family Residential/Pasture</p> <p><u>Applicable Regulations:</u> §07-10-21: Setbacks §07-08-03: Variance Criteria</p> <p><u>Notification:</u></p> <ul style="list-style-type: none">• March 27, 2017 – Agencies/JEPA• April 18, 2017 – Property Owners• April 18, 2017 – Legal Publication• April 24, 2017 – Posting <p><u>Exhibits:</u></p> <ol style="list-style-type: none">1. Draft FCO’s2. Letter of Intent/Site Plan3. Administrative Land Division (Instrument No 9924539)4. Aerial Map5. Zoning and Classification Map	<p><u>Request</u> Jacob and Marnie Fillmore, property owners, are requesting a variance to reduce the 30 foot front setback required by Canyon County Code §07-10-21 to six (6) feet in order to place a shop building on the property. The subject property is addressed as 18954 Lower Pleasant Ridge Road, Caldwell. The 11.96 acre parcel is also known as tax parcel R36382-011, SW quarter of Section 24, Township 4N, Range 4W, BM, Canyon County, Idaho.</p> <p><u>Background</u> The subject parcel was created through an approved administrative land division on June 22, 1999 (Instrument No. 9924539). Access from Lower Pleasant Ridge Road to the property is granted by a 28 foot wide driveway easement that bisect parcel R36382-010 (AD2014-61).</p> <p><u>Analysis</u> To approve a variance, Canyon County Code §07-08-03(2) requires the Commission to make the following findings:</p> <ul style="list-style-type: none">A. <i>Will granting the variance be consistent with the comprehensive plan;</i>B. <i>Do characteristics of the site create an undue hardship; and</i>C. <i>Is the variance in conflict with the public interest?</i> <p><u>§07-10-21 SETBACKS</u> Pursuant to §07-10-21 of the Canyon County Zoning Ordinance, structures on agriculturally-zoned properties require a 30 foot front yard setback measured from the property line. Section 07-02-03 of the Canyon County Code defines the front yard setbacks as “the open space extending across the full width of the lot and lying between the front street line and the nearest line of a structure.” The applicant is seeking a variance to reduce the front setback to six (6) feet in order to place a shop building on the property (Exhibit #2).</p> <p><u>§07-08-03(2)(A) CONSISTENCY WITH COMPREHENSIVE PLAN</u> The subject property is currently designated “Agricultural” with a designation of “Industrial” on the Canyon County Comprehensive Plan Future Land Use Map (Exhibit #5). The property is agriculture with a residence which is an allowed use in the agricultural zoning district. Therefore, the proposed variance will not 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> <ul style="list-style-type: none">• <u>Property Rights Policy No. 1-</u> <i>“No person shall be deprived of private property without due process of law.”</i> The proposed variance does not deprive property owners of private property.• <u>Property Rights Policy No. 11-</u> <i>“Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.”</i> There is no evidence on the record that a variance for a front setback reduction will negatively impact surrounding neighbors or neighborhoods.
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§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), the topography and site constraints of the property limit locations suitable for the placement of a shop. The northeast area of the property includes slopes and wetland habitat surrounding an existing spring. The northwest portion of the property is vacant farmland to be used for agricultural use. Due to the driveway access entering the middle of the property, the required 30 foot setback is located across the length of the southern boundary line which encroaches into suitable locations for residential and accessory structures.

§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 six (6) 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 April 18, 2017. No comments were received.

Affected agencies and the City of Greenleaf were notified on March 27, 2017. No comments were received.

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