



Planning and Zoning Commission Staff Report
Linda Jo Puffe – Variance – ZV2018-0001

Hearing Date: May 3, 2018

Development Services Department

<p><u>Owner/Applicant:</u> Linda Jo Puffe</p> <p><u>Staff:</u> Dan Lister, Planner II (208) 455-5959 dlister@canyonco.org</p> <p><u>Tax ID:</u> R35575010A</p> <p><u>Current Zone:</u> “AG” (Agricultural)</p> <p><u>2020 Comprehensive Plan:</u> Residential</p> <p><u>City Impact Area:</u> City of Caldwell</p> <p><u>Lot Size:</u> 0.94</p> <p><u>Current Uses:</u> Residential</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 23, 2018 – Agencies/JEPA• April 11, 2017 – Property Owners• April 11, 2018 – Legal• April 24, 2018 – Posting <p><u>Exhibits:</u></p> <ol style="list-style-type: none">1. FCO’s2. Letter of Intent, Photos, Site Plan3. Maps<ol style="list-style-type: none">a. Small Aerial,b. Vicinity,c. Zoning,d. Future Land Use,e. Subdivision & Report4. Comments<ol style="list-style-type: none">a. Canyon Highway Districtb. Staff response to neighbor Susan Giffordc. Mark & Stephanie Tally (support)d. Lonny Riley (support)e. Mark Davis (support)5. Large Aerial	<p><u>Request</u> The applicant, Linda Jo Puffe, is requesting a variance to reduce the 10 foot side yard setback required by Canyon County Code §07-10-21 to three (3) feet. The parcel (R35575010A) is zoned “A” (Agricultural). The property is addressed as 18234 Wagner Road, Caldwell. The 0.94 acre parcel is also known as the SW quarter of Section 32, Township 4N, Range 3W; Canyon County, Idaho.</p> <p><u>Background</u> The subject parcel was created through an approved conditional use permit (CU2002-59). The property has a dwelling (built in 1909) and an approved accessory structure (BP2011-52).</p> <p>A variance is required to abate a code violation on the property (CDEF2018-002). A residential addition (enclosed sun deck) was constructed without permits. The applicant has applied for a building permit (BP2018-76) to legalize the addition. However, the addition does not meet the required side yard setback of 10 feet. The building permit cannot be issued until the variance is approved.</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> <ol style="list-style-type: none">A. Will granting the variance be consistent with the comprehensive plan;B. Do characteristics of the site create an undue hardship; andC. Is the variance in conflict with the public interest? <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 10 foot side yard setback measured from the property line. Section 07-02-03 of the Canyon County Code defines the side yard setbacks as “the open space extending from the front yard to the rear yard and lying between the side lot line and nearest line of structure.” The applicant is seeking a variance to reduce the side yard setback to three (3) feet in order to keep the residential addition (Exhibit 2).</p> <p><u>§07-08-03(2)(A) CONSISTENCY WITH COMPREHENSIVE PLAN</u> The subject property is currently zoned “Agricultural” with a designation of “Residential” on the Canyon County Comprehensive Plan Future Land Use Map.</p> <p>The request is consistent with the following Comprehensive Plan Goals and Policies:</p> <ul style="list-style-type: none">• <u>Property Rights Policy No. 1-</u> “No person shall be deprived of private property without due process of law.” The proposed variance does not deprive property owners of private property.
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- 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.

In the applicant’s letter of intent (Exhibit 2), the following undue hardships are stated:

- The residential addition matches roofline and setbacks of existing dwelling which was constructed sometime in 1909 (legal non-conforming).
- The previous owner constructed the addition during medical treatment.
- Cost of removing the structure and restoring the dwelling would be a financial hardship.

Upon staff review, the parcel includes a 15 foot wide access easement that reduces the southern portion of the applicant’s property to allow access to an adjacent property. Enlarging the existing dwelling is limited due to location of septic system, drainage field and existing residence from property line and other structures. Therefore, the parcel is limited by site characteristics.

§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 three (3) 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 11, 2018. No opposition was received. Three letters of support was received (Exhibit 4c, 4d and 4e). Staff responded to neighbor Susan Gifford’s concerns (Exhibit 4b).

Affected agencies and the City of Caldwell were notified on March 23, 2018. Canyon Highway District was the only agency that provided a comment letter (Exhibit 4a).

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