

Nez Perce County Planning & Zoning Commission
Minutes – Tuesday, January 20, 2015
Lewiston, Idaho

I. CALL TO ORDER

The meeting was called to order at 6:00 p.m. with Chairman Wentworth presiding.

COMMISSION MEMBERS PRESENT: Jim O’Connell, Joe Greco, Terry Kristof, Frank Dillon, Kristin Gibson, Randy Arnold and Shawn Wentworth.

COMMISSION MEMBERS ABSENT: None.

PROFESSIONAL STAFF PRESENT: Alison Tompkins, Planner; Nance Ceccarelli, NPC Civil Deputy Prosecutor.

II. APPROVAL OF MINUTES

Commission Member O’Connell made a motion to approve the December 18, 2014 minutes as written; seconded by Commission Member Dillon. Motion passed with 4 ayes. Commission Members Kristof, Arnold and Gibson abstained being they were not present at the December meeting.

III. PUBLIC HEARING

V 2014-1 Overall – A request for a variance from the required 45’ building setback from the centerline of Hubbard Gulch Road to 36’ from the centerline, for a storage shed and shop; Parcel #RP37N03W261952. Kevin Overall, Applicant.

Chairman Wentworth asked the Applicant to present his testimony.

KEVIN OVERALL, 114 N. Garden Ct, Lewiston testified that he is asking for a variance as he is trying to build a shop on a parcel he has. He said his plan was to build a small shed to store his tools in and he was going to build a house on one of the other adjacent parcels he owns.

Mr. Overall said he has talked to the County Road Dept. and the Planner. He said some of the concerns he was told were regarding the possible future expansion of the roadway. He said he owns property on both sides of the road in that area. He said there was concern regarding access from the road to that parcel. He said his intention was not to access it from the road but from his other parcel [to the north]. He said when he talked to the road department a few years back, he was told they would have to shut down the roadway while he put in his driveway access and it seemed like a very intensive project that he was not able to do.

Mr. Overall said he does plan to put in the access sometime in the next year and possibly this summer. He said the ROW was 50 feet.

Mr. Overall said as far as the benefit of this, it would be the increase is taxes due to an improvement. He said he feels the structure he intends to do would be nice and improve the area. He said his problem with the parcel is the triangular shape making it very restrictive and hard to meet setbacks. He said he would rather have a square shaped building instead of a diamond shaped building to meet the setbacks. He said a diamond shaped building would probably bring down the value of the parcel and would make it harder to store things.

Commission Member Dillon asked how far from the ROW would he be.

Mr. Overall said he would be about 13 feet instead of the minimum 20 feet required. He said Mr. Ridinger said that there may be a problem when grading the road if it were to be widened. Mr. Overall said he did not want to affect the roadway and would like to see improvements. He said he thought the most it would expand would be 4 feet and said that would not affect the ROW. He also said being the building would be above the roadway, and it would affect it less.

Commission Member Dillon asked if he had started the building already.

Mr. Overall said he didn't know he needed a permit as he has built 2 other sheds on other parcels that he did not get permits for.

Commission Member O'Connell asked if Mr. Overall could show him on a map that is in the P&Z packets which parcels he actually owns and when he purchased the property. He also asked who farms the ground.

Mr. Overall pointed out his parcels. He said he started buying the parcels about 12 years ago. He said the farmer that farms the trust ground also farms his ground. He said it was being farmed when he bought it with a lease agreement from the prior owner and he has just left things as they were. He said this may be changing in this next year.

There was discussion about the parcels and the Trust Land to the NE.

Commission Member Greco said he is concerned about the road dept concerns about an approach permit.

There was discussion about if access was supplied from an adjacent parcel, would it be a legal access to the small parcel if he ever sold it.

Chairman Wentworth asked if there were any questions.

Alison Tompkins, Planner said she did not receive any new comments other than the ones included in the packets. She said she would go over the analysis of the 4 criteria required for a variance. She said the zoning ordinance does permit variances for setbacks and stated 4 conditions need to be met for a variance to be allowed.

Alison said the first condition is that the property is not the same as the surrounding properties due to topography, shape, etc. She said this is a really small parcel that is 0.176 acres and is triangular in shape and has frontage to the county road. She said with these things and the slope, it is very constrained. She said this does make it different than surrounding properties.

Alison said the second condition is that the variance is necessary for preservation of the property right and is the same as possessed by other property owners in the same vicinity. She said this variance would allow the applicant to maintain the existing structure at its current size and also allow him room to build the second structure he submitted on the site plan.

Alison said the third condition is the variance will not be detrimental to the purpose of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county development plans or policies. She said the structure is about 38 feet from the road centerline and 45 feet is what is required. She said this may conflict with the future road improvements in this area and this was the main feedback from the NPC Road Dept. She also said the structure was built without a building permit and even continued to be built after a "Stop Work Order" was issued. She said this violates the purpose and intent of the NPC Building Safety Ordinance #77b and conflicts with zoning setbacks.

Alison said the fourth condition is the variance requested is the minimum variance necessary to alleviate the hardship. She said this is the minimum variance that would allow the

construction of this sized building at its present location. She said that is not to say that a smaller building couldn't be constructed in the center of the lot and meet the required setbacks.

Alison said her recommendation is for denial of the variance being it does not meet the conditions #3 & 4. She said there is no approved access to the property and there is no building permit application pending or approved for the structure. She said it does not meet setbacks needed for future road improvements at this location and the structure could be constructed to meet building setbacks, although the access has still not been approved. She said no alternatives for access from a different location have been brought to her attention.

Chairman Wentworth asked Alison if the Road Dept told her of any ADT's that were done and she said she is not aware of any traffic study.

There was discussion about why the building was built without a permit and also if the building was pushed back if it would meet the setbacks. Alison said she cannot answer that as she has not been to the site but the building official has, being that is his job. She said Mark from the Road Dept has also been out there. A lot line adjustment was discussed regarding the rear setback.

Chairman Wentworth asked if there were any questions.

Being no further questions for Alison, Chairman Wentworth asked for testimony in favor.

Being none, Chairman Wentworth asked for testimony in opposition.

Carrie Rode-Costo, 18367 Bitterroot Ln, Juliaetta, testified in opposition. She said they are concerned with parking and blocking the road. She said Mr. Overall will park in the roadway and block access coming up or down Hubbard Gulch. She said with the digging out he has done on his property; it has caused significant mudflow onto the roadway from the rains that we have had. She said safety is also a concern as the building blew over during construction and she is concerned about it blowing onto the road and blocking access to their driveway.

Commission Member O'Connell asked if the building met the required front setbacks if there would still be a concern of it blowing or sliding onto the roadway.

Ms. Rode-Costo said she did not think the road would be affected then but she said she has no idea of the access to the building.

Being no further questions, Chairman Wentworth asked for rebuttal from the Applicant.

Commission Member O'Connell asked Mr. Overall about doing a lot line adjustment being he owns the parcel adjoining this nonconforming lot. Mr. Overall said he talked with the County about that and was told that was not an option being the lot is grandfathered so if he changed any of the lines; he would have to create a 5 acre minimum lot to make it eligible for a building permit.

Commission Member O'Connell asked about another access being the Road Dept has concerns with the access and the setbacks for this small parcel.

Mr. Overall said he does have access further up the road and could make the access compliant with the Road Dept requirements. He was asked when he purchased the property and said he thought it was about 6 years ago. He said a building permit is not required if the structure is under 200 square feet. He said his original plan was for a 16 x 16 structure. He said he had talked to the building official. Mr. Overall said he had to cut the building in half so it was small enough to not require a building permit. He said he had to tear up the floor and cut the building in half. He said the walls are not connected and he had to put in 2 posts that would support either side of the building. He said the only thing he has not done is to cut the ridgeline and he has not placed a wall between the two. He said the reason he did what he did

was so nothing got ruined and he said he explained this to Arlyn. He said if the variance was denied, he would move the structure being it was on skids.

Chairman Wentworth asked if there were any more questions.

Alison said she has a couple of comments. She said regarding the boundary line adjustment, there has been one done in the past and the parcel lost the grandfather status and then the person had to get a variance for the parcel size. She said a boundary line adjustment could be done and a parcel combination could also be done so he is not stuck with that parcel size. She said regarding the access, she and Mark Ridinger discussed another access from the north. She said it was during a phone conversation so she did not have written comments, but said Mark was also concerned about access to the north due to the slope. She said she also has concerns and the first being if that is the proposed access point [from the north], why has it not been built yet? She said if the variance was to be approved with access from the north, a legal recorded easement would need to be a condition so if either parcel was to sell, there would still be a legal access to the small parcel. She said a building permit should also be a condition if approval was to be granted.

Chairman Wentworth asked for discussion amongst the members.

Commission Member Dillon said he thinks there are a lot of problems with this. He said he feels it would be better to deny the variance and have the Applicant fix some of the conditions and then come back to the P&Z rather than approving with a lot of conditions. He said he could also straighten out the building permit.

Commission Member Kristof said she agreed with all Commission Member Dillon said.

Commission Member O'Connell said he also agreed and being that Mr. Overall said he had some plans to develop the property behind this parcel, it would be better for him to figure out the access to that other parcel first.

Chairman Wentworth closed the public hearing and said there has been a lot of deliberation about this.

Commission Member Dillon made a motion to recommend denial of V2014-1; motion was seconded by Commission Member Greco. Motion passed unanimously to deny.

IV. APPROVAL OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

CUP 2014-3 Knife River – A request to extract gravel for U.S. Hwy 95 Lane Rehabilitation on the Lewiston Hill. The total project includes crushing and operation of a temporary asphalt plant on adjacent property within the Lewiston Area of City Impact (ACI). Gravel extraction may include the subject parcel which is located outside the ACI, east of the Lewiston Hill; Parcel #RP36N05W209050. Knife River Corporation, Applicant.

Chairman Wentworth asked for any discussion.

Being none, Chairman Wentworth asked for a motion.

Commission Member Dillon made a motion to approve the Findings of Fact, Conclusions of Law and Decision for CUP 2014-3; seconded by Commission Member O'Connell. A roll call vote was taken and motion passed with 4 Ayes and 3

abstaining being Commission Members Gibson, Kristof and Arnold were absent at the public hearing meeting.

V. OTHER BUSINESS OR CONCERNS

Chairman Wentworth asked if there was any other business.

Being none, Chairman Wentworth asked for a motion to adjourn the meeting.

Commission Member Arnold made a motion to adjourn the meeting; seconded by Commission Member Kristof. Motion passed unanimously.

VI. ADJOURN

Being no further discussion to come before the Commission, the meeting was adjourned at 6:44 P.M.

Respectfully Submitted,

Connie Bell, Planning & Building
Senior Customer Service Specialist

APPROVED:

Chairman/Vice Chairman
Nez Perce County Planning and Zoning Commission