



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of Richard Lawton

Project No. 201501224 V-AC

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Board finds that the record is comprised of:

1. Exhibits to the Staff Report.
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 201501224 V-AC.

B. As to procedural items, the Board finds the following:

1. In accordance with Section 8-7A-2B of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on August 5, 2014.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on June 29, 2015.
3. On July 13, 2015, Development Services accepted Project #201501224 V-AC and scheduled it for public hearing before the Board of Ada County Commissioners on September 9, 2015.
4. On July 15, 2015, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.
5. On August 13, 2015, property owners within 300 feet of the site were notified of the hearing by mail. Legal notice of the Board's hearing was published in The Idaho Statesman on

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Project #201501224 V-AC

Richard Lawton

Page 1

August 25, 2015. Notices of the public hearing were posted on the property on August 28, 2015 and a certification sign posting was submitted to the director on August 28, 2015.

C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201501224 V-AC the following:

1. PROPOSED USES: An accessory structure greater than 1,500 square feet.
2. PROPOSED STRUCTURES: 3,500 square foot accessory structure.
3. PROPOSED SITE IMPROVEMENTS: Demolition of a 625 square foot accessory structure.

D. Based on the materials found in the file for Project No. 201501224 V-AC, the Board finds the following concerning the project description:

1. PARCEL NUMBER AND LOCATION: The parcel number is R2024210625. It is noted that the applicant also owns a contiguous parcel. The parcel number of the contiguous parcel is R2024210600, which are a part of Lot 5 of Block 2 of the Amended Eagle Pines Subdivision. The property is located at 3145 N. Osprey Road, which is north of Beacon Light Road and east of Ballantyne Road in Section 32, T. 5N, R. 1E.

2. OWNERSHIP: Richard & Rachel Lawton.

3. SITE CHARACTERISTICS

Property size: 3.913 acres.

Existing structures: A 2,920 square foot single family dwelling with a 1,056 square foot garage, a 2,400 square foot accessory structure, and a 625 square foot accessory structure.

Existing vegetation: Residential landscaping on Parcel #R2024210625 and an agricultural crop on Parcel #R2024210600.

Slope: The site is relatively flat with slopes less than 15%.

Irrigation: The property is located within the jurisdictional boundaries of the Capitol View Irrigation, Inc. and Farmers Union Ditch Company.

Drainage: Generally the site drains to the southwest.

Views: The site is visible from all directions.

Other Opportunities and/or Constraints: The existing structures are towards the rear of the property.

E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The property is a rural residence and is located in the Rural-Urban Transition (RUT) District.

- F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:

North: The property is rural residential in the Eagle Pines Amd Subdivision and is located in the Rural-Urban Transition (RUT) District.

South: The property is rural residential in the Eagle Pines Amd Subdivision and is located in the Rural-Urban Transition (RUT) District.

East: The property is rural residential in the Eagle Pines Amd Subdivision and is located in the Rural-Urban Transition (RUT) District.

West: The property is agricultural with a residence and is located in the Rural-Urban Transition (RUT) District.

- G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201501224 V-AC, the Board finds the following concerning services:

Access Street and Designation: Access is off of N. Osprey Road, which is designated as a local street.

Fire Protection: Eagle Fire District.

Sewage Disposal: Individual Septic System.

Water Service: Individual Well.

Irrigation District: Capitol View Irrigation, Inc. and Farmers Union Ditch Company.

Drainage District: None.

- H. As to the applicable law, the Board finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds **Section 8-5A-5 of the Ada County Code** is applicable because the applicant has applied for an accessory structure that is greater than 1,500 square feet. The Board finds the application complies with **Section 8-5A-5 of the Ada County Code**. Regarding Section 8-5A-5 of the Ada County Code the Board finds the following:

- A. The proposed use shall not be detrimental to the public health, safety, or welfare. The proposed use shall not adversely impact the health and safety of surrounding residents, nor shall it create undue adverse impacts on surrounding properties.*

The Board finds as conditioned that the accessory structure will not be detrimental to the public health, safety, or welfare, or adversely impact the health and safety of surrounding residents or properties. The Ada County Building Official responded in Exhibit #15 that the building division has no objection to the proposed construction; however, the applicant should be aware a building permit will be required. The applicant should be

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

further aware based on the elevation provided with the application the proposed structure will not be constructed using the prescriptive requirements of the International Residential Code and will require review and stamped design by a licensed Idaho Engineer. The Eagle Fire District replied in Exhibit #16 that they have no specific comments or concerns regarding this application and they support its approval. In Exhibit #17, the Ada County Highway District stated that they have no conditions of approval. The Central District Health Department responded in Exhibit #18 that an accessory use application must be submitted with a site map of all structures, exact location of septic tank and drainfield, new structure, setbacks from septic system, and floor plans of new structure.

B. The proposed use is consistent with the applicable comprehensive plan;

The Board finds as evidenced in the record that the subject property is located within Eagle's Area of City Impact, and therefore the Eagle Comprehensive Plan as adopted by Ada County is the applicable comprehensive plan. The subject property is designated as Residential Rural. Single-family residences are consistent with this designation. An accessory structure is an accessory use to the property. Therefore, it is consistent with the residential rural designation as the property will remain rural and residential in character.

C. The proposed use complies with the purpose statement of the applicable base district and with the specific use standards as set forth in this chapter;

The Board finds as evidenced in the record that the subject property is located in the Rural-Urban Transition (RUT) District. The accessory structure complies with Article 8-2B of the Ada County Code because the use complies with the purpose statement of the Rural-Urban Transition (RUT) District since an accessory structure is accessory to the principally permitted dwelling on the property. The accessory structure also complies with the specific use standards in Section 8-5-3-1 of the Ada County Code. Regarding Section 8-5-3-1 the Director finds the following:

A1. A principal permitted dwelling with a valid certificate of occupancy, or a principal permitted dwelling under construction with a valid building permit, shall be present on the subject property.

The Board finds that a zoning certificate (74-717) was issued for the single-family dwelling on June 14, 1974.

A2. The structure shall not be used as an additional dwelling, except as provided for secondary dwellings.

The Board finds as conditioned that the accessory structure shall not be used as additional dwelling.

A3. The structure shall not be used for commercial or industrial purposes.

The Board finds as conditioned that the accessory structure shall not be used for commercial or industrial purposes. The applicant has stated in the application (Exhibit #4) that the accessory structure is for storage.

- A4. *The accessory structure shall not be used to store commercial vehicles, except as provided in subsection 8-4G-4A2 of this title.*

The Board finds as conditioned that the accessory structure shall not be used to store commercial vehicles.

- A5. *All accessory structures shall be included in the coverage calculations for a particular property.*

The Board finds that the accessory structure has been included in the coverage calculations for the Lawton property (Parcels #R2024210600 and #R2024210625). The addition of the accessory structure does not exceed the minimum lot coverage for the property because the footprint of the proposed accessory structure, single-family dwelling with attached garage, and existing accessory structure equals approximately 8,196 square feet, which is less than the maximum coverage that is allowed for the property.

- B1. *Accessory structures shall not be located in any required setbacks or on any publicly dedicated easements.*

The Board finds that the applicant has applied for a variance requesting for the accessory structure to encroach five (5) feet into the 25 foot side yard setback and ten (10) feet into the 25 foot rear yard setback.

- B2. *Accessory structures in the front yard shall not impede connection of the dwelling to a municipal wastewater collection and treatment system.*

The Board finds as depicted on the site plan (Exhibit #6) that the accessory structure is not located within the front yard, but it is located in the side and rear yards and it will not impede connection of the dwelling to a municipal wastewater collection and treatment system.

- B3. *Accessory structures in the front yard shall not block the view of the main entrance to the principal permitted dwelling.*

The Board finds as illustrated on the site plan (Exhibit #6) that the accessory structure is not located within the front yard, but it is located in the side and rear yards and it will not block the view of the main entrance to the principal permitted dwelling.

- C1. *Accessory structures in the front yard shall not exceed fifty percent (50%) of the square footage of the footprint of the principal permitted dwelling or one thousand five hundred (1,500) square feet, whichever is less.*

The Board finds that the accessory structure is not located in the front yard, but it is located in the rear yard.

- D1. *An accessory structure shall not exceed a height of twenty four feet (24').*

The Director finds that the accessory structure does not exceed a height of twenty four (24) feet. The application (Exhibit #4) states that the height of the accessory

structure is twenty (20) feet and the building elevation drawing depicts the height of the accessory structure as twenty (20) feet.

- D2. *In a residential base district, accessory structures located in the front yard, or within a side yard if any portion of the structure lies between the front property line and a distance of fifteen feet (15') behind the front wall of the principal permitted dwelling, shall not exceed the height of the principal permitted dwelling.*

The Board finds that the accessory structure is not located in the front yard and does not lie between the front property line and a distance of fifteen feet (15') behind the front wall of the principal permitted dwelling.

- E1a. *The roofing and finish materials shall be similar in color to the principal permitted dwelling.*

The Board finds as conditioned that the roofing and finish materials of the accessory structure shall be similar in color to the principal permitted dwelling.

- E1b. *The roof shall have a similar pitch to that of the principal permitted dwelling.*

The Board finds as evidenced in the record that the roof of the accessory structure has a similar pitch to that of the principal permitted dwelling.

- E2a. *The accessory structure shall portray the architectural character of the principal permitted dwelling.*

The Board finds as conditioned that the accessory structure shall portray the architectural character of the principal permitted dwelling.

- D. *The proposed use complies with all applicable county ordinances;*

The Board finds that the accessory structure complies with all applicable county ordinances as outlined in Findings of Fact Section B and as outlined herein.

- E. *The proposed use complies with all applicable state and federal regulations;*

The Board finds that all uses are innately required to comply with all applicable state and federal regulations as a matter of law.

- F. *The proposed use and facilities shall not adversely affect or conflict with abutting uses or impede the normal development of surrounding property;*

The Board finds that the accessory structure does not adversely affect or conflict with abutting uses or impedes the normal development of the surrounding property. The accessory structure is an accessory use to the principal permitted single-family dwelling.

- G. *Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed use;*

The Board finds that adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are provided for the accessory structure

because the property is already served by utilities and there is already landscaping and parking spaces on the property.

- H. *For private tower structures, the proposed tower complies with any applicable federal communications commission decisions and regulations;*

The Board finds as evidenced in the record that the accessory use is not for a private tower structure, but it is for an accessory structure greater than 1,500 square feet.

- I. *For signs, the sum of the area of all building and freestanding signs on the property conforms to the standards specified in chapter 4, article I of this title. The size, characteristics, location, and number of signs on the property conform to the standards specified in chapter 4, article I of this title.*

The Director finds as evidenced in the record that the accessory use is not for a sign, but it is for an accessory structure greater than 1,500 square feet.

2. The Board finds **Section 8-7-4C of the Ada County Code** is applicable because the application involves a variance to encroach five (5) feet into the 25 foot side yard setback and ten (10) feet into the 25 foot rear yard setback. The Board finds that the application complies with **Section 8-7-4C of the Ada County Code**. Regarding Section 8-7-6C the Board finds the following in regards to the variance.

1. *The variance shall not a grant a right or special privilege that is not otherwise allowed in the base district;*

The Board finds that the applicant is requesting a variance to encroach five (5) feet into the 25 foot side yard setback and ten (10) feet into the 25 foot rear yard setback.

The Board finds that the variance does not grant a right or special privilege that is not otherwise allowed in the Rural-Urban Transition (RUT) District. An accessory structure is an allowed use in the RUT District through either a zoning certificate or the approval of an accessory use application when the accessory structure is greater than 1,500 square feet. In addition, there are a number of accessory structures in the surrounding neighborhood.

2. *The variance relieves an undue hardship due to characteristics of the site; and*

The Board finds that the variance relieves an undue hardship due to characteristics of the site because of the location of the existing structures on the property, the location of the septic leach field, and a natural dip in the property. The site plan (Exhibit #6) illustrates that there is an existing accessory structure at the northwest corner of the property, the single-family dwelling is in the rear central portion of the property, and the septic leach field is in the southern portion of the property. An accessory structure greater than 1,500 square feet is not allowed to be in the front plane of the single-family dwelling. Therefore, because of the placement of the existing structures on the property as well as the location of the septic leach field the only available place to build an accessory structure on the property would be in the proposed location. It should also be noted that the Board back on September 1, 1994 approved another variance on the property for the other accessory structure on the property to encroach in the setbacks.

3. *The variance shall not be detrimental to the public health, safety, and welfare.*

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Board finds that the variance is not detrimental to the public health, safety, and welfare because the applicant/owner will be required to secure the necessary building permits and agency approvals to construct the accessory structure. In addition, information regarding the variance was transmitted to affected public agencies charged with the protection of the health, safety, and welfare of the public. A number of agencies responded to the project, which also included an application for an accessory use. The Ada County Building Official responded in Exhibit #15 that the building division has no objection to the proposed construction; however, the applicant should be aware a building permit will be required. The applicant should be further aware based on the elevation provided with the application the proposed structure will not be constructed using the prescriptive requirements of the International Residential Code and will require review and stamped design by a licensed Idaho Engineer. The Eagle Fire District replied in Exhibit #16 that they have no specific comments or concerns regarding this application and they support its approval. In Exhibit #17, the Ada County Highway District stated that they have no conditions of approval. The Central District Health Department responded in Exhibit #18 that an accessory use application must be submitted with a site map of all structures, exact location of septic tank and drainfield, new structure, setbacks from septic system, and floor plans of new structure.

CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that Project No. 201501224 V-AC complies with Section 8-5A-5 of the Ada County Code.
2. The Board concludes that Project No. 201501224 V-AC complies with Section 8-7-4C of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Board approves Project #201501224 V-AC, subject to the Conditions of Approval attached as Exhibit A and the Site Plan Drawing stamped July 13, 2015.

DATED this _____ day of _____, 20__.

Board of Ada County Commissioners

By: Jim Tibbs, Commissioner

By: David L. Case, Commissioner

By: Rick Yzaguirre, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF PROJECT #201501224-AC WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL ONE YEAR OF THE WRITTEN DECISION TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS. IF A BUILDING PERMIT IS REQUIRED, THE ZONING CERTIFICATE SHALL BE ISSUED WITH THE BUILDING PERMIT. THIS APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE. SITE IMPROVEMENTS ARE NOT ALLOWED UNTIL THE ZONING CERTIFICATE HAS BEEN ISSUED.

1. If required by the Ada County Building Code as set forth in Title 7, Chapter 2, of the Ada County Code, the applicant and/or owner shall obtain a building permit prior to commencing any development. Please contact the Ada County Building Division at 287-7900 for fee and building permit application information. The design, construction, and location of the accessory structure shall comply with this approval and the Ada County Code.
2. The applicant and/or owner shall secure a zoning certificate and pay the applicable fee. The zoning certificate will be issued with the building permit for the accessory structure.
3. The applicant and/or owner shall obtain accessory use authorization from the Central District Health Department.
4. If required by the Ada County Building Code as set forth in Title 7, Chapter 2, of the Ada County Code, the applicant and/or owner shall obtain a building permit prior to commencing any development. Please contact the County Building Official at 287-7900 for fee and application information. The design and construction of the development shall comply with the approved and stamped master site plan and the Ada County Code.

TERMS OF APPROVAL. THE FOLLOWING TERMS MUST BE COMPLIED WITH AT ALL TIMES OR YOUR APPROVAL MAY BE REVOKED.

5. The use must comply with the specific use standards for an (Accessory Structure) in Section 8-5-3 of the Ada County Code.
6. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.
7. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
8. The applicant and/or owner shall have a continuous obligation to maintain adequate housekeeping practices so as not to create a nuisance.

EXHIBIT A

9. The accessory structure shall not be used as an additional dwelling.
10. The accessory structure shall not be used for commercial or industrial purposes.
11. The accessory structure shall not be used for the storing of commercial vehicles.
12. The roofing and finish materials of the accessory structure shall be similar in color to the principal permitted dwelling.
13. The roof of the accessory structure shall have a similar pitch to that of the principal permitted dwelling.
14. The accessory structure shall not exceed a height of 24 feet.
15. The accessory structure shall portray the architectural character of the principal permitted dwelling.