



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of Action Steel Builders, INC

Project No. 201600928 AC-V

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. Exhibit 1 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. 201600928 AC-V.

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

1. In accordance with Section(s) 8-6-3A/8-7-3A2/8-7-4A1 of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on June 21, 2016.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on June 30, 2016.
3. On July 1, 2016, Development Services accepted Project #201600928 AC-V and scheduled it for public hearing before the Board of Ada County Commissioners on September 14, 2016.
4. On July 8, 2016, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibit 1.
5. On July 14, 2016, 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 August 23, 2016. Notices of the public hearing were posted on the property on or before

September 4, 2016 and a certification sign posting was submitted to the director on or before September 7, 2016.

C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201600928 AC-V the following:

1. **PROPOSED USES:** A variance to obtain relief from a development standard for accessory structures; specifically to allow for an accessory structure to exceed 50% of the square footage of the footprint of the principal permitted dwelling or 1,500 square feet, whichever is less within the front yard.
2. **PROPOSED STRUCTURES:** Two detached structures built with permits and then joined as one without a permit making the total sq. ft. to 1,680.

D. Based on the materials found in the file for Project No. 201600928 AC-V, the Board finds the following concerning the project description:

1. **PARCEL NUMBER AND LOCATION:** The parcel number is S0335417500. The property is located at 3622 N. Fry Homestead Lane.
2. **OWNERSHIP:** Jason Fry and Renee New.
3. **SITE CHARACTERISTICS**

Property size: 10 acres

Existing structures: A 1,119 sq. ft. single-family dwelling with a 528 sq. ft. attached garage, a 1,680 sq. ft. accessory structure.

Existing vegetation: The site consists of residential landscaping and pasture.

Slope: The property is relatively flat.

Irrigation: The property is within an Irrigation District.

Drainage: Will be retained onsite.

Views: Open views in all directions.

Other Opportunities and/or Constraints: The northern portion of the property is within the Wildland-Urban Fire Interface Overlay District.

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

The property is currently zoned Rural Urban Transition (RUT) District and is used as a single-family residence.

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 site is vacant ground and is located in the Rural Urban Transition (RUT) District.

South: The site is vacant ground and is located in the Rural Urban Transition (RUT) District.

East: The site is vacant ground and is located in the Rural Urban Transition (RUT) District.

West: The site is single-family residential with pasture 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. 201600928 AC-V, the Board finds the following concerning services:

Access Street and Designation: Access is off of N. Fry Homestead Lane, a private road.

Fire Protection: Eagle Fire District

Sewage Disposal: Individual Septic System

Water Service: Individual Well

Irrigation District: Farmers Union Ditch Co. LTD

Drainage District: Drainage District #2.

- 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 the accessory structure that is greater than 1,500 sq. ft. The Board finds the application complies with **Section 8-5A-5 of the Ada County Code** with approval for the variance. Regarding Section 8-5A-5 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 1,680 sq. ft. 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 proposed use was transmitted to public agencies on July 8, 2016, such as fire, police, and emergency service providers. The following agencies commented on the application; The Ada County Building Official will require a building permit for the structure. The Eagle Fire District had no comments on the application.

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 in Eagle's area of city impact and therefore, the Eagle Comprehensive Plan is the applicable comprehensive plan. The subject property is designated as "Residential Estate" on the Future Land Use Map. Single-family residences in a residential setting are consistent with this designation. The proposed use is an accessory use to the property. Therefore, the 1,680 sq. ft. accessory structure is consistent with the "Residential Estate" designation as the property will remain 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 1,680 sq. ft. 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 accessory structure is accessory to the principally permitted dwelling on the property. The 1,680 sq. ft. accessory structure also complies with the specific use standards in Section 8-5-3-1 of the Ada County Code with the approval of the variance. 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 building permit (0300209 BP) was issued for the principal permitted dwelling and a certificate of occupancy was issued on July 22, 2003.

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

The Board finds as conditioned that the 1,680 sq. ft. accessory structure shall not be used as an additional dwelling. The applicants have stated in their detailed letter that the 1,680 sq. ft. accessory structure will be used as a personal workshop.

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

The Board finds as conditioned that the 1,680 sq. ft. accessory structure shall not be used for commercial or industrial purposes. The applicant's detailed letter states that the purpose of the 1,680 sq. ft. accessory structure is for a personal workshop.

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 1,680 sq. ft. 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 1,680 sq. ft. accessory structure has been included in the coverage calculations for Parcel # S0335417500. The addition of the accessory structure does not exceed the minimum lot coverage for the property because the footprint of the accessory structure and remaining structures on the property equal approximately 3,517 sq. ft., 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 as shown on the site plan the 1,680 sq. ft. accessory structure is not located in any required setbacks or on any public dedicated easements. The 1,680 sq. ft. accessory structure exceeds the minimum setback of 30 feet for a front property line on a local street, 25 feet for the rear property line, and 25 feet side 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 that the accessory structure located within the front yard will not impede connection of the dwelling to a municipal wastewater collection and treatment system as a line from a sewer main in the street could be connected to the house from the driveway or through another portion of the front yard.

- 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 depicted on the site plan that the accessory structure is located within the front yard and that it will not block the view of the main entrance to the principal permitted dwelling as the main entrance will still be visible from the driveway on N. Fry Homestead Lane.

- 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 applicant has concurrently applied for a variance to seek relief from this development standard for the 1,680 sq. ft. accessory structure.

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

The Board finds as stated in the application that the 1,680 sq. ft. accessory structure does not exceed a height of twenty four (24) feet. In the application, the applicant states that the height of this accessory structure is 16 feet and 9 inches.

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

The Board finds as evidenced in the record that the accessory structure is located in a residential base district and does not exceed the height requirement. The Board finds that with the approval of the variance the accessory structure can be located in the front yard.

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

The Board finds as conditioned that the roof and finish materials of the accessory structure shall be similar in color to the principal permitted dwelling. Pictures of the principal permitted dwelling and the 1,680 sq. ft. accessory structure demonstrate that the roof and finish materials of the 1,680 sq. ft. accessory structure is 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 that the building elevation drawings of the 1,680 sq. ft. accessory structure show that the roof 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 that the building elevation of the 1,680 sq. ft. accessory structure indicates that the architectural character is similar to that of the principal permitted dwelling. Pictures of the principal permitted dwelling and the 1,680 sq. ft. accessory structure illustrates that the 1,680 sq. ft. accessory structure portrays the architectural character of the principal permitted dwelling.

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

The Board finds that with the approval of the variance the accessory structure complies with all applicable county ordinances as outlined in Finding 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 surrounding property. The accessory structure is an accessory use in the Rural Urban Transition (RUT) District. The 1,680 sq. ft. accessory structure will be used as a shop. The property will still remain residential in character with the addition of the accessory structure. There are also a number of other properties in the surrounding area that have accessory structures.

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.

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 is for an accessory structure.

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 Board finds as evidenced in the record that the accessory use is not for a sign, but it is for an accessory structure.

2. The Board finds **Section 8-7-4 of the Ada County Code** is applicable because the applicant is applying for a variance to seek relief from development standards for an accessory structure to exceed 50% of the square footage of the footprint of the principal permitted dwelling or 1,500 square feet, whichever is less within the front yard. The Board finds that the application complies with **Section 8-7-4 of the Ada County Code**. Regarding Section 8-7-4 the Board finds the following:

1. *The variance shall not 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 for relief from development standards for accessory structure. Specifically, the standard that requires 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 approval of the variance would not constitute a granting of a special right or privilege as there are numerous accessory structures that have been built in the surrounding area. Accessory structures are accessory uses in the Rural Urban Transition (RUT) District.

The Board finds that the 1,680 sq. ft. accessory structure is the combination of an approved 600 sq. ft. accessory structure (0500247 BP), an approved 900 sq. ft. accessory structure (0500247) and the addition constructed to connect the two structures without zoning approval.

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 the structure already exists. The two accessory structures were approved prior to connecting the two together to make the existing 1,680 sq. ft. accessory structure. The applicant stated that he was unaware of the building requirements at the time he connected the structures and the requirement concerning accessory structures within the front yard.

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

The Board finds that the variance is not detrimental to the public health, safety, and welfare because the applicant will be required to secure the necessary building permits for the accessory structures. The specific use standards for an accessory structure require accessory structures to portray the architectural character of the principal permitted dwelling. Therefore, the accessory structure will blend in seamlessly with the principal permitted dwelling. In addition, information regarding this variance was transmitted to affected public agencies charged with the protection of the health, safety, and welfare of the public. The Ada County Building Official responded that the applicant should be aware that a Building Permit will be required. The Eagle Fire Department had no concerns regarding the application.

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. 201600928 AC-V complies with Section 8-5A of the Ada County Code.
2. The Board concludes that Project No. 201600928 AC-V complies with Section 8-7-6C of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein and the testimony from the public hearing, the Board approves Project #201600928 AC-V, subject to the Conditions of Approval attached as Exhibit A.

DATED this _____ day of _____, 2016.

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 #201600928 AC-V WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAS ONE YEAR TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE. 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.

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 structures 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.

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

3. The use must comply with the specific use standards for an (Accessory Structure) in Section 8-5-3 of the Ada County Code.
4. 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 materials storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.
5. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
6. The applicant and/or owner shall have a continuous obligation to maintain adequate housekeeping practices so as not to create a nuisance.
7. The accessory structures shall not be used as an additional dwelling.
8. The accessory structures shall not be used for commercial or industrial purposes.
9. The accessory structures shall not be used for the storing of commercial vehicles.
10. The roofing and finish materials of the accessory structures shall be similar in color to the principal permitted dwelling.
11. The roof of the accessory structures shall have a similar pitch to that of the principal permitted dwelling.
12. The accessory structures shall not exceed a height of 24 feet.
13. The accessory structures shall portray the architectural character of the principal permitted dwelling.