



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of Seumas & Emily Hodges

Project No. 201601703 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. 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. 201601703 AC-V.

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 23, 2016.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on September 23, 2016.
3. On September 28, 2016, Development Services accepted Project #201601703 AC-V and scheduled it for public hearing before the Board of Ada County Commissioners on November 9, 2016.
4. On October 3, 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 Exhibits.

5. On October 5, 2016, property owners within 1,000 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 October 18, 2016. Notices of the public hearing were posted on the property by October 30, 2016 and a certification sign posting was submitted to the director by November 2, 2016.

C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201601703 AC-V the following:

1. PROPOSED USES: An accessory structure greater than 1,500 square feet.
2. PROPOSED STRUCTURES: An addition to an existing accessory structure resulting in the accessory structure being 1,812 square feet.
3. PROPOSED SITE IMPROVEMENTS: Demolish or move the existing single-family dwelling to another property.

D. Based on the materials found in the file for Project No. 201601703 AC-V, the Board finds the following concerning the project description:

1. PARCEL NUMBER AND LOCATION: The parcel number is R7135690160 and is located 505 W. Columbia Road in Section 12 of T. 2N, R. 1W.
2. OWNERSHIP: Seumas & Emily Hodges.

3. SITE CHARACTERISTICS

Property size: 2.466 acres

Existing structures: 1,050 square foot single-family dwelling, 1,500 square foot detached garage, 1,800 square foot implement building, 1,660 square foot accessory structure, and two (2) small sheds under 200 square feet.

Existing vegetation: Residential landscaping.

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

Irrigation: The property is located within the jurisdictional boundaries of the New York Irrigation District, Boise-Kuna Irrigation District, and the Boise Project Board of Control.

Drainage: The site generally drains towards the west.

Views: The site is visible from all directions.

Other Opportunities and/or Constraints: The Ada County Highway District will likely widen W. Columbia Road sometime in the future.

- 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 a rural residence in the Poppy Field Subdivision and is zoned Rural Residential (RR).

- 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 agricultural and is located in the City of Kuna in their Agricultural (A) District.

South: The site is rural residential in the Poppy Field Subdivision and is located in the Rural Residential (RR) District.

East: The site is rural residential in the Poppy Field Subdivision and is located in the Rural Residential (RR) District.

West: The site is fallow ground in the Poppy Field Subdivision and is located in the Rural Residential (RR) District.

- G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201601703 AC-V, the Board finds the following concerning services:

Access Street and Designation: Access is off of W. Columbia Road, which is designated as a minor arterial. The property also has frontage onto S. Chugiak Place, which is designated as a local street.

Fire Protection: Kuna Fire District.

Sewage Disposal: Individual Septic System.

Water Service: Individual Well.

Irrigation District: New York Irrigation District, Boise-Kuna Irrigation District, and the Boise Project Board of Control.

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 greater than 1,500 square. The Board finds the application complies with **Section 8-5A-5 of the Ada County Code**. 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 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 #21 that the Building Division has no objection to the proposed structure or variance; however, the applicant should be aware that a permit will be required for the construction of this building. The Boise Project Board of Control replied in Exhibit #22 that there are no Boise Project facilities located on the above-mentioned properties; however, they do in fact possess a valid water right. Local irrigation/drainage ditches that cross this property, in order to serve neighboring properties, must remain unobstructed and protected by an appropriate easement. The Central District Health Department replied in Exhibit #23 that the applicant and/or owner must apply for a septic permit for the new home. The Ada County Engineering and Surveying Division stated in Exhibit #24 that all drainage from the proposed modifications to the existing structure shall be retained on site, during and after construction, so as to not negatively impact adjacent property.

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

The Board finds as evidenced in the record that the subject property is not located in any areas of city impact and therefore, the Ada County Comprehensive Plan is the applicable comprehensive plan. The Ada County Future Land Use Map depicts the area as rural. The comprehensive plan states that development will be allowed in rural areas consistent with this designation. The proposed use (accessory structure) is an accessory use to the property. Therefore, it is consistent with the rural designation in the comprehensive plan as the property will still remain rural in character. The addition of the accessory structure does not change the use of the property.

- 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 Residential (RR) District. The accessory structure complies with Article 8-2A of the Ada County Code because the use complies with the purpose statement of the Rural Residential (RR) 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 according to the Assessor's office that the principal permitted dwelling was built in 1952, which was before building permits or zoning approval was required.

- 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 an additional dwelling.

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

The Board finds as conditioned that the structure shall not be used for commercial or industrial purposes. The applicant has stated in the detailed letter (Exhibit #5) that the proposed use of the structure will be for a shop for hobbies such as wood working or storing classic cars and a sewing and craft room upstairs.

- 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. The applicant has stated in the detailed letter (Exhibit #5) that the proposed use of the structure will be for a shop for hobbies such as wood working or storing classic cars and a sewing and craft room upstairs.

- 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 subject property. 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, detached garage, implement building, and small sheds is less than the 21,309.552 square feet 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 addition to the accessory structure is not located in any required setbacks or on any publicly dedicated easements as the portion of the structure being added onto is at least 50 feet from the property line along Columbia Road.

- 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 that the accessory structure in the front yard does not impede connection of the future single-family dwelling to a municipal wastewater

collection and treatment system because there will be no accessory structures directly in front of the future single-family dwelling as depicted on the site plan (Exhibit #7).

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

The Board finds that the accessory structure in the front yard will not block the view of the main entrance to the proposed single-family dwelling as depicted on the site plan (Exhibit #7).

- 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 applied for a variance requesting relief from the specific use standard that requires accessory structures in the front yard to not exceed fifty percent (50%) of the square footage of the footprint of the principal permitted dwelling or 1,500 square feet, whichever is less.

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

The Board finds that the accessory structure does not exceed a height of twenty four (24) feet. The applicant has stated in the detailed letter (Exhibit #5) that the height of the accessory structure is nineteen (19) 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 a residential district, but it is located in the Rural Residential (RR) District, which is a rural district.

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

The Board finds that the roofing and finish materials 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. As conditioned, the roof of the accessory structure shall have a similar pitch to that of the principal permitted dwelling.

E2a. *The accessory structures 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.

I. *For signs, the sum of the area of all building and freestanding 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.

2. The Board finds **Section 8-7-6C of the Ada County Code** is applicable because the applicant is requesting a variance seeking relief from the specific use standard that requires accessory structures in the front yard to not exceed fifty percent (50%) of the square footage of the footprint of the principal permitted dwelling or 1,500 square feet, whichever is less. The Board finds that the application complies with **Section 8-7-6C 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 grant a right or special privilege that is not otherwise allowed in the base district;*

The Board finds that the applicant would like to build a new single-family dwelling on the property and demolish or move the existing single-family dwelling off the property. The current single-family dwelling and an existing accessory structure are only 25 feet away from the property line along Columbia Road. If the Ada County Highway District widens Columbia Road, which is designated as a minor arterial then the existing single-family dwelling will be 15 feet from Columbia Road. It doesn't make sense to the applicant to make improvements to a 64 year old house, which in the future could be 15 feet from Columbia Road. The applicant states in the detailed letter (Exhibit #6) that the most logical place to put a new residence would be on the west side of the property. The current required setback of 50 feet from the property line fronting Columbia Road puts the future single-family dwelling behind the front plane of existing accessory structure that is currently on the property. It should be noted the property used to be a dairy before being developed into a rural residential subdivision. According to the applicant the dairy started in the 1950's. An aerial photo (Exhibit #26) from 1964 shows the existing accessory structure on the property. The variance is needed for the applicant to build a new dwelling and for the existing accessory structure to remain on the property.

The Board finds that the variance does not grant a right or special privilege that is not otherwise allowed in Rural Residential (RR) District. A single-family dwelling and an accessory structure are allowed uses in the RR District. There are a number of rural residences with accessory structures in the surrounding area. The applicant has provided eight (8) examples (Exhibit #8) of similar properties in the area where there is an accessory structure and/or agricultural structure in the front plane of the single-family dwelling.

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 accessory structure on the property. The site plan (Exhibit #7) depicts the existing dwelling and accessory structure close to the front of the property at the northeast corner of the lot with the future site of the new dwelling being to the west of the existing buildings. The applicant's detailed letter states that they want to keep the existing outbuildings on the property and that the cost of demolishing the concrete buildings and hauling away the debris would be extremely expensive. The property is unique in nature as it used to be a dairy with the existing cinder block accessory structure in the front yard close to Columbia Road. For the applicant to build a new single-family dwelling anywhere on the property the existing accessory structure would need to be torn down.

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/owner will be required to secure the necessary building permits and agency approvals to construct the addition to the accessory structure and the future single-family dwelling. 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 have responded to the project, which also includes an application for an accessory use. The Ada County Building Official responded in Exhibit #21 that the Building Division has no objection to the proposed structure or variance; however, the applicant should be aware that a permit will be required for the construction of this building. The Boise Project Board of Control replied in Exhibit #22 that there are no Boise Project facilities located on the above-mentioned properties; however, they do in fact possess a valid water right. Local irrigation/drainage ditches that cross this property, in order to serve neighboring properties, must remain unobstructed and protected by an appropriate easement. The Central District Health Department replied in Exhibit #23 that the applicant and/or owner must apply for a septic permit for the new home. The Ada County Engineering and Surveying Division stated in Exhibit #24 that all drainage from the proposed modifications to the existing structure shall be retained on site, during and after construction, so as to not negatively impact adjacent property.

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. 201601703 AC-V complies with Section 8-5A-5 of the Ada County Code.
2. The Board concludes that Project No. 201601703 AC-V complies with Section 8-7-4C 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 #201601703 AC-V, subject to the Conditions of Approval attached as Exhibit A and the Site Plan Drawing stamped on September 28, 2016.

DATED this _____ day of _____, 20____.

Board of Ada County Commissioners

By: Jim Tibbs, Commissioner

By: Rick Yzaguirre, Commissioner

By: David L. Case, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS (IN ORDER) THAT THE APPLICANT AND/OR OWNER MUST COMPLETE BEFORE THE APPROVAL OF 201601703-AC WILL BE CONSIDERED FINAL. PLEASE NOTE THAT YOU 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 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.
6. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
7. The applicant and/or owner shall have a continuous obligation to maintain adequate housekeeping practices so as not to create a nuisance.

CONDITIONS OF APPROVAL

EXHIBIT A

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