



CITY OF GEARHART

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CITY OF GEARHART PLANNING COMMISSION

From: Carole Connell, City Planner & Chad Sweet City Administrator

Re: Approval request for a Variance

CITY STAFF REPORT

October 6, 2017

City File # 17-013V 871 Hager Street -Vacation Rental Occupancy Variance

Application Purpose: An application for approval of a Variance seeking relief from vacation rental occupancy requirements in order to double the occupancy from 8 to 16 persons in the 6 bedroom/sleeping area dwelling

Property Owner: Candace & David Remer
2929 1st Avenue Penthouse 8
Seattle, WA 98121

Applicant: Same as owner

Location: 871 Hager Street, 0.4 acre parcel; Tax Lot 4000 & 4101 Map 06N10W Section 10CB

Completeness: 09-08-17
Notice Mailed: 09-22-17
Notice Published: 09-22-17
Initial hearing: 10-12-17
120-day deadline: 01-06-17

Exhibits: Applicant's original application & narrative
Applicant's 4th revised parking plan 9-28-17
City Rental Permit file, site plan and aerial photo

Clatsop County Public Health Department Certificate of Compliance, 6-28-17; email clarification 10-6-17
Gearhart Fire Chief: comments 9-28-17
Gearhart Building Inspector: comments 9-28-17
Gearhart City Manager: comments 9-25-17
Gearhart Police Chief: no comment 9-11-17
Gearhart Public Works: no comment
Public testimony: Mike Cranston 9-13-17 object
Harold & Jane Gable 9-27-17 support

Applicable Criteria:

- GZO Section 3.1 Low Density Residential Zone R-1
- GZO Section 7.030 Vacation Rental Permit Standards and Procedures 1. Maximum Occupancy Calculations a.1) Bedrooms/Occupancy
- GZO Section 9.040 Variances
- GZO Article 13 Application, Notice and Hearing Procedures

I. FINDINGS

- A. Proposal: The purpose of the request is to approve a variance that allows doubling the occupancy limit from 8 to 16 persons for a 6-bedroom/sleeping area vacation rental dwelling. The applicant currently has an approved vacation rental permit for 4 bedrooms and a maximum 8 person occupancy.
- A. Site information: The waterfront property includes two parcels totally 0.41 acres in size. The dwelling has a private setting buffered by a large setback from the street, mature vegetation and open space on three sides.

The front façade of the residence faces Hager Street with access to the street by an estimated 124-foot gated driveway to the front property line. On the west side of the graveled parking area there is a new septic drain-field system.

The subject parcel has frontage on Hager Street, designated a local street. The gated driveway is located on a sharp corner of the street, a narrow street with an estimated driving width of 15 – 20 feet and a ROW width of 60 feet.

- B. Plan and Zone Standards: The site is designated Residential by the Gearhart Comprehensive Plan and is designated Low Density Residential R-1 by the Gearhart Zoning Ordinance. The GZO Article 7 specifies Vacation Rental Standards and Procedures. Surrounding properties are zoned R-1.

C. Agency Coordination

The Building Official inspected and approved the rental for potentially six complete sleeping areas/bedrooms on 9-28-17. He also informed staff that the building code residential classification for the dwelling is not affected by occupancy which means the commercial building code does not apply to the subject request.

The Fire Chief letter dated 9-28-17 said there is off-street parking for 6 vehicles. He said “no-parking” signage shall be posted from the entry gate to the parking area to prohibit blocking the driveway.” He said the entry gate is too narrow to allow fire engine access through the gate, which would cause a possible life safety issue if a fire were to occur.

The City Manager said it was the Planning Commission and City Council’s desire to address the impact of transient lodging in the residential zones within Gearhart.

The Police Chief had no comment.

Clatsop County Public Health Dept.: A Certificate of Compliance for the septic system was issued on June 28, 2017. In a phone 8-30-17 conversation with Mike McNickle, Clatsop County Health agent he said the new septic system is designed for a 4-bedroom dwelling not to exceed a capacity of 450 gallons of water per day. However, the county does not review on-going water usage records to verify usage. He said if the system fails it will set off a loud alarm and the sewage may back-up into the home. He said the city could report water usage to the county and if water usage exceeds 450 gallons per day the system is no longer in compliance. On 10-6-17 he clarified “the maximum number of bedrooms allowed with the system as installed is four, and that means only 8 people maximum (2 people per room and 55+/- gallons per day per person). Anything over that, then it is outside the system’s ability to handle the wastewater flow.”

D. GZO Section 3.1 R-1 Zone

The purpose of the Low Density Residential R-1 zone is to provide for low density single family development with a maximum density of four dwelling units per acre. These areas are characterized by residential qualities and provide for other uses which are consistent with residential neighborhoods such as churches, schools and community uses.

PROPOSED FINDINGS: The R-1 zone is a low density residential zone. The single family residence is a permitted use in the R-1 Zone. Surrounding land uses are single family dwellings zoned R-1.

Article 7 Section 7.020 Special Standards governing Vacation Rentals subsection 2 states that “vacation rental dwellings are similar to a commercial business use and therefore are not a permitted use in the RA, R-1, R-2 and RCPD zones.” However, subsection 4 permits a one-time opportunity for property owners to file an application for a rental permit. The applicant filed for and was granted a permit with an 8-person occupancy limit and septic approval for a 4-bedroom rental.

E. GZO Article 7 Vacation Rental Standards and Procedures

1. Section 7.030 Maximum Occupancy Calculation

- a. Occupancy of the rental will be calculated using the three criteria below. Final occupancy will be set by the most limiting criterion. In accordance with the provisions of Article 9 Variances, an applicant may file an application for a variance to the Maximum Occupancy Calculation Standards.

Bedrooms/Occupancy: The maximum occupancy for a vacation rental permit shall be two persons over the age of 2 years old per bedroom. Occupancy includes occupants sleeping on the property.

FINDINGS: The subject 6 bedroom/sleeping area dwelling is permitted occupancy of 12 persons over the age of 2. The applicant requests approval to allow occupancy of 16 persons.

2) Off-Street Parking:

One outside parking space per bedroom is required. A standard parking space shall be a minimum of 9' x 18', except that a 9' x 15' space is permitted for existing structures where the structure is only 15' from the property line. For uses requiring four or more spaces, up to fifty percent of the spaces may be compact in size. A compact space shall be a minimum of 8' x 16', or 15' in depth where the structure is only 15' from the property line. Residential parking spaces are not required to be marked.

FINDINGS: The subject vacation rental is required to have 6 off-street parking spaces for the 6-bedroom/sleeping area dwelling. The applicant's parking diagram (revised 9- 28-17) illustrates there are 6 (9 x 15) parking spaces, exceeding the 50% compact limit. Parcel and dwelling dimensions have not been provided to verify the measurements are accurate. The Fire Chief states there is sufficient area for 6 vehicles. The proposal exceeds the number of compact spaces permitted.

2) Septic System Capacity:

Septic systems must be inspected and the inspection must be reviewed and approved by the Clatsop County Public Health Department. Cesspools are prohibited for use with transient rentals.

FINDINGS: The applicant recently installed a new septic system and the drain-field is located in the driveway near the dwelling. The septic system is designed for a 4 bedroom dwelling which means an 8 person maximum occupancy. The system is not designed for 16 people.

2. Section 4.Off-Street Parking Requirements

- a. The approved off-street parking spaces must remain available for renters. A parking diagram of the approved parking spaces must be provided to renters and be available in a prominent location within the dwelling. Parking stalls shall meet the minimum standards of Section 7.030 (1) (a) (2) above, and are not required to be paved.
- b. No more vehicles shall be parked on the property than there are designated off-street parking spaces. Off-street means within private property boundaries.

FINDINGS: A scaled parking plan has not been provided. The Fire Chief states there is sufficient parking area to accommodate 6 vehicles to be parked on the property. The parking area is graveled and adjoins the septic system, although it is not clear if parking will occur on the septic drain-field. It cannot be guaranteed that only 6 vehicles will be parked on-site at any given time.

F. GZO Section 9.030 Criteria for Granting Variances

A Variance to requirements of this ordinance with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance decks and walls, and other quantitative requirements, may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant all three (3) of the following expressly written findings are made: No variance may be granted which will permit a use not permitted in the applicable zone.

FINDINGS: The occupancy limit is a quantitative requirement per above provision and Article 7 allows for a variance request to occupancy requirements, therefore the variance request is valid.

1. The request is necessary to prevent a hardship to the applicant; and

FINDINGS: The City finds an occupancy variance is not necessary to prevent a hardship. Based on the factors below, there is no evidence that the applicant will suffer a hardship if 16 people are not permitted to occupy the single family dwelling.

a. Relevant factors to be considered in determining whether a hardship exists include:

(1). Physical circumstances related to the property involved;

PROPOSED FINDINGS: The Planning Commission finds the dwelling is physically located in a private setting so that negative impacts are minimized on three adjoining sides. The dwelling is 3,000 square feet and three of the bedrooms have been stocked with extra beds. The parcel may have adequate area for 6 parking exterior spaces in accordance with the minimum required for a 6 bedroom/sleeping area rental. The septic system has capacity for a 4-bedroom dwelling and a maximum of 8 people.

(2). Whether reasonable use can be made of the property without the variance;

PROPOSED FINDINGS: The Planning Commission finds that reasonable use as a residence or a rental can be made of the property without a variance to the occupancy limitation.

(3). Whether the hardship was created by the person requesting the variance;

PROPOSED FINDINGS: The Planning Commission finds the applicant has already been granted a vacation rental permit by the city and installed a septic system with an occupancy limit of 8 persons, 2 per bedroom. The applicant has since decided they want to double the occupancy limitation to 16. The hardship was created by the person requesting the variance.

2. The proposed development that will result from the granting of the variance will not be injurious to the adjacent area in which the property is located; and

PROPOSED FINDINGS: The Planning Commission finds testimony from property owners in the area was received, one indicating there have been no negative impacts and another indicating there are no negative impacts to the area. Views and privacy from adjacent property are not significantly affected by an increase in occupants.

Fire safety and septic capacity cannot be guaranteed if the occupancy is doubled. Noise will increase if the number of vehicles and activities of renters is doubled. Adequate on-site parking for 16 occupants (over 2 years old) cannot be guaranteed.

- a. Relevant factors to be considered in determining whether the proposed development will be injurious to the adjacent area include:

The physical impacts such development will have such as:

- (1) Views from adjacent property;

PROPOSED FINDINGS: The existing land use and zoning is residential in the adjacent area. The dwelling is set back about 124 feet from the street and is buffered by mature landscaping. The south side of the dwelling is adjoined by the estuary; the west side is a heavily vegetated parcel buffering the existing residence; the north side is a vegetated road right-of-way and residences, and the east side is the Lodge at Little Beach. Views from adjacent properties will not be significantly affected by the number of occupants.

- (2) Privacy available to adjacent property;

PROPOSED FINDINGS: Privacy from the house is provided due to its large setback from the street, its waterfront location to the south and from the large lots and established vegetation on two sides of the property.

- (3) Ability to provide and maintain public improvements such as streets, utilities and drainage;

PROPOSED FINDINGS: The subject variance request may result in a failed septic system, an increase in fire incidents and parking overflow onto the public street thereby potentially compromising public services. The existing septic system is not designed for 16 occupants.

- (4) Potential for geologic hazard; and

FINDINGS: The City finds approval or denial of the subject variance request will have no bearing on the potential for geologic hazards on the site or in the area.

- (5) Noise Generated.

PROPOSED FINDINGS: The request to double the occupancy for the vacation rental will result in more noise from vehicles, large group gatherings and the potential of noise from the septic alarm.

3. The request is necessary to enable reasonable use of the property; and

PROPOSED FINDINGS: The Planning Commission finds there is not enough evidence to support that a variance from the rental occupancy limitation is necessary to enable reasonable use of the property as a residence or a vacation rental.

4. The request is not in conflict with the Comprehensive Plan.

PROPOSED FINDINGS: The City finds there are policies in the Comprehensive Plan that require development to be compatible with the residential character of Gearhart. In particular:

- *“The City will recognize the importance of the City’s residential neighborhoods and the need to protect them from the negative impacts of the transient rental of property, and to discourage increased levels of traffic and similar disruptions;” and;*

FINDINGS: The Planning Commission and City Council spent considerable time over a three-year period to develop vacation rental controls in order to protect residential neighborhoods from the negative impacts of transient rentals in Gearhart. The dwelling is located in a large, strictly low density residential R-1 zone. An increase in traffic levels, vehicles and disruptions caused by vacation rentals periodically occurs in this area due to the dense development pattern east of the site and the narrow street.

The Commission finds the dwelling has capacity for an estimated 6 parking spaces on the property. If 16 people occupy the dwelling it will be difficult to limit and enforce the number of vehicles on-site. Vehicles may have to park in the narrow street right-of-way. The influx of numerous vehicles arriving at once is inconsistent with the patterns of a typical single family use. The intent of the Comprehensive Plan is supported by the vacation rental occupancy limit enacted to protect the low density residential neighborhood from negative impacts that occur in this area.

In response to this criterion the applicant said “we see no safety hazard or any other condition that would affect the Comprehensive Plan by granting the variance.”

But the Planning Commission finds granting a variance to allow 16 occupants in a dwelling that has a new septic system designed for a 4-bedroom dwelling and a maximum of 8 people will increase the potential of septic system failure or damage from vehicles, an increase in potential fire incidents and an increase in noise and traffic disruptions in the area. It will also be difficult to enforce the number of vehicles allowed at the rental. These conflicts will be exacerbated as traffic and pedestrian activity increases in the future.

II. DECISION OPTIONS

A decision must be based on adequate findings demonstrating compliance with each of the three variance approval criteria.

Motion options:

1. Based on the findings in this report I move to deny the Variance request; or
2. I move to continue the public hearing on this matter until November 9, 2017; or
3. Based on revised findings, I move we approve the Variance request with conditions. Conditions may include:
 - a. The maximum occupancy is 12 persons over 2 years of age subject to Clatsop County certification of septic capacity for 6 bedrooms.
 - b. The entry gate opening shall be widened to a minimum of 12 feet.
 - c. To verify parking and driveway circulation is adequate for 6 vehicles the applicant shall provide a scaled drawing of the parcel with house setbacks, identification of the septic system and drain-field dimensions and parking stall locations and dimensions. Parking should not be allowed on the septic drain-field.

APPEAL

In accordance with the Gearhart Zoning Code Section 13.060, the decision of the Planning Commission may be appealed to the City Council within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information described in Section 13.060.