CITY OF GEARHART STAFF REPORT

To: Gearhart Planning Commission From: Garrett Phillips, City Planner October 28th, 2024

City File #24-07V a Front Setback Variance

Application Purpose: An application for approval of a Variance to the front yard setback to 10 feet, from the required 15 feet, to expand the front entryway on an existing dwelling.

Decision Maker: Variances are a Planning Commission decision.

Public Hearing Date: November 14th, 2024

Property Owner: Vanillawood c/o Tyler Benson

16354 Boones Ferry Road, Lake Oswego, OR 97035

james@vanillawood.com

Tyler Benson

498 A Street, Gearhart, OR 97138

[tbenson25@gmail.com](mailto:tbenson25@gmail.com)

Applicant’s Representative: None

Location: 498 A Street, Gearhart, OR

Taxlot 61009AA05700

Completeness: 10-07-24

Notice Mailed: 10-24-23

Notice Published: 10-24-23

120-day deadline: 02-04-25

Exhibits: Applicant’s application, narrative, and site plan

Review Criteria: GZO Section 3.1 Medium Density Residential (R-2) Zone

GZO Section 9.030 Criteria for Granting Variances

Public Comments: No comments were received prior to writing this report.

FINDINGS

* 1. Background: The applicant is proposing to expand the entryway to the existing dwelling that has a nonconforming front yard setback of 11 feet, where 15 feet is required. The application describes two alternatives. Option A increases the extent of the existing front yard setback non-conformity by widening it but does not further encroach towards the front property line. Option B increases the extent of the non-conformity and encroaches one foot further towards the front property line.
  2. Site information: The subject parcel is occupied by a single-family home, and surrounding uses are single family homes and a vacant lot across the street to the south. The subject property and adjacent properties to both sides and further to the east are zoned Medium Density Residential (R-2). Properties across the street to the south, and beyond the neighboring property to the west are zoned Low Density Residential (R-1). The property is generally conforming as to lot size and use but nonconforming for front setbacks. The existing dwelling is closer to the street than adjacent dwellings on A Street. A Street is approximately 18 feet wide within an approximately 60 foot wide right of way. A Street connects to the street network to the east at Cottage Avenue, and about 150 feet to the west of the subject property A Street changes from a paved road to a dirt road or trail
  3. Agency Coordination: The proposal was referred to city departments. Following are City staff comments received prior to completing this report:

Building Official, 10/16/2024: …this is an adequate request, and enhances accessibility to the residence.

Fire Marshall, 10/16/2024: As far as the variance goes, I have no issues from a fire prevention perspective.

Public Works, 10/16/2024: I don’t have any comments to make on this variance.

* 1. Plan and Zone Standards: The site is designated Medium Density Residential (R-2) by the Gearhart Comprehensive Plan and Zoning Ordinance. The site is not near wetlands or protected riparian areas and not in the Flood Hazard Overlay Zone. R-2 zone standards and findings are below.
  2. GZO Section 3.2 Medium Density Residential

Section 3.220 Outright Uses Permitted includes a residential home. (A use permitted outright in an R-1 Zone.)

FINDING: The existing use is a residential home, and the applicant is not proposing a change of use or increase in density.

Section 3.240 R-2 Zone Standards

1. Lot Size: minimum 7,500 square feet for a single-family dwelling.

FINDING: Existing lot is 10,000 square feet. The proposal does not change the lot size.

2. Front Yard: A front yard shall be at least 15 feet.

FINDING: The existing main structure of the house is 11 feet from the property line and is nonconforming. A variance is required to expand or increase the non-conformity.

3. Side yard: 5 feet on one side and 9 feet on the other…

FINDING: The existing main structure of the house is located 8’-2” from the West side setback and 28’-6” from the East side setback. The proposal does not expand the structure further towards the side setback lines.

4. Rear yard: A rear yard shall be at least 15 feet…

FINDING: The proposal to modify the front entryway does not change the rear setback. The application notes a rear deck addition that will maintain around a 40-foot rear setback, so that addition does not require a variance.

5. Height restriction: Maximum height 30 feet.

FINDING: The existing house measures 16’-8” above existing average grade as measured from the 4 property corners. The proposed entryway roof extension would be 13’-8”. This meets the requirements for height restriction.

6. Lot coverage: Maximum area that may be covered by a dwelling structure and accessory buildings shall not exceed 35% of the total area of the lot.

FINDING: The existing dwelling occupies 1,640 square feet representing 16.4% of the lot coverage. The proposal would increase lot coverage to a maximum of 19%.

* 1. GZO Section 9.030 Criteria for Granting Variances

Variance to a requirement 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, findings are made based on the four criteria listed below. No variance may be granted which will permit a use not permitted in the

applicable zone.

* + 1. Is the request necessary to prevent a hardship to the applicant? Relevant factors to be considered in determining whether a hardship exists include:

a. Physical circumstances related to the property involved;

b. Whether reasonable use can be made of the property without the variance;

c. Whether the hardship was created by the person requesting the variance.

FINDINGS: The application states that the existing entryway is posing a safety and accessibility issue for the applicant’s elderly family members and that Options A and B would improve safety and accessibility. The application described how the home’s position on the lot prevents expansion of the entryway within zoning standards. The applicant did not create the safety or accessibility issues posed by the existing entryway, because they did not construct the entryway or the house, which was built in the early part of the last century.

It is evident from the application photographs that the existing front door opens directly onto stairs instead of onto a landing, and that this is not safe. It is also evident from reviewing the applicants plans that the variance would enable there to be a landing, and maybe a handrail on the outer side of the steps. It would therefore be reasonable to find the application is necessary to prevent hardship. It would also be reasonable for the Planning Commission to ask the applicant to describe how the larger of the two variances would prevent a hardship that the lesser of the two variances would not prevent, and use this information as the basis for deciding on which of the two proposals to approve.

* + 1. Will the proposed development that will result from the granting of the variance be injurious to the adjacent area in which the property is located? Relevant factors to be considered in determining whether the proposed development will be injurious to the adjacent area include:

1. Views from adjacent property;
2. Privacy available to adjacent property;
3. Ability to provide and maintain public improvements such
4. as streets, utility, and drainage;
5. Potential for geologic hazard; and
6. Noise generated.

FINDINGS: The application states that the proposal will not impact neighboring views. Staff have not identified potential impacts to the adjacent area, and no public comments identifying impacts were received prior to writing this report. The existing roughly 60 feet right of way exceeds the Transportation System Plan specification for 50 foot right of ways on local streets, so the City does not anticipate needing in the future to obtain additional right of way that would conflict with the proposed entry. The site is not in a geologic hazard area, and there is no information suggesting that the front entryway expansion would create additional noise impacts. This is the case for both alternatives.

* + 1. Is the request necessary to enable reasonable use of the property? And

FINDINGS: The application states that “The modification is necessary to provide safer accessibility and prevent future injury.” It makes sense that a variance is needed to provide a landing between the door and the stairs, and a basic safety feature like this is a baseline criteria for reasonable use of the property. As with Variance Criteria 1, it would be reasonable to ask the applicant to describe how the greater variance is necessary if the lesser variance is sufficient.

* + 1. Is the request in conflict with the Comprehensive Plan?

FINDINGS: The Comprehensive Plan does not provide policies or guidelines for building setbacks or design considerations for residential areas, so the proposal does not conflict with the Comprehensive Plan.

1. SUMMARY CONCLUSION

Based on available information, and pending testimony, it appears reasonable to conclude application Option A and B would not be injurious to others and that the proposal is consistent with the comprehensive plan. Staff recommends that:

* The Planning Commission may consider any additional information that the applicant provides to support findings that Option A is necessary to prevent hardship and enable reasonable use of the property, as opposed to Option B.

1. DECISION OPTIONS

A decision must be based on adequate findings demonstrating compliance with each of the Variance Approval Criteria described in this report.

The Planning Commission may choose one of the following motions:

1. Move to continue the hearing.

2. Move to deny the variance based on identification of adequate findings to support denial.

3. Move to approve the variance (Option A, or Option B or both options described in the application) subject to Conditions of Approval identified in this report.

1. RECOMMENDATION

If the Planning Commission approves the variance, recommended conditions of approval include the following:

1. The applicant shall obtain a building permit to exercise the variance, and the building permit application shall include a survey of the property boundaries and the existing dwelling.
2. The variance is for the specific dimensions identified in the application, both in terms of the front yard setback distance, and the location, height, and width of structure encroaching into the front yard setback.
3. Authorization of a variance shall be void after one (1) year unless substantial construction pursuant thereto has taken place.