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5-1

HEARING EXAMINER REPORT  
BLAINE COUNTY IDAHO

RECORD  
FEE *[Signature]*

CITY OF POCATELLO

2020 SEP 29 P 2:56

DATE: September 29, 2020

APPLICANT/REPRESENTATIVE NAME: Jay Sluder

MAILING ADDRESS: 675 Golf Drive, Pocatello, ID 83201

LOCATION OF REQUEST: 675 Golf Drive, Pocatello, ID 83204

LEGAL DESCRIPTION: Parcel #RPRPWHS000200

TYPE OF REQUEST: Variance

I. REQUEST

The applicant is requesting a variance from Pocatello Municipal Code 17.06.200.A. 1b which requires that accessory structures on the subject property not exceed the height of the primary structure, or 20 feet whichever is less. The applicant seeks to construct an accessory structure that exceeds the height of the primary structure by four feet (4').

II. CONCLUSION AND CONDITIONS

Based on review and analysis of the application material, subject site and surrounding area, and after gathering the Findings of Fact at the Public Hearing, the applicable Municipal Code sections and goals of the City's Comprehensive Plan, your Hearing Examiner finds that this proposal does meet the standards for a variance. The applicant has met the burden of proof and established hardship based on the characteristics of the site in question. Your Hearing Examiner respectfully determines that the requested Variance is **Approved** with the following conditions (bold text, if any, indicates hearing examiner proposed modifications to City Staff conditions).

1. An approved building permit must be obtained prior to construction;
2. The height of accessory structure shall not exceed the height proposed;
3. The setbacks of the accessory structure shall not encroach the property line more than what is proposed; and
4. All applicable standards of the City of Pocatello Municipal Code Title 17 Zoning Regulations not herein listed and applicable shall apply.

TABLE

5-2

22018082

### III. FINDINGS OF FACT

- 1) Your Hearing Examiner disclosed that he has visited the site to observe physical character and surrounding relationships of the subject property. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing.
- 2) City Staff acknowledged they had received no correspondence prior to the hearing regarding the subject variance. However, there are four (4) letters in support of the applicant included in the application.
- 3) The applicant's representative for the hearing was Brian Sidell. Mr. Sidell will be doing the design and construction of the detached garage.
- 5) The applicants representative confirmed that they have read, understand, and agree with the Staff recommended conditions.
- 6) The applicant's representative indicated that most of the homes in the area are two story homes with considerably higher roof line than the subject home which is a single story home with a very low sloped roof. Had the subject home had a more normal 4:12 pitched roof, it is likely the variance wouldn't have been required.
- 7) Refer to Staff Report of Variance Findings for description of request, Staff proposed Conditions, site plan, photos, applicants written narrative and correspondence from surrounding neighbors.

### IV. MUNICIPAL CODE STANDARDS APPLICABLE TO THE REQUEST.

Pocatello Municipal Code 17.02.170(A) defines variances as: "A variance is a modification of the bulk and placement requirements of this ordinance as to lot size, lot coverage, lot width, lot depth; front yard, side yard rear yard setbacks; parking space requirements, height of buildings, or other ordinance provisions adversely affecting the development or use of property. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of the characteristics of the site and that the variance is not in conflict with the public interest."

Pocatello Municipal Code 17.02.170(E), "Authority to Grant: The hearing examiner may approve, approve with conditions, or modification, or deny an application for a variance. The decision may be appealed by the applicant or other affected persons according to the provision of Idaho Code Section 67-6521. Said appeal is to the City.

Municipal Code §17.02.300, states that variances shall be heard and decided on by the Hearing Examiner with an appeal to City Council.

5-3

22018082

Pocatello Municipal Code §17.01.170(A)(2)(c), , Criteria for Review: The hearing examiner shall review the facts and circumstances of each proposal and render a decision based on written findings of fact that address all of the following criteria:

1. **The applicant shall have taken all reasonable steps to comply with the strict terms of the ordinance from which he or she requests the variance;**

Applicant's Response: "The owner seeks to build a detached garage/shop to park a camping trailer in. This requires a 12' tall overhead door to accommodate the trailer. Since the walls will need to be approximately 13' tall and the 4/12 pitch roof will bring the overall structure height to 17'6" above the concrete slab, a variance is needed. The residence is a single story dwelling with a ridge height of 14'. The floor slab of the garage will rise 6" above the grade of the surrounding yard bringing the total structure height to 18'. Since the current ordinance requires that any additional structure built upon the property not exceed the residence height by more than 10% (in this case 17" above the 14' tall house) the proposed shop height will exceed this requirement by 2'7". Therefore, the owner respectfully requests the granting of a variance to allow for the construction of the proposed 24'x36' shop.

Staff Analysis: The applicant seeks to construct an accessory structure that exceeds the height of the primary structure in order to accommodate a recreational vehicle and other owned vehicles. A variance is required in order to accommodate the applicant's desire for this use. An accessory structure that adhered to the associated height restrictions for the subject property (14') would not be able to accommodate the recreational vehicle currently owned by the applicant. In order to accommodate the applicant's desire to construct an accessory structure at the required height for a recreational vehicle without a variance, the primary structure would need to be enlarged in a way where the peak of the roof exceeded 18' in height.

2. **The variance sought must be the result of unusual physical characteristics of the site in question;**

Applicant's Response: See Criteria "1".

Staff Analysis: There are no unusual physical characteristics of the site in question. The subject property is considered a large, regularly shaped lot approximately .69 acres in size. The proposed accessory structure would be 18' in height while the primary structure is only 14' in height. This would make the accessory structure 4' taller than what is permitted.

54

- 3. **The circumstances surrounding the variance request shall be due to an undue hardship as related to the characteristics of the land, and the applicant shall show that, absent a variance, he/she would be deprived of rights commonly enjoyed by other properties in the identical zoning district under the terms of this title;**

Applicant's Response: See Criteria "1".

Staff Analysis: There is no undue hardship as related to the characteristics of the land.

- 4. **The undue hardship cited as the basis of a variance request did not result from the actions of the applicant, or the current, or a prior landowner, or any of their agents;**

Applicant's Response: See Criteria "1"

Staff Analysis: There is no undue hardship as the basis for this variance request.

- 5. **The applicant shall demonstrate that the proposed variance does not adversely affect adjacent/nearby property;**

Applicant's Response: See Criteria "1"

Staff Analysis: The applicant has provided as part of the application submission, that adjacent property owners have no objection to the height variance for the proposed accessory structure (See Attachment A).



HEARING EXAMINER SIGN EXCEPTION  
FINDINGS OF FACT AND DECISION

22018081

5-1

DATE: Sept 24th, 2020

OFFICIAL RECORD UNIT  
SANDOZ COUNTY IDAHO

RECORD FEE 0 DEPOSIT *fburges*

APPLICANT: Faith Lutheran Church

CITY OF POCATELLO

MAILING ADDRESS: 856 W Eldredge Rd,  
Pocatello, Idaho, 83201

2020 SEP 29 P 2:56

REPRESENTATIVE: Jeremy McLaughlin of SignUp Signs & Graphics  
3275 Hwy 30 W, Pocatello, Idaho

LOCATION OF REQUEST: 856 W Eldredge Rd  
Pocatello, Idaho 83201

**I. REQUEST**

Faith Lutheran Church, represented by SignUp Signs & Graphics, has submitted an application for a sign exception & off-premise sign. The request includes the installation of a 32 square foot off-premise sign at the northwest corner of Pole Line and Eldridge Road

**SITE CHARACTERISTICS:** The subject property is contractually zoned Light Industrial (LI) and includes an Idaho Power substation. The substation is enclosed with a concrete and stone wall with three entry gates. The subject property is adjacent to Residential, Industrial, and Residential-Commercial-Professional zoning districts

**STAFF RECOMMENDATION:** In consideration of the application, staff concludes that the application for a sign exception and off-premise sign is not compliant with Pocatello Municipal Code Section 17.02.130. Should the Hearing Examiner approve the request, staff recommends the following conditions:

1. Any standards/regulations not herein noted but applicable under Municipal Code Section 15.20 "The Sign Code" shall be strictly adhered to.
2. The proposed sign shall remain unlit in perpetuity.

**II. PUBLIC HEARING**

A public hearing was conducted by the Hearing Examiner on September 24, 2020. Presentations were provided by the City Staff, then the applicant's representative and the public was provided an opportunity for comment. There was no public comment.

As noted above, the subject site is located at Northwest Corner of Pole Line Road & Eldredge Road.

**III. MUNICIPAL CODE/COMPREHENSIVE PLAN**

The following Municipal Code Sections are applicable to this request:

5-2 Municipal Code §15.20.010 lists the purpose of the sign code is to protect and enhance the physical appearance of the community, reserve scenic and natural beauty, provide an enjoyable and pleasing community, protect property values, and create an attractive economic and business climate. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to safety hazards.

Municipal Code §15.20.220 Residential Medium Density Single Family Zoning.

Municipal Code §15.20.260(B) states, "The hearing examiner has the authority to approve signs with or without special conditions concerning sign size, design, illumination, height, width, landscaping, placement on site, or any other condition it deems pertinent for sign enhancement. The hearing examiner shall only approve signs and sign structures that are consistent with the purpose set out in section 15.20.010 of this chapter and with the comprehensive plan of the city." The decision may be appealed by the applicant or other affected persons according to the provisions of Idaho Code Section §67-6521. Said appeal is to the city council pursuant to the process outlined in section §17.02.400, 'Appeals.'

Municipal Code §17.02.300 states that sign exceptions shall be heard and decided on by the Hearing Examiner with an appeal to City Council.

Municipal Code §15.20.270 regulates sign exception standards as follows:

- A. The exception sought should be the result of unique physical characteristics of the site in question.**

Applicant's Response: "An exception for an off-premise sign is requested for the Faith Lutheran Church. Land has been purchased to the east of the church and now blocks the signage of the church. A sign installed on the corner of Pole Line and Eldredge would direct traffic to the church for the intersection."

Staff Analysis: The Faith Lutheran Church has no unique circumstances in regard to topography or lot configuration which would warrant the need for approval of a sign exception. The Church sold the subject property to Idaho Power for the construction of the new electrical substation. As a result, the Church's existing ground sign was removed to accommodate the construction of the substation. Per the purchase agreement, Idaho Power agreed to pay for and place a new sign on the substation property near the corner of Pole Line and Eldredge Road.

- B. The applicant shall have taken all reasonable steps to comply with the strict terms of the land use ordinance from which he or she requests an exception.**

Applicant's Response: "The proper steps for such a sign have been taken through the sign permit process and permission has been given to the church for the sign placement."

Staff Analysis: Since the land is no longer owned by the Church, the placement of the sign is considered an off premise sign. Per Municipal Code section 15.20.240, Off-premise signs are permitted in Light Industrial zoning districts. This section also states that "in no case shall off premise signs be located closer than two hundred fifty feet (250') to a residential zoning district, Residential-Commercial-Professional (RCP) zoning district, designated historic district, park, school, church, or cemetery measured in any direction from said signs." This proposed sign will be located within 250 feet of a residential zone, RCP zone, and a church.



- 5-3  
**C. *The circumstances surrounding the request shall be extraordinary as related to the applicant's land and the reasonable use thereof.***

Applicant's Response: "The new signage would be very helpful for the overall visibility of the church, now that the Idaho Power substation has been built."

Staff Analysis: The applicant had reasonable use of the property without the sign exception.

- D. *The applicant should show that, absent an exception, no reasonable identification of the subject land remains.***

Applicant's Response: "The substation that is now built on the corner of Pole Line and Eldredge now blocks the view of the signage existing on the church property."

Staff Analysis: In the purchase agreement, Idaho Power agreed to pay for and relocate the new sign for the Church near the corner of Pole Line Road and Eldredge Road.

- E. *The applicant for an exception shall show how the proposed exception has been designed to minimize adverse effects on adjoining land.***

Applicant's Response: "Proposed sign will not have any effects of the adjoining land. Sign will be installed flat against a concrete type fence structure, facing the corner of Pole Line and Eldredge intersection."

Staff Analysis: The sign will be placed flat against the wall surrounding the substation at the corner of Pole Line Road and Eldredge Road. This sign will be unlit and will measure out at thirty-two (32) square feet.

- F. *The proposal must be in conformance with the purpose set forth in §15.20.010.***

Applicant's Response: "All steps have been taken to insure that the new sign and existing signage is in compliance with all city sign codes."

Staff Analysis: Municipal Code §15.20.010 states that the purpose of the sign code is to "promote the public health, safety and general welfare by regulating existing and proposed signage. It is intended to protect and enhance the physical appearance of the community, reserve the scenic and natural beauty, provide an enjoyable and pleasing community, protect property values, and create an attractive economic and business climate. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over the public right-of way, provide more open space, and curb the deterioration of natural beauty and the community environment."

#### **IV. FINDINGS OF FACT**

Based on an analysis of the application materials, pertinent Municipal Sign Code Sections, Comprehensive Plan Goals and Objectives, and information obtained at the public hearing, the Hearing Examiner finds the following:

5-4

22018081

- 1) The Hearing Examiner disclosed that he had visited the site to observe physical character and relationships of the subject property. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered, stated, or requested at said public hearing.
- 2) Staff indicated they received no comments for or against the application; however, the application did include one letter of support from Idaho Power, now owner of the subject property.
- 3) The applicant confirmed that they have read, understand, but do not agree with the Staff recommendation for denial.
- 4) No members of the public spoke at the hearing and Staff indicated they received not public comments.
- 5) The Hearing Examiner clarified an applicant comment that they had permission to install the sign. That permission was only by the new owner of the property, Idaho Power. There was no previous permission granted by the City of Pocatello.
- 6) Because of the security/privacy fencing erected by Idaho Power around the subject parcel, the neighborhood has dramatically changed the intersection at Pole Line and Eldridge Roads. There is now no visibility afforded the applicant. The proposed signage size, location, and orientation *does not create an advertising distraction or obstructions that may contribute to safety hazards.*

## V. CONCLUSIONS AND DECISION

This Hearing Examiner understands the desire by the applicant to identify their facility from the corner of Pole Line and Eldridge where the design and character of the structure blends into the surrounding neighborhood nicely and the proposed sign portrays a compatible and appealing character.

This Hearing Examiner recognizes that although the zoning does not allow for wall signs of any kind and that he understands the need for visual identification from the street for their patrons, members, and visitors to the church facilities.

Based on the above findings, the Hearing Examiner concludes that the request does meet the standards for a sign exception; therefore the sign exception is **approved** subject to the following conditions recommended by Staff and any appeal to City Council.

1. **Any lighting of the sign structure shall be prohibited;**
2. **No additional signs shall be permitted without first applying for a sign exception.**
3. Any standards/regulations not herein noted but applicable to placement of the sign structure under Chapter 15 shall be strictly adhered to.
4. The proposed sign shall remain unlit in perpetuity.

