



HEARING EXAMINER
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Christy Niblett – ZV2024-0002

The Canyon County Examiner considers the following:

- 1) A variance to the front setback for a manufactured home. The parcel is located at 15065 and 15049 Fifth Street; also referenced as Sunny slope Subdivision 2 Lot 1 and the east 50 feet of lot 3 Block 16 also referenced as Parcel R27233, a portion of the SE quarter of Section 15, T3N, R4W, BM, Canyon County, Idaho. (ZV2024-0002).

Summary of the Record

1. The record is comprised of the following:

A. The record includes all testimony, the staff report, exhibits, and documents in Case File ZV2024-0002.

Applicable Law

- A. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-08 (Variance), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-21 (Setbacks), and Idaho Code §67-6516 (VarianceDefinition-Appl ication-Notice).
 - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
 - b. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. 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 characteristics of the site and that the variance is not in conflict with the public interest. Sec Idaho Code §67-65 I 6.
- B. The hearing examiner appointed by the board shall perform such duties as assigned by the board pursuant to Idaho Code section 67-6520. See CCZO §07-03-01 and 07-07-01.
- C. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCZO §07-05-03.
- D. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
- E. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application, ZV2024-0002, was presented at a public hearing before the Canyon County Hearing Examiner on July 7, 2025. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Hearing Examiner decides as follows:

CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05

1. A variance shall be granted in compliance with Idaho Code section 67-6516, and notice and an opportunity to be heard shall be provided to property owners adjoining the subject property.

Conclusion: The requested variance complies with Idaho Code section 67-6516. Notice and an opportunity to be heard was provided to property owners adjoining the subject property.

Findings:

- (1) Chapter 7, Article 8 of the Canyon County Code provides the variance process consistent with Idaho Code section 67-6516.
- (2) Per CCCO §07-08-01, a complete application with fees was accepted on November 6, 2024 (**Exhibit A**). The request requires a public hearing due to the proposal exceeding a 33% modification to the County setback requirements.
- (3) Noticing was completed per CCCO §07-05-01. Property owners within 600 feet were notified of the request and public hearing on June 3, 2025.
- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. ZV2024-0002.
- (5) Evidence includes associated findings and evidence supported within this document.

2. The presiding party shall ask and answer the following questions in their FCOs:

A. Will granting the variance be consistent with the comprehensive plan;

Conclusion: Granting the variance will be consistent with the comprehensive plan.

Findings: Granting the request of a variance greater than 33% will not make the property inconsistent with the comprehensive plan. 2030 Comprehensive Plan goals, policies, and actions that align with the request are listed below, but not limited to the following:

Property Rights:

- Goal No. 1.1: “Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.”
- Action No. A1.1.a: “Require properties to conform to the zoning code before receiving additional zoning approvals.”
- Policy No. 1.1.3: “Ordinances and land-use decisions should avoid imposing unnecessary conditions or procedures on development approvals.”

Population:

- Goal No. 2.2: “Promote housing, business, and service types needed to meet the demand of the future and the existing population.”

Land Use and Community Design:

- Policy 4.2.1: “Consider site capability and characteristics when determining the appropriate locations and intensities of various land uses.”

B. Do characteristics of the site create an undue hardship; and

Conclusion: Characteristics of the site create an undue hardship.

Findings:

- (1) Parcel R27233 is approximately 0.74 acres in the Sunny Slope Subdivision, recorded in 1949 (**Exhibit B4**).
- (2) The primary residence was built in 1935 and the shop was built in 1940 (**Exhibit B5**). According to the Development Services Building Department, setbacks began to be enforced in 2015. Structures located in the Sunny Slope Subdivision 2 were primarily constructed prior to 2015 (**Exhibit B6.1**). Although the primary residence, the shop and neighboring structures don't meet current setback standards, the structures are legal non-conforming and can remain in the current placement, but cannot be expanded or extended without meeting current code (CCCO 07-11-01, 07- and 09) (**Exhibit B6**).
- (3) The manufactured residence was placed in 2021 without a building permit. A building permit for the manufactured home was applied for and granted in May and July of 2023, respectively. While applying for a building permit for the manufactured home, the Building Department provided a site plan with the setback requirements shown from the property lines (**Exhibit A4**). The applicants were under the impression that the setbacks were measured from the center line of the street rather than the property line meeting county setback requirements (**Exhibit A2**).
- (4) Parcel R27233 has three front property lines, which constrains where development can occur on the property.
- (5) The septic system was installed in January of 2022.
- (6) Southwest District Health was notified of the request on December 4, 2024. Comments were received on December 6, 2025, stating the manufactured home is connected to the existing septic system and the footprint of the house cannot encroach upon the septic tank and drain field (**Exhibit D1**). There shall be no less than 15 feet between a residence and the septic system per Southwest District Health.

C. Is the variance in conflict with the public interest? (Ord. 10-006, 8-162010)?

Conclusion: The variance is not in conflict with the public interest.

Findings:

- (1) Granting the variance request approval is not in conflict with the public interest as comments were not received from the public. The subject parcel is located in a subdivision surrounded by residences and seven other (7) subdivisions.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Canyon County Hearing Examiner **approves** Case # ZV2024-0002, a variance to the front setbacks for a manufactured home subject to the following conditions as enumerated:

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
 - a. The property shall comply with all public nuisance laws.
 - b. The nonconforming structure/use shall not be expanded or extended unless approved subject to the regulations of §07-11-06.

DATED this 22nd day of July, 2025.

**HEARING EXAMINER
CANYON COUNTY, IDAHO**

Leon Letson

Leon Letson

State of Idaho)

SS

County of Canyon County)

On this 22nd day of July, in the year 2025, before me Caitlin Ross, a notary public, personally appeared Leon Letson, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.



Notary: Caitlin Ross

My Commission Expires: 5/7/2031