



HEARING EXAMINER
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Gregory Parker – ZV2024-0005

The Canyon County Examiner considers the following:

- 1) A variance to reduce the front setback requirement in the Agricultural ("A") zone from 30 feet (30') to 12 feet (12') for Van Slyke Road (found on the eastern boundary of the property). The applicant's goal with the front setback variance request is to be able to build an approximately 1,200 square foot shop 12' off the eastern boundary of the property and to bring the approximately 600 square foot unpermitted structure that is approximately 13' off the eastern boundary of the property in compliance with Canyon County's setback requirements. The subject property is located at 23023 Everrose Rd, Wilder, ID 83676 (Parcel R33213010A), also referenced as a portion of the NE ¼ of the SE ¼ of Section 6, Township 3N, Range 4W; BM; Canyon County, Idaho. (ZV2024-0005).

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 ZV2024-0005.

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 (Variance).
 - 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. See Idaho Code §67-6516.
- 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, ZV2024-0005, was presented at a public hearing before the Canyon County Hearing Examiner on August 4, 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:

VARIANCE HEARING CRITERIA – CCZO §07-08-03

- 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 October 21, 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 30, 2025.
- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. ZV2024-0005.
- (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 goals and policies in Canyon County's 2030 Comprehensive Plan. The 2030 Comprehensive Plan designates the future land use to be agricultural. The parcel is zoned "A" (Agriculture). The parcel was approved via an administrative land division application (AD2014-62).

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

Conclusion: Characteristics of the site create an undue hardship.

Findings:

- (1) Canyon County Code or Idaho Code does not define undue hardship for the purposes of a variance. Section 67-6516 states 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. The circumstances justifying the undue hardship must be “peculiar” to the property at issue (*City of Burley v. McCaslin Lumber Co.*, 107 Idaho 906, 693 P.2d 1108 (1984)). The single-family residence onsite received a certificate of occupancy in June of 2022 (BP2021-0922).
- (2) Parcel R33213010A (“the subject property”) is approximately 1.85 acres, zoned “A” (Agriculture), and has a future land use designation of Agricultural. This parcel was created via a building permit transfer case in 2014 (See **Exhibits B4 and B4.1** for Case No. AD2014-62 and Survey with Instrument No. 2015-22032).
- (3) In the fall of 2024, the property owner built an approximately 600 square foot structure without a building permit, approximately 13’ from the eastern property line, that has a setback of 30’. Per email correspondence with the applicant, he believed that the structure was only considered to have a floor area of 200 square feet (which would have not required a building permit), but the building was inspected and found that by adding the awning onto the shed, it is considered to be approximately 600 square feet in total by Canyon County’s Building Official.
- (4) In 2024, the property owner received a section line setback waiver from Golden Gate Highway District (GGDH#3) on the eastern property line from 70’ to 12’ per CCCO §07-10-19 (**Exhibit D2.1**). Although GGHD#3 waived the section line setback, Canyon County’s front setback of 30’ still applies unless a variance is approved to go down to 12’. The applicant turned in a variance application to waive the front setback from 30’ to 12’ on October 21, 2024.
- (5) Several easements and restrictions of the subject property (See **Exhibit A2**) have limited available areas to build.
- (6) The Golden Gate Highway District No. 3 recommended approval of the variance request (**Exhibit D2.1**), noting Van Slyke Rd. is under the jurisdiction of GGHD3 and is a 50-ft prescriptive right-of-way 25-ft each way of centerline. In addition, site photos shared at the public hearing demonstrate the right-of-way of Van Slyke Rd. impacts the subject property substantially more than the property on the east of Van Slyke Rd.
- (7) Parcel R33213010A has two front property lines, which constrains where development can occur on the property.
- (8) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. ZV2024-0005.
- (9) Evidence includes associated findings and evidence supported within this document.

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. All responding agencies stated no concern with the requested variance. In addition, one comment of support was received from a neighboring property owner.

(2) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. ZV2024-0005.

(3) Evidence includes associated findings and evidence supported within this document.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Canyon County Hearing Examiner **approves** Case # ZV2024-0005, a variance to reduce the front setback requirement in the Agricultural ("A") zone from 30 feet (30') to 12 feet (12') for Van Slyke Road (found on the eastern boundary of the property) for an approximately 1,200 square foot shop and an approximately 600 square foot accessory building 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.
2. Within 30-days of approval of this application, a building permit shall be applied for the unpermitted building found in the southeast corner of Parcel R33213010A (**Exhibits A9 and A9.1**).

DATED this 11th day of August, 2025.

HEARING EXAMINER
CANYON COUNTY, IDAHO

Leon Letson

Leon Letson

State of Idaho)

SS

County of Canyon County)

On this 11th day of August, 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