



CURRY COUNTY COMMUNITY DEVELOPMENT  
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CURRY COUNTY DEPARTMENT OF PUBLIC SERVICES-PLANNING DIVISION  
ADMINISTRATIVE STAFF REPORT AND DECISION

IN THE MATTER OF THE REQUEST FOR A VARIANCE TO THE SECONDARY FIRE  
SAFETY AREA REQUIREMENTS TO ALLOW REPLACEMENT OF A SINGLE-  
FAMILY DWELLING ON A PARCEL ZONED TIMBER (T)

APPLICANT Sandra Anderson

FILE: AD-2012

Port Orford, OR 97465

OWNER: Pacific Waves, Inc.

AGENT: None

MAP DESCRIPTION:

TWP: 32 S RANGE: 14 W SECTION: 31 TAX LOT(s): 301

**LOCATION:** The subject property is located at 42116 Haiku Lane. Travel north from Port Orford on Highway 101, turn east on Elk River Road, traveling approximately 5 miles on Elk River Road. Turn left onto Haiku Lane.

**NATURE OF APPLICATION:** A request for a variance to the secondary fire safety area of 100' to allow for replacement of a single family dwelling.

I. BACKGROUND INFORMATION

- 1) **Parcel Size:** 4.24 Acres
- 2) **Fire Protection:** Port Orford Rural Fire Protection District
- 3) **Zoning:** Timber (T)
- 4) **Zoning Overlays:** None

The subject Timber zoned parcel is within a rural subdivision that has been developed. The existing lot contains a barn with living quarters and a large accessory shop building. An older mobile home was removed from the property and the applicant desires to place a new stick built dwelling in the same general location as the historical mobile home. The living quarters in the barn (loft) will be required to be decommissioned as a living space when the new dwelling is built and occupied.

## II. APPLICABLE CRITERIA

To approve this application, the Planning Director must determine that it is in conformance with the following sections of the Curry County Zoning Ordinance (CCZO):

**Section 3.040** Timber Zone (T)

**Section 3.045** Fire Fighting Standards for Dwellings and Structures

**Article VIII, Section(s) 8.010, 8.020 and 8.030** – Variances

## III. FINDINGS OF CONFORMANCE WITH THE CCZO:

**CCZO Section 3.040** provides a description of the purpose of classification for the Timber (T) zone and states:

*The Timber Zone is applied to resource areas of the county where the primary land use is commercial forestry. The purpose of the Timber Zone is:*

- a) to implement the forest land policies of the Curry County Comprehensive Plan; and*
- b) to implement Statewide Planning Goal 4 with respect to forest lands in the county.*

**FINDING:** A single family dwelling was approved for this parcel in 1992 which established the residential use of the subdivided lot in the Timber zone. The proposed dwelling with the variance to the secondary fire setback requirement will replace the older mobile home and not change the existing use of the property. This finding is met.

**Section 3.045** provides firefighting standards for dwellings and structures and states: *The following fire siting standards shall apply to all new dwellings or permanent structures constructed or placed on lands within the Timber (T) Zoning designation.*

- 1) *The dwelling shall be located on a parcel that is located within a structural fire protection district or the owner has contracted with a structural fire protection district for residential fire protection. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the Director may provide an alternative means for protecting the dwelling from fire hazards. The alternative means for providing fire protection may include a fire sprinkling system, onsite fire suppression equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for fire fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access*



*route to indicate the location of the emergency water source.*

**FINDING:** The subject parcel is located within the Port Orford Rural Fire Protection District. A service letter from the District verifies that the subject parcel is located within their district. The area also receives forest protection from the Coos Curry Protective District. The Port Orford Fire District has recommended fire suppression considerations that are included as conditions of approval of this variance. This criterion has been met.

2) *Fire Safety Area.*

*Owners of new dwellings and structures shall comply with the following requirements.*

- a) *A primary fire safety area of at least thirty (30) feet width shall be maintained around all structures;*

*NOTE: For purposes of this ordinance a primary fire safety area shall be defined as follows:*

*An area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath the trees.*

- b) *A secondary fire safety area of at least one hundred (100) feet width shall be cleared and maintained around the primary fire safety area.*

*NOTE: For purposes of this ordinance a secondary fire safety area shall be defined as follows:*

*An area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches.*

- c) *Areas subject to the Scenic Waterway Area Overlay Zone may have compliance with the primary and secondary fire safety area requirements of this section modified to comply with specific siting standards contained in any state or federal approved Scenic Waterway Management Program when such regulations conflict.*

- 3) *The dwelling shall have a fire retardant roof.*

- 4) *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

- 5) *The dwelling shall not be sited on a slope greater than 40 percent.*

- 6) *The County may impose standards and conditions in addition to those specified above, when it deems it necessary to protect the public health, safety and welfare.*

- 7) *Replacement or substantial improvement of legally sited existing dwellings requires compliance with the Fire Safety Area requirements of subsection 2. above. Substantial improvement constitutes an improvement which is in excess of 50% of the assessed value of the existing dwelling.*



- 8) *Road access to the dwelling shall meet the requirements set forth in Section 3.056.*

**FINDING:** Planning approval was given in application A-9315/DL 9214 to partition the subject property zoned Timber (P-9419). At the time the mobile home was sited, a thirty foot firebreak was required to be maintained around the property. The applicant is planning to replace the mobile home with a new dwelling. The applicant will be able to locate the new dwelling in a cleared area thirty (30) feet from the property line, and is requesting a variance to the secondary fire setback from 100' to zero. Portions of the property are located within a flood plain and are unsuitable for development. The applicant has a limited area to replace the mobile home with a stick built dwelling. To protect public safety, the roof of the dwelling shall be constructed of fire retardant material as required for a single family dwelling under CCZO 3.045 (3). The residential subdivision is dominated with Oregon myrtle trees with minor amounts of fir trees throughout. Neighbors on both sides of the subject parcel are actively removing fire susceptible fir trees. Oregon myrtle is a tree species that historically has been able to withstand wildfire amid fir dominated forests. The applicant's parcel is situated in an area that would be difficult to achieve the secondary fire break. Further, the adjacent parcel owners within the secondary fire setback area are actively removing vegetation including trees, resulting in favorable fire safety in this rural subdivision. This finding is met.

**CCZO Article VIII** (Sections 8.010, 8.020 and 8.030), provides criteria for the approval of a variance to standards and criteria of the CCZO.

**Section 8.010** provides authorization to grant or deny a variance and states:

*The Director may grant variances from the provisions of this ordinance where it has been shown that owing to unusual topographic conditions, unusual conditions such as the shape of the property or the location of a building on the property, or other conditions over which the applicant has had no control, the literal interpretation of this ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the Director may attach conditions which he/she finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this ordinance or the comprehensive plan.*

**Section 8.020** provides standards for filing an application a variance and states:

*A request for a variance may be initiated by filing an application in accordance with Article II of this ordinance.*

**FINDING:** The applicant's request for variance was filed in accordance with Section 2.060 of the CCZO.

**Section 8.030** provides standards for granting a variance and states:

*A variance may be granted only in the event that the applicant can show that all of the following standards have been met:*



- 1) *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances over which the owner of the property has no control.*

**FINDING:** The established subdivision lots are of a dimension which precludes the secondary fire safety area from being placed around the proposed replacement dwelling. The lot configuration and size as well as the topography limit the placement of any structures on the subject property. The subject parcel is located within a fire service district and fire protection is available to the parcel. Exceptional circumstances for the owner of the subject property have been created due to the partition which included areas of flood plain for a better part of the property. This criterion has been met.

- 2) *The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.*

**FINDING:** Due to the topography and shape of the parcel, and the existing site for the sewage disposal system, the applicant asserts that a variance is necessary to authorize the replacement dwelling. The Director accepts this assertion.

- 3) *The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of the comprehensive plan or other county regulation.*

**FINDING:** Replacement of the dwelling will not increase or intensify the uses currently permitted on the subject parcel. Approval of the requested variance is not anticipated to be materially detrimental to or otherwise in conflict with, and will allow for a use that is generally consistent with the intent of this ordinance and the comprehensive plan.

- 4) *The variance requested is the minimum variance which would alleviate the hardship.*

**FINDING:** This requested variance reduction is the minimum necessary to alleviate the hardship.

#### **IV. CONCLUSION**

The proposal is hereby found to be consistent with applicable standards and criteria of the CCZO.

#### **V. DECISION**

File AD-2012, a request for a variance to reduce the secondary fire safety area requirements from 100' to 0' under the provision of Section 3.045(2)(a) and (b) on property described as Assessor Map 3214-31 tax lot 301, filed by Sandra Anderson, to allow the replacement of a dwelling is hereby **APPROVED** subject to the following conditions:

- 1) The proposed dwelling shall be sited according to the site plan submitted in the application and shall meet all other federal, state and county fire codes and standards.

- 2) The roof of the replacement dwelling shall be constructed of fire retardant materials.
- 3) This approval will **expire four (4) years** from the date this decision becomes final unless substantial construction of the dwelling has taken place or an extension of time has been granted. Requests for extension of time shall be consistent with CCZO Section 7.050(5) and must be received by the Planning Department, in writing, with the appropriate fee, prior to the expiration date.
- 4) The replacement dwelling is the only allowed living space approved on the property. Living in the barn shall be ceased when the occupancy permit for the dwelling is issued.
- 5) Fire suppression recommendations from the Port Orford Rural Fire Protection District must be on site prior to construction including:
  - 5,000 gallons of storage water with 2 ½" valve with NTH threads
  - All weather access and turn-around for fire trucks
  - Address sign that is clearly visible

This decision is limited to the Planning Director's review of applicable zoning rules and land use law, as outlined in the Curry County Comprehensive Plan and the Curry County Zoning Ordinance. Other County, State and Federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the property owner's responsibility to ensure that the development complies with the requirements of any other regulatory agency or provisions of law prior to initiating the development. Notice of this decision is being sent to property owners in the vicinity of this property. This decision will not become final until 15 days after the date of the order provided a timely appeal has not been filed. Appeals of Planning Director decisions are a de novo hearing before the Planning Commission. For further information contact the Planning Division.

CURRY COUNTY PLANNING DIRECTOR



Becky Crockett

July 15, 2020

Date