

Case File: #1-VAR-PC-22
Date Filed: February 15, 2022
Date Application Deemed Complete: February 18, 2022
120-Day Completion Date: June 18, 2022
Hearing Date: April 19, 2022
Previous Action: None

STAFF REPORT

Variance Application

APPLICANT: Kelly Lattig and Kendra Carver

A. REPORT OF FACTS

1. **Property Location:** The subject property is located at 566 Combs Circle and described on the Lincoln County Assessor's Map 14-12-26-CD as Tax Lots 200 and 300. The Lincoln County Assessor's Office approved consolidation of the two lots in December of 2021.
2. **Applicant's Request:** The applicant is requesting a variance to exceed the 30-foot building height limit in the R-1 Zone by 1.65 feet.
3. **Zoning:** Residential Zone R-1
4. **Plan Designation:** Single-family Residential
5. **Lot Size and Dimensions:** The subject property is irregularly shaped and totals 0.38 acres. A plat map is included in this packet.
6. **Existing Structures:** None.
7. **Topography and Vegetation:** The subject site is extremely steep, particularly at the intersection of Combs Circle and Yachats River Road. The proposed building site is approximately 13 feet below the grade of Combs Circle.
8. **Surrounding Land Use:** Surrounding land uses consist primarily of single-family residential homes in the Quiet Water Planned Unit Development.
9. **Utilities:**
Water & Sewer: City of Yachats
Electricity: Central Lincoln PUD
10. **Development Constraints:** Steep slopes, extreme drop from street level and required setback for riparian corridor.

B. EVALUATION OF REQUEST

1. Applicant's Proposal: The applicant submitted the required application form and fee, a narrative addressing applicable ordinance standards and the proposed use for the site, and multiple site plans.

2. Relevant Yachats Municipal Code (YMC)

[General Provisions and Definitions - Height of Building](#)

[Section 9.12.040 R-1 Standards](#) Subsection C: Building Height. No building in the R-1 zone shall exceed a height of thirty (30) feet from finished grade or from natural grade, see [Chapter 9.52.180](#).

[Chapter 9.80 - Variances](#)

3. Public Testimony Received

At the time this staff report was prepared, the only written testimony received was the correspondence dated January 26, 2022 from the Quiet Water Design Review Committee. A copy is included in this packet.

C. ANALYSIS OF THE APPLICATION

[Authorization to Grant or Deny Variances](#)

The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title. (Ord. 73E § 12.010, 1992)

Staff Response: The applicant has presented a case for special and unusual circumstances due to the terrain and required riparian setbacks. The applicant is not proposing any use that is not authorized in the R1 zone.

[Circumstances for Granting a Variance](#)

A variance may be granted only in the event that all of the following circumstances exist:

A. 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 or shape,

legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control;

Applicant's Response:

There is no access to the property except from Combs Circle due to the guardrail by the intersection of Yachats River Road & Combs Circle.

Accessing the property from Combs Circle presents major challenges due to the steep grade (more than 13 feet elevation change) between the building site and the curb, and the large distance between the curb & garage (up to 32 ft) as the street curves away from our property line. To address those extraordinary circumstances, a bridge will be required to access the garage/house. A similar approach can be found in Yachats at 279 Horizon Hill (see Photos in Appendix Page 1) and on the far end of Kings Road. . In order to safely access the garage via the bridge with a maximum slope of 10%, the elevation of the garage floor and main house floor level is set as shown on the cross section. With the addition of a modest roof meeting the PUD slope standards, the overall building height will exceed the 30' height restriction by 1. 65'.

B. 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;

Applicant's Response:

To preserve our property rights for safe access to the home, we are requesting a variance for the building height to be a minimum of 31. 65'.

C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;

Applicant's Response:

This adjustment will not be materially detrimental to other properties in the neighborhood since from the street level view the lower level of the house will not be visible - the base of the house closest to the curb is 13'8" ft below curb level. Therefore, from the curb, the perceived height of the house will not exceed 18 ft (see drawings illustration in Appendix on Page 6 & 7).

D. The variance requested is the minimum variance which would alleviate the hardship;

Applicant's Response:

The variance requested is the minimum required to alleviate the hardships described above to provide safe access from the curb to garage.

E. The hardship asserted as a basis for the variance does not arise from a violation of the zoning ordinance. (Ord. 73E § 12.020, 1992; Ord. 73A, 1982)

Staff Response:

There is no violation of a zoning ordinance.

Variance Procedure

The following procedures shall be followed in applying for action on a variance:

A. A property owner may initiate a request for a variance by filing an application with the City Recorder, using forms prescribed pursuant to Section 9.88.040. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The City Council or Planning Commission may request other drawings or material essential to understanding of the variance.

B. If the request for a variance meets all the requirements of this title, the City Recorder shall set a time for a public hearing before the Planning Commission on the request within forty (40) days from the filing thereof and shall cause notice to be given in accordance with Section 9.88.060.

C. At the conclusion of the public hearing the Planning Commission may approve or deny the request, based on findings which address applicable variance criteria, pursuant to Chapter 9.88. (Ord. 73E § 12.030, 1992)

Time Limit on a Variance

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request. (Ord. 73E § 12.040, 1992)

D. CONCLUSIONS

If the request is denied, the Planning Commission should state the general reasons and facts relied on, and direct staff to prepare findings for adoption at the next meeting. If the request is approved, staff offers the following recommended conditions of approval, which may be added to or amended at the Commission’s discretion:

1. Development shall be in accordance with all R-1 standards except for the approved variance for building height.

Submitted by,

Katherine Guenther
City Planner

Enclosures:

- Applicant’s Narrative
- Vicinity Map

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April 19, 2022 Planning Commission Hearing

- Aerial Photo
- Plat, Topographical and FEMA Flood Maps
- Quiet Water DRC Correspondence

