



County of Fresno

Hall of Records, Rm. 301
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Fresno, California
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Legislation Details (With Text)

File #: 19-1137 **Name:** Variance No. 4074 - Appeal of Denial

In control: Public Works & Planning
On agenda: 10/22/2019 **Final action:** 10/22/2019

Enactment date: **Enactment #:**

Title: Consider appeal of Planning Commission's denial of Variance Application No. 4074 proposing to allow creation of two parcels (2.5-acre and 2.4-acre) having a lot width or frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from existing 4.9-acre parcel (gross) in the AE-20 Zone District, subject parcels are located on south side of W. McKinley Avenue, approximately 420 feet east of its intersection with N. Garfield Avenue, and one-mile south of nearest city limits of City of Fresno

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Attachments A - D, 3. Additional Information

Date	Ver.	Action By	Action	Result
10/22/2019	1	Board of Supervisors	denied	Pass

DATE: October 22, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Variance Application No. 4074 (Appellant: Dale G. Mell, Applicant/Owner: Spino, Inc.)

RECOMMENDED ACTION(S):

Consider appeal of the Planning Commission's denial of Variance Application No. 4074 proposing to allow the creation of two parcels (2.5-acre and 2.4-acre) having a lot width or frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The subject parcels are located on the south side of W. McKinley Avenue, approximately 420 feet east of its intersection with N. Garfield Avenue, and one-mile south of the nearest city limits of the City of Fresno (7605 W. McKinley Avenue, Fresno, CA) (APN 312-290-39).

This item comes before your Board on appeal of the Planning Commission's unanimous denial of the subject application (8 to 0, with one Commissioner recused) at its August 8, 2019, hearing. Department of Public Works and Planning staff notes that the Zoning Ordinance requires your Board to determine, independent from the decision of the Planning Commission, whether the application should be approved, approved with stated conditions, or denied. A copy of the Planning Commission's action is included as Attachment A. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If your Board is able to make the required Findings for granting Variance Application (VA) No. 4074, a motion to uphold the appeal and overturn the Planning Commission's decision, stating the basis for making the Findings would be appropriate.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Pursuant to the County's Master Schedule of Fees, the Applicant/Owner has paid \$6,732 in land use processing fees to the County for the processing of the Variance Request. The Appellant, on behalf of the Applicant/Owner, paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The Applicant/Owner is requesting this variance to allow the creation of two sub-standard (Parcel 1: 2.5-acre and Parcel 2: 2.4-acre) parcels in the AE-20 Zone District in addition to the waiver of lot width requirements (165 feet required) and lot depth to width ratio (4:1 maximum allowed) for Parcel 2. Parcel 1 will be developed with a single-family residence; the second parcel, with reduced width, can accommodate a well and septic system for a single-family dwelling and will be developed or sold. The existing 4.9-acre parcel is rectangular in shape and the proposed new property line will run north to south providing slightly more gross acreage on proposed Parcel 1, in order to accommodate the design of a proposed residence.

The Planning Commission Staff Report (Attachment B) dated August 8, 2019, includes background information about the proposal and a history of variances approved within the vicinity.

In order for your Board to approve VA No. 4074, the following findings must be made:

1. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and*
2. *Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.*
3. *The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.*
4. *The granting of such a Variance will not be contrary to the objectives of the General Plan.*

At its August 8, 2019 hearing, the Planning Commission considered the Department staff report, presentation, and testimony from the Applicant/Owner's representative. It should be noted that staff, in its recommendation to the Commission, was unable to make all four required findings to recommend approval of the VA No. 4074. After the Planning Commission considered public testimony, a motion was made to deny the application based on the inability to make the required Findings.

An appeal of the Planning Commission's denial was filed by the Appellant (on behalf of the Applicant/Owner) on August 23, 2019. The appeal document (Attachment C) stated that the Commission should have been able to make the required Findings because the existing parcel is already a substandard size parcel, in the AE-20 Zone District, is an extraordinary condition and because the parcel is too small to farm and too large to maintain as a residential lot. Additionally, the Appellant stated that a second residential structure would be allowed on this property with the discretionary approval of a Director Review and Approval (DRA) application. Furthermore, the Appellant stated that the current parcel does not conform to General Plan Policy for parcel size in the AE Zone District and approval of the VA No. 4074 would not set a precedence for other variance

requests in the area.

If your Board is able to make the required Findings for granting approval of VA No. 4074, a motion to uphold the appeal and approve the variance would be appropriate stating in its motion to approve the manner in which the four required Findings can be made, subject to the recommended Conditions of Approval (Attachment D) and any additional conditions your Board determines appropriate.

If your Board is unable to make the required Findings for granting VA No. 4074, a motion to deny the appeal and deny the variance would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

Sonia M. De La Rosa