

**CANYONVILLE PLANNING COMMISSION MINUTES
REGULAR SESSION
April 12, 2023**

I. Call to Order and Pledge of Allegiance:

Commissioner Emory called the meeting to order at 7:00 p.m. and all joined in the Pledge of Allegiance.

II. Roll Call:

COMMISSION PRESENT: Chairman Emory, Commissioners, Matt and Lucas Gross, Hill, Knowlton and Sales.
COMMISSION ABSENT: Commissioner Hopkin
STAFF PRESENT: Planner Evans
STAFF ABSENT: None

III. Approval of the minutes: January 11, 2023

Commissioner Hill moved and Commissioner Sales second a motion to approve the minutes of January 11, 2023. All voted yes. Motion passed

IV. Agenda Review/Additions:

None

V. Public Hearings:

1. Variance request from Bergin University of Canine Studies to construct an ornamental 5' fence in front of the gym and new dorm on Canyon Street.

*Chairman Emory inquired if any Commissioners wished to declare exparte contact or a conflict of interest. There were none.

*Chairman Emory opened the public hearing on the variance request.

*Chairman Emory called for the staff report

*Planner Evans read the hearing disclosure and recapped the following staff report.

REQUEST: The subject property is in the old Canyonville Academy campus which was purchased by Bergin University of Canine Studies. The applicant is requesting a variance to the 42" restriction on fences located in the front yard. A portion of the campus already contains a 5' ornamental fence and the applicant would like to construct a similar fence around the gymnasium and dorm property. These two properties will be utilized for the training and residential care of

the dogs and the fence will ensure the dogs are contained.

DECISION CRITERIA AND FINDINGS:

The following is a list of the decision criteria applicable to the request. Based on their conclusions, the Commission must approve, approve with conditions, or deny the application. Conditions may be used by the Commission in order to address concerns about how the applicant will meet the criteria applicable to the request.

DECISION CRITERIA #1 Unique circumstances, such as lot size, shape or topography, apply to the property which do not apply generally to other properties in the same zone or vicinity.

- 1a. This application is for two pieces of property contained within the old Christian Academy campus which are the gym and the new dorm. The entire campus was purchased by Bergin University of Canine Studies. As part of their curriculum, they train service dogs for wounded and brain injured veterans.
- 1b. The gym is located on tax lot 1500 which is zoned Community Service and the dorm is located on tax lot 1700 which is zoned Multifamily Residential.
- 1c. The majority of the Christian Academy campus was established in 1924 and surrounded with a 5' ornamental steel fence along Main Street and East First Street to separate it from traffic.
- 1d. In 1961 property adjacent to the campus fronting on S Canyon Street was purchased and a gym was constructed on the site (tax lot 1500). In 2014 a 25 unit dorm was constructed on the property adjacent to the gym (tax lot 1700). Neither property was fenced at the time of construction.
- 1e. The new owners of the property plan to utilize the gym for training of the service dogs and the dorm to provide housing for the students and their dogs. Therefore, they wish to install a 5' fence similar to the other fencing on the campus around the dorm property and the front of the gym property.

DECISION CRITERIA #2 The variance is necessary in order to allow the applicant to use the property in a manner consistent with the intent of the zoning district within which the property is located.

- 2a. Chapter 18.76.020 of the Canyonville Land use Ordinance states:

Notwithstanding the provision or visibility at intersections in the residential district, as set out in Section 18.76.010 the limitation for fences, walls, railings or hedges shall be as follows:

A. Required Front yard

1. *No fence, wall railing or hedge shall exceed a height of forty two inches above grade.*
2. *All trees shall be limbed from ground level to a height of forty two inches.*
3. *Fences, walls, railings or hedges located behind the required front yard shall not exceed 72 inches.*

2b. Item D of Chapter 18.76.020 which regulates fences makes the following exceptions to the height limitation.

1. Height limitation in the front yard, side yard or rear yard, but not in the vision clearance area may be exceeded with authorization by the building inspector upon issuance of a building permit.

2. Height limitation in this section do not apply to fences required by state law, such as laws requiring fences to surround and enclose school grounds, public play grounds or other public reserve lands.

2c. The Oregon building code does not require a building permit for any fence which does not exceed 6 feet in height. The 42" restriction for the front yard is a City regulation and not governed by the building codes. Therefore, the building inspector can not authorize the exception and a variance is required.

2d. Since Oregon Law does not require universities to be surrounded with a fence the applicant will need approval of a variance.

2e. The applicant states: *The new fence will be constructed to contain service dogs on the lawn area fronting the dormitory and the lawn area fronting the gym. The dorm and gym will be primary training and residential areas for the service dogs. A place close to these spots where dogs can be off leash requires a fence for safety. A 42 inch fence presents a safety hazard for both the public and the dogs. The dogs can clear a 42 inch fence with proper motivation. They can not clear a 60 inch fence. A taller fence will prohibit injury or death to the dogs from passing cars and prevent unwanted interaction between the public and the animals.*

DECISION CRITERIA #3 **The variance will conform with the general purpose and intent of the Zoning Ordinance and will not be materially detrimental to other people or property in the vicinity.**

3a. The rationale for only allowing a 42 inch fence is to ensure that front yard fences do not create vision clearance issues. Construction of the ornamental fence will allow for motorist to see through the fence and not create a vision obstruction.

3b. The existing fence along the Courtyard fronting First Street and Main Street was constructed a long time ago. Over the years it has always been kept in good

repair and provides an aesthetic barrier.

- 3c. According to the applicant, the new fence will be very similar to the long existing commercial steel fence on the campus fronting the courtyard on First Street and Main Street. It will be a see through fence allowing for vehicular traffic and pedestrian visibility in accordance with the intent of the zoning. It will not be detrimental to other people or property in the area because it will contribute to the overall safety and security of all involved, without reducing or blocking visibility in any direction.
- 3d. Notices were sent to the affected property owners on March 22, 2023 advising them of the requested variances. The City has received no responses.

DECISION CRITERIA #4 The variance being requested is the minimum variance necessary in order to allow reasonable use of the property consistent with its zoning.

- 4a. The applicant is requesting approval of constructing a 60 inch (5 ft) fence which exceeds the allowed 42 inch (3.5 feet) fence allowed in the front yard. Approval of the variance would allow the applicant to construct a fence that exceeds the height restriction by 18 inches.
- 4b. According to the applicant a 5 foot fence is the absolute minimum height that can adequately contain the dogs. Although the dogs will be highly trained they start out as untrained puppies. These puppies are very athletic and given the right distractions or motivation they would be capable of clearing a 42" fence.

DECISION CRITERIA #5 The need for the variance is not a consequence of improper actions by the property owner, nor otherwise the result of a self created hardship.

FINDINGS:

- 5a. The construction of a fence tall enough to contain the dogs and separate them from the public is a prudent action on the part of the property owner. It enhances the safety of the dogs and the pedestrians in the area.

FINAL DECISION:

Approve the variance to the 42 inch height restriction for the fence in the front yard and allow the applicant to construct a 60 inch fence.

The applicant's representative Matt Phillips was present at the meeting to answer questions. He stated that the fence would match as close as possible to the existing fence on the campus.

Chairman Emory inquired about the breed of dogs that would be on the campus.

Mr. Phillips responded there is a variety of dogs but mostly labs and retrievers. These dogs will all be highly trained but they are raised from puppies at the site so they need to be able to contain them.

Chairman Emory asked if they would be learning to jump as part of the training? If so would a 5' fence contain them?

According to Mr. Phillips the dogs would not be trained to jump and he felt the 5' fence would be sufficient.

There were no additional questions or comments.

*Chair Emory closed the public hearing.

Commissioner Sales moved and Commissioner Lucas Gross second a motion to approve the variance and allow the construction of the 5' fence. All voted yes. Motion passed

Discussion: Chairman Emory asked the Commission if they would like to begin holding regular meetings and start reviewing the ordinance for possible amendments. The consensus was they thought it would be a good idea.

Planner Evans asked what section they wanted to start with she has a list of some amendments that need to be done. However, most of the are house keeping. They asked her to compile her list to bring to the next meeting.

Adjournment: The meeting was adjourned at 7:40 p.m.

SUBMITTED BY:

APPROVED BY:

Janelle Evans, Planner

John Emory, Chairman