

DECISION

On October 19, 2009, the Hailey Planning and Zoning Commission considered an appeal submitted by the appellant, Kevin Wallace. The Commission, having been presented with the argument of the appellant, hereby makes the following Decision.

The applicant, Kevin Wallace is appealing an administrative determination that a trailer removed from Lots 4-10, Block 55, Hailey Townsite (403 N River Street) is a non-conforming building and can not be replaced with another trailer.

Section 3.6 of the Zoning Ordinance establishes the procedure for appeals as follows;

“A party aggrieved by a final decision of the Administrator, Hearing Examiner or Commission may appeal in writing any final decision by filing a Notice of Appeal with the Hailey City Clerk within fifteen (15) days from the date of the decision. An appeal of a final decision by the Administrator or the Hearing Examiner shall be heard by the Commission. An appeal of a final decision by the Commission or an appeal of a decision heard on appeal by the Commission shall be heard by the Council. Any appeal shall not be a de novo hearing and shall be based solely on the record before the Administrator, Hearing Examiner or Commission, as the case may be. The record shall consist of all the documents presented to Administrator, Hearing Examiner or Commission (such as the application, supporting documents, letters and studies), the minutes of any meeting and the findings of fact and conclusions of law. The Appellant may also have a verbatim transcript of the hearing before the Hearing Examiner or Commission prepared to be submitted on appeal. The cost of the preparation of the record and transcript shall be paid by the Appellant. The appeal shall specifically state the decision appealed the issues to be raised on appeal and reasons for the appeal. If no appeal is filed within the fifteen (15) day period, the decision shall be deemed final.

At the time of the filing of the Notice of Appeal, the Appellant shall pay the costs of preparing the transcript and record estimated by the Administrator and the fee for filing an appeal, as established by ordinance. The Administrator will prepare one original transcript (if applicable) and record and 8 copies of the transcript (if applicable) and record. If the costs of preparing the transcript and record exceed the estimated costs paid by the Appellant, the Appellant shall pay the difference before a hearing on the appeal is heard.

Once the transcript and record have been prepared, the Administrator shall schedule a hearing on appeal with the Commission or Council for the next available hearing date. If the Appellant desires to file a brief in support of the appeal, the Appellant shall file original brief and 8 copies of the brief with the Administrator five business days before the scheduled appeal hearing. If the brief is not timely filed, the Commission and the Council may elect not to consider the brief. The Appellant and Appellant’s representative and a City representative shall only be entitled to present argument before the Commission or Council.”

Procedural History

The property located at Lots 4-10, Block 55 (403 N River Street) contains seven (7) existing trailer hook-ups. One of the trailers was removed from the property about 6 months ago. Kevin Wallace, one of the property owners, inquired about his options in early July and a representative of the applicant inquired in early April. On both occasions the owner was informed that Article 13.7.2 of the Hailey Zoning Code prohibits replacing a non conforming manufactured home once it is removed from a property.

Conclusion

Based upon the foregoing, the Commission affirms the Administrator's decision with regard the interpretation of Article 13.7.2 and concludes that replacing a non conforming manufactured home once it is removed from a property is prohibited.

Signed this _____ day of _____, 2009.

Owen Scanlon, Commission Chair

Attest:

Becky Mead, Deputy Clerk