



Bonner County Planning Department Hearing Examiner Staff Report for

FILE:	V0028-24	DATE OF REPORT:	March 26, 2025
PROJECT:	Waterfront Setback - Variance	APPLICATION DATE:	December 11, 2024
PARCEL No:	RP059510010180A	PARCEL SIZE:	0.980-acre
LANDOWNER:	Jill & Craig Looper	REPRESENTATIVE:	N/A

NOTICE: Mailed - March 04, 2025
Published in newspaper - March 04, 2025
Site posted - March 11, 2025

REQUEST: The applicant is requesting a waterfront setback of 11' where 40' is required for the construction of retaining walls over 3' in height.

LEGAL DESCRIPTION: 3-60N-4W HUNT CREEK BLK 1 LOT 18

LOCATION: The project site is located off Bull Trout Road in Section 03, Township 60 North, Range 04 West, Boise-Meridian.

BACKGROUND

A. Site Data

Land Use: Residential, 0.980-acres
Platted, Hunt Creek
Size: 0.980-acre
Zoning Designation: Recreation (REC)
Comp Plan Designation: Resort Community (0-2.5 AC)

B. Access

Bull Trout Road, a privately owned and privately maintained road.

C. Environmental Factors

Site does contain mapped slopes (USGS).
Site does contain mapped wetlands (USFWS).
Site does contain water frontage on Priest Lake.
Site contains SFHA Zone AE and Zone X per FIRM Panel # 16017C0225F, effective 07/07/2014.

D. Services

Water: Lake pump from Priest Lake
Sewage: Individual septic with community drain field
School District: West Bonner School District #83
Fire District: East Priest Lake Fire District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan Designation	Zoning Designation	Current Land Use & Density
Site	Resort Community (0-2.5 AC)	Recreation (REC)	Residential, 0.984-acres
North	Resort Community (0-2.5 AC)	Recreation (REC)	Residential, 1.180-acres
East	Resort Community (0-2.5 AC)	Recreation (REC)	Undeveloped, 1.22-acres
South	Resort Community (0-2.5 AC)	Recreation (REC)	Residential, 0.460-acres
West	Priest Lake	Priest Lake	Priest Lake

NOTICE OF PUBLIC HEARING

Neighbors within 300 feet of the boundaries of the parcel and public agencies were notified of this request on March 4, 2025. A comprehensive list of all public agencies notified of this request can be found in Appendix A of this Staff Report.

**Bonner County Floodplain Review -
Email**

KS 3.19.2025: See FDP2024-0035.

GIS Addressing

MC 3/4/2025: No addressing concerns

Idaho Department of Lands - Coolin -
Email

See comment.

Panhandle Health District - Email

No comment.

PUBLIC COMMENT

No public comments were received at the time of this staff report.

STANDARDS REVIEW & STAFF ANALYSIS:

BCRC 12-234 specifies that “Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

A. Standards Review

- (a) **Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.**

Applicant: Site has excessive slope greater than 30% in certain areas. In the middle of the lot a 3' up to 6' wall was created. This was to allow for us to create a vegetative buffer and create proper runoff from the home and bring the level of the yard to the base of the home. On the North side of the property a 2' up to 8' rock wall was created. Due to the significant slope of the property and the required removal of a large pine tree for safety reasons (it was leaning on our existing boathouse) the wall was required to prevent erosion of the hillside and the likely collapse of the hillside into the boathouse. The rockery allowed us to plant a shoreline buffer of native plants to help stabilize the soil and prevent erosion, slow runoff, and take up excess nutrients before they enter the lake.

Staff: The property does contain excessive slopes ranging from 0-30% according to GIS LiDAR data. The property contains frontage on Priest Lake and is located within FEMA SFHA Zone AE & X. Many properties in the vicinity of the subject parcel must deal with excessive slopes, which could be difficult when developing property. Per the application, the retaining walls were built to provide a flat area near the home, as well as retaining the steep hillside and preventing further erosion.

- (b) **Special conditions and circumstances do not result from the actions of the applicant.**

Applicant: The East side of Priest Lake in this area consists of numerous lots with significant slope. This is evidenced by several homes (both North and South) of our property that have built similar wall structures.

Staff: The applicants obtained the property on September 20th, 2018 via State of Idaho Deed, Instrument #928402. Since obtaining the property, the applicants applied for a Building Location Permit for a single family dwelling, File #BLP2019-0403. Based on the plans contained in the permit file, the retaining walls were not shown, and they appear to have been built between 2022-2023 based on historic GIS imagery. The retaining walls were discovered when the applicants applied for a Building Location Permit to reconstruct an existing boathouse, File #BLP2023-0924. Since discovery, the applicants have submitted a Building Location Permit for retaining walls, File #BLP2024-1058. The applicants have also been granted variances in the past, File #V0012-20 for a 27' waterfront setback, where 40' is required, to allow a portion of a house and deck to be built, as well as File #V0013-23 for a 25' setback from the shoreline where 40' is required as well as a 53% bulk increase to an existing boat house.

- (c) **The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or**

improvements in the vicinity of the subject parcel or lot.

Applicant: The property is pleasing to the eye with the construction of the rock retaining walls and does not create any hardships to others.

Staff: At the time of this staff report, no comments from the public or any public agencies were received that indicated the proposed project would be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of this project.

B. Stormwater Management Review

Stormwater Management concerns were addressed during the Building Location Permit phase in accordance with BCRC 12-720. No further review is required for this project.

C. Staff Review Summary

The subject parcel, as well as parcels in the vicinity, must deal with slopes ranging from 0-30+%, which could make development difficult. Per the application, the walls were constructed to provide a flat area near the home as well as preventing erosion into the lake.

The applicants have applied for a Building Location Permit for the retaining walls, and the issuance is contingent on the approval of this variance. No public or agency comments were received that indicated this structure would be detrimental to the public health, safety, or welfare or be materially injurious to the properties and improvements within the vicinity.

Planner's Initials: KS

DECISION OF THE HEARING EXAMINER

DECISION TO APPROVE: I approve this project V0028-24, requesting a waterfront setback of 11' where 40' is required for the construction of retaining walls over 3' in height, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

DECISION TO DENY: I deny this project V0028-24, requesting a waterfront setback of 11' where 40' is required for the construction of retaining walls over 3' in height, based upon the following conclusions: [REFER TO FOREGOING CONCLUSIONS OF LAW AND SPECIFY WHICH CONCLUSIONS THE PROJECT MEETS AND FAILS TO MEET]. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the variance is to:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Appeal the Hearing Examiner's decision to the County Commissioners.

FINDINGS OF FACT

1. The property is zoned Recreation (Rec).
2. The property is accessed via Bull Trout Road, a privately owned and privately maintained road.
3. The property is served by an individual septic with a community drain field, and water is pumped from Priest Lake.
4. The property is served by Northern Lights and East Priest Lake Fire District.
5. The property contains frontage on Priest Lake and contains mapped lake wetlands per USFWS National Wetland Inventory.
6. The property is within SFHA Zone AE and Zone X per FIRM Panel Number16017C0225F, Effective Date 7/7/2014.
7. The applicants have applied for a Building Location Permit, File #BLP2024-1058, and a Flood Development Permit, File #FDP2024-0035.

CONCLUSIONS OF LAW

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

Conditions apply to the property that **do/do not** apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Conclusion 2

Special conditions and circumstances **do/do not** result from the actions of the applicant.

Conclusion 3

The granting of the variance **is/is not** in conflict with the public interest in that it **will/will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

CONDITIONS OF APPROVAL:

Standard Conditions:

1. The approval of this variance shall not supersede any deed restrictions.
2. Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Some file application material is available online at www.bonnercountyid.gov. Bonner County Revised Code (BCRC) is available at the Planning Department or online.

Appendix A – Notice of Public Hearing Record of Mailing

RECORD OF MAILING

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File No.: V 0 0 2 8 - 2 4

Record of Mailing Approved By:



I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **4th** day of **March, 2025**.



Jessica Montgomery, Hearing Coordinator

- Assessor - Email
- Bay Drive Recreation District - Email
- Bonner County Airport Manager - Email
- Bonner County EMS - Email
- Bonner County Road & Bridge - Email
- Bottle Bay Water & Sewer District - Email
- City of Dover - Email
- City of Hope - Email
- City of Oldtown - Email
- City of Priest River - Email
- City of Spirit Lake - Email
- Coolin-Cavanaugh Bay Fire District - Email
- East Bonner Library - Email
- Ellisport Bay Sewer - Email
- GEM STATE MINER - U.S. Mail
- Department of Environmental Quality (DEQ) - Email
- Department of Lands - CDA - U.S. Mail
- Department of Lands - Navigable Waters & Mining - Email
- Idaho Department of Water Resources - IDWR - Email
- Transportation Department- District I - Email
- Kalispel Bay Sewer & Water - U.S. Mail
- KPBX-FM 91 SPOKANE PUBLIC RADIO - U.S. Mail
- Laclede Water District - Email
- Pend Oreille School District, #84 (Transportation) - Email
- Little Blacktail Ranch Water Association - U.S. Mail
- Northern Lights, Inc. - Email
- Northside Fire District - Email
- Panhandle Health District - Email
- Priest Lake Public Library District - Email
- Sagle Valley Water & Sewer - Email
- Schweitzer Fire District - Email
- Selkirk Fire, Rescue & EMS - Email
- Southside Water & Sewer District - Email
- Spokesman-Review - U.S. Mail
- Swan Shores Sewer District - U.S. Mail
- Tamarack Village Water & Sewer - U.S. Mail
- Trestle Creek Sewer District - Email
- U.S. Fish & Wildlife Service - Email
- West Bonner County Cemetery District - Email
- West Bonner Library - Email
- West Pend Oreille Fire District - Email
- Avista Utilities - Email
- Bayview Water & Sewer - Email
- BONNER COUNTY DAILY BEE - U.S. Mail
- Bonner County Floodplain Review - Email
- Bonner County Sheriff - Email
- City of Clark Fork - Email
- City of East Hope - Email
- City of Kootenai - Email
- City of Ponderay - Email
- City of Sandpoint - Email
- Coolin Sewer District - Email
- Drainage District #7 - Email
- East Priest Lake Fire District - Email
- Garfield Bay Water & Sewer District - Email
- Granite Reeder Water & Sewer District - Email Idaho
- Idaho Department of Fish & Game - Email Idaho
- Idaho Department of Lands - Coolin - Email Idaho
- Idaho Department of Lands - Sandpoint - Email
- Idaho Transportation Department (Aeronautics) - U.S. Mail Idaho
- Independent Highway District - Email
- Kootenai-Ponderay Sewer District - Email
- KSPT-KPND-KIBR RADIO - U.S. Mail
- Lake Pend Oreille School District, #84 (Admin Office) - Email Lake
- Lakeland Joint School District, #272 - Email
- North of the Narrows Fire District - Email
- Northland/Vyve Cable Television - Email
- Outlet Bay Sewer District - Email
- Pend Oreille Hospital District - Email
- Priest Lake Translator District - Email
- Sam Owen Fire District - Email
- SELKIRK ASSOCIATION OF REALTORS - U.S. Mail
- Selkirk Recreation District -Email
- Spirit Lake Fire District - Email
- State Historical Society - Email
- Syringa Heights Water Association - Email
- Timber Lake Fire District - Email
- U.S. Army Corps of Engineers - Email
- U.S. Forest Service - U.S. Mail
- West Bonner County School District, #83 - Email
- West Bonner Water & Sewer District - Email
- West Priest Lake Fire District - Email