

**BONNER COUNTY PLANNING DEPARTMENT
PLANNING AND ZONING COMMISSION
STAFF REPORT FOR AUGUST 15, 2019**



Project Name: Frisch – Front Yard Setback

File Number: V0010-19

Type: Variance

Request: The applicants are requesting a 5-foot Front Yard Setback, where 25-feet is required, to allow for the construction of a single family dwelling.

Legal Description: Lot 12, Block 1, Shaffer’s Lakeshore Lots (Bk. 2, Plats, Pg. 19, records of Bonner County, Idaho)

Location: The project is located off of East Bottle Bay Road in 33, Township 57 North, Range 01 West, Boise-Meridian.

Parcel Number: RP004130010120A

Parcel Size: 1.0 acre

Applicant: Randy & Suzanne Frisch
2100 3rd Ave. #2603
Seattle, Washington
98121

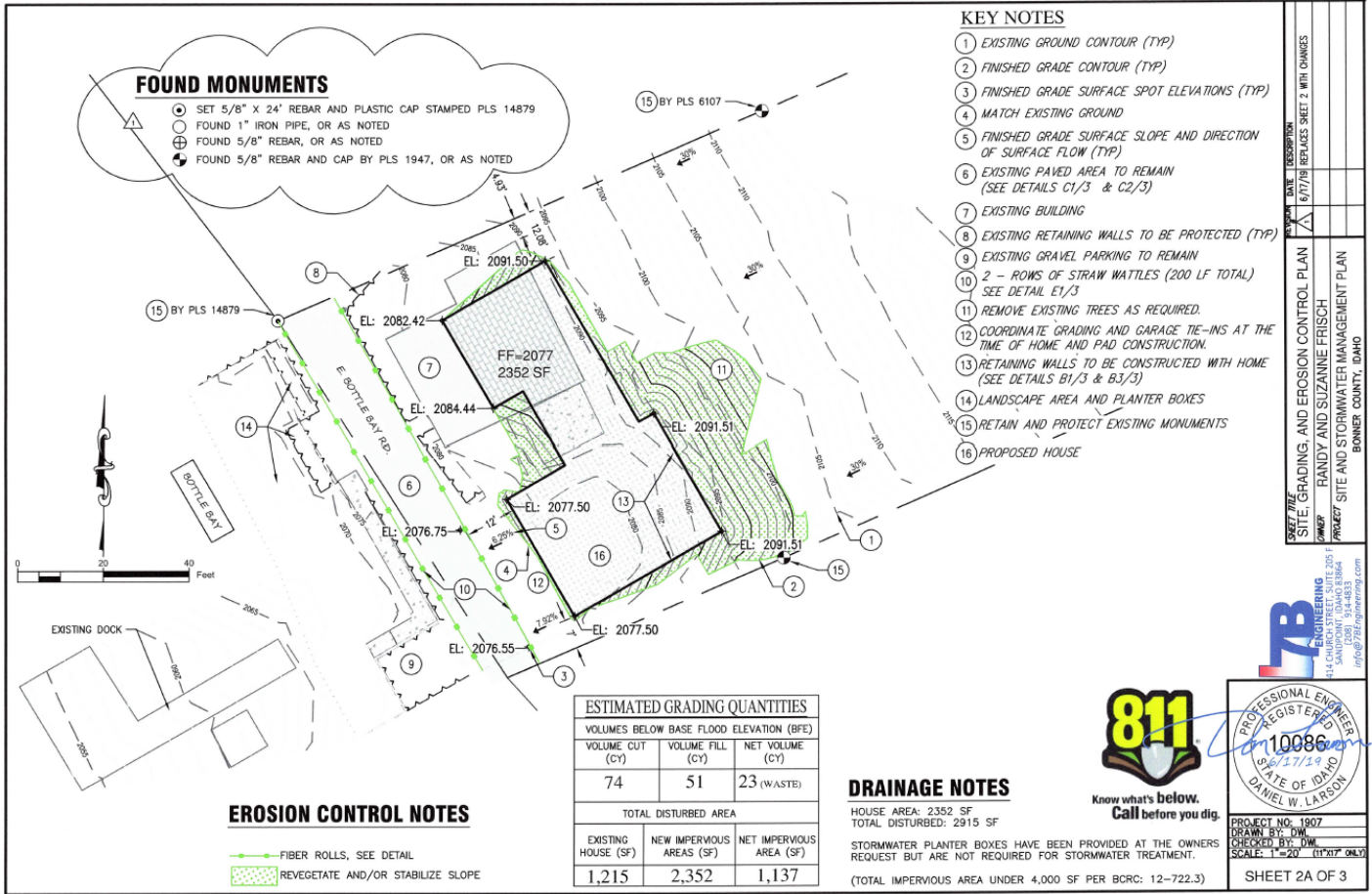
Project Representative: Bill Felten
Felten Enterprises
5480 Bottle Bay Road
Sagle, Idaho
83860

Ian Ehram
7B Engineering
414 Church Street, Suite 205 F
Sandpoint, Idaho
83864

Property owner: Same as applicant

Application filed: May 14, 2019

Notice provided: Mail: July 16, 2019
Site Posting: August 6, 2019
Published in newspaper: July 16, 2019



SITE PLAN

Project summary:

- The applicants are requesting a 5-foot Front Yard Setback, where 25-feet is required, to allow for the construction of a single family dwelling.
- The project is located off of East Bottle Bay Road in Sagle, ID.
- The use would occur on a lot of land, 1.0 acre in size. The lot is zoned Recreation.

Applicable laws:

The following sections of BCRC, Title 12, apply to this project:

BCRC 12-231, Variances, general provisions, application, standards, procedures
 BCRC 12-234, Variance standards
 BCRC 12-400, et seq., Development standards, if affected by variance
 BCRC 12-412, Density and Dimensional Requirements: REC Zone
 BCRC 12-7.2, et seq., Grading/erosion/stormwater management
 BCRC 12-7.6, et seq., Hillside

Background:

Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	REC	Residential / Recreational
North	Resort Community	REC	Residential / Recreational
South	Resort Community	REC	Residential / Recreational
East	Resort Community	REC	Bare Forest Land
West	Resort Community	REC	Residential / Recreational

A. BCRC 12-412: REC Zone Setbacks:

- a. Front: 25-feet - From property line or from ingress/egress easement boundaries, whichever distance is greater.
- b. Rear: 25-feet
- c. Side: 5-feet

B. Site data:

- a. Acreage: 1.0 acre
- b. Legal: Lot 12, Block 1, Shaffer's Lakeshore Lots (Bk. 2, Plats, Pg. 19, records of Bonner County, Idaho)
- c. Zone: REC
- d. Use: Resort Community
- e. Structures (per Assessor's records):
 - i. Dwelling – circa 1957
 - ii. Cabin – circa 1957
 - iii. Boat dock/lift – circa 1990

C. Access:

- a. Name: East Bottle Bay Road
- b. Owner: Private

D. Environmental factors:

- a. Floodplain: X (0.2% Annual Chance Flood Hazard) Source: FEMA
- b. Vegetation: Trees / Residential Landscape. Source: Applicant/Aerial
- c. Soils: Pend Oreille-Hoodoo Silt Loams, 0 To 30 Percent Slopes. Source: NRCS
- d. Hydrology/Wetlands: Bottle Bay / Lake Pend Oreille. Source: USGS; USFWS
- e. Slope: 15-29% to 30% and above. Source: USGS

E. Services:

- a. Water: Individual Well
- b. Sewer: Bottle Bay Sewer District
- c. Fire: Selkirk Fire & EMS
- d. Utility: Avista
- e. School: LPOSD #84

F. Standards review**BCRC 12-234:**

The staff, commission, hearing examiner and/or Board shall review the particular facts and circumstances of each proposal submitted. To grant a variance, the hearing examiner or the Governing Body must find adequate evidence showing that:

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.

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

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. (Ord. 559, 1-4-2017)

Applicant:

- A. *The prevailing grade is in excess of 30% immediately behind the access road. The required 25 foot setback would require de-stabilizing excavations and difficult access to actual living levels.*
- B. *These parcels and subdivisions date back to the 1959's and before. None of the conditions are a result of actions taken by the applicant.*
- C. *The public health, safety and welfare is not affected by this requested variance, however it will allow much improved facilities. For more efficient and complete use. No change in neighborhood interface is anticipated.*

July 16, 2019

"In reviewing the Site Plan linked on the County Site, it appears the variance for the front yard setback is measured to the existing structure and not the future home. The Variance request may be 5-feet, but the intent was for the garage portion of the structure."

Dan Larson, PE – 7B Engineering

Staff:

- A. Per the applicant's site plan and USGS topography data, the site does feature extensive slopes. Severe slopes in excess of 30% typically result in development challenges Staff concurs that some relief is necessary and a condition exists over which the applicant has no control.
- B. The property was platted in the 1954 (Bk. 2, Plats, Pg. 19). The applicant acquired the property in 2016 (Inst. No.895132). Accordingly, the resulting site constraints have not resulted from the actions of the applicant. Deed research in addition to plat documents confirm that the condition has not resulted from the actions of the applicant
- C. Per the applicant's site plan, the development appears to be set back further than the existing dwelling unit. This indicates that the proposed non-conforming structure will increase in nonconformity. This observation, coupled with no public or agency comments having been received in opposition, indicates that the project is not in conflict with public interest.

G. Stormwater plan:

- a. A stormwater management plan was required pursuant to BCRC 12-720.2 and 12-722.2.
- b. The applicant provided a professionally designed stormwater and erosion control plan as part of this application.

See Condition A-3

H. Geotechnical Analysis:

- a. Pursuant to BCRC 12-762:
 - i. A geotechnical analysis shall be required for proposed building sites, roads, driveways or other development, where any of the following conditions apply:
 1. Where the natural slope equals or exceeds thirty percent (30%);
 2. Where soils are highly erodible, or where there are scarps, slumps, seeps or other geologic features exist that may be unstable, as determined by the Planning Director, Hearing Examiner, Commission or Board;
 3. Where there is historic knowledge of sloughing, landslides, slumps or other hazardous geological features
- b. Soil Survey of the Bonner County Area, Idaho – USDA Soil Conservation Service
 - i. Pend Oreille-Hoodoo Silt Loams, 0 To 30 Percent Slopes - Pg. 44-45:
 1. *“Homesite Development.- This unit is poorly suited to homesite development. The main limitations are slope and the hazard of erosion on the Pend Oreille soil and the hazard of flooding, wetness, and frost heaving on the Hoodoo soil. Included in this unit, however, are areas of soil that are better suited to homesite development. Onsite investigation is required to identify these areas.”*

See Condition A-5

I. Agency Review: The application was routed to agencies for comment on July 16, 2019. The following agencies commented:

- Bottle Bay Water & Sewer District – August 1, 2019
 - “[The sewage disposal system will need to comply with IDAPA Title 58, and Bottle Bay Recreational Water and Sewer District requirements. Said requirements specified by BBRWSD are available on their website.]”
 - See Condition A-7
- Bonner County Floodplain – May 22, 2019
 - “Any development, as defined in BCRC Title 14, that is waterward of E Bottle Bay Rd. will likely require a Flood Development Permit.”
 - See Condition A-8
- Bonner County Road and Bridge – August 2, 2019
 - “Bonner County Road & Bridge has no comments or concerns because this setback variance will not affect our operations.
- Bonner County Contract Engineer – July 19, 2019
 - “The following items must be addressed”:
 - BCRC 12-432 – off street parking: 2 spaces required
 - See Condition A-6
 - BCRC 12-762 – Geotechnical analysis required.
 - See Condition A-5

J. Public Notice & Comments:

- No public comments have been received by the Planning Dept. at the time the staff report was produced.

Staff analysis:

Staff concluded this project is consistent with Bonner County Revised Code based upon the information found in the ‘Background’ portion of this staff report. This conclusion is supported by the findings of fact and is demonstrated in the conclusions of law. This conclusion is subject to the conditions of approval.

Planner's Initials: **SR** Date: **August 2, 2019**

Note: This is only a recommendation. The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Motion by the governing body:

PLANNING COMMISSION

MOTION TO APPROVE: I move to approve this project FILE V0010-19, a 5-foot front yard setback where 25-feet is required, to allow for the construction of a single family dwelling. I find 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 move to adopt the following findings of fact and conclusions of law as written (or as amended). 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.

Findings of Fact

1. The property was platted in 1954.
2. The property features slopes in excess of 30%.
3. East Bottle Bay Road is a private road.
4. The proposed single family dwelling will not extend further into the front yard setback than the existing dwelling.
5. The residential use is compatible with neighboring properties.

Conclusions of Law:

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

Conclusion 1

This proposal was reviewed for compliance with the criteria and standards set forth in Bonner County Revised Code Title 12 and Idaho Code Section 67-6516.

Conclusion 2

An undue hardship **does** exist because of site characteristics, and special conditions and circumstances that are peculiar to the land, structure, or building involved.

Conclusion 3

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

Conclusion 4

The variance **is not** in conflict with the public interest.

MOTION TO DENY: I move to deny this project FILE V0010-19, a 5-foot front yard setback where 25-foot is required, to allow for the construction of a single family dwelling. This motion is 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 move to adopt the following findings of fact and conclusions of law as amended. 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 Planning and Zoning Commission's decision to the County Commissioners.

Conditions of approval:

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the variance, the applicant may make a written request to the Planning Director for an extension of the variance for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the variance.
- A-3** The development shall occur in accord with BCRC Title 12, Subchapter 7.2 – Grading, Stormwater Management And Erosion Control.
- A-4** The applicant shall obtain a Building Location Permit for the development.
- A-5** At the time of Building Location Permit, the applicant shall provide a geotechnical analysis for the proposed development. The geotechnical analysis shall be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering. The geotechnical analysis shall be submitted prior to construction and shall explain the geologic and hydrologic features of the area, shall evaluate the suitability of the site for intended uses, shall identify potential problems relating to the geology and hydrology, shall summarize the data upon which conclusions are based, and shall propose mitigation measures. (BCRC 12-762)
- A-6** Except where otherwise noted, the development shall comply with the ‘Development Standards’ set forth in Chapter 4, Title 12, Bonner County Revised Code.
- A-7** The development shall comply with the requirements of Bottle Bay Recreational Water and Sewer District.
- A-8** The development shall comply with Bonner County Revised Code Title 14 - Flood Damage Prevention.

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.