

**BONNER COUNTY PLANNING DEPARTMENT
PLANNING AND ZONING COMMISSION
STAFF REPORT FOR AUGUST 1, 2019**



Project Name: Backus

File Number: V0014-19

Type: Front Yard Setback / Bulk Variance

Request: The applicant is requesting a zero front yard setback where 25-feet is required and a bulk variance to allow for the construction of a residential addition to an existing garage.

Legal Description: Lot 9, Block 2, Shaffer's Lakeshore Lots (Bk. 2, Plats, Pg. 33)

Location: The project is located off of Eureka Road in Section 33/34, Township 57 North, Range 01 West, Boise-Meridian.

Parcel Number: RP00414002009AA

Parcel Size: 11,623 sq. ft.

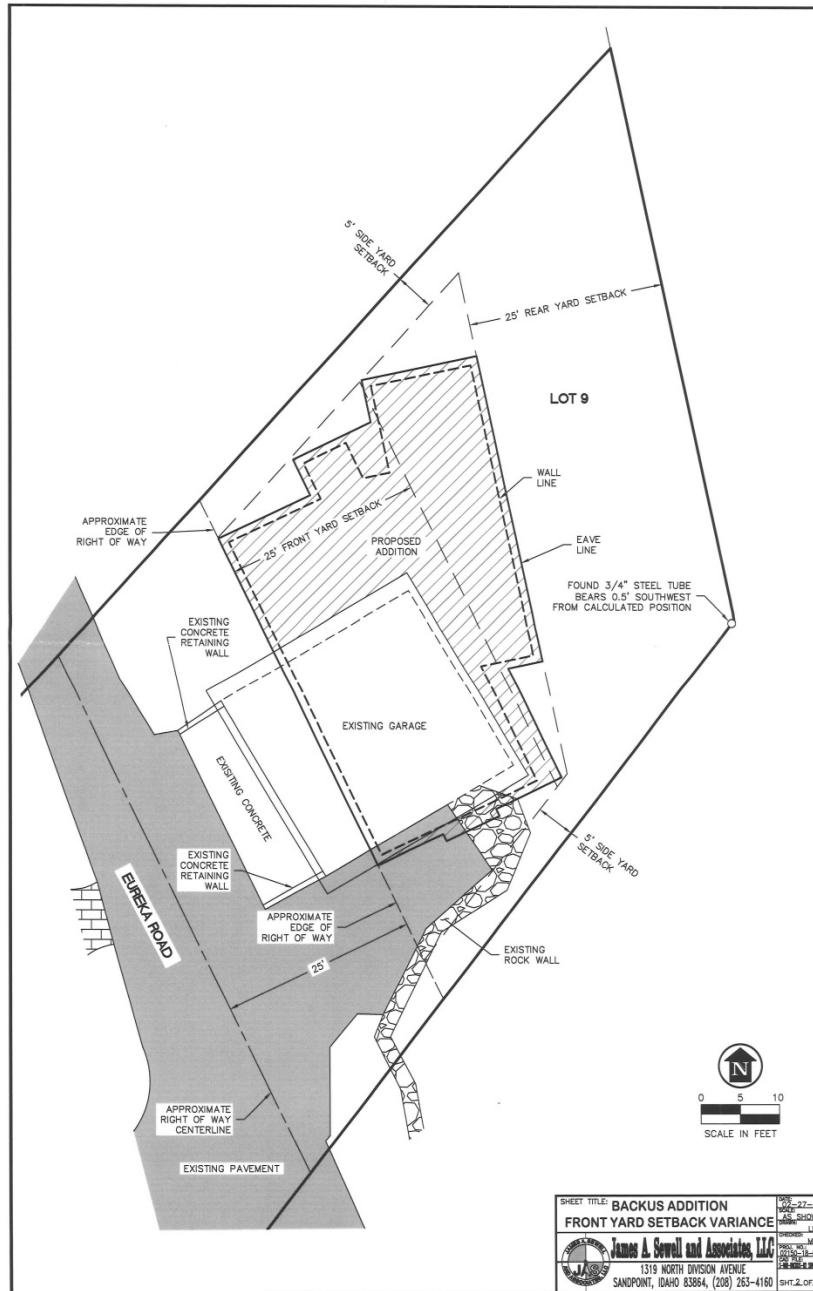
Applicant: Backus Trust
1794 Crest Drive
Encinitas, CA
92024-5213

Project Representative: Marty Taylor, AICP
James A. Sewell & Associates, LLC
1319 N Division Ave
Sandpoint, ID
83864

Property owner: Same as applicant

Application filed: May 31, 2019

Notice provided: Mail: June 25, 2019
Site Posting: July 16, 2019
Published in newspaper: June 25, 2019



SITE PLAN

Project summary:

- The applicant is requesting a zero front yard setback where 25-feet is required and a bulk variance to allow for the construction of a residential addition to an existing garage.
- The project is located off of Eureka Road in Sagle, ID.
- The use would occur on a lot of land, 11,623 sq ft in size. The lot is zoned Rural-10 and 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 12-411 & 12-412, Density and Dimensional Requirements: R-10 & REC Zone
BCRC 12-7.2, et seq., Grading/erosion/stormwater management

Background:

A. Site data:

- a. Acreage: 0.267 ac (11,623 sq ft)
- b. Legal: Lot 9, Block 2, Shaffer's Lakeshore Lots (Bk. 2, Plats, Pg. 33)
- c. Zone: R-10/REC
- d. Use: Residential/Resort Community
- e. Structures: Existing garage (constructed circa 1986 per Assessor's records)

B. Access:

- a. Name: Eureka Road
- b. ROW: 50' wide, prescriptive
- c. Owner: Public
- d. Surface Type: paved

C. Environmental factors:

- a. Floodplain: AE (Special Flood Hazard Area) Source: FEMA
- b. Vegetation: The property is vegetated with evergreens and ornamental landscaping. Source: Applicant
- c. Soils: Pend Oreille-Hoodoo Silt Loams, 0 To 30 Percent Slopes. Source: NRCS
- d. Hydrology/Wetlands: Lake Pend Oreille. Source: USGS; USFWS
- e. Slope: <30% Source: USGS

D. Services:

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

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	REC/R-10	Accessory/Residential
North	Resort Community	REC/R-10	SFD/Residential
South	Resort Community	REC/R-10	Bottle Bay

Compass	Comp Plan	Zoning	Current Land Use & Density
East	Resort Community	R-10	SFD/Residential/Timber
West	Resort Community	REC/R-10	SFD/Residential

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. *As shown on the survey accurate site plan, the property is bisected by Eureka Road. This encroachment, together with the prescriptive right of way width of 50-feet, effectively eliminates the building envelope on the subject property. Thus, in order to construct the proposed addition, some setback relief is necessary.*
- B. *The property was platted in 1957 (Bk. 2, Plats, Pg. 33). Setbacks were established in 1980 (Ord. 140). The applicant acquired the property in 2003 (Inst. No.617758). Accordingly, the resulting site constraints have not resulted from the actions of the applicant.*
- C. *After consulting with County Engineer Matt Mulder, the applicant concluded to not further encroach into the right of way. (See 12/10/18 e-mail, attached). All construction is limited to lands outside of the 50-foot wide public right of way. In addition, and as noted, the proposed addition is set back about 19-feet from the east edge of the Eureka Road travelway. As such, the project has been designed to not conflict with Eureka Road users and the public’s interest.*

Staff:

- A. Per the applicant’s site plan, the manner in which the right of way extends into the property effectively eliminates the building envelope. Staff concurs that some relief is necessary and a condition exists over which the applicant has no control.
- B. Deed research in addition to plat documents confirm that the condition has not resulted from the actions of the applicant.
- C. Correspondence between applicant rep and Public Works staff indicate that the proposal would not further the non-conformity within the road right of way. The structure has also been designed to comply with side and rear setbacks. The

correspondence with Public Works in addition to compliance with all other setbacks indicate that the proposal 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

G. Stormwater plan: A stormwater management plan was required pursuant to BCRC 12-720.2 and 12-722.2. The applicant has requested an exception per 12-721.2(b), stating that the land areas adjacent to the garage is vegetated.

See Condition A-3

H. Agency Review: The application was routed to agencies for comment on June 25, 2019. The following agencies commented:

Bottle Bay Water & Sewer District – July 19, 2019
Bonner County Road & Bridge – July 9, 2019
Bonner County Floodplain – June 26, 2019

See file attachments for agency comments.

I. Public Notice & Comments: Will Valentine – July 19, 2019

See file attachments for public comments.

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: July 24, 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 V0014-19, a zero front yard setback where 25-feet is required and a bulk variance to allow for the construction of a residential addition to an existing garage. 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.

MOTION TO DENY: I move to deny this project FILE V0014-19, a zero front yard setback where 25-feet is required and a bulk variance to allow for the construction of a residential addition to an existing garage. 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.

Findings of Fact

- 1. The property was platted in 1957.
- 2. Eureka Road bisects the subject property.
- 3. The proposed addition would not be constructed within the Eureka Road right of way.
- 4. The proposed addition was designed to comply with side and rear yard setbacks.
- 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.

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 structure shall be developed 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 residential addition.
- A-5** Any development of the project site shall comply with BCRC 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.