



Bonner County Planning Department

"Protecting property rights and enhancing property value"

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April 9, 2024

Doug Heiskell
1316 River Vista Street
Spokane, WA 99224

Subj: File – V0027-23 – Variance

Encl: (1) File V0027-23 Hearing Examiner Approved Site Plan

Dear Applicant,

The Bonner County Hearing Examiner at the April 3, 2024, hearing approved the referenced application with conditions.

Hearing Examiner Rucker approved a portion of this project V0027-23, requesting a 28-foot shoreline setback where 40 feet is required, 50% impervious surface coverage where 35% is required, 50% lot coverage where 35% is required and a 270% bulk increase variance of an existing structure, 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. Examiner Rucker further adopted the findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this decision 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.

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 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 not** result from the actions of the applicant.

Conclusion 3

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)

Hearing Examiner Rucker denied a portion of this project V0027-23, requesting a 2 foot street setback where 25 feet is required based upon the following conclusions:

Conclusion 1

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.

Conclusion 2

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

Conclusion 3

The granting of the variance **is** in conflict with the public interest in that it **will** 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)

The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Examiner Rucker further adopted the findings of fact and conclusions of law as set forth in the Staff Report and directed planning staff to draft written findings and conclusions to reflect this decision 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 Facts:

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq.
2. The property is zoned Rural 5.
3. The property is described as 3-59N-4W KOKANEE POINT 1ST ADD BLK 1 LOT 1.
4. The property has an existing single-family dwelling.

5. There are slopes of 0-30+% grade present on the property per USGS.
6. The property does have mapped wetlands, per USFWS.
7. A portion of the property is located in Special Flood Hazard Area Zone-AE per FEMA.
8. The applicants obtained this property through a State of Idaho Deed, Instrument No. 913637, on October 27, 2017.
9. The property is served by Coolin Sewer District and an individual lake pump system.
10. The property is served by Coolin-Cavanaugh Bay Fire District and Northern Lights, Inc.
11. The property is accessed off of Sherwood Beach Road, a Bonner County owned and maintained public right-of-way.

Suggested Conditions of Approval:

Standard continuing permit conditions. To be met for the life of the use:

A-1. A Building Location Permit shall be obtained prior to commencing construction on the structure.

A-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.

A-3. The granting of this variance shall not supersede any deed restrictions.

A-4. Per BCRC 12-720.2 (E) a stormwater management plan shall be required for all new building construction or development which occurs on or within 300' of a slope with 15% or greater incline.

A-5. The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design

professional stating that these measures have been installed as per the design specifications as approved.

A-6. Site contains mapped steep slope of over 30% grade. Any development on site located within or in proximity of the areas of steep slopes is required to meet the standards of BCRC 12-7.6 prior to start of development on site.

Bonner County Revised Code, Section 12-262, provides an opportunity for affected persons to appeal Hearing Examiner decisions with the Planning Director within 28 days after the final written decision of the Hearing Examiner has been issued. Any such appeal must be submitted in accordance with the referenced code section no later than **5:00 p.m., May 7, 2024. AN APPEAL SHALL BE ACCOMPANIED BY A FILING FEE IN ACCORDANCE WITH THE APPROVED FEE SCHEDULE. THE FEES ARE PAYABLE TO THE BONNER COUNTY PLANNING DEPARTMENT.**

NOTE: Following any final decision concerning a site-specific land use request, the applicant has a right to request a regulatory taking analysis pursuant to Section 67-8003, Idaho Code (*Idaho Code §67-6535(3)*).

Please contact the Planning Department if you have any questions.

Sincerely,


Jacqueline Rucker
Hearing Examiner

C; Anthony Bauerle, Verdis

