



Bonner County Planning Department

"Protecting property rights and enhancing property value"

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ADMINISTRATIVE VARIANCE WRITTEN DECISION

This application has been reviewed against the standards for a variance in Bonner County Revised Code 12-234. It has been determined that the request has met the criteria, subject to conditions, based on the findings of fact and conclusion of law as per the review below.

FILE: VA0018-23

DATE OF REPORT: September 18, 2023

PROJECT: **Approved**

APPLICATION DATE: July 12, 2023

PARCEL No: RP57N03W133020A

APPLICANT: John & Teresa Moore

REPRESENTATIVE: N/A

SUMMARY OF PROPOSAL: The applicant is requesting a 55' shoreline setback from a perennial stream where 75' is required. The 10-acre property is zoned Agricultural/Forestry 10 (A/F-10). The project site is located off Larsen Ranch Lane in Section 13, Township 57N, Range 03W, Boise-Meridian.

DOES PROJECT CONFORM TO VARIANCE CRITERIA: BCRC 12-234

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 excavation has revealed granite outcropping that infringes on foundation location on current site plan as presented on building location permit. I've spent ~\$3000 dollars on excavating the site with specific efforts to remove granite outcropping and associated boulders. Unfortunately, I have not been able to extract from proximity to where outcropping infringes on the area of the planned foundation location.*

STAFF: BCRC 12-234 (A) requires that conditions apply to the property that do not apply generally to other properties in the same zone or vicinity. The conditions must be a result of lot size, shape, topography or other circumstances over which the applicant has no control.

The subject parcel is unique in that it is divided north/south by Larsen Ranch Road and northeast/southwest by an unnamed perennial stream. The majority of the parcel is characterized by Pend Oreille-Rock outcrop complex soils with 5 to 45 percent slopes. There is a large granite outcrop on the site that has been developed for the home site. This outcrop prevents the applicant from meeting the required 75' setback from the perennial stream. This combination of characteristics makes the subject parcel unique within the vicinity.

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

APPLICANT: *No perceived actions on part of the applicant that created any special conditions or circumstances at the time of, or following the approval of the Building Location Permit .*

STAFF: BCRC 12-234 (B) requires that special conditions and circumstances exist that do not result from the actions of the applicant.

The applicant did not create the property size, shape, topography, or orientation. The property was created prior to the applicant's purchase. The applicant purchased the property September 30, 2019 according to warranty deed, instrument number 946052. The applicant has spent time and incurred expenses in attempting to remove or reduce the outcrop.

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: *There are no known or perceived conflicts, safety issues, nor deleterious impacts to current or adjoining parcel(s). Road access to current parcel is a private road with no directly adjoining public land.*

STAFF: BCRC 12-234 (C) requires that 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.

Granting this variance is not in conflict with public interest. Property owners within a 300 foot radius of the subject property were notified of this application. One (1) public comment was received supporting the granting of the variance and one (1) public comment was received supporting denial of the variance. No comments or recommendations were received from agencies that indicate a negative impact on public safety, health, or welfare.

AGENCY ROUTING

Agency routing memo sent: August 24, 2023

The following agencies were routed for review and comment:

Assessor *No response.*

Bonner County Floodplain Review *JRJ, 7.25.2023: Parcel is within SFHA Zone X per FIRM Panel Number 16017C0695E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.*

Bonner County Road & Bridge *No response.*

GIS Addressing	<i>MC 8/2/2023: Addressing review not needed</i>
Idaho Department of Environmental Quality (DEQ)	<i>No comment.</i>
Idaho Department of Fish & Game	<i>No comment.</i>
Idaho Department of Lands - Sandpoint	<i>No comment.</i>
Panhandle Health District	<i>No response.</i>
U.S. Army Corps of Engineers	<i>No response.</i>
U.S. Fish & Wildlife Service	<i>No response.</i>
U.S. Forest Service	<i>No response.</i>

PUBLIC COMMENT

Notice mailed: August 24, 2023

One public comment in favor of granting the variance and one comment against granting the variance were received.

FINDINGS OF FACT:

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-238 Administrative Variances, BCRC 12-234 Variances, Standards for Review of Applications, BCRC 12-400, et seq., and BCRC Density and Development Standards if affected by the variance.
2. The property is zoned Agricultural/Forestry 10 (A/F-10)
3. The parcel does contain mapped slopes in excess of 30%. (USGS)
4. The parcel does contain mapped wetlands. (USFWS)
5. The parcel does contain frontage on an unnamed perennial stream. (USGS)
6. The parcel is within SFHA Zone X per FIRM Panel Number 16017C0695E, Effective Date 11/18/2009.
7. The parcel is divided by Larsen Ranch Lane.
8. The parcel is divided by a perennial stream.
9. The land use designation for the parcel is Ag/Forest Land (10-20 AC).

CONCLUSIONS OF LAW:

Based on the foregoing findings, the following conclusions are adopted. The proposed administrative variance **is** in accord with the purposes of Title 12. This action does not result in a taking of private property. The action that could be taken to obtain the administrative variance is to complete the Conditions of Approval as adopted.

1. This proposal was reviewed for compliance with the criteria and standards set forth at Sections 12-233 and 12-234, Bonner County Revised Code, storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

2. 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.
3. Special conditions and circumstances do not result from the actions of the applicant.
4. 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)

CONDITIONS OF APPROVAL:

1. The granting of this variance shall not supersede any deed restrictions.
2. Only the development highlighted on the approved site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
3. All county setbacks, not addressed in this decision letter, shall be met.

NOTICE OF ADMINISTRATIVE DECISION:

NOTE: This determination may be appealed to the Board of County Commissioners by notifying the Planning Director in writing of the intent to appeal within ten (10) working days from the date of the determination along with the applicable appeal fee of \$375. Upon receipt of an appeal, the Planning Director will schedule a meeting with the Board within ten (10) working days to hear the appeal and will provide written notice to the appellant of the time and place of the meeting. The Planning Director and appellant will be provided an opportunity to present the relevant issues to the Board at that meeting. The Board's decision shall be final and further recourse of the appellant shall be to the Courts as provided by law. If no appeal to the Board is filed, the Planning Director's decision shall be deemed final. (BCRC, §12-261).

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 this department if you have any questions.

Sincerely,

Planning Department