



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: VA0021-23

DATE OF REPORT: January 24, 2024

PROJECT: **Approved**

APPLICATION DATE: August 3, 2023

PARCEL No: RP039090000020A

APPLICANT: Jenoa Anderson
Brocken Baltrus

REPRESENTATIVE: N/A

SUMMARY OF PROPOSAL: The applicant is requesting a street setback of 17 feet 6 inches where 25 feet is required. The 2.00-acre property is zoned Suburban (S). The project is located off Baldy Mountain Road in Section 17, Township 57N, Range 2W, Boise-Meridian.

DOES PROJECT CONFORM TO VARIANCE CRITERIA BCRC 12-23:

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: Meeting the existing 25' setbacks would cause unnecessary expense and hardship through the building process due to the grade change.

STAFF: The subject lot consists of 2.0-acres, is zoned Suburban with a land use designation of Suburban Growth Area. The lot is subject to 25' street setbacks on the north and west sides due to Baldy Mountain Rd and Sweetwater Dr, respectively. On the west property boundary, the lot has a 10'x100' area that is inset from Sweetwater Dr 60' right-of-way. This portion of Sweetwater Dr descends from where it intersects Baldy Mountain Rd. As a result of the grade transition, additional fill material was needed to support Sweetwater Rd resulting in the wider right-of-way. The characteristics are unique to the two lots on either side of Sweetwater Dr. The north portion of the lot on the west side of Sweetwater Dr cannot be developed due to street and property line setback

requirements. This makes the subject lot unique in that it is the only buildable lot that is subject to the street setback on two sides as well as the wider road right-of-way.

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

APPLICANT: The building design has already been reduced in size to the minimum size to meet our family's needs.

STAFF: The applicant has not taken any action to create the special conditions and circumstances that apply to this lot. The lot was created on July 14, 2020 and recorded at Book 15 of Plats, Page 35, Records of Bonner County, Idaho. The applicant purchased the lot on May 12, 2023 and has not made any changes to the parcel since the purchase.

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 variance will in no way interfere with public interest or be detrimental to the surrounding needs and uses.

STAFF: Property owners within a 300-foot radius of the subject property were notified of this application on September 28, 2023. Two public comments were received. One comment was in support of granting the variance. The other comment was neutral. No comments or recommendations were received from agencies that indicate a negative impact on public safety, health, or welfare. Granting this variance is not in conflict with public interest.

AGENCY ROUTING

Agency routing memo sent: November 08, 2023
Agency routing memo sent: December 12, 2023

The following agencies were routed for review and comment:

Bonner County Floodplain Review	<i>JRJ, 8.7.2023: Parcel is within SFHA Zone X per FIRM Panel Number 16017C0715E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.</i>
GIS Addressing	<i>MC 8/8/2023: No addressing review necessary. complete</i>
Idaho Department of Environmental Quality (DEQ)	<i>See comment</i>
Idaho Department of Fish & Game	<i>See comment</i>
Idaho Department of Lands - CDA	<i>No response</i>
Idaho Department of Lands - Sandpoint	<i>No response</i>
Idaho Transportation Department-District I	<i>See 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>
City of Sandpoint	<i>No response</i>

PUBLIC COMMENT

Notice mailed: September 28, 2023

Comments 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 Suburban (S).
3. Site does not contain mapped slopes per USGS.
4. Site does not contain mapped wetlands per NWI/USFWS.
5. Site does not contain frontage on a river/stream/lake per NHD.
6. Parcel is within SFHA Zone X per FIRM Panel Number 16017C0715E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
7. The lot is served by individual well, individual system, Northside Fire District and Avista Utilities.
8. The lot is platted per Book 15 of Plats, Page 35, Instrument Number 960840, Records of Bonner County, Idaho.
9. The lot has a land use designation of Suburban Growth Area.

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 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.
4. All violations on the subject property shall be abated prior to issuance.

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