

**BONNER COUNTY PLANNING DEPARTMENT
HEARING EXAMINER
STAFF REPORT FOR April 17, 2024**



Project Name: Lindquist

File Number, Type: V0005-24, Street Setback Variance

Request: The applicant is requesting a reduced street setback of 10.68 feet where 25 feet is required

Legal Description: 27-61N-4W PINTO POINT BLK 1 LOT 37

Location: 125 Pinto Point Rd, Coolin, ID 83821

Parcel Number: RP059610010370A

Parcel Size: 0.39 acres

Applicant: Tom Lindquist
7630 79th Ave SE
Mercer Island, WA 98040

Project Representatives: Caleb Worley, Worley Homes; Doug Cole, Doug Cole Architect

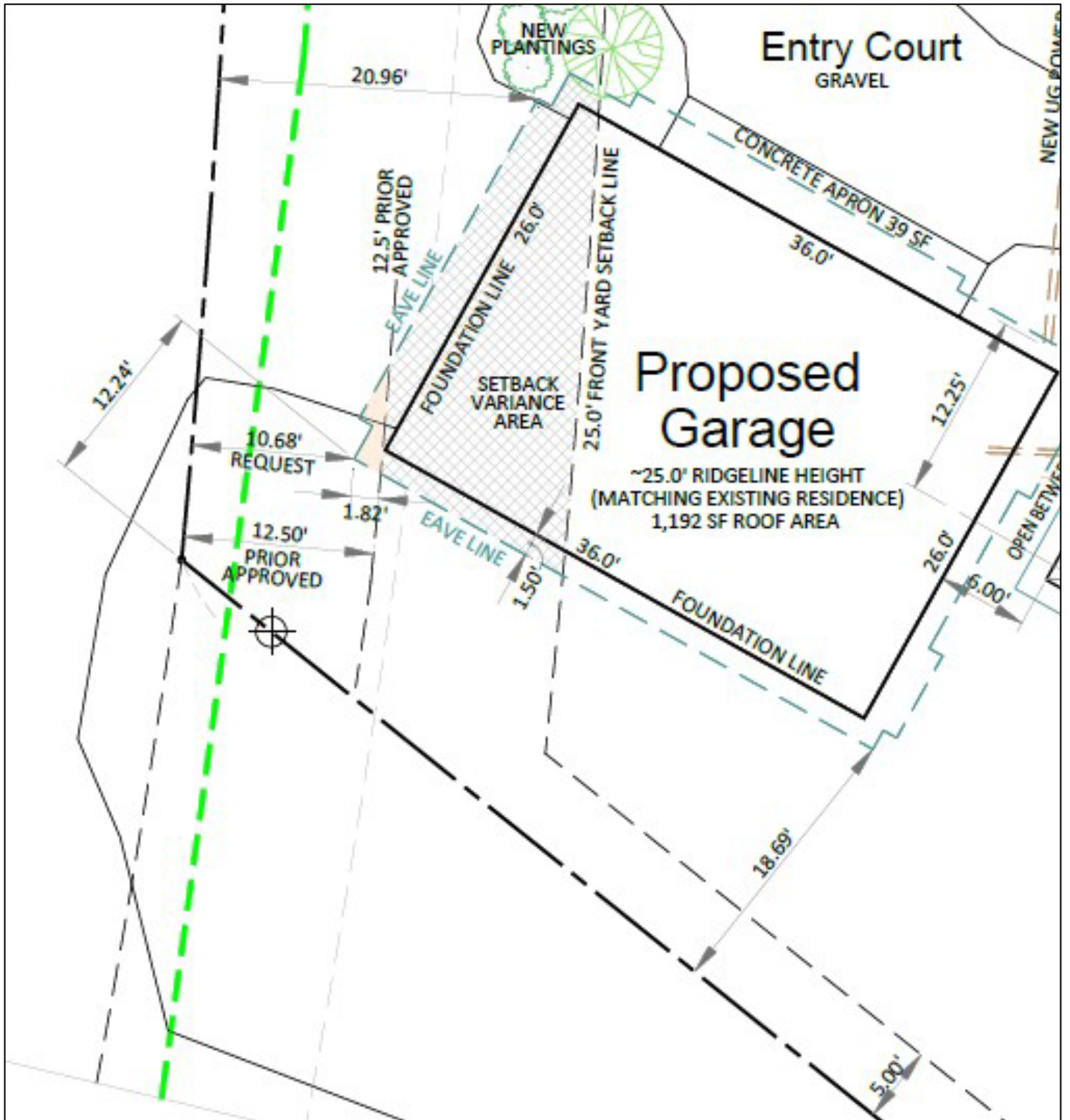
Property owner: Northwest Family Co-Investment #1 LLC
7630 79th Ave SE
Mercer Island, WA 98040

Application filed: February 8, 2024

Notice provided: Mail: March 12, 2024
Site Posting: March 14, 2024
Published in newspaper: March 12, 2024

Enclosure: Annex A – Comprehensive List of Agencies Routed

Site Plan



Project summary:

The applicant is requesting a reduced street setback of 10.68 feet where 25 feet is required in order to construct a garage and accessory dwelling unit. The platted lot is 0.39 acres with a zoning designation of Recreation and a Land Use designation of Resort Community. The site is located on Pinto Point Road in Coolin.

Applicable laws:

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

- BCRC 12-222: Application, contents
- BCRC 12-232: Variances, general provisions,
- BCRC 12-234: Variance standards
- BCRC 12-328: Recreation District
- BCRC 12-400: et seq., Development standards
- BCRC 12-412: Density and Dimensional Standards
- BCRC 12-7.2: et seq., Grading/erosion/stormwater management
- BCRC 12-800: et seq., Definitions

Background:

A. Site data:

- Platted
- Single Family Dwelling
- Size: 0.39 acres
- Zone: Recreation
- Land Use: Resort Community
- This parcel was approved for a 12.5' street setback variance through V14-23.

B. Access:

- Pinto Point Road is an IDL owned endowment trust land allowing access over existing access roads and driveways that have been used historically to access leased endowment trust lands as outlined in the plat of State Subdivision – Pinto Point, Inst. No. 839530. It has a gravel travel way and is privately maintained.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain frontage on Priest Lake.
- Parcel is within SFHA Zone X & Zone AE per FIRM Panel Number 16017C0225F, Effective Date 7/7/2014. Per site plan and county GIS, the project site is within SFHA Zone X. No further floodplain review is required on this proposal.

D. Services:

- Water: Individual well
- Sewage: Pinto Point Sewer District
- Fire: East Priest Lake Fire District
- Power: Northern Lights, Inc.

- School District: Lake Pend Oreille School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Residential, 0.39 acres
North	Resort Community	Recreation	Residential, 0.54 acres
South	Resort Community	Recreation	Residential, 0.61 acres
East	Resort Community - Priest Lake	Recreation	N/A – Priest Lake
West	Resort Community	Recreation	Residential/1.019 acres

F. Standards review

BCRC 12-234 specifies that the staff, Zoning 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.**

Applicant:

1. *The proposed location avoids existing underground power service to neighboring lots.*
2. *Avoids relocating underground sanitary service on the site.*
3. *Maintains clear access to the septic tank for servicing.*
4. *Maintains distance from existing wellhead.*
5. *Provides adequate distance and separation from the main cabin to allow human/pedestrian access.*
6. *Another important hardship/circumstance relates to the Pinto Point Road itself. When IDL established the plat for purposes of public auction, it imposed a 30-foot right-of-way in the middle of Pinto Point. Many of us suggested a 20-foot right of way as adequate. Nevertheless, the 30' existing ROW puts additional burden on the front yard setback requirement for many of us in the neighborhood.*

Staff: The subject property is a trapezoid-shaped parcel consisting of 0.39 acres. It is bordered by parcels of 0.540, 0.610 and 1.019 acres in size on the north, south and west, respectively. It is also the smallest lot within a 400 feet radius. This parcel also has a pressurized underground service line running through the northwestern portion of the property and poses a unique setback when compared to other properties.

The subject parcel is unique when compared to others in this particular Recreation zone due to its unique shape and narrow building envelope due to Bonner County Revised Code's shoreline and street setbacks. These issues do not apply generally to adjacent properties. The single-family dwelling on the lot was built in 2008. The structure does not have a garage. The applicant is requesting a variance in order to construct a garage with an accessory dwelling unit above it. Taking into account the unique shape of the parcel, required setbacks, and the location of the sewer lines on the north portion of the parcel, there is a narrow and unique building envelope available. In order to place the garage near the road and to avoid the existing utilities, the applicant is requesting to encroach into the required 25' road setback. This will not impact any of the utility easements along Pinto Point Road. In areas that experiences considerable snow and harsh winters, the request to construct a garage is not unreasonable.

The applicant was granted a variance for 12.5' where 25' is required, on November 6, 2023 (V0014-23). After that date, a survey was completed. The survey indicated that the eave of the proposed structure was now 10.68' from the property line.

(b) Special conditions and circumstances do not result from the actions of the applicant.

Applicant: "No. There has been no alteration of the original lot lines or parcel size reduction."

Staff: The applicant purchased the parcel in 2018, per Instrument number 929573, Records of Bonner County. The applicant has not made any changes to the parcel. The applicant did not create and had no control over the lot shape, location of Pinto Point Road or the location of the utility lines on the parcel.

(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: "It will not - and matches the building conditions already found throughout the entire (narrow and dead end) neighborhood."

Staff: No public or agency comments were received that would indicate that the granting of this variance would 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. Furthermore, there are other structures within the road setback along Pinto Point Road and have been shown to not be detrimental to the public health, safety, or welfare, or materially injurious to properties.

G. Agency Review

The following agencies were routed for review and comment on March 12, 2024. A complete list of the agencies that were routed for review can be found in Annex A.

H. Public Comment

As of the date of this staff report, one public comment has been received, citing “no comment”.

Staff Analysis and Summary:

Staff concluded this project **is** consistent with Bonner County Revised Code based upon the following:

As a result of street setback requirements per the Bonner County Code, the shape of the lot, the depth of the lot and the location of the existing utilities, the building envelope is restrictive. Granting the variance will allow the applicant to develop their property similarly to other surrounding properties.

The applicant did not establish the lot boundaries, the easement width or the location of the utilities.

The conditions of approval – as proposed or amended – will ensure that the granting of this variance 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.

Staff: The request is consistent with Bonner County Revised Code

Planner’s Initials: RW

Date: April 10, 2024

Note: This is not a decision or 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.

Decision by the governing body:

HEARING EXAMINER

DECISION TO APPROVE: I approve this project FILE V0005-24, a reduced street setback of 10.68 feet where 25 feet is required, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

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.

This decision based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further 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.

DECISION TO DENY: I deny this project FILE V0005-24, a reduced street setback of 10.68 feet where 25 feet is required, based upon the following conclusions:

Conclusion 1

Conditions apply to the property that **do/ 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/ do not** result from the actions of the applicant.

Conclusion 3

The granting of the variance **is/ is not** in conflict with the public interest in that it **will/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.

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 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 Hearing Examiner's decision to the County Commissioners.

Findings of Fact

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 parcel contains 0.39 acres.
3. The parcel does contain mapped slopes in excess of 30% per USGS.
4. The parcel does contain mapped wetlands per USFWS.
5. The parcel does contain frontage on Priest Lake.
6. The parcel is within SFHA Zone X & Zone AE per FIRM Panel Number 16017C0225F, Effective Date 7/7/2014.
7. The lot is zoned Recreation with a land use designation of Resort Community.
8. The lot is described as 27-61N-4W PINTO POINT BLK 1 LOT 37, according to the plat thereof, recorded in Book 10 of Plats, Page 152, records of Bonner County, Idaho.
9. The property has an existing single-family dwelling.
10. The applicant purchased the parcel in 2018, Instrument number 929573.
11. The project site has a previously approved variance, V0014-23, for a 12.5 foot street where 25 feet is required.

Conditions of Approval:

Standard Permit Conditions:

A-1 Only the building envelope for street setback on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code excepting the modified building envelope herein.

A-2 The granting of this variance shall not supersede any deed restrictions.

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.

ANNEX A

RECORD OF MAILING

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File No.: V0005-24

Record of Mailing Approved By:

Hearing Date: April 17, 2024

Robert Winningham, Planner

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **12th** day of **March 2024**.



Jenna Crone, Hearing Coordinator

Avista Utilities - Email
Bayview Water & Sewer - Email
BONNER COUNTY DAILY BEE - U.S. Mail
Bonner County Floodplain Review - Email
Bonner County Sheriff - Email
City of Clark Fork - Email
City of East Hope - Email
City of Kootenai - Email
City of Ponderay - Email
City of Sandpoint - Email
Coolin Sewer District - Email
Drainage District #7 - Email
East Priest Lake Fire District - Email
Garfield Bay Water & Sewer District - Email
Granite Reeder Water & Sewer District - Email
Idaho Department of Fish & Game - Email
Idaho Department of Lands - Coolin - Email
Idaho Department of Lands - Sandpoint - Email
Idaho Transportation Department (Aeronautics) - U.S. Mail
Independent Highway District - Email
Kootenai-Ponderay Sewer District - Email
KSPT-KPND-KIBR RADIO - U.S. Mail
Lake Pend Oreille School District, #84 (Admin Office) - Email
Lakeland Joint School District, #272 - Email
North of the Narrows Fire District - Email
Northland/Vyve Cable Television - Email
Outlet Bay Sewer District - Email
Pend Oreille Hospital District - Email
Priest Lake Translator District - Email
Sam Owen Fire District - Email
SELKIRK ASSOCIATION OF REALTORS - U.S. Mail
Selkirk Recreation District - Email
Spirit Lake Fire District - Email
State Historical Society - Email
Syringa Heights Water Association - Email
Timber Lake Fire District - Email
U.S. Army Corps of Engineers - Email
U.S. Forest Service - U.S. Mail
West Bonner County School District, #83 - Email
West Bonner Water & Sewer District - Email
West Priest Lake Fire District - Email
Bay Drive Recreation District - Email
Bonner County Airport Manager - Email
Bonner County EMS - Email
Bonner County Road & Bridge - Email
Bottle Bay Water & Sewer District - Email
City of Dover - Email
City of Hope - Email
City of Oldtown - Email
City of Priest River - Email
City of Spirit Lake - Email
Coolin-Cavanaugh Bay Fire District - Email
East Bonner Library - Email
Ellisport Bay Sewer - Email
GEM STATE MINER - U.S. Mail
Idaho Department of Environmental Quality (DEQ) - Email
Idaho Department of Lands - CDA - U.S. Mail
Idaho Department of Lands - Navigable Waters & Mining - Email
Idaho Department of Water Resources - IDWR - Email
Idaho Transportation Department- District I - Email
Kalispel Bay Sewer & Water - U.S. Mail
KPBX-FM 91 SPOKANE PUBLIC RADIO - U.S. Mail
Laclede Water District - Email
Lake Pend Oreille School District, #84 (Transportation) - Email
Little Blacktail Ranch Water Association - U.S. Mail
Northern Lights, Inc. - Email
Northside Fire District - Email
Panhandle Health District - Email
Priest Lake Public Library District - Email
Sagle Valley Water & Sewer - Email
Schweitzer Fire District - Email
Selkirk Fire, Rescue & EMS - Email
Southside Water & Sewer District - Email
Spokesman-Review - U.S. Mail
Swan Shores Sewer District - U.S. Mail
Tamarack Village Water & Sewer - U.S. Mail
Trestle Creek Sewer District - Email
U.S. Fish & Wildlife Service - Email
West Bonner County Cemetery District - Email
West Bonner Library - Email
West Pend Oreille Fire District - Email