

Bonner County Planning Department

Hearing Examiner

Staff Report for August 7, 2024



FILE: V0013-24 **DATE OF REPORT:** July 31, 2024
PROJECT: Property Line - Variance **APPLICATION DATE:** May 23, 2024
PARCEL No: RP070100000030A **PARCEL SIZE:** 0.15-acre
LANDOWNER: Tamarack One **REPRESENTATIVE:** Mark Peterson
NOTICE: Mailed – July 2, 2024
Published in newspaper – July 9, 2024
Site posted – July 16, 2024

REQUEST: The applicant is requesting an 8.5-foot property line setback where 15-feet is required for a proposed addition to a condominium.

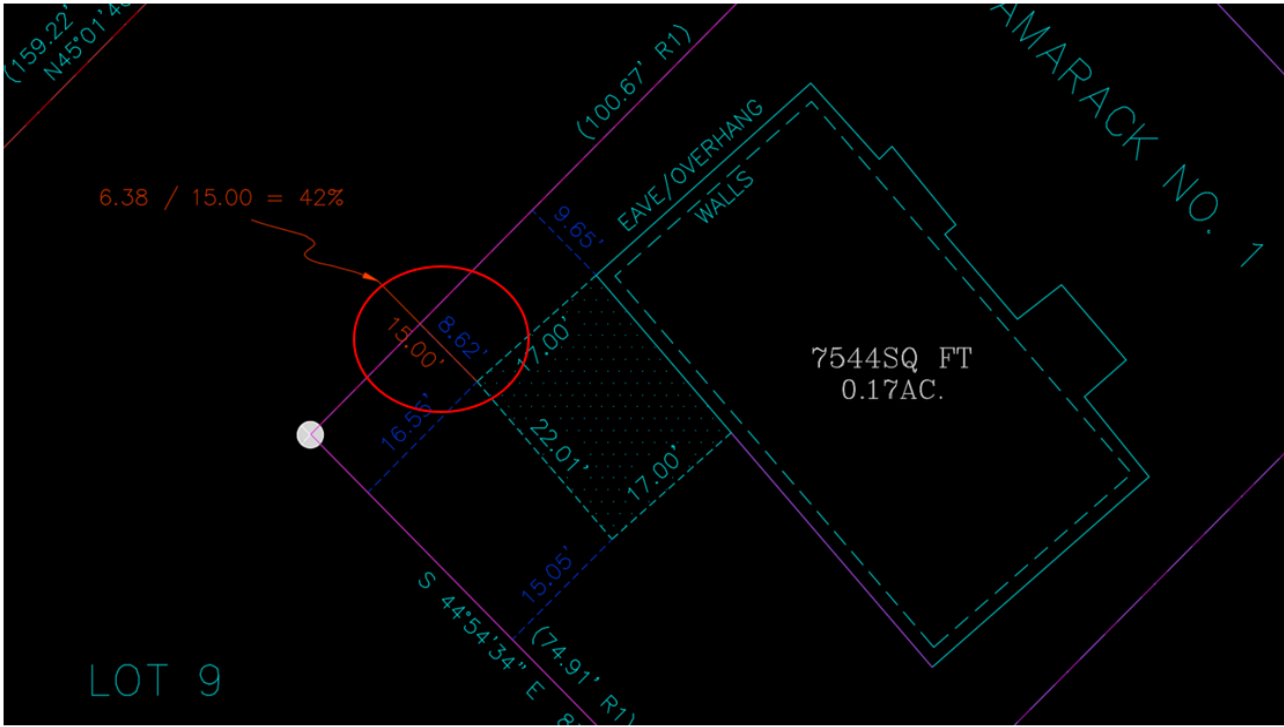
LEGAL

DESCRIPTION: 20-58N-2W TAMARACK ONE CONDO SCHWEITZER BASIN VILLAGE 1ST BLK 3 ADD TAX 1 OF LOT 9

LOCATION: The project is located off Flurry Court in Section 20, Township 58 North, Range 2 West, Boise-Meridian.

ENCLOSURES: Annex A

SUBJECT PROPERTY SITE PLAN



PROJECT SUMMARY

The applicant is requesting a 8.5-foot property line setback where 15-feet is required for a proposed addition to the condominium.

APPLICABLE LAWS

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

BCRC 12-222: Application contents

BCRC 12-232: General provisions

BCRC 12-234: Variance standards

BCRC 12-400: Development standards

BCRC 12-329: Alpine Village District

BCR 12-412: Density and Dimensional Standards; Suburban, Commercial, Industrial, Rural Service Center, Recreation And Alpine Village Zones

BCRC 12-7.2, et seq.: Grading/erosion/stormwater

BCRC 12-800 et seq.: Definitions

BACKGROUND

A. Site Data

Land Use: Residential, 1 SFD

Platted

Size: 0.15-acre
Zoning Designation: Alpine Village
Comp Plan Designation: Alpine Community (0-2.5 AC)

B. Access

Flurry Court is an Independent Highway District owned and maintained road with a paved travel way.

C. Environmental Factors

Site does contain mapped slopes (USGS).
Site does not contain mapped wetlands (USFWS).
Site does not contain water frontage.
Site contains SFHA Zone X per FIRM Panel # 16017C0705E, effective 11/18/09.

D. Services

Water: Schweitzer Utility Company
Sewage: Schweitzer Utility Company
Fire: Schweitzer Fire District
Power: Northern Lights, Inc.
School District: Lake Pend Oreille School District #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan Designation	Zoning Designation	Current Land Use & Density
Site	Alpine Community (0-2.5 AC)	Alpine Community (AV)	Residential, 1 SFD
North	Alpine Community (0-2.5 AC)	Alpine Community (AV)	Residential, 1 SFD
East	Alpine Community (0-2.5 AC)	Alpine Community (AV)	Residential, 1 SFD
South	Alpine Community (0-2.5 AC)	Alpine Community (AV)	Residential, 1 SFD
West	Alpine Community (0-2.5 AC)	Alpine Community (AV)	Residential, Vacant

AGENCY ROUTING

See Annex A for a complete list of the agencies that were routed.

The following agencies replied with comments:

Bonner County Floodplain Review -	<i>JRJ, 6.18.2024: Parcel is within SFHA Zone X per FIRM Panel Number 16017C0705E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.</i>
Independent Highway District - Email	<i>Flurry Court is a driveway to 4 condos which were built prior to the current setback requirements. The project is to add an addition to the back of the condo building. The buildings have flat roofs and do not shed snow. The only concern would be the</i>

roof of the new addition must not shed snow. A flat roof would prevent this.

The following agencies replied with no comment:

Idaho Transportation Department

Idaho Department of Environmental Quality

Idaho Department of Fish and Game

All other agencies did not reply.

PUBLIC COMMENT

As of the date of the staff report, public comments have been received.

STANDARDS REVIEW & STAFF ANALYSIS:

BCRC 12-234 specifies that “Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

A. Standards Review

- (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: The existing Tamarack One building was built askew and with a smaller setback in the early 1970's. Given how the current building is situated on the lot we do not have sufficient space to add the proposed expansion without an exception.

Staff: The subject lot is very small and narrow. The building was built on an angle (approximately 48°) which will cause the proposed addition to encroach into the 15' setback by approximately 6.5' resulting in a property line setback of 8.5'. The roof of the existing building is flat and the roof of the proposed addition will also be flat. This will not result in any additional snow shedding in the property line setback. Additionally, the building was constructed in 1996, prior to the current 15' property line setback being implemented in 2008.

The lot immediately to the south is similar in size and shape to the subject parcel. The building on this parcel was also constructed in 1996 and is the same size. It was also constructed on an angle (approximately 49°). These lots are virtually identical. Although this does not make the subject property unique, I would argue that since both lots and structures are virtually identical, encumbered by the same defects, they are both unique among the lots in the vicinity.

Based on the above findings, 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.**

Applicant: The expansion to the South is feasible as there is adequate space in this direction to allow for the current setback standard. The issue is that the building was built in the 1970s and at that time it was placed askew on the lot with the SW side setbacks smaller than the current code. Given the history of the existing building, and its placement on the lot, we have partnered with our neighbors David and Sarah

Hetzel to propose this variance. We would continue the existing structure to the south extending the current foundation back 17' to the south. We would also not construct any structures or deposit snow load on the existing/proposed setback. The building currently has a flat roof, so now snow is deposited in that area currently, this will not change.

Staff: The applicant purchased the lot on October 26, 2020 per Instrument No. 968487, Records of Bonner County and has not made any changes to the lot.

- (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: None of the proposed changes would result in permanent changes that would preclude either party from utilizing the properties in alignment with the existing codes.

Staff: Property owners within a 300-foot radius of the subject property were notified of this application. Public comments were received. The neighbors to the north, David and Sarah Hetzel, would be most impacted as the encroachment would be towards their lot should the variance be granted. They stated they had no issues with approving the variance request. Additionally, no agencies provided comments indicating there was any negative impact to public safety, health, or welfare.

B. Stormwater Management Review

A stormwater management plan is not required for this particular variance file, pursuant to BCRC 12-720.3(k) because the proposal does not directly result in the creation of additional impervious surface, as defined. However, one will be required at the time of building location permit for the proposed addition.

C. Staff Review Summary

The subject lot is nearly identical to the parcel to the south. The lots are similar in acreage and the size and orientation of the structures. I would argue that since both parcels are nearly identical, they are both unique among other parcels in the vicinity. Design considerations have been made to minimize the impact of snow shedding and storage. The narrow nature of the lot and the angle of the structure were not within the control of the applicant. The unique circumstance outlined in the application appear to meet the requirements of BCRC12-234 (b). The request further appears to meet the requirements of BCRC 12-234 (c) as is unclear to staff how this proposal would create a hazard to public health, safety or welfare.

Staff determination: Has met the criteria.

Planner's Initials: RW

Note: 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 V0013-24 requesting an 8.5' property line setback where 15' is required, 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. I further adopt the findings of fact set forth in the Staff Report (or as amended during this hearing) 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)

DECISION TO DENY: I deny this project FILE V0013-24 requesting a 8.5' property line setback where 15' is required, based upon the following conclusions of law:

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. (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. I further adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct 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.

Recommendation to the Zoning Commission

I recommended that the Zoning Commission conduct a public hearing for this project, File V0013-24, requesting a 8.5' property line setback where 15' is required, pursuant to the public hearing noticing requirements and procedures of Chapter 2, Subchapter 2.6 of Title 12, based upon the extent of public comment and other contested factors in the case which warrant a hearing in front of the Zoning Commission.

Findings of Fact:

1. The site is accessed by Flurry Court, an Independent Highway District maintained roadway with a paved travel way.
2. The site does contain mapped slopes in excess of 30% per USGS.
3. The site does not contain mapped wetlands per NWI/USFWS.
4. The site does not contain a river/stream/frontage on a lake per NHD.
5. Parcel is within SFHA Zone X per FIRM Panel Number 16017C0705E, Effective Date 11/18/2009.
6. The site is served by Schweitzer Utility Company for water and sewer, Schweitzer Fire District, Northern Lights, Inc., Lake Pend Oreille School District #84, Bonner County Ambulance District, Pend Oreille Hospital District.
7. The parcel is compliant per BCRC 12-616 (E) (3) per Instrument No. 119037, Book 3 of Plats, Page 21, Records of Bonner County, Idaho.
8. The applicant purchased the lot on October 26, 2020 per Instrument No. 968487, Records of Bonner County.
9. The lot consists of 0.15-acres.
10. The structure on the lot was built in 1996.

Conditions of Approval:

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

1. 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.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online prior to the hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.

RECORD OF MAILING**Page 1 of 1****Hearing Date: August 7, 2024****File No.: V0013-24****Record of Mailing Approved By:**

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **2nd** day of **July 2024**.



Jenna Crone, Hearing Coordinator

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