

Bonner County Planning Department Hearing Examiner Staff Report for October 16, 2024



FILE: V0016-24 **DATE OF REPORT:** October 7, 2024

PROJECT: Property Line Setback - Variance **APPLICATION DATE:** June 25, 2024

PARCEL No: RP054030000010A **PARCEL SIZE:** 0.27 acre

LANDOWNER: Micaela Jaime **REPRESENTATIVE:** N/A

NOTICE: Mailed – September 17, 2024
Published in newspaper – September 17, 2024
Site posted – September 16, 2024

REQUEST: The applicant is requesting a 0 foot setback from the property line where 5 feet is required for the purpose of building a single-family-dwelling.

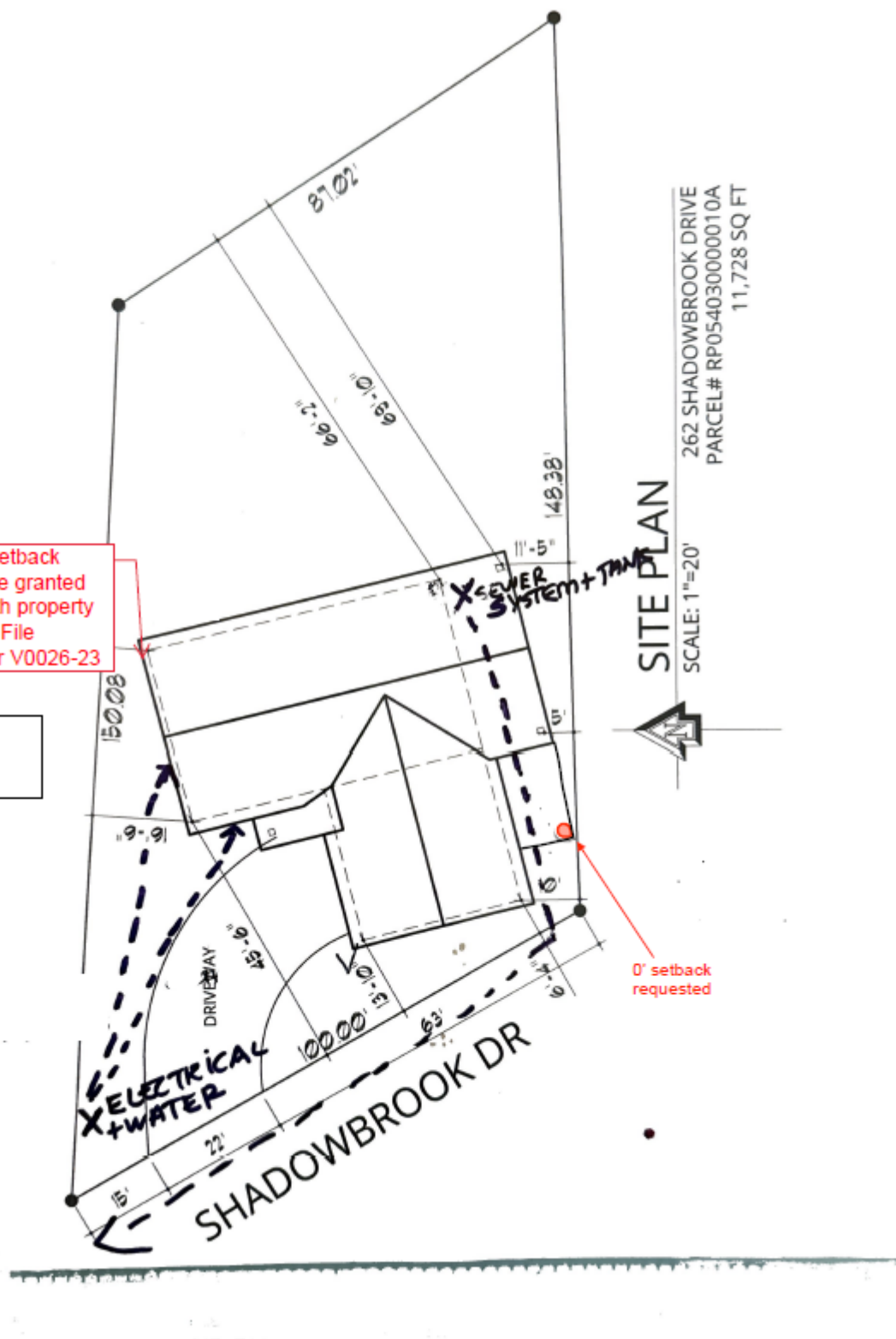
LEGAL DESCRIPTION: 19-61N-4W ELKINS REEDER LOT 1 TERRACE CPWRS

LOCATION: The project site is located off Shadow Brook Drive in Section 19, Township 61 North, Range 04 West, Boise-Meridian.

ENCLOSURES: Annex A – Notice of Public Hearing Record of Mailing

SUBJECT PROPERTY SITE PLAN

0 foot setback
variance granted
for North property
line via File
Number V0026-23



SITE PLAN

262 SHADOWBROOK DRIVE
PARCEL# RP054030000010A
11,728 SQ FT

SCALE: 1"=20'



0' setback
requested

PROJECT SUMMARY

The applicant is requesting a 0-foot setback from the property lines, where 5 foot is required.

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 12-412 DENSITY AND DIMENSIONAL STANDARDS; SUBURBAN, COMMERCIAL, INDUSTRIAL, RURAL SERVICE CENTER, RECREATION AND ALPINE VILLAGE ZONES

BCRC 12-800 st seq.: Definitions

BACKGROUND

A. Site Data

Land Use: Rural Residential

Platted: Elkins Reeder Terrace, Lot 1

Size: 0.27 acre

Zoning Designation: Recreation

Comp Plan Designation: Rural Residential

B. Access

The property is accessed off of Shadow Brook Drive, a privately owned and maintained road.

C. Environmental Factors

Site does contain mapped slopes greater than 30% per USGS.

Site does not contain mapped wetlands (USFWS).

Site does not contain water frontage.

Parcel is within SFHA Zone D per FIRM Panel Number 16017C0200F, Effective Date 7/7/2014.

D. Services

Water: Elkins Reeder Terrace Community Well

Sewage: Granite-Reeder Sewer District

School District: West Bonner School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan Designation	Zoning Designation	Current Land Use & Density
Site	Rural Residential	Recreation	Residential
North	Rural Residential	Recreation	Residential

East	Rural Residential	Recreation	Residential
South	Remote Ag/Forest	Forestry 40	US Forest Service Land
West	Rural Residential	Recreation	Residential

AGENCY COMMENTS:

A full list of the agencies noticed for this file can be found in the attached Annex A. The following agencies provided a comment:

Bonner County Floodplain Review - *JRJ, 9.11.2024: Parcel is within SFHA Zone D per FIRM Panel Number 16017C0200F, Effective Date 7/7/2014. No further floodplain review is required on this proposal.*

The following agencies provided no comment:

Idaho Transportation Department District I - No Comment
Email

Idaho Department of Fish and Game - No Comment

All other agencies did not respond.

PUBLIC COMMENT

As of the date of the staff report, no 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: This site has excessive slope on the north side of the property, in addition to an odd shaped, angled lot line.

Staff: The property contains slopes of 0-30+%, but the property contains predominately 15-29.9% slopes. These types of slopes appear to cover 95% of the lot, with approximately 0.25-acres of sloping land, which can make developing the property challenging. The property is located within SFHA Zone D, it does not contain any wetlands, or frontage to a body of water. Properties in the same zone vicinity share similar characteristics in relation to size, slopes, and features, however the shape of the lot can make it challenging to develop, as lots similar in shape in the area have yet to be developed.

The applicant received approval on a previous application, V0026-23, which allowed the same setback on the same structure, but to a different property line.

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

Applicant: We faced many challenges when placing this house on the lot. The slope of this lot and the sharpe lot line posed many hurdles. When my contractor placed the footings he believed we were within the setback boundaries. The footings are infact within the setback boundaries, but once the structure walls were built it kicked out a couple of feet. Our entire structure including our over hang eves are within our property boundary. Our house sits 38" from the property line as shown in the attached pictures. Due to the contractors mismeasurement, the steep slope, and the property line angle we are requesting a 0 ft. setback.

Staff: The applicants obtained this property on March 29, 2021, through Warranty Deed Instrument No. 979476, and reconveyed on September 18, 2023 through Quitclaim Deed, Instrument No 1025327. The applicants have not altered the size, shape, or topography of the property since obtaining the property.

The applicants submitted a Building Location Permit, number BLP2022-0178, for a single-family-dwelling, in which their site plan indicated that their structure would meet the 5 foot property line setback required in the Recreation zoning district. According to the inspection report, conducted by a Compliance Investigator with the Bonner County Planning Department, the greatest architectural projection are the eves of the building which measured to be 0 feet from the property line. BCRC 11-105A states: "The applicant for a building location permit shall provide: a site plan showing the location of the structure or building, showing distances from the building's greatest architectural projections to each and all property lines and all environmental features (such as wetlands, shorelines, slope, etc.)..."

The applicant received approval of a variance, V0026-23, approving a 0 foot setback, where 5 feet is required on the northern property line. After an inspection by a Bonner County Planning Compliance Investigator, it was determined that the structure was too close to the southern property line.

(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 approval of this variance will not result in a potential obstruction of public access or cause a safety hazard of any kind. The approval of this variance will not effect any adjoining properties. We are simply requesting that the county setback of 5ft shall be approved at 3ft.

Staff: No comments from the public or agencies were received that indicated that the granting of the variance would be in conflict with the public interest or that it 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, this property is at the end of Shadow Brook Dr. limiting it's exposure to the public, including adjoining 153-acres of U.S. Government land to the south, further reducing any potential effects to the public health, safety or welfare.

B. Stormwater Management Review

A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

C. Staff Review Summary

As a result of setback requirements per the Bonner County Code, the size of the lot, and the slopes of

0-30+%, the building envelope is restrictive which makes developing the lot challenging. Granting the variance will allow the applicant to develop their property similarly to other surrounding properties. The applicant has not altered the property lines, shape, size, topography from the time they obtained the property. The applicants did submit a Building Location Permit, and indicated that they would meet setbacks as required. An inspection conducted by a Bonner County Planning Compliance Investigator showed that they built within the property line setback.

The property has already received approval on the same request on a different property line, through file number V0026-23, approved on March 20, 2024, by the Hearing Examiner.

Planner's Initials: AF

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 Hearing Body

HEARING EXAMINER

DECISION TO APPROVE: I approve this project V0016-24, requesting a 0 foot property line setback where 5 feet 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 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. 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 V0016-24, requesting a 0 foot property line setback where 5 feet is required, based upon the following conclusions: [REFER TO FOREGOING CONCLUSIONS OF LAW AND SPECIFY WHICH CONCLUSIONS THE PROJECT MEETS AND FAILS TO MEET]. 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.

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/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)

Recommendation to the Zoning Commission

I recommend that the Zoning Commission conduct a public hearing for this project, File V00016-24, requesting a zero (0) foot property line setback where five feet 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 property is zoned Recreation.
2. The property is described as 19-61N-4W Elkins Reeder Lot 1 Terrace CPWRS.
3. The property was obtained by the applicants through Warranty Deed, Instrument No. 979476, recorded on March 29, 2021, then reconveyed through Quitclaim Deed, Instrument No. 1025327, recorded on September 18, 2023.
4. The applicants have a Building Location Permit issued for the subject structure, Bonner County Planning file number BLP2022-0178.
5. The property is accessed off of Shadow Brook Drive, a privately owned and maintained road.
6. The property is served by West Priest Lake Fire District and Northern Lights, Inc.
7. The property is served by Granite-Reeder Water and Sewer District for sewage and Elkins Reeder Terrace Community Well for water.
8. The property contains slopes of 0-30+%; approximately 95% of the parcel contains 0-29.9% slopes.
9. The property received approval of a variance, V0026-23, on March 20, 2024, for a 0 foot setback where 5 feet is required on the same structure along the northern property line.

Conditions of Approval:

Standard Conditions:

1. 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.
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-List of Agencies and Tax Districts Routed

RECORD OF MAILING

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Hearing Date: **October 16, 2024**

File No.: **V0016-24**

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 **17th** day of **September 2024**.



Jessica Montgomery, Hearing Coordinator

- Assessor - 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
- Department of Environmental Quality (DEQ) - Email
- Department of Lands - CDA - U.S. Mail
- Department of Lands - Navigable Waters & Mining - Email
- Idaho Department of Water Resources - IDWR - Email
- 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
- Pend Oreille School District, #84 (Transportation) - Email
- Lakes Highway District - U.S. Mail
- North of the Narrows Fire District - 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
- 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
- Idaho Department of Fish & Game - Email Idaho
- Idaho Department of Lands - Coolin - Email Idaho
- Idaho Department of Lands - Sandpoint - Email
- Idaho Transportation Department (Aeronautics) - U.S. Mail Idaho
- 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 Lake
- Lakeland Joint School District, #272 - Email
- Little Blacktail Ranch Water Association - U.S. Mail
- Northern Lights, Inc. - 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