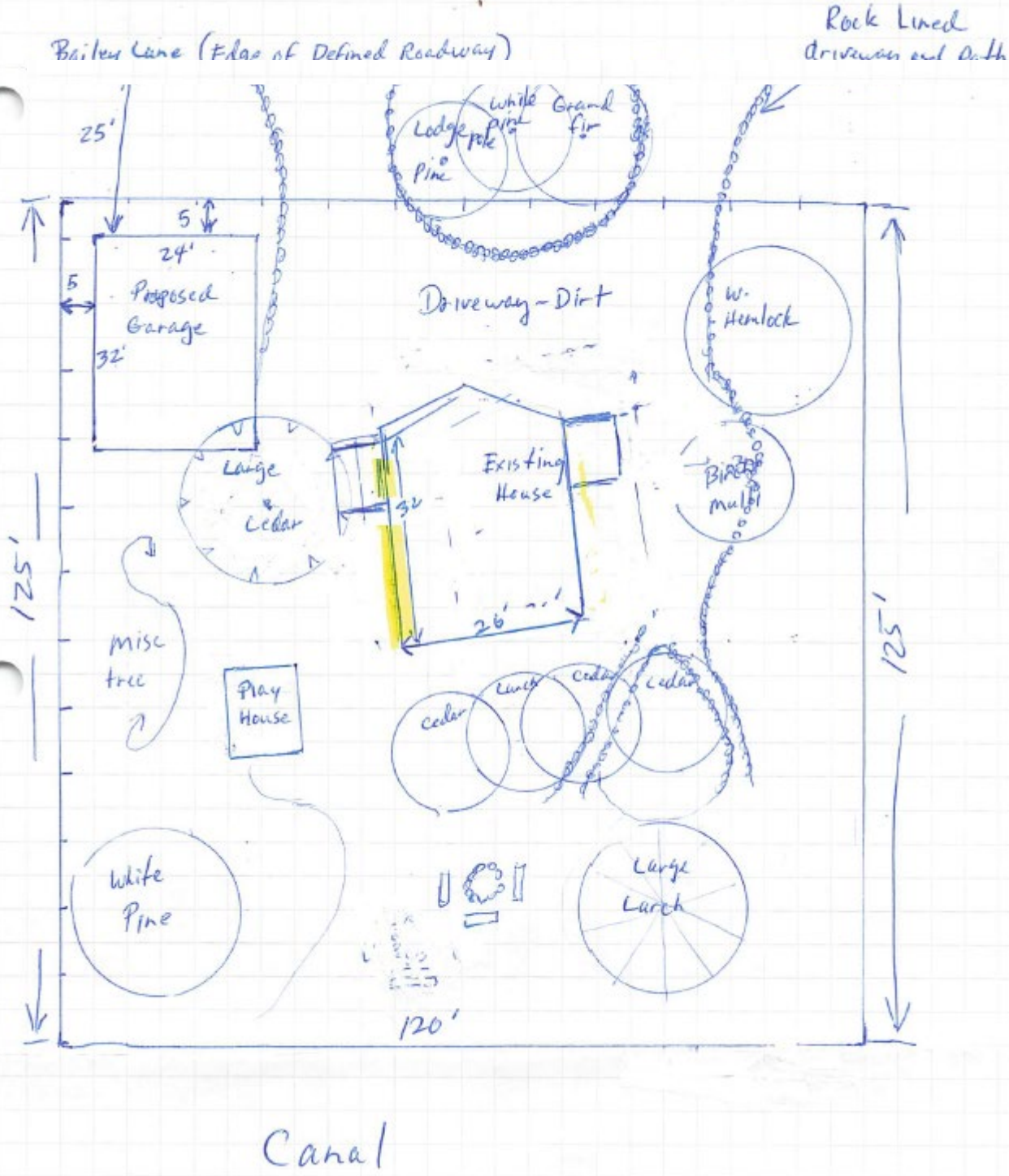




SITE PLAN



## PROJECT SUMMARY

The applicant is requesting a 5' street setback where 25' is required for the purpose of building a garage.

## 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 12-323: Rural  
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 lot  
Size: 0.344  
Zoning Designation: Rural 5 (R-5)  
Comp Plan Designation: Rural Residential (5-10 AC)

### B. Access

Bailey Ln is a Bonner County owned, privately maintained right of way.

### C. Environmental Factors

Site does contain mapped slopes, very minimal, of 0-30%+ grade per USGS.  
Site does contain mapped wetlands per USFWS.  
Site does contain water frontage on an unnamed canal.  
Site contains Elmira variant loamy coarse sand, 0 to 2 percent slopes  
Parcel is within SFHA Zone X & Zone AE FIRM Panel Number 16017C0150F, Effective Date 7/7/2014.

### D. Services

Water: Sandpiper Shores Master Utility  
Sewage: Sandpiper Shores Master Utility  
Fire: North of the Narrows Fire  
Power: Northern Lights Inc.  
School District: Lake Pend Oreille School District #83

### E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan Designation	Zoning Designation	Current Land Use & Density
Site	Rural Residential (5-10 AC)	Rural 5 (R-5)	Residential, 1 SFD
North	Rural Residential (5-10 AC)	Rural 5 (R-5)	Residential/Vacant

East	Rural Residential (5-10 AC)	Rural 5 (R-5)	Residential, 1 SFD
South	Rural Residential (5-10 AC)	Rural 5 (R-5)	Residential, 1 SFD
West	Rural Residential (5-10 AC)	Rural 5 (R-5)	Residential, 1 SFD

**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 - Email**

*JRJ, 9.5.2024: Parcel is within SFHA Zone X & Zone AE FIRM Panel Number 16017C0150F, 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.*

**Bonner County Road & Bridge - Email**

*Comments emailed 8-21-24*

The following agencies replied with “No Comment”:

**Kootenai-Ponderay Sewer District**

All other agencies did not respond.

**PUBLIC COMMENT**

Public comments were 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: In general, the traveled, maintained roadway is 20 feet or more from our front property line. This condition varies along the neighboring lots on Bailey lane. This 20 feet between our property line and the maintained dirt road is never used or accessed by residents. From our property line southward*

*is nice, buildable part of our lot. Beyond that to the south exists a very large, possibly old growth Western Red Cedar Tree that we are interested in preserving. Although there is plenty of space on which to build, other placement of the garage would require the removal of the cedar. Several other trees would need to be removed as well. In keeping with our CC&R's we hope to build our garage and preserve as much tree canopy as possible. That is the long and short of it.*

**Staff: The applicant's parcel is similar to the neighboring parcels in terms of lot size, shape, topography and tree coverage. The applicant has mentioned that the area between the edge of the travel way and the applicant's property line is rarely used. However, this area is County right of way and is reserved for snow storage and drainage.**

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

*Applicant: The trees were there at the lot long before we purchased in 1998. Although we had to have some trees removed for the insurance company, we have not altered the lot. We simply want to build closer to the front property line in order preserve significant trees.*

**Staff: The CC&R's state, "No trees shall be removed from each lot, other than such as may be necessary for the placement of structures and the locating of service facilities, without permission of the subdividers, their assigns or successors. The CC&R's were recorded at Instrument No. 128765, dated August 4, 1970. The CC&R's expired in 2010 per the 40-year time limited noted therein. There is nothing preventing the removal of the trees in order to comply with the required street setback. The applicant has not made any changes to the parcel since purchasing 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: There will be no change in the ability to travel the local road, nor will it cause a site obstruction for those using the road. The garage would simply be used to store a boat in winter and canoes, kayaks and paddle boards all year around. The appearance of the structure will closely emulate that of the log house utilizing a steep 12/12 pitch roof, log siding and cultured stone on the bottom 3 1/2 feet of the walls. This effort and cost will uphold the aesthetic integrity of our local neighborhood. The only possible obstruction would possibly occur while putting to boat into or taking the boat out of the garage, but with 25 feet from the structure to the maintained roadway, that possibility will be minimal. Also there are only 9 or 10 other lots on that roadway and traffic is minimal. There are NO lots on the north side of Bailey lane.*

**Staff: Bonner County Road & Bridge has stated on multiple occasions that a minimum of 10' outside of the right of way is required to be able to place utilities. The utility companies require a 10' setback between buildings and the utilities. The applicant's requested 5' setback would place the garage squarely within the area required for utilities and would make 5' of the right of way unsuitable for utility installation per Matt Mulder. Furthermore, it would impede drainage and the ability of the Road & Bridge Department to upgrade the road in the future. See the comment from Matt Mulder for further.**

## **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**

The parcel is not unique when compared to other lots in the area or vicinity. The size, shape, topography and tree coverage are similar to other lots within the area or vicinity. The requested 5' street setback would

impede drainage and would impact the ability of the Road and Bridge Department to upgrade the road. According to Bonner County Road and Bridge, this proposal would also negatively impact road maintenance and the use of the right of way. See comment from BC Road and Bridge.

**Planner's Initials: RW**

**Date: September 10, 2024**

**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 OF THE HEARING EXAMINER**

**DECISION TO APPROVE:** I approve this project V0019-24, requesting a 5' street setback where 25' 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 V0019-24, requesting a 5' street setback where 25' 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.

## **FINDINGS OF FACT**

1. The site does contain mapped slopes per USGS.
2. The site does contain mapped wetlands per NWI.
3. The site does contain frontage on an unnamed canal.
4. Parcel is within SFHA Zone X & Zone AE FIRM Panel Number 16017C0150F, Effective Date 7/7/2014.
5. Services - The parcel is served by community water system, community septic system, North of the Narrows Fire District, Northern Lights, Inc. and Lake Pend Oreille School District #83.
6. The lot is platted per Book of Plats 3, Page 51.
7. The site has a Comprehensive Land Use designation of Rural Residential and the site's zoning is Rural 5 (R-5).

8. Access is via Bailey Lane. This is a County owned, privately maintained public right of way with a gravel travel way.

9. The applicant purchased the lot on September 2, 1998 per Instrument No. 530471, records of Bonner County.

## 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.

## 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. 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](http://www.bonnercountyid.gov). Bonner County Revised Code (BCRC) is available at the Planning Department or online.

**ANNEX A**  
**RECORD OF MAILING**

Page 1 of 1

File No.: V0019-24

Record of Mailing Approved By: Robert Winningham

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this 20th day of August, 2024.



Jessica Montgomery, 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  
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

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