



Bonner County Planning Department

Hearing Examiner

Staff Report for October 02, 2024

FILE: V0020-24 **DATE OF REPORT:** September 25, 2024

PROJECT: Property Line Setback/Impervious Surface – Variance **APPLICATION DATE:** July 15, 2024

PARCEL No: RP061100010080A **PARCEL SIZE:** 1.23-acres

LANDOWNER: Camelot Lane II LLC **REPRESENTATIVE:** Dan Larson
7B Engineering
414 Church ST Ste. 203
Sandpoint, ID 83864

NOTICE: Mailed - September 3, 2024
Published in newspaper - September 3, 2024
Site posted - September 23, 2024

REQUEST: The applicant is requesting a 6.5' property line setback where 10' is required and an impervious surface area of 13,266 ft² where 9,453 ft² is required.

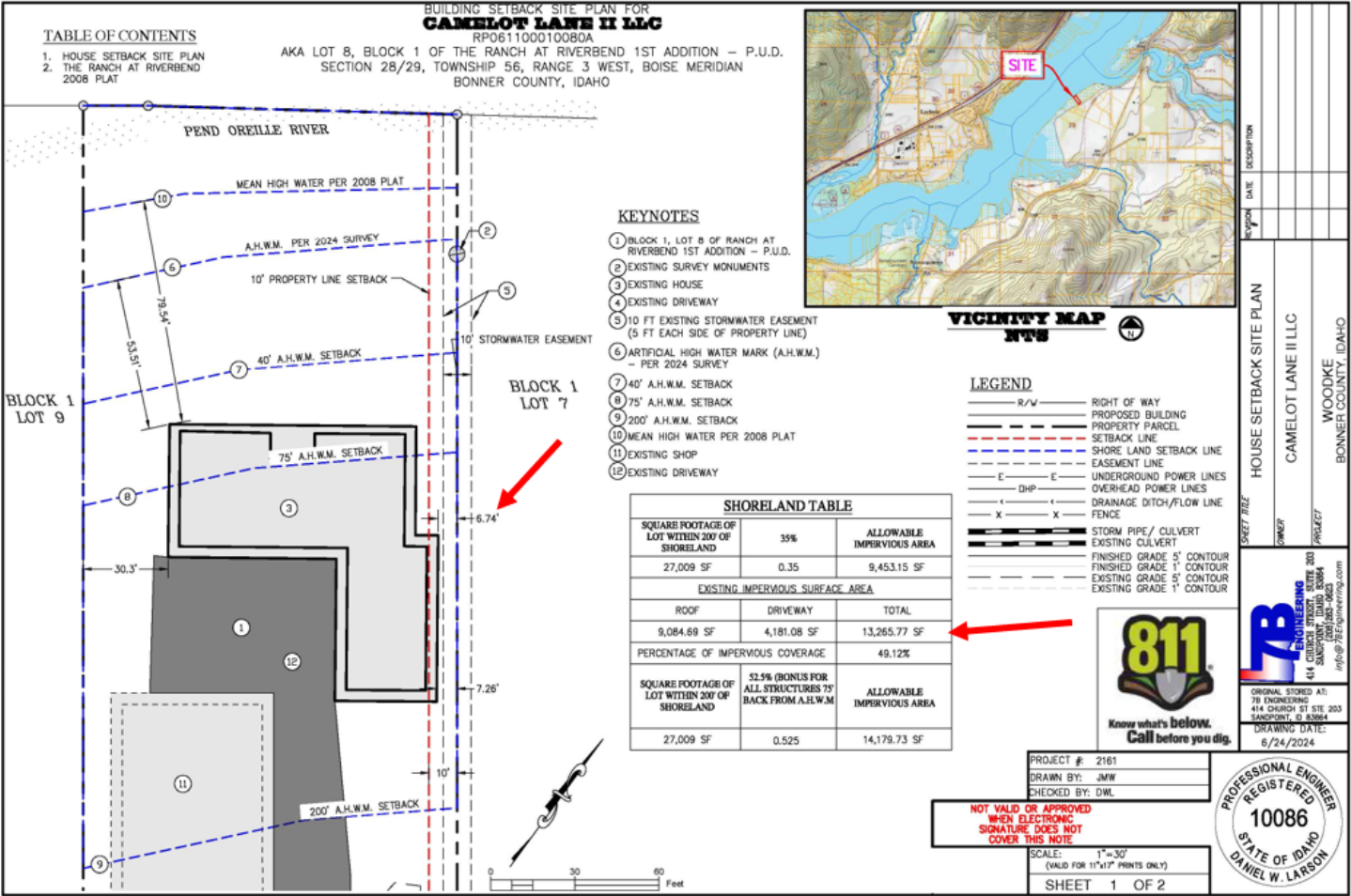
LEGAL

DESCRIPTION: 28/29-56N-3W RANCH AT RIVERBEND 1ST ADD BLK 1 LOT 8

LOCATION: The project site is located off Lariat Court in Section 12/15, Township 56 North, Range 3 West, Boise-Meridian.

ENCLOSURE: Annex A – full list of agencies notified

SUBJECT PROPERTY SITE PLAN



PROJECT SUMMARY

The applicant is requesting a 6.5' property line setback where 10' is required for the purpose of a residential home with attached garage, and also requesting an impervious surface area of 13,266 ft² where 9,453 ft² 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 12-323: Rural District
- BCRC 12-400: Development standards
- 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: 1.23-acres
- Zoning Designation: Rural 5 (R-5)
- Comp Plan Designation: Rural Residential (5-10 AC)

B. Access

Lariat Ct. is a Bonner County owned, privately maintained public right-of-way.

C. Environmental Factors

- Site does contain mapped slopes (USGS).
- Site does contain water frontage on the Pend Oreille River.
- Soils - Wrencoe silty clay, 0 to 2 percent slopes
- Site contains SFHA Zone AE per FIRM Panel #16017C0925E, effective 11/18/2009

D. Services

- Water: Community water system
- Sewage: Community septic system
- Fire: Sagle 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	Rural Residential (5-10 AC)	Rural Residential (5-10 AC)	Residential, 1 SFD

North	Pend Oreille River	Pend Oreille River	Pend Oreille River
East	Rural Residential (5-10 AC)	Rural Residential (5-10	Residential, 1 SFD
South	Priest Lake	Rural Residential (5-10	Vacant
West	Rural Residential (5-10 AC)	Rural Residential (5-10	Residential, 1 SFD

AGENCY ROUTING

Please refer to Annex A for a complete list of the agencies that were routed on this file.

The following agencies replied with comments:

Bonner County Floodplain Review -

JRJ, 8.22.2024: Parcel is within SFHA Zone AE per FIRM Panel Number 16017C0925E, Effective Date 11/18/2009. For the shop on this parcel FDP2022-0010 was issued but never approved, but BLP2022-0120 BLP has been finalized. No documentation has been submitted for review and approval of FDP2022-0010 associated with this project. No further permit approvals on this parcel until this structure is approved for its FDP. For the SFD on this parcel BLP2022-0118 was opened & FDP2022-0023 was issued but never approved. Plans for V0020-24 indicated completion of the SFD structure but no documentation has been submitted for review and approval of FDP2022-0023 associated with this project. Applicants need to submit the documents for review and approval of FDP2022-0010 & FDP2022-0023 prior to review or approval of any more permits On this lot.

Department of Environmental Quality -

See comment

The following agencies replied with no comment:

**Northside Fire District
Kootenai Ponderay Sewer District**

All other agencies did not respond.

PUBLIC COMMENT

No 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: *The original lot was substantially burdened by the Floodplain of Lake Pend Oreille. It was also mostly delineated Wetlands and mitigation credits were purchased from USACE approval through the Valencia Wetland Trust. As a component of the wetland fill plan, a substantial retaining wall was required to complete the fill of the wetlands allowed while bringing that fill to at least 1-foot above the base flood elevation (a fill of approximately 8 feet).*

Staff: The original calculations for the impervious surface that the applicant submitted were performed using a 2009 record of survey depicting the ordinary high water mark (OHW). Based on that record of survey, all structures were over 75' from the OHW which allowed the 52.5% allowable impervious surface bonus to be applied. Based on these calculations, the amount of impervious surface was below the limit. Between the time of the 2009 survey and the 2024 aerial survey, there has been significant erosion of the shoreline which negatively impacts the amount of allowable impervious surface. This caused the structures to be within the 75' setback thereby necessitating a 35% impervious surface limit as opposed to the 52.5% bonus, per BCRC 12-713(A)(2). This is the reason the impervious surface is over the limit triggering the need for the variance. The applicant purchased the property on June 7, 2021. The applicant did not have any knowledge of or control over the erosion prior to the purchase of the property. Once the applicant purchased the property and became aware that the shoreline erosion was occurring, he obtained a rip rap permit from the Idaho Department of Lands and placed rip rap to stabilize the shoreline.

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

Applicant: *The applicant hired multiple specialists to deal with a multitude of challenges on this property. There was a Wetland Fill permit acquired that limited the footprint of buildable area for future construction. Once Civil Engineer prepared the Site Plans for grading and stormwater and another was contracted for Structural Design. Both were given a preliminary sketch of the home and during the detailing of the house, it was decided that the roof eaves would be exposed glue-lam beams with a 4-foot overhang. Meanwhile, the initial Civil had submitted the Stormwater Plans and associated Permits based on a smaller roof footprint from the preliminary sketches which had become the exterior walls during the Structural Design. Stormwater Permit plans were updated once the final Plans were shared but the Contractor had already poured the footings and framed the home.*

Apparent Shore Land Setbacks: Impervious area calculated within the Shore Land used the surveyed Ordinary High Water line from a 2009 Survey. An earlier Surveyed OHW from 2006 is also noted a further out into the river. The current OHW from 2024 aerial imagery shows the OHW has moved about 26 feet inland since the 2009 Surveyed line was established. The applications from the Plat through the BLP used the Surveyed lines

and not the observed OHW. It appears that the OHW line has been eroding the banks of the reservoir and is now within 49 feet of the structure. A Riprap permit has been acquired and bank stabilization has been completed but this causes the structure to not meet the 75 foot setback required for the Shore Land impervious bonus of 52 ½ allowed.

Staff: The applicant purchased the subject parcel on June 7, 2021 per Instrument No. 984578. Since the purchase, the applicant has constructed a single family dwelling, shop, dock and has stabilized the shoreline with rip rap. At some point, design change was made to extend the eaves to 4'. However, the contractor had already poured the footings, thereby necessitating the 6.5' property line setback on the east property line. This should not be an issue as that area is a drainage area for both properties. There is a 10' stormwater easement (5' on either side of the property line) that runs down the eastern 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 roof eave for which the setback variance would apply sheds into a stormwater drainage area/stormwater easement shared with the neighboring lot. Roof runoff and snow drop will be contained in this stormwater area where it is treated and detained along with the neighbors stormwater discharges.*

Staff: The neighbors within 300' as well as all taxing agencies were routed for comment. No public comments were received. No agencies submitted comments either supporting or opposing the variance request. Furthermore, the structure has been built and no apparent conflicts or public safety concerns appear to exist.

B. Stormwater Management Review

A stormwater management plan was submitted at the time of application for the building location permit. This original stormwater management plan was reviewed and approved by the Bonner County Engineering Department (BLP2022-0118). However, a revised stormwater will be required and need to be approved by the Engineering Department prior to issuance. See Conditions of Approval.

C. Staff Review Summary

The applicant had no control over the amount of shoreline erosion that occurred between the 2009 record of survey and the 2024 aerial survey. The amount of impervious surface that exists would have been allowed per the 2009 survey with the 52.5% bonus applied. Neither the engineer nor the applicant was aware that approximately 26' of shoreline had eroded during the 15 years since the 2009 survey. The 6.5' property line setback was a result of a roof design change that occurred after the contractor had already poured the footings. This should not be an issue as there is a drainage easement down this property line (5' on either side of the property line). There were no public or agency comments for or against the granting of this variance.

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 V0020-24, requesting a 6.5' property line setback where 10' is required and an impervious surface area of 13,266 ft² where 9,453 ft² 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 V0020-24, requesting a 6.5' property line setback where 10' is required and an impervious surface area of 13,266 ft² where 9,453 ft² 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 the Pend Oreille River.
4. Parcel is within SFHA Zone AE per FIRM Panel Number 16017C0925E, Effective Date 11/18/2009.
5. The parcel is served by community water, community septic system, Sagle Fire District, Northern Lights, Inc. and Lake Pend Oreille School District #84.
6. The lot is platted per Book 11 of Plats, Page 15.
7. The zoning is Rural 5 (R-5). The current land use designation is Rural Residential (5-10 AC).
8. Access is via Lariat Court. This is a Bonner County owned and privately maintained right of way with a gravel travel way.
9. The applicant purchased the subject parcel on June 7, 2021 per Instrument No. 984578, 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. (Ord. 559, 1-4-2017)

RECOMMENDATION TO THE ZONING COMMISSION:

I recommended that the Zoning Commission conduct a public hearing for this project, File V0020-24, requesting a 6.5' property line setback where 10' is required and an impervious surface area of 13,266 ft² where 9,453 ft² is required, pursuant to the public hearing noticing requirements and procedures of Chapter 2, Subchapter 2.6 of Title 12, and based upon the extent of public comment and other contested factors in the case which warrant a hearing in front of the Zoning Commission.

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.
3. Obtain Engineering sign off on a revised stormwater plan with the current impervious surface.
4. Complete all requirements of the Flood Plain Development permits (FDP2022-0010 & FDP2022-0023).


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.

RECORD OF MAILING

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Hearing Date: October 2, 2024

File No.: V0020-24

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 3rd day of September 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
Lakes Highway District - U.S. Mail	Little Blacktail Ranch Water Association - U.S. Mail
North of the Narrows Fire District - Email	Northern Lights, Inc. - 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
West Bonner County Cemetery District - Email
West Bonner Library - Email
West Pend Oreille Fire District - 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