



## Bonner County Planning Department

*"Protecting property rights and enhancing property value"*

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### ADMINISTRATIVE VARIANCE WRITTEN DECISION

**FILE:** VA0008-24 **DATE OF REPORT** June 18, 2024  
**PROJECT:** **Approved** **APPLICATION DATE:** April 1, 2024  
**PARCEL No:** RP0011200113A0A  
**APPLICANT:** Dale & Jamie McElroy  
**REPRESENTATIVE:** Empire Construction, Jim Christie  
**SUMMARY OF PROPOSAL:** The applicant is requesting a 17'.5' street setback where 25' is required. The 0.370 property is zoned Rural 5 (R-5). The project site is located off Half Circle Drive in Section 29, Township 56 North, Range 5 West, Boise-Meridian.

#### DOES PROJECT CONFORM TO VARIANCE CRITERIA BCRC 12-234:

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:** *Due to set backs from the river on the north and setbacks on the county road, the lot is not deep enough to build the garage without using 6' of county road setback which is 25'.*

**STAFF:** 12-234 A: The shape of the parcel, the location of the single family dwelling and the required setbacks (street, property line and shoreline) limit the building envelope for the proposed garage. The size of the garage and the small amount of space between the dwelling and the west property line preclude moving the garage any further to the north. These factors also make the property unique in the zone in that no other property has this combination of characteristics or limitations.

B. Special conditions and circumstances do not result from the actions of the applicant.

**APPLICANT:** *Parcel has not been changed by landowner since purchase.*

**STAFF:** 12-234 B: The applicant has not made any changes to the parcel since purchasing it on September 14, 2020 per Instrument No. 965281.

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:** *No conflict at all.*

**STAFF:** 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. The Bonner County Road & Bridge Department stated that they are neutral on this application and that the granting of the variance will not have any impact on utilities or road maintenance. No comments opposing this application were received from either agencies or individuals.

### **AGENCY ROUTING**

Agency routing memo sent: April 30, 2024

The following agencies were routed for review and comment:

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

### **PUBLIC COMMENT**

Notice mailed: April 30, 2024

### **FINDINGS OF FACT:**

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-238 Administrative Variances, BCRC 12-234 Variances, Standards for Review of Applications, BCRC 12-400, et seq., and BCRC Density and Development Standards if affected by the variance.
2. The property is zoned Rural 5 (R-5)
3. Slopes - The site does contain mapped slopes per USGS.
4. Wetlands - The site does not contain mapped wetlands per NWI.
5. Waterfront - The site does contain frontage on the Ponderay River.
6. Parcel is within SFHA Zone AE per FIRM Panel Number 16017C0865E, Effective Date 11/18/2009. An FDP will be required for the proposed development. Recommend adding this condition to the variance if approved. No further floodplain review is required on this proposal.
7. The parcel is served by individual well, individual septic system, West Ponderay Fire District, Avista Utilities and Lake Pend Oreille School District #83.
8. The subject lot is platted per Instrument No. 1021206 ,Book of Plats 20, page 55, records of Bonner County.
9. The subject lot has a land use designation of Rural Residential (5-10 AC) and is zoned Rural 5 (R-5).
10. Access is via Half Circle Dr., a Bonner County owned and privately maintained gravel road.

## CONCLUSIONS OF LAW:

Based on the foregoing findings, the following conclusions are adopted. The proposed administrative variance in accord with the purposes of Title 12. This action does not result in a taking of private property. The action that could be taken to obtain the administrative variance is to complete the Conditions of Approval as adopted.

1. This proposal was reviewed for compliance with the criteria and standards set forth at Sections 12-233 and 12-234, Bonner County Revised Code, storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.
2. 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.
3. Special conditions and circumstances **do not** result from the actions of the applicant.
4. 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)

## CONDITIONS OF APPROVAL:

1. The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
2. A Floodplain Development Permit shall be obtained prior to issuance.
3. 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.

## NOTICE OF ADMINISTRATIVE DECISION:

**NOTE:** This determination may be appealed to the Board of County Commissioners by notifying the Planning Director in writing of the intent to appeal within ten (10) working days from the date of the determination along with the applicable appeal fee of \$380. Upon receipt of an appeal, the Planning Director will schedule a meeting with the Board within ten (10) working days to hear the appeal and will provide written notice to the appellant of the time and place of the meeting. The Planning Director and appellant will be provided an opportunity to present the relevant issues to the Board at that meeting. The Board's decision shall be final and further recourse of the appellant shall be to the Courts as provided by law. If no appeal to the Board is filed, the Planning Director's decision shall be deemed final. (BCRC, §12-261).

Following any final decision concerning a site-specific land use request, the applicant has a right to request a regulatory taking analysis pursuant to Section 67-8003, Idaho Code (*Idaho Code §67-6535(3)*).

Please contact this department if you have any questions.

Sincerely,

Planning Department

## ANNEX A

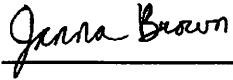
### RECORD OF MAILING

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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 30th day of April 2024.



Janna Brown, Administrative Assistant III

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. Fish & Wildlife Service - Email

West Bonner County Cemetery District - Email

West Bonner Library - Email

West Pend Oreille 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