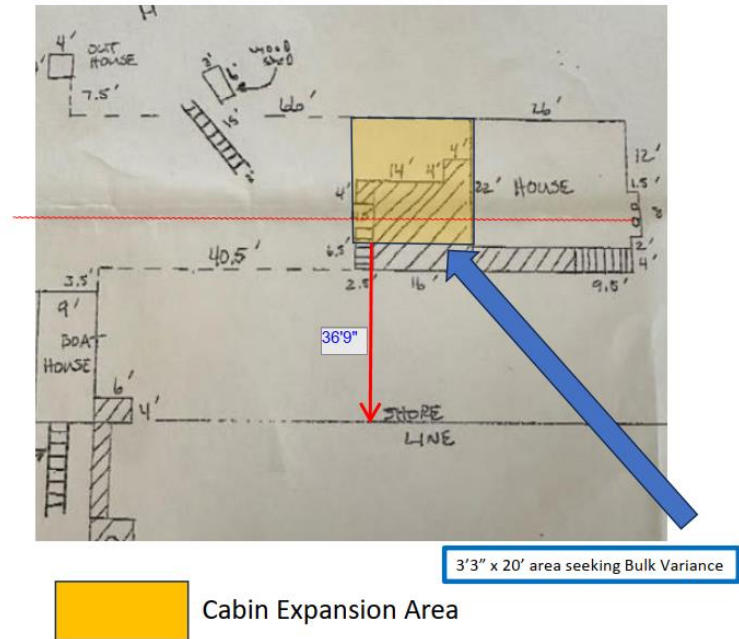
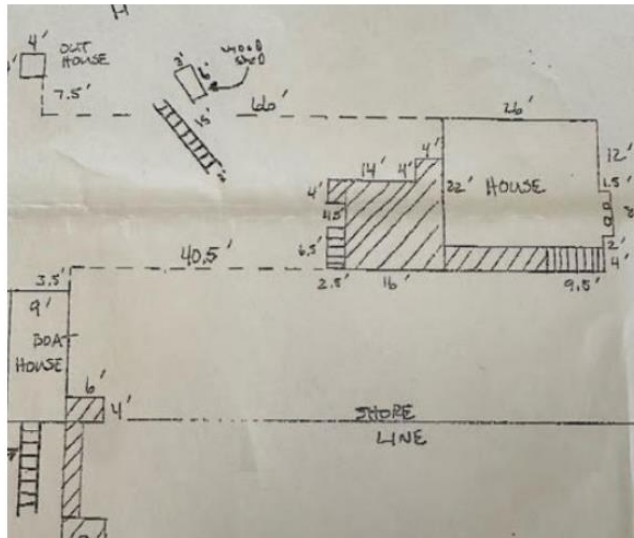


SUBJECT PROPERTY SITE PLAN

Existing Site Plan



PROJECT SUMMARY

The applicant is requesting a 39.02% bulk increase to a non-conforming structure and a 36'9" waterfront setback where 40' is required to construct an addition to a residential structure. The property is located off W Horton Creek Road, a privately owned and privately maintained road. The property is zoned Recreation (REC) and is generally located in Section 3, Township 60 North, Range 04 West, Boise-Meridian.

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 12-711: Shoreline Setbacks
- BCRC 12-7.2, et seq.: Grading/erosion/stormwater
- BCRC 12-800 et seq.: Definitions

BACKGROUND

A. Site Data

Land Use: Residential

Platted, State Subdivision – Horton Creek
 Size: 1.590 acres
 Zoning Designation: Recreation (REC)
 Comp Plan Designation: Resort Community (0-2.5 AC)

B. Access

W Horton Creek Road, a privately owned and privately maintained road.

C. Environmental Factors

Site does contain mapped slopes (USGS).
 Site does contain mapped wetlands. (USFWS)
 Site does contain water frontage on Priest Lake.
 Site contains SFHA Zone AE and Zone X per FIRM Panel #16017C0225F, effective 07/07/2014.

D. Services

Water: Priest Lake
 Sewage: Community System
 Fire District: East Priest Lake Fire 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	Resort Community (0-2.5 AC)	Recreation (REC)	Residential, 1.590-acres.
North	Resort Community (0-2.5 AC)	Recreation (REC)	Residential, 1.660-acres.
East	Remote Ag/Forest (40+ AC)	Forest 40 (F)	Undeveloped State Land, 96.050-acres
South	Resort Community (0-2.5 AC)	Recreation (REC)	Residential, 1.590-acres
West	Priest Lake	Priest Lake	Priest Lake

NOTICE OF PUBLIC HEARING

Neighbors within 300 feet of the boundaries of the parcel and public agencies were notified of this request on February 18, 2025. A comprehensive list of the public agencies notified of this request can be found in Appendix A of this Staff Report.

Bonner County Floodplain Review - Email

KS 03/03/2025: Parcel is within SFHA Zone AE and Zone X per FIRM Panel Number 16017C0225F, Effective Date 7/7/2014. Per county GIS and site plan the proposed development is within SFHA Zone X. No further floodplain review is required on this proposal.

GIS Addressing

MC 2/24/2025: Complete. No addressing concerns

Idaho Department of Environmental
Quality (DEQ) - Email

No comment.

Idaho Department of Fish & Game -
Email

No comment.

Idaho Transportation Department-
District I - Email

No comment.

Panhandle Health District - Email

Amanda Cerise: "It appears this application for a variance includes the addition of a bedroom. This property has an individual septic system (93-09-78497) within a community drainfield lot. There shall be no additional bedrooms without proper permits and approvals for the current septic system".

PUBLIC COMMENT

Public comments were received at the time of this staff report.

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 subject parcel slopes steeply, averaging well over 40% toward the lake and as a result the design and construction of any area for building expansion requires some additional flexibility to avoid extraordinary excavation and engineering. The applicant has no control over the slope of the lot. Other lots in the subdivision have been granted lake setback even though they are subject to far less intense sloping or grade. See photo of 82 W Horton Creek Road in exhibits. Additionally, the area that the Mackin's desire to enclose is already improved with a deck and therefore is legally nonconforming in terms of the setback from the lakeshore. Although the request would convert outside deck area to habitable living space, the action does not represent NEW encroachment of improvements into the lakeshore setback, only a conversion from deck to enclosed space.

Staff: The property does contain mapped slopes ranging from 0-30% according to GIS LiDAR data. The property contains frontage on Priest Lake and is located within FEMA SFHA Zone AE and Zone X. The proposed structure is located within SFHA Zone X, which does not require any floodplain development permitting. Other lots within the vicinity appear to also be encumbered by steep slopes, which could make development difficult.

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

Applicant: Special conditions and circumstances are not the result of the Mackin's actions. They had no control over the original layout or placement of their cabin in relation to the adopted lakeshore setbacks. Their desire is to maintain the architecture integrity of the cabin and to create a small expansion that is aligned with the existing façade of the cabin. If the entire cabin were 3'3" further uphill, away from the shoreline, this could be accomplished without necessitating a request for a Bulk Variance. Unfortunately, the cabin was placed in the current location prior to the establishment of the BCRC shoreline setback standards and therefore there is no alternative way to expand the cabin while maintain the façade with one plain facing the lake.

Staff: The applicant obtained ownership of this property on September 15, 2015 by State of Idaho Deed, Instrument #882995. There is no evidence that the applicant has changed the size, shape, or topography of the property since obtaining it. According to Assessor data, the existing dwelling was built in 1960 with a shoreline setback of 36'9". The applicants intend to convert existing deck into habitable space which would prevent the need for further excavation of the lot and the creation of more impervious surface within the shoreland.

- (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: In an effort to provide comprehensive relief, transparency and to approach the challenges of building on this lot, the property owner has chosen to seek a variance whereby additional flexibility to the standards may be granted. The County is required to find that the granting of a variance will not be in conflict with the public interest, public health, safety, or welfare or materially injurious to properties or improvements in the vicinity of the subject parcel. We believe that the requested Bulk Variance from Bonner County Code will have no detrimental impact on the safety of property in the area and in fact that if approved, will benefit the environment by reducing or elimination the need to excavate further upslope and minimize the need for disturbing the natural slope. As can be witnessed on the abutting property to the north, a similar expansion of the original State Cottage improvements has occurred within the established 40' setback.

Staff: No comments from the public or any public agency or taxing district were received that stated that the proposed project would be detrimental to the public health, safety, or welfare or be materially injurious to the surrounding properties or improvements within the vicinity of this project.

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

Many lots in the vicinity of the subject property must deal with excessive slopes when developing, which can prove to be challenging. The applicants are requesting to convert existing deck space into habitable space which could prevent the need for further excavation of the lot or the creation of additional impervious surfaces within the shoreland. There is no evidence that the applicant has changed the property in any way that would require this variance.

No public or agency comments were received that indicated this proposal would be detrimental to the public health, safety, or welfare or be materially injurious to the properties and improvements within the vicinity.

Planner's Initials: KS

DECISION OF THE HEARING EXAMINER

DECISION TO APPROVE: I approve this project V0001-25, requesting a 39.02% bulk increase to a non-conforming structure and a 36'9" waterfront setback where 40' is required to construct an addition to a residential structure, 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 motion 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 V0001-25, requesting a 39% bulk increase to a non-conforming structure and a 36'9" waterfront setback where 40' is required to construct an addition to a residential structure, 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 motion 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 property is zoned Recreation (REC).
- 2.The property is accessed off W Horton Creek Road, a privately owned and privately maintained road.
- 3.The property contains mapped lake wetlands per NWI.
- 4.The property contains frontage on Priest Lake.
- 5.The property is located within FEMA SFHA Zones AE & X.

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)

CONDITIONS OF APPROVAL:

Standard Conditions:

1. This variance shall not supersede 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.
3. Obtain a Building Location Permit for the addition from the Planning Department.

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.

Appendix A – Notice of Public Hearing Record of Mailing

RECORD OF MAILING

Page 1 of 1

File No.: V 0 0 2 8 - 2 4

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 **18th** day of **February 2025**.



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

Little Blacktail Ranch Water Association - U.S. Mail

Northern Lights, Inc. - 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

North of the Narrows Fire District - Email

Northland/Vyve Cable Television - 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