

This appeal requests reversal of the Bonner County Zoning Commission's (BCZC) denial (see attachment) of Variance 0036-25 on 14May2026. The decision was arbitrary and capricious, exceeded the commission's authority in several respects, and is not supported by substantial evidence in the record. The requested variance is the minimum necessary to address the property's unique physical constraints and create a safe off-street parking area without conflicting with the public interest, satisfying Bonner County Code section 12-234 A-C. I have attached supporting documents to this Appeal, including photos, plans and emails.

As per the instructions for the Notice of Appeal, *Grounds for Appeal (GA)* include that the decision of the BCZC was at a minimum:

1. *In violation of constitutional or statutory provisions;*
2. *In excess of the statutory authority of the commission or hearing examiner;*
3. *Made upon unlawful procedure;*
4. *Arbitrary, capricious or an abuse of discretion; or*
5. *Not supported by substantial evidence on the record as a whole.*

I am convinced the GA examples 2,4 and 5 were evident in the Zoning Commissions decision. My reasons are outlined below:

Our home is at 1102 Sherwood Beach Rd, about a mile north of Coolin, ID, and is waterfront Priest Lake property. This property has:

- a narrow front lot,
- steeply descending terrain (see attached IMG_5913),
- limited buildable area,
- an existing narrow, exposed and descending gravel parking arrangement shared with our neighbor's property and fully in the road right of way that, on our property, barely fits a little over one vehicle (see attached IMG_5919),
- heavy exposure to roadway and tree debris,
- no reasonable alternative location.

These facts are exactly what variance law is generally concerned with.

I am requesting a variance which will allow a garage and attached carport to be built less than 25' from the edge of this road, due to the spacial restrictions inherent in the steeply sloped and narrow landscape, which will result in a safe parking area on this property. As seen in attached IMG-5914 & 5915, the garage will be built approximately 21-22' from the edge of Sherwood Beach Rd.

The BCZC stated in its hearing (timestamps from this hearing are provided throughout this appeal for reference purpose) that variances are granted for "right or special privilege for *undue hardship* because of site characteristics" and that variances "must not conflict with public interest." (1:15:46) They acknowledged that this variance would not conflict with such interests (1:15:04), but assumed the steep slope of the property was the undue hardship (1:15:46), and stated that a garage would not solve the undue hardship. However, the steep slope is not the hardship, instead the unique physical conditions of the property—not the owner's preferences—*create* the hardship. The undue hardship is the current lack of safe parking that would protect our vehicles from the road and elements as currently situated.

The commission listed two public utilities that either oppose the variance or caution against it. The *Bonner County Road & Bridge* (BCRB) department assumed - without visiting the site from what I gather - that the garage *could* be damaged by their plows (1:07:10), and suggested that the garage be made of something they call "Damage Resistant Construction." There is no building code guidance in our community for such a requirement, as stated in this meeting (1:09:50). We are determined that this garage will be of a small footprint, cause minimal disruption to the surrounding foliage, and be of a design that complements the neighboring architecture. Building it of concrete as suggested would at best be an absolute eye sore, but also introduce difficult engineering challenges to deal with such a heavy structure on the sloped footprint. The building plan as imagined by my engineer is attached ("*Sherwood Garage Plans*"), and perfectly satisfies our design determination. BCRB also requested a waiver of liability from any damages they might cause in the future. Their waiver request is unnecessary and unreasonable, as I can attest that while staying at the home this winter, the large roadside snow piles from their plows, in a 20 mph zone where they plow much slower than that while passing our property due to road curves, never got close to where the garage would be built (we are asking for only a 3-4' variance after all). If a waiver was necessary, then it would have been necessary for our house as well, as it sits within the BCRB's stated and arbitrary projectile damage field. No damage to our home from their work has ever occurred. The commission also mentioned a caution from *Coolin Sewer District* (CSD) that the garage *could* encroach on the easement for the main sewer line (1:11:09). They explained that outside of this easement, utilities

have no jurisdiction (1:02:38). This concern was answered satisfactorily by my engineer, who in discussions with CSD was informed that no such encroachment exists. My engineer contacted CSD, who located the sewer lines which are in the middle and side of Sherwood Beach Rd, and are over 20' from the proposed garage (see attached "*Variance Appeal - CSD Main Line*"). The lack of supporting evidence for CSD's caution meets GA #5 requirements.

Early in the hearing (58:18), Comm. Pound expressed concern that we would build an apartment on top of the approved garage if he approved the variance, and that we could even build a 40 story high unit if he allowed it. He was instructed by the Asst Planning Director at 59:20 that the BCZC was convened solely to discuss variances, not construction. Comm. Pound's bizarre statement about building a 40 story unit above the garage - he later even stated I would build a full house on top of the garage if the variance was approved (59:44) - demonstrate that the Zoning Commission considered speculative future construction unrelated to the variance request before it. Because the commission's authority in this proceeding was limited to the requested variance, reliance on hypothetical future development exceeded the scope of the issue before the commission and constitutes evidence supporting GA 2, 4, and 5. To be 100% clear, I am asking for a variance to allow a small single-car garage and carport ONLY so that I can safely protect my vehicles from the elements, and nothing more.

Comm. Johnson suggested that the "view" could be compromised by this garage. Again, she was cautioned by Comm. Blaser that this concern is not within her authority (GA #2), but for the record, due to trees and bushes lining the sides of our house, there is presently barely a "view" of the lake from the proposed garage location (see attached IMG_5916), and the sliver of a lake view would regardless remain post-construction. She also suggested that the garage be moved closer to the house (1:03:20). My GC, my engineer and I have considered this, but aesthetically and by the steep slope of the land, the location depicted in our plans was painstakingly considered to create the least necessary setback variance, that would allow the least intrusive footprint and least possible change to the landscape. Moving the garage closer to the house creates a much greater footprint due to the landscape's steep slope, as the driveway to the structure would lengthen significantly and the rear support structure would grow precipitously taller, yet would still require the same road end of built-up structure to access parking - with the garage having the exact same footprint and location as the one drawn up by Sewell and Associates. This would also unnecessarily require the removal of many young and mature trees, which I have avoided so far. Comm. Johnson's concerns bear no merit, and meet GA 2 and 5.

The hearing record repeatedly references my absence as a factor in two of the commissioners' deliberations. Attendance by an applicant is not a statutory criterion for granting or denying a variance, and consideration of that factor was outside the legal standards governing this decision. Repeatedly, at 1:04:28 and again at 1:21:23, Comms. Pound and Johnson referred to my absence, going so far as to disparagingly state that I showed a lack of "care or concern" about the variance process, and that my absence showed that I "seemed to have little interest" as well. Consequently, they were counseled yet again by Comm. Blaser that their (false) assumption was not within their authority (GA 2,4 and 5 requirements met). It should be noted that only these two commissioners voted 'nay.'

The reason for my absence is a relatively simple one: I had no idea when the hearing would be held nor that I could even attend, despite numerous contacts with the Planning Department. I put in the variance application in January '26 and my understanding of this process after speaking with all parties involved was that it had a high chance of success due to previous approvals and its routine nature (there are several structures along Sherwood Beach Rd that are closer to the edge of the road than my proposal). In January, I was informed by the Planning Department to keep my fingers crossed for an April hearing. By April, and after several phone calls to the department, there was still no hearing, and I was informed perhaps I'd get lucky with a May hearing. The impression I had during this lull was that I was to just standby til the hearing was completed. At the end of May, my engineer informed me that the hearing was held earlier in the month and that the variance was denied. The letter of denial was finally issued on June 12th. At no time during this waiting period was I informed by the Planning Department of the scheduled date of the planned hearing, or that it would be possible or beneficial for me to attend. Had I known of this, I would absolutely have attended the hearing with all supporting documents in hand. Instead, the nay-voting commissioners were clearly frustrated by my absence. I would like the commissioners to know personally that my absence from their hearing had nothing to do with a lack of a care or concern for the process, but instead it was a lack of awareness that attendance was a possibility.

For the record, prior to the variance denial by the Bonner County Zoning Commission, I had paid nearly \$10,000 to my engineer for various geological site studies and building plans, and to the planning department for the numerous required fees, and now I am paying an additional \$330+ for this appeal process. I do not take the construction of this structure lightly, and have made certain to cross every 'T' and dot every 'I' that I knew to exist in order to have a positive outcome. As a former combat US naval aviator and flight instructor, I make sure the paperwork gets done.

Having said this, the commissioners numerous statements in the Zoning Commission hearing of 14May2026 meet examples 2, 4 and 5 of the Grounds for Appeal. For the foregoing reasons, and because the record demonstrates that the requested variance satisfies the applicable legal standards while the denial relied in part on considerations outside the commission's authority, I respectfully request that the Board reverse the decision of the Bonner County Zoning Commission and approve Variance 0036-25.