

BONNER COUNTY PLANNING DEPARTMENT

ADMINISTRATIVE DECISION LETTER

ADMINISTRATIVE VARIANCE – File VA0008-25



This application has been reviewed against the standards for a variance in Bonner County Revised Code 12-234 and it has been determined that the request **has met** the criteria based on the findings of fact and conclusion of law. The referenced application is hereby administratively **approved** per the review below.

FILE #: VA0008-25	DATE OF REPORT: 05/19/2025
APPLICANT: Judy Marchiando	REPRESENTATIVE: Nathan Petersen
PARCEL NUMBER(S): RP00222000012AA	
SUMMARY OF PROPOSAL: The applicant is requesting a 33' shoreline setback where 40' is required is required for the purposes of constructing a deck. The property is zoned Suburban (S). The project site is located off Riley Creek Park Drive in Section 36, Township 56 North, Range 04 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.	<p>APPLICANT: <i>"The applicant has conditions out of her control in that the Ponderay River is at the South border of her property. The property and home location on property are preexisting. The applicant would like a deck off of the back of her home and would need a flight of stairs to access the lower portion of her lot towards the river as it is a steep hill and has terraces".</i></p> <p>STAFF: According to GIS LiDAR data, the subject parcel contains slopes ranging from 0% to over 30%, primarily along the property line adjacent to the Pend Oreille River. The lot lies within both SFHA Zone AE and Zone X; however, based on the submitted site plan, the proposed development is located entirely within Zone X, which does not require floodplain development permitting. Per the application, the applicant is intending to build a deck and stairs in order to access the lower portion of the property. Although these site conditions are common to properties in the surrounding area, they still can present challenges during development.</p>

<p>B. Special conditions and circumstances do not result from the actions of the applicant.</p>	<p><u>APPLICANT:</u> <i>"No special conditions or circumstances resulted from the applicant".</i></p> <p><u>STAFF:</u> The applicant acquired the subject property on August 9, 1988, via Warranty Deed (Instrument No. 351642). According to the Assessor's records, the single-family dwelling was constructed in 1972. As such, the applicant had no involvement in the original placement of the structure or its existing proximity to the shoreline. Additionally, there is no evidence that the applicant has altered the lot's size, shape, or topography since taking ownership.</p>
<p>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:</p>	<p><u>APPLICANT:</u> <i>"Granting the applicant the variance will not be detrimental to any public health, safety or welfare and it is necessary and compatible with almost all other homes in the area with water frontage in that most have decks, stairs and docks at or near the water edge. The variance is on public property and is only used by applicant".</i></p> <p><u>STAFF:</u> According to comments provided by the Idaho Department of Environmental Quality (DEQ), maintaining development setbacks from stream banks and lake shorelines is critical to protecting water quality. While an individual variance may have a limited immediate impact, the cumulative effect of development encroaching on these sensitive areas poses a significant threat to water quality. Therefore, established setbacks should be preserved whenever possible. No other agency or public comments were received suggesting that the proposal would 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.</p>
<p>AGENCY ROUTING and PUBLIC NOTICE</p> <p>This notice was mailed to political subdivisions, property owners within 300 feet of the subject property, and the media on Thursday, April 17, 2025.</p> <p>The following agencies commented:</p> <p><i>Idaho Department of Environmental Quality Northern Lights, Inc.</i></p> <p>The following agencies replied "No Comment":</p> <p><i>Bonner County Historical Society Idaho Transportation Department Kootenai-Ponderay Sewer District Panhandle Health District TC Energy</i></p>	

All other agencies did not reply.

Public Comment: At the time of this Staff Report, no public comments have been received.

STAFF ANALYSIS:

Bonner County Revised Code (BCRC) 12-231 Provides for a variance process where the County "may grant relief from the strict application of the provisions of this title where proposals conform to the standards set forth in this subchapter." BCRC 12-238 allows for an administrative review and decision if the request is a 30% deviation or less.

Staff concluded this project **is** consistent with Bonner County Revised Code based upon the following:

The subject property is legally described as Laclede River Lots, Lot 12, and the eastern 25 feet of Lot 11. The applicant did not establish the lot dimensions and was not involved in the planning or placement of the existing single-family dwelling, which left limited space for the construction of a deck.

The applicant is requesting a 17.5% deviation from the waterfront setback requirement outlined in BCRC 12-711, seeking approval to construct the proposed deck 33 feet from the ordinary high water mark.

Approval of this variance would not conflict with the public interest. Property owners within a 300-foot radius of the subject site were notified of the application, and no public comments were received.

FINDINGS:

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 Suburban.
3. The subject lot is 0.409-acres.
4. The property contains slopes from 15-30+% along the property line fronting the Pend Oreille River.
5. The subject lot is within SFHA Zone AE and Zone X per FIRM Panel Number 16017C0895E, Effective Date 11/18/2009.
6. The subject lot is served by Laclede Water for water, individual septic for sewer, West Side Fire District, and Northern Lights, Inc. for power.

CONCLUSIONS: Based on the foregoing findings, the following conclusions are adopted. The proposed administrative variance **is** 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.

CONDITIONS OF APPROVAL:

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 will not supersede any deed restrictions.

NOTE: Any determination made by the Planning Director in the administration of the provisions of this title may be appealed to the Board by paying the required fee and notifying the Planning Director in writing of the intent to appeal within ten (10) working days from the date of the determination. Within ten (10) working days of receipt of an appeal, the Planning Director shall schedule a meeting with the Board to hear the appeal and shall provide written notice to the appellant of the time and place of the meeting. The Planning Director and appellant shall be provided an opportunity to present the relevant issues to the Board at that meeting. The appellant bears the burden of proof and may be responsible for costs incurred for producing such proof, including engineering or surveying documents or other evidence. The Board's decision shall be final, and further recourse of the appellant shall be as provided by Idaho Code. 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,



Alex Feyen, Assistant Director