

BONNER COUNTY PLANNING DEPARTMENT

DECISION LETTER/REASONED STATEMENT

ADMINISTRATIVE VARIANCE



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 #: VA0027-25		DATE OF REPORT: October 7, 2025	
APPLICANT: Neal Hughes		REPRESENTATIVE: Neal Hughes	
PARCEL NUMBER(S): RP059550010140A			
SUMMARY OF PROPOSAL: The applicant is requesting a Variance to the setback standards, to allow a 28-foot shoreline setback, where 40 feet is required.			
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: <i>"Because of slope of property. Multiple easements go throughout property. Road snakes through the property. Coolin Sewer line is outside of utility easement but through the building envelope."</i> STAFF: The subject lot is similar in size and shape to neighboring lots, with similar sloping. However, the subject lot is intersected three times by E. Cavanaugh Bay Rd., as well as two other private ingress/egress easements, multiple platted utility easements, and the Coolin Sewer District lines and overhead utility lines which were placed outside of the platted easements. The flat area of the building envelope is the area encumbered by the Coolin Sewer District lines, as they chose the flattest, easiest route for placement, rather than the dedicated easement, which is also noted on the Plat. This leaves very little room to build without encroaching into setbacks.	
B. Special conditions and circumstances do not result from the actions of the applicant.		APPLICANT: <i>"Purchased property from state auction on Sept. 2020, and all these conditions existed at time of sale."</i> STAFF: The applicant purchased the property in September 2020 under instrument #966164. The existing easements, platted easements, and location of existing utilities were all existing at that time. The plat of Cougar Creek was recorded with these conditions in 2013, under instrument	

	#840104. Per the plat, Lot owners have the right to re-route the utilities traversing their lot, at their expense, to within the existing easement. The owner attempted this, but Coolin Sewer District is fighting it. Additionally, it is not possible to re-route the sewer lines, without adjusting the lines on neighboring parcels, where the enter and leave the subject lot. This constraint does not result from actions of the applicant.
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: <i>"We are not building over utilities, not blocking views, not blocking any easements or access. By building closer to the water we are avoiding the slopes to avoid roadway access for easement interference."</i> STAFF: The proposal is a deviation to one setback along the shoreline, while it allows all other setbacks to be met, and minimizes encroachments into easements and as-built utilities. Preventing disturbance to utilities, relocating, and not encroaching into rights-of-way is the least impactful on the surrounding community. The proposal will not block views from any other property, nor cause undue hardship on the community. It does not appear to be 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 lot. Several public comments were received, addressing the existing constraints, the purchase price of the property, and the net worth of the applicants. There were comments about the structure being started prior to issuance, and disapproval of variances in general. No comments identifying hazards or impacts were received from the public, except for a mention of riparian zones, which are not proposed to be disturbed with this project. The applicants also obtained a Building Location Permit, and received an initial inspection, before construction, and now seek to expand a portion with approval of this variance.
AGENCY ROUTING This notice was mailed to political subdivisions, property owners within 300 feet of the subject property, and the media on September 4, 2025. The following agencies commented: <i>Bonner County Planning/Floodplain Review</i> <i>Bonner County Historical Society</i> <i>Idaho Department of Environmental Quality</i> <i>Idaho Department of Fish and Game</i> <i>Idaho Department of Water Resources</i> <i>Idaho Department of Lands</i> The following agencies replied "No Comment":	

Kootenai/Ponderay Sewer District
Panhandle Health District
TC Energy

All other agencies did not reply.

Public Comment: At the time of this Staff Report, public comments had been 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 Recreation (Rec).
3. The subject lot is 2.00-acres.
4. The property contains slopes of 15-30%+.
5. KS 10/2/2025: Parcel is within SFHA Zone AE and Zone X per FIRM Panel Number 16017C0225F, Effective Date 7/7/2014. Per the submitted site plan and county GIS the proposed development is within SFHA Zone X. No further floodplain review is required on this proposal.
6. The project site is accessed by E. Cavanaugh Bay Road, a privately owned and maintained easement.
7. The parcel is served by Granite Creek Water District and Coolin Sewer District per the application.
8. BLP2024-0151 has been issued for this project.

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. (Ord. 559, 1-4-2017)

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.
3. BLP2024-0151 shall be updated with a new site plan showing setbacks.

NOTE: Any determination made by the Planning Director in the administration of this decision may be appealed to the Board of County Commissioners by notifying the Planning Director in writing of the intent to appeal within ten (10) calendar days from the date of this determination. (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,

A handwritten signature in black ink, appearing to read 'Alex Feyen', written over a horizontal line.

Alex Feyen, Interim Planning Director