Bonner County Planning Department

"Protecting property rights and enhancing property value"

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Judy Totten
Judy W Totten Revocable Living Trust
[redacted]

November 16, 2026

Re: File #V0020-26, Variance Shoreline Setback
Exhibit A Reasoned Statement

To Judy Totten

I, Allan Songstad Hearing Examiner, hereby deny this request FILE V0020-26, for a Variance to the setback standards to allow for a 2-foot shoreline setback, where 40 feet is required, for an existing cabin and deck, based upon the following conclusions:

Conclusion 1

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.

Conclusion 2

Special conditions and circumstances do result from the actions of the applicant.

Conclusion 3

The granting of the variance is in conflict with the public interest in that it will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements and the lake in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

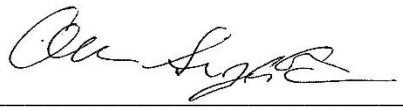
This decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further adopt the reasoned statement as discussed in deliberation at this hearing and as attached hereto as Exhibit A, as stipulated in Idaho Code §67-6535, and adopt the analysis as presented in the Staff Report. 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 decision to the County Commissioners within 28 days of the issuance of this written decision.



Allan Songstad
Hearing Examiner

Bonner County Planning Department

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LAND USE DECISION-MAKING WORKSHEET
VARIANCE

Idaho Code §67-6535 (2): The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

STANDARDS FOR REVIEW:

Prior to approving a Variance, the governing body shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that such use at the proposed location.

Idaho Code §67-6516		Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.
YESx	NO	List the relevant evidence from the record that supports your conclusion and the rationale for the conclusion.
The county has adopted an ordinance that complies with this section.		

BCRC 12-232		**GENERAL PROVISIONS** A variance is a modification of the bulk and placement requirements of this title as to lot or parcel size, lot coverage, width, depth, setbacks, parking space size, or other provisions of this title affecting the size or shape of a structure or the placement of a structure upon a lot or parcel, or the size of the lot or parcel.
YESx	NO	List the evidence from the record that supports your conclusion and the rationale for the conclusion.

The county has adopted variance standards and this application is requesting a variance to the shoreline setback standards to allow a 2 foot setback from the shoreline where 40 feet is required.

BCRC 12-233		**APPLICATION, CONTENTS**
YESx	NO	List the evidence from the record that supports your conclusion and the rationale for the conclusion.

The application is complete for the variance requested although further documentation should be provided if a disability issue is to be considered or if a different setback may be appropriate rather than the 2 feet requested

BCRC 12-234 (A)		**VARIANCES, STANDARDS FOR REVIEW OF APPLICATIONS** 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.
YES	NO	List the evidence from the record that supports your conclusion and the rationale for the conclusion.

The subject lot is Zoned for 10-acre minimums and is only 0.499-acres. It was platted in 1941 as a long and narrow parcel. It is unique from other properties in the vicinity, in that it is tapered more, and smaller than the neighboring parcels. The platted lots to the west are larger, and the lots to the east are smaller, but have been combined into larger parcels for building and taxing purposes. The wider portion of the lot, closer to the road, is encumbered by street setbacks and steep slopes, per GIS Lidar mapping. However, the shape of the lot does not justify such a small setback from an important water body. In fact testimony was received that the improvements could easily be moved to comply with the setback standards. Further the primary structure that is current encroaching is a deck of unknown dimensions that was constructed in 2018 or 2022.

BCRC 12-234 (B)		Special conditions and circumstances do not result from the actions of the applicant.
YES	NO x	List the evidence from the record that supports your conclusion and the rationale for the conclusion.

The subject lot was created with the Plat of Peaceful Haven on July 3, 1941 under instrument #5101. The applicant purchased the subject property on February 19, 2010 under instrument #788042. The applicant did not have any control over the size or shape of the lot. The deck and additions to the cabin were made between 2018 and 2022 per historical imagery and Assessor records, while the property was owned by the applicant. No permits were issued for these structures. The need for this variance was created by the applicant constructing the improvements and the failure to obtain required building location permits.		
BCRC 12-234 (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.
YES	NO	List the evidence from the record that supports your conclusion and the rationale for the conclusion.
This application is the result of a complaint from a neighbor, regarding the structures being placed within the setbacks, and not being permitted (ZV0037-26). Public comments were received, including from the adjoining property owner, in opposition to the request. Panhandle Health District commented that the subject structure did not have a septic permit, and Idaho Department of Environmental Quality submitted a comment on the importance of maintaining shoreland setbacks to protect water quality. The existing development took place without Building Location Permits, as well as being within the mapped floodplain, without a Floodplain Development Permit. It appears that there may be a conflict with public interest. The applicant had personal medical records that were not scanned due to privacy concerns and was advised that if she wanted deviations based on a disability, she could submit a letter stating how the deviations would accommodate her. Additionally, the application was for a cabin, and the applicant uses the parcel as her mailing address, but according to the submitted site plan, and application, there is no dwelling on this property, only a garage and storage building. ***The shoreline setbacks are required to protect a valuable and sensitive resource. A two foot setback has significant potential to degrade the water body.***		