



## Bonner County Planning Department

*"Protecting property rights and enhancing property value"*

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Greg Gaudet

September 2, 2026

Subj: File #V0006-26 Gaudet-Shoreline Setback

### Appendix A – Reasoned Statement

I, Allan Songstad, Hearing Examiner, approve this FILE V0006-26, requesting a 0' shoreline setback where 40' is required and a 50% bulk increase for the purposes of reconstructing and adding on to an existing grandfathered cabin., finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

#### 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 did not result from the actions of the applicant.

#### Conclusion 3

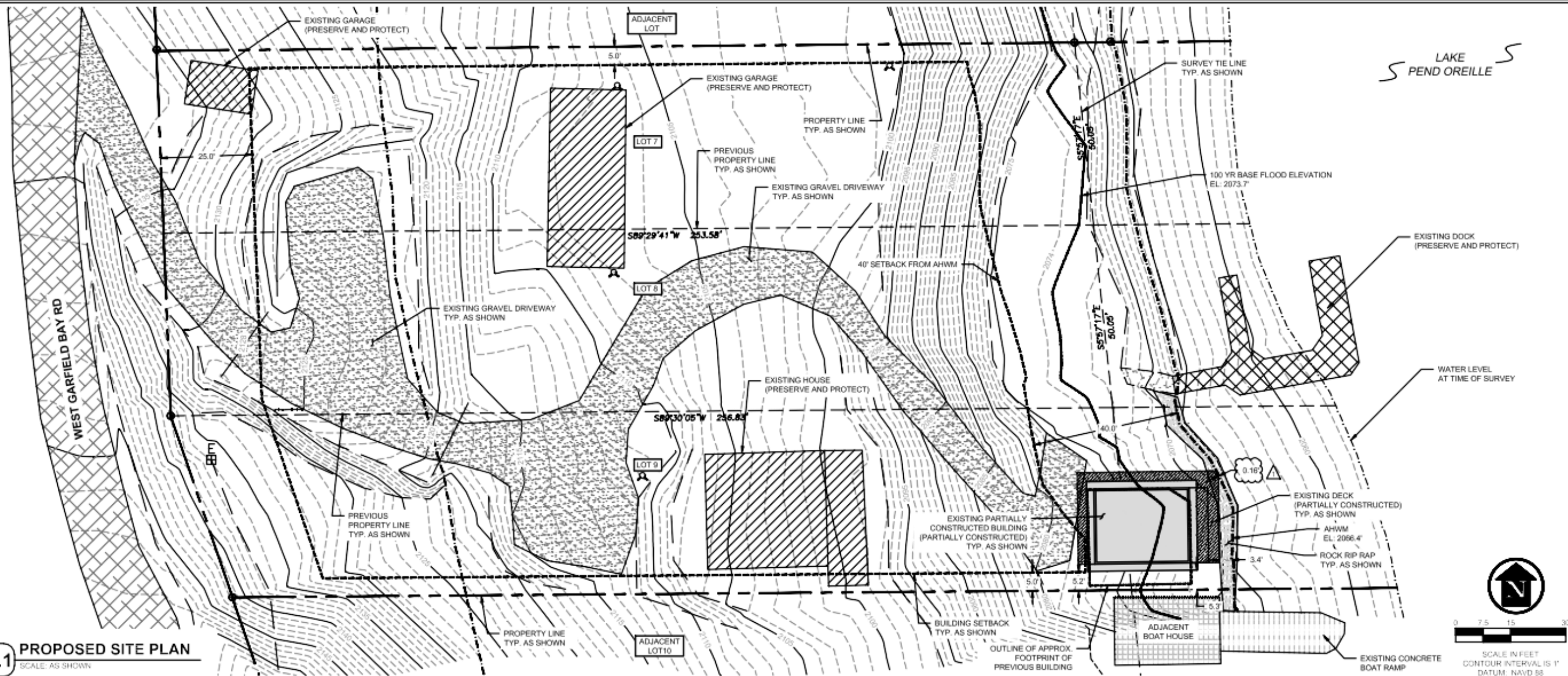
The granting of the variance is not in conflict with the public interest in that it will/will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I adopt the reasoned statement as discussed in my deliberation at this hearing and the analysis as set forth in the Staff Report as amended during this hearing. This action does not result in the taking of private property.

Signed By

A handwritten signature in black ink, appearing to read "Allan Songstad".

Allan Songstad  
Hearing Examiner





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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 VARIANCE REVIEW:

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

|                                                                                         |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Idaho Code §67-6516</b>                                                              |    | 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. |
| YES<br>x                                                                                | NO | List the relevant evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>BCRC provides standards for variances in accordance with this Idaho requirement.</b> |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>BCRC 12-232</b>                                                                      |    | <b>GENERAL PROVISIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| YES<br>x                                                                                | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                         |    | In accordance with BCRC 12-232, the applicant is seeking a 100% variance to                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |    |                                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |    | shoreline setbacks, and a 50% bulk increase to a non-conforming structure.                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |    |                                                                                                                                                                                                                                              |
| <b>BCRC 12-233</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |    | <b>APPLICATION, CONTENTS</b>                                                                                                                                                                                                                 |
| YES<br>x                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                 |
| <p><b><i>In accordance with BCRC 12-233, the applicant submitted all the required documents and the application was deemed complete on May 5, 2026.</i></b></p> <p><b><i>H. BCRC 12-234, Variances, standards for review of application</i></b></p>                                                                                                                                                                                                                                                                                                                                                          |    |                                                                                                                                                                                                                                              |
| <b>BCRC 12-234 (A)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |    | <b>VARIANCES, STANDARDS FOR REVIEW OF APPLICATIONS</b>                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |    | 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<br>x                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                 |
| <p><b><i>: The subject property contains mapped slopes exceeding 30%, which may limit the areas suitable for development and could require additional excavation prior to construction. The applicants propose utilizing the historic location of an existing structure, which is expected to minimize site disturbance and reduce the extent of grading required.</i></b></p> <p><b><i>The subject property also includes waterfront along Lake Pend Oreille and lies within a Special Flood Hazard Area Shaded Zone D (SFHA). However, SFHA D does not require a floodplain development permit</i></b></p> |    |                                                                                                                                                                                                                                              |
| <b>BCRC 12-234 (B)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |    | Special conditions and circumstances do not result from the actions of the applicant.                                                                                                                                                        |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |    |                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| YES<br>x                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                              |
| <p><b>: According to Warranty Deed Instrument No. 569246, the current owner acquired the subject property in August 2000. There is no evidence that the owner has altered the lot's size, shape, or topography since acquiring the property. Assessor records indicate that the cabin was originally constructed in 1943. According to the applicant's narrative, the structure was damaged during a storm and was subsequently condemned. The applicant is requesting this variance to allow continued use of the cabin in its historic location while reconstructing and updating the structure to meet current safety standards and improve its overall functionality. In January of 2026, a Building Violation, BV2026-0006, was initiated and a stop work order was placed on the property due to construction on the subject cabin without a permit. Subsequently, a variance application was submitted to the planning department</b></p> |    |                                                                                                                                                                                                                                                           |
| <b>BCRC 12-234 (C)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |    | 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<br>x                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                              |
| <p><b>: Both Idaho Department of Fish and Game and Idaho Department of Environmental Quality submitted comments on this proposal expressing the importance of maintaining shoreline setbacks and reducing erosion and sedimentation in waterways (Full comments can be found in Appendix B). No other comments from the public or any public agency or taxing district were received indicating 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. The property is sufficiently above lake level and the property is connected to a sewer system.</b></p>                                                                                                                                                                                                                                          |    |                                                                                                                                                                                                                                                           |
| <b>BCRC 12-7.2</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    | <b>GRADING, STORMWATER MANAGEMENT AND EROSION CONTROL</b>                                                                                                                                                                                                 |
| YES<br>x                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion.                                                                                                                                              |

|                                                                                                                                                                                                                                                                                                                                                                                                                   |                |                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------------------------------------------------------------------------|
| <b>Grading, erosion, and stormwater management concerns will be addressed during the Building Location Permit process upon approval of this variance.</b>                                                                                                                                                                                                                                                         |                |                                                                                                              |
| <b>BCRC 12-344</b>                                                                                                                                                                                                                                                                                                                                                                                                |                | Nonconforming Structures                                                                                     |
| YES<br>x                                                                                                                                                                                                                                                                                                                                                                                                          | NO             | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
| <b>: Per the application narrative and site plan, the subject structure sustained damage from a storm and needed to be reconstructed. The location of the structure was changed, and an additional story and expanded deck is proposed to be built. Based on this information, the structure no longer has a legal nonconforming status and will need an approved variance in order to continue construction.</b> |                |                                                                                                              |
| <b>BCRC 12-711</b>                                                                                                                                                                                                                                                                                                                                                                                                |                | Shoreline Setbacks                                                                                           |
| YES<br>                                                                                                                                                                                                                                                                                                                                                                                                           | <b>NO</b><br>x | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
| <b>Per BCRC 12-711 (A), the shoreline setbacks for Lake Pend Oreille is 40'. This request proposes a deviation from this standard to allow for a 0' shoreline setback. However, since this is an existing building no further setback deviation will occur.</b>                                                                                                                                                   |                |                                                                                                              |