

BONNER COUNTY PLANNING DEPARTMENT

Decision Letter



File #VA0006-19 McCluskey

Date: August 13, 2019

Tracy McCluskey
 23 Teal Lane
 Sagle, ID 83860

Dear Tracy McCluskey:

The referenced application is hereby administratively **approved** per the review below.

The applicant is requesting a 17.5 foot setback where 25 feet is required in the rear yard for the placement of an Accessory Dwelling Unit.

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.

Does Project Conform to Variance standards?

<p>BCRC12-234 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>	<p>Applicant: Irregular lot shape does not allow for typical home shape; Location of existing house limited back lot availability; maintaining grove of three large cedar trees; layout within existing setbacks would not allow for covered entry or outdoor decks/living spaces.</p>
<p>B. Special conditions and circumstances do not result from the actions of the applicant.</p>	<p>Applicant: Did not create dimensions/original home/or plant cedar grove.</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>Applicant: Will be keeping a 10' buffer of trees between ADU & neighbor. Lot is dry. Has huge swale on West side from front of lot to mid lot. Even in wettest times the swale is never full of standing water. There will be no negative impact to the best of my knowledge.</p> <p>Concerns in letters from neighbors:</p> <ul style="list-style-type: none"> • None Received <p>Agency Comments received:</p> <ul style="list-style-type: none"> • PHD: The ADU will require an approved septic tank. The current house has an approved septic tank (See Letter for more details).

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.

The applicant applied for a 30% deviation from the rear yard setback. The rear yard setback is established by BCRC 12-411 Table 4-1 Zone Rural-5: Rear yard setbacks – 25 feet. The request is to locate the proposed Accessory Dwelling Unit 17.5 feet from the rear property line. The rear property line is determined as the “A yard extending across the full width of the lot along the rear property line. This is typically on the opposite side of the lot as the front yard.” (See BCRC 12-825 Yard, Rear)

Swan Shores II, a subdivision recorded in 1991 created the subject lot tapering from approximately 160 feet in width to 63.41 feet in width with connecting sides of approximately 214 feet and 250 feet. The original intent of the plat, per the plat notes, was to access the property from Teal Lane; however, a previous landowner established the home (BLP2006-0488) and access from Gypsy Bay Road. Additionally, the applicant did not establish Swan Shores II subdivision (1991) and the current lot size and shape. Because of how front, rear, and side yards are determined by BCRC, and with the current layout of the lot, the building envelope is significantly reduced.

Staff concurs with the statements above as presented and has researched to verify subdivision development and building permits/building location permits.

Staff has reviewed the standards and responded with each standard above. As for the concerns received from PHD, BCRC 12-484 requires ADU’s to have potable water and adequate sewage disposal and will be addressed when applying for a Building Location Permit.

FINDINGS:

1. This proposal was reviewed for compliance with the criteria and standards set forth at Section BCRC 12-238 Administrative Variances, BCRC 12-234 Variances, and Standards for Review of Applications, BCRC 12-400, et seq., Development Standards if affected by variance.
2. The property is zoned Rural-5.
3. The home was built by a previous owner (BLP2006-0488).
4. Water/sewer is provided by Swan Shores II Homeowners Association, Inc.
5. Swan Shores II subdivision was created in 1991.
6. The applicant has submitted an approved LOMA.

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 plat 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:

1. The use shall be developed and shall be operated in accordance with the approved site plan.
2. The variance shall expire if not issued within two (2) calendar years from the date of approval. At any time prior to the expiration date of the variance, the applicant may make a written request to the Planning Director for an extension of the variance for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the variance.
3. A Building Location Permit must be submitted and approved before any construction occurs
4. At the time of Building Location Permit, the applicant shall concurrently submit a stormwater/grading plan or erosion control/grading plan that is compliant with the applicability and criteria set forth in BCRC 12-7.2, et seq.

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 twenty-eight (28) calendar days from the date of this determination. (BCRC 12-238(e)(1))

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,



Planning Director