

BONNER COUNTY PLANNING DEPARTMENT

Decision Letter



File #VA0007-19 Condon
 Parcel# RP55N01W085635A

Date: August 13, 2019

Lawrence Condon
 405 W. 27th Ave.
 Spokane, WA 99203

Dear Lawrence Condon:

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

The applicant is requesting a 7.5 foot setback reduction where 25 feet is required in the front yard for a second story wood frame recreational deck. This will mean a front yard setback of 17.5 feet.

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: Steep slope site with cut for access and homesite. Road surrounds three (3) sides effectively making very little of the narrow log lot buildable.</p>
<p>B. Special conditions and circumstances do not result from the actions of the applicant.</p>	<p>Applicant: Existing lot plotted long before zoning requirements and the structure was existing.</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: This proposed deck affects no public use, access, or views. It also has no visual impact within the site lines to the lake and natural areas for the neighbor property. The deck is almost completely obscured by trees and natural rise of the land.</p>

AGENCY ROUTING

The following agencies were routed for VA0007-19;

Avista Utilities – no response

Bonner County Contract Engineer – no comment

Bonner County Road & Bridge – *Road & Bridge has no objections to the proposed setback variance. The proposed structure is above Talache Road and the slope upwards from the road to the proposed deck is steep. As such, the proposed addition will not impact our snow plowing operations Talache Rd. because the slope will prevent any snow berms from reaching the deck.*

Floodplain Review – *Entire parcel is within SFHA Zone D, per FIRM Panel 16017C0975E, effective date 11/18/2009. No further flood review is required.*

Idaho Department of Environmental Quality (DEQ) – no response

Idaho Department of Lands-Sandpoint – no response

Idaho Department of Water Resources (IDWR) – no response

Lake Pend Oreille School District, #84 (Admin Office) – no response

Lake Pend Oreille School District, #84 (Transportation) – no response

Panhandle Health District – no comment

Selkirk Fire, Rescue & EMS – no response

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 front yard setback. The front yard setback is established by BCRC 12-412 Table 4-2 Zone REC: Front yard setbacks – 25 feet. The request is to locate the proposed second story deck 17.5 feet from the front property line. The front property line is determined as the “yard fronting the street providing primary vehicular access” (See BCRC 12-825 Yard, Front)

Parcel RP00306000020AA is an unplatted property with a width less than 150 feet in length. The applicant did not create the property dimensions nor were they part of the planning process for the location of the dwelling which left little space for an addition to the dwelling.

Staff concurs with the statements above as presented and has research to find two building location permits (one from 2005 for an accessory building and one from 2014 for a change of use from and accessory building to a single family dwelling), that the applicants purchased the property in 2019 according to the warrant deed under instrument number #939425, and determined the dwelling was built in 2005 based on the Assessor’s Office.

Staff has reviewed the standards and responded with each standard above.

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.

3. The home was first built as a shop in 2005 (BLP2005-0659) and then converted into a single family dwelling in 2014 (BLP2014-0180). The applicant did not build the structure or pull the change of use permit.
4. The lot is ±175 feet in length to the south and ±225 feet in length to the north.
5. The width of the lot is ±113 feet at the widest portion.
6. The existing dwelling is 1152 square feet with an existing deck that is 192 square feet.
7. The existing dwelling is 5 feet from the rear property line (originally considered a side when the structure was permitted in 2005 and 2014) which prevents the deck addition there without a variance.
8. The topography of the land north of the property is the max slope of the property at a 1:1 ratio according to the applicant, preventing the deck addition.
9. The proposed deck is 418 square feet.
10. Neighboring properties have decks facing the lake.
11. The lot has a private septic system and individual well.
12. The variance request is against County maintained road Talache Road.
13. Bonner County Road & Bridge had no objection to the proposed setback variance due to the proposed structure being above Talache Road and the slope upwards from the road to the proposed deck is steep. The proposed structure will not impact Bonner County Road & Bridge's snow plowing operations of Talache Road because the slope will prevent any snow berms from reaching the deck.
14. The lot design and dwelling placement were not created by the applicant.

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:

1. 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.
2. A declaration of exempt structure permit is required.
3. A grading/erosion control plan is required.

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