

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
JULY 18, 2019**

CALL TO ORDER: Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Don Davis; Vice Chair Brian Bailey; Taylor Bradish; Sheryl Reeve; and Matt Linscott

ABSENT: Trevor Kempton & Suzanne Glasoe

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Amanda DeLima; and Administrative Manager Jeannie Welter

CONSENT AGENDA:

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: May 16, 2019 and June 20, 2019. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARINGS:

VARIANCES

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File V0012-19 – Front Yard Setback Variance – Patrick Gavin is requesting a 7-foot front yard setback where a 25-foot setback is required to build a bath house. The project is located off Raven View Drive in Section 17, Township 56 North, Range 1 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed that the project representative's firm is doing testing on a different project he is working on but that does not create any conflict of interest for him. The Chair noted there were no additional disclosures or conflicts.

STAFF PRESENTATION: Planner I Amanda DeLima presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. Additionally, she notified the commission of an error in the motion and provided the correct language.

APPLICANT PRESENTATION: Project representative Marty Taylor, Certified Land Use Planner with James A Sewell & Associates stated there is a history of replatting and a previous variance on the parcel. He gave a summary of the various types of buildings in this area. They are attempting to avoid the flood hazard setback. He stated the applicants concur with the comments of the Panhandle Health Department.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION: Commissioner Linscott moved to approve this project FILE V0012-19 which allows for a 7-foot front yard ingress/egress setback where 25-feet is required; finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Linscott further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Reeve seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously

Background:

A. Site data

- a. Acreage: 0.99 (platted); 43,124 sq.ft.
- b. Use: Rural Residential 5-10 acres
- c. Zone: Rural – 10
- d. Structures:
 - i. Existing Garage/ADU ~1900 sq.ft., BLP2008-0642
 - ii. Existing Single family dwelling ~3,968 sq.ft., BLP1999-0105
 - iii. Existing Storage facility ~100 sq.ft.
- e. Lot Coverage
 - i. Existing: 13.8%
 - ii. Proposed: 13.9%

B. Access: According to the applicant, access to the lower part of the parcel is provided by Driftwood Shore, a 10'-12' wide, gravel, easement with a 16' R-O-W as recorded by instrument number 452403 & 467366. Upon a site visit it was observed that Driftwood shore is a 10-12' wide paved access road. Access to the main parcel is provided by Raven View Dr. a 15' wide, paved, easement with a 24' R-O-W as recorded by instrument number 4452405.

C. Environmental factors:

- i. Site contains mapped slopes of 15-30% grade, however the structure will be placed in an area where the slope is less than 15% (USGS)

- ii. Site does not contain any mapped wetlands
- iii. Site is located on Lake Pend Oreille
- iiii. Site contains some special flood hazard zone areas, but the proposed building will be placed outside of this area in DFIRM Panel # 16017C1000E, Zone X -0.2% annual chance of flood hazard (FEMA).

D. Services:

- Water: Individual well
- Sewage: Individual septic tank
- Fire: Selkirk Fire (~12 Miles)
- Power: Avista

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential 5-10 AC	Rural 10	Residential
North	Rural Residential 5-10 AC	Rural 10	Vacant Land
East	Rural Residential 5-10 AC	Rural 10	Residential
South	Rural Residential 5-10 AC	Rural 10	Residential
West	Rural Residential 5-10 AC	Rural 10	Residential

F. Standards review: BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

(a) An undue hardship exists because of site characteristics, and special conditions and circumstances exist which are peculiar to the land, structure, or building involved.

Applicant: "The subject lot's shoreline was platted in 1961 establishing a narrow strip of land between the lakeshore and Driftwood Shore, a 16' wide easement depicted on the plat of the 1st addition to Walston's Lake Lots. This narrow strip will be developed with the subject structure, as well as numerous outbuildings and residences located on similarly platted lots. Thus the 40' lake front setback and the 25' easement setback overlap, negating any compliant building envelop, resulting in an undue hardship."

(b) Special conditions and circumstances do not result from the actions of the applicant.

Applicant: "The property was platted in 1961 by the Waltsons. The applicants acquired Lot 9 in 2004 and replatted same in 2012. Accordingly, the applicants did not create the narrow strip of land between the Pend Oreille lake shore and Driftwood Shore. Thus, this site constraint was not a condition or circumstance resulting from the actions of the applicants."

(c) The variance is not in conflict with the public interest.

Applicant: The location of the structure is similar to that of about 14 buildings located within the 25' Driftwood shore easement setback. Additionally, the structure will be situated on a gravelly area. Therefore, no additional impervious surface will be created. Lastly, the structure will be located on the downhill side of and is set back about 10 feet from the Driftwood Shore travel way. Vehicles traveling southwesterly are thus not affected by the shed's location. Two ponderosa pines are located immediately adjacent to the Driftwood Shore travel way. Vehicles traveling northeasterly are thus not affected by the sheds location.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional site disturbances, as defined.

H. Agency Review: The application was routed to the following agencies for comment on June 18, 2019. The following agencies commented:

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| Panhandle Health District - Comment on June 26, 2019 | Dept. of Water Resources- No Reply |
| Bonner County Road Dept. - No Comment | Army Corps- No Reply |
| Selkirk Fire District - No Reply | Dept. of Lands, Nav. Waters - No Reply |
| Bonner County Schools - Transportation - No Reply | Avista Utility Company - No Reply |
| School District #84 - No Reply | Dept. of Lands - No Comment |
| Northern Lights Utility Company - No Reply | Dept. of Env. Quality - No Reply |

Panhandle Health District comment on June 26, 2019: *"The Panhandle Health District does not have a comment regarding the Variance for a front yard setback. However, any structure that will produce wastewater (including greywater) must discharge wastewater into an approved septic system. The property has a permitted system, PHD file # 09-09-118491. Upon review, there does not appear to be any plans for connecting the bathhouse to the septic system."*

Per Idaho State Individual/Subsurface Sewage Rules IDAPA 58.01.03.002:

04 Responsibilities

ii. Connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system facility. (10-1-90)

Due to the immediate proximity to surface water (40'), it is of utmost importance to dispose of any wastewater generated by the structure to the septic system and not either onto the ground or into Lake Pend Oreille."

I. Public Notice & Comments: *No public comments were received.*

Findings of Fact

1. The 1st Addition of Walston's Lake Lots was platted in 1967 during which the narrow strip of land between Lake Pend Oreille and Driftwood Shore was created.
2. A Replat of Lot 9 of 1st Addition to Walston's Lake Lots that created Lot 9A in 2012 conforms to the design criteria set forth in BCRC 12-621, and has allowed

for the existing residential development to occur north of Driftwood Shore road.

3. The lot is Zoned Rural 10.
4. The lot contains 15% slope or greater.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

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.

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 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 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:

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. 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.
- A-3** Prior to the issuance of any Building Location Permit, the applicants shall provide documentation to the planning department demonstrating adequate

sewage disposal approved by Panhandle Health District will be provided to the structure.

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File V0015-19 – Side Yard Setback Variance – Paul & Marie Lund are requesting a 3-foot side yard setback where 5-feet is required, for the upper roof corner/projection. Construction conditions changed causing the roof corner to extend further than anticipated. The project is located off Birch Haven Drive in a portion of Section 2, Township 56 North, Range 2 West, Boise-Meridian, Bonner County, Idaho.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project representative Matt Kerr stated the original structure was oriented about 35 degrees to the long bridge. He stated the new construction was oriented to the property line. He further stated the builder ordered trusses with extended over hangs. He stated the property will have a trench system to take care of the stormwater drainage management.

PUBLIC/AGENCY TESTIMONY: Kelly Smith spoke on the record in opposition of the project.

APPLICANT REBUTTAL: Applicant Paul Lund responded to public comments clarifying the project and how the structure is situated on the property. He further explained the stormwater mitigation measures.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION: Commissioner Linscott moved to approve this project FILE V0015-19, requesting a variance from side yard as shown on the site plan; finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Linscott further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried, with a vote of 3-1. Commissioners Linscott, Bailey, and Bradish voted in favor of the motion. Commissioner Reeve voted in opposition of the motion.

Background:

A. Site data: The parcel is a 0.747 acre parcel. The applicant purchased the property in 2000, (Instrument 588554). A building location permit was applied for and approved at BLP2018-0374. The property is lot 2 of Second Addition to Birch Haven recorded in 1967.

B. Access: The property is accessed on Birch Haven Road, an asphalt road and driveway.

C. Environmental factors: Virtually flat, grass, no rocks. The property abuts Lake Pend Oreille.

D. Services: Sewer and water is provided by Southside Sewer and Water. Power is provided by Northern Lights and served by the Selkirk Fire.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Land Use	Zoning	Current Use
Site	Transition	Suburban	Residential
North	Transition	Suburban	Lake Pend Oreille
East	Transition	Suburban	Residential
South	Transition	Suburban	Residential
West	Transition	Suburban	Residential

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:"

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:

This will cause minimum shade increase on west neighbor. The corner is still on the Lund property and all rooflines pitch to the interior so no water or snow will impact neighbor. The roof corner/projection is 20' up in the air and will not block any views.

B. Special conditions and circumstances do not result from the actions of the applicant.

Applicant: *We needed to add onto the existing garage, but the unusual existing angle of the house caused unintended roof corner extensions. Construction conditions changed causing the roof corner to extend further than anticipated. The existing garage is 3'6" into the setback. So we stayed behind that point. But to the unusual angles of the structure, an increase of 12" to the overhangs resulted in an exaggerated corner, intruding into the setback.*

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

Applicant: *Granting the variance will result in no detriment to the public interest. Frankly 99.9% of the public will not be able to recognize the difference due to the odd angles and perspective. Snow and water will continue to be handled on the Lund property.*

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

H. Agency review: The application was routed to the follow agencies for comment on April 3, 2018:

Panhandle Health District	Southside Sewer and Water
Bonner County Road and Bridge	Selkirk Fire
Dept. of Lands, (Sandpoint)	Bonner School #84
Dept. of Fish and Game	Northern Lights
Dept. of Env. Quality	

Road and Bridge Comments: No concerns about the proposed side yard setback. Changes in proximity to the side boundaries will not affect our road maintenance operations of Birch Haven Dr which is along the front property line.

All other agencies: No response or no comment.

I. Public comments: No comments received.

Findings of Fact

1. The property is zoned Suburban.
2. The original building location permit was in 1998.
3. An addition permit was granted later in 1998.
4. The permit for reconstruction was approved at BLP2019-0374.
5. The existing setbacks were checked and approved by staff.
6. The construction was done by a licensed contractor.
7. The second story while encroaching the setback is angled away from the sideyard.
8. The overhang will not increase drainage or block views.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

This proposal was reviewed for compliance with the criteria and standards set forth at 12-233 and 12-234, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

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 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 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)

EXECUTIVE SESSION:

At 6:40 p.m., Commissioner Linscott moved to enter an Executive Session pursuant to Idaho Code §74-206(1)(a) to consider hiring. Commissioner Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

The Chair resumed the public meeting at 7:23 p.m.

OPEN LINE DISCUSSION:

Update of the current Bonner County Comp Plan.
Process for the sub-area plan reviews.

At 7:32 p.m., the Chair declared the hearing adjourned until July 25, 2019.

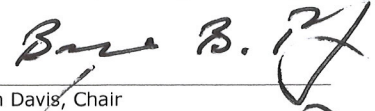
Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 25th day of July 2019.

Bonner County Planning and Zoning Commission



Don Davis, Chair

