

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
AUGUST 15, 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; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe; and Matt Linscott

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner II Sam Ross, Planner I Halee Sabourin; 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: August 1, 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 V0010-19 – Front Yard Setback Variance – Randy & Suzanne Frisch are requesting a 5-foot front yard setback, where 25-feet is required, to allow for the construction of a single family dwelling. The project is located off E Bottle Bay Road in Section 33, Township 57 North, Range 01 West, Boise-Meridian.

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: Planner II Sam Ross 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 Dan Larson, 7B Engineering presented a summary of the project including a brief history of how they got to the point of where they are now with the application of the variance.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Kempton moved to approve this project FILE V0010-19, a 5-foot front yard setback where 25-feet is required, to allow for the construction of a single family dwelling. I find 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 Kempton 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, unanimously.

Background:

Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	REC	Residential / Recreational
North	Resort Community	REC	Residential / Recreational
South	Resort Community	REC	Residential / Recreational
East	Resort Community	REC	Bare Forest Land
West	Resort Community	REC	Residential / Recreational

A. BCRC 12-412: REC Zone Setbacks:

- a. Front: 25-feet - From property line or from ingress/egress easement boundaries, whichever distance is greater.
- b. Rear: 25-feet
- c. Side: 5-feet

B. Site data:

- a. Acreage: 1.0 acre
- b. Legal: Lot 12, Block 1, Shaffer's Lakeshore Lots (Bk. 2, Plats, Pg. 19, records of Bonner County, Idaho)
- c. Zone: REC
- d. Use: Resort Community
- e. Structures (per Assessor's records):
 - i. Dwelling – circa 1957
 - ii. Cabin – circa 1957
 - iii. Boat dock/lift – circa 1990

C. Access:

- a. Name: East Bottle Bay Road
- b. Owner: Private

D. Environmental factors:

- a. Floodplain: X (0.2% Annual Chance Flood Hazard) Source: FEMA
- b. Vegetation: Trees / Residential Landscape. Source: Applicant/Aerial
- c. Soils: Pend Oreille-Hoodoo Silt Loams, 0 To 30 Percent Slopes. Source: NRCS
- d. Hydrology/Wetlands: Bottle Bay / Lake Pend Oreille. Source: USGS; USFWS
- e. Slope: 15-29% to 30% and above. Source: USGS

E. Services:

- a. Water: Individual Well
- b. Sewer: Bottle Bay Sewer District
- c. Fire: Selkirk Fire & EMS
- d. Utility: Avista
- e. School: LPOSD #84

F. Standards review

BCRC 12-234:

The staff, commission, hearing examiner and/or Board shall review the particular facts and circumstances of each proposal submitted. To grant a variance, the hearing examiner or the Governing Body must 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.
- B. Special conditions and circumstances do not result from the actions of the applicant.
- 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:

- A. The prevailing grade is in excess of 30% immediately behind the access road. The required 25 foot setback would require de-stabilizing excavations and difficult access to actual living levels.
- B. These parcels and subdivisions date back to the 1959's and before. None of the conditions are a result of actions taken by the applicant.
- C. The public health, safety and welfare is not affected by this requested variance, however it will allow much improved facilities. For more efficient and complete use. No change in neighborhood interface is anticipated.

July 16, 2019

"In reviewing the Site Plan linked on the County Site, it appears the variance for the front yard setback is measured to the existing structure and not the future home. The Variance request may be 5-feet, but the intent was for the garage portion of the structure."

Dan Larson, PE – 7B Engineering

Staff:

- A. Per the applicant's site plan and USGS topography data, the site does feature extensive slopes. Severe slopes in excess of 30% typically result in development challenges Staff concurs that some relief is necessary and a condition exists over which the applicant has no control.
- B. The property was platted in the 1954 (Bk. 2, Plats, Pg. 19). The applicant acquired the property in 2016 (Inst. No.895132). Accordingly, the resulting site constraints have not resulted from the actions of the applicant. Deed research in addition to plat documents confirm that the condition has not resulted from the actions of the applicant
- C. Per the applicant's site plan, the development appears to be set back further than the existing dwelling unit. This indicates that the proposed non-conforming structure will increase in nonconformity. This observation, coupled with no public or agency comments having been received in opposition, indicates that the project is not in conflict with public interest.

G. Stormwater plan:

- a. A stormwater management plan was required pursuant to BCRC 12-720.2 and 12-722.2.
- b. The applicant provided a professionally designed stormwater and erosion control plan as part of this application.

See Condition A-3

H. Geotechnical Analysis:

- a. Pursuant to BCRC 12-762:
 - i. A geotechnical analysis shall be required for proposed building sites, roads, driveways or other development, where any of the following conditions apply:
 1. Where the natural slope equals or exceeds thirty percent (30%);
 2. Where soils are highly erodible, or where there are scarps, slumps, seeps or other geologic features exist that may be unstable, as determined by the Planning Director, Hearing Examiner, Commission or Board;
 3. Where there is historic knowledge of sloughing, landslides, slumps or other hazardous geological features
- b. Soil Survey of the Bonner County Area, Idaho – USDA Soil Conservation Service
 - i. Pend Oreille-Hoodoo Silt Loams, 0 To 30 Percent Slopes - Pg. 44-45:
 1. "*Homesite Development.*- This unit is poorly suited to homesite development. The main limitations are slope and the hazard of erosion on the Pend Oreille soil and the hazard of flooding, wetness, and frost heaving on the Hoodoo soil. Included in this unit, however, are areas of soil that are better suited to homesite development. Onsite investigation is required to identify these areas." See Condition A-5

I. Agency Review:

The application was routed to agencies for comment on July 16, 2019. The following agencies commented:

- Bottle Bay Water & Sewer District – August 1, 2019
 - “[The sewage disposal system will need to comply with IDAPA Title 58, and Bottle Bay Recreational Water and Sewer District requirements. Said requirements specified by BBRWSD are available on their website.]”
 - See Condition A-7
- Bonner County Floodplain – May 22, 2019
 - “Any development, as defined in BCRC Title 14, that is waterward of E Bottle Bay Rd. will likely require a Flood Development Permit.”
 - See Condition A-8
- Bonner County Road and Bridge – August 2, 2019
 - “Bonner County Road & Bridge has no comments or concerns because this setback variance will not affect our operations.
- Bonner County Contract Engineer – July 19, 2019
 - “The following items must be addressed”:
 - BCRC 12-432 – off street parking: 2 spaces required
 - See Condition A-6
 - BCRC 12-762 – Geotechnical analysis required.
 - See Condition A-5

J. Public Notice & Comments:

- No public comments have been received by the Planning Dept. at the time the staff report was produced.

Findings of Fact

1. The property was platted in 1954.
2. The property features slopes in excess of 30%.
3. East Bottle Bay Road is a private road.
4. The proposed single family dwelling will not extend further into the front yard setback than the existing dwelling.
5. The residential use is compatible with neighboring properties.

Conclusions of Law:

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

Conclusion 1

This proposal was reviewed for compliance with the criteria and standards set forth in Bonner County Revised Code Title 12 and Idaho Code Section 67-6516.

Conclusion 2

An undue hardship **does** exist because of site characteristics, and special conditions and circumstances that are peculiar to the land, structure, or building involved.

Conclusion 3

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

Conclusion 4

The variance **is not** in conflict with the public interest.

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** The development shall occur in accord with BCRC Title 12, Subchapter 7.2 – Grading, Stormwater Management And Erosion Control.
- A-4** The applicant shall obtain a Building Location Permit for the development.
- A-5** At the time of Building Location Permit, the applicant shall provide a geotechnical analysis for the proposed development. The geotechnical analysis shall be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering. The geotechnical analysis shall be submitted prior to construction and shall explain the geologic and hydrologic features of the area, shall evaluate the suitability of the site for intended uses, shall identify potential problems relating to the geology and hydrology, shall summarize the data upon which conclusions are based, and shall propose mitigation measures. (BCRC 12-762)
- A-6** Except where otherwise noted, the development shall comply with the 'Development Standards' set forth in Chapter 4, Title 12, Bonner County Revised Code.
- A-7** The development shall comply with the requirements of Bottle Bay Recreational Water and Sewer District.
- A-8** The development shall comply with Bonner County Revised Code Title 14 - Flood Damage Prevention.

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 V0017-19 – Rear Yard Setback Variance – Alan Ross is requesting a 5' rear yard setback where 40' is required, where abutting the A/F zone, to construct a new garage/shop on a 0.4-acre lot. The project is located off Steamboat Bay Place in Section 27, Township 60 North, Range 4 West, Boise-Meridian.

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: Planner I Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Alan Ross stated he is hoping to be able to build a structure with more space.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Linscott moved to approve this project FILE V0017-19, a 5' rear yard setback where 40-feet is required to allow for the construction of a shop/garage without eaves, 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: 0.4-acres approximately
- b. Legal: Lots 5 & 6, Steamboat Bay Lots (Bk. 2, Plats, Pg. 125)
- c. Zone: Recreational/ Abutting the A/F-10 zone
- d. Use: Residential/residential accessory
- e. Structures: Cabin and garage

B. Access:

- a. Name: Steamboat Bay Place
- b. ROW: 20' wide
- c. Owner: Private

C. Environmental factors:

- f. Floodplain: X. Source: FEMA
- g. Vegetation: Vegetation on the east half of property. Source: Applicant/Aerial View
- h. Soils: Elmira Variant Loamy Coarse Sand, 0 To 2 Percent Slopes. Source: NRCS
- i. Hydrology/Wetlands: None. Source: USGS; USFWS
- j. Slope: Relatively Flat. Source: USGS

D. Services:

- a. Water: Individual Well
- b. Sewer: Coolin Sewer District
- c. Fire: Coolin Cavanaugh Bay Fire
- d. Utility: Northern Lights
- e. School: Bonner School #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Residential
North	Ag/Forest Land	A/F-10	Residential
East	Resort Community	Recreation	Residential
South	Resort Community	Recreation	Residential
West	Resort Community	Recreation	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: It is not possible to comply with ordinance standards for the following reasons: The rear of the property abuts A/F-10 zoning district which requires a 40' setback. Other properties in the vicinity are recreational zone which require a 5' setback. The depth of the lot is 90'. Applying the required front setback of 25' and the rear setback of 40', the resulting impact only allows a building depth of 25'.

Staff: The rezone in 2008 (not due to the actions of the applicant) by the county did not establish a rural zone between the recreational zone and the A/F-10 zone. Establishing zones that would allow for a natural gradient between high density and low density areas would have prevented this issue. It does not make sense to have a recreational zone – allowing 10,000 sq ft lots – to abut 10-acre minimum zones with increased setbacks that interfere with the small lot's building envelope. Other areas in the county have established rural zones between the high and low density areas and prevent such issues.

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

Applicant: The building site has excessive rear setback (40') due to A/F-10 zoning. A/F-10 zoning in an area wholly compromised of recreational zone caused undue hardship on the owner's ability to utilize his property. The site is wholly unbuildable solely due to current required A/F-10 Setbacks.

Staff: The rezone in 2008, and the subdivision design/creation was not due to the actions of the applicant. The subdivision was established in 1966 by F.M Harker and Gladys L. Harker.

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.

Applicant: There is no public access in the area. This variance, if allowed, will not change the culture, use, or enjoyment of the surrounding lots. It does not infringe on, nor create a safety hazard to the lots in the area. It does not differ from current property use. There are approximately 8 shops/storage buildings within 1/8 mile of the building site. (Sheffield, Lemmon/Cebriak, Murphy, Wilhelm, Nett, Reedy, Clayton)

Staff: The opportunity for agency/public comment on the proposal address public interests. Comments from both agencies and the public were not submitted. Staff concludes there are no concerns that need to be addressed by the applicant to satisfy this standard.

G. Stormwater plan:

A stormwater management plan is required pursuant to BCRC 12-720.3 K. Application does result in the creation of additional impervious surface. See conditions of approval – required stormwater management plan/erosion control plan per BCRC will be submitted at the time of building location permit.

H. Agency Review:

The application was routed to agencies for comment on July 16, 2019.

*Panhandle Health District
Bonner County Road & Bridge
Coolin Cavanaugh Fire District
Northern Lights
School District #83
Idaho Department of Env. Quality
Transportation*

*Idaho Dept. of Water Resources
Coolin Sewer District
Army Corps (Coeur d'Alene)
Fish and Wildlife
Idaho Dept. of Lands (Sandpoint)
Service Bonner County Schools -*

The following agencies commented:

PHD: "No Comment" – July 22, 2019

I. Public Notice & Comments:

None received at this time.

Findings of Fact

1. The parcel is ±0.4-acre lot.
2. The parcel is zoned Recreation.
3. The parcel is located on Steamboat Bay Place.
4. The parcel is served by Coolin Sewer.
5. The parcel is serviced by an individual well.

Conclusions of Law:

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

Conclusion 1

This proposal was reviewed for compliance with the criteria and standards set forth in Bonner County Revised Code Title 12 and Idaho Code Section 67-6516.

Conclusion 2

An undue hardship **does** exist because of site characteristics, and special conditions and circumstances that are peculiar to the land, structure, or building involved.

Conclusion 3

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

Conclusion 4

The variance **is not** in conflict with the public interest.

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** The structure shall be developed in accord with BCRC Title 12, Subchapter 7.2 – Grading, Stormwater Management And Erosion Control.

- A-4** The applicant shall obtain a Building Location Permit for the residential addition.

Discussion and decision. Updated P&Z Bylaws.

Commissioner Bradish moved to amend section 6.1 of the Planning & Zoning Bylaws to remove the second sentence "No chair shall be elected more than twice consecutively. Commissioner Bailey seconded the motion. Voted upon and the motion passed unanimously.

OPEN LINE DISCUSSION:

Discussion regarding allowing an RV park to be a permitted use in a residential zone. Discussion regarding P&Z schedule. Schedule a workshop for September 5, 2019.

At 6:45 p.m., the Chair declared the hearing adjourned until September 5, 2019.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 5th day of September, 2019.

Bonner County Planning and Zoning Commission


Don Davis, Chair