

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
THURSDAY, OCTOBER 3, 2019**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER:** Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1<sup>st</sup> 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; and Administrative Manager Jeannie Welter

**CHANGES IN AGENDA:**

Need to elect a new Chair and Vice Chair.

**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: September 19, 2019. Hearing no changes or objections, the Chair declared the minutes approved as written.

Commissioner Davis signed the newly updated version of the Planning & Zoning Commission bylaws.

**PUBLIC HEARING:**

**VARIANCE**

**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 V0019-19 – Boyle Ingress/Egress Setback Variance – Boyle Protection Trust** is requesting an 8 foot Ingress/Egress setback where 25 feet is required for the construction of a 9 foot tall retaining wall. The project is located off Lower Rock Harbor in Section 27, Township 56 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:** 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 Marty Taylor, Certified Land Use Planner, James A. Sewel & Associates stated a Building Location Permit is needed for walls higher than 4 feet and a wall taller than 8 feet are subject to setback standards. This wall exceeds 8 feet. This structure does not impact the accessibility of access regarding the easement. A Geotech report has been provided to the Planning department.

**PUBLIC/AGENCY TESTIMONY:** Michael Mastor spoke on the record in favor of the project.

**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 V0019-19 requesting an 8-foot ingress/egress setback where a 25-foot setback is required for the construction of a 9-foot wall, 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 Glasoe seconded the motion.

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

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**Background:**

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**A. Site data:** The parcel is 2.03 acres, platted in 1958, and was purchased by the property owners in 2017 as recorded by Instrument 909741. Building Location Permits(s) 2019-0098 (SFD) & 2019-0099 (Accessory) have been approved and the site has been developed with an approved engineered stormwater plan (ST085-18) that is on file with the Planning Department. The property is comprised of 4 lots that have been combined with a recorded Notice of Lot Combination for building placement purposes.

**B. Access:** The property is accessed off of Lower Rock Harbor Road, a private, graveled easement as record by Instrument 428740.

**C. Environmental factors:** The parcel is moderately forested and heavily sloped with some areas reaching a 40% grade. The property is located along the shore of Lake Pend Oreille within Flood Hazard Zone D, FIRM Panel 16017C0975E. The site does not contain prime Ag soil and will benefit from the approved engineered stormwater plan on file.

**D. Services:**

- a. Water: Individual Well
- b. Sewer: Individual Septic System
- c. Fire: Selkirk Fire & EMS
- d. Utility: Northern Lights
- e. School: LPOSD #84

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Residential; Single Family Dwelling
North	Resort Community	Recreation	Residential; Single Family Dwelling
East	Resort Community	Recreation	Residential; Single Family Dwelling
South	Resort Community	Recreation	Lake Pend Oreille
West	Resort Community	Recreation	Residential; Single Family Dwelling

**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: *"Due to excessive adjacent slopes it is not possible to have the subject wall section 8 feet or less in height while still providing for slope stabilization."*

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

Applicant: *"The property was platted in 1958. The applicant did not create the easement alignment. The easement was created by judicial decree 4/6/87*

*(Instrument 428740). The applicant acquired the property 7/6/18 (Instrument 924199)."*

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

Applicant: *"The proposed 9 foot tall wall section is located a minimum of 21 feet from the closest edge of the Lower Rock Harbor travel way. Accordingly, wall placement will not conflict with easement users."*

**G. Stormwater plan:** A stormwater management plan has already been submitted by the applicant, as approved by ST0085-18 for the construction of a single family dwelling.

**H. Agency Review**

The application was routed to agencies for comment on **September 3, 2019**. The following agencies commented:

- Panhandle Health District -
- Bonner County Road Dept. – No Comment
- Selkirk Fire District –
- School District #84 -
- Northern Lights Utility Company -
- Dept. of Water Resources -
- Dept. of Lands Sandpoint – No Comment
- Dept. of Env. Quality – No Comment
- Army Corps-

**I. Public Notice & Comments**

The following public comments were received:

**Joe Kelley**, an abutting neighbor, commented **in favor** of the proposed variance on September 9, 2019.

**Michael M. Master**, owners of lots 2 & 3 of Rock Harbor, commented **in favor** of the proposed variance on September 9, 2019.

**Findings of Fact**

1. The location of the easement has created a constraint in accessing the house site where the topography at the entrance of the property reaches a 40% grade. A 9' retaining wall would allow for safe and adequate access to the home site.
2. Walls are common along access points where grades reach an excess of 30% and are used often as a form of permanent erosion control around a home site.

**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

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 2

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

Conclusion 3

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

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**Conditions of approval:**

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**Standard permit conditions:**

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- A-1** The applicant shall obtain a building location permit for any wall section that exceeds eight feet (8') in height measured at grade, and any retaining walls exceeding 4' in height not attached to the single family dwelling.
- A-2** The development shall comply with BCRC 12-762 – Hillside. The geotechnical analysis shall be submitted with a Building Location Permit 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.
- A-3** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

**PUBLIC WORKSHOP:**

**ELECTION OF CHAIR & VICE CHAIR:**

Commissioner Linscott moved to elect Commissioner Don Davis as Chair and Commissioner Brian Bailey as Vice Chair of the Planning & Zoning Commission. Commissioner Reeve seconded the motion. Voted upon and the motion passed unanimously

Bonner County Comprehensive Plan update discussion of the Population element.

Staff homework: Provide other comp plans with language relating to ACIs

Commission homework: Review and markup the language of the Population element section.

Next meeting the commission will discuss School Facilities and School Transportation.

**OPENLINE DISCUSSION:**

Ordinance updates relating to RVs. Milton will send further information within the next few weeks.

Proposed changes in the code related to issuing infractions for violations.

Staffing updates.

At 7:22 p.m., the Chair declared the hearing adjourned until October 17, 2019.

Respectfully submitted,



Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 17<sup>th</sup> day of October, 2019.

Bonner County Planning and Zoning Commission



Don Davis, Chair

