

**PLANNING DEPARTMENT/BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING DECISION MINUTES
SEPTEMBER 29, 2022**

CALL TO ORDER: Chair McDonald called the Bonner County Commissioners' hearing to order at 9:00 a.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

PRESENT: Chair Dan McDonald, Vice Chair Steve Bradshaw and Jeff Connolly

ABSENT: None

ALSO PRESENT: Planning Director Jacob Gabell; Senior Planner Swati Rastogi, Planner I Erik Beasley, Civil Attorney Bill Wilson and Hearing Coordinator Jenna Crone.

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.

File V0011-22 - Street Setback – Redcrow. The applicants are requesting a street setback variance of 5 feet where 25 feet is required. The parcel is 1.44-acres, and zoned Suburban. The project is located off West Oden Bay Road in Section 8, Township 57 North, Range 1 West, Boise-Meridian. On August 17, 2022, the Hearing Examiner approved this project. On August 29, 2022, the Planning Department received a letter of appeal requesting this file be sent to the Board of County Commissioners to be heard de novo.

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

APPELLANT REPRESENTATIVE: Toby McLaughlin discussed the Public Right-of-Way on Jaclin Way and emergency access to surrounding parcels.

APPLICANT REPRESENTATIVE: Jeremy Grimm, Whiskey Rock Planning, presented a PowerPoint presentation discussing the topography on the property and why the variance was requested.

PUBLIC/AGENCY TESTIMONY: None

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

DECISION TO AFFIRM THE HEARING EXAMINER'S DECISION: Commissioner Bradshaw affirmed the Hearing Examiner's decision on this project FILE V0011-22,

requesting a 5 feet street setback where 25 feet is required for a total variation of 20 feet, 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 Bradshaw further adopted the following Findings of Facts and Conclusions of Law as set forth in this staff report and directed the planning staff to draft written findings and conclusions to reflect this decision, and transmit to all interested parties. 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 Connolly seconded the Motion

Roll Call Vote:

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

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

Findings of Fact:

1. The property is accessed by West Oden Bay Road and Jaclin Way, Bonner County owned public right-of-ways and privately maintained.
2. The area of the subject property is approximately 1.44 acres.
3. The parcel is zoned Suburban and the land use designation is Suburban Growth Area.
4. Per BCRC 12-412, Suburban zoned parcels of area 1 acre or more are not required to have a connection to an urban sewer system, if they have access to an urban water system.
5. The subject site is platted as Lot 15 of Rainbow Bay subdivision recorded through Instrument No. 112435 on Page 148 of Book of Plats 2 in records of Bonner County.
6. Nearly 39% of the site contains PSS1C Fresh Forested/ Shrub Wetlands. (National Wetland Inventory Map, USFWS).
7. A small portion of the site to the south fronts on Lake Pend Oreille. (NHD, USGS)
8. Parcel is within SFHA Zone X & Zone AE per FIRM Panel Number 16017C0750E, Effective Date 11/18/2009.
9. The site is served by Oden Water Association.
10. The site is served by Northside Fire District, Northern Lights, Inc., and Lake Pend Oreille School District.
11. There is currently no turn-around on Jaclin Way.
12. ~~Jaclin Way continues past the applicant's property to provide access to at least two other parcels beyond.~~ **Removed during the Hearing.**
13. Bonner County Revised Code does not restrict the size of a single family dwelling unit that is permissible on the subject property.

14. This request is consistent with requirements established for variance in section 67-6516 as well as Bonner County Revised Code as demonstrated in the staff analysis above.

Conclusions of Law:

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

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** 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:

1. This request has only been evaluated for a street setback variance for the buildable area only, as shown on the site plan submitted with this application.
2. All other development on the lot must comply with the Bonner County Revised Code.
3. An erosion control, grading and/or storm water management plan may be required at the time of obtaining the Building Location Permit.
4. The street setback variance shall not supersede any deed restrictions.

Appeal File MLD0084-22 – Hundred Acre Wood First Addition. The applicant is requesting a replat of lot 3 Hundred Acre Wood into Lot 1 Hundred Acre Wood First Addition, and dividing a 19.4 acre Lot 2 of Hundred Acre Wood into two (2) 5 acre lots, and one (1) 9.4 acre lot. The Planning Department on August 31, 2022, administratively approved this file. On September 15, 2022, a written appeal was received requesting this file be heard by the Board of County Commissioners.

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

APPELLANT REPRESENTATIVES: Jeremy Grimm, Whiskey Rock Planning, presented a PowerPoint presentation discussing the reasons for appeal being timing

and vacating easements. Eric Smith discussed easement vacating, utility easements and contiguous Minor Land Divisions.

APPLICANT REPRESENTATIVES: Toby McLaughlin, Attorney, discussed timing or the MLD process and contiguous Minor Land Divisions. Joel Andring, Glahe and Associates Surveyor, discussed the easements as shown on the Plat of Hundred Acre Wood First Addition.

PUBLIC/AGENCY TESTIMONY: The following members of the public spoke on the record: Gary Williams, Peter Silcher, and Candice Stephens.

Chair McDonald called for a recess at 11:02 a.m.

Chair McDonald resumed the hearing at 11:09 a.m.

APPELLANT REBUTTAL: Jeremy Grimm addressed the appeal window and when the recording of the Plat of Hundred Acre Wood First Addition took place.

APPLICANT REBUTTAL: Toby McLaughlin, addressed comments made by the Appellant.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

Commissioner Connolly moved to affirm Staff's administrative decision to approve Minor Land Division MLD0084-22.

Commissioner Bradshaw seconded the motion.

Roll Call Vote:

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

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

The Chair declared the hearing adjourned at 11:29 a.m.

Respectfully submitted, this 6th day of December 2022,



Jacob Gabell, Planning Director