

**BONNER COUNTY HEARING EXAMINER
PUBLIC HEARING MINUTES
DECEMBER 20, 2023**

CALL TO ORDER: Hearing Examiner Jackie Rucker called the public hearing to order at 1:30 p.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: Jackie Rucker, Hearing Examiner

ABSENT: None

ALSO PRESENT: Planning Director Jake Gabell, Assistant Planning Director Travis Haller, Planner I Alex Feyen, Planner I Rob Winningham, and Hearing Coordinator Jenna Crone.

PLEDGE OF ALLEGIANCE

CHANGES IN AGENDA: None

APPROVAL OF MINUTES: Hearing Examiner Rucker approved the minutes as written December 6, 2023.

PUBLIC HEARING:

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

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: Hearing Examiner Jackie Rucker stated that she had no conflict with these proposals.

WITHDRAWN BY APPLICANT File CUP0016-23 – Conditional Use Permit – Animal Establishment. The applicants are requesting a conditional use permit for an animal establishment. The property is zoned Rural 5. The project is located off Shepard Lane in Section 5, Township 55 North, Range 5 West, Boise-Meridian. **This file was continued from December 6, 2023.**

File V0022-23 – Variance – Shoreline Setback. The applicants are requesting a 25.6-foot shoreline setback, where 40 feet is required. The property is approximately 0.716-acres. The property is zoned Recreation. The project is located

off Kalispell Bay Road in Section 6, Township 60 North, Range 4 West, Boise-Meridian.

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

APPLICANT REPRESENTATIVE: Jeremy Grimm, Whiskey Rock Planning, gave an overview of the project and discussed Ordinary/Artificial High-Water Mark for Priest Lake and answered questions from the Hearing Examiner.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: None.

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker approved this project FILE V0022-23, for a 25'6" setback from the shoreline where 40' is required, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

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.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. Examiner Rucker further adopted the following findings of fact 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.

Findings of Fact

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq.
2. The property is zoned Recreation.

3. The property is described as Lot 1, Sather's Lot, According to the Plat Recorded in Book 15 of Plats, Page 25, records of Bonner County, Idaho.
4. The property has an existing single-family-dwelling with an attached garage and Accessory Dwelling Unit.
5. There are slopes of 0-30%+ present on the property per USGS.
6. The property fronts Priest Lake.
7. The property does have wetlands, per USFWS.
8. A portion of the property is in Special Flood Hazard Area AE, and the remaining portion is in Special Flood Hazard Area D, per FEMA.
9. The applicant obtained the property on September 23, 2020 per Warranty Deed, Instrument # 966095.

Conditions of approval:

Standard permit conditions:

A-1 Only the development highlighted as shown on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code excepting the modified building envelope herein.

A-2 The granting of this variance shall not supersede any deed restrictions.

A-3 Per BCRC 12-720.2 (E) a stormwater management plan shall be required for all new building construction or development which occurs on or within 300' of a slope with 15% or greater incline.

File V0023-23 – Variance – Property Line Setback. The applicant is requesting an 11-foot property line setback where 25 feet is required. The parcel is zoned Rural 5 (R-5). The project is located off Hamilton Hill Drive in Section 3, Township 57 North, Range 1 West, Boise-Meridian.

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

APPLICANT PRESENTATION: Matthew Vingelen, Applicant, explained that the setbacks were misunderstood, and the design would be changed if the variance was not granted.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: None.

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker approved this project, FILE V0023-23, a reduced property line setback of 11 feet 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. Examiner Rucker further adopted the following findings of fact and conclusions of law as set forth in the Staff Report and direct the planning staff to draft written findings and conclusions to reflect this decision. 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.

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.

Findings of Fact

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq.
2. The lot was platted on March 15, 2002 per Book of Plats, Book 6, Page 167, Instrument Number 597933, Records of Bonner County, Idaho.
3. The site does contain mapped slopes in excess of 30% per USGS.
4. The parcel does not contain wetlands per USFWS.
5. The site does not contain a river/stream/frontage on a lake per the NHD.
6. Parcel is within SFHA Zone X per FIRM Panel Number 16017C0735E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.

- 7. The lot is accessed from a private 30' easement with a 12' gravel travel way per Instrument Number 439911, Road Maintenance Agreement, via Hamilton Hill Drive.
- 8. The site is zoned Rural 5 (R-5) with a land use designation of Rural Residential (5-10 AC).
- 9. The applicant purchased the lot on January 25, 2019 per Instrument Number 933776, Records of Bonner County, Idaho.

Conditions of approval:

Standard permit conditions:

A-1 Only the building envelope for property line setback on the site plan has been reviewed for variance standards. All other development must comply with Bonner County Revised Code excepting the modified building envelope herein.

A-2 The granting of this variance shall not supersede any deed restrictions.

File V0024-23 – Variance – Lot Size Minimum. The applicants are requesting a minimum lot size variance of 0.42-acres and 1.35-acres where 2.5-acres is required. The property is zoned Suburban. The project is located off U.S. Hwy 95 in Section 16, Township 56 North, Range 2 West, Boise-Meridian.

STAFF PRESENTATION: Planner I Rob Winningham presented a summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code.

APPLICANT REPRESENTATIVE: Jeremy Grimm, Whiskey Rock Planning, discussed the property and the need for the variance to make the property more conforming.

APPLICANT PRESENTATION: Craig Cunningham, Applicant, discussed the discrepancy in acreage, locations of well and septic, and noted that there are two addresses assigned to the property.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: None.

STAFF REBUTTAL: Director Gabell clarified the Conditions of Approval and why they were included.

APPLICANT REBUTTAL: Jeremy Grimm reiterated why he requests to have Condition A3 removed at this stage.

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker concluded she will take five business days before issuing her decision on this file.

Examiner Rucker called for a recess at 3:03 P.M.

The Hearing was brought back to order at 3:11 P.M.

File V0025-23 – Variance – Lot Size Minimum. The applicants are requesting a variance for a lot size minimum of 2.25-acres where 5-acres is required for the purposes of subdividing. The property is zoned Rural 5. The project is located off Grouse Hollow in Section 31, Township 59 North, Range 1 West, Boise-Meridian.

STAFF PRESENTATION: Planning I Alex Feyen presented a summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Brian and Kelley Robere, Applicants, discussed the details of their property and why they have requested the variance.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: None

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker approved this project FILE V0025-23, a lot size minimum of 2.25-acre where 5-acres is required, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

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.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. Examiner Rucker further adopted the following findings of fact as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted including Condition B-1. This action does not result in a taking of private property.

Findings of Fact

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq.
2. The property is zoned Rural 5.
3. The property is approximately 5-acres in size.
4. The property is described as 31-59N-1W W2NWNWNE CPWRS.
5. The property is currently developed with a single-family-dwelling, an accessory dwelling unit, and an accessory building.
6. Slopes present on the parcel are between 0-30+%, per USGS.
7. The property is served by an individual well and individual septic systems for each dwelling unit.
8. The property does not appear to be located within a fire district.
9. The applicants have requested a variance from the lot size minimum of the Rural 5 zoning district to allow for a 2.25-acre parcel where 5-acres is required for the purposes of dividing the property.
10. The property is accessed off Grouse Hollow, a privately owned and maintained road.
11. The applicants obtained the property on August 10, 2020 per Warranty Deed, Instrument # 962826.

Proposed Conditions of approval:

Standard permit conditions:

A-1 Only lot size minimums have been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

A-2 The granting of this variance shall not supersede any deed restrictions.

A-3 A land division application must be submitted to the Bonner County Planning Department in order to divide the property.

The following conditions shall be met before issuance:

B-1 Applicants shall provide a supplemental site plan that contains all setbacks from the existing septic system as determined by Panhandle Health District requirements, with the location of the existing and proposed wells.

File CUP0017-23 - Conditional Use Permit - Private Community Facility.

The applicants are requesting a Conditional Use Permit for a private community facility. The property is approximately 23.80 acres and is zoned Rural 5. The project is located off Homestead Road in Section 33, Township 54 North, Range 3 West, Boise-Meridian.

STAFF PRESENTATION: Planning I Alex Feyen presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Jessica Shotzberger, Applicant, gave a brief overview of the proposal.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: None.

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker approved this project FILE CUP0017-23 for a private community facility, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following **CONCLUSIONS OF LAW:**

1. The proposed conditional use permit is in accord with the Bonner County comprehensive plan.
2. This proposal **was** reviewed for compliance with the criteria and standards set forth at Title 12, BCRC Chapter 2 Subchapter 2.6, BCRC Chapter 3 Subchapter 3.3, BCRC Chapter 4 Subchapter 4.2-4.6, Chapter 7 Subchapter 7.2 and 7.3, Bonner County Revised Code.
3. The proposed use **will not** create a hazard or **will not** be dangerous to persons on or adjacent to the property.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Examiner Rucker further adopted the findings of fact and conclusions of law as set forth in the Staff Report and direct 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 conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

Findings of Facts:

1. The site is zoned Rural-5, where private community facilities are conditionally allowed.
2. The site has an individual well and septic system for their current residential use.
3. The site is approximately 23.8 acres in size.
4. The site is accessed off Homestead Road, a Bonner County owned and privately maintained 70-foot-wide, right of way.
5. The site is served by Northern Lights Inc. for their current residential use.
6. The site is in the mapped service area of Sagle (Selkirk) Fire District.
7. The site contains steep slopes of over 30% grade (USGS).
8. The site is located within SFHA Zone X (FEMA).
9. The site does not contain mapped wetlands (NWI, USFWS).
10. The project proposes a single centrally located common area where kitchen and dining facilities may be located.
11. The property is accessed by Homestead Road, a Bonner County owned and privately maintained road. While no comments were received from Sagle (Selkirk) Fire District stating any objections to the current standard of the road for emergency access, Bonner County Road and Bridge Department reviewed the project and provided comments indicating a need for possible upgrades of the driveway, requirement of a commercial encroachment permit to access the property and a signage at the end of the driveway based on the potential traffic that may be generated with the proposed use.
12. The project is not proposing development of any structures on the property to accommodate or house greater number of families than permitted by the standards of Bonner County Revised Code.
13. The project is requesting a deviation to street setback requirements with the request to allow the applicant to locate a single 3' by 3' (9 sq ft) sign at a distance of no less than 0 feet from the right-of-way. The deviation from the setbacks is not requested for the purpose of locating any other structures or development permitted through this Conditional Use Permit.

14. The project proposes no activity involving the use or storage of flammable or explosive materials on or off site.
15. The project proposes no activity involving emittance of harmful radioactivity or electrical disturbance.
16. The application proposes the hours of operation will be limited from 9:00 a.m. to 11:00 p.m.
17. The project is not proposing any activities that would seem to contribute to air or water pollution.
18. The private community facility is proposed to be operated on an area of ±14,688 square feet.
19. Per the submitted site plan all the proposed structures on site show pedestrian or vehicular connections through the entire project.
20. Per the submitted site plan, the proposed location of the parking shows that it covers more than 50% of the lot frontage.

Conditions of Approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1 The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2 The Conditional Use Permit shall not supersede deed restrictions.
- A-3 Per BCRC 12-420, no structures permitted in conjunction with this Conditional Use Permit (except the existing single-family dwelling) shall accommodate or house a greater number of families than permitted by the standards of BCRC Title 12.
- A-4 Per BCRC 12-420, all structures located on site in conjunction with this Conditional Use Permit will meet the required street and property line setback standards of BCRC Title 12.
- A-5 Per BCRC 12-420, all architectural projections such as canopies, eaves, balconies, platforms, decks, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into any required setback.
- A-6 Per BCRC 12-420, temporary buildings, construction trailers, equipment and materials used in conjunction with construction work for the proposed project may be permitted during the period the construction work is in

progress, but such temporary facilities shall be removed upon completion of the construction work.

- A-7** Per BCRC 12-4.4, only the proposed 3'x3' sign shall be located 0 feet from the edge of the right-of-way. Any additional signs shall meet the sign standards and requirements of Title 11 and Title 12 of the Bonner County Revised Code.
- A-8** Per BCRC 12-452, any structures or development on site permitted through this Conditional Use Permit is required to obtain appropriate Building Location Permits or other approvals from the Bonner County Planning Department prior to the development on site.
- A-9** Per BCRC 12-453.F, any lighting on site shall meet the standards of this section of the ordinance.
- A-10** Per BCRC 12-453.G, any development on site permitted through this Conditional Use Permit shall meet the standards of this section of the ordinance.
- A-11** Per BCRC 12-453.J, any outdoor storage of commercial and industrial materials on site is required to meet the standards of this section of the ordinance.
- A-12** Per BCRC 12-4.6, the site seems to have ample existing native vegetation with the proposed uses being generally centered on the property. The existing vegetation on the property may be used for screening purposes. The parking areas provided on site shall be buffered by at least a 10 feet wide vegetative landscaping buffer along the side or rear property lines. The outdoor storage of equipment shall be buffered by at least a 20 feet wide vegetative landscaping buffer along the perimeter of the site.
- A-13** Site contains mapped steep slope of over 30% grade. Any development on site located within or in proximity of the areas of steep slopes is required to meet the standards of BCRC 12-7.6 prior to the start of development on site.
- A-14** Per BCRC 12-226.C, the Conditional Use Permit 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 Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Zoning Commission at any regular meeting, or board at any regular meeting, may consider the request for extension.

The extension request must be approved or denied prior to the expiration date of the conditional use permit.

- A-15** This project proposes new development that would result in the creation of impervious surface. The applicant may be required to submit a storm water management, grading and/or erosion control plan in accordance with the provisions of BCRC 12-7.2 prior to any development on site in conjunction with this Conditional Use Permit.
- A-16** Per 12-432, Parking Standards, the project is required to have space for 147 parking spaces.

Conditions to be met prior to the issuance of this Conditional Use Permit:

- B-1** Per BCRC 12-335 (3), the applicant is required to make improvements and upgrades to the driveway, or the site as noted in the comments received from the Bonner County Road and Bridge Department. The applicant shall further comply with any modifications of these conditions or addition of new conditions by the Bonner County Road and Bridge Department upon further review of the project and based on the site conditions or other practical considerations during the construction of improvements.

DISCUSSION:

- **Hearing Examiner and Staff Updates**
 - **The Planning Department currently has 2 opening positions.**
 - **The hearing on January 3, 2024, will be cancelled.**

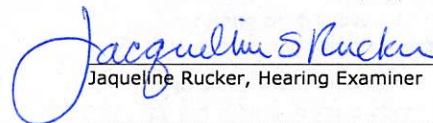
At 4:00 p.m., the Hearing Examiner declared the hearing adjourned until January 17, 2024.

Respectfully submitted,



Jacob Gabell, Planning Director

The above Minutes are hereby approved this 17th day of January 2024.



Jacqueline Rucker, Hearing Examiner