

**BONNER COUNTY HEARING EXAMINER
PUBLIC HEARING MINUTES
NOVEMBER 15, 2023**

CALL TO ORDER: Hearing Examiner Jackie Rucker called the public hearing to order at 1:30 p.m. in the 3RD Floor Meeting 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: Assistant Planning Director Travis Haller, Planner I Alex Feyen, Planning Tech Rob Winningham, Planner II Daniel Britt and Hearing Coordinator Jenna Crone.

PLEDGE OF ALLEGIANCE

CHANGES IN AGENDA: None

APPROVAL OF MINUTES: Hearing Examiner Rucker approved the minutes as written October 18, 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 this proposal.

File V0016-23 – Variance – Side Yard and Frontage Coverage - Daoura. The applicant is requesting a side yard setbacks of 11'4" and 8'2" where 15' is required and a frontage coverage of 93% where 60% is required. The 0.535 property is zoned Alpine Village. The project is located off Mogul Hill Rd in Section 20, Township 58 North, Range 02 West, Boise-Meridian. **This file is being continued from November 1, 2023.**

APPLICANT REPRESENTATIVE: Matt Cudmore, project representative presented the proposed variance and discussed the reasons for requiring the Variance.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: Mel Bailey, Independent Highway District.

APPLICANT REBUTTAL: Daniel Daoura answered questions from the Hearing Examiner.

The Hearing Examiner closed the hearing to public testimony and will submit her written decision within 5 business days.

File V0019-23 – Variance – Street Setback – Marshall. The applicants are requesting a 10-foot street setback where 25 feet is required. The project site is 6.62 acres. The property is zoned Rural 5. The project is located off Thistle Down Lane in Section 20 & 29 Township 56 North, Range 3 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: Clayton Marshall talked about the requested variance 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.

DECISION TO APPROVE: Hearing Examiner Rucker approved this project FILE V0019-23, for a 10' setback from Thistle Down Lane where 25' is required for an accessory building/accessory dwelling unit, 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 Rural 5.
3. The property is described as 20/29-56N-3W TAX 11.
4. The property has an existing single-family dwelling with an attached garage.
5. There are slopes of 0-30+% grade present on the property per USGS.
6. The property does have wetlands, per USFWS.
7. A portion of the property is located in Special Flood Hazard Area Zone-AE per FEMA.
8. The applicant obtained the property on May 21, 2014 per Warranty Deed, Instrument # 859609.

Conditions of approval:

Standard permit conditions:

A-1 Only the development shown on the site plan, and as described in this staff report, 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.

File V0020-23 – Variance – Property Line Setback – Mitchell. The applicants are requesting a 5’ foot property line setback where 10’ is required. The project site is 1.090 acres. The property is zoned Rural-5. The project is located off Rockview Drive in Section 2, Township 55 North, Range 4 West, Boise-Meridian.

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

APPLICANT PRESENTATION: Mike Mitchell, applicant, explained the reason for applying for 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.

DECISION TO APPROVE: Hearing Examiner Rucker approved this project, FILE V0020-23, a reduced property line setback of 5 feet where 10 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 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.

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 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 is a platted lot, per Book 4 of Plats, Page 106, Instrument Number 385964, Records of Bonner County, Idaho.

3. The site does contain mapped slopes in excess of 30% per USGS.
4. The parcel does contain wetlands per USFWS.
5. The site does contain frontage on the Pend Oreille River but does not contain a stream or frontage on a lake per the NHD.
6. The site is within SFHA Zone AE and X, per FIRM Panel Number 16017C0895E, Effective Date 11/18/2009.
7. The site is accessed via Rockview Dr. This is a 60' wide county-owned and maintained right-of-way with a 12' gravel travel way.
8. The site is zoned Rural 5 (R-5) with a land use designation of Rural Residential.
9. The property has an existing single-family-dwelling.
10. The applicant purchased the lot on January 13, 2020 per Instrument Number 951731.

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 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.

File V0021-23 – Variance – Street Setback. The applicants are requesting a reduced street setback of 10' where 25' is required. The parcel is 2.4 acres. The property is zoned Rural-5. The project is located off Sandy Ridge Road in Section 3, Township 55 North, Range 4 West, Boise-Meridian.

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

APPLICANT PRESENTATION: Adam Weisner, applicant, stated he had nothing to add to Staff's presentation.

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.

DECISION TO APPROVE: Hearing Examiner Rucker approved this project FILE V0021-23, for a reduced street setback of 10' where 25' 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 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 the taking of private property.

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 **are 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)

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 applicant requested a 10' street setback where 25' setback is required.
4. The existing single-family dwelling is on ±2.41 acres.
5. The property has mapped slopes ranging from 0 to 30% grade and greater.
6. An administrative exception for a street setback was granted in 2022 for the existing single-family dwelling.

Conditions of approval:

Standard permit conditions:

- A-1** Only the northern property line setback on the site plan has been reviewed for variance standards. All other developments shown must comply with Bonner County Revised Code excepting the modified northern property line herein.
- A-2** Apply for a Building Location Permit, submit all necessary documentation required to Bonner County Planning Department for review and approval.
- A-3** The granting of this variance shall not supersede any deed restrictions.

DISCUSSION:

- **Hearing Examiner and Staff Updates**
 - The Planning Department is working on making decision letters more thorough to better document the deliberations.


At 2:40 p.m., the Hearing Examiner declared the hearing adjourned until December 6, 2023.

Respectfully submitted,



Jacob Gabell, Planning Director

The above Minutes are hereby approved this 6th day of December 2023.



Jacqueline Rucker, Hearing Examiner