

**BONNER COUNTY HEARING EXAMINER
PUBLIC HEARING MINUTES
NOVEMBER 16, 2022**

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.

PRESENT: Jackie Rucker, Hearing Examiner

ABSENT: None

ALSO PRESENT: Planning Director Jacob Gabell, Assistant Director Travis Haller, Planner I Tyson Lewis, Planner I Erik Beasley, Planner II Jason Johnson and Hearing Coordinator Jenna Crone

CHANGES IN AGENDA: None

APPROVAL OF MINUTES: Hearing Examiner Rucker approved the minutes as written for October 19, 2022.

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, he continued with the public hearing.

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

File V0013-22 – Variance. The applicants are requesting a 3.2' property line setback where 5' is required and a 38.5' wetland setback where 40' is required to construct a single-family dwelling. The parcel is zoned Recreation (Rec). The project is located off Waterdance Way in Section 31, Township 58 North, Range 1 East, Boise-Meridian.

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

APPLICANT PRESENTATION: Rod Hollen, Blue Ribbon Builders, explained the reason for the Variance request.

PUBLIC/AGENCY INPUT: None

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

DECISION TO APPROVE: Hearing Examiner Rucker hereby approve this project FILE V0013-22 requesting a 3.2' property line setback where 5' is required and a 38.5' wetland setback where 40' is required to construct a single family dwelling, 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. I further adopt the following findings of fact and conclusions of law as written (or as amended). 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 subject property is zoned Recreation, and the land use designation is Resort Community.
2. The subject property is served by an existing community water system, The Idaho Club (TIC).
3. The subject property is served by The Idaho Club community sewage system.
4. The subject property is served by Northern Lights Inc for power service.
5. The subject property is served by Northside Fire District.
6. Building Location Permit BLP2020-0927 was found for the single-family dwelling constructed on the subject 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. (Ord. 559, 1-4-2017)

Conditions of approval:

1. The approval of this variance shall not supersede any deed restrictions.
2. 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.

File CUP0014-22 – Conditional Use Permit. The applicants are requesting a Conditional Use Permit to operate a child daycare center in a former church building on a ~1.28 (or ~0.49 acre) parcel. The property is zoned Rural 5. The project is located off Sagle Road in Section 14, Township 56 North, Range 2 West, Boise-Meridian.

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

APPLICANT PRESENTATION: Doug Gunter, Applicant, gave a history of the property and explained the proposed project.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: Monica Gunter.

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

MOTION TO APPROVE: Hearing Examiner Rucker moved to approve this project FILE CUP0014-22 for a daycare and preschool, 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, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Examiner Rucker further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, 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 Fact

1. The proposed uses are allowed within the Rural-5 Zone, with conditions.
2. The site in question is already developed with a church building and existing access.

3. The applicant proposes no physical changes to the site beyond the fenced play area.
4. The site has operated successfully as a church for many decades.
5. The site is accessed off Sagle Road.
6. The site has an individual well and septic system.
7. Fire protection is provided Selkirk Fire District.

Conclusions of Law:

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

Conclusion 1

The proposed conditional use permit is in accord with the Bonner County comprehensive plan. (See attached comprehensive plan goals, objectives and policies)

| | | |
|------------------------------------|-------------------------|------------------------|
| •Property Rights Transportation | •Population | •School Facilities, |
| •Economic Development | •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services | •Transportation |
| •Recreation | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation | |

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

The proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

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** All county setbacks shall be met.

- A-4** 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 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 Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** Prior to issuance of a building location permit the applicant shall apply for and receive any required permits and approvals from the Idaho Department of Water Resources (IDWR).
- A-7** Prior to issuance of a building location permit the applicant shall apply for and receive any required permits and approvals from the Panhandle Health District (PHD).
- A-8** Prior to issuance of a building location permit the applicant shall apply for and receive any required permits and approvals from the Idaho Department of Environmental Quality (DEQ).
- A-9** The proposed facility must meet all state standards for nurseries and daycare centers as defined in Idaho Code.
- A-10** Prior to issuance of a building location permit the applicant shall demonstrate that adequate water supplies for drinking and fire suppression are available, as well as approval of sewage disposal sites and methods approved by the Panhandle Health District and/or the State of Idaho.
- A-11** Prior to issuance of a building location permit the applicant shall apply for and receive any required permits and approvals from Bonner County Road & Bridge, including any required commercial encroachment permits.

File V0015-22 – Variance. The applicants are requesting a lot size minimum variance for the creation of two lots under the minimum required 5 acres. The parcel is 4.6 acres, and the property is zoned Rural 5. The project is located off Highway 2 in Section 26, Township 57 North, Range 3 West, Boise-Meridian.

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

APPLICANT REPRESENTATIVE: Scott Comfort, Sewell and Associates, gave a history of the property and presented a PowerPoint presentation (Exhibit A).

PUBLIC/AGENCY INPUT: None

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

DECISION TO DENY: Hearing Examiner Rucker hereby denied this project FILE V0015-22, requesting for the creation of a 1.54-acre parcel and a 3.06-acre parcel where the minimum lot size is 5-acres, based upon the following conclusions: site conditions do apply to neighboring lots and the request is needed based on actions by the owner. The topographical conditions are not sufficient grounds for the creation of two separate lots. The highway easement would likely alter the size of neighboring properties, not the subject parcel alone. In addition, the granting of this proposal would prove to be inconsistent with the Bonner County Revised Code per BCRC 12-342 (C). The 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 and conclusions of law as amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the variance is to:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Appeal the Hearing Examiners decision to the County Commissioners.

Findings of Fact

1. The applicants acquired the property March 04, 2020, per Warranty Deed Instrument # 954574.
2. The subject parcel is approximately 4.60-acres and is zoned Rural 5.
3. The Southwestern and Northeastern portions have a slope between 15% to 29% grade, while the Southeastern portion has a slope of 30% grade or higher.
4. The parcel is located off Highway 2 in Section 26, Township 57 North, Range 3 West.

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** 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** 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)

• **HEARING EXAMINER & STAFF UPDATES:**

- Examiner Rucker welcomed the new Assistant Director, Travis Haller
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At 2:49 p.m., the Hearing Examiner declared the hearing adjourned until December 14, 2022.

Respectfully submitted,


Jacob Gabell, Planning Director

The above Minutes are hereby approved this 28th day of December 2022.


Jacqueline Rucker, Hearing Examiner