

**BONNER COUNTY HEARING EXAMINER  
PUBLIC HEARING MINUTES  
DECEMBER 14, 2022**

**CALL TO ORDER:** Hearing Examiner Jackie Rucker called the public hearing to order at 1:30 p.m. in the 1<sup>st</sup> 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, and Planner II Daniel Britt.

**PLEDGE OF ALLEGIANCE**

**CHANGES IN AGENDA:** None

**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 MOD0004-22 - Variance Modification - Westberg.** The applicants are requesting a modification to variance File V0007-21 for a zero-foot setback where 25 feet is required, to construct an access bridge for the single-family dwelling. The property is zoned Recreation. The project is located off Eastshore Road in Section 10, Township 60 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:** James Westberg, Applicant, explained the reason for the Variance and explained the project.

**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 approved this project FILE MOD0004-22, a zero-foot setback for the construction of an access bridge, 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.

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**Findings of Fact**

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1. Variance file V0007-21 was issued on June 22, 2021; granting a 10-foot street setback variance where 25 feet is required, for reconstruction of the existing dwelling. A 0-foot street setback variance where 25 feet is required for an attached two-car garage, and a bulk increase variance for an increase in the deck area from 794 square feet to 969 square feet.
2. The subject parcel is approximately 0.74-acres and is in the Recreation zoning district.
3. The applicants acquired the property in 2016, per Instrument #893339.

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**Conclusions of Law:**

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**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)

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**Conditions of approval:**

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**Standard permit conditions:**

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- A-1.** 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.

**A-2.** A building location permit shall be obtained prior to the construction of the access bridge.

**A-3.** A stormwater management plan must be submitted and comply by the standards set forth in BCRC 12-720.

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**File V0014-22 – Variance.** The applicant is requesting a bulk increase to an existing legal non-conforming structure located within the required 25-foot street setback and within the required 40-foot shoreline setback on a ±.38-acre lot. The property is zoned R-10. The project is located off East Bottle Bay Road in Section 3, Township 56 North, Range 01 West, 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 REPRESENTATIVE:** Connie Kruger, Applicant Representative, gave a presentation (Exhibit A) giving an overview of the project.

**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 approved this project V0014-22, requesting a bulk increase to an existing legal non-conforming structure located within the required 25-foot street setback and within the required 40-foot shoreline setback, 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 moved to adopt 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 motion 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.

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#### **FINDINGS OF FACT**

1. The subject lot is a combination of parts of two separate lots platted in Shields Lakeshore Lots.
2. The subject lot is zoned R-10 and has a comprehensive plan designation of Resort Community (<=2.5 AC).
3. The property is served by Bottle Bay Water & Sewer, Sagle Fire District, and Avista Utilities.
4. The subject lot has frontage on Lake Pend Orelle.
5. East Bottle Bay Road fronting the subject lot is privately owned and maintained.

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#### **CONCLUSIONS OF LAW**

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**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)

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#### **CONDITIONS OF APPROVAL:**

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**Standard Conditions:**

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.

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**File V0020-22 – Variance.** The applicants are requesting an 11.2' street setback where 25 feet is required for an existing single-family dwelling on a ±2.72 acre platted lot. The property is zoned Suburban. The project is located off Terrace Drive in Section 7, Township 55 North, Range 02 West, 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 REPRESENTATIVE:** Kyle Brokaw, Applicant, answered questions from the Hearing Examiner regarding the project.

**PUBLIC/AGENCY INPUT:** None

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

**MOTION TO APPROVE:** Hearing Examiner Rucker approved this project V0020-22, requesting an 11.2 foot street setback 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 moved to adopt 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 motion 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.

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#### **FINDINGS OF FACT**

1. The subject lot is served by Selkirk Fire District and Northern Lights Inc.
2. The subject lot is served by an existing community drain field for sewage disposal.
3. The subject lot is accessed by Terrace Drive, a Bonner County Owned & maintained 50 foot wide public right of way.
4. Building Location Permit BLP2020-0647 was filed by the applicant on August 6, 2020 and issued August 12, 2020.
5. The subject lot has frontage on Cocolalla Lake.
6. The parent lot to the subject lot was ±6.05 acres.

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#### **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)

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#### **CONDITIONS OF APPROVAL:**

##### **Standard Conditions:**

1. 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.
2. Use this space for one site specific condition. If multiple conditions apply add each on a separate row.

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**File V0021-22 - Reduced Street Setback.** The applicants are requesting a reduced street setback of 5' where 25' is required. The site is 0.44 acres. The property is zoned Rural-5. The project is located off S. Diamond Park Road in Section 9, Township 61 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 REPRESENTATIVE:** Dan Larson, 7B Engineering, explained the project.

**PUBLIC/AGENCY INPUT:** None

**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 V0021-22, a reduced setback for a 5' setback 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 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.

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#### **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 is requesting a 5' street setback where 25' setback is required.

4. The property is described as Lot 2 of Diamond Park First Addition, according to the plat thereof, recorded on Book 2 of Plats at Plat 49, records of Bonner County, Idaho.
5. Existing single-family dwelling.
6. Slopes present on the lot are steeper than 30% grade.
7. The applicant obtained the property in 2020 per warranty deed under Instrument #958068, recorded on May 29, 2020.

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**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)

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**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** Apply for a Building Location Permit, submit all necessary documentation required to Bonner County Planning Department for review and approval.

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**• HEARING EXAMINER & STAFF UPDATES:**

- 2023 Hearing Calendar has been approved.
- The Board is reviewing the Comp. Plan Goals, Policies and Objectives on December 21<sup>st</sup> which could affect the Staff Reports if approved.

- A few of the Comp. Plan Components have been updated. There's a link on the home page of the website to show each component and their status.
- A planner has put in their notice and will be leaving the Planning Department at the end of December.
- Digital application is in the works to allow applicants to login and check the status of their files. Implementation of this process will start next week.

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At 2:29 p.m., the Hearing Examiner declared the hearing adjourned until December 28, 2022.

Respectfully submitted,

  
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Jacob Gabell, Planning Director

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The above Minutes are hereby approved this 28<sup>th</sup> day of December 2022.

  
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Jacqueline Rucker, Hearing Examiner