

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
AUGUST 2, 2018**

CALL TO ORDER: Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Don Davis; Vice Chair Kris Sabo; Sheryl Reeve; Brian Bailey; Trevor Kempton, and Suzanne Glasoe

ABSENT: Taylor Bradish

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Caitlyn Reeves; Planner I Sam Ross; and Office Manager Jeannie Welter

CHANGES IN AGENDA: Addition of July 12, 2018 Planning & Zoning public hearing minutes.

CONSENT AGENDA:

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: July 12, 2018 and July 19, 2018. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARINGS:

VARIANCE

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

File V502-18 – Variance Front & Rear Yard Setback – Troy Krumenacker is requesting a 9-foot front yard setback, and a 5-foot rear yard setback, where 25-feet is required for the reconstruction of a single family dwelling. The property is approximately 0.19 acres in size. The property is located off of Lakeshore Drive, in Section 3, Township 56 North, Range 2 West, B.M.

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.

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

APPLICANT PRESENTATION: Troy Krumenacker stated he has been here for about 30 years. He wants to build a cabin for his brother. He said he wants to keep the structure low to keep the view from blocking other neighbors. He stated he pushed it to the far side of the lot to create two parking spaces.

Commissioner Bailey asked if there is room to build the cabin farther back. He stated he doesn't want to block the view of other neighbors and if he moves it back the house would stand higher than where he is currently proposing.

PUBLIC/AGENCY TESTIMONY:

Dan Staglund submitted exhibit A, a map of Waterview Road. He spoke in opposition of the project.

Mike Hathaway stated the infrastructure is extremely fragile.

Erick Brakken spoke to the issue of parking. He stated he has concerns that he will be blocked by vehicles during construction.

APPLICANT REBUTTAL: Applicant stated he had Avista out to review if power could be brought in. He stated Avista approved his power.

He stated you can drive around where any vehicles might be parked. He plans to only be building this project for approximately 60 days.

He stated he will put a well in if he can't get access to the water. He stated he has an issue with South Side Sewer as they told him he would have access to water and now they are telling him he doesn't.

Commissioner Davis ask the applicant if he believes there is a place on the property that could sustain a well and sewer. Mr. Krumenacker stated he believes there is.

Commissioner Glasoe asked about the sewer lines running through the property. Mr. Krumenacker stated all he is planning to do to the other side of the lot in the grass area is to dig to hook up to the sewer.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION: Commissioner Bailey moved to continue this project FILE V502-18, to a date and time certain of September 6, 5:30 p.m for clarification from Avista regarding utility easement, South Side Water & Sewer regarding hook-ups and easements, alternative parking availability, the recreational easement. Commissioner Sabo seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously

Background:

A. Site data: The subject parcel is vacant.

B. Access: Access is provided by Waterview Lane, an ingress-egress easement, developed with a gravel surfaced travelway of varying widths.

C. Environmental factors:

Floodplain: X, AE map designation (project not within special flood hazard area, but said area is on site)

The site does not contain mapped wetlands. Source: USFWS NWI
The site does not contain slope 15% and greater. Source: USGS

D. Property Services: Water and sewer services are provided by Southside Water and Sewer District. The site lies within the Selkirk Fire District, and the Lake Pend Oreille School District (#84). Power is provided by Northern Lights.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Zoning	Current Land Use & Density
Site	SUB	0.19 acre parcel, Vacant, Urban
North	SUB	5.65 acre parcel, SFD, Urban
East	SUB	5.65 acre parcel, SFD, Urban
South	SUB	0.21 acre parcel, SFD, Urban
West	SUB	Lake Pend Oreille

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:"

A. 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.

Applicant:

"The lot is so small that it does not allow room to build a modest home. In addition, the western portion of the lot is floodplain - and the same setbacks apply.."

Staff: Lot size minimum in the Suburban Zone where all urban services are available is 10,000 square feet. The subject parcel is approximately 8276.4 square feet and was described first in August, 1984 (per Assessor's records). This is below the minimum and thus staff concur that the parcel is excessively small. As single family dwellings are a permitted use in the Suburban Zone, and the subject parcel is a non-conforming lot of record, staff concur that the lot size is a condition over which the applicant does not have control.

B. Special conditions and circumstances do not result from the actions of the applicant.

Applicant:

"The proposed cabin (748 sq ft [revised]) replaces a cabin that was demolished approximately 16 years ago. I simply purchased the lot, and did not created the problem."

Staff: Staff agrees that the applicants did not create the special condition as the applicant did not create the lot.

C. 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)

Applicant:

"Approval of the variance would allow a build in similar size and appearance of the existing cabins located on the adjacent lots."

Staff: Conflict of public interest is mitigated through the planning department's agency review process and by public notification. During the agency review period County, State and Federal regulatory agencies were notified of the project and were permitted to comment. As noted in section **I.** below, there were agencies that responded to this request for application review. As their comments and concerns are addressed in the conditions of approval, staff feel that this standard is met.

G. Stormwater plan

BCRC 12-720.2 identifies the need for the applicant to provide a stormwater plan. The applicant submitted a stormwater plan that was satisfactory to planning department. Said plan identifies the effects that the proposed dwelling will have on the surrounding area in regards to stormwater runoff.

H. Land capability report

BCRC 12-222(J) identifies the need for the applicant to provide a land capability report. The provided land capability report is satisfactory for the proposed development and is consistent with the standards set forth in BCRC 12-222(J).

I. Parking

BCRC 12-432, identifies the minimum off street parking requirements.

Required: residential, single-family requires a minimum of 2 spaces per dwelling unit on the same lot as the dwelling unit. Parking spaces shall be no less than two hundred(200) square feet in area. A minimum of 400 square feet for parking shall be provided on the subject parcel.

Provided: Applicant provided a 34x12 area for parking. This area totals 408 square feet and large enough to serve two vehicles.

J. Agency review

The application was routed to the follow agencies for comment on May 31, 2018:

Panhandle Health District
Selkirk Fire District
School District #84
Dept. of Env. Quality
Dept. of Lands, Nav. Waters
Army Corps (Newport)
Fish and Wildlife Service

Bonner County Road Dept.
Northern Lights Utility Company
Dept. of Fish and Game
Dept. of Lands (Sandpoint)
Dept. of Water Resources
Natural Resource Conservation Service
Southside Water & Sewer

Comments:

6/05/18

"Project not within SFHA. FDP not required."
-Bonner County Floodplain

7/10/18

"Road & Bridge has no comments. The property is on Waterview Lane, which is a private road."
-Bonner County Road & Bridge

The following agencies replied with "NO COMMENT":

Idaho Department of Lands
Southside Water & Sewer
Panhandle Health District

All other agencies provided no response.

J. Public comments

There have been four(4) public comments at this time.
The following public comments are summarized. See file for full public comments.

July 19, 2018

"...I am opposed to Variance Application as applied for. The variance request is too extreme for the size of the lot..."
• Dave Harman, Sagle, ID

July 20, 2018

"...We have concerns with the proposed setback variances, and home construction application...We are opposed to the setback variance filed..."
• Tim & Vicki Cahil, Sagle, ID

July 24, 2018

"...We are opposed to this variance application..."
• Patti and Eric Brakken, Sagle ID

July 24, 2018

"...I have concerns with this project..."
• Mike Hathaway, Sagle, ID

Specific Public Concerns:

The following comments are based on an in depth analysis of comments submitted by landowners that neighbor the subject parcel. Most of their concerns were recurring themes and were addressed individually based on subject matter.

"...The structure that was historically located on that property was 320 sq ft and was demolished in 2002..."

Staff: The subject parcel is a lot of record and is permitted one (1) single family residence. Moreover, BCRC does not specify the specifications in which a dwelling can be built in regards to dimensions.

"...The subject parcel is located on a recreational easement..."

Staff: While that may be the case, the legal description of the subject parcel (T-108) meets the definition of a non-conforming lot of record (BCRC 12-342) and is afforded all uses set forth in BCRC. Easements for the purposes of recreation are viewed by Bonner County Planning Dept. as civil agreements between landowners.

"...We are concerned with the proposed setback from Waterview Lane..."

Staff: Project was routed to Selkirk Fire & EMS and no response was provided. This indicates that the proposal does not pose an issue in regards to Fire and EMS services.

"...We are concerned with the proposed setback from the road as well as road usage..."

Staff: Other properties in the same zone and vicinity are currently developed with a similar setback from Waterview Lane. Historical photos show that the structure that always existed on the subject parcel had a similar setback. This indicates that the proposed setback should not alter ingress or egress.
The potential for an increase in the use of Waterview Lane for access to the subject site is not significant as Bonner County Trip Generation Statistics indicate the potential for 0.77 vehicle trips per hour during AM hours and 1.02 vehicle trips per hour during PM hours. This observed increase would not warrant the need for a access method beyond a low-volume private road.

"...We are concerned with the setbacks from existing structures..."

Staff: Proposed setbacks from existing structures are similar to what is intended in the Suburban Zone. Typical side yard setbacks in this zone are 5-feet.

"...We are concerned with the lack of parking and snow storage on the subject property..."

Staff: Parking requirements for a single family dwelling are a minimum of 2 spaces no less than 200 sq ft in size.

The proposed variance would allow for 408 sq ft of off street parking. This standard is met based on the site plan. Snow storage is addressed through the large amounts of open space between the proposed structure and the water. It will be stored in a manner similar to other neighboring lots and parcels in the same zone and vicinity.

Conclusions of Law:

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

This proposal was reviewed for compliance with the criteria and standards set forth at 12-233 and 12-234, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

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)

Findings of Fact

1. The proposed structure is 748 sq ft in size.
2. Neighboring properties are similarly developed in nonconforming setbacks.
3. Neighboring properties feature similar sub-zone lot size dimensions.
4. The proposed structure will allow 2 off-street parking spaces on the subject lot.
5. The proposed structure will allow for on-site snow storage.
6. The proposed structure has been developed with stormwater management.
7. The subject parcel is capable of being developed in a manner consistent with the proposed site plan.
8. The proposed structure will not deny access to any lot, parcel or residence.

Conditions of approval:

Standard permit conditions:

A-1 The use shall be developed and shall be operated in accordance with the approved site plan.

A-2 The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Site-specific permit conditions:

B-1 Prior to construction, the applicant shall obtain a Building Location Permit in addition to a Stormwater/Erosion Control Permit from Bonner County Planning Department.

CONDITIONAL USE PERMIT

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

File C1008-18 – Conditional Use Permit Distillery & Tasting Room Facility – Victor & Jessie Vachon are requesting a conditional use permit to expand an existing distillery operation located on a 13.1 acre parcel in Section 26, Township 57 North, Range 3 West, Boise-Meridian, Bonner County, Idaho. Access to the property is off US-Highway 2, a paved US highway owned and maintained by the Idaho Transportation Department.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Glasoe disclosed she spoke with Jessi at an event regarding the history of the distillery but there is not conflict. The Chair noted that there were no additional disclosures or conflicts.

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

APPLICANT PRESENTATION: Jessi Vachon co-owner of the distillery. If the project is approved, we will be able to grow our business. We will be able to open to

the public with regular business hours. We are not going to be opening a bar. The farm is the foundation of the distillery.

PUBLIC/AGENCY TESTIMONY:

Jennifer Wood spoke on the record in favor of the project.

Kris Lasson spoke on the record in favor of the project.

Jeff Rusho spoke on the record in favor of the project and the economic impact of this project in particular.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Sabo moved to approve this project, FILE C1008-17, a Conditional Use Permit for a distillery in accessory to an agricultural use. I find that it is in accord with 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. Commissioner Sabo further moved to adopt the following findings of fact, conclusions of law and conditions of approval as written. 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. Commissioner Glasoe seconded the motion.

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

Background:

A. Site data: The subject property is approximately 13.1 acres. The parcel will accommodate the primary agricultural use, all appurtenant structures, parking/circulation areas, and the tasting room/retail space.

B. Access: Access to the subject property is provided by US-2. US Highway 2 is a paved, principal arterial roadway located in a public right-of-way.

C. Environmental factors:

- Slope: > 30% on site; tasting room and associated structures <15%. Source: USGS.
- Hydrography: Intermittent stream feature on site; primarily east side of property. Hydro features are in excess of 75' from principal use and appurtenant structures. Source: USGS NHD, BC GIS
- Wetlands: Riverine/Freshwater Emergent Wetland following the aforementioned intermittent stream. Wetland features are in excess of 40' from principal use and appurtenant structures. Source: USFWS NWI
- Soils: Pend Oreille Silt Loam, 5% - 45% slope. Source: NRCS

- Floodplain: Flood Hazard Zone: 'X' - 0.2% annual chance flood hazard. Source: FEMA

D. Services:

- Water: Individual well
- Sewage: Individual septic system (pending commercial septic approval via PHD)
- Power: Northern Lights INC.
- Fire: Westside Fire District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	R-5	Rural Residential, SFD
North	Rural Residential	R-5	Rural Residential, SFD
East	Rural Residential	R-5	Rural Residential, SFD
South	Rural Residential	R-5	Vacant (City of Dover)
West	Rural Residential	R-5	Rural Residential, SFD, Bare-Forest Land

F. Standards for review:

12-222: Application Contents

Staff concluded that application contents were to the department's satisfaction. An application complete letter was sent May 8, 2018

A land capability report is required per BCRC 12-222J3. Applicants intend on installing a larger sewage disposal system.

Submitted application/ land capability report states no new impervious surface is being created and therefore no stormwater management plan is required per BCRC 12-720.3K

Definition of Impervious Surface is as follows:

BCRC 12-809 - I. **IMPERVIOUS SURFACE:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to construction, or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow compared to conditions prior to construction. Common "impervious surfaces" include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, concrete or asphalt paving, gravel roads, packed earthen materials and oiled, macadam or other surfaces which impede the natural infiltration of stormwater. Open, uncovered retention or detention facilities are not considered to be impervious surfaces for the purposes of this title.

12-223: Conditional use permits, Standards for review of applications, Procedures.

The commission, except as otherwise provided in this title, is charged with conducting at least one public hearing on the conditional use permit application, at which time interested persons shall have an opportunity to be heard. The commission shall review the particular facts and circumstances of each proposal submitted. To grant a conditional use permit, the commission must find there is adequate evidence showing that the proposal is in accordance with the general and specific objectives of the comprehensive plan and this title, and that the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property. (Ord. 501, 11-18-2008)

In order to satisfy these criteria, a Planning and Zoning Commission hearing date has been set for July 19, 2018.

12-224: Public Hearing and Notices

Notices and public hearings shall be provided pursuant to Idaho Code section 67-6512. When notice is required to two hundred (200) or more property owners or purchasers of record, in lieu of the mail notification, three (3) notices in the official newspaper or paper of general circulation is sufficient; provided, that the third notice appears no later than ten (10) days prior to the public hearing. (Ord. 501, 11-18-2008)

Mailed: June 25, 2018
Site Posting: July 5, 2018
Published in newspaper: June 27, 2018

BCRC 12-336 Resource Based Uses

Defined: Water bottling works at the source; wineries, breweries and distilleries subordinate and accessory to farming (3), (4), (5), (7), (8), (20).

(3). Sufficient land area is required to accommodate the proposed use, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties (See condition A-6).

(4). Specified conditions with respect to emissions of noise, light, glare, smoke, odor, dust, particulate matter, vibrations or hours of operation may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards (See condition A-4).

(5). Where access to the site is by road, the road shall be located within a recorded easement or public right of way, and constructed to the appropriate standard set forth in title 2 of this code or appendix A of this title.

(7). 1 on premises sign, not in excess of 32 square feet, which may be lighted from the exterior, shall be permitted when included as part of the conditional use permit application (See condition A-5).

(8). A traffic plan is required describing, at minimum, the method of ingress and egress to the site, traffic circulation within the site and on premises parking and loading areas.

(20). At least 2 acres of primary beverage ingredient used in distilling or brewing shall be grown on site. Winery, brewery or distillery shall be clearly subordinate to agricultural operation. All structures associated with the beverage operation shall be a minimum of 75 feet from property lines. Sales are limited to fermented or distilled beverages produced on site and limited food sales. Sales of bottle openers, glasses or other such promotional items identifying the site are permitted. Hours of operation and maximum occupancy may be limited by the conditional use permit.

The application and associated information satisfy these requirements.

BCRC 12-4.2 General and Performance standards for all uses

These proposed land use is consistent with general standards in addition performance standards for all uses found therein.

BCRC 12-4.3 Parking Standards

Pursuant to BCRC 12-431(B); Parking spaces shall be no less than two hundred (200) square feet in area.

Pursuant to BCRC 12-431(C); The proposed use is unspecified. The planning director designee, pursuant to the SICM, has chosen to define the proposed tasting room as a restaurant. Finding that it is a business establishment where meals or refreshments may be purchased, consistent with BCRC 12-336(20).

BCRC 12-432: Minimum off street parking requirements:
Restaurant: 8 spaces/1,000 of floor area
Proposed floor area: 12x41; 492 sq ft.

Required: 4 spaces
Provided: 30x30 parking area totaling 900 sq ft; 4 spaces.

BCRC 12-4.5 Design standards

Standards herein are not applicable. A distillery in accessory to an agricultural use is defined as a resource based use (BCRC 12-336).

BCRC 12-4.6 Landscaping and screening standards

Standards herein are not applicable. A distillery in accessory to an agricultural use is defined as a resource based use (BCRC 12-336).

Stormwater plan: A stormwater management plan was not required pursuant to BCRC 12-720.3 (K).

Land capability report and environmental analysis: Jessie & Victor Vachon, landowners and owners/operators of Mill Town Distillery, submitted the land capability report.

Based on said report, the site has demonstrated the ability of the land to withstand disturbance without risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage pursuant to BCRC, Section 12-222(j).

Agency Review: The application was routed to the following agencies for comment on May 9, 2018

Panhandle Health
West Side Fire Department
Bonner School District #84
Department of Environmental Quality
Department of Lands, Navigable Waters
USACE (Newport)
ACI- Dover

Bonner County Road and Bridge
Northern Lights INC.
Department of Fish and Game
Department of Lands (Sandpoint)
Department of Water Resources
Fish and Wildlife service
Idaho Transportation Department

Agency responses:

Idaho Transportation Department, letter dated May 17, 2018: Robert Beachler of District 1 Planning and Engineering Resources stated that no outdoor advertising signage be placed along unincorporated portions of US-2. The portion of US-2 is in the Selkirk Loop Scenic Byway and the subject property does not have frontage on US-2.

Panhandle Health District, letter dated May 11, 2018: Amanda J Cerise, an Environmental Health Specialist, stated that due to a change of use, a septic permit is required, in addition to a food license.

Bonner County Floodplain, letter dated May 5, 2018: Jason Johnson, Floodplain Manager, stated that the subject property is not located in the special flood hazard zone. No development permit is needed.

No Comment responses:

Idaho Department of Environmental Quality
Bonner County Road and Bridge

Public Notice & Comments: No public comments were received.

Findings of fact and Conclusions of Law

Findings of Fact

1. This project entails a distillery expansion and tasting room as an accessory to an agricultural use.
2. The existing distillery is already permitted as a home occupation. Based on the site plan, sufficient land area is provided for the proposed use, and all structures and uses have been arranged to minimize adverse effects on surrounding properties.

3. The proposed use will not create particular hazards to adjacent properties.
4. Special conditions have been mitigated via conditions of approval.
5. The site is accessed by a public right-of-way and is under the jurisdiction of ITD.
6. On site signage shall be limited via conditions of approval.
7. An adequate traffic plan was submitted that indicated the method of ingress and egress, traffic circulation within the site and on premises parking and loading areas.
8. At least 2 acres of primary beverage ingredient shall be grown on site. The distillery is subordinate to the agricultural operation.

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

Conclusion 1

The proposed planned unit development **is** in accord with the Bonner County comprehensive plan.

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

Conclusion 2

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

Conclusion 3

This proposal was reviewed for compliance with the following criteria and standards:

- BCRC 12-220 et seq, conditional use permit criteria
- BCRC 12-336, Resource Based Uses
- BCRC 12-4.2, General Standards
- BCRC 12-4.3, Parking Standards

Conclusion 4

This proposal complies with the criteria and standards set forth in Conclusion 3.

Conclusion 5

The proposed use **will not** adversely affect properties in the vicinity.

Conditions of approval:

Required CUP conditions:

A-1 The use shall be in accordance with the approved site plan.

A-2 All county setbacks shall be met.

- A-3** Conditional use permit approval shall expire if the permit has not been issued within two (2) years from the date of approval, or if issued, if the use has not commenced within two (2) years from the date of issuance. At any time prior to the expiration date of the conditional use permit, an applicant may make a written request to the planning director for a single extension of the conditional use permit for a period up to two (2) years. The 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-4** Hours of operation shall be limited from 10:00AM to 6:00PM.
- A-5** 1 on premises sign, not in excess of 32 square feet, which may be lighted from the exterior, shall be permitted when included as part of the conditional use permit application.
- A-6** Prior to occupancy, the landowners/applicants shall install adequate sewage disposal facilities to the satisfaction of Panhandle Health District. Written approval of said facilities shall be provided to the Planning Department.

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

File V504-18 - Variance Front Yard Setback – Thomas Toth is requesting a 19 foot front yard setback where 25 feet is required for the construction of a 10X28 foot deck on an approved single family dwelling. The property is a ± 0.29 acre lot described as lot 25 of Sourdough Point in Section 29, Township 57 North, Range 1 West, B. M.

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.

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

APPLICANT PRESENTATION: Kyler Kirpatrick stated staff pretty much said everything in their presentation. He stated when they started the project they ran into a lot of rock and were forced to revise the plan.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Glasoe moved to approve this project FILE V504-18 for a front yard setback for a deck on 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. Commissioner Glasoe 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. Commissioner Reeve seconded the motion.

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

Background:

A. Site data: The site is a ±0.293 acre lot described as lot 25 of Sourdough Point subdivision. The site is a vacant residential lot located approximately 6.5 miles west of U.S. Highway 95 on W. Shoreline Lane via Bottle Bay Road.

B. Access: The property is accessed from W. Shoreline Lane a gravel surfaced private access road.

C. Environmental factors: The site contains mapped slopes of 30% or greater according to the county mapping service. No wetlands are present according to the county mapping service. The site is not located within the studied Special Flood Hazard area (DFIRM Panel #0750E, zone X).

D. Services: Water and sewage disposal for the site is serviced by Bottle Bay Water and Sewer. The site is serviced by Selkirk fire station and Avista Utilities.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	R-10	Recreational residential Lots
North	Rural Residential	R-10	Recreational residential Lots
East	Rural Residential	R-10	Recreational residential Lots
South	Rural Residential	R-10	Recreational residential Lots
West	Rural Residential	R-10	Recreational residential Lots

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

- (A) **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.**

The variance request is for a nineteen (19) foot front yard setback where twenty five (25) feet is required for a deck on a single family dwelling per BCRC 12-411; Density and Dimensional Standards. The subject lot is approximately a ± 0.293 acre lot in the Sourdough Point subdivision. The lot is severely sloped of up to 30% or greater according to the county mapping service.

- (B) **Special conditions and circumstances do not result from the actions of the applicant.**

The original subdivision was developed and approved in 1961 prior to the adoption of ordinances pertaining to setbacks; leaving the applicants with a restricted building envelope due to slopes on the property. The applicants did receive an approved building location permit under BLP2018-0105 originally approved for a forty nine (49) foot front yard setback; however, were met with rock outcroppings difficult to excavate.

- (C) **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.**

The Bonner County Road and Bridge Department had no objections to this variance because the property does not front on a county maintained road. According to the applicant there are no apparent obstructions to the travelway by the proposed constructions by the six (6) foot extension into the setback.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in additional site disturbances, as defined.

H. Land capability report: A land capability report was not required, pursuant to BCRC 12-233 and 12-222. There is no additional impervious surface created as a result of the variance request.

I. Agency Review: The application was routed to agencies for comment on May 9, 2018. The following agencies commented:

Panhandle Health District: No comment, May 10, 2018
School District #84: No reply.
Idaho Department of Fish and Game: No reply.
Idaho Department of Environmental Quality: No Reply.
Idaho Department of Water Resources: No reply.
Idaho Department of Lands (Sandpoint): No comment, May 11, 2018
Bonner County Road and Bridge: No objections, (emailed May 15, 2018)
Army Corps of Engineers (CDA): No Reply.
United States Fish and Wildlife Service: No reply.
Avista Utilities: No Reply.

J. Public Notice & Comments: No adverse public comments were received.

Findings of Fact

1. The lot is a ± 0.293 acre lot described as Lot 25 of Sourdough Point.
2. The lot is zoned Rural-10.
3. The lot is located on West Shoreline Lane.
4. The structure has an approved building location permit under BLP2018-0105.
5. There have been no adverse comments from public agencies or the general public on the proposed variance.
6. The lot is serviced by Bottle Bay Water and Sewer.
7. The lot is serviced by Selkirk Fire District.

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)

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Standard and site-specific conditions:

- B-1** Prior to variance issuance, the applicant shall obtain approval of a building location permit application from the Bonner County Planning Department.

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

File V506-18 – Variance Front, Rear, Side Yard Setback – Mathew & Paula Alice are requesting a 10.3 foot front yard setback where 25 feet is required for the construction of a single family dwelling. The property is a ±0.90 acre lot described as lot 8, block 1 of State Subdivision of Tanglewood Point in Section 22, Township 60 North, Range 4 West, B.M.

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.

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

APPLICANT PRESENTATION: Representative for the applicants Debbie VanDyke stated further clarified the issue of the easements and parking. She also spoke to the sloping issue. She stated they would do all they can to keep the current natural vegetation to help maintain the stability of the slopes.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Kempton moved to approve this project FILE V506-18 for a front yard setback for 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. Commissioner Kempton 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. Commissioner Bailey seconded the motion.

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

Background:

A. Site data: The site is a ±0.90 acre lot described as Lot 8 Block 1 of Tanglewood Point subdivision. The site currently has an existing home constructed in approximately 1949 per the County Assessor's office. A thirty foot (30') wide sewer easement currently runs through the center of the property.

B. Access: The property is accessed from Clambake Road a gravel surfaced private access road.

C. Environmental factors: The site contains mapped slopes of 30% or greater according to the county mapping service. No wetlands are present according to the county mapping service. The site is not located within the studied Special Flood Hazard area (DFIRM Panel #16017C0225F, zone X).

D. Services: Sewage disposal for the site is serviced by Coolin Sewer District. Water is currently pumped from the lake. Power is currently provided by Northern Lights, Inc. and fire protection is provided by Cavanaugh Bay Fire District.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Remote Ag/Forestry	F-40	Recreational residential Lots
North	Remote Ag/Forestry	F-40	Recreational residential Lots
East	Remote Ag/Forestry	F-40	State owned recreational land
South	Remote Ag/Forestry	F-40	Recreational residential Lots
West	Lake	-	-

F. Standards review: BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

- (A) **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.**

The variance request is for a ten foot three inch (10.3) front yard setback where twenty five (25) feet is required for a single family dwelling reconstruction is required per BCR 12-411; Density and Dimensional Standards. According to counting mapping GIS service and the applicant submitted preliminary stormwater management plans the property has slopes ranging from 15-39% down to the water resulting in a reduced building envelope between the road and the waterfront.

- (B) **Special conditions and circumstances do not result from the actions of the applicant.**

The original structure was built in 1949 per Assessor's records and placed approximately eleven feet three inches (11.3) from the edge of the access easement. According to the Record Information notes on 'State Subdivision - Tanglewood Point' plat note R3: "An easement in favor of Coolin Sewer District, dated August 29, 1974, recorded under easement number 4294"; the sewer easement was laid after the original structure was constructed.

- (C) **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.**

The Bonner County Road and Bridge Department had no objections to this variance because the property does not front on a county maintained road. According to the applicant, "The home will be at approximately the same setback from the existing access road. Home does not presently impede public access. Homes along the access with 0'-5' offset from the edge of roadway" According to the sitemap provided the proposed structure with be twenty four feet two inches (24.2) from the edge of the travel surface of Clambake Road.

G. Stormwater plan: A preliminary stormwater management plan was provided, pursuant to BCRC 12-720.3(k) because the proposal results in additional site disturbances, as defined.

H. Land capability report: A land capability report was required, pursuant to BCRC 12-233 and 12-222.

I. Agency Review: The application was routed to agencies for comment on May 21, 2018. The following agencies commented:

Panhandle Health District: No comment, May 29, 2018
School District #83: No reply.
Idaho Department of Fish and Game: No reply.
Idaho Department of Environmental Quality: No reply.
Idaho Department of Water Resources: No reply.
Idaho Department of Lands (Sandpoint): No reply.
Bonner County Road and Bridge: No comment, (emailed May 31, 2018)
Army Corps of Engineers (Newport): No reply.
United States Fish and Wildlife Service: No reply.
Northern Lights, Inc.: No Reply.
Coolin Sewer District: No reply.
Idaho Department of Lands Navigable Waters: No reply
Bonner County Schools-- Transportation: No reply
Coolin Cavanaugh Bay Fire District: No reply

J. Public Notice & Comments

No adverse public comments were received.

Findings of Fact

1. The lot is a ± 0.90 lot described as Lot 8 Block 1 of State Subdivision - Tanglewood Point
2. The lot is zoned Forestry - 40.
3. The lot is located on Clambake Road.
4. The original structure was built in 1949 per the Bonner County Assessor's records.
5. The proposed structure would be located within an existing thirty foot (30') sewer easement.
6. There have been no adverse comments from public agencies or the general public on the proposed variance.
7. The lot is serviced by Coolin Sewer District.
8. The lot is serviced by Coolin Cavanaugh Bay Fire District.

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)

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Standard and site-specific conditions:

- B-1** Prior to variance issuance, the applicant shall obtain approval of a building location permit application from the Bonner County Planning Department.

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

File V507-18 – Variance Front Yard Setback – Michael & Dianna Erickson are requesting a 12 foot front yard setback where 25 feet is required for the change of use of an existing permitted accessory building to an accessory dwelling unit. The property is a ±0.227 acre lot described as lot 24, block 1 of Springy Point Lots Less Tax 1 in Section 33, Township 57 North, Range 2 West, B.M.

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.

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

Commissioner Davis asked because they already have a variance for the structure does this change require a new variance. Ms. Reeves stated, yes, they do need a variance as they are changing the use and it has to meet the new standards.

APPLICANT PRESENTATION: Michael Erickson stated they are here asking for a variance for a change of use from a garage to a dwelling unit.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Reeve moved to approve this project FILE V507-18 for a front yard setback for the conversion of an existing accessory building to an accessory dwelling unit, 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 Reeve 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. Commissioner Bailey seconded the motion.

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

Background:

A. Site data: The site is a ±0.227 acre lot described as Lot 24 Block 1 of Springy Point Lots. The site currently contains an existing single family dwelling and an accessory building. The site contains a pipeline easement for Southwide Water and Sewer under Instrument #169532.

B. Access: The property is accessed from Lakeshore Drive a paved county maintained public right of way.

C. Environmental factors: The site contains mapped slopes of 15% or greater according to the county mapping service. No wetlands are present according to the county mapping service. The site is not located within the studied Special Flood Hazard area (DFIRM Panel #16017C0950E, zone X).

D. Services: Water and Sewage disposal for the site is serviced by Southside Water and Sewer. Power is currently provided by Avista Utilities and fire protection is provided by Selkirk Fire District.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Urban Growth Area	Suburban	Recreational residential lots
North	Urban Growth Area	Subrurab	Recreational residential lots
East	Lake	-	-
South	Urban Growth Area	Suburban	Recreational residential lots
West	Rural	Rural-5	Residential home site

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

A. 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.

The variance request is for a twelve (12) foot front yard setback where twenty five (25) feet is required for the conversion of an existing accessory building to an accessory dwelling unit. The subject lot was created on November 2, 1976 by instrument number #182476 corrected by #184827. The creation of this lot created the narrowing of the parcel and its current "flag" lot shape. The remaining parcel subsequently has a 1974 Southside Water and Sewer Easement running through the property further creating restrictive areas. According to the county mapping service the lot also has the presence of 15% or greater slopes on site.

B. Special conditions and circumstances do not result from the actions of the applicant.

The original accessory building was constructed under BLP2010-0007 and received variance approval under V405-09 for a reduced setback of twelve (12) feet for a front yard setback. The lot was created on November 2, 1976 on instrument #182476. The lot was purchased by the Erickson's on May 14, 2004 twenty eight years after the lot was created.

C. 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.

According to the applicant map provided the structure is thirty two feet from the edge of pavement from Lakeshore drive and states, "There has been no conflict with the motoring public's use of this public travelway. Over 20 feet of separation between the edge of the road and the subject front of property line providing additional separation for snow plowing and road maintenance."

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in additional site disturbances, as defined.

H. Land capability report: A land capability report was not required, pursuant to BCRC 12-233 and 12-222.

I. Agency Review: The application was routed to agencies for comment on May 21, 2018. The following agencies commented:

Panhandle Health District: No comment, June 5, 2018
School District #84: No reply.
Idaho Department of Fish and Game: No reply.
Idaho Department of Environmental Quality: No reply.
Idaho Department of Water Resources: No reply.
Idaho Department of Lands (Sandpoint): No reply.
Bonner County Road and Bridge: Comment, (emailed June 1, 2018)
United States Fish and Wildlife Service: No reply.
Avista : Comment (Emailed May 31, 2018)
Southside Water and Sewer: No Comment June 7, 2018
Idaho Department of Lands Navigable Waters: No reply
Bonner County Schools-- Transportation: No reply
Selkirk Fire District: No reply
Bonner County Floodplain: Comment, June 5, 2018

J. Public Notice & Comments

No adverse public comments were received.

Findings of Fact

1. The lot is a ± 0.227 lot described as Lot 824 Block 1 of Spring Point Lots.
2. The lot is zoned Suburban.
3. The lot is located on Lakeshore Drive.
4. The original structure was built in 2010 with BLP2010-0007.
5. The structure was built with an approved variance under V405-09.

6. The lot was created on Nov. 2, 1976 under Instrument #182476.
7. Southside Water and Sewer holds an easement created in 1974 on the property.
8. There have been no adverse comments from public agencies or the general public on the proposed variance.
9. The lot is serviced by Southside Water and Sewer.
10. The lot is serviced by Selkirk Fire District.

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)

Standard permit conditions:

A-1 The use shall be developed and shall be operated in accordance with the approved site plan.

A-2 The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Standard and site-specific conditions:

B-1 Prior to variance issuance, the applicant shall obtain approval of a building location permit application from the Bonner County Planning Department.

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

File V505-18 – Variance Front Yard Setback – Scott & Susan French are requesting a one (1) foot front yard setback where twenty-five (25) feet is required. The structure was built in 1995 and added onto in 2008. The property is located in the Nordman area at 304 Copper Bay Road in a portion of Section 8/9, Township 61 North and Range 4 West.

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.

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

APPLICANT PRESENTATION: None.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Kempton moved to approve this project FILE V505-18, which allows for a 1-foot front yard 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. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Kempton 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. Commissioner Bailey seconded the motion.

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

Background:

A. Site data: The parcel is a 0.56 acre parcel. The applicant purchased the property in 1992, (Instrument 407383). In 2003, the applicant purchased a 0.23 acre parcel from the Forest Service (Instrument 635940). The property was combined through a lot line adjustment at Planning Department file # LS1667-10 and recorded at Instrument 800813.

B. Access: The property is accessed at the end of Copper Bay Road, a 30-ft wide gravel access road, recorded in Book 1 of Plats, Page 170, at Instrument 91288.

C. Environmental factors:

The property slopes slightly on the Southwest portion of the lot gradually progressing in slope northeast towards Priest Lake. The flood plain slightly encroaches the property on the north side.

D. Services: Sewer is provided by the Granite-Reeder Water and Sewer District. Water is provided by individual well. Power is provided by Northern Lights and served by the West Priest Lake Fire Department.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Land Use	Zoning	Current Use
Site	Remote Ag/Forest	Recreation	Residential 0.56 acres Home, garage, playhouse, boat docks
North			Priest Lake
East	Remote Ag/Forest	Recreation	Residential lots – less than 1.0 acre
South	Remote Ag/Forest	Recreation	Residential lots – less than 1.0 acre
West	Remote Ag/Forest	Recreation	US National Forest

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:"

- A. **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.**

Applicant:

The owners purchased lot 1 in 1992 despite a questionable buildable odd size. Ken Hagman obtained a building permit and built what he thought conformed to the property line setbacks. A few years later after the garage was completed, the Forest Service determined that part of the garage was on Forest Service land unbeknownst to the builder or the owners. The Forest Service sold the French's a piece of the adjacent land.

Staff: The property shown above shows the building in its actual location. The property, originally, was smaller at 0.23 acres and more narrow on the South end of the property. Additionally, the sloping of the property with greater than 15% is shown below.



- B. **Special conditions and circumstances do not result from the actions of the applicant.**

Applicant:

For the past 24 years, the garage has been in the same position. When the lot was replatted with the addition of the FS land...the County approved it. There were two opportunities to address the issue of the garage, once at the building stage and another when it was replatted. The garage has not been an issue until now.

Staff: The applicant is correct that there are approved permits for the structures. The garage has an original permit approved in 1993 and it appears there was some discussion about setbacks. Again in 1995, an addition was approved with a breezeway to the home. There is no indication why this permit was never issued or finalized.

- C. **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)**

Applicant: *The structure has been in place for over two decades without conflict from neighboring owners.*

Staff: Conflict of public interest is mitigated through the planning department's agency review process and by public notification. During the agency review period County, State and Federal regulatory agencies were notified of the project and were permitted to comment, no objections stated. There is not a conflict of interest with the public.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

H. Land capability report: Travis Haller, Glahe and Associates, Inc provided a Land Capability Report: *"The existing property is adequately suited and currently being utilized for Recreation as it has been for many years. The site is capable of withstanding disturbances without the risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface movement per Bonner County Revised Code, Section 12-215(C)."*

I. Agency review: The application was routed to the follow agencies for comment on April 3, 2018:

Forest Service
West Priest Lake Fire District
Northern Lights Power Company
Department of Environmental Quality
Department of Lands (Priest Lake)
Fish and Wildlife Service
Department of Lands, Nav. Waters

Bonner County Road and Bridge
West Bonner County School District #83
Department of Fish and Game
Natural Resource Conservation Service
Department of Water resources
Granite-Reeder Water and Sewer

Granite Reeder Water and Sewer District commented with no objection to the variance request.

Road and Bridge commented that the road is not publicly maintained and the short setback will not affect Road and Bridge. Road and Bridge further commented with the property being at the end of the road, the short setback will not likely impact private maintenance.

J. Public comments: None

Conclusions of Law:

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

This proposal was reviewed for compliance with the criteria and standards set forth at 12-233 and 12-234, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

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)

Findings of Fact

1. Garage was built in 1995.
2. Extensive slope on property.
3. Sewer is provided by Granite Reeder Sewer and Water.
4. Water is provided by individual well.
5. Property is zoned Recreation.
6. BP19930768 Garage approved and inspected by County.
7. LS1667-10 Lot line adjustment approved by County

Conditions of approval:

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

PUBLIC MEETING:

DISCUSSION: Neighborhood committee bylaws.

The discussed the qualifications of the committee. Section 4 – Subsection A

No more than two non-owner residents
No more than three non-residents
No less than five owner residents
No more than one individual per household
Alternates can make up of any combination of the above.

OPEN LINE DISCUSSION:

Staff updates

The Chair declared the hearing adjourned at 8:37 p.m.

BONNER COUNTY PLANNING AND ZONING COMMISSION PUBLIC HEARING MINUTES – AUGUST 2, 2018
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Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 20th day of September, 2018.

Bonner County Planning and Zoning Commission



Don Davis, Chair