

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
OCTOBER 1, 2020**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER:** Commissioner Don Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 3rd Floor BOCC meeting room, Ste. 338, of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

**PRESENT:** Commissioners Chair Brian Baily; Vice Chair Matt Linscott; Don Davis; Taylor Bradish; Dave Frankenbach; Sheryl Reeve; and Suzanne Glasoe

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Planner II Jason Johnson; Planner II Halee Sabourin; Planner I Tessa Vogel; Administrative Manager Jeannie Welter; Administrative Assistant III Jenna Mickelson; and Administrative Assistant III Elizabeth Jensen

**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: September 17, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

**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.

**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.

Commissioner Davis announced the end of his term as Chair and called for a vote for a new Chair and Vice Chair.

Commissioner Linscott nominated Commissioner Baily for Chair. Commissioner Bradish seconded the motion. Commissioner Baily nominated Commissioner Linscott for Vice Chair. Commissioner Reeve seconded the motion.

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

**File V0023-20 Lot Size Minimum & Depth-to-Width Variance – Joseph Stenglein & James Norvell** are requesting a lot size minimum variance to allow 0.2 acres where 0.5 acres is required and depth to width of 4.4:1 where 3:1 is required to build a septic for a separate waterfront property. The property is zoned Rural-5. The project is located off Kelso Lake Road in Section 21, Township 54 North, Range 03 West, Boise-Meridian.

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

**APPLICANT PRESENTATION:** James Norvel summarized his desire to have the lot sized changed to accommodate an additional septic.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

**MOTION:** Commissioner Reeve moved to approve this project FILE V0023-20 requesting a depth to width of 4.4:1 and a lot size minimum of 0.2 acres where 3:1 and 0.5 is required, respectfully, 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 Bradish seconded the motion.

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

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**Background:**

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**A. Site data:**

- Vacant, to be used for a septic system serving a waterfront parcel.
- Platted
- Size: 0.5 acres
- Zone: Rural-5
- Land Use: Rural Residential (5-10 AC)

**B. Access:**

- The property is accessed off Kelso Lake Road, a public, county maintained, 60' wide R-O-W.

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)

- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Entire parcel is SFHA Zone X, per FIRM Panel #16017C1150E, Effective Date 11/18/2009. No further flood review needed.

**D. Services:**

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire District
- Power: Northern Lights
- School District: Bonner School #84

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential (5-10 AC)	Rural-5	Residential
North	Rural Residential (5-10 AC)	Rural-5	Residential
East	Rural Residential (5-10 AC)	Rural-5	Residential
South	Rural Residential (5-10 AC)	Rural-5	Residential
West	Rural Residential (5-10 AC)	Rural-5	Vacant

**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 0.75 acre parcel owned by the Norvells is not suitable for an on-site septic system according to PHD due to a rock outcropping in the only location with suitable setbacks. Kelso Lake Road borders the property to the north, and there is no room to move farther away from the lake without purchasing land north of Kelso Lake Road. We have no control of the existing Norvell Lot depth or rock out cropping location. The Variance request will allow Mr. Norvell to purchase a lot north of Kelso Lake Rd from Mr. Stenglein in order to install a septic system, and thus build a home on the property. Mr. Stenglein owns two lots north of Kelso Lake Road. One lot with his primary residence and the second with his private shop. The variance will allow a lot line adjustment that will minimize impacts to Mr. Stenglein, putting his home and shop on the same parcel, proposed at 0.9 acres."*

**Staff:** Panhandle Health District confirmed via agency review that the waterfront property is not suitable for septic. Septic must be located elsewhere and the property across the road is willing to sell a portion of their land to provide a suitable septic site.

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

*Applicant: "The applicant actually increased the size of the lot in 2015, by purchasing an additional 50' from the neighbor and consolidating three 100-ft wide water front lots into two 150-ft wide water front lots. This was done in hopes of septic approval, which was again denied by PHD. The applicant is pursuing the only remaining avenue to make this lot buildable, which will require acquisition of land to the north of Kelso Lake Road to be used as a drainfield site. PHD has performed a site evaluation and identified this 0.2 acre as having a suitable area for both the primary disposal area and having a secondary disposal area in the case of the primary disposal failing years into the future."*

**Staff:** The applicant did not create a parcel that would be unsuitable for septic. This suitability is based on the natural features of the land and not the actions of the applicant.

- (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.**

*Applicant: "The property will be used for a secondary home. There will be no change in the zoning and this is consistent with existing and future land uses. It will not impact public access or adjoining property in any adverse way. The development will encourage land uses in accordance with the current comprehensive plan by providing environmentally friendly setback from Kelso Lake for septic disposal." [See additional responses to the Comprehensive Plan Goals and Objectives.]*

**Staff:** No agency comments were provided to illustrate any detrimental effects of the environment for the location of the septic. No public comments were submitted to illustrate any concern for the proposal.

**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. Agency Review**

The application was routed to agencies for comment on September 1, 2020.

Panhandle Health District  
 Selkirk Fire District  
 Northern Lights, Inc.  
 Bonner County Schools – Transportation  
 Idaho Department of Fish and Game  
 Idaho Department of Environmental Quality

Idaho Department of Water Resources  
 Bonner County Road Department  
 U.S. Army Corps (Coeur d'Alene)  
 U.S. Fish and Wildlife Service  
 Idaho Department of Lands (Sandpoint)

**The following agencies commented:**

*Panhandle Health District – Timothy French, September 2, 2020*

*Has no objections. Confirmed the Norvell parcel is not suitable for septic. Stated the applicant will require an easement between involved parcels. The proposed parcel has been approved pending the creation of the easement for a primary and replacement area. Provided detailed report.*

**The following agencies replied "No Comment":**

*U.S. Fish and Wildlife – Christina Hacker, September 1, 2020*

**All other agencies did not reply.**

**I. Public Notice & Comments**

No public comments were received at time of staff report.

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**Findings of Fact**

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1. The applicant is requesting a depth to width of 4.4:1 and a lot size minimum of 0.2 acres where 3:1 and 0.5 is required, respectfully.
2. The purpose of this variance request is to allow for a septic to be built and serve a separate waterfront property.
3. The property is generally located in Township 54 North, 3 West, Section 21, off Kelso Lake Road.
4. The Lot 2A of Kelso Lake subdivision was created in 2002 without replatting.

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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 adjustment of lot lines for Lot 2A on the site plan, herein, has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

**PUBLIC WORKSHOP**

**File AM0012-20 - Title 12 Text Amendment - Bonner County** is initiating a workshop to discuss possible text amendments to Bonner County Revised Code to include the following proposed changes:

- 1) Amend Title 12, Subchapter 7.1 in regards to development within and near shoreline areas.
- 2) Amend Title 12, Subchapter 7.3 in regards to development within and near wetland areas.
- 3) Amend Chapter 8 Definitions to amend and add definitions pertaining to development within and near shoreline areas and wetlands.

**STAFF PRESENTATION:** Staff Planners Jason Johnson and Tessa Vogel presented a draft of the proposed language to the Shoreline Code. Review of the current Bonner County map with the Commissioners. The Commissioners and planning staff discussed the proposed language.

**EXECUTIVE SESSION:**

At 7:05 p.m., Commissioner Linscott moved to enter into an Executive Session pursuant to Idaho Code §74-206(1)(a) to consider hiring. Commissioner Reeve seconded the motion.

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

The Chair resumed the public meeting at 7:51 p.m.

Commissioner Linscott moved to discharge the Selle sub-committee. Commissioner Reeve seconded the motion. The Chair asked if there were any comments. Commissioner Davis stated that he wanted to wait to hear back from the prosecutor before moving forward.

**VOTED** upon and the Chair declared the motion carried 5-1. Commissioners Bradish, Reeve, Glasoe, Linscott and Frankenbach voted in favor of the motion. Commissioner Davis voted in opposition of the motion.

**OPEN LINE DISCUSSION:**

Staff Updates

- Director Ollerton announced that there were two resignations on the Priest Lake committee.
- Open discussion about the Sagle committee status.
- Chair requested an executive session be added to the next meeting.

At 8:02 p.m., the Chair declared the hearing adjourned until October 15, 2020.

Respectfully submitted,



Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 15<sup>th</sup> day of OCTOBER, 2020.

Bonner County Planning and Zoning Commission



Brian Bailly, Chair