

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
MARCH 4, 2021**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Bailey called the Bonner County Planning and Zoning Commission hearing to order at 5:31 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 Bailey; Vice Chair Don Davis; Taylor Bradish; Dave Frankenbach; and Suzanne Glasoe

ABSENT: Sheryl Reeve

ALSO PRESENT: Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Planner II Tessa Vogel; Administrative Manager Jeannie Welter; and Administrative Assistant III Jenna Mickelson

PLEDGE OF ALLEGIANCE

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: February 18, 2021. 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 V0001-21 – Variance – Street Setback - Sean and Gretchen LaSalle are requesting a 10' street setback where 25' is required for the construction of a single-family dwelling and 16' where 25' is required for the construction of a detached garage. The 0.224 acre property is zoned Recreational. The project is located off Paul Jones Beach Road in Section 10, Township 59 North, Range 4 West, Boise-Meridian.

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: Project Representative Tom Russell stated that the applicants didn't want to get closer to the lake and the road. Gretchen LaSalle thanked the commissioners and stated that having a home on Priest Lake is a dream of hers.

PUBLIC/AGENCY TESTIMONY: None

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

MOTION: Commissioner Bradish moved to approve this project FILE V0001-21 requesting a 10' street setback where 25' is required for the construction of a single-family dwelling and 16' where 25' is required for the construction of a detached garage, 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 Bradish 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 Davis seconded the motion.

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

Background:

A. Site data:

- Residential
- Platted
- Size: 0.22 acres
- Zone: Recreation
- Land Use: Resort Community (<=2.5 AC)

B. Access:

- The project is located off Paul Jones Beach Road in Section 10, Township 59 North, Range 4 West, Boise-Meridian.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain frontage on Priest Lake

D. Services:

- Water: Individual Well
- Sewage: Coolin Sewer District
- Fire: Coolin Cavanaugh Bay Fire District

- Power: Avista
- School District:

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community (<=2.5 AC)	Recreation	Residential
North	Resort Community (<=2.5 AC)	Recreation	Residential
East	Resort Community (<=2.5 AC)	Recreation	Vacant
South	Resort Community (<=2.5 AC)	Recreation	Residential
West	Lake	Lake	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.**

Applicant: "Paul Jones Beach Road bisects the subject parcel, and Sherwood Beach Road forms the East border. With 25' setbacks from both roads and a 40' setback from Priest Lake, minimal buildable area is available. Steep topography further limits development potential. The combination of these impose a hardship on the applicant's ability to rebuild an existing, aging cabin and provide a usable garage with reasonable access. The applicant is seeking to replace the existing cabin in its original location and increase the footprint. However, the additional area of the new cabin will not be any closer to Paul Jones Beach Road, thus not increasing the encroachment distance from any portion of the residence to the road. The uphill side of the road is the logical site for a detached garage, and adjacent properties have utilized this area. 25' road setbacks offer no usable area for a garage in this case."

Staff: The County mapping system shows sloping above the road averaging 15-29%. The original plat approved in 1956 does not show Paul Jones Beach Road dividing the lots. It appears it was created at a different time. Paul Jones Beach Road is a dead-end private easement proving access through those lots in Duncans Subdivision of 9 lots.

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

Applicant: "The applicant did not create the roads or modify the boundaries of the parcel. Additionally, steep topography limits reasonable building sites on this small site. When the parcels were originally platted, Paul Jones Beach Road did not exist and no provisions were made for its impact on lot configurations or buildability."

Staff: The property was purchased at Instrument #855877 recorded February 2014. The Assessor's Office show the house, garage and boathouse being added in 1940.

- (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 proposal is not in conflict with the public interest, and will not create an obstruction in the travel way of Paul Jones Beach Road. Several residences and Garages along that road have similar or greater encroachments into the required 25' road setback. Paul Jones Beach Road is a private road (essentially a shared driveway) that serves 4 properties beyond the applicants parcel. No reduction in access or view corridors for adjacent properties will occur beyond what currently exists if the requested variance is approved." [See additional responses to the Comprehensive Plan Goals and Objectives.]

Staff: There have been no agency or public comments received on this file.

G. Stormwater plan: A stormwater management plan was required pursuant to BCRC 12-720.2. See conditions of approval.

H. Agency Review: The application was routed to agencies for comment on February 4, 2021.

Panhandle Health District
Coolin Sewer District
Coolin Cavanaugh Bay Fire District
Avista
Bonner County Schools – Transportation
Idaho Department of Fish and Game
Idaho Department of Environmental Quality

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

The following agencies replied "No Comment":

Panhandle Health District – February 2, 2021
Department of Environmental Quality – February 2, 2021
Idaho Fish and Game – February 10, 2021
Road and Bridge – Feb 10, 2021

All other agencies did not reply.

I. Public Notice & Comments

As of the date of the staff report, there have been no comments received.

Findings of Fact

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-234 Variances, Standards for Review of Applications, and BCRC 12-400, et seq., Density and Dimensional Standards.
2. The subject property is 0.22 acres located in the Recreation Zone created in 1956 at the recording of Duncans Subdivision.
3. The subject property is accessed off Paul Jones Beach Road.
4. The structures on the property were built in 1940 according to the Assessors Office records.
5. The applicant acquired the property in 2014 per the deed under Instrument #855877, Bonner County records.
6. The site is to be served by Coolin Sewer District, individual well, Coolin Cavanaugh Bay Fire, and Avista Utilities.
7. There is currently a home, detached garage, boat house and a boat dock on the property.
8. The property is divided by Paul Jones Beach Road, a private easement that appears to have been created sometime after the subdivision was created.
9. There is sloping on the property above the road trending 15-29%.
10. The proposed project does not appear to impact the public interest based on comments received and history of the property.

Conclusions of Law:

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

Conclusion 1

Conditions apply to the property that **do not** apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Conclusion 2

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

Conclusion 3

The granting of the variance **is not** in conflict with the public interest in that it **will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

Conditions of approval:

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** A Building location permit complete with a stormwater management plan and erosion control shall be approved prior to building.

ZONE CHANGE

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 ZC0001-21 - Zone Change - Rural-10 to Rural-5 - Carole Johnson is requesting a zone change from Rural-10 to Rural-5. The comprehensive plan designation is Rural Residential. This 157.823 acre parcel is located off Blacktail Road and Butler Creek Spur Road in Section 17, Township 55 North, Range 2 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Chair Bailey disclosed he knows the applicants but has no conflicts with this project. The Chair noted that there were no additional disclosures or conflicts.

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

APPLICANT PRESENTATION: Project Representative Dan Provolt submitted exhibits A,B,C,D to the record regarding land use and surrounding land use maps. Landowner James Johnson stated that the single family dwelling and cabin no longer exists on the property, and they have cleaned up the property.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record in opposition of the project regarding quality of life, rural character, population density, wildlife concerns, road conditions and access: Bill Largen, Karen Anderson, Simon Clemson, Asia Williams, and Christine Noella.
The following individuals spoke on the record in favor of the project: Matt Linscott and Grant Doorman.

APPLICANT REBUTTAL: Dan Provolt stated this isn't a subdivision, and they plan on keeping it in the family. Applicant Carole Johnson stated the family's intention is to let go of as little as the property as possible. James Johnson stated the land surrounding this property was also once owned by his family.

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

MOTION: Commissioner Davis moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0001-21, requesting a zone change from Rural-10 to Rural-5, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Davis further moved to adopt the following findings of fact and conclusions of law as written. 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:

- Use: Residential
- Unplatted
- Size: 157.823
- Zone: Rural-10
- Land Use: Rural Residential

B. Access:

- Butler Spur Creek
 - Road Class: Local
 - Road Owner: Bonner County
 - County Maintained: Yes
- Blacktail Road
 - Road Class: Local
 - Road Owner: Bonner County
 - County Maintained: Yes

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Per Bonner County CFM, Hallee Sabourin, *The entire parcel is SFHA Zone X, per FIRM panel #16017C1175E, effective date 11/18/2009. No further flood review needed.*
- Soils -
 1. Sagle silt loam
 - 5-30% slopes
 - Not prime farmland
 - Somewhat poorly drained
 2. Treble-Rock outcrop association
 - 20-65% slopes

- Not prime farmland
- Well drained

D. Services:

- Water: Individual well
- Sewage: Individual septic
- Fire: Selkirk Fire District
- Power: Avista Utilities
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-10	Residential
North	Rural Residential	Rural-5	Vacant & Residential
East	Rural Residential	Rural-10	Vacant & Residential
South	Rural Residential	Rural-10	Vacant & Residential
West	Suburban Growth Area	Suburban	Vacant & Residential

F. Standards review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
 - A. The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
 - A. Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)
- **Comprehensive Plan:**
 - The **Rural Residential** area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.
- **Existing Zoning: BCRC 12-323 Rural District (Rural-10)**
 - A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.

2. Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

1. **R-10** in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:

- Characterized by slopes that are steeper than thirty percent (30%).
- Located within critical wildlife habitat as identified by federal, state or local agencies.
- Contain prime agricultural soils.
- Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code of appendix A (private roads) of this title or are absent.
- Within the floodway.
- Contain limited access to public services.

- **Proposed Zoning: BCRC 12-323 Rural District (Rural-5)**

- The proposal is to stay within the Rural zoning district but to rezone from Rural-10 to Rural-5.
- BCRC 12-323(B): Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - BCRC 12-323(B)(2): **Rural-5** in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling per five (5) acre density and/or do not meet the criteria for R-10 above.

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 in section 12-809 of Title 12.

H. Agency Review: The application was routed to the following agencies and all taxing districts for comment on **February 02, 2021**.

Avista Utilities: no response

Bonner County Road & Bridge Department: no response

Burlington Northern Santa Fe: no response

Idaho Department of Environmental Quality: no response

Idaho Department of Lands – Navigable Waters: no response

Idaho Department of Lands – Sandpoint: no response

Idaho Department of Water Resources: no response

Idaho Transportation Department – District I: no response

Panhandle Health District: no comment
Selkirk Fire District: no response
U.S. Army Corp of Engineers: no response

*All Taxing Districts –

Division of Aeronautics: no comment

Independent Highway District: *This subject property is outside of the boundaries of*

the Independent Highway District.

Pend Oreille Hospital District: no comment

I. Public Notice & Comments: The application was routed to property owners within 300' of the subject property and posted in the newspaper on **February 02, 2021**. A summary of the public comments received are listed below.

Summary of Public Comments Received in Opposition of the Proposal

- The rezoning to 5 acre parcels would have a very detrimental effect on the character of the neighborhood.
- The increase in wells would deplete the aquifer.
- The increase in homes will chase away the wildlife.
- The increase in people will destroy the peace and quiet of the area.

Zone Change Findings of Fact

1. The entire 157.823 acre parcel is proposed to be rezoned from Rural-10 to Rural-5.
2. The site is developed with a single family dwelling with an attached garage from 1976, a cabin from 2018, and multiple accessory structures from the 1970s and 1990s per Bonner County Assessor Records.
3. No building permits, building location permits, or land use files except for this file ZC0001-21 are on record with the Bonner County Planning Department.
4. The existing parcel is designated Rural Residential in the Bonner County Comprehensive Plan.
5. The site is accessed off Butler Spur Creek and Blacktail Road, both local, Bonner County owned and maintained roads lying within public right-of-ways.
6. Parcels and lots adjacent to and within the vicinity of the subject property have Comprehensive Plan land use designations of Rural Residential, Ag/Forest Land, and Suburban Growth Area along with zoning districts of Rural-5, Rural-10, Agricultural/Forestry-20, and Suburban. These parcels and lots are a mix of residential development and vacant properties.
7. The site is served by individual septic, individual well, Avista Utilities, and the Selkirk Fire District.
8. The site has mapped steep slopes of 15-29% and 30% or greater.
9. The site has mapped riverine wetlands per the NWI dataset.
10. Butler Creek, a perennial river, runs through the property.

Zone Change Conclusions of Law:

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

Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

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

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the RURAL-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

COMMISSIONER & STAFF UPDATES: None

At 6:41 p.m., the Chair declared the hearing adjourned until March 18, 2021.

Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 18th day of March, 2021.

Bonner County Planning and Zoning Commission



Brian Bailey, Chair