

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
MARCH 18, 2021**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER:** Chair Bailey called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1<sup>st</sup> Floor Conference Room, of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

**PRESENT:** Commissioners Chair Brian Bailey; Don Davis; Taylor Bradish; Dave Frankenbach; Sheryl Reeve; and Suzanne Glasoe

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Administrative Manager Jeannie Welter; and Administrative Assistant III Jenna Mickelson

**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: March 4, 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 V0002-21 – Variance – Street Setback – Eric Larson** is requesting a ten (10) foot setback where twenty five (25) is required for the construction of a garage attached to a home. The garage is against Dutch Harbor Road. The parcel is zoned Recreation (Rec). The project is located off Sutton Ln in Section 26, Township 60N, Range 4W, 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:** None

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

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

**MOTION:** Commissioner Bradish moved to approve this project FILE V0002-21, a setback of ten (10) feet where twenty-five (25) feet is required for the building of a garage and upstairs living area, 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 Reeve seconded the motion.

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

---

## **Background:**

---

### **A. Site data:**

- Residential Use
- Lots 11 & 12 of Cavanaugh Bay Homes Subdivision
- Size: 0.19 Acres
- Zone: Recreation
- Land Use: Resort Community

### **B. Access:**

- The property appears to have access off both Sutton Road and Dutch Harbor Road. The property is addressed off Sutton Road.

### **C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Floodplain Zone X. No Floodplain present on this lot.
- Soil Tyoe: Bonner silt loam, cool, 0 to 4 percent slopes

### **D. Services:**

- Water: Cavanaugh Bay Water System
- Sewage: Coolin Sewer District
- Fire: Coolin-Cavanaugh Bay Fire District
- Power: Northern Lights

- School District: West Bonner County #83

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

<b>Compass</b>	<b>Comp Plan</b>	<b>Zoning</b>	<b>Current Land Use &amp; Density</b>
Site	Resort Community	Recreation	Residential
North	Resort Community	Recreation	Residential
East	Resort Community	Recreation	Residential
South	Resort Community	Recreation	Residential
West	Resort Community	Recreation	Residential

**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:* “We are just adding to existing structure to the side yard, not adding to existing setback. It is much easier to build this way and not impact the current setbacks and not impact the 110 foot cedar tree and root structure. In addition other drainage problems occur to stormwater runoff by offsetting the structure.”

**Staff:** The applicant is adding to an existing structure in a manner that maintains the existing setback. While the applicant describes it as a side yard, from what appears as the orientation of the home, the property line is against Dutch Harbor Road and requires a 25 foot setback. The challenge with the lot is the opposite lot line is against Sutton Road and also requires a 25 foot setback. Further review of the original plat map for Cavanaugh Bay Homes, recorded in 1960, the depth of the lot is 80 feet. With 25 foot setback against both roads, creates a building area of 30 feet. The proposed expansion is 40 feet from Sutton Road.

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

*Applicant:* “Did not build existing structure, was present when purchased in 1999. Not infringing on existing setback no special conditions or circumstances result from the actions requested.

**Staff:** The Assessors Records show the structure with attached garage was added to the rolls in 1971. This was built prior to zoning ordinances and setbacks. Eric Larson acquired the property in 1999 per Instrument #550927, Bonner County Records.

- (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:* Granting this variance does not in any way create a conflict with surrounding properties and there public safety, health, welfare and mutual enjoyment of the neighborhood environment. "

**Staff:** Idaho Dept of Lands provided input concerning increased incident complexity when they assist the local fire department due to decreased setbacks. Road and Bridge provided no comments. The only public comment received at time of staff report was in favor of the project.

**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 February 16, 2021.

Panhandle Health District  
Bonner County Road & Bridge  
Coolin Cavanaugh Bay Fire District  
Northern Lights

Coolin Sewer District  
Bonner County Floodplain Review  
Idaho Dept of Lands (Coolin)  
Idaho DEQ

#### **The following agencies commented:**

**Bonner County Road and Bridge (Feb 17, 2021):** Road & Bridge has no comments regarding the proposed setback variance as Dutch Harbor Rd is a private road and not within our jurisdiction.

**Idaho Dept of Lands (Coolin) (Feb. 16, 2021):** While our office has no jurisdictional oversight regarding project V0002-21, we suggest the county advise the applicant to consider a structure design that complies with County Code if they choose to continue to proceed with construction. We feel the variance process should be the exception and not the rule, especially when it comes to structural amenities like decks, carports, walkways, etc. At times our agency does assist the local fire department in fire suppression and projects such as this increase incident complexity.

Idaho DEQ (Feb 16, 2021): DEQ has no environmental impact comments for the project listed above.

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

Panhandle Health ( Feb. 16, 2021)

**All other agencies did not reply.**

## **I. Public Notice & Comments**

The following public comments were received:

**Roberts (Mar 2, 2021):** We have reviewed the variance request and have no objection and recommend approval.

---

## **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 0.19 acres located in the Recreation Zone created in 1960 at the recording of Cavanaugh Bay Homes Subdivision.
3. The subject property is accessed off Sutton Road.
4. The structures on the property were built in 1971 according to the Assessor's Office records.
5. The applicant acquired the property in 1999 per the deed under Instrument #550927, Bonner County records.
6. The site is to be served by Coolin Sewer District, Cavanaugh Bay Water System, Coolin Cavanaugh Bay Fire, and Northern Lights.
7. There is currently a home with attached garage on 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** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

**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.

**File ZC0012-20 – Zone Change – Rural-10 to Rural-5 – Lloyd & Tamara Jacobson** are requesting a zone change from Rural-10 to R-5 for a 20 acre property. The property is zoned Rural-10. The project is located off Garfield Bay Cutoff in Section 15, Township 56 North, Range 1 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Don Davis stated he knows the applicant personally, and recused himself from the hearing. The Chair noted that there were no further 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:** Llyod Jacobson stated he subdivided the lots to the south, and wants to sell one of the lots to the sewer district.

**PUBLIC/AGENCY TESTIMONY:** The following spoke on the record in favor of the project: Jo Brewer and Barbara Branson.

**APPLICANT REBUTTAL:** None

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

**MOTION TO APPROVE:** Commissioner Frankenbach moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0012-20, 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 Frankenbach 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 Reeve seconded the motion.

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

**Background:**

**A. Site data:**

- Use: Vacant
- Unplatted
- Size: 20 acres
- Zone: Rural-10
- Land Use: Rural Residential

**B. Access:**

- Garfield Bay Cutoff
  - i. Road Class: Local
  - ii. Road Owner: Bonner County
  - iii. County Maintained: Yes

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Per Bonner County CFM, Jason Johnson, *The parcel is within SFHA Zone X, per FIRM panel 16017C0975E, effective date 11/18/2009. No further floodplain review is required on this proposal.*
- Soil: Pend Oreille-Hoodoo silt loams
  - Not prime farmland
  - Well drained

**D. Services:**

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire District
- Power: Northern Lights, Inc.
- School District: Bonner County Schools #84

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

Compass	Comp Plan	Zoning	Current Land Use & Density
<b>Site</b>	Rural Residential	Rural-10	Vacant Forest Land
<b>North</b>	Rural Residential	Rural-10	Residential
<b>East</b>	Rural Residential	Rural-10	Vacant & GBSD Lagoon
<b>South</b>	Rural Residential	Rural-10	Garfield Bay Sewer Lagoon
<b>West</b>	Rural Residential	Rural-10	Vacant & Forested

**F. Standards review: Bonner County Revised Code**

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
  - The application was considered complete and routed to agencies accordingly.

- **12-216: Evaluation of Amendment Proposals**
  - 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.
  - The requested zone change would be in compliance with the comprehensive land use designation.
  
- **Existing Zoning: BCRC 12-323 Rural District (Rural-10)**
  - 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.
  - 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:
    1. BCRC 12-323(B)(2): **R-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 the R-10 zone.

**G. Stormwater Plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.3(K) due to the proposal not resulting in the creation of additional “impervious surface”, as defined in section 12-809 of this title.

**G. Agency Review:** The application was routed to the following agencies and all taxing districts for comment on **February 16, 2021**.

Bonner County GIS Department: *No foreseeable issues with road naming or addressing.*

Bonner County Road & Bridge Department:

Bonner County Schools #84 – Transportation:

Idaho Department of Environmental Quality: *DEQ has no environmental impact comments for the project listed above.*

Idaho Department of Water Resources:

Northern Lights, Inc.:

Panhandle Health District: *Thank you for the opportunity to comment on the proposed zone change. While Panhandle Health District has no comment regarding the proposal, it would like to remind the applicant that a subdivision application must be submitted prior to the land being subdivided, septic permits applied for and septic approved prior to dwellings or a church are to be utilized.*

Selkirk Fire District:

\*All Taxing Districts

Department of Aeronautics: no comment

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

*the Independent Highway District.*

Pend Oreille Hospital District: no comment

Spirit Lake Fire 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 16, 2021**. No public comments were received at the completion of this staff report.

---

### **Zone Change Findings of Fact**

---

1. The entire 20 acre parcel is proposed to be rezoned from Rural-10 to Rural-5.
2. The site’s Comprehensive Plan land use designation is Rural Residential.
3. The site is vacant per Bonner County Assessor records.

4. There are no building permits, building location permits or land use file except for file ZC0012-20, on file with the Bonner County Planning Department.
5. The site is accessed off Garfield Bay Cutoff, a local, Bonner County owned and maintained road. This road divides the existing parcel.
6. Parcels and lots adjacent to and within the vicinity of the subject property have a Comprehensive Plan land use designation of Rural Residential and a zoning district of Rural-10. These properties are a mix of vacant properties, residential uses, and sewer lagoons for the Garfield Bay Water & Sewer District.
7. The site is served by individual septic, individual well, Northern Lights, Inc., and the Selkirk Fire District.
8. The site has mapped slopes of 15-29% and 30% or greater.
9. The site has no mapped wetlands or surface water and contain no floodplains or floodways.
10. There is no critical wildlife habitat present on site.

**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.

**COMPREHENSIVE PLAN TEXT AMENDMENT**

**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.

**File AM0016-20 - Bonner County Revised Code Title 12- Text Amendment- Bonner County** is requesting a text amendment to Title 12 to include the following proposed changes: 1) Amend Title 12 Chapter 6 in its entirety. Some of the amendments are housekeeping in nature including reorganization of subchapters,

deletion of entire processes such as Short Plat and Condominium procedures, amending Minor Land Division and other processes as shown in the proposal up to and including the following subchapters: a. 6.1 – General Provisions; b. 6.2 – Design Standards and Final Plat Contents; c. 6.3 – Lot line adjustments and Minor Notational Changes; d. 6.4 – Minor Land Divisions; e. 6.5 – Preliminary Plat; f. 6.6 – Conservation Subdivisions; g. 6.7 - Intentionally left blank; h. Adding 6.8 – Vacation, Total or Partial, of a Recorded Subdivision Plat; 2) Amending definitions associated with this Section; 3) Adding Appendix C: Development Agreements.

**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/APPLICANT 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.

**PUBLIC/AGENCY TESTIMONY:** The following spoke on the record in opposition of the file regarding quality of life, lack of public involvement, maintaining rural character, easement widths, noticing and site posting issues, eliminating public hearing for subdivisions, road standards, sewer and septic issues: Susan Drumheller, Kristin Noella, KayLeigh Miller, Asia Williams, Regina Crawford, Matt Linscott, Marsha Stevens, Carmen Croitoru, Dave Guinnee, Brian Domke, Kathryn Kolberg, Bill Batdorf, David Terbest, Sheri Clipson, and Theresa Hiesener.

**STAFF/APPLICANT REBUTTAL:** Director Ollerton responded to public comments relating to PHD signoff, noticing requirements, notice posting at sites, and clarified some of the language.

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

**MOTION:** Commissioner Bradish moved to request a continuance to the Board of County Commissioner for this project FILE AM0016-20, to amend the sections of Title 12 Bonner County Revised Code as presented and amended at this hearing based upon the following conclusions: Conclusion 3, proposed amendments may not be in accord with Bonner County Comprehensive Plan Community Design which encompasses the 4-10 lots in a Minor Land Division, and Natural Resources could be affected by the inclusion of Panhandle Health District upfront in platting process, and the effects of these amendments on land use county-wide, to a date and time certain of April 1, 2021 at 5:30pm, 1500 Hwy. 2, Sandpoint, Idaho . The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. 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.

**OPENLINE DISCUSSION:**

The commissioners discussed appointing a member of the commission to facilitate staff in the process of updating the Comprehensive Plan.

At 9:23 p.m., the Chair declared the hearing adjourned until April 1, 2021.

Respectfully submitted,



\_\_\_\_\_  
Milton Ollerton, Planning Director

---

The above Minutes are hereby approved this 1<sup>st</sup> day of April, 2021.

Bonner County Planning and Zoning Commission



\_\_\_\_\_  
Brian Bailey, Chair