

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
Thursday, September 16, 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 1st 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; Vice Chair Don Davis; Taylor Bradish; Dave Frankenbach; Sheryl Reeve; and Suzanne Glasoe

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Assistant Planning Director Jacob Gabell; Planner I Chad Chambers; Planner I Daniel Britt; Planner I Swati Rastogi; Administrative Assistant III Da Niel Scott; and Administrative Assistant III Janna Berard

CHANGES IN AGENDA: Workshop for ZC0028-21 tabled. Rescheduling TBD.

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 2, 2021. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARING:

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.

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 V0017-21 – Variance – Property Line Setback – David & Kathy Hix are Requesting a 5' property line setback where 10' is required to construct a rear porch and steps; the applicant is also requesting a variance to allow for the existing N.E. corner of the house to encroach 15' into the 10' setback. The Property is approximately 1.57 acres and zoned Rural-10. The project is located off Garfield Bay Cutoff in Section 10, Township 56 North, Range 1 West, Boise-Meridian, Bonner County, Idaho.

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

APPLICANT PRESENTATION: Applicants Dave and Kathy Hix provided comments on home-site construction, property not being surveyed, east property lines, and encroachments.

Lisa Moline of Berg, McLaughlin & Nelson Attorney Law Firm, representing Dave and Kathy Hix, submitted Exhibit A (land map), and provided comments on boundary line adjustments, conservation easements, and encroachments.

PUBLIC/AGENCY TESTIMONY: There was not public/agency testimony.

APPLICANT REBUTAL: Not applicable.

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

MOTION: Commissioner Frankenbach, moved to approve this project FILE V0017-21, Variance for a 5' property line setback to construct a rear porch and steps; and a variance to allow for the existing N.E. corner of the house to encroach 15" into the 10' setback, 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 the hearing. Commissioner Frankenbach further moved to adopt the following findings of fact and conclusions of law as set forth in the Staff Report and direct the Planning Director to transmit this decision to all interested parties. This action does not result in a taking of private property. 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 Glasoe seconded the motion.

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

Background:

A. Site data:

- 1.57-acre parcel
- Zone: Rural 10-acre
- Land Use: Rural-Residential

B. Access:

- The property is accessed by Garfield Bay Cutoff Road, a county owned and maintained road.

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
- Per CFM JRJ, 8.12.2021: Parcel is within SFHA Zone X, per FIRM Panel 16017C0975E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.

D. Services:

- Water: private well, 5-8 gal/min
- Sewage: private septic system
- Fire: Selkirk Fire, Rescue & EMS
- Power: Northern Lights Inc.
- School District: Bonner School District #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural 10	Rural Residential
North	Rural Residential	Rural 10	Residential
East	Rural Residential	Rural 10	Forest Land / Vacant
South	Rural Residential	Rural 10	Rural Residential
West	Rural Residential	Rural 10	Rural 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: "The house was located without a property survey locating the east property line. I had the property surveyed because the builder refused to. I had the surveyor mark the property line. East line for fencing and discovered that the back porch would encroach into setback area."

Staff: The subject property has a unique shape and size which limits where an addition to the home can be built. For this reason, the property is unique when compared to other properties in the same zone and vicinity.

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

Applicant: "The builder told us it had been surveyed and it hadn't."

Staff: The unique shape of the property does not result from the any actions of the applicant. The shape of the property allows for only a limited building envelope in general, given the setback requirements for the Rural 10-acre zoning district.

- (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 East property is owned by the Kalispell Tribe. It has a conservation easement. Bonneville Power is the conservation easement holder and the property will never be developed. The back porch and stairs allow us egress out of the back of the house."

Staff: Bonner County Road & Bridge made no objections to the setback variance request. Furthermore, no agency commented, raising issue with the proposed setback variance that would convince staff it would be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel.

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 August 17, 2021.

Panhandle Health District	Idaho Department of Water Resources
Selkirk Fire, Rescue & EMS	Bonner County Road Department
Northern Lights Inc.	U.S. Fish and Wildlife Service
Bonner School District #84	Idaho Department of Lands (Sandpoint)
Bonner County Schools - Transportation	U.S. Forest Service
Idaho Department of Fish and Game	Idaho Department of Environmental Quality

- (a) The following agencies commented:

- Bonner County Road & Bridge, August 23, 2021:

"The Road & Bridge Department has no concerns about this rear yard setback variance."

- Idaho Department of Lands, August 17, 2021:
"The Idaho Department of Lands has no comment on this proposal. Thank you for the opportunity to review."
- Idaho Department of Fish & Game, August 27, 2021
"The Idaho Department of Fish and Game does not have any comments to submit for this application"

(b) All other agencies did not reply

I. Public Notice & Comments

(a) As of September 7, 2021, no public comments were received for this file.

Findings of Fact

1. The property is accessed by Garfield Bay Cut off Road, a County owned and maintained road.
2. The property is zoned Rural 10-acre and is in the Rural Residential Comprehensive land use designation.
3. The property is served by an individual well, septic system, the Selkirk Fire, Rescue and EMS Fire District, and Northern Lights Inc. for power.
4. The property was acquired by the applicants in August 2020 per Warranty Deed (Instrument No. 963020).

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.

COMMISSIONER & STAFF UPDATES:

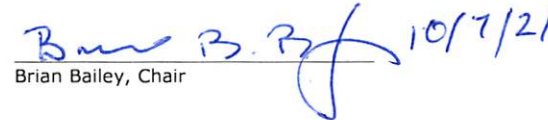
Increase to fee schedules, Director/Planner meeting with Schweitzer on 20-year growth projections, Variances, Conditional Use Permits, Zone Changes, Daum subdivision, Assessor's ~14,700 empty county residential lots that could be built upon (no research done on lot sizes, ~40,000 lots in the county), county expansion being water and sewer dependent, private road standards, and subdivision codes. Commissioner Taylor Bradish resigning, this will be his last P&Z hearing

At 6:07 p.m., the Chair declared the hearing adjourned until October 7, 2021.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 7th day of October 2021.
Bonner County Planning and Zoning Commission


Brian Bailey, Chair