

MINUTE ORDER

BONNER COUNTY PLANNING and ZONING COMMISSION PUBLIC HEARING MINUTES JANUARY 14, 2016

CALL TO ORDER: Chair Temple 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 Steve Temple; Vice Chair Brian Bailey; Margaret W. Hall; Mitch Martin; Don Davis; and Kris Sabo

ABSENT: Commissioner Greg Snow

ALSO PRESENT: Planner III Saegen Neiman; Planner II KayLeigh Miller; and Administrative Secretary Tina Smith

PUBLIC HEARING:

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 V467-15 – Variance Request – Wetland Setback – Travis Garske is seeking variance approval for a 25-foot wetland setback, where 40 feet is required, to construct a 48-square foot front porch onto a 1943 residence,. The lot is described as Lot 2A of Sherwood Beach Addition One, in Section 34, 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 III, Saegen Neiman, presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. The PowerPoint presentation has been submitted to the file. Mr. Neiman advised that one public comment had been received in support of the proposed project.

APPLICANT PRESENTATION: Project Representative Martin E. Taylor, AICP, of James A. Sewell & Associates reviewed the details of the project. He discussed vegetation, the public commented received in support of this project, and noted there were no adverse comments from agencies.

In response to Commissioner inquiries, Mr. Taylor addressed wetlands delineation, foundation wall, access, and wetlands setback.

PUBLIC/AGENCY TESTIMONY: Molly O'Reilly commented on waterways, and accumulative effect of setbacks. She also discussed a possible addition of a condition to address maintain dense vegetation.

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Martin moved to approve this project FILE V467-15 for a 25-foot wetland setback, where 40 feet is required, 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 Martin 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.

Mr. Neiman explained the appeal process.

Background:

A. Site data: The subject property is located within the Sherwood Beach Addition One, described as Lot 2A. The site contains 0.56 of an acre, according to the application. The site is zoned Recreation.

B. Access: Access is provided by South Steamboat Bay Road. South Steamboat Bay Road is a private local access road with a varying width gravel travelway. According to the application, there is no associated recorded easement, width, or location.

C. Environmental factors: The area in which the proposed porch will be located is flat, and contains existing planter boxes. The subject structure is located approximately 40-feet from Soldier Creek. Flood hazard area (Zone: A, DFIRM: 0225) associated with Soldier Creek exists at the location of the existing home. Wetlands exist on site as well, located 26-feet away from the existing residence. A wetland reconnaissance performed by the applicant's representative confirmed the presence of wetlands, due to the existence dominant wetland vegetation, wetland hydrology, and hydric soils. The site contains no prime agriculture soils, or steep slopes, although the property is mapped as white-tailed deer wintering area.

D. Services: Sewage is disposed of via the Coolin Sewer District, and water is provided to the site via individual well. Northern Lights provides power to the

property, and the site lies within the Coolin Cavanaugh Bay Fire District, as well as the West Bonner School District (#83).

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Recreation/Waterfront; 0.56 of an acre
North	Resort Community	Recreation	Recreation/Waterfront; 0.7 of an acre
East	Resort Community	Recreation	Secondary Waterfront; 2.15 acres
South	Soldier Creek	Soldier Creek	Soldier Creek
West	Priest Lake	Priest Lake	Priest 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) An undue hardship exists because of site characteristics, and special conditions and circumstances exist which are peculiar to the land, structure, or building involved.

The residence was constructed in 1943, prior to the adoption of Ordinance 501, establishing wetland setbacks. At the time of the construction of the residence, the boundaries of the wetlands associated with Soldier Creek were unknown. The proposed porch will result in a setback that is one foot closer to the wetland boundary, than the existing home.

(b) A literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.

Porches are common amenities among single family dwellings, and the proposed size would allow sufficient room for foot traffic and furniture. A literal interpretation of this standard would deprive the applicant of a right commonly enjoyed.

(c) Granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same district.

The recreation zoning district requires 5-foot side yard setbacks, the subject property's side property lines lie within the areas of mapped wetland, essentially requiring a 40+ foot side yard setback for the subject lot.

(d) Special conditions and circumstances do not result from the actions of the applicant.

The home was constructed in 1943, while the wetland setback was not adopted until December 5, 2008 (Ordinance 501). The landowners acquired the property in 1990.

(e) The variance requested is the minimum necessary to alleviate the undue hardship.

The proposed portion would be the minimum necessary to allow occupants to place and maneuver around furniture, according to the application.

(f) The variance is not in conflict with the public interest.

According to the application, dense vegetation consisting of shrubs, grasses, willows, alders, and evergreens are situated between the proposed porch addition and the wetlands. No adverse public or agency comments have been submitted.

G. Stormwater plan

A stormwater management plan was not required, pursuant to BCRC 12-7201.2(B), to accommodate the unique topographical and vegetation conditions of the site.

H. Land capability report

A land capability report was submitted to the record by Martin E. Taylor, AICP, in accordance with BCRC 12-233 and 12-222(j), which states:

The site has demonstrated the ability to support the existing house for 72 years. Based on physical site characteristics, the proposed porch addition development area is satisfactorily suited for the intended use, subject to the corresponding variance request for setback relief. The site has demonstrated that it is capable of withstanding the disturbances without risk of harmful consequences as the result of floods, sewage, drainage, erosion, sedimentation, geological or surface slippage, pursuant to Bonner County Revised Code section 12-222(j).

I. Agency Review

The application was routed to the following agencies for comment on October 20, 2015:

*Panhandle Health District
Coolin-Cavanaugh Fire District
Northern Lights Inc.
Army Corps (Coeur d'Alene)*

*Bonner County Public Works Department
Coolin Sewer District
Department of Lands (Coolin)*

The following agencies responded:

Idaho Department of Lands, Response dated October 23, 2015:

No comment

Bonner County Road and Bridge, Matt Mulder, P.E., Response dated October 29, 2015:

No comment

J. Public Notice & Comments

The following public comments were received:

Richard McEwan:

Mr. McEwan stated he was a nearby landowner, and voiced his support of variance approval.

Findings of Fact

1. The subject home was constructed in 1943, prior to the adoption of Bonner County Ordinance 140, establishing setback requirements in the county.
2. Ordinance 501, establishing wetland setback requirements, was not effective until December 5, 2008.
3. Porches attached to single family dwellings are a common rights enjoyed by those within the Recreation zoning district.
4. The existing wetland setback for the residence is 26 feet. The resulting setback from the porch extension will be 25 feet to the wetland boundaries.
5. The structure will maintain the required 40-foot waterfront setback from Soldier Creek.
6. The subject structure will be located within an area of special flood hazard area (Zone A: DFIRM: 0225).

Conclusions of Law:

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

Conclusion 1

This proposal was reviewed for compliance with the criteria and standards set forth at Sections 12-233 and 12-234, Bonner County Revised Code, storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

Conclusion 2

An undue hardship **does** exist because of site characteristics, and special conditions and circumstances that are peculiar to the land, structure, or building involved.

Conclusion 3

A literal interpretation of the provisions of this Title **would** deprive the applicant of rights commonly enjoyed by other properties in the same District under the terms of this Title.

Conclusion 4

Granting the variance requested **will not** confer on the applicant any special privilege that is denied by this Title to other lands, structures, or buildings in the same District.

Conclusion 5

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

Conclusion 6

The variance requested **is** the minimum necessary to alleviate the undue hardship.

Conclusion 7

The variance **is not** in conflict with the public interest.

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.

Standard and site-specific conditions:

- B-1** Prior to issuance of the variance, the applicant shall file a Declaration of Exempt Structure for the proposed porch addition from the Bonner County Planning Department.
- B-2** Prior to issuance of the variance, the applicant shall obtain Development Permit approval for the construction of the porch within the designated flood hazard area associated with Priest Lake and Soldier Creek.