

MINUTE ORDER

BONNER COUNTY PLANNING and ZONING COMMISSION PUBLIC HEARING MINUTES DECEMBER 3, 2015

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; Greg Snow; Don Davis; and Kris Sabo

ABSENT: Commissioner Mitch Martin

ALSO PRESENT: Planner IV Clare Marley, AICP; Associate Planner Saegen Neiman; 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 V463-15 – Variance Request – Front & Side Yard Setback – Eric Anderson is requesting a variance to front and side yard flanking setbacks for an accessory building (RV carport). The variance would allow a ±7-foot front yard setback, where 25 feet is required by Bonner County Revised Code (Serenity Place), and a 0.75-foot foot side yard setback flanking a street, where 15 feet is required (Heavenly Heights). The property is zoned Suburban and is located off of Serenity Place in Section 9, Township 57 North, Range 2 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: Planner Clare Marley 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. Ms. Marley reviewed the reasons this project was removed from the September agenda.

APPLICANT PRESENTATION: Applicant Eric Anderson clarified the setbacks in the staff report should have a minus sign due to the building's encroachment into the right-of-way. He discussed the reasons for requesting a variance and reviewed the variance standards.

In response to Commission inquiries, Mr. Anderson discussed the area of encroachment, setbacks, overhang of structure, snow removal, and slope. Mr. Anderson confirmed he is requesting a .25 foot setback.

STAFF RESPONSE TO COMMISSIONER INQUIRIES: In response to Commissioner Hall's inquiry, Ms. Marley discussed the availability of information for building location permits. Mr. Neiman advised an information sheet is provided with every building location permit. He provided a review of the information provided on the handout.

PUBLIC/AGENCY TESTIMONY: The following members of the public commented in opposition to this project: Judy Pederson and Bernie Pederson. They commented on the following: Road maintenance on Serenity Place, driveway slope, location of RV carport, and setbacks.

Marcy Mironi spoke in opposition to the project. She discussed and submitted the following exhibits: Exhibit A – Photograph, Edge of carport – Heavenly Heights and Exhibit B – Photograph, Fence line of Heavenly Heights easement. She summarized emails received from homeowners to the homeowners association regarding the building of the applicant's carport. She also commented on setbacks, inaccurate survey, location of carport, size of original RV and current RV, changes to the carport and options of storing the RV.

APPLICANT REBUTTAL: Mr. Anderson discussed his original RV and the size of his current RV. He also discussed the changes to the carport.

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

MOTION: Commissioner Hall moved to deny this project FILE V463-15 for a variance to front (of 7 feet) and side yard flanking (of 0.25 feet) setbacks for an accessory building, based upon the following conclusions. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Hall further moved to adopt the following findings of fact and conclusions of law as amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the variance is to:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Appeal the Planning and Zoning Commission's decision to the County Commissioners.

Commissioner Davis seconded the motion.

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

Background:

A. Site data: The subject property is Lot 8 of the 2nd Addition to The Pines. The property contains an existing residence and accessory buildings.

B. Access: The subject property has frontage on Serenity Place, a ±27-foot wide, paved public road with a 60-foot wide right-of-way, and Heavenly Heights, a ±23-foot wide, paved public road within a right-of-way of varying widths. Primarily vehicular access is provided by Serenity Place.

C. Environmental factors: The subject property contains slopes ranging from 15% to more than 30% (USGS slope data). Steeper slopes are located along Heavenly Heights. The subject property does not contain any mapped flood hazard areas (DFIRM Panel 0715E) or mapped wetlands (USFWS National Wetland Inventory). The property does contain white-tailed deer wintering area, but does not contains soils identified by the comprehensive plan as prime agricultural.

D. Services: Water is provided to the property by shared well. Sewage disposal is provided by a septic tank and drain field.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Suburban Growth Area	Suburban	Existing residence and accessory buildings
North	Suburban Growth Area	Suburban	Platted single-family residential lots
East	Suburban Growth Area	Suburban	Platted single-family residential lots
South	Suburban Growth Area	Suburban	Platted single-family residential lots
West	Suburban Growth Area	Suburban	Platted single-family residential lots

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 subject property contains slopes ranging from 15% to more than 30% (USGS slope data). Steeper slopes are located along Heavenly Heights. The property contains frontage on two roads. Additional site constraints include a septic tank and drainfield area and a propane tank and line to the house. (Revised 10/21/15 site plan/aerial.)

(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.

Accessory buildings are permitted uses in the Suburban zoning district. Bonner County has previously issued setback variances for double-frontage properties with slope and site constraints. Existing structures in the area do not meet required front yard setbacks (application and site visit).

(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.

Accessory buildings are permitted uses in the Suburban zoning district. Bonner County has previously issued setback variances for double-frontage properties with slope and site constraints. Existing structures in the area do not meet required front yard setbacks (application and site visit).

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

The subject property was platted on October 25, 1999. The applicant acquired the property on August 14, 2013. The applicant did not create the slopes on the property.

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

According to the application, the variance is the minimum required for the length of their RV on the available flat area of the property.

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

The variance request is for a 7-foot setback from the Serenity Place roadway, and 0.75 feet from the Heavenly Heights roadway. No adverse public agency comments have been received.

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. Land capability report

A land capability report was not required per BCRC 12-222(j), because no additional impervious surface would be created, there would be no site disturbance on 15% or greater slopes, No additional sewage disposal services are associated with the RV carport, the property does not contain floodplain, an existing structures or uses have not had detrimental effect on the subject land.

I. Agency Review

The application was routed to the following agencies for comment on July 15, 2015:

Panhandle Health District

Westside Fire District

Bonner County Public Works Department

Northern Lights Power Company

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The following agencies commented:

Panhandle Health District, memorandum received July 24, 2015: Panhandle Health District has no comment on the variance request.

Idaho Department of Water Resources, memorandum received August 6, 2015: Idaho Department of Water Resources has no comment on the variance request.

Sandpoint Area of City Impact, letter from City of Sandpoint dated August 24, 2015: The property meets the minimum lot size for the city "Rural Residential" and "Single-Family" zones. The city advised of the current setbacks for Sandpoint, which include 25 feet for street fronts and 10 to 20 feet for side yards flanking streets, depending on design accommodations.

Bonner County Road & Bridge, emails from staff engineer Matt Mulder dated October 14, 2015: In response to the applicant's email advising the existing structure is 9 inches into the public right-of-way, Mr. Mulder stated that the county has not issued encroachment permits for structures to be located in the public right-of-way. New structures have been required to be modified or moved out of the public right-of-way. The variance could be conditioned to remove the portion within the public right-of-way, he suggested. Since Heavenly Heights is privately maintained, a structure immediately adjacent to the right-of-way would not impact county snow plowing or maintenance, which is usually the county's primary concern with small setbacks.

J. Public Notice & Comments

Several letters in opposition to the proposed variance have been submitted to the record regarding homeowner association regulations, disregard for county setbacks, parking, and snow management concerns. There are also several letters in support, citing hardships of the site and lack of impact on others.

Findings of Fact

1. The subject property contains slopes ranging from 15% to more than 30% (USGS slope data). Steeper slopes are located along Heavenly Heights. The property contains frontage on two roads. Additional site constraints include a septic tank and drainfield area and a propane tank and line to the house.
2. Accessory buildings are permitted uses in the Suburban zoning district. Bonner County has previously issued setback variances for double-frontage properties with slope and site constraints. Existing structures in the area do not meet required front yard setbacks (application and site visit).
3. According to the application, the variance is the minimum required for the length of the RV on the available flat area of the property.

4. The subject property was platted on October 25, 1999. The applicant acquired the property on August 14, 2013. The applicant did not create the slopes on the property.

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 not** 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** 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** result from the actions of the applicant.

Conclusion 6

The variance requested **is not** the minimum necessary to alleviate the undue hardship.

Conclusion 7

The variance **is** in conflict with the public interest.