

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 V468-15 – Variance Request – Lot Size Minimum – Donald & Karen Walker are requesting a lot size variance to allow for the future division of a 40-acre parcel into three parcels to accommodate existing homes. The property is zoned Ag/Forestry-20 (20-acre minimums), but three homes have been lawfully placed on the property. The site is located on Bailey Road, north of Ponderay in Section 1, Township 58 North, Range 2 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: Associate Planner Saegen Neiman presented a PowerPoint presentation 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.

APPLICANT PRESENTATION: Project Representative Joel Andring of Glahe and Associates advised that he was assisting Steve Klatt on this project as he had secured a position with Bonner County. He provided a project background. He discussed a similar previously approved variance File V408-09, surrounding parcels adjacent to Bailey Road, and density.

In response to Commissioner Hall's inquiry, Ms. Clare Marley advised the math did not support a conservation subdivision plat at the desired density.

In response to Commissioner Sabo's inquiry, applicant Donald Walker confirmed the structure is a pole barn.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Hall moved to approve this project FILE V468-15 for a lot size variance to allow for the future division of a 40-acre parcel into three tracts to accommodate existing homes, 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 Hall 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 Bailey seconded the motion.

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

Background:

A. Site data: The 40-acre parcel currently contains three existing residences. The property is zoned A/F-20.

B. Access: Access is provided by Bailey Road. Bailey Road is a private gravel local access road located within a 20-foot wide access and utility easement.

C. Environmental factors: While the site contains no areas of special flood hazard area (ZONE: X, DFIRM: 0495), or slopes exceeding 15% in grade. There are several unique environmental features. The western half of the property contains areas of mapped wetlands, according to United States Fish and Wildlife wetland maps, areas of prime agriculture soil (Colburn Very Fine Sandy Loam – 9), as well as critical wildlife habitat (moose range, elk wintering area, white-tailed deer wintering area).

D. Services: Each residence has its own individual septic and drainfield system, approved by Panhandle Health District.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forestry	A/F-20	40 acres, Rural residential
North	Ag/Forestry	A/F-20	221.7 acres, Ag/Timber
East	Transition	A/F-20	81.56 acres; Gravel pit
South	Ag/Forestry	A/F-20	110 acres; Agriculture
West	Ag/Forestry	A/F-20	20 acres; 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) 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 property contains three legally placed homes on one 40-acre parcel, prior to the 2008 revision to Title 12, or Bonner County Revised Code. To properly subdivide so each residence, and associated septic and drainfield system are on separate lots, the landowners are seeking variance approval to allow for those minimums.

(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.

Parcels located within Section 1, Township 58 North, Range 1 West, Boise Meridian, range in size between 10-acres to 220+ acres. The proposal of two 10 acre parcels, and one 20-acre parcel would not increase the existing density, but allow for the individual ownership of each residence.

(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 landowners are seeking the density allotment that would have been allowed under the zoning district adopted for this area by the county prior to the revisions adopted to Title 12 on December 9, 2008. Variance file V408-09 was approved under similar circumstances of nonconforming densities.

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

Each home was permitted in accord with the requirements of Bonner County Revised Code at the time of placement and construction, prior to the revisions adopted in 2008.

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

The applicants are requesting variance approval to allow a subdivision into three parcels, which is the same density that currently exists on the 40 acre parcel.

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

Staff has received no public, or agency comments.

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 in accordance with BCRC 12-233 and 12-222, because no additional impervious surface would be created, and no additional site disturbance would occur as a result of the parcel size variance request.

I. Agency Review

The application was routed to the following agencies for comment on October 8, 2015:

*Panhandle Health District
Bonner County Public Works Department
Northside Fire District*

Staff received no agency comment.

J. Public Notice & Comments

The following public comments were received:

No public comments were submitted at the time of report issuance.

Findings of Fact

1. The existing parcel is 40-acres.
2. The parcel is currently zoned Agriculture/Forestry-20.
3. Access is provided by Bailey Road.
4. Three residences were approved by Bonner County for the subject parcel.
5. The variance request would allow for one additional density than the property would be allowed under current zoning.
6. No agency or public comments were received at the time of staff report issuance.

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** In accord with Bonner County Revised Code, Chapter 6, the applicants shall obtain approval from Bonner County prior to the subdivision of land.