

BANNOCK COUNTY PLANNING AND DEVELOPMENT COUNCIL

APPROVED MEETING MINUTES | May 15, 2024

BANNOCK COUNTY STAFF PRESENT: Hal Jensen, Planning Director; Marj Williams, Management Assistant; Kiel Burmester, Road and Bridge.

Stewart Ward calls the meeting to order at 5:22 pm.

A. ROLL CALL AND DISCLOSURE OF CONFLICTS OF INTEREST:

Present Council Members: Stewart Ward discloses that he has a business relationship with the Applicant on Agenda Items #4 and #5 but it will not affect his decision. Barbara Hill (via Zoom), Edward Ulrich.

Excused/Absent Council Members: Tam Maynard.

B. PRELIMINARY BUSINESS:

AGENDA CLARIFICATION AND APPROVAL – None.

Ulrich makes a motion to approve the Agenda as outlined. Hill seconds. Motion passes unanimously by acclamation.

C. APPROVAL OF MINUTES:

None.

Ulrich makes a motion to open the public hearing. Hill seconds. Motion passes unanimously by acclamation.

D. PUBLIC HEARING ITEMS:

4. VARIANCE FROM §327 TABLE OF BUILDING BULK AND PLACEMENT STANDARDS – Jeremy Manska with West Wind Construction, 1655 N. 2nd Ave, Pocatello, requests a variance to reduce the right-of-way setback requirements from 50' to 35' and side yard setback from 20'

to 15', for one residential accessory structure (garage). Applicant says this is the only place they can put the structure.

Ward asks where the lava cliffs start in relation to the house. Manska thinks they start about halfway down the site.

Hal Jensen, Planner Director, presents the Staff Report. He notes that Item A, there is no alternative, is because the County does not want to force someone to cut down mature trees for access. Staff does not see this structure creating an adverse reaction because the property directly to the north has a garage structure that is closer to the road and tighter to the property than the Applicant's request. Staff recommends approval without conditions.

Ward invites public testimony.

Public testimony in favor: None.

Public testimony neutral: None.

Public testimony opposed: None.

Ward proceeds on to discussion and review of the findings.

1. The applicant has shown there is not a reasonable alternative. This is due to the width and depth of the site, the contours and slope of the site, and mature growth and landscaping on the site. And the site is very restricted in its physical developable area.
2. The variance is not in conflict with the public interest. There was no public comment. County Road and Bridge approved.
3. The variance will not adversely affect adjacent property. This is based on the adjoining neighbor to the west has an existing structure that is closer to the right-of-way and the adjacent side yard than what is requested by the Applicant.
4. If the variance is not granted, the applicant will suffer undue hardship caused by the physical characteristics of the site. There is no other buildable area on the site behind the existing residential structure. The Applicant will not be able to meet setbacks if not granted and undue hardship would be that the owner could not construct a new garage.

Ulrich makes a motion, based on the record and discussion this evening, to approve the request by Jeremy Manska, representing Tom Nestor, to reduce the front yard setback from 50' to 35', and the side yard setback from 20' to 15', for one residential accessory structure in the Residential Suburban Zone, as described in the application materials, as supplemented with additional information attached in the staff report, according to testimony received, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair.

Hill seconds the motion.

Roll call. Ward – yes. Ulrich – yes. Hill – yes. Motion to approve passes 3-0.

5. VARIANCE FROM §337 TABLE OF BUILDING BULK AND PLACEMENT STANDARDS – Jeremy Manska with West Wind Construction, 1655 N. 2nd Ave, Pocatello, requests a variance to reduce the rear yard setback requirements from 20' to 10' and side yard setback from 10' to 7', for one residential accessory structure. They are following the City of Chubbuck setbacks.

Ward notes this subdivision will be annexed into the City of Chubbuck at some point. County setbacks are wider than the city so all residents want to follow city standards.

Hal Jensen, Planning Director, presents the Staff Report. He notes this is in keeping with previous councils and actions in this subdivision and other requests.

Ward asks if the blanket setback for the remaining phases allows rear and side yard to 5' for residential accessory structures. Jensen confirms.

Ward invites public testimony.

Public testimony in favor: None.

Public testimony neutral: None.

Public testimony opposed: None.

Ward proceeds on to discussion and review of the findings.

1. The applicant has shown there is not a reasonable alternative. This is based on the development will be annexed into the city of Chubbuck in the future. Previous requests have been granted in this phase of the subdivision for setback and meets the required minimum setbacks of the city.
2. The variance is not in conflict with the public interest. What is being presented is in line with the City of Chubbuck's setbacks in previous discussions between the county and city for development of the subdivision meeting a more urban setting.
3. The variance will not adversely affect adjacent property. Other properties in the subdivision have had similar requests and they've been granted. No public testimony was received against this request.
4. If the variance is not granted, the applicant will suffer undue hardship caused by the physical characteristics of the site. The owner will not be able to experience the same permitted development of the property that others have previously been granted.

Hill makes a motion, based on the record and the discussion this evening, to approve the request by Jeremy Manska, to reduce the rear yard setback from 20' to 10', and the side yard setback from 10' to 7', for one residential accessory structure, as described in the application materials, as supplemented with additional information attached in the staff report, according to testimony received, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair.

Ulrich seconds the motion.

Roll call. Ward – yes. Ulrich – yes. Hill – yes. Motion to approve carries 3-0.

6. VARIANCE FROM §347 TABLE OF BUILDING BULK AND PLACEMENT STANDARDS – Eric Nichols, 12113 W. Fish Creek Rd, on behalf of Bonnie Hansen, requests a variance to reduce the stream and riparian area setback requirements from 100' to 78', for one residential accessory structure. The northeast corner of the barn is approximately 78' to the closest point on the creek. The other corners are 119' and 122' to the creek. The barn that was there previously was only 53' off the creek and he moved it back another 68' for 119'. The northeast corner rises 4' to the edge of the creek. The space between the barn and the old structure is 43' and it rises another 3' to the creek below. Everything slopes to the west.

Hal Jensen, Planning Director, presents the Staff Report. He notes the Staff comment on Item A, page 64 of 131, that says features limit the buildable areas. However, there are potential alternatives closer to Fish Creek Rd or the east of the dwelling at the end of the driveway. Staff recommended denial only as a precaution because there are potential alternatives.

Ulrich notes the alternative would be the other side of the round pen on the hillside next to the house, which wouldn't be practical due to needing to level out the area. Nichols says their septic is also back there. He also notes the corner of the foundation to the creek is 100' so a variance would also be required at the end of the driveway. The well is located above the round pen.

Ward invites public testimony.

Public testimony in favor: Lola Smith, 1223 E. Fish Creek Rd, Lava Hot Springs. Supports, does not wish to testify but states "We have no problem with the building of a barn on their property and the requested setback."

Public testimony neutral: None.

Public testimony opposed: None.

Bonnie Hansen, 12113 W. Fish Creek Rd, Lava Hot Springs, addresses the power. There is no power on the other side of the creek. They had to have a power pole put in to get power on the barn side. They're not planning to put electricity to it yet but would like to eventually.

Ward asks if most of the other side of the creek is open space. Hansen confirms.

Jensen notes that erosion and sediment control is required at time of building permit application.

Ward proceeds on to discussion and review of the findings.

1. The applicant has shown there is not a reasonable alternative. This is based on the slope of the site, a different location will require owner to develop new electrical service to that site, the property directly to the north is dedicated as permanent open space, and Fish Creek runs almost in the middle of the developable area.
2. The variance is not in conflict with the public interest. This is based on adjoining neighbors testifying in favor. No other testimony received in opposition.
3. The variance will not adversely affect adjacent property. Adjoining property owners testified in favor and the request is for setback from riparian area only which has no bearing on adjoining properties.
4. If the variance is not granted, the applicant will suffer undue hardship caused by the physical characteristics of the site. The slope of the site, a different location will require owner to develop new electrical service to that site, the property directly to the north is dedicated as permanent open space, and Fish Creek runs almost in the middle of the developable area. And the new structure is replacing an old structure lost to heavy snow. The new setback is less than the original building setback and is a viable solution for the construction of this size of barn. If the setback is not granted, the owner will have to reduce the size of the proposed structure.

Ulrich makes a motion, based on the record and the discussion this evening, to approve the request for Bonnie Hansen, for a variance from the minimum stream or riparian area setbacks in the Recreational Zone, as described in the application of materials, as supplemented with the additional information attached in the staff report, according to the testimony received, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair .

Hill seconds.

Roll call. Ward – yes. Hill – yes. Ulrich – yes. Motion carries 3-0.

7. VARIANCE FROM §327 TABLE OF BUILDING BULK AND PLACEMENT STANDARDS – Christopher Parrott, 9803 W. Carla Dr, requests a variance to reduce the stream and riparian

area setback from 100' to 60' and the right of way setback from 30' to 15', for one residential accessory structure (25'x35'). They are trying to keep it as close to the house as possible. There's not a lot of space with the hills and trying to maximize the riparian and setback off the roadway.

Ulrich asks what the setback distance from the house to the right-of-way and creek are. Parrott says the house was built in '78 and the corner to the road barely meets the 55' road setback. From the back deck to the creek is 61'. Ulrich notes they'd either be pushing closer to the road or the creek. Parrott confirms and says the two points intersect and there's no point where you could meet the 55' and 100' required. Ward says the setback is only 30' from the road and asks what is meant by the 55' reference. Parrott says it's 55' from the center of the road.

Jensen asks what the setback from the right-of-way line to the building is. Parrott says it's 35'. Kiel Burmester, Road and Bridge, says if it's 35' then he's five feet over what he needs to be. Parrott says he went off the total distance that it had to be 55' from the center of the road, and that distance will only be 40'. Jensen notes the measurement needs to be from the property line and not the center of the road since there is a property line with a formal right-of-way on each side. Council will need to rewrite the language in the approval as the Applicant can be 30' from the right-of-way line to the side of the building.

Ward notes that the Applicant owns both parcels and asks if the setback has to be maintained between the common line. Jensen says not unless he wants to encumber the properties. Applicant says the garage could shift closer to the house but it's very steep and the hillside would need to be reinforced.

Hal Jensen, Planning Director, presents the Staff Report. He notes the condition that all construction adheres to IDEQ's practices for protection of runoff to the water feature.

Ward invites public testimony.

Public testimony in favor: None.

Public testimony neutral: None.

Public testimony opposed: None.

Ward proceeds on to discussion and review of the findings.

1. The applicant has shown there is not a reasonable alternative. Without variances the property has no buildable area between the road and creek. There is no buildable area on the property on the other side of the creek due to the steep slope. The required right-of-way setback and riparian setbacks cross each other and conflict in the buildable area.

2. The variance is not in conflict with the public interest. There was no public comment in opposition.
3. The variance will not adversely affect adjacent property. The desired use conforms with other adjacent properties and similar uses.
4. If the variance is not granted, the applicant will suffer undue hardship caused by the physical characteristics of the site. Without variances, the lot is rendered unbuildable.

Hill makes a motion, based on the record and the discussion this evening, to approve the request by Christopher Parrott, for a variance in the Residential Rural Zone, to reduce the right-of-way setbacks from 30' to 15' and to reduce the riparian area setbacks from 100' to 60', for one accessory structure, as supplemented with additional information attached in the staff report, according to the testimony received, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair with the following condition:

1. Any and all construction shall adhere to the Idaho Department of Environmental Quality's Best Management Practices (BMPs).

Ulrich seconds.

Roll call. Ward – yes. Ulrich – yes. Hill – yes. Motion carries 3-0.

Hill moves to close the public hearing. Ulrich seconds.

Motion passes unanimously by acclamation.

F: ITEMS OF INTEREST:

- a) Update on recommendations to Commissioners –
 - i. Commission is interviewing six potential Council members and will make recommendations. Staff is anticipating two new council members for the June 5th meeting.
 - ii. They are anticipating four recommendations, two to start now and two to start in September after Hill's and Ulrich's terms end in August.
- b) Discussion of upcoming hearing items
 - i. The June 5th meeting has three items of subdivision and one business item.
- c) Announcements – None.

G. CITIZEN COMMENTS:

Rich Phillips, 331 N. 13th, came to Council asking for a setback variance similar to Agenda Items 1 and 4. He was asked to provide a survey and topography study and was told that the burden

of proof was on him. He mentioned the cost to redevelop the land to support something that aligned with code would be prohibitive and was told that did not constitute an undue hardship. He is complaining about the inconsistencies between the last meeting and tonight. He has appealed because he feels other things were done incorrectly as well. He admits that his application was under prepared but doesn't think it was any less prepared than the four items that were approved tonight. He is asking that his application be treated with the same standards.

H: WORK SESSION:

None.

Meeting is adjourned.

The public meeting was held in the Planning and Development Conference Room, 5500 S 5th Ave, Pocatello, ID 83204. Due to limited seating in the conference room, the meeting was also available via web-conference and telephone.

Respectfully Submitted,

Marjorie Williams

Marjorie Williams
Management Assistant