



BOUNDARY COUNTY PLANNING AND ZONING

Street address: 6447 Railroad St., Suite D, Bonners Ferry, ID 83805 Mailing address: PO Box 419, Bonners Ferry, ID 83805
Phone (208) 267-7212 www.boundarycountyid.org (web page)

STAFF REPORT
BOUNDARY COUNTY PLANNING & ZONING COMMISSION
FILE #26-0070, KEN KOGLE
FRONT YARD SETBACK VARIANCE

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| Prepared By: | Tess Vogel, Contract Planner Ruen-Yeager & Associates, Inc. |
| Project Description: | Requesting a front yard setback variance to allow for a 3-foot setback where 20 feet is required to account for the misplacement of a built dwelling on a 3.39-acre parcel in the Residential zone. |
| Project Location: | Adjacent to 6471 Comanche Street to the north |
| Parcel Number: | RP62N01E228748A |
| Legal Description: | Tax 216 outside City less Waterman's Lot 1 in Section 22, Township 62 North, Range 1 East |
| Zoning District: | Residential |
| Applicants/Landowners: | Ken Kogle |
| Date Complete Application Received: | 04/01/2026 |
| Hearing Date: | Planning & Zoning Commission: 05/28/2026 |
| Legal Notice Provided: | Newspaper: 05/07/2026 Site Posting: 05/19/2026 Mailed: To landowners within 300' & Taxing Districts: 05/06/2026 |
| Staff Report Attachments: | Legal notice, application/site plan, agency comments |

PROJECT SUMMARY

Ken Kogle is requesting approval of a front yard setback variance to allow for a 3-foot setback, where 20 feet is required, to account for the misplacement of a built dwelling on a 3.39-acre parcel in the Residential zone. According to county mapping and deed records, the property is partially within the City of Bonners Ferry and partially within the county. County records show the property as two separate parcel numbers (see map below). The applicant indicates the existing home is placed about 3 feet from the city limits. The Residential zone has a structure setback of “20 feet from road, side yard, 5-foot back yard, 5-foot” per Section 15.12.2. of the Boundary County Land Use Code. Setbacks, per Section 2.58, are to be measured from “any parcel line or public road easement/rights-of-way.” The parcel is located at 6471 Comanche Street (north of parcel) and is identified as Assessor’s Parcel RP62N01E228748A in Section 22, Township 62 North, Range 1 East, B.M. The site is served by the City of Bonners Ferry for water, sewer, and power and is within the boundaries of the North Bench Fire District.



**AERIAL OF SITE
YELLOW SHADED AREA IS THE CITY OF BONNERS FERRY**

| PROJECT SETTING | |
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| Access | Comanche Street (public/City of Bonners Ferry) |
| Current use | Residential |
| Services, utilities | City of Bonners Ferry water, sewer, and power, (per applicant, City has not confirmed) and the North Bench Fire District |
| Hazardous Areas | Special Flood Hazard Area Zone X, Panel 1602070575B, no floodway. |
| Zoning overlays or special areas | None |
| Site Zoning & Comp Plan designation | Residential |
| Surrounding Zoning & Comp Plan designations | Residential; City of Bonners Ferry |
| Surrounding uses | Residential; Vacant; City Land |

AUTHORITY

- Idaho Code §67-6516, Variances
- Boundary County Land Use Ordinance, Section 2, Definitions
- Boundary County Land Use Ordinance, Section 12, Variances
- Boundary County Land Use Ordinance, Section 15.12., Residential Zone



APPLICANT SITE PLAN

AGENCY/STAFF COMMENTS

The following agencies were routed for comments on April 01, 2026, and May 06, 2026: Boundary County Addressing, Ambulance, Assessor, Commissioners, Library, Road & Bridge, Boundary School #101, City of Bonners Ferry, Idaho Department of Environmental Quality, North Bench Fire District, and Panhandle Health District.

Boundary County Addressing: *No addressing concerns.*

Idaho Dept. of Environmental Quality: *DEQ has no environmental impact comments for the project at this stage of development.*

PUBLIC COMMENTS

Landowners within 300’ of the subject property were notified of the proposal on May 06, 2026, and notice was provided in the Bonners Ferry Herald on May 07, 2026. No written public comments were submitted to the record up to the completion of this staff report.

| STANDARDS ANALYSIS & EVIDENCE OF APPLICABLE CODES AND COMPREHENSIVE PLAN | |
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| Idaho Code, §67-6516 <i>Variances may be granted upon showing of undue hardship because of site characteristics. The variance shall not be in conflict with the public interest.</i> | |
| Boundary County Land Use Ordinance, Section 12.2. Applicability: <i>A variance is a modification of the bulk and placement requirements of this ordinance as to:</i> <ol style="list-style-type: none"> 1. <i>Setbacks related to front yard, side yard, and/or rear yard;</i> 2. <i>Parking space(s);</i> 3. <i>Structure height;</i> 4. <i>Other provisions herein affecting the size of a structure or the placement of the structure on lots or parcels.</i> | |
| Staff: While a variance is a modification of the bulk and placement requirements of the Boundary County Land Use Ordinance, Idaho Code §67-6516 also notes other factors that constitute a variance, including lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. In addition, state code provides that variances may be granted when there is an undue hardship where site characteristics exists and it is not in conflict with the public interest. The commonly used planning definition for bulk is the volume of a structure or the size and shape of a structure and its relationship to other structures and the land in question. The applicants are seeking a lot size minimum variance. | |
| Boundary County Land Use Ordinance, Section 12.4.4.1. <i>Is the parcel unsuited for uses that would otherwise be allowed in the zone district because of special circumstances of the property, such as its dimensions, topography or features?</i> | |
| Applicant: <i>Front of home is at my own property line. Both properties are owned by me.</i> Staff: The subject site has a single-family dwelling that has been built and is encroaching into the “front” yard setback (southern property line). The encroachment is on the shared property line between the subject site and the landowner’s City of Bonners Ferry ownership. The applicant owns both the subject site with the dwelling encroaching into the setback and the lot being encroached onto. A property line adjustment to remedy the setback issue would not be possible because the home is adjacent to the city-county boundary line and an adjustment would cross into the city jurisdiction. | |
| Boundary County Land Use Ordinance, Section 12.4.4.2. <i>Could denial of the variance infringe on the rights of the property owner, or could it constitute a taking of private property rights?</i> | |
| Applicant: <i>Yes.</i> Staff: The denial of the variance request would not constitute a taking of private property rights as 1) the property owners are not being required to dedicate a portion of property or grant an easement, 2) the property owners are not being deprived of all economically viable uses of the property, 3) the denial would not have a | |

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| <p>significant impact on the landowner’s economic interest, and 4) the property owners are not being denied a fundamental attribute of ownership. If the request is denied, the landowner is able to apply for a parcel line adjustment between his County and City properties.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.3. <i>Would the variance infringe on the property rights of neighboring property owners?</i></p> |
| <p>Applicant: No. Staff: The variance is for a request for a structure placement 3 feet from the adjoining parcel line. The applicant owns the adjoining land, which is within the Bonners Ferry city limits. Access to the site is from the city portion of the property.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.4. <i>Is the need for the variance the result of the actions of the applicant?</i></p> |
| <p>Applicant: Yes. Staff: The landowner had a dwelling built on-site and has stated to Planning Staff that the contractor was hired to do the full scope of the project, including permits. No placement permit was applied for to place the dwelling. At the time of the review of the placement permit application, Planning Staff would have indicated the permitted setbacks for the Residential zone. The applicant did not create the circumstances where his property is split between city and county jurisdictions.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.5. <i>Is the variance the minimum accommodation needed to provide the requested use?</i></p> |
| <p>Applicant: Yes. Staff: Per the application and site plan, the existing dwelling is setback three feet (3’) from the southern property line. A 3-foot minimum setback is being requested by the landowner.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.6. <i>Would granting the variance confer special privilege to the property owner?</i></p> |
| <p>Applicant: No. Staff: Per IC §67-6516, a variance shall not be considered a right or special privilege but may be granted to an applicant only upon a showing of undue hardship because of <u>characteristics of the site</u> and that the variance is not in conflict with the public interest. The request is for a reduced setback for an existing dwelling. Site characteristics include the fact that the property is split between city and county jurisdictions.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.7. <i>Would the variance confer on the property conditions that have been granted to other properties similarly situated?</i></p> |
| <p>Applicant: Unknown. Staff: Multiple variances for setback reductions have been approved by the Boundary County Planning & Zoning Commission. Between 2021 to present five (5) setback variances have been applied for and approved by the Boundary County Planning & Zoning Commission.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.8. <i>Will the variance alter the character of the zone district? (Refer to Comp Plan & 1.9. of the ordinance)</i></p> |
| <p>Applicant: No. Staff: The site is located in the Residential zone, which has setback minimums of 5 and 20 feet. The applicant is requesting a 3-foot minimum front yard setback.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.4.9. <i>Is the variance in harmony with the general purpose and intent of this ordinance and the Comprehensive Plan? (Refer to Comp Plan & 1.3. of the ordinance)</i></p> |
| <p>Applicant: Yes. Staff: The review of every variance request is looked at individually so as to provide applicants with fair, equitable, and consistent land use regulations and guidelines.</p> |
| <p>Boundary County Land Use Ordinance, Section 12.4.5. <i>In considering approval of an application to establish a variance, the planning and zoning commission may consider the imposition of terms and conditions as a means of eliminating or mitigating potential adverse effects or to provide for public safety. Such terms and conditions may be, but are not limited to:</i></p> |

- *Establish time frame(s) for development/completion.*
- *Change the value of the measurement for which the variance seeks relief.*

Staff: Draft conditions of approval are listed at the end of this staff report for review, discussion, and adoption/amendment by the Boundary County Planning & Zoning Commission.

DRAFT FINDINGS FOR DISCUSSION/ADOPTION

1. The applicant is requesting a 3-foot front yard setback minimum where 20 feet is required to account for the misplacement of a built dwelling on a 3.39-acre parcel in the Residential zone.
2. The Residential zone has a structure setback of “20 feet from road, side yard, 5-feet back yard, 5-feet” per Section 15.12.2. of the Boundary County Land Use Code. Setbacks, per Section 2.58, are to be measured from “any parcel line or public road easement/rights-of-way.”
3. Idaho Code §67-6516 includes setbacks in it’s definition for a variance request.
4. The subject site is surrounded by the Residential zoning district and City of Bonners Ferry properties to the south.
5. The site is served by the City of Bonners Ferry for water, sewer, and power, and the North Bench Fire District, according to the applicant.
6. Access is off of Comanche Street, a City of Bonners Ferry street.
7. The site is not located within the Airport Traffic Pattern Area
8. The site is not located in any Area of Impact.
9. The site has no special flood hazard areas present on site per FEMA floodplain maps.
10. The site has no mapped wetlands present on site per the National Wetland Inventory Map.
11. The setback variance request is for an unpermitted, 2022 primary single-family dwelling.
12. Residential Placement Permit, file #26-0054, has been applied for regarding the existing primary single-family dwelling.
13. The applicant owns the subject site, which is partially within the City of Bonners Ferry to the south.

DRAFT CONDITIONS OF APPROVAL FOR DISCUSSION/ADOPTION

1. The variance will run with the land to which it is attached, and continue in effect for the life of the variance established (**Section 12.3.**).
2. The applicant shall complete the conditions of permit approval within two (2) years of the written approval of this variance, or the variance shall no longer be valid. An extension of the variance may be granted by the Planning and Zoning Commission provided the request is made prior to the expiration date and the Commission finds there is just cause for the extension.
3. Prior to the issuance of this variance, the applicant shall reimburse Boundary County for first class mailings and advertisements required for public notification.
4. Any modification of this variance will require a new application and hearing before the Boundary County Planning and Zoning Commission.
5. Future and existing structures shall conform to the setback minimums of the Residential zone.
6. The applicant shall provide a completed residential placement permit to the Boundary County Planning Department (File #26-0054 is pending.)

| STANDARDS OF REVIEW FOR REASONED STATEMENT | | |
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| <i>Idaho Code §67-6535 (2): The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.</i> | | |
| SECTIONS 12.4.4.1-12.4.4.9 & IC §67-6516, STANDARDS FOR VARIANCE REVIEW: | | |
| The Boundary County Planning & Zoning Commission will hold a public hearing on applications for a variance and, based on materials in the applicant, the staff analysis and testimony presented during the public hearing process, will hold discussion to render reasoned findings to support a decision. The following shall be reviewed: | | |
| IC §67-6516 A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. | | |
| BC 12.4.4.1. Is the parcel unsuited for uses that would otherwise be allowed in the zone district because of special circumstances of the property, such as its dimension, topography or features? | | |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.2. Could the denial of the variance infringe on the rights of the property owner or constitute a taking of private property rights? (Refer to Comprehensive Plan, Sections 1.6., and 1.10.) | | |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.3. Could the variance infringe on the property rights of neighboring property owners? (Refer to Comprehensive Plan Section 13.5.) | | |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.4. Is the variance the result of something caused by the applicant? | | |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.5. Is the variance the minimum accommodation needed to provide the requested use? | | |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.6. | | Could granting the variance confer special privilege to the property owner? |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.7. | | Would the variance confer onto the property conditions that have been granted to other properties similarly situated? |
| YES | NO | List the evidence from the record that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.8. | | Will the variance alter the character of the zone district? (Refer to Comprehensive Plan, 1.9.) |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| BC 12.4.4.9. | | Is the variance in harmony with the general purpose and intent of this ordinance and the Comprehensive Plan? (See 1.3. Purpose, Comprehensive Plan Vision Statement). |
| YES | NO | List the evidence from the <u>record</u> that supports your conclusion and the rationale for the conclusion. |
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| DECISION BY THE PLANNING & ZONING COMMISSION – VARIANCE | |
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| Motion to Approve | I move to approve the setback minimum variance to allow for a 3-foot setback, where 20 feet is required, File #26-0070, finding that the proposal IS in accord with the standards of Idaho Code and Section 12 of the Boundary County Zoning & Subdivision Ordinance, based upon the findings and conditions as written [<i>or amended – list amendments</i>] and based upon the reasons as read into the record during deliberation. This action does not result in a taking of private property. |
| Motion to Table or Continue | I move to table or continue the hearing to [insert date, time and place] to allow further consideration of the proposed application or to allow review and approval of written findings and decision. |
| Motion to Deny | I move to deny the setback minimum variance to allow for a 3-foot setback, where 20 feet is required, File #26-0070, finding that the proposal IS NOT in accord with the standards of Idaho Code and Section 12 of the Boundary County Zoning & Subdivision Ordinance, based upon the findings as written [<i>or amended – list amendments and state which findings do not meet the standards</i>] and based upon the reasons as read into the record during deliberation. This action does not result in a taking of private property. |