

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS
OF THE MADISON COUNTY PLANNING AND ZONING COMMISSION**

Re: Kyle Bradshaw - Variance

The Madison County Planning and Zoning Commission held a public hearing on October 13, 2016 at 7:00 p.m. at the Commissioner's Room in the Madison County Courthouse, Rexburg, Idaho to consider the request of Kyle Bradshaw for a Variance for the purpose of constructing a single family dwelling on an Agricultural zoned property. This single family dwelling would be located at approximately 6750 West 5000 North, on 9.398 acres in the Rexburg, Idaho area.

The entire meeting was recorded to allow for preparation of a transcribable verbatim record of the hearing. No media was in attendance at the meeting.

The following members of the Madison County Planning and Zoning Commission ("Commission") were present at the public hearing: Matt Hartline, Anthony Merrill, Rick Robertson, Doug Sakota, Bill Squires, Aaron Swenson, Christy Swenson, and Ed Williams. Those excused were Arlene Anderson, Mark Hansen, Mike Munns and Shane Sutton. Planning and Zoning Administrator Brent G. McFadden, Troy Evans, legal counsel and coordinator Judy Coy also attended.

The public hearing was called to order by Chairman Rick Robertson. Judy Coy acted as clerk for the meeting. Chairman Robertson questioned Judy Coy as to whether or not notices of the hearing had been properly published, posted and provided. She stated that all required legal notices had been given. Chairman Robertson asked if there were any conflicts of interest. No conflicts existed in the Commission members.

Kyle Bradshaw gave the presentation on behalf of his Variance application. He was asked questions by the Commission.

After hearing the presentation by the Planning and Zoning staff, and from the applicant on behalf of the Kyle Bradshaw, Variance application, Chairman Robertson asked for those members of the public in favor, in neutral, or opposed to the proposal to come forward and be heard. Chairman Robertson reminded the citizens in attendance that they must sign up on the appropriate lists if they wished to speak.

Those in favor were – Lloyd Bradshaw
Those neutral were – Shane Ruebush
Those opposed were – Scott Perrenoud

There was no written correspondence received prior to the Public Hearing, however, there were two (2) letters read during the public hearing that were provided at the public hearing which are attached to the hearing record and made a part thereof.

A summary of the public hearing testimony and discussion at the hearing is attached hereto and incorporated herein.

There being no further comments, the public hearing portion was closed at 7:42 p.m. The Planning and Zoning Commission noted that any recommendations they would make would be tentative, pending final approval from the Board of County Commissioners. The Commission then deliberated the Kyle Bradshaw request for a Variance to construct a single family dwelling on an Agricultural zoned property, taking into consideration the hearing factors contained in Madison County Unified Development Code, Part II, Chapter 101, Article VI, section 101-166 regarding Variances.

Having given due consideration to the application and evidence presented, the Planning and Zoning Commission hereby makes the following findings of fact:

FINDINGS OF FACT

- 1) A public hearing was held October 13, 2016, to take the testimony on the requested Variance. This proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.
- 2) Notice was published in the legal county newspaper, the Standard Journal, on September 30, 2016 and October 7, 2016 as required. The published notice included an appropriate and accurate summary of the issues to be heard. Copies of the notices were made available as requested and were provided to political subdivisions within the planning jurisdiction at least 15 days prior to the hearings. Copies of the notice were sent to all residents within the 350 foot buffer zone, as required, on September 28, 2016.
- 3) At the beginning of the hearing, Chairman Rick Robertson asked whether proper notice of the hearing had been provided. The Planning and Zoning staff answered in the affirmative, discussing what notices had been provided. No conflicts of interest were reported.
- 4) The Public hearing was scheduled at 7:00 p.m. all as set out in the published notice, as described above.
- 5) The meeting agenda was available prior to the meeting, and the public hearing followed the order of events listed on the agenda. The Planning and Zoning Administrator gave an explanation of the subject of the public hearing. An opportunity was provided for the applicant and members of the public to present testimony, which was followed by members of the Planning and Zoning Commission. Public testimony was closed after all present had been given an opportunity to submit oral or written testimony. No time limits were imposed on oral testimony. The Planning and Zoning then discussed this matter thereafter and came to a conclusion.

CONCLUSIONS AND RECOMMENDATIONS

1. Notice of the Public Hearing held to consider approval of the Variance was published and provided as is required by Idaho Code §§67-6509 and 67-6511.
2. The Public Hearing was held to consider approval of the proposed Variance and was conducted in accordance with the requirements of Idaho Code §§ 67- 6509 and 6511 as well as Madison County Code Book, Unified Development Code, Part II, Article VI, Chapter 101, sections 101-171, regarding Variances.
3. Per the standards applicable to variances, section 101-166 of the Unified Development Code the following findings are made:
 - A. The proposed use of the parcel does constitute a Variance per Unified Development Code, Part II, Article VI, Section 101-171 of the Madison County Code Book.
 - B. That the granting of the variance will not be in conflict with the spirit and intent of the Comprehensive Plan and/or this part and will not affect a change in zoning.
 - C. That there are exceptional or extraordinary circumstances or conditions, applicable to the property involved which do not apply generally to the property or class of use in the zoning designation, so that a denial of the relief sought will result in:
 - a. Undue loss in value of property;
 - b. Inability to preserve the property rights of the owner; or
 - c. The prevention of reasonable enjoyment of any property rights of the owner.
 - D. The granting of such a relief will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property improvements.
4. A transcribable verbatim record was made and kept of the Public Hearing held to consider approval of the Variance, in accordance with the requirements of Idaho Code §§ 67-6536
5. The proposed Variance is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et seq.*
6. Approval of the proposed Variance is in the best interests of the people of Madison County, Idaho.

7. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code §67-6509.

Bill Squires made a motion to approve the Variance application with the following conditions:

a. There will be no further splits to these parcels owned by Lloyd Bradshaw where the property in question is currently being split from.

b. The property owner, Kyle Bradshaw, his spouse, and Lloyd Bradshaw and his spouse will allow Scott Perrenoud or whomever else has legal claim to the ditch, access for ingress and egress to the ditch found on the property and the ability to maintain the same.

c. The ditch on said property will not be altered in any way shape or form.

The ditch on said property will be cleaned at the time of the construction of the new Bradshaw home, and as needed in the future. This agreement was made between the landowner and ditch owner, and not made a part of this variance's condition.

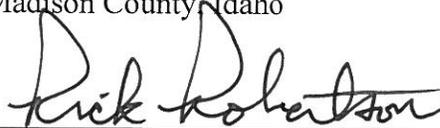
The motion was seconded by Anthony Merrill and the voting by roll call vote was unanimous in favor. The motion carried.

CONCLUSION

Based upon the foregoing Findings of Fact, Conclusions and Recommendations, the planning and zoning procedures conducted throughout the county, the comments received at the public hearing held thereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends **approval** of the request for a Variance to the Madison County Commissioners.

Dated this 17th day of October, 2016.

Planning and Zoning Commission
Madison County, Idaho



Rick Robertson, Commission Member

Attest:



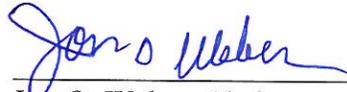
Brent G. McFadden
Planning and Zoning Administrator

**Adoption of Findings of Fact by the Madison County
Board of County Commissioners**

Based upon the foregoing Findings of Fact, Conclusions and Recommendations of the Planning and Zoning Commission, and based upon the Madison County Board of County Commissioners (Board) review thereon, pursuant to Unified Development Code, Part II, Chapter 101, section 101-105 through 101-141 and Idaho State Code § 67-6509, 67-5511 *et seq.*, the Board hereby approves the Findings of Fact and Conclusion of Law presented by the Commission and approves the action based thereon.

Dated this 14th day of November 2016.

Board of County Commissioners



Jon O. Weber, Chairman, Commissioner

Kimber O. Ricks, Commissioner



Todd Smith, Commissioner

Attest:



Kim H. Muir, County Clerk

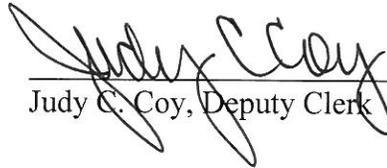
CLERK'S CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of November, 2016, I mailed a true and correct copy of the foregoing to the parties named below, by the means shown, and addressed as follows:

Kyle Bradshaw
2261 North 6000 West
Rexburg, ID 83440

() Hand Delivered
() Facsimile
(xx) U.S. Mail

/s/ Kim H. Muir



Judy C. Coy, Deputy Clerk