



Clarke Zoning Setback Variance

File Number VA-23-00005

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Andrew and Mette Clarke, property owners, submitted a zoning setback variance requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of a garage, which would result in a 15-foot front line setback. The 25-foot front lot line setback is required by KCC 17.30.050.

Location: The subject property is parcel #122134 (Lot 30, Block J, of Pine Loch Sun #2) located on Dumbarton Road, at the intersection with Pine Loch Sun Drive. The property is in Section 2, Township 20, Range 14 in Kittitas County. Map number 20-14-02051-1030. The property is 0.30 acres and is zoned Rural Recreation with a Rural Recreation land use designation.

II. SITE INFORMATION

Total Property Size:	0.30 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	Individual Septic
Fire Protection:	Fire District 6 (Ronald)
Irrigation District:	N/A

Site Characteristics:

North: Primarily residential development

South: Primarily residential development

East: Eastern Cascade foothill slope

West: Primarily residential development and Cle Elum Lake

Access: The site is accessed via Dumbarton Road.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Rural Recreation and a Rural Recreation Land Use designation. The purpose and intent of the Rural Recreation zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. A primary goal and intent in siting R-R zones will be to promote rural recreation residential development associated with the many natural amenities found within Kittitas County. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed front setback requirements in KCC 17.30.050. Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance can be granted. The applicant must demonstrate that the proposal **has met all four criteria**. The following is a summary describing whether each criterion has been satisfactorily demonstrated:

KCC 17.84.010 Granting Criteria (all four must be met):

1. Unusual circumstances or conditions applying to the property and/or the intended use that do not apply generally to other property in the same vicinity or district, such as topography.

Applicant Response

“Our property is pie shaped, and only 0.30 acres. Due to the lot shape, the cabin placement, septic system placement, and the front lot line setback, we are very limited as to where we can place a garage. Most rectangular shaped properties in Pineloch Sun don’t have this issue and are able to have a garage structure without seeking a variance.”

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicant’s submitted information and comments received during the comment period. CDS finds that the applicant has satisfied the criteria outlined in KCC17.84.010(1).

The applicant has demonstrated in a factual and meaningful way the existence of “unusual circumstances or conditions” that does not generally apply to other property in the same vicinity. Further the applicant has demonstrated in a factual and meaningful way the existence “undue hardship” caused by the application of the yard requirements as stipulated in KCC 17.57.050(1). The variance, as presented, is consistent with KCC 17.84.010(1).

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owners of other properties in the same vicinity.

Applicant Response

“The cabin was built with no garage or storage areas. There is no protected storage for any recreational equipment, tools, lawn furniture or anything that one would normally expect to store in a garage. We purchased the cabin with the intention of enjoying all seasons of recreation in the Cle Elum area. On a recent stay at the cabin, I had to lock my mountain bike to a tree on our property as there is nowhere to securely store it. Presently, the lack of storage area is limiting what we can bring to the cabin and is preventing us from getting the most enjoyment from our property.”

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicant’s submitted information and comments received during the comment period. CDS agrees that without this variance, the applicant would not be able to place a garage on the subject parcel. Garages are a common appurtenance to single-family residential properties in the area. CDS finds that the applicant has satisfied the criteria outlined in KCC17.84.010(1).

The applicant has demonstrated in a factual and meaningful way the existence of a “substantial property right” that may be negated by the application of the yard requirements as stipulated in KCC 17.57.050(1). The variance, as presented, is consistent with KCC 17.84.010(2).

3. Authorization of such variance will not be materially detrimental to the public welfare or injurious to

property in the vicinity.

Applicant Response

“This variance will not be a detriment to nearby properties or the neighborhood in general. The variance will allow the design of the garage to match the house, be of a useful size, and will be harmonious with the property. A very old, un-safe, nasty, derelict building that is presently located at the SE corner of our property will be removed as part of the project. The removal of this structure will further enhance the lot and the immediate neighborhood in general. It also should be noted that the application of the 25’ front lot setback is not consistent throughout Pineloch Sun. There are a number of cabins, garages, sheds and tree houses that are well within the setback; some are likely on the 60’ road easement.”

Staff Response

CDS could not find any reason that the proposed setback reduction would be injurious to adjacent property owners or the public welfare in any material way. The proposed structure will be located at least 15 feet from the front property line and would allow for an increased buffer from the Kachess River (designated as a shoreline of statewide significance) and the associated floodway. CDS finds that the applicant has demonstrated the project to be consistent with KCC 17.84.010(3).

The applicant has demonstrated in a factual and meaningful way that the proposed build site will maintain substantial property line setbacks despite granting of the variance. The variance will not be “materially detrimental to the public welfare or injurious to property in the vicinity” as required in KCC 17.84.010(3).

4. The granting of such a variance will not adversely affect the realization of the comprehensive development pattern of this area.

Applicant Response

“The granting of the front yard setback variance will not adversely affect the realization of the comprehensive development pattern of the area. As our property and the roads in Pineloch Sun are private, the Pineloch Sun Architectural Planning Committee also reviews construction projects in order to uphold the Protective Covenants of the Pineloch Sun Beach Club. This review confirms the following: Quality of workmanship and materials, harmony of exterior design with existing structures, locations of proposed building or structure with respect to the topography and finish grade elevations.”

Staff Response

CDS has concluded that the requested zoning setback variance reduction will not adversely affect the realization of the comprehensive development pattern of the area. The area contains similarly sized lots with single family residences and appurtenances.

The applicant has demonstrated in a factual and meaningful way that the proposed build site will “not adversely affect the realization of the comprehensive development pattern.” The variance, as presented, is consistent with KCC 17.84.010(4).

Staff Conclusions

Staff finds that the zoning variance request **does** meet all four criteria outlined in KCC 17.84.010 as described above. Therefore, the zoning variance request is consistent with the conditions necessary to grant a variance under KCC 17.84.

IV. ADMINISTRATIVE REVIEW

Deem Complete: The application was determined complete on August 7, 2023.

Notice of Application: Notice of Application was sent to property owners within 500 feet and all agencies with jurisdiction, published in the official newspaper of record for Kittitas County, and posted on the Kittitas County website on August 8, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on August 22, 2023, and all comments were transmitted to the applicant on August 31, 2023.

V. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the subject parcel and found there to be no critical areas. CDS has determined that the Clarke Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e). The subject property is not located within shoreline jurisdiction.

VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments are on file and available for public review. The following agencies provided comments: Confederated Tribes of the Colville Reservation, Washington State Department of Transportation – Aviation Division, Kittitas County Public Works, Kittitas County Public Health. A review of these comments can be seen below.

Confederated Tribes of the Colville Reservation

Confederated Tribes of the Colville Reservation provided comments requesting (not requiring) an Inadvertant Discovery Plan (IDP) be in place prior to the project being built.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

N/A

Washington State Department of Transportation – Aviation Division

Washington State Department of Transportation – Aviation Division stated that they have no comments.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Health

Kittitas County Public Health has provided comments stating they have no further concerns associated with this project.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Works

Kittitas County Public Works provided comments:

- Except as exempted in Section KCC 14.05.060, no grading or filling upon a site involving more than one hundred (100) cubic yards shall be performed without a grading permit from the County Engineer or Public Works designee (KCC 14.05.050). An application for grading in excess of five hundred (500) cubic yards shall be accompanied by an engineered grading plan (KCC 14.05.080).
- Neither the provided site plan nor the narrative address the septic tank, drain field, replacement drain field, or where the near edge of Dumbarton Road is. Additionally, the Narrative should include the size of the proposed structure.
- Parcel #122134 is not located in the FEMA identified special flood hazard area (100-year floodplain).

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

“Please see the attached revised site plan that shows the information that the public works department asked for.” Applicant provided a site plan that addressed the concerns of the Public Works department officials.

No comments were received from members of the public during the designated comment period.

VII. PROJECT ANALYSIS

In review of this proposal, it is important to consider the applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff’s analysis and consistency review for the subject application.

Consistency with the provisions of KCC 17A, Critical Areas:

Staff conducted an administrative critical area review in accordance with KCC 17A. There are no identified critical areas located on the property. This request is consistent with critical areas provisions.

Consistency with the provisions of KCC 17.30.050 Yard requirements:

This proposal, with approval of the zoning setback variance, is consistent with the setbacks outlined in Kittitas County Zoning Code 17.30.050 Yard Requirements – Rural Recreation.

Consistency with the provisions of KCC 17.84, Variances:

This proposal must meet all four of the criteria for granting a zoning variance. The four criteria are: 1) unusual circumstances or conditions applying to the property and/or the intended use that do not apply generally to other property in the same vicinity or district, such as topography; 2) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district; 3) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located; and 4) That the granting of such variance will not adversely affect the realization of the comprehensive development pattern. A variance so authorized shall become void after the expiration of one year if no substantial construction has taken place. This proposal is consistent with

the required variance criteria as described above in Section III of this staff report.

Consistency with the provisions of the KCC Title 14.04, Building Code:

All buildings must be consistent with International Building Codes and approved building plans as issued by Kittitas County.

Consistency with the provisions of KCC Title 20, Fire and Life Safety:

The proposal must be consistent with the provisions of KCC Title 20.

Agency Comments:

Comments were received from the following agencies: Confederated Tribes of the Colville Reservation, Kittitas County Public Health, Kittitas County Public Works, Washington State Department of Transportation – Aviation Division. All comments are on file and available for public review.

Public Comments:

No comments were received from the public during the comment period.

VIII. FINDINGS OF FACT

1. Andrew and Mette Clarke, property owners, have submitted a zoning setback variance application requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of a garage, which would result in a 15-foot front line setback.
2. Parcel #122134 (Lot 30 of Pine Loch Sun #2) located on Dumbarton Rd., at the intersection of Pine Loch Sun Rd. The property is in Section 2, Township 20, Range 14 in Kittitas County. Map number 20-14-02051-1030.
3. Site Information

Total Property Size:	0.30 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	Individual Septic
Fire Protection:	Fire District 6 (Ronald)
Irrigation District:	N/A

4. Site Characteristics:
 - North: Primarily residential development
 - South: Primarily residential development
 - East: Eastern Cascade foothill slope
 - West: Primarily residential development & Cle Elum Lake

The site is accessed via Dumbarton Road.

5. The Comprehensive Plan land use designation is Rural Recreation within Rural Recreation zoning.
6. The purpose and intent of the Rural Recreation zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. A primary goal and intent in siting R-R zones will be to promote rural recreation residential development associated with the many natural amenities found within Kittitas County. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed front setback requirements

in KCC 17.30.050. Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance can be granted. The applicant must demonstrate that the proposal has met **all four criteria**.

7. A Zoning Variance Application was submitted to Kittitas County Community Development Services department on July 10, 2023.
8. The application was determined complete on August 7, 2023.
9. Notice of Application was sent to property owners within 500 feet and all agencies with jurisdiction, published in the official newspaper of record for Kittitas County, and posted on the Kittitas County website on August 8, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on August 22, 2023, and all comments were transmitted to the applicant on August 31, 2023.
10. CDS performed a critical areas review of the subject parcel and found there to be no critical areas. Based upon review of the submitted application materials and a critical areas review, CDS determined that the Mannes Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).
11. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
12. The proposal is not consistent with the provisions of KCC 17.30.050, Rural Recreation zoning, without approval of the zoning setback variance.
13. The proposal is consistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have been satisfied.
14. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code as conditioned.
15. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety as conditioned.
16. Comments were received from the following agencies: Washington State Department of Transportation – Aviation Division, Confederated Tribes of the Colville Reservation, Kittitas County Public Health, Kittitas County Public Works. All comments are on file and available for public review.
17. No public comments were received regarding this proposal.

IX. STAFF CONCLUSIONS:

1. This proposal has satisfied all four criteria of KCC Title 17.84.010.
2. The proposal is consistent with state and federal regulations.
3. The proposal is consistent with local regulations as conditioned including Kittitas County Code Title 14.04 Buildings & Construction, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety.

X. DECISION AND CONDITIONS OF APPROVAL:

Kittitas County Community Development Services finds that the Clarke Zoning Setback Variance (VA-23-00005) is hereby approved subject to the conditions below. The Clarke Zoning Setback Variance has satisfied the requirements of a zoning setback variance pursuant to KCC 17.84.010.

CONDITIONS OF APPROVAL:

1. The project shall proceed in substantial conformance with the plans and application materials on file.
2. The applicant shall comply with all Local, State and Federal environmental standards and regulations in place at the time of building application submittal.
3. The applicant shall obtain all necessary permits required by Kittitas County Community Development Services.
4. All structures and buildings shall be compliant with the International Fire Code.
5. All development shall occur outside of the floodway boundary.
6. This front lot line setback variance shall expire after one year of the decision date if no substantial construction has taken place or an extension has not been applied for under KCC 17.84.010(4).



Responsible Official _____

Zach Torrance-Smith

Title: Planner I

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7079

Date: September 19, 2023

Pursuant to Chapter 15A.07 KCC, this determination may be appealed by submitting specific factual objections in writing with a fee of \$1670 to the Kittitas County Community Development Services at 411 N Ruby St Ste. 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00pm October 3, 2023. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.