



## KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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### STAFF REPORT

**TO:** Kittitas County Board of Adjustment

**FROM:** Dan Valoff, Staff Planner

**DATE:** May 14, 2008

**SUBJECT:** Johnson Shoreline Setback Variance (S-07-06)

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#### I. BACKGROUND INFORMATION

**Proposal:**

Allan (Duke) Greschok authorized agent for Kent Johnson, property owner submitted a Shoreline Setback Variance application to construct a new single family dwelling and associated deck 55-feet from the Ordinary High Water Mark of Big Creek, a shoreline of the state (100' required by Shoreline Master Program). The proposal is within the Conservancy shoreline environment.

**Location:**

The property is located 280 Talmadge Road, Cle Elum, WA 98922, a portion of the southeast quarter of Section 20 and the southwest quarter of Section 21, T21N, R14E, WM. in Kittitas County. Map number 20-14-21033-0002.

#### II. POLICY AND REGULATORY REQUIREMENTS

**Zoning Code:**

The subject property is located in the Agriculture 3 zone. The purpose and intent of the agricultural (A-3) zone is to provide for an area where various agricultural activities and low density residential developments co-exist compatibly. AG-3 zones are predominately agricultural-oriented lands and it is not the intent of this section to impose further restrictions on continued agricultural activities therein. Uses permitted in the AG-3 zone include single-family homes, duplexes and residential accessory building, and all types of agriculture and horticultural uses.

**Lot size required.**

The minimum residential lot size shall be three acres in the Agricultural-3 zone. The overall density of any residential development shall not exceed one dwelling for each three acres, except as provided for in Kittitas County Code 16.09, Performance Based Cluster Platting. The minimum average lot width shall be two hundred fifty feet.

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DARRYL PIERCY, DIRECTOR

ALLISON KIMBALL, ASSISTANT DIRECTOR

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**Yard requirements - Front.**

There shall be a minimum front yard of twenty-five feet.

**Yard requirements - Side.**

Side yard shall be a minimum of five feet. On corner lots the side yard shall be a minimum of fifteen feet on the side abutting the street. (Res. 83-10, 1983)

**Yard requirements - Rear.**

There shall be a rear yard with a minimum depth of twenty-five feet to the main building.

**Shoreline Master Program:**

Big Creek is a shoreline of statewide significance. The Kittitas County Shoreline Master Program requires a 100-foot structural setback from the Ordinary High Water Mark. A variance from this requirement may be granted under extraordinary circumstances provided the applicant demonstrates the following [See WAC 173-27-170]:

- That the strict application of this requirement precludes or interferes with reasonable use of the property.
- That the hardship is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or other natural features and the application program and not, for example, from deed restrictions or the applicant's own actions.
- That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shorelines environment.
- That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
- That the variance is the minimum necessary to afford relief.
- That the public interest will suffer no substantial detrimental effect.

The site is located within the Conservancy shoreline environment that is characterized by recreational and natural resource related uses. The intent of this designation is to sustain natural resource development while maintaining the natural character of the shoreline area. Please review the following applicable sections from the Kittitas County Shoreline Master Program:

**Section 14**

All structures will be set back a minimum of 100 feet from the ordinary high water mark.

**Section 19**

This section provides for the protection of natural shoreline characteristics including native vegetation and water quality.

**Section 33**

Single-family residences (and normal appurtenances thereto) are permitted within the Conservancy Environment.

## Section 40

The applicant shall submit information or evidence demonstrating all of the following:

- That the hardship that serves as basis for granting of a variance is specifically related to the property of the applicant.
- That the hardship results from the application of the requirements of the Act and not from; example, deed restrictions or the applicant's own actions.
- That the variance granted will be in harmony with the general purpose and intent of the Master Program.
- That the public welfare and interest will be preserved.

### III. ADMINISTRATIVE REVIEW

#### **Critical Areas:**

An administrative site analysis was completed by Community Development Services in compliance with Title 17A, KCC. Consistent with similar setback variance development applications on this and other Type 1 Waters, the following provisions will apply to this proposal:

Riparian Habitat Buffer Requirement (KCC 17A.07.010)  
Type 1 Waters: 40-200 feet.

Based on the criteria for buffer ranges specified in Sub-section C of this Section, a 40 foot riparian buffer shall be established landward from all edges of the ordinary high water mark.

Natural Condition of Riparian Habitat Buffer: Riparian habitat buffer areas shall be retained in their natural condition or may be improved to enhance buffer functions and values. Where buffer disturbance has occurred during construction, re-vegetation with native vegetation may be required. The Kittitas County noxious weed ordinance shall be adhered to.

This buffer shall be retained in its natural condition. Allowed uses are exempt activities and other activities that do not cause significant adverse impact to the habitat as determined by the Administrator. Allowed uses are exempt activities and activities deemed by the administrator to be consistent with the purpose and function of the habitat buffer and which do not cause a significant adverse impact to the habitat and its buffer based on sensitivity of the habitat including but not limited to stock watering, utilization of water rights, trails, recreational uses, hunting, and fishing.

**Floodplain:** The portion of the parcel lies within Flood Zone A which is within the 100-year floodplain of Big Creek. None of the proposed structures are located in the floodplain.

#### **Recommended Conditions for Approval**

1. Based on the criteria for riparian habitat specified in Title 17A.07.010(5), a 40 foot riparian buffer shall be established landward from all edges of the ordinary high water mark. Where disturbance has occurred, during construction, re-vegetation with native vegetation is required. The Kittitas County Noxious Weed ordinance shall be adhered to.

**Notice of application:**

A complete application was submitted to Community Development Services on October 12, 2007. Revised site plan was received on April 29, 2008. A Notice of Application was issued on December 10, 2007. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners, and other interested parties.

**Posting of Site:**

In accordance with Kittitas County Code 15A.03.110, this project was accurately posed with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the authorized agent and returned to the planner and is included as part of the record.

**Written Testimony:**

Written comments were solicited and the final date to submit comments was on December 26, 2007 by 5:00pm. Two written comments were received during the public comment period. Comments were received by the Department of Ecology and from Mark A. Starr. Copies of the comment letters have been attached to the Board of Adjustment packets.

**IV. SUGGESTED FINDINGS OF FACT**

**THE FOLLOWING GENERAL FINDINGS HAVE BEEN PREPARED BY COMMUNITY DEVELOPMENT SERVICES STAFF FOR CONSIDERATION BY THE BOARD ADJUSTMENT IN RENDERING ITS RECOMMENDATION ON THIS MATTER. THESE FINDINGS MAY BE USED TO REASONABLY SUPPORT A RECOMMENDATION IN FAVOR OF OR AGAINST THIS PROPOSAL, HOWEVER ADDITIONAL FINDINGS MAY ALSO BE NECESSARY.**

1. The Board of Adjustment finds that Allan (Duke) Greschok authorized agent for Kent Johnson, property owner submitted a Shoreline Setback Variance application to construct a new single family dwelling and associated deck 55-feet from the Ordinary High Water Mark of Big Creek, a shoreline of the state.
2. The Board of Adjustment finds that Community Development Services issued a Notice of Application pursuant to KCC 15A.03 on December 10, 2007. The Board of Adjustment finds further that said notice solicited comments from jurisdictional agencies and landowners within 500 feet of the subject properties as required by law.
3. The Board of Adjustment find that in accordance with Kittitas County Code 15A.03.110, this project was accurately posed with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the authorized agent and returned to the planner and is included as part of the record.
4. The Board of Adjustment finds that an open record hearing was held on May 14, 2008 and that testimony was taken from those persons present who wished to be heard. The Board of Adjustment also finds that due notice of this public hearing has been given as required by law, and the necessary inquiry has been made into the public interest to be served by this proposal.

5. The Board of Adjustment finds that the applicant **has/has not** demonstrated the following criteria pursuant to WAC 173-27-170 and Section 40 of the Kittitas County Shoreline Master Program:
  - A. The Board finds the strict application of this requirement precludes or interferes with reasonable use of the subject property, and;
  - B. The Board finds that this hardship is specifically related to the property, resulting from unique conditions including lot shape, size, and other natural features.
  - C. That the residential nature of the proposal is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shorelines environment.
  - D. The Board finds that the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area; and,
  - E. The Board finds that the variance **is/is not** the minimum necessary to afford relief; and,
  - F. The Board finds that the public interest will suffer no substantial detrimental effect.
  
6. The Board of Adjustment finds that specific conditions **are** necessary in order for the proposed development to conform to the minimal functional standards of the Washington State Shoreline Management Act and Kittitas County Shoreline Master Program. Based on the criteria for riparian habitat specified in Title 17A.07.010(5), a 40 foot riparian buffer shall be established landward from all edges of the ordinary high water mark. Where disturbance has occurred, during construction, re-vegetation with native vegetation is required. The Kittitas County Noxious Weed ordinance shall be adhered.

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Stan Bossart, Chairman

Date