

**Pratt Zoning Setback Variance**  
**File Number VA-20-00013**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**I. GENERAL INFORMATION**

Requested Action: David and Doretta Pratt, property owners, submitted a zoning setback variance requesting a reduction from the 25-foot front lot line setback requirement for the Rural 5 Zone in KCC 17.30A, which would result in setbacks along the southern property line from 1-foot to 24.5 feet, as the orientation of the property boundary resulted in a setback range. During the review process it was determined the setback request would be adjusted to 5-feet to 24.5 feet along the front property line. This variance is requested to build a single-family residence.

Location: Parcel #240134 located at 301 Pine Glen Drive, Easton, WA, approximately .35 miles northwest of the intersection of Nelson Siding Road and W. Cresto Road, Easton WA, in Section 17, T 20N, R 14E. W.M. Map number 20-14-17050-0206.

**II. SITE INFORMATION**

Total Property Size:	Approximately .70 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	On site well
Sewage Disposal:	On Site Septic
Power/Electricity:	PSE
Fire Protection:	Fire District 7
Irrigation District:	N/A

Site Characteristics:

North: Primarily residential development  
South: Primarily residential development  
East: Primarily residential development  
West: Primarily residential development

Access: The site is accessed via Pine Glen Drive.

**III. ZONING AND DEVELOPMENT STANDARDS**

The subject property has a zoning designation of Rural 5 within a Rural Residential Land Use designation. The purpose and intent of the Rural-5 zone is to provide areas where residential development may occur on a low-density basis. A primary goal and intent in siting R-5 zones will be to minimize adverse effects on adjacent natural resource lands. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variance, to deviate from the prescribed front setback requirements in KCC 17.30 A – Rural 5. 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 or not 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

*"The lots in the Pine Glen development were not made big enough to follow all the guidelines for wells, septic systems, and setbacks. Therefore creating the need to apply for variances.*

*We have a stream that runs through the back of our property which creates more setbacks than a lot without a stream.*

*The way our property curves in the front and having a road on two sides of our lot creates a need for the variances so a suitable sized cabin can be built.*

*We took it upon ourselves to invest in a new septic design moving it away from the stream (as the previously approved one, was to close). In doing so it took away from our building site area, creating the need for these variances.*

*Applying for a variance in this location is not an uncommon criteria to allow for the needed room to build appropriate sized buildings. There are many variances already approved in this area. We need this variance to allow us to build a suitable size cabin to live in full time."*

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicant submitted information and comments received during the comment period. CDS recognizes that the parcel involved has unusual circumstances due to a Type 1 Stream located along the north property line within shoreline jurisdiction of the State, along with two front lot lines along the south and east property lines. Due to these circumstances, CDS agrees that unusual conditions exist on the parcel that are prohibitive for building outside of the area outlined in this variance application. 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 17.30A.050. 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 way our property curves in the front and having a road on two sides of our lot creates a need for the variances so a suitable sized cabin can be built.*

*We took it upon ourselves to invest in a new septic design moving it away from the stream (as the previously approved one, was to close). In doing so it took away from our building site area, creating the need for these variances.*

*Applying for a variance in this location is not an uncommon criteria to allow for the needed room to build appropriate sized buildings. There are many variances already approved in this area. We need this variance to allow us to build a suitable size cabin to live in full time."*

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicants submitted information and comments received during the comment period. CDS agrees that without this variance, the applicant would be unable to construct a single family residence on their property due to the

115 foot no build zone associated with the Type 1 Stream and the 25 foot front lot line setbacks associated with two of the four property lines. CDS staff finds that criterion 2 of KCC 17.84.010 has been met.

**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 17.30A.050. 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

*“Granting this variance would not in any way be materially detrimental to the public welfare or injurious to any property in the vicinity. We would still be 32' from the corner of property to the edge of the road. Please see attached maps.”*

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 applicant has provided documentation showing the existing edge of the private roadway to be 32 feet from the edge of the property. There is a tree buffer between the property and the private road, along with the original well house installed to serve the property. 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

*“Granting this variance would not have any effects on the comprehensive development pattern.*

*The setback requirements are excessive for the size of the lots in Pine Glen. The house next to us is built only inches off the property line. The property across the street has actually built on the property line. And the list can go on and on in Pine Glen.*

*The variances we are asking for would not effect anyone. We are trying to build our retirement home and it will actually add to the beauty of the area.*

*I have included a few pictures of cabins that are close to what we plan on building so you can see that most of the variance that we are asking for is to allow for the covered porches. The covered porches are extremely important because of the extreme snowfall in the Easton area. The covered porches are the majority of the encroachment that the variances are being applied for.”*

Staff Response

CDS has concluded that the requested zoning setback variance reduction from 25 feet down to a range of 5 - 24.5 feet not to adversely affect the realization of the comprehensive development pattern of the area. The area contains many small parcels with single family residences and appurtenances and the variance will allow for the applicant to construct a single-family residence similar to neighboring properties. The setback reduction will not have any meaningful impact on the comprehensive development pattern.

**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 December 31, 2020.

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 January 12, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on January 28, 2021 and all comments were transmitted to the applicant on February 16, 2021.

**V. ENVIRONMENTAL REVIEW**

CDS performed a critical area review of the subject parcel and found there to be Type 1 Stream located along the northern property line, and a portion of the north and east boarder of the property to be within Shoreline Jurisdiction. Washington State Department of Ecology identifies the Type 1 Stream as being within shoreline jurisdiction. CDS has determined that the Pratt Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).

**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.

**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 Critical Areas and 17B Shoreline. There are no identified critical areas located on the property. This request is consistent with critical areas provisions.

Consistency with the provisions of KCC 17B, Shorelines:

The project parcel contains Shoreline Jurisdiction associated with the Type 1 Stream located along the northern property line. The project area is located outside the Shoreline Buffer and Structural Setback of 115-feet. A shoreline exemption application will be required prior to any ground disturbing activities.

Consistency with the provisions of KCC 17.16 R – Residential Zone:

This proposal, with approval of the zoning setback variance, is consistent with the setbacks outlined in

Kittitas County Zoning Code 17.16 Residential Zone.

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: Kittitas County Public Works, Kittitas County Public Health, Kittitas County CDS Building Department, Washington State Department of Ecology, Washington State Department of Fish and Wildlife and Washington State Department of Archaeology and Historic Preservation. All comments are on file and available for public review.

Department of Archaeology & Historic Preservation (DAHP)

Department of Archaeology & Historic Preservation provided comment on this application on January 26, 2021. DAHP requested that the applicant prepare an inadvertent discovery plan (IDP) and prepare construction crews for the possibility of encountering archaeological material during ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

Staff Response

CDS has provided these comments to the applicant and has conditioned this determination to ensure the applicant is aware of the possibility of uncovering cultural resources and their obligations under State law when/if these resources are uncovered.

Kittitas County Public Health (KCPH)

Kittitas County Public Health provided comments on this application on February 3, 2021. KCPH commented that they have no comments or concerns with the application.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Community Development Services-Building Department (CDS-Building)

Kittitas County CDS- Building provided comments on this application on January 12, 2021. KCCDS Building commented that they have no objection to the proposed variance.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Works (KCPW)

Kittitas County Public Works provided comment on this application on January 26, 2021. KCPW commented:

- All necessary KCPW permits are acquired prior to construction for access and any grading over 100 cubic yards of material;
- Requested an updated site map showing the creek set-back requirements, structures, and site features. As the current site map does not show the need for the setback variance and as is, PW would not support the 1' setback due to potential conflicts with future development of the private road intersection;
- All or most of the property is within the 100-year floodplain and will require floodplain development permitting; and
- Recommended requesting the applicant to have the property surveyed to establish the property corners, as they were not established during the original survey.

Staff Response

CDS has provided these comments to the applicant. The applicant has responded to the comments and has provided an updated site map including the 200-foot shoreline buffer, the 115-foot no-build buffer all associated with the Type 1 stream located on the north property line. After an onsite meeting with the applicant and Public Works employees, the applicant hired Bob Bailey, a local surveyor to locate the corner marker of the property. The outcome of this process showed that the original request for 1-foot setback on the southeast corner would actually be 5 feet. Public Works responded with approval of a 5-foot setback minimum for the section of the house located in the southeastern corner of the property. CDS has conditioned this determination to ensure the setback is a minimum of 5 feet from the property line and the applicant shall obtain all necessary permits required by KCPW.

Public Comments:

There were three public comments received for this application. All comments are on file and available for public review.

Pine Glen Maintenance Corporation

Pine Glen Maintenance Corporation commented their concern for the one (1) foot setback located proposed in the southeast corner of the property and its impact for future improvements to Pine Glen Road and the possibility to have it brought on system by the county, concerns for the ten (ten) foot variance along the eastern property line and the impacts it will have to Shady Glen Drive, commented that PMGC is not aware of other setback variances and that most of the properties were developed prior to current setback standards, concerns about snow removal, public safety, possible complaints from the applicants for noise and dust with close proximity to the roadway, the PMGC suggested the applicants build on one of the other two lots they currently own within the Pine Glen community.

Barbara Finley

Barbara Finley commented her concern as to whether the applicants had a permit to install a new septic system, concern for if the applicant did not have a permit for the new septic system what would keep them from building as they wish on the property regardless of regulations and restrictions, and concern for the main roadway (Pine Glen Drive) and possible impacts to the traveling public.

Catherine Domarotsky

Catherine Domarotsky commented that she agreed with the Pine Glen Maintenance Corporations opposition, comments and concerns, concerns for future development, concerns about the applicants statements about other buildings being located on the property lines and stated she is opposed to the granting of this variance.

**VIII. FINDINGS OF FACT**

1. David and Doretta Pratt, property owners, submitted a zoning setback variance requesting a reduction from the 25-foot front lot line setback requirement for the Rural 5 Zone in KCC 17.30A, which would result in setbacks along the southern property line from 1-foot to 24.5 feet. During the review process it was determined the setbacks would be 5-feet to 24.5 feet front lot line structural setback. This variance is requested to build a single-family residence.

2. Parcel # 240134 located at 301 Pine Glen Drive, Easton, WA, approximately .35 miles northwest of the intersection of Nelson Siding Road and W. Cresto Road, Easton WA, in Section 17, T 20N, R 14E. W.M. Map number 20-14-17050-0206.

3. Site Information

Total Property Size:	Approximately .70 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	On site well
Sewage Disposal:	On Site Septic
Power/Electricity:	PSE
Fire Protection:	Fire District 7
Irrigation District:	N/A

4. Site Characteristics:

<u>North:</u>	Primarily residential development
<u>South:</u>	Primarily residential development
<u>East:</u>	Primarily residential development
<u>West:</u>	Primarily residential development

The site is accessed via Pine Glen Drive.

5. The Comprehensive Plan land use designation is Rural Residential within Rural 5 zoning.

6. The purpose and intent of the Rural-5 zone is to provide areas where residential development may occur on a low-density basis. A primary goal and intent in siting R-5 zones will be to minimize adverse effects on adjacent natural resource lands. The application is requesting reduction from the 25-foot front lot line setback requirement on the lower east corner property line requirement in KCC 17.30A, which would result in a range of front setback from 1 foot to 24.5 foot front lot line structural setback. This variance is requested to build a single-family residence on a tax parcel restricted by buildable space outside the shoreline setbacks. 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 December 3, 2020.

8. The application was determined complete on December 31, 2020.
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 January 12, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on January 28, 2021 and all comments were transmitted to the applicant on February 16, 2021.
10. CDS performed a critical area review of the subject parcel and found there to be a Type 1 stream located along the northern border of the property. Based upon review of the submitted application materials and a critical area review, CDS determined that the Pratt Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).
11. The proposal as conditioned is consistent with the provisions of KCC 17A, Critical Areas.
12. The proposal as conditioned is consistent with the provisions of KCC 17B, Shorelines.
13. The proposal is not consistent with the provisions of KCC 17.30A, Rural-5 zoning without approval of the zoning setback variance.
14. The proposal is consistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have been satisfied.
15. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code.
16. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety:
17. Comments were received from the following agencies: Kittitas County Public Works, Kittitas County Public Health, Kittitas County CDS Building, Washington State Department of Archeology and Historic Preservation, Washington State Department of Fish and Wildlife and Washington State Department of Ecology. All comments are on file and available for public review.
18. Public comments were received from the Pine Glen Maintenance Corporation, Barbara Finley and Catherine M. Domarotsky. All comments are on file and available for public review.

**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 as conditioned.
3. The proposal is consistent with local regulations including Kittitas County Code Title 14.04 Building Code, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety as conditioned.

**X. DECISION AND CONDITIONS OF APPROVAL:**

Kittitas County Community Development Services finds that the Pratt Zoning Setback Variance (VA-20-00013) is hereby **approved**. The Pratt 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 with CDS dated December 3, 2020 and subsequent information included in the complete file index except as amended by the conditions herein.
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 provide a detailed scaled site plan with submittal for building permit.
4. The applicant shall obtain all necessary permits required by Kittitas County Public Works for this development.
5. The applicant shall obtain all necessary Shoreline permitting as required by Kittitas County Code 17B. Please contact Kittitas County Community Development Services to verify Shoreline permitting requirements prior to any land disturbing activities.
6. Should ground disturbing or other activities related to the proposed project result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archaeology and Historic Preservation (DAHP). Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.
7. This front lot line setback variance shall expire after one year of the decision date if no substantial construction has taken place.

**Responsible Official**   
Kelly Bacon

**Title:** Planner I

**Address:** Kittitas County Community Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA. 98926  
Phone: (509) 962-7539

**Date:** April 28, 2021

**Pursuant to Chapter 15A.07 KCC, this determination may be appealed by submitting specific factual objections in writing with a fee of \$1550 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 May 12,**

**2021. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.**