



Hendrix Zoning Setback Variance

File Number VA-23-00008

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: William Hendrix, landowner, and Les Seifert, authorized agent, submitted a Setback Variance application, pursuant to Kittitas County Code 17.84, on .34 acres of land zoned Rural Recreation within a Rural Recreation land use designation. The proposal requests a 7.5-foot reduction from the 15-foot side lot line required setback for the construction of garage and expansion of the existing home. The 15-foot side lot line setback requirements come from KCC 17.30.050. If the variance is approved, it would result in a 7.5-foot side lot line structural setback for the garage and home expansion, respectively.

Location: The subject property is parcel # 842034 (Lot 1, Block E, of Pine Loch Sun #1) located at 21 E. Lakedale Dr., approximately 0.04 miles east from the intersection of SR 903 and Pine Loch Sun Drive. The property is in Section 02, Township 20, Range 14 in Kittitas County. Map number 20-14-02050-0501.

II. SITE INFORMATION

Total Property Size:	0.34 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: Primarily residential development

West: Residential and commercial development, Cle Elum Lake

Access: The site is accessed via East Lakedale Dr. off Pine Loch Sun Drive.

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 side lot line 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

“The existing cabin/house, designed and approved sometime ago, was not constructed with any accessory structures due to various environmental site constraints. Due to the location of the property being adjacent to three roads At the time of approval. Since the approval, construction, and new ownership the zoning has recently increased the property buffer setbacks. The current owner had to remove sheds that he purchased with his property but were constructed by the previous property owner in the ROW. The current owner removed these sheds.”

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 recognizes the subject parcel contains multiple front lot lines holding a 25-foot setback. 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 proposed variance is necessary to the owners to provide a safe dry place to park their vehicles in inclement weather. They would have a safe place to store their summer and winter atv’s, tools and Seasonal storage. The proposed variance will provide an increase in property value and higher taxes to the county. This proposal will only effect the neighboring property and the said neighboring property provides the proposed recommendation for approval letter.”

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. Garages are a common appurtenance to single-family residential properties in the area. The existing home has a similar side yard setback. 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. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity.

Applicant Response

“The proposed variance will not be materially detrimental to the public welfare or injurious to the property in the vicinity. The county will benefit monetarily with higher taxes based on a high valuation.”

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 7.5 feet from the property line. The neighbor nearest the project has supplied a letter of support. 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 proposed variance will not adversely affect the realization of the comprehensive development pattern since it is only affecting one property.”

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 September 20, 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 September 26, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on October 11, 2023, and all comments were transmitted to the applicant on October 16, 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 Hendrix 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. The following agencies provided comments: Confederated Tribes of the Colville Reservation, WSDOT – Aviation, Washington State Department of Archaeology & Historic Preservation, Kittitas County Public Works, Kittitas County Public Health. A review of these comments can be seen below.

Confederated Tribes of the Colville Reservation

The Confederated Tribes of the Colville Reservation stated there are known cultural resources nearby, this plat is high risk for inadvertent discovery, and requested a cultural resource survey prior to ground disturbing activities.

Applicant Response

No response provided.

Staff Response

The project is a relatively small footprint and has been conditioned to prepare for the inadvertent discovery of cultural resources.

Washington State Department of Transportation - Aviation

WSDOT – Aviation stated they have no comments.

Applicant Response

No response provided.

Staff Response

Staff has no response.

Washington State Department of Archaeology & Historic Preservation

DAHP stated there is a high probability of encountering cultural resources in the project area but due to the small project footprint are not requesting a cultural resources survey.

Applicant Response

No response provided.

Staff Response

CDS has conditioned the variance to prepare for the inadvertent discovery of cultural resources.

Kittitas County Public Works

Kittitas County Public Works provided comments outlining access requirements, grading requirements, and survey recommendations.

Applicant Response

No response provided.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Health

Kittitas County Public Health stated they have no comment or concern with the proposed variance.

Applicant Response

No response provided.

Staff Response

CDS has provided these comments to the applicant.

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 the 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 Rural Recreation:

This proposal, with approval of the zoning setback variance, is consistent with the setbacks outlined in Kittitas County Zoning Code 17.30 Rural Recreation 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: Confederated Tribes of the Colville Reservation, Washington Department of Transportation – Aviation, Washington State Department of Archaeology & Historic Preservation, Kittitas County Public Health, and Kittitas County Public Works. All comments are on file and available for public review.

Public Comments:

No timely public comments were received.

VIII. FINDINGS OF FACT

William Hendrix, landowner, and Les Seifert, authorized agent, submitted a Setback Variance application, pursuant to Kittitas County Code 17.84, on .34 acres of land zoned Rural Recreation within a Rural Recreation land use designation. The proposal requests a 7.5-foot reduction from the 15-foot side lot line required setback for the construction of garage and expansion of the existing home. The 15-foot side lot line setback requirements come from KCC 17.30.050. If the variance is approved, it would result in a 7.5-foot side lot line structural setback for the garage and home expansion, respectively.

1. Parcel # 842034 (Lot 1, Block E, of Pine Loch Sun #1) located at 21 E. Lakedale Dr., approximately 0.04 miles east from the intersection of SR 903 and Pine Loch Sun Drive. The property is in Section 02, Township 20, Range 14 in Kittitas County. Map number 20-14-02050-0501.

2. Site Information

Total Property Size:	0.34 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

3. Site Characteristics:

North:	Primarily residential development
South:	Primarily residential development
East:	Primarily residential development
West:	Residential and commercial development, Cle Elum Lake

The site is accessed via East Lakedale Dr. off Pine Loch Sun Drive.

4. The Comprehensive Plan land use designation is Rural Recreation within Rural Recreation zoning.

5. 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 application is requesting a 7.5-foot reduction from the 15-foot side lot line required setback for the construction of a garage and expansion of the existing home, which would result in a 7.5-foot side lot line setback. The 15-foot side lot line setback is required by 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**.
6. A Zoning Variance Application was submitted to Kittitas County Community Development Services department on September 8, 2023.
7. The application was determined complete on September 20, 2023.
8. 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 September 26, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on October 11, 2023, and all comments were transmitted to the applicant on October 16, 2023.
9. 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 the Hendrix Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).
10. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
11. The proposal is not consistent with the provisions of KCC 17.30, Rural Recreation zoning without approval of the zoning setback variance.
12. The proposal is consistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have been satisfied.
13. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code as conditioned.
14. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety as conditioned.
15. Comments were received from the following agencies: Confederated Tribes of the Colville Reservation, Washington Department of Transportation – Aviation, Washington State Department of Archaeology and Historic Preservation, Kittitas County Public Works, Kittitas County Public Health. All comments are on file and available for public review.
16. No timely public comments were received.

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 Hendrix Zoning Setback Variance (VA-23-00008) has satisfied the requirements of a zoning setback variance pursuant to KCC 17.84.010 and is hereby **approved** subject to the conditions below.

CONDITIONS OF APPROVAL:

1. The project shall proceed in substantial conformance with the plans and application materials on file.
2. No portion of the proposed structures (foundation, swinging doors, roof eaves, etc.) shall fall within the reduced setback.
3. The applicant shall comply with all Local, State and Federal environmental standards and regulations in place at the time of building application submittal.
4. The applicant shall obtain all necessary permits required by Kittitas County Community Development Services.
5. All structures and buildings shall be compliant with the International Fire Code.
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) and the Confederated Tribes of the Colville Reservation. Work shall remain suspended until the findings are 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 side 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



Chace Pedersen

Title: Planner I

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7637

Date: November 21, 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 December 7, 2023. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.