



## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Scholl Zoning Setback Variance VA-18-00002

This matter having come before the Kittitas County Community Development Services for the Scholl Zoning Setback Variance (VA-18-00002) submitted by Gordon and Hillary Scholl to reduce a 25 foot rear yard setback within the Agriculture 20 zone to 5 feet. This variance is in order to facilitate construction of a shop and storage barn.

1. Community Development Services finds that Gordon and Hillary Scholl submitted a Zoning Setback Variance application on April 16<sup>th</sup>, 2018. The application was deemed complete on April 20<sup>th</sup>, 2018. A Notice of Application was issued on April 26<sup>th</sup>, 2018. This notice was mailed to government agencies, adjacent property owners, and the applicant as required by law.
2. The subject property is parcel #194334, located off of Naneum Road, Ellensburg in section 16, Township 18 N Range 19 E, WM. Map number 18-19-16000-0009.
3. Comments were received from the Kittitas County Building Department, Kittitas Valley Fire and Rescue, and Kittitas Reclamation District.
4. The Kittitas County Building Department responded with a letter stating a building set back as requested would not require a firewall, but that any further encroachment would require fire protection. A building eave may encroach onto the five foot setback as long as it is fire protected or fire-blocked per the current edition of the International Residential Code or International Building Code in effect at the time of adoption. The Department also requested that all buildings conform to the International Building Code and International Residential Codes in effect at the time of building permit submittal.
5. Kittitas Valley Fire and Rescue (KVFR) provided comments requesting that the access and turnaround be compliant with Appendix D of the International Fire Code in effect at the time of permit, that addressing for all structures be clearly visible from the county road, and the development undergo a Wildland Urban Interface Assessment and comply with appropriate provisions of the International Wildland Urban Interface Code.
6. Kittitas Reclamation District requested a condition that the shop not be constructed on the KRD right of way and does not interfere with KRD operations.
7. One letter of support was submitted with the variance application from Doug Miller at Steel Structures of America.
8. 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. This is demonstrated by the following:
  - a. Unusual circumstances or conditions apply to the property and/or the intended use that do not apply to other property in the general area.

Applicant Response:

***“...the minimum setback of 25 feet off the back property blocks our access to the rest of the property and would put the building on top of our septic drain field. Unfortunately, there’s no place on the property to put the shop without costing me the small remaining pasture area for livestock based on current setbacks. The front yard has a 45 year old fruit bearing tree orchard I don’t want to impact and my well is on the Northwest corner of the front yard.*”**

Staff Conclusions:

The variance is requested on a 1 acre parcel within a 20 acre zone. The circumstance are unique to this small parcel within the zone. The existence of livestock and orchard areas on the small property greatly reduces the buildable area.

- b. 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:

***“I currently have an existing carport and shed that is well within the minimum setback area since the 1970s...The neighbor owns the marijuana farm to the North of us and has already had at least one variance themselves.”***

Staff Conclusions:

The parcel was created prior to the current zoning ordinance, and was developed according to the standard in place at the time. The variance is necessary to preserve the applicant’s property right.

- c. Authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity.

Applicant Response:

***“All the other neighbors are on board with us building a shop 5 feet off the East Property line which is the back line currently affected by the 25 foot minimum. They also agree that a 5-10 foot setback off the South line has no negative effect on them. I have attached maps, drawings, and a letter of perceived hardship from the company I hired to build the pole barn.”***

Staff Conclusions:

The above information, along with a lack of comments from the public demonstrates that the public welfare or property will not be impacted by the proposal.

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

Applicant Response:

***“...there’s not place on the property to put the shop without costing me the small remaining pasture area for livestock based on current setbacks”.***

Staff Conclusions:

Kittitas County Code 17.29.010:

***“The agriculture (A-20) zone is an area wherein farming, ranching and rural life styles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses; and protect the rights and traditions of those***

*engaged in agriculture.”*

As proposed, the variance supports the intent of the Agriculture 20 zone by allowing the applicant to preserve pasture and orchards on the property.

9. Community Development Services finds that the applicant has met the four requirements outlined in KCC 17.84.010. Community Development Services finds that the granting of the proposed Zoning Setback Variance **will not**:
  - a. Be detrimental to the public health, safety, and general welfare;
  - b. Adversely affect the established character of the surrounding vicinity and planned uses; nor
  - c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.
10. Community Development Services finds that the granting of the proposed Setback Variance **is** consistent and compatible with the intent of goals, objectives and policies of the comprehensive plan, and any implementing regulation.

Based upon the above mentioned Findings of Facts and Conclusion of Law the Scholl Setback Variance (VA-18-00002) is hereby **approved** with the following conditions of approval:

1. Any future further encroachment into the setback will require full fire protection.
2. If a building eve encroaches onto the 5 foot setback, it shall be fire protected or fire blocked consistent with the IRC and IBC.
3. All development shall be consistent with the IBC and IRC.
4. The access and turnaround shall be compliant with Appendix D of the International Fire Code in effect at the time of permit.
5. Addressing for all structures shall be clearly visible from the county road.
6. The development shall undergo a Wildland Urban Interface Assessment and comply with appropriate provisions of the International Wildland Urban Interface Code.
7. The shop shall not be constructed within KRD right of way, nor shall construction interfere with KRD operations.

**Designated  
Permit**

**Coordinator:**

*Dusty Pilkington*

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Dusty Pilkington

**Title:** Planner, Kittitas County Community Development Services

**Address:** Kittitas County Community Development Services  
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**Date:** May 29<sup>th</sup>, 2018

**An appeal of this land use decision may be filed within 10 working days by submitting specific factual objections and a fee of \$1400 to the Kittitas County Board of Commissioners at 205 West 5th, #108 Ellensburg, WA 98926. The appeal and deadline is 5:00 pm June 12<sup>th</sup>, 2018.**