

**Moore Zoning Setback Variance**  
**File Number VA-20-00012**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**I. GENERAL INFORMATION**

Requested Action: Eric Moore, property owner, submitted a zoning setback variance requesting a 18-foot reduction from the 25-foot front lot line setback requirement for the Residential Zone in KCC 17.16, which would result in a 7-foot front lot line structural setback. This variance is requested to build a retaining wall to support a parking area.

Location: Parcel # 438435 located on Snoqualmie Drive, approximately 0.05 miles from the intersection of Snoqualmie Drive and Insbruck Drive in Snoqualmie Pass, WA in Section 15, TWP 22, R 11. W.M. Map number 22-11-15050-0040.

**II. SITE INFORMATION**

Total Property Size:	.17 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Snoqualmie Pass Utility District
Sewage Disposal:	Snoqualmie Pass Utility District
Power/Electricity:	PSE
Fire Protection:	Snoqualmie Pass Fire and Rescue
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 Snoqualmie Drive.

**III. ZONING AND DEVELOPMENT STANDARDS**

The subject property has a zoning designation of Residential within a LAMIRD Type 1 Land Use designation. The purpose and intent of the Residential zone is to provide for and protect areas for homesite development designed to meet contemporary building and living standards where public water and sewer systems are provided. 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 17.16 R – Residential Zone. 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 unusual circumstances that we are having to overcome in order to access our property and establish parking is due to the steep topography within the county right of way and the first 7ft of our property. In comparison to other properties on Snoqualmie Dr and elsewhere in Hyak Estates, our topography is definitely steeper in slope than most. We have seen other neighbors overcome this challenge by building parking pads similar to what we are proposing. This would include having to build a retaining wall within the 25ft building setback and request a zoning variance.”*

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 steep topography at the front lot line that would make the site inaccessible without a retaining structure. Due to the lot’s steep topography at the point of access, 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 17.57.050(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

*“According to all of the other properties we have observed in Hyak Estates, there is some form of parking available to the owners on their properties. Our request for a zoning variance is so we may be able to utilize basic parking which will result in the use and enjoyment of our property. Without a zoning variance for a parking pad, we see no other way to establish parking on our property. If a variance were not granted, it appears the closest we would be able to park is down at the bottom of the hill in the ski area parking for Rampart Ski Lift. This would be approximately 1/4 mile from our property.”*

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 not be able to safely access their parcel or have anywhere to safely park their vehicles due to the steep slope between the road, the county-right-of-way, and their parcel. The applicant demonstrated on their site plan that there would not be an adequate access and parking area if they were to adhere to the current required setbacks. 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 17.57.050(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

*“We feel the authorization of our requested variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity. The reason for this is because other property owners throughout Hyak Estates that have built parking pads to solve this property access problem when it comes to steep topography. We are happy to fall in line with what other residents have done in order to not be materially detrimental to the public welfare or injurious to property in the vicinity.”*

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. Recent code changes increased front lot line setbacks in the Snoqualmie Pass LAMIRD from 15’ to 25’, so the proposed reduction would be consistent with the setbacks of many adjacent structures that were established before the code change. CDS also recognizes that there have been similar variances granted in the vicinity to address the parking and access issues that the steep slope from the road creates. 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

*“Since our variance request is consistent with what other property owners have done to solve their property access and parking challenge, it appears the granting of this variance will not adversely affect the realization of the comprehensive development pattern. We would definitely not want to be “out of alignment” with the realization of the comprehensive development pattern.”*

Staff Response

CDS has concluded that the requested zoning setback variance reduction from 25 to 7 feet will not 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 a retaining wall that will provide access to the parcel which is similar to neighboring properties. The Residential setback reduction to 7 feet 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 November 10, 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 November 19, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on December 4, 2020 and all comments were transmitted to the applicant on December 7, 2020.

## **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 Moore 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. There are no identified critical areas located on the property. This request is consistent with critical areas provisions.

### Consistency with the provisions of KCC 17.16 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, and Washington State Department of Transportation. 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 November 23, 2020. 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 November 25, 2020. 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 December 1, 2020. KCCDS Building commented that they have no opposition to the proposed variance, and will require a full engineering design for the retaining wall.

Staff Response

CDS has provided these comments to the applicant and conditioned this determination to ensure the applicant will provide full engineering design for the retaining wall.

Kittitas County Public Works (KCPW)

Kittitas County Public Works provided comment on this application on December 2, 2020. KCPW commented that they recommend approval of the zoning variance application based on the following conditions:

- All necessary KCPW permits are acquired prior to construction;
- Engineered drawings are provided;
- Documents verifying drainage are provided; and
- Barriers are installed on the parking pad to protect vehicles and pedestrians from the steep drop-offs.

Staff Response

CDS has provided these comments to the applicant and conditioned this determination to ensure the applicant shall obtain all necessary permits required by KCPW for this development, provide engineered drawings, provide documents verifying proper drainage, and install barriers on the parking pad to protect vehicles and pedestrians from the steep drop-offs.

Public Comments:

There was one public comment received for this application. All comments are on file and available for public review.

Charise & John Eliason

Charise and John Eliason commented in support of the variance on December 4, 2020.

**VIII. FINDINGS OF FACT**

1. Eric Moore, property owner, has submitted a zoning setback variance request to reduce a 25-foot front lot line setback within the Residential zone to 7 feet.
2. Parcel # 438435 located on Snoqualmie Drive, approximately 0.05 miles from the intersection of Snoqualmie Drive and Insbruck Drive in Snoqualmie Pass, WA in Section 15, TWP 22, R 11. W.M. Map number 22-11-15050-0040.

3. Site Information

Total Property Size:	.17 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Snoqualmie Pass Utility District
Sewage Disposal:	Snoqualmie Pass Utility District
Power/Electricity:	PSE
Fire Protection:	Snoqualmie Pass Fire and Rescue
Irrigation District:	N/A

4. Site Characteristics:

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

The site is accessed via Snoqualmie Drive.

5. The Comprehensive Plan land use designation is “LAMIRD” within Residential zoning.
6. The purpose and intent of the Residential zone is to provide for and protect areas for homesite development designed to meet contemporary building and living standards where public water and sewer systems are provided. The application is requesting an 18-foot reduction from the 25-foot front lot line setback requirement on the lower east property line requirement in KCC 17.16, which would result in a 7-foot front lot line structural setback. This variance is requested to build a retaining wall to support a parking area. 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 October 26, 2020.
8. The application was determined complete on November 10, 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 November 19, 2020, all in conformance with the Kittitas County Project Permit

Application Process (Title 15A). The comment period ended at 5:00 pm on December 4, 2020 and all comments were transmitted to the applicant on December 7, 2020.

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 Moore 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 17.16, R-Residential 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.
15. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety:
16. Comments were received from the following agencies: Kittitas County Public Works, Kittitas County Public Health, Kittitas County CDS Building and Department of Archeology and Historic Preservation. All comments are on file and available for public review.
17. One public comment was received. 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.
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.

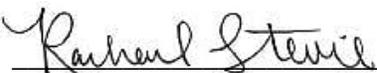
**X. DECISION AND CONDITIONS OF APPROVAL:**

Kittitas County Community Development Services finds that the Moore Zoning Setback Variance (VA-20-00012) is hereby **approved**. The Moore 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 October 6, 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 obtain all necessary permits required by Kittitas County Public Works for this development, will provide engineered drawings, will provide documents verifying drainage, and will install barriers on the parking pad to protect vehicles and pedestrians from the steep drop-offs.
4. 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.
5. This front lot line setback variance shall expire after one year of the decision date if no substantial construction has taken place.

**Responsible Official**   
Rachael Stevie

**Title:** Planner I

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

**Date:** February 4, 2021

**Pursuant to Chapter 15A.07 KCC, this determination may be appealed by submitting specific factual objections in writing with a fee of \$1540 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 February 19, 2021. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.**