



Burke Zoning Variance File Number VA-24-00001 FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Mark & Maria Burke, the applicants are proposing a roof overhang over the driveway next to the garage that would protrude into the property setback. The applicant is requesting a zoning variance pursuant to KCC 17.84, from the 25' required setback per KCC 17.56.060 to build a roof overhand to collect snow falling from the roof and prevent it from falling onto the driveway where it blocks the driveway and access to the garage. If the variance is approved, the overhang roof would be permissible.

Location: The subject property is parcel # 876835, located approximately 1.8 miles south of the intersection of Kachess Lake Road and Kachess Road, northwest of Easton, WA. The property is in Section 17, Township 21, Range 13 in Kittitas County. Map number 21-13-17051-0055. The property is 0.25 acres and is zoned Forest & Range with a Rural Working land use designation.

II. SITE INFORMATION

Total Property Size:	0.25 acres
Number of Lots:	1 (no new lots are being proposed)
Fire Protection:	Snoqualmie Pass Fire & Rescue
Irrigation District:	N/A

Site Characteristics:

North: Primarily forested vacant land, residential development or Kachess Lake

South: Primarily forested vacant land or residential development

East: Primarily residential development & Kachess Lake

West: Primarily forested vacant land or residential development

Access: The site is accessed via Kachess Road.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Forest and Range and a Rural Working Land Use designation. The purpose and intent of the Forest and Range zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from KCC 17.56.060. Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance may 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 previous 15-foot variance was instrumental in enabling us to optimize the building plan for our pie-shaped lot. However, due to the unique characteristics of Winter Park Lane and the topography of our lot, ensuring compliance with all variances and codes presented a significant challenge. To my knowledge, there are no other lots of similar size with comparable topography, dimensions, drainage field percolation, and intersecting road configurations as ours (intersecting Via Kachess Way and Winter Park Lane). The recent adjustment to a 25-foot variance has a profoundly impacts us specific this project.”

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. The zoning code changed since this home was built, changing the setback from 15 feet to 25 feet. The applicant’s house is uniquely set on a parcel that is located on the curve of a nearby road. The placement of the home did meet zoning requirement when constructed, but now the new setback is encroaching on the home.

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 of “undue hardship” caused by the application of setback requirements as stipulated in KCC 17.56.060. 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

“I am not aware of any neighbors facing a similar issue with blocked garage access. Our neighbors are able to utilize their garages year-round without hindrance, thanks to their roof lines, protective overhangs, or extended decks. Unfortunately, due to the limitations of our lot, we were unable to design the roof differently to accommodate similar features. Given that we are full-time residents, maintaining year-round garage access is paramount for us. The construction of the new overhang would not pose an issue if the previous 15-foot variance were still in effect.

Presently, we already have an existing cement wall and small overhang encroaching into the new 25-foot variance. However, the small overhang proves ineffective in addressing our garage access issue. Moreover, only about a quarter of the new overhang will extend into the 25-foot variance. The sole reason for this impact is the curvature of Winter Park Lane, which affects my driveway - the intended location for the new overhang.”

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. The variance would allow the

applicant to use their driveway during the winter months. Without the increased overhang, snow piles up on the driveway in front of the garage as it falls off the roof. The accumulation of snow prevents the applicant from accessing the garage during 4 - 6 months of the year. Other homeowners in the area are able to access their garage during the winter.

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 setback requirements as stipulated in KCC 17.56.060. 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 installation of the new overhang will significantly enhance public safety. Currently, the existing overhang slopes toward my driveway, posing a risk of falling snow and creating a snow blockade. In contrast, the new overhang will direct snow away from the driveway onto my property, mitigating these risks and ensuring unobstructed garage access. This safer design not only facilitates year-round access but also serves a crucial role in emergency situations within the community. With year-round garage access, essential tools such as snow blowers, large power tools can be readily accessed, enabling swift responses to community emergencies. The implementation of this new overhang will undoubtedly contribute to public welfare by enhancing safety for both the property and all individuals and animals in the vicinity.”

Staff Response

CDS finds the proposal is unlikely to be detrimental to public welfare or injurious to property in the vicinity. A 5’-9” x 11’-11” concrete wall currently exits protruding into the 25’ setback. The proposed 12’ overhang distance from the house is of similar distance as the concrete wall.

The applicant has demonstrated in a factual and meaningful way that the proposed 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 construction of the new overhang will not have any impact on surrounding developments, neither at present nor in the future. The location for this new overhang is on my driveway, affected by the curvature of Winter Park Lane and the new 25-foot variance. It's important to note that we are not building over, near, or adjacent to any drainage ditch. Furthermore, only approximately a quarter of the overhang falls within the new 25-foot variance. Currently, the existing small overhang and cement wall already encroach into the new variance by about 11 feet 11 inches. The new overhang will simply extend by another 6 feet or so (refer to the attached documents for visual reference). Finally, hindsight offers clarity. It was only upon becoming full-time residents that we fully grasped the ramifications of a blocked garage, as well as the implications of the new 25-foot variance on our distinctive lot size and shape. We are grateful for your consideration in granting a variance exemption, solely to enable us to construct this new overhang. Its implementation will have minimal impact on the issues outlined in Question #10, but rather, it will bring about a profoundly positive effect for both us and our community.”

Staff Response

CDS has concluded that the requested variance will not adversely affect the realization of the comprehensive development pattern of the area.

The applicant has demonstrated in a factual and meaningful way that the proposed setback variance 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 February 29, 2024.

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 March 5, 2024, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on March 19, 2024, and all comments were transmitted to the applicant on March 25, 2024.

V. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the subject parcel and GIS data indicates a Type 4 (Ns) stream nearby. For a Type Ns Stream, the current required buffer in KCC 17A.04.030(4) is a 50-foot buffer from the Ordinary High-Water Mark (OHWM) of the creek since it is within the Cascade Ecoregion. This does not include the additional 15’ building setback in KCC 17A.01.090.5. The proposal is outside the required buffers for the Type Ns stream.

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, Kittitas County Public Health, Kittitas County Public Works. A review of these comments can be seen below.

Confederated Tribes of the Colville Reservation

The Confederated Tribes of the Colville Reservation provided comments on cultural resources concerns. They requested a cultural resource survey to be conducted if ground disturbing activities are to be performed.

Applicant Response

1. Concrete Wall: There will be no construction of a concrete wall. One was built during the initial construction years ago and remains in place.
2. Stabilization Posts: Stabilization posts will be necessary (2 - 3), but they will be placed over existing driveway asphalt. Ground-disturbing activities will be minimal since the area is already covered with asphalt.
3. Ground Disturbance: We will not be installing septic systems, scraping the driveway, or engaging in any other type of ground-disturbing activities.

Staff Response

Staff transmitted this comment to the applicants for review.

Kittitas County Public Health

Kittitas County Public Health stated they have no comment.

Applicant Response

No response provided.

Staff Response

Staff transmitted this comment to the applicants for review.

Kittitas County Public Works

Kittitas County Public Works provided comments regarding compromised site distance and a request for an updated site plan from a private surveyor.

Applicant Response

The proposed overhang design is simple and aimed at ensuring access to our garage during winter snow months. The variance from 15' to 25' necessitated our application for a variance exemption. Our intention was to replace our existing inadequate 5' overhang with a new one measuring 12'. Only a portion of this new overhang would encroach into the new 25' variance, only due to the curvature of the road. Our goal is simply to utilize our garage during winter months with this updated overhang. Lastly, the new overhang only extends over our existing asphalted driveway and does not affect or cover anything else; it merely occupies a small portion of our existing driveway.

Staff Response

Staff transmitted this comment to the applicants for 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 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 or associated buffers near the proposed development.

Consistency with the provisions of KCC 17.56 Forest and Range:

This proposal, with approval of the zoning variance, is consistent with the requirements outlined in Kittitas County Zoning Code 17.56 Forest and Range 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.

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, Kittitas County Public Health, 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

1. Mark & Maria Burke, the applicants are proposing a roof overhang over the driveway next to the garage that would protrude into the property setback. The applicant is requesting a zoning variance pursuant to KCC 17.84, from the 25' required setback per KCC 17.56.060 to build a roof overhand to collect snow falling from the roof and prevent it from falling onto the driveway where it blocks the driveway and access to the garage. If the variance is approved, the overhang roof would be permissible.
2. The subject property is parcel # 876835, located approximately 1.8 miles south of the intersection of Kachess Lake Road and Kachess Road, northwest of Easton, WA. The property is in Section 17, Township 21, Range 13 in Kittitas County. Map number 21-13-17051-0055.

3. Site Information

Total Property Size:	0.25 acres
Number of Lots:	1 (no new lots are being proposed)
Fire Protection:	Snoqualmie Pass Fire & Rescue
Irrigation District:	N/A

4. Site Characteristics:

North:	Primarily forested vacant land, residential development or Kachess Lake
South:	Primarily forested vacant land or residential development
East:	Primarily residential development & Kachess Lake
West:	Primarily forested vacant land or residential development

Access: The site is accessed via Kachess Road.

5. The Comprehensive Plan land use designation is Rural Working within Forest and Range zoning.
6. The subject property has a zoning designation of Forest and Range and a Rural Working Land Use designation. The purpose and intent of the Forest and Range zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from KCC 17.56.060. Title 17.84.010 of the Kittitas County Code outlines four criteria in which a variance may 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 February 29, 2024.
8. The application was determined complete on February 29, 2024.
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 March 5, 2024, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on March 19, 2024, and all comments were transmitted to the applicant on March 25, 2024.
10. CDS performed a critical area review of the subject parcel and GIS data indicates a Type 4 (Ns) stream nearby. For a Type Ns Stream, the current required buffer in KCC 17A.04.030(4) is a 50-foot buffer from the Ordinary High-Water Mark (OHWM) of the creek since it is within the Cascade Ecoregion. This does not include the additional 15' building setback in KCC 17A.01.090.5. The proposal is outside the required buffers for the Type Ns stream.
11. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
12. The proposal is not consistent with the provisions of KCC 17.56, Forest and Range zoning without approval of the zoning 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: Confederated Tribes of the Colville Reservation, Kittitas County Public Health, Kittitas County Public Works. All comments are on file and available for public review.
17. No timely public comments were received.

IX. STAFF CONCLUSIONS:

1. This proposal has satisfied all four criteria of KCC Title 17.84.010; therefore, it can be

approved.

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:

Kittitas County Community Development Services finds that the Burke Variance (VA-24-00001) has satisfied the requirements of a zoning variance pursuant to KCC 17.84.010 and is hereby **approved**.

CONDITIONS OF APPROVAL:

1. The project shall proceed in substantial conformance with the plans and application materials on file.
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. All structures and buildings shall be compliant with the International building and Fire Codes.
4. This front 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 _____
Bradley Gasawski

Title: Planner I
Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7539
Date: October 24, 2024

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 November 13, 2024. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.