



Roe Zoning Setback Variance

File Number VA-25-00001

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Steven M. Roe, property owner, submitted a zoning setback variance requesting a 6 ½ -foot reduction from the 10-foot side (West) lot line required setback for an existing garage, which would result in a 3 ½ -foot side (West) line setback. The 10-foot side lot line setback is required by KCC 17.56.060(2).

Location: The subject property is parcel #351934 (Lot 24, Block 3, of Sun Island Park #2) located on Homestead Lane in Easton, WA. The property is in Section 13, Township 20, Range 13 in Kittitas County. Map number 20-13-13050-0324. The property is 0.42 acres and is zoned Forest & Range with a Rural-Working land use designation.

II. SITE INFORMATION

Total Property Size:	0.42 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	N/A
Fire Protection:	Fire District #3 (Easton)
Irrigation District:	Kittitas Reclamation District (KRD)

Site Characteristics:

North: Low-density residential development in a Forest & Range zoning designation. Waterways of the Yakima River lie in this direction.

South: Low-density residential development in a Forest & Range zoning designation. Waterways of the Yakima River lie in this direction.

East: Low-density residential development in a Forest & Range zoning designation.

West: Low-density residential development in a Forest & Range zoning designation. Waterways of the Yakima River lie in this direction.

Access: The site is accessed via Homestead Lane.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Forest & Range and a Rural-Working Land Use designation. The purpose and intent of the Forest & 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 the prescribed side setback requirements in KCC 17.56.060(2). 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

“A garage was primarily placed in the location to avoid the removal of significant trees and landscaping 13 years ago.”

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 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 17.56.060(2). 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

“A covered garage is a property pattern enjoyed by many other properties in the vicinity. The garage is entirely within the bounds of the property & away from other adjacent structures and significant trees & landscaping. The neighbor to the west has stated no concern with the location of the garage to the shared property line. See attached statement by neighbor.”

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 agrees that without this variance, the applicant would not be able to place a garage on the subject parcel. Garages are a common appurtenance to single-family residential properties in the area. 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 17.56.060(2). 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

“The garage is entirely within the boundaries of the property & away from other adjacent structures. Snow shedding from the roof will not shed towards the adjacent property line and will stay within the

property. The neighbor to the west has stated no concern with the location of the garage to the shared property line. See attached statement by neighbor.”

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 3 ½ feet from the side property line. 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 the variance will not adversely affect the realization of the comprehensive development pattern. There is not a predominant development pattern in this area. Structures are predominantly sited in an ad hoc manner, often to maintain existing trees or other landscape features of the site.”

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 April 2, 2025.

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 April 2, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on April 17, 2025, and all comments were transmitted to the applicant on April 18, 2025.

V. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the subject parcel and found there to be multiple critical area designations present. The subject parcel includes Floodway, Shoreline Residential Jurisdiction, and Wetlands that are coterminous with branches of the Yakima River. CDS has determined that the Roe Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e). The subject property is located within Shoreline Residential jurisdiction.

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, Laura Kukes – Kittitas County Code Enforcement Officer, Kittitas County Public Works, Washington State Dept. of Fish and Wildlife, Bonneville Power Administration. A review of these comments can be seen below.

Bonneville Power Administration

BPA provided comments stating that the proposed project will not impact their facilities and that they have no concerns.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

No response.

Laura Kukes – Kittitas County Code Enforcement Officer

Laura Kukes, KCCEO, provided comments stating that the subject property has an open code enforcement case against it involving violations related to the structure in question being present within the mapped floodway. Code Enforcement stated that keeping the structure in place will be very difficult and deferred to Kittitas County Public Works for further information.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

“I am asking for a Zoning Variance Application, and my neighbor sent a letter stating that he has no problem with the side variance. I am going to proceed with Mark from Encompass for a no rise certification.”

Confederated Tribes of the Colville Reservation

CTCR stated they have no concerns regarding the proposed project.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

No response.

Kittitas County Public Works

KCPW provided comments regarding access specifications, road standards, and grading/filling

specifications. KCPW elaborated on floodway restrictions as they relate to KCC 14.08.300. KCPW stated that a FEMA approved LOMA or a No-Rise Certification completed by a professional engineer will be required. KCPW stated that if neither of these can be obtained, the structure must be removed from the property.

Staff Response

CDS has provided these comments to the applicant, and has conditioned approval upon successfully adhering to these required components.

Applicant Response

"I am asking for a Zoning Variance Application, and my neighbor sent a letter stating that he has no problem with the side variance. I am going to proceed with Mark from Encompass for a no rise certification."

No comments were received from members of the public during the designated comment period.

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 present include Floodway, Shoreline Residential Jurisdiction, and Wetlands coterminous with branches of the Yakima River. This request will not be consistent with critical area regulations until completion of the No-Rise Certification as it relates to the Floodway.

Consistency with the provisions of KCC 17.56.060(2) Yard requirements:

This proposal, with approval of the zoning setback variance, is consistent with the setbacks outlined in Kittitas County Zoning Code 17.56.060(2) Yard Requirements – Forest & Range.

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, Laura Kukes – Kittitas County Code Enforcement Officer, Kittitas County Public Works, Washington State Dept. of Fish and Wildlife, Bonneville Power Administration. All comments are on file and available for public review.

Public Comments:

No comments were received from the public during the comment period.

VIII. FINDINGS OF FACT

1. Steven M. Roe, property owner, submitted a zoning setback variance application requesting a 6 ½ - foot reduction from the 10-foot side lot line required setback for an existing garage, which would result in a 3 ½ -foot side lot line setback.

2. Parcel #351934 (Lot 24 of Sun Island Park #2; Block 3) located on Homestead Lane. The property is in Section 13, Township 20, Range 13 in Kittitas County. Map number 20-13-13050-0324.

3. Site Information

Total Property Size:	0.42 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	N/A
Fire Protection:	Fire District #3 (Easton)
Irrigation District:	Kittitas Reclamation District (KRD)

4. Site Characteristics:

North: Low-density residential development in a Forest & Range zoning designation. Waterways of the Yakima River lie in this direction.

South: Low-density residential development in a Forest & Range zoning designation. Waterways of the Yakima River lie in this direction.

East: Low-density residential development in a Forest & Range zoning designation.

West: Low-density residential development in a Forest & Range zoning designation. Waterways of the Yakima River lie in this direction.

The site is accessed via Homestead Lane.

5. The Comprehensive Plan land use designation is Rural-Working within Forest & Range zoning.
6. The purpose and intent of the Forest & 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 the prescribed side setback requirements in KCC 17.56.060(2). 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 March 31, 2025.
8. The application was determined complete on April 2, 2025.
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 April 2, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on April 17, 2025, and all comments were transmitted to the applicant on April 18, 2025.
10. CDS performed a critical areas review of the subject parcel and found the presence of Floodway, Shoreline Residential jurisdiction, and Wetlands coterminous with branches of the Yakima River. Based upon review of the submitted application materials and a critical areas review, CDS determined that the Roe 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 17.56.060(2), Forest & Range 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 as conditioned.
15. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety as conditioned.
16. Comments were received from the following agencies: Confederated Tribes of the Colville Reservation, Laura Kukes – Kittitas County Code Enforcement Officer, Kittitas County Public Works, Washington State Dept. of Fish and Wildlife, Bonneville Power Administration. All comments are on file and available for public review.
17. No public comments were received regarding this proposal.

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 Roe Zoning Setback Variance (VA-25-00001) is hereby **approved** subject to the conditions below. The Roe 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.
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 Community Development Services.
4. All structures and buildings shall be compliant with the International Fire Code.
5. The applicant is hereby required to obtain a FEMA approved LOMA or a No-Rise Certification through Kittitas County Public Works, and such certification must be completed by a professional engineer. Failure to obtain a No-Rise Certification completed by a professional engineer will result in the mandatory removal of the structure from the Floodway.
6. 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 _____
Zach Torrance-Smith

Title: Planner I

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7079

Date: May 6, 2025

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 5:00 pm on May 21, 2025. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.