



Schwartz Zoning Setback Variance

File Number VA-25-00006

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Wendy and Jason Schwartz, property owners, are seeking a zoning variance to reduce the required 15-foot side yard setback, as outlined in KCC 17.30A.050, to 5 feet. This adjustment will allow for the construction of a single-family home and appurtenance while maintaining the mandatory shoreline buffer associated with the Yakima River.

Location: The subject property is parcel # 600534 located at 1151 Wapiti Drive in Cle Elum, WA. The property is in Section 22, Township 20, Range 14 in Kittitas County. Map number 20-14-22051-0003. The property is 0.48 acres and is zoned Rural 5 with a Rural Residential land use designation.

II. SITE INFORMATION

Total Property Size:	0.48 acres
Number of Lots:	1
Sewage Disposal:	On Site-Sewage
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	Kittitas Reclamation District

Site Characteristics:

North: Low-density residential and recreation development in a Rural 5 zoning designation

South: Residential and recreation development in a Rural 5 zoning designation

East: Residential and recreation development in a Rural 5 zoning designation

West: Residential and recreation development in a Rural 5 zoning designation

Access: The site is accessed via Wapiti Drive.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Rural 5 with a Rural Residential land use designation. The purpose and intent of Rural 5 zoning is to provide areas where residential development may occur on a low-density basis. A primary goal and intent in R-5 zones is to minimize adverse effects on adjacent natural resource lands. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed side yard setback requirements in KCC 17.30A.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 subject property is uniquely constrained by the combination of its limited lot width and its required 115-foot shoreline setback from the OHWM. These overlapping restrictions substantially narrow the buildable corridor, creating a site-specific hardship that is not commonly experienced by neighboring properties. While other lots in the vicinity may also be subject to shoreline regulation, the particular geometry and width of this parcel present exceptional design challenges.”

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 17.30A.050. 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

“Without the requested side setback reduction, construction of a modest single-family home with standard residential amenities such as covered parking would be impractical or infeasible. Owners of nearby properties enjoy the ability to develop similar dwellings without losing functional space to the extent imposed by this lot’s combined shoreline and width constraints. Granting this variance allows the applicant the same reasonable residential use enjoyed by other property owners in the area.”

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 “modest sized” single-family residence on this parcel and meet the required setbacks for this zone while keeping development outside the required shoreline buffer. CDS finds that the applicant has satisfied the criteria outlined in KCC17.84.010(2).

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 17.30A.050. 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 proposed encroachment consists solely of the open-sided carport, which is a low-profile structure that maintains visibility, airflow, and neighborhood scale. It will not obstruct views, impact

privacy, or create drainage or access conflicts with adjacent parcels. Adequate fire separation and structural design measures will ensure full compliance with applicable building codes. The reduced setback therefore poses no material detriment to the public or to neighboring properties.”

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 5 feet from 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 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 proposed variance is consistent with the existing residential development pattern along Wapiti Drive, where similar modest accessory features appear within side yards. Approval will allow the property to be developed in a manner compatible with the County’s comprehensive plan objectives for rural-residential neighborhoods while preserving environmental protections associated with the shoreline buffer. The resulting home will maintain appropriate scale, spacing, and character relative to the surrounding community.”

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 17.84.000

IV. ADMINISTRATIVE REVIEW

Deem Complete: The application was determined complete on October 8, 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 October 16, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). An updated notice 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 October 30, 2025. The comment period ended at 5:00 pm on

November 17, 2025, and all comments were transmitted to the applicant on November 17, 2025.

V. ENVIRONMENTAL REVIEW

A critical areas review was performed by CDS using GIS data and found shoreline jurisdiction, 100-year flood plain, and floodway cover portions of the subject property.

The Yakima River borders the property to the north and is considered a shoreline of the state. The shoreline jurisdiction extends upland, 200 feet from the Ordinary High-Water Mark (OHWM) or the edge of a floodway, whichever is most landward, and is regulated by the Shoreline Management Act per KCC 17B.01.010. Except when exempt, all proposed use and development occurring within shoreline jurisdiction requires permitting. The shoreline environmental designation is Residential Shoreline. Within Residential Shoreline, development is prohibited within the first 100 feet and there is a 15-foot building setback per KCC 17A.01.090.

Shoreline exemption SX-25-00013 Schwartz was approved November 24, 2025 and will allow the applicant to build within the shoreline buffer, at a maximum distance of 91.30 inches from the Ordinary High Water Mark of the Yakima River, pursuant to KCC 17B.06.200(B)(7) common line shoreline buffer averaging. The applicant has provided a management and mitigation plan prepared by GG Environmental LLC, which demonstrates no net loss of ecological functions if the proposed planting and monitoring methods are followed.

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: Yakama Nation Fisheries, Washington State Department of Natural Resources (DNR), Kittitas Reclamation District (KRD), Confederated Tribes of the Colville Reservation (CTCR), Kittitas County Fire Marshal (KCFM), Kittitas County Public Health, County Public Works (KCPW), Kittitas County Fire District 7 (KCFD7), Snoqualmie Indian Tribe, and Washington State Department of Fish and Wildlife (WDFW). A review of these comments can be seen below.

Yakama Nation Fisheries

Yakama Nation Fisheries state the project does not yield any new information that would require further investigation of the potential impacts of Archaeological/Cultural Resources.

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant.

Washington State Department of Natural Resources

DNR recommends the applicant meet with the local forest practices forester to discuss if a Forest Practice Application (FPA) will be required for this project. An FPA is required when merchantable timber is removed/harvested as part of a proposal and/or the land is being converted out of forest land (RCW 76.09 and WAC 222).

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant.

Confederated Tribes of the Colville Reservation

CTCR stated that this proposal is in an area of very high risk of having cultural resources present. They request that the proponent develop and have on-hand an Inadvertent Discovery Plan (IDP) for all ground-disturbing activities. Should any cultural resources be discovered during the course of project work, we also request that the CTCR be notified and included in any communications regarding these resources.

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant and has conditioned the Shoreline Exemption SX-25-00013 letter to have an IDP on-hand during all ground disturbing activities.

Kittitas County Fire Marshal

KCFM stated no comments for this project.

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant.

Kittitas County Public Health

KCPH requires a waiver for the On-Site Sewage reserve due to the reduced setback to the Yakima River. CDS shoreline review and approval shall be included as a condition of the Public Health waiver.

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant.

Kittitas County Public Works

Access:

- An approved access permit shall be required from the Kittitas County Department of Public Works prior to creating any new driveway access or alternative existing access.
- Private Road Certification will be required for Wapiti Dr. from approximately 1041 Wapiti Dr. (east entrance of Ermine Loop) to this property. Private Road Certification is on file for a portion of Wapiti Dr.
- Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain access.
- Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
- In addition to the above-mentioned conditions, all applicable Kittitas County Road Standards apply to this proposal. Access is not guaranteed to any existing or created parcel on this application.

Engineering:

- Except as exempted in Section KCC 14.05.060, no grading or filling upon a site involving more than one hundred (100) cubic yards shall be performed without a grading permit from the County Engineer or Public Works designee (KCC 14.05.050). An application for grading in excess of five hundred (500) cubic yards shall be accompanied by an engineered grading plan (KCC 14.05.080).

Flood:

- The proposed variance to the side yard setback is necessary for the applicant to be in

compliance with KCC 14.08.300 and shoreline standards by building outside of the floodway boundary and appropriate buffer from the OHWM. If it is not completed already, the applicant must utilize a surveyor to identify the floodway boundary.

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant.

Kittitas County Fire District 7

KCFD7 stated they do not support the request to reduce the front setback of 5 feet from the road for the constructed carport.

Applicant Response: No response.

Staff Response: CDS informed KCFD7 that the applicant updated their request to reduce the side yard setback rather than the front yard setback. KCFD7 did not provide updated comments.

Snoqualmie Indian Tribe

The Snoqualmie Indian Tribes recommend an archaeological review be performed for this project because this area is considered culturally significant and has a high probability to have unknown archaeological deposits.

Applicant Response: No response.

Staff Response: CDS has provided these comments to the applicant.

Washington State Department of Fish and Wildlife

WDFW request the opportunity to review and comment on the management and mitigation plan for the associated shoreline exemption prior to the approval of this variance to help ensure the functions and values of the Yakima River Shoreline are protecting.

Applicant Response: No response.

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 planning staff's analysis and consistency review for the subject application.

Consistency with the provisions of KCC 17A, Critical Areas:

A critical areas review was performed by CDS using GIS data and found shoreline jurisdiction, 100-year flood plain, and floodway cover portions of the subject property.

Consistency with the provisions of KCC 17.30A.050 Yard requirements:

This proposal is not consistent with the setback requirements specified in KCC 17.30A.050 Yard Requirements – Rural 5, thereby supporting the need for a zoning variance.

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:

The following agencies provided comments: Yakama Nation Fisheries, Washington State Department of Natural Resources (DNR), Kittitas Reclamation District (KRD), Confederated Tribes of the Colville Reservation (CTCR), Kittitas County Fire Marshal (KCFM), Kittitas County Public Health, County Public Works (KCPW), Kittitas County Fire District 7 (KCFD7), Snoqualmie Indian Tribe, and Washington State Department of Fish and Wildlife (WDFW).

Public Comments:

Nine comments were received from the public during the designated comment period.

VIII. FINDINGS OF FACT

1. Wendy and Jason Schwartz, property owners, are seeking a zoning variance to reduce the required 15-foot side yard setback, as outlined in KCC 17.30A.050, to 5 feet. This adjustment will allow for the construction of a single-family home and appurtenance while maintaining the mandatory shoreline buffer associated with the Yakima River.
2. The subject property is parcel # 600534 located at 1151 Wapiti Drive in Cle Elum, WA. The property is in Section 22, Township 20, Range 14 in Kittitas County. Map number 20-14-22051-0003. The property is 0.48 acres and is zoned Rural 5 with a Rural Residential land use designation.

3. Site Information

Total Property Size:	0.48 acres
Number of Lots:	1
Sewage Disposal:	On Site-Sewage
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	Kittitas Reclamation District

4. Site Characteristics:

- North: Low-density residential and recreation development in a Rural 5 zoning designation.
- South: Residential and recreation development in a Rural 5 zoning designation
- East: Residential and recreation development in a Rural 5 zoning designation
- West: Residential and recreation development in a Rural 5 zoning designation

5. The site is accessed via Wapiti Drive.
6. The Comprehensive Plan land use designation is Rural Residential in Rural 5 zoning.
7. The purpose and intent of Rural 5 zoning is to provide areas where residential development may occur on a low-density basis. A primary goal and intent in sitting R-5 zones will be to minimize adverse effects on adjacent natural resource lands. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed side yard setback requirements in KCC 17.30A.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**.
8. A Zoning Variance Application was submitted to Kittitas County Community Development Services department on August 8, 2025.
9. The application was deemed complete on October 8, 2025.
10. 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 October 16, 2025, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). An updated notice 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 October 30, 2025. The comment period ended at 5:00 pm on November 17, 2025, and all comments were transmitted to the applicant on November 17, 2025.
11. A critical areas review was performed by CDS using GIS data and found shoreline jurisdiction, 100-year flood plain, and floodway cover portions of the subject property.
12. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
13. The proposal is not consistent with the provisions of KCC 17.30A.050, Rural 5 zoning, without approval of the zoning setback variance.
14. The proposal is consistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have been satisfied.
15. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code as conditioned.
16. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety as conditioned.
17. Comments were received from the following agencies: Yakama Nation Fisheries, Washington State Department of Natural Resources (DNR), Kittitas Reclamation District (KRD), Confederated Tribes of the Colville Reservation (CTCR), Kittitas County Fire Marshal (KCFM), Kittitas County Public Health, County Public Works (KCPW), Kittitas County Fire District 7 (KCFD7), Snoqualmie Indian Tribe, and Washington State Department of Fish and Wildlife (WDFW).
18. Nine comments were received from the public during the designated comment period.

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.

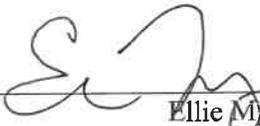
X. DECISION AND CONDITIONS OF APPROVAL:

Kittitas County Community Development Services finds that the Schwartz Zoning Setback Variance (VA-25-00006) is hereby **approved** subject to the conditions below. The Schwartz 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. The applicant shall complete Private Road Certification for Wapiti Drive from approximately 1041 Wapiti Drive to the subject parcel prior to Certificate of Occupancy for the proposed Single-Family Residence.
5. The applicant shall apply for an access permit through the Kittitas County Department of Public Works prior to creating any new driveway access or alternative existing access.
6. The applicant shall obtain a waiver for the On-Site Sewage reserve field through the Kittitas County Department of Public Health.
7. All structures and buildings shall be compliant with the International Fire Code.
8. The applicant shall comply with the requirements outlined in Shoreline Exemption SX-25-00013.
9. This side yard 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



 Ellie Myers

Title: Planner 1
Address: Kittitas County Community Development Services
 411 N. Ruby Street, Suite 2
 Ellensburg, WA. 98926
 Phone: (509) 962-7079
Date: November 24, 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 December 12, 2025. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7048 for more information on the appeal process.