



Swanson Zoning Setback Variance

File Number VS-26-00004

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Danni and Miles Zupan, property owners, are seeking a zoning variance to reduce the required front yard setback from 25 feet to 15 feet, as outlined in KCC 17.29.050, for an existing non-accessory storage structure. The building was located within the front setback when the applicants purchased the property. Due to limited usable area on the property caused by hazardous slopes, the applicants applied for a zoning variance to keep the building in its existing location instead of relocating it.

Location: The subject property is parcel #11558 located at 14160 Hwy 10 in Ellensburg, WA. Approximately 0.75 miles from the intersection of State Route 10 and N Thorp HWY. Section 34, Township 19, Range 17; Kittitas County parcel map number 19-17-34020-0015. The subject property is zoned Agriculture 20 and has a Rural Working land use designation.

II. SITE INFORMATION

Total Property Size:	6.43 acres
Number of Lots:	1
Sewage Disposal:	On-Site Sewage
Fire Protection:	Fire District 1 (Rural Thorp)
Irrigation District:	n/a

Site Characteristics:

North: Low density residential and agricultural use.

South: Low density residential and agricultural use.

East: Low density residential and agricultural use.

West: Low density residential and agricultural use.

Access: The site is accessed via Hwy 10.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Agriculture 20 with a Rural Working land use designation. The purpose and intent of this zone is to provide for and protect areas wherein farming, ranching and rural lifestyles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by non-agricultural land uses; and protect the rights and traditions of those engaged in agriculture. 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 17.29.050. 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 main unusual circumstance here is that we purchased this property with the building already in its current location. Unlike a new construction project where we could pick the spot, we inherited a setup where the building was placed years ago by a previous owner. Moving it isn't really an option because of how the land slopes quickly after the structure and we'd like to reserve the other flat area for a future single-family residence someday. "

Staff Response

CDS staff have reviewed the complete file, including the applicant's materials and all comments received during the public comment period. Based on this review and the topography of the property, CDS finds that the applicant has met the criteria outlined in KCC 17.84.010(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.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owner of other properties in the same vicinity.

Applicant Response

"Since the house was already built this way, forcing us to move it or tear it down would be an unnecessary hardship. I believe several older homes in the area have similar setbacks. We would like to keep and use the small structure that came with the property."

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 "be deprived of a comparable use and enjoyment of their property due to the restrictive buildable area." 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 structure doesn't block anyone's view or create any safety issues for people driving by. It's been sitting there safely for years, and since we aren't planning to make it any bigger, it won't have any new impact".

Staff Response

CDS finds no evidence that the proposed setback reduction would be materially injurious to adjacent property owners or the public welfare. Based on these findings, CDS concludes that the applicant has demonstrated compliance with the criteria set forth in 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

“Granting the variance would not jeopardize the development plan of the area. It’s a minor adjustment to a right-of-way measurement, not a change to how the land is used, so it won’t interfere with the county’s long-term goals”.

Staff Response

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

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 deemed complete on May 18, 2026.

Notice of Application: Notice of Application was sent to property owner 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 May 21, 2026, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on June 8, 2026, and all comments were transmitted to the applicant on June 12, 2026.

V. ENVIRONMENTAL REVIEW

Staff performed a critical area review and found a Type U stream with an associated riverine wetland located on the property. The Type U stream has a 100-foot buffer landward from the OHWM or active floodway, whichever is greater. There is also a required 15-foot structural setback from the buffer edge (KCC 17A.01.090.4). Based on the site plan provided by the applicant, impacts to the stream and the Riparian Management Zone are not anticipated because the non-accessory storage structure is located outside the buffer and associated setbacks.

The southern portion of the property is within Shoreline Jurisdiction. In Kittitas County, this includes all state shorelines, shorelands within 200 feet of the ordinary high-water mark

(OHWM), associated wetlands and river deltas, floodways, and adjacent floodplain areas within 200 feet landward of the floodway. Construction from 0-115' of ordinary high-water mark (OHWM) requires additional permitting from CDS Planning. The existing non-accessory storage structure is located outside of shoreline jurisdiction. Additional shoreline permitting is not required.

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: Washington State Department of Natural Resources (DNR), Cascade Irrigation, Kittitas County Fire Marshal (KCFM), Bonneville Power Administration (BPA), Confederated Tribes of the Colville Reservation (CTCR), Yakama Nation Fisheries, Washington State Department of Transportation (DOT), and Kittitas County Public Works (KCPW). A review of these comments can be seen below.

Washington State Department of Natural Resources

DNR supplied information regarding requirements for a Forest Practice Application (FPA) if the parcel is being converted out of forestland.

Applicant Response: Asked for clarification if an FPA would be required.

Staff Response: Based on aerial imagery and considering that no additional timber will be harvested, assuming none was harvested at all for the existing structure, and FPA will not be required.

Cascade Irrigation

Cascade Irrigation stated this proposal is outside of their district boundary.

Applicant Response: No response.

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

Kittitas County Fire Marshal

KCFM stated they have no comments.

Applicant Response: No response.

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

Bonneville Power Administration

BPA stated this project will not directly impact BPA facilities. BPA does not have any objections to the approval of this request currently.

Applicant Response: No response.

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

Confederated Tribes of the Colville Reservation

CTCR stated that they have no concerns with this proposal.

Applicant Response: No response.

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

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 Transportation

DOT stated that access to the property is available via the grandfathered approach at milepost 88.05. This approach may continue to be used until there is a significant change in use.

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 altering existing access.
- Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain access.
- Lots that access easements or rights-of-ways controlled by different agencies, such as State highways, Forest service Roads, irrigation canals, or railroads will require separate access approvals from those agencies. A copy of the access approval shall be submitted to the County prior to issuance of the County's access permit. The County cannot grant access to roads or easements it does not control (KCC 12.05.030(G)).
- 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).

Survey:

- It appears that the application is requesting a setback variance based upon GIS data only. The legal description for this parcel as well as the fact it is absent from any surveys of record, makes it difficult to determine exactly where the true property boundary is in relation to the existing shed, and whether a setback variance is even required. I question how the boundary in question was determined and propose a boundary survey be performed prior to approval.

Applicant Response: No response.

Staff Response: The site plan provided with the building permit (BP-25-00397) shows the structure located 15 feet from the property line. Throughout the review process, there was considerable discussion regarding the exact location of the property line because county parcel data appears to be inaccurate and no recorded survey has been provided. WSDOT supplied a survey of its right-of-way adjacent to the parcel, which indicated to staff that the structure may be located within the required property line setbacks. As a result, staff informed the applicant that they would need to either provide a survey demonstrating that the structure complies with setback requirements or apply for a zoning variance, given that the submitted site plan places the structure only 15 feet from the front property line. While it is possible that the structure does not encroach into the required front setback, in the absence of a survey, staff must rely on the site plan submitted by the applicant when evaluating compliance.

Public Comments:

No public comments were received during the 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:

A critical areas review was performed by CDS using GIS that identified a Type (U) stream and shoreline jurisdiction on the property. The non-accessory storage structure is located outside of the stream buffer and shoreline jurisdiction. Additional critical area review and shoreline permitting are not required.

Consistency with the provisions of KCC 17.29.050 Yard requirements:

This proposal is not consistent with the setback requirements specified in KCC 17.29.050, 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 owner 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: Washington State Department of Natural Resources (DNR),

Cascade Irrigation, Kittitas County Fire Marshal (KCFM), Bonneville Power Administration (BPA), Confederated Tribes of the Colville Reservation (CTCR), Yakama Nation Fisheries, Washington State Department of Transportation (DOT), and Kittitas County Public Works (KCPW).

Public Comments:

No public comments were received during the comment period.

VIII. FINDINGS OF FACT

1. Danni and Miles Zupan, property owners, are seeking a zoning variance to reduce the required front yard setback from 25 feet to 15 feet, as outlined in KCC 17.29.050, for an existing non-accessory storage structure. The building was located within the front setback when the applicants purchased the property. Due to limited usable area on the property caused by hazardous slopes, the applicants applied for a zoning variance to keep the building in its existing location instead of relocating it.
2. The subject property is parcel #11558 located at 14160 Hwy 10 in Ellensburg, WA. Approximately 0.75 miles from the intersection of State Route 10 and N Thorp HWY. Section 34, Township 19, Range 17; Kittitas County parcel map number 19-17-34020-0015. The subject property is zoned Agriculture 20 and has a Rural Working land use designation.
3. Site Information

Total Property Size:	6.43 acres
Number of Lots:	1
Sewage Disposal:	Public Sewer system
Fire Protection:	Fire District 1 (Rural Thorp)
Irrigation District:	n/a
4. Site Characteristics:
 - North: Low density residential and agricultural use.
 - South: Low density residential and agricultural use.
 - East: Low density residential and agricultural use.
 - West: Low density residential and agricultural use.
5. The site is accessed via Hwy 10.
6. The Comprehensive Plan land use designation Rural Working in Agriculture 20 zoning.
7. The purpose and intent of this zone is to provide for and protect areas wherein farming, ranching and rural lifestyles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by non-agricultural land uses; and protect the rights and traditions of those engaged in agriculture. 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 17.29.050. 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 May 12, 2026.
9. The application was deemed complete on May 18, 2026.

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 May 21, 2026, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on June 8, 2026, and all comments were transmitted to the applicant on June 12, 2026.
11. A critical areas review was performed by CDS using GIS that identified a Type (U) stream and shoreline jurisdiction on the property. The non-accessory storage structure is located outside of the stream buffer and shoreline jurisdiction. Additional critical area review and shoreline permitting are not required.
12. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
13. The proposal is not consistent with the setback requirements specified in KCC 17.29.050, thereby supporting the need for a zoning 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: Washington State Department of Natural Resources (DNR), Cascade Irrigation, Kittitas County Fire Marshal (KCFM), Bonneville Power Administration (BPA), Confederated Tribes of the Colville Reservation (CTCR), Yakama Nation Fisheries, Washington State Department of Transportation (DOT), and Kittitas County Public Works (KCPW).
18. No public comments were received during the 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 Zupan Zoning Setback Variance (VS-26-00004) is hereby **approved** subject to the conditions below. The Zupan 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 shall apply for an access permit from the Department of Public Works.
6. This front 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:

June 26, 2026

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 July 17, 2026. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7048 for more information on the appeal process.