

**Fuhrer Zoning Setback Variance**  
**File Number VA-20-00007**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**I. GENERAL INFORMATION**

Requested Action: Brent and Emily Fuhrer, property owners, submitted a zoning setback variance requesting a 10-foot reduction from the 25-foot front lot line setback requirement for the Residential Zone in KCC 17.16 on the lower east property line, which would result in a 15-foot front lot line structural setback. This variance is requested to build a 2000 square foot residence.

Location: Parcel 588135, located at 90 Cedar Lane, off of Tanner Way, approximately 0.3 miles from the intersection of Tanner Way and State Route 906 in Snoqualmie Pass, WA in Section 09, T 22, R 11. W.M. Map number 22-11-09054-0028.

**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 WSDOT State Route  
West: Primarily residential development

Access: The site is accessed via Cedar Lane.

**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

*“Our lot sits in a plat that has been approved and actively developed in for years. The setbacks when we purchased the lot in May of 2019 were a front lot line of 15 feet and a back lot line setback of 25 feet. Then in December of 2019 an amendment was passed that our community became part of a Snoqualmie LAMIRD section. The new setbacks became 25 feet for a front lot line and 15 feet for a back lot line. We recently submitted our PSA to the county and learned for the first time that we have two front lot lines. One in the neighborhood where our address has been approved to be 90 Cedar Ln. and what we thought was our back line off of SR 906 has also been labeled a front lot line. With these new lot line labels and setbacks of 25 feet in the front and 25 feet in the "back", we now only have 10 feet wide to build a house on our property. Our lot is also "L" shaped unlike other lots in the neighborhood which hinders our build footprint, making actually two lines of setbacks on the SR 906 side. Other lots in our development are square or rectangular shaped and have designated front and back lot line labels that allow for reasonable space and size of a cabin to build on. Lastly, the typography of our property is such that no vehicular access would be allowed/ permitted off of the 906 side due to the steep slope even though it is being labeled a front lot line.”*

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 four front lot lines which greatly reduces the buildable area. Due to the lot's structure and having four front lot lines, 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

*“The variance is required to build a home on. our lot. To preserve our investment in the community by building a suitable house and the right of building on the property we purchased, the variance is necessary. We have designed the footprint within the LAMIRD setbacks.”*

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. The parcel has four front lot lines which limits the buildable space on the lot which is unique to this parcel. The applicant demonstrated on their site plan that there would not be an adequate building envelope 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

*“This variance will not negatively impact the enjoyment or welfare of anyone within the vicinity. By allowing this variance we will be able to build a house within the CCR's of the community and also provide better collaboration and safety for snow removal between our neighbors and ourselves.”*

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 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

*“This variance will have no adverse effect on the development of Mountain Creek at Silver Fir or SR 906. We will still be within the 25 foot setback on the top 'L' part of our property line and will not be near the guardrail or any other land necessary for road maintenance or snow removal for SR 906.”*

Staff Response

CDS has concluded that the requested zoning setback variance reduction from 25 to 15 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 falls within CCRs of the community. The Residential setback reduction to 15 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 September 1, 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 September 10, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on September 25, 2020 and all comments were transmitted to the applicant on September 30, 2020.

**V. ENVIRONMENTAL REVIEW**

CDS performed a critical area 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 Fuhrer 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.

Kittitas County Public Works (KCPW)

Kittitas County Public Works provided comment on this application on September 15, 2020. KCPW commented that they recommend approval of the zoning variance application based on the fact that the applicant has a current access/address permit with Public Works. KCPW had no other comments regarding this application.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Health (KCPH)

Kittitas County Public Health provided comments on this application on September 11, 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 September 18, 2020. KCCDS Building commented that they have no comments or concerns with the application.

Staff Response

CDS has provided these comments to the applicant.

Washington State Department of Transportation (WSDOT)

WSDOT provided comments on this application on September 14, 2020. WSDOT commented that the subject property is adjacent to the State Route 906 (SR 906). SR 906 is a managed access class 4 highway with a posted speed limit of 35 miles per hour. Direct access to the highway is prohibited; and the site plan does not identify an area for snow storage. Any snow accumulated on the property shall not be moved onto WSDOT right-of-way. We encourage the proponent to not underestimate the potential for large volumes of snow and designate a snow storage area on the property.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

In response to WSDOT's first concern, our variance is not asking for direct access to the freeway/ SR 906 which borders our property. We are simply asking for a decrease in setback feet. In fact part of the property line will still have almost 25 feet in one part of the back lot line since our lot is a "L" shape. In response to WSDOT's second concern, we have identified a few areas for snow storage/ accumulation on our property fully understanding the large volumes of snow that will come. The back part of our lot that borders SR 906 is a steep incline and we will not be accessing that part of the property at any time. They may push as much snow as needed off the freeway and we will not be pushing any amount in the direction of the freeway. We have purposely designed the roof line of our house for snow loads to fall off the roof and land on the sides of our house (north and south I believe) and not the front or back. The back being the direction of the SR 906. There is a large gully to the north where most of the snow will accumulate from clearing our access road on Cedar Ln, roof runoff and such. The designated setbacks we are asking for will also allow for better snow management between our house and the neighbors as well.

Staff Response

CDS has provided these comments to the applicant. This determination has been conditioned to ensure no snow storage from the subject property will encroach onto WSDOT ROW.

Public Comments:

There were no public comments received for this application.

**VIII. FINDINGS OF FACT**

1. Brent & Emily Fuhrer, property owners, have submitted a zoning setback variance request to reduce a 25-foot front lot line setback within the Residential zone to 15 feet.

2. Parcel # 588135, located at 90 Cedar Lane, off of Tanner way, approximately 0.3 miles from the intersection of Tanner Way and State Route 906 in Snoqualmie Pass, WA in Section 09, T 22, R 11. W.M. Map number 22-11-09054-0028.

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 WSDOT State Route
West:	Primarily residential development

The site is accessed via Cedar Lane.

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 a 10-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 15-foot front lot line structural setback. This variance is requested to construct a 2000 square foot Single Family Residence. 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 August 10, 2020.

8. The application was determined complete on September 1, 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 September 10, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on September 25, 2020 and all comments were transmitted to the applicant on September 30, 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 Fuhrer 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 Washington State Department of Transportation. All comments are on file and available for public review.
17. No public comments were received.

**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.

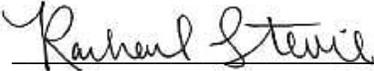
**X. DECISION AND CONDITIONS OF APPROVAL:**

Kittitas County Community Development Services finds that the Fuhrer Zoning Setback Variance (VA-20-00007) is hereby **approved**. The Fuhrer 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 August 10, 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.
4. All snow storage shall be retained on the subject parcel. Snow storage shall not encroach onto WSDOT ROW.
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:** January 7, 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 January 22, 2021. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.**