



## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Morris Zoning Setback Variance VA-18-00001

This matter having come before the Kittitas County Community Development Services for the Morris Zoning Setback Variance (VA-18-00001) submitted by Jerry Morris to reduce a 25 foot front yard setback within the Forest and Range Zone to 2.9 feet. This variance is in order to facilitate construction of a garage and provide safe access year around.

1. Community Development Services finds that Jerry Morris submitted a Zoning Setback Variance application on February 27, 2018. A Notice of Application was issued on April 2, 2018. This notice was mailed to government agencies, adjacent property owners, and the applicant as required by law.
2. Community Development Services finds that the site proposed for the Zoning Setback Variance is located off of Summer Park Ct. in Section 17,T 21 N, R13 E,WM parcel 546835. Assessor map number 21-13-17051-0028.
3. Comments were received from the Washington Department of Fish and Wildlife, Kittitas County Public Works, Kittitas County Environmental Health, and the Kittitas County Fire Marshall's Office.
4. Washington State Department of Fish and Wildlife responded with a letter dated April 3, 2018. The letter stated that WDFW did not oppose the variance, but offered possible mitigation options for concerns expressed by KVFR in their initial examination of the proposal. These concerns were relieved to the satisfaction of KVFR through a more detailed explanation of the site layout and fire preparedness provided by the applicant.
5. Kittitas Valley Fire and Rescue (KVFR) provided initial comments opposing the proposed variance. Upon more information being provided by the applicant, KVFR changed its opposition to the project and approved the variance.
6. Kittitas County Environmental Health responded with a request for more information regarding the location of water systems. The applicant clarified these locations and Kittitas County Public Health responded stating that they had no issues with the proposal.
7. One public comment was received by a neighbor, J Scott Nicholson in support of the variance.
8. 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. This is demonstrated by the following:
  - a. Unusual circumstances or conditions apply to the property and/or the intended use that do not apply to other property in the general area.

#### Applicant Response:

*"The topography of the lot slopes downward from the existing road shoulder. Summer Park Ct. is a private dead end 220 foot long road with a 60 foot radius off-set cul-de-sac. From the existing edge of existing pavement to the top of slope is 20 feet and it is 34 feet to the right of way line from the edge of the pavement. Compliance with the current 25 foot setback would*

*require the garage to be 59 feet from the edge of the pavement and make the driveway slope to the garage entrance greater than 45 percent and not usable during winter months. It would also mean construction would fall within the 115 foot shoreline setback, and create a long driveway requiring fill and retaining walls.”*

Staff Conclusions:

51 Summer Park Ct. is a parcel located on a private cul-de-sac off of Via Kachess Rd. A site visit indicated the extreme slope of the parcel exceeds that of many neighboring parcels and may present a danger in winter months in vehicle access to the residence. In addition, without the proposed setback back reduction, the building of a garage would have to take place within the 115 foot shoreline buffer/setback zone requiring a Shoreline Variance and potentially adversely impacting the shoreline environment.

- b. 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 parcel, platted in 1976, currently has a residence constructed in 1993 as a vacation home without a garage. In order for the property to support full-time residency year round access to the garage and parking is desired. During winter months the garage needs to be close to the top of the slope as shown on the attached plot plan. This would provide a slope of 15 degrees and a short driveway to the garage entrance. During winter months, November through March, because of snow conditions parking is currently only available within the street right-of-way along the top slope. Parcels along Via Kachess road and other road right-of-ways within Kachess community have received variances to the front yard setback requirements with no adverse visual or public safety affect.”*

Staff Conclusions:

The applicant desires year around access to the residence at 51 Summer Park Ct.. Several neighbors in the vicinity with less hazardous slopes possess street level garages allowing them safe vehicle parking access to their properties.

- c. Authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity.

Applicant Response:

*“I do not believe that granting this variance from the setback code will be detrimental to the public welfare or be at all injurious to the property owners in the same vicinity. The variance would not affect the use of the street as Summer Park Ct. is a short private street with a 60 foot offset cul-de-sac and the proposed construction would be 36 feet from the edge of the pavement and 16 feet downhill from the top of slope. The variance would have no adverse effect or be injurious to adjacent property as it would provide off street covered parking year around. The Kachess II plat is located in mountainous terrain and not all lots can comply with the desired setbacks. The Comprehensive Plan acknowledges site conditions vary and provide for variances. The granting of the variance will enable us to further enjoy our investment as well as meet the goals of the Comprehensive Plan and the Kachess Community covenants.”*

Staff Conclusions:

Street level garages are common in the vicinity. There is no indication this has been injurious to the public welfare or property owners in the area. 51 Summer Park Ct. is on a private offset cul-de-sac leaving 36 feet between the edge of the roadway and proposed location of the garage. This distance exceeds that of several permitted garages along Via Kachess Rd.

- d. The granting of such a variance will not adversely affect the realization of the comprehensive development pattern of this area.

Applicant Response:

*“Kachess Community has very explicit covenants regarding construction materials, layout amenities, clearing limits and building colors which also must be met along with the county regulations. Construction materials used will meet the fire requirements as discussed in the comprehensive plan and those required by the community covenants. In reviewing the Rural use section of the Comprehensive Plan, the requested variance is not in conflict with the plan or the Kachess community existing covenants or character of ongoing development of the Kachess community as platted in 1976. Having previously served on the Kachess communities board of directors and currently serve on the architectural control committee I know of no problems encountered by approval of Front yard setbacks. The property falls within the Lake Kachess shoreline. The granting of the variance will enable the construction to be greater than the 115 foot shoreline setback requirement from Lake Kachess High Water.”*

Staff Conclusions:

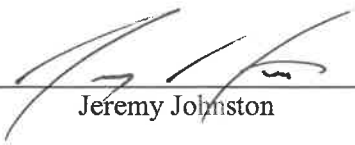
Street level garages are common along Via Kachess Rd. The proposed location of the garage is consistent with the development pattern of the area.

9. Community Development Services finds that the applicant has met the four requirements outlined in KCC 17.84.010. Community Development Services finds that the granting of the proposed Zoning Setback Variance **will not**:
  - a. Be detrimental to the public health, safety, and general welfare;
  - b. Adversely affect the established character of the surrounding vicinity and planned uses; nor
  - c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.
10. Community Development Services finds that the granting of the proposed Setback Variance **is** consistent and compatible with the intent of goals, objectives and policies of the comprehensive plan, and any implementing regulation.

Based upon the above mentioned Findings of Facts and Conclusion of Law the Morris Setback Variance (VA-18-00001) is hereby **approved** with the following conditions of approval:

1. 51 Summer Park Ct. is within the 200 foot State Shoreline designation and will require approval of a Shoreline Exemption prior to any work taking place on the property pursuant to RCW 90.58 and KCC 17B.07.030(g).

**Staff Planner:**

  
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Jeremy Johnston

**Title:** Planner, Kittitas County Community Development Services

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**Date:** Thursday, May 25, 2018

**An appeal of this land use decision may be filed within 10 working days by submitting specific factual objections and a fee of \$1570 to the Kittitas County Board of Commissioners at 205 West 5th, #108 Ellensburg, WA 98926. The appeal and deadline is 5:00 pm June 11, 2018.**

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