

Eliason Zoning Setback Variance
File Number VA-20-00004
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Charise and John Eliason, property owner, submitted a zoning setback variance requesting a 20-foot reduction from the 25-foot front lot line setback requirement in KCC 17.16, which would result in a 5-foot front lot line structural setback. This variance is requested to situate a garage near the existing residence.

Location: Parcel 878435, located off of Innsbruck Drive, approximately .70 miles southwest of I90 Exit 54, in Section 15, T22N, R11E, WM, Assessor’s Map Number 22-11-15050-0078.

II. SITE INFORMATION

Total Property Size:	.18 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: Residential Zoning, primarily residential development

South: Residential Zoning, primarily residential development

East: Residential Zoning, primarily residential development

West: Residential Zoning, primarily residential development

Access: The site is accessed via Innsbruck Drive.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of LAMIRDS Type 1 - Residential Zoning within a LAMIRD 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 property has some special conditions. Our home was built without a garage and is fixed. The front

setback to the existing structure currently exceeds 25 feet from the front property line. Our access roadway, Innsbruck Drive, was built significantly to the west, away from our property, within the 60 feet wide right of way. On our north property boundary, the eastern edge of pavement is built only 1 foot to the east of the centerline of the right of way. Refer to the attached plans with background provided by a survey from ESM. Attached also is our property survey by ESM that shows the constructed road built to the west within the right of way. As shown in the attached site plan the property across the street to the west has only an 6 feet distance between the right away and the pavement edge. This is the basis for requesting approval for a variance to 5 feet from our front property line to face of the proposed garage. The variance would create a similar setback look for the structures on each side of the road instead of our property on the east being set back significantly from the pavement edge compared to the west side creating odd and uneven street appeal.

Our existing home is built with the finish floor approximately 11 .5 feet below the existing roadway. This elevation difference has caused a significant safety challenge for our guests and ourselves with our 60 feet long driveway at an approximate 25% slope. We have family members, visitors and friends slip and fall on the steep slope on our approximate 60 feet long driveway and path to get to our front door when there is snow or ice in the winter. In the summer, cars parked in our driveway on the steep slope, are at risk of breaking free and injuring someone or smashing into our home. Our neighbor gave us tire chucks because he was afraid one of our cars would break loose and injure or kill. Building a garage with a covered stair transition to our front door would reduce the potential for injury and mitigate the significant elevation difference between the road and our front door. The addition of a garage is not feasible without the front property setback variance approval.

Our property contains 2 recorded easements which reduce buildable area and represent public benefit for drainage, utility a,nd additional snow storage. On our north property boundary, there is a 5 feet wide easement that parallels the entire property length east west for drainage. Refer to the attached existing condition plan for this drainage easement that provides over 600 square feet of public drainage benefit and snow storage. On our eastern property line there is a 20 feet wide easement that parallels the entire property length north to south for sewer. Refer to the attached existing condition plan for this sewer easement that provides over 1000 square feet of public benefit and snow storage. Both easements represent over 1600 square feet of unbuildable property, public benefit and additional snow storage. The applicant is requesting approximately 500 square feet of additional buildable area for the garage footprint with this variance application. This additional square feet of buildable area is only 50% of the drainage area easement that provides both public benefit and also snow storage. Overall snow storage for street plowing does not change with this variance application.”

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 an extensive slope on the front lot line where the driveway currently exists. It has also been acknowledged that the actual paved roadway was constructed on the far western side of the county right of way, leaving a large area for snow removal from the right of way. The applicants proposed location of the garage will allow for residential parking within the property lines and create a safer entrance to the residence. Due to the lots structure and having two 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

"We met with the Hyak Property Owner Association Board (HPOA) and presented our garage addition plan in June of 2019 and they orally approved our plan with the exception of a required setback variance approval required from Kittitas County. We were warned by the HPOA Board how challenging and expensive the variance process was but there was significant support from the Board to move forward with the application. There is a desire from the HPOA and the community that homes are built with a garage or homes without a garage find ways to add a garage. We need the variance to 5 feet front setback from our front property line to the face of an up to 24-foot wide garage matching our home. Our planned garage addition is not feasible without this variance. Refer to the attached plan for proposed build area. There are no public utilities in the setback area that would be impacted. Utilities including water and sewer are all built to the west within the roadway to the western portion of the "right of way. There would be no public harm and only positive benefit in approving this variance to the front setback for our property.

The last 4 homes constructed on our street have been built with garages. All of these newer homes have much less setback requirement because the centerline of the street is built closer to the center of the right of way and allows for a reasonable setback to the face of their garage from pavement edge. The new homes also have a low percentage slope to their front doors, that allow for easier plowing, less snow storage and safer entry to their front doors in both the winter and the summer. Without a garage, and allowance for this setback variance, the applicant's property has a significant decrease in enjoyment, safety and property right. Other property owners in the vicinity have utilized this right to build garages with safe slopes with reasonable setback criteria from the edge of pavement.

I have attached pictures of some of the recent homes built in Hyak Estates taken from the pavement edge with approximately 30 feet deep driveways from the pavement edge to their front face and garage. These homes represent a similar look as our property would have with the approved variance and 30 feet deep driveway to the front face of the garage. Refer to the attached site plan showing the approximately 30 feet driveway proposed with the 5 feet front setback variance approval. These example home pictures show the possessed substantial property right that other property owners have that the applicant's property does not have unless this variance is approved."

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 an extensive slope coming off of the right of way, a utility easement that borders the northern property line, which limits the buildable space on the lot which is unique to this parcel. The placement of the garage would provide a safer driveway and indoor parking, along with eliminating the steep entrance to the residence. 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

"Currently, during the winter, we plow snow for a 60 feet deep, 12 feet wide and 25 percent sloped driveway path to our front door from the edge of the pavement. We also plow a 22 feet wide driveway

area to park our 2 cars on the street level. With this variance and approval there would be less snow removal, more off street parking and a safe entrance to our home with covered stair. Recently constructed homes on the street have garages along with safe driveway entry slopes. The setback challenge makes our home less desirable without a garage for the enjoyment of our property, safety, parking and overall ability to use our property compared to the other homes on the street.

Snow storage would be overall less and a benefit to the public as we currently clear our upper driveway and the steep slope to the cabin at 60 feet from the edge of pavement. We currently plow snow for approximately 1000 square feet of area that is dangerous and sloped for our driveway and front door access. With the variance the parking driveway would be plowed at approximately 600 square feet of safe and flat driveway area and combined entrance to our home. There would also be no reduction in area available for street snow plowing as this area would not change. With a garage and associated low slope driveway public interest would be improved with small snow storage and safer access to our home. Reduction in slip and fall chances represent a large improvement to public safety on our property for our family and guests.”

Staff Response

CDS has concluded that the requested zoning setback variance reduction from 25 feet to 5 feet, will not be materially detrimental to the public welfare or injurious to the property in the vicinity. The proposed building location will provide more off-street parking within the property boundary lines and provide a safer entrance to the residence for the occupants and their guests. The project will not impact the current 25 feet of ROW shouldering the current roadway. There will be a 30-foot distance from the pavement to the edge of the new structure. The project will not be injurious to the public welfare. 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 and will have limited ecological impacts by utilizing a previously cleared area. 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

“Over all off-street parking with up to 2 cars parked in the garage and as many as 4 in the driveway would be improved from the current 2 spaces that are feasible at the roadway edge during the winter. Approval of this variance meets master planning elements from the comprehensive plan with additional off-street parking and less snow storage necessary for the overall development. Recreational use is maintained with no fences planned and less snow storage required. This variance will enhance the street appeal, reduce required snow storage and not be detrimental but enhance public welfare. There would be no injury to adjacent property and would provide greater street appeal for the community with more equal setbacks both east and west of the constructed street from the edge of pavement. There would be increased public safety by eliminating the steep slope and long 60' entry to our home and replacing with a 30 feet deep low slope driveway and internal garage stair for our home entry.

Overall street appeal would be better with matching setbacks from edge of pavement for homes both east and west. Our home is approximately 60 feet from the edge of pavement. Approval of the variance and building a garage for our property would have the result in creating an equal street setback appeal for both properties east and west of approximately 21 feet from edge of pavement creating a street appeal that is consistent. Refer to the pictures attached of homes that would look similar to ours with 30 feet

deep and low slope driveways to the face of garage. These homes meet the comprehensive development plan. With approval of this variance our home could also better meet the comprehensive development plan.

The driveway approach from the edge of the pavement for our property with this decreased setback from the current requirement would be over 30 feet deep from the edge of pavement to the face of garage. Without the setback variance there exists a significant additional depth for our driveway of current 60 feet. Without our requested variance, the longer depth of 60 feet driveway creates a significant amount of needed additional snow storage for our property just to clear our driveway in the winter. With the approval of this variance and building a garage there is no conflict with the comprehensive development pattern. Recreation is not impeded and additional off-street parking is created. The approved variance would allow for the construction of a garage which is desirable for the community and already orally approved from the HPOA pending this variance approval. Street appeal is improved with more equal setbacks from the constructed roadway pavement edges. Snow storage is less and unbuildable property from easements already mitigates street snow removal. The property and community are improved from a 25 percent slope driveway of over 60 feet to a lesser slope driveway that is approximately 2 percent slope and over 30 feet and much safer from ice and snow slip and falls. The applicant requests approval for this variance request and has demonstrated a strong basis for approval. The variance request meets the criteria including unusual property circumstances, to preserve our enjoyment, safety and property right, improve the look and feel of the community and not be detrimental and not adversely affect the comprehensive development pattern. The community and the HPOA would benefit from this variance approval. The health and safety would be improved with this variance approval. The HPOA has already orally approved this plan with the added requirement for the approval of this variance from Kittitas County.”

Staff Response

CDS has concluded that the requested zoning setback variance reduction from 25 to 5 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. The Residential setback reduction to 5 feet does not impact 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 June 9, 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 June 23, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on July 8, 2020 and all comments were transmitted to the applicant on July 14, 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 Eliason 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 and Kittitas County Public Health, and Kittitas County CDS Building Department. 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 July 1, 2020. KCPW commented that the application will be subject to the Kittitas County Roads and Bridge Standards Title 12. Any change of access serving the single-family residence will require an access permit

from Public Works, the structure will not encroach upon any easement of right-of way and any grading over 100 cubic yards of material will require a grading permit. KCPW originally also stated that they recommended no reduction in the front yard setbacks due to the likelihood of additional on street parking and issues for snow removal and then in an email August 18, 2020 from Justin Turnbull amended the original comment letter stating that KCPW no longer recommends denial of the setback variance. KCPW had no other comments regarding this application.

Staff Response

CDS has provided these comments to the applicant to ensure they are aware of the need to meet KCC Title 12 Roads and Bridge Standards, that any changes to the existing residential access will require an access permit from Public Works and any grading over 100 cubic yards of material will require a grading permit.

Kittitas County Public Health (KCPH)

Kittitas County Public Health provided comments on this application on June 25, 2020. KCPH commented that they have no comments or concerns with the application.

Staff Response

CDS has provided these comments to the applicant.

Public Comments:

Public comments were received by Malcom Klug and Hyak Property Owner's Association. Copies of the comments are on file in CDS and available for review. Malcom Klug commented his concerns with a with setting a precedence for future setback variances, the concern about future road widening and improvements and the loss of snow storage. Hyak Property Owner's Association letter addressed that the HPOA has been adamant about maintaining the setback requirement due to snow removal concerns, parking capacity and personal property protection during plowing. They are more in favor of a smaller structure and a slightly different orientation in order to reduce the encroachment on the front setback.

Staff Response

The Publics Comments have been taken into consideration during the review of the variance. Due to the placement of the county roadway within the county right of way, there is a substantial space between the edge of pavement and the property line, providing adequate room for snow removal. The placement of the proposed garage would still provide a 30' shoulder from pavement edge of Innsbrook Drive. The proposed garage size is consistent with other garages located within Hyak Estates.

VIII. FINDINGS OF FACT

1. Charise and John Eliason, property owner, has submitted a zoning setback variance request to reduce a 25-foot front lot line setback within the Residential zone to 5 feet.
2. Parcel 878435, located off of Innsbruck Drive, approximately .70 miles southwest of I90 Exit 54, in Section 15, T22N, R11E, WM, Assessor's Map Number 22-11-15050-0078.
3. Site Information

Total Property Size:	.18 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: Residential Zoning, Heavy Forested Land, residential development
South: Residential Zoning, Heavy Forested Land, residential development
East: Residential Zoning, Heavy Forested Land, residential development
West: Residential Zoning, Heavy Forested Land, residential development

The site is accessed via Innsbruck Drive.

5. The Comprehensive Plan land use designation is “LAMIRD”.
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 20-foot reduction from the 25-foot front lot line setback requirement in KCC 17.16, which would result in a 5-foot front lot line structural setback. This variance is requested to situate a garage near the existing 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 May 29, 2020.
8. The application was determined complete on June 9, 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 June 23, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on July 8, 2020 and all comments were transmitted to the applicant on July 14, 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 Eliason 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 and Kittitas County CDS Building. All comments are on file and available for public review.

17. Public comments were received by the following: Malcom Klug and Hyak Property Owner's Association. All comments are on file and available for public review.

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 Eliason Zoning Setback Variance (VA-20-00004) is hereby **approved**. The Eliason 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 May 29, 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. Should ground disturbing or other activities related to the proposed subdivision result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archaeology and Historic Preservation (DAHP). Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.
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



Jeremy Johnston

Title:

Kittitas County Interim Planning Official

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7506

Date: August 26, 2020

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 September 9, 2020. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.