

Baron Zoning Setback Variance
File Number VA-21-00001
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Trace Baron, property owner, submitted a zoning setback variance requesting a 15-foot reduction from the 25-foot front lot line setback requirement for the Residential Zone in KCC 17.16, which would result in a 10-foot front lot line structural setback. This variance is requested for the construction of a garage.

Location: Parcel # 888435 located on Innsbruck Drive, approximately 0.08 miles from the intersection of Innsbruck Drive and Snoqualmie Drive in Snoqualmie Pass, WA in Section 15, Township 22, Range 11. Map number 22-11-15050-0079.

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 residential development
West: Primarily residential development

Access: The site is accessed via Innsbruck Drive.

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 access roadway, Innsbruck Drive, was built significantly to the west, away from our property, within the 60 feet wide right of way. On our South 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. As shown in the attached site plan, the property across the street to the west has only a 6 feet distance between the right of way and the pavement edge. This is the basis for requesting approval for a variance to 10 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. I wouldn't want to build a garage/home approximately 11 feet below the existing roadway. This elevation difference would cause a significant safety challenge with a long driveway at an approximate 25% slope. We are concerned that such a steep slope would present a risk of vehicles breaking free and injuring someone or our future home. Building a garage at a reduced setback would decrease the potential for injury and mitigate the significant elevation difference between the road and future home.

Our property contains 1 recorded easement which reduces the buildable area and represent public benefit for drainage, utility and additional snow storage. On our South 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. The applicant is requesting approximately 360 square feet of additional buildable are for the garage footprint with this variance application. Overall snow storage for street plowing does not change with this variance application. In fact, if the 25 feet setback was used it would add 24x15 feet or 360 additional snow square footage to the neighborhood. In essence, this variance decreases snow storage required for the community.”

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 steep topography at the front lot line that would make accessing the site difficult and potentially dangerous especially during winter months. Due to the lot's steep topography at the point of access, 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 have notified and communicated with the Hyak Property Owners Association (HPOA). (Due to COVID-19 restrictions we have been unable to communicate during the HPOA meeting that have been suspended). The HPOA prefers homes to be built with a garage and this variance of 10 feet setback is the only way to achieve this. There are no public utilities in the setback area that are impacted. There would be no public harm and only positive benefit in approving this variance to the front setback of property. In addition to communicating with the HPOA, we have communicated with 2 of the 3 surrounding property owners and have their full support. The last 4 homes constructed on our street have been built with garages. All of which 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 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.

Most homes built in Hyak Estates have an approximate 30 feet deep driveway from the pavement edge to their front face. Our property would have a similar look with the approved variance setback. Refer to the attached site plan showing the approximately 17 foot driveway proposed with the 10 feet front setback variance approval.”

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. CDS agrees that without this variance, the applicant would not be able to safely access their parcel or have anywhere to safely park their vehicles due to the steep slope between the road, the county-right-of-way, and their parcel. The applicant demonstrated on their site plan that there would not be an adequate access and parking area if they were to adhere to the current required setbacks. CDS also finds that many parcels in the same vicinity have been granted similar variance requests. 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

“With this variance and approval there would be 360 sq. feet less snow removal, more off street parking with a garage and a safe entrance to our home. 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. There would also be no reduction in area available for the street snow plowing as this area would not change. With a garage and associated low slope driveway, public interest would be improved with less 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 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 also recognizes that there have been similar variances granted in the vicinity to address the parking and access issues that the steep slope from the road creates. 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

“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 and safety. There would be no injury to adjacent properties 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 a steep slope and long driveway to our future home and replacing with a 37 feet deep low slope driveway and internal garage with access to our home entry.

Overall street appeal would be improved with matching setbacks from pavement for homes both east and west. Our home would be approximately 55 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 37 feet from edge of pavement creating a street appeal that is consistent. Refer to pictures attached of homes that would look similar to ours with 37 feet deep and low slope driveways to the face of garage. These homes meet the comprehensive development plan. With approval of this variance our future home could also better meet the comprehensive development plan. With such a steep slope to the property, having a garage will be essential.

The driveway approach from the edge of the pavement for our property with this decreased setback from the current requirement would be over 37 feet deep from the edge of pavement to the face of garage. Without the setback variance there would be a significant additional depth for our driveway of 52 feet. Without our requested variance, the longer depth of 52 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 will not be 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. Street appeal is improved with more equal setbacks from the constructed roadway pavement edges. Snow storage would be less and unbuildable property from easements already mitigates street snow removal. The applicant request 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 to be detrimental and not adversely affect the comprehensive development pattern, The community and the HPOA would benefit from this variance approval. The health, safety, visual appeal and snow storage would be improved with this variance approval.”

Staff Response

CDS has concluded that the requested zoning setback variance reduction from 25 to 10 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 will allow for a garage that will provide safe access to the parcel in place of a long steep driveway, which is similar to neighboring properties. The Residential setback reduction to 10 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 January 22, 2021.

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 January 28, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on February 12, 2021 and all comments were transmitted to the applicant on February 18, 2021.

V. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the subject parcel and found there to be no critical areas. CDS has determined that the Baron 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 Health and Kittitas County Public Works. All comments are on file and available for public review.

Kittitas County Public Health (KCPH)

Kittitas County Public Health provided comments on this application on February 4, 2021. KCPH commented that they have no comments or concerns with the application.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Works (KCPW)

Kittitas County Public Works provided comment on this application on December 2, 2020. KCPW commented that they recommend approval of the zoning variance application based on the following conditions:

- An access permit would be obtained when a building permit is applied for,
- The structure will not encroach upon any easement or right-of-way, and
- Any grading over 100 cubic yards of material will require a grading permit.

Staff Response

CDS has provided these comments to the applicant and conditioned this determination to ensure the applicant shall obtain all necessary permits required by KCPW for this development, and no structures shall not encroach upon any easement or right-of-way.

Public Comments:

There was one public comment received for this application. All comments are on file and available for public review.

Charise & John Eliason

Charise and John Eliason commented in support of the variance (after the comment period ended) on February 13, 2021.

VIII. FINDINGS OF FACT

1. Trace Baron, property owner, has submitted a zoning setback variance request to reduce a 25-foot front lot line setback within the Residential zone to 10 feet.
2. Parcel # 888435 located on Innsbruck Drive, approximately 0.08 miles from the intersection of Innsbruck Drive and Snoqualmie Drive in Snoqualmie Pass, WA in Section 15, Township 22, Range 11. Map

number 22-11-15050-0079.

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 residential development
West:	Primarily residential development

The site is accessed via Innsbruck Drive.

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 15-foot reduction from the 25-foot front lot line setback requirement in KCC 17.16, which would result in a 10-foot front lot line structural setback. This variance is requested to build a garage. 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 January 5, 2021.
8. The application was determined complete on January 22, 2021.
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 January 28, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on February 12, 2021 and all comments were transmitted to the applicant on February 18, 2021.
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 Baron 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 Health and Kittitas County Public Works. All comments are on file and available for public review.
17. One public comment was received. All comments are on file and available for public review.

IX. STAFF CONCLUSIONS:

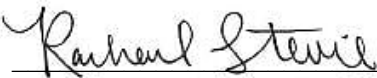
1. This proposal has satisfied all four criteria of KCC Title 17.84.010.
2. The proposal is consistent with state and federal regulations.
3. The proposal is consistent with local regulations including Kittitas County Code Title 14.04 Building Code, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire and Life Safety.

X. DECISION AND CONDITIONS OF APPROVAL:

Kittitas County Community Development Services finds that the Baron Zoning Setback Variance (VA-21-00001) is hereby **approved**. The Baron 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 January 5, 2021 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, and no structure shall encroach upon any easement or right-of-way.
4. 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: March 11, 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 March 25, 2021. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.