

Maynes Zoning Setback Variance
File Number VA-21-00002
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Orlando and Leanna Maynes, property owners, submitted a zoning setback variance requesting a 10-foot reduction from the 25-foot front lot line setback requirement for the Rural 5 Zone in KCC 17.30A, which would result in a 15-foot front lot line structural setback. This variance is requested for the construction of a single family residence.

Location: Parcel # 956186 located on Hermitage Drive, approximately 0.3 miles from the intersection of Hermitage Drive and Golf Course Road in Cle Elum, WA. In Section 35, Township 20, Range 14. Map number 20-14-35059-0006.

II. SITE INFORMATION

Total Property Size:	.51 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Group A Water System: Sun Country Estates 1-2-3
Sewage Disposal:	On-site septic system
Power/Electricity:	PSE
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	N/A

Site Characteristics:

North: Primarily residential development
South: Primarily residential development
East: Primarily residential development
West: Golf course greenway

Access: The site is accessed via Hermitage Drive.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Rural 5 within a Rural Residential Land Use designation. The purpose and intent of the Rural 5 zone is to provide areas where residential development may occur on a low density basis. A primary goal and intent in siting R-5 zones will be to minimize adverse effects on adjacent natural resource lands. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variance, to deviate from the prescribed front setback requirements in KCC 17.30A - Rural 5. 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

“Lot 6 on Hermitage Drive is unique to other buildable properties in our division at Sun Country Estates. “Golf Course Boundary” easements on our surveyed plot claims approximately 25% of the land. The buildable property depth has been uniquely minimized by the golf course easement boundary (see exhibit “8” area “D”). With current easements and setbacks, a back sliding door will open directly on the fairway which is a home ownership hazard. This makes the lot difficult to fit a 30 foot deep house in the given narrow space and have room to separate the house from the golf course easement boundary. Current easements are an encumbrance not allowing any room for a backyard or deck, nor providing a neutral zone front the Golf Course. Area “C” on the map is a “Hill” adjacent to the tee box and it is undesirable to build on the hill closer to the tee box. Receiving a variance to move the house 10 ft toward the front road boundary would allow us to build a home 30 feet deep and provide us with a safe 10 foot small backyard or deck.”

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 is unique in that it abuts a golf course and has an associated easement that encroaches almost halfway into the parcel. Due to the buildable area being greatly reduced by the easement, 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 necessary so the backside of the house does not sit directly on the golf course boundary. This would allow us to have and enjoy a small backyard or deck, and provide separation from the golf course boundary easement line. By moving the setback forward by 10 ft, leaving a 15 ft setback on the front road side of the property, we can enjoy a safe small 10 ft backyard or deck.”

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 have to place their residence directly on the fairway line. This would create a hazard to safety and property and would also leave the applicants without any sort of backyard or buffer between their residence and the golf course. The applicant demonstrated on their site plan that there would not be adequate spacing for a residence and small backyard/buffer if they were to adhere to the current required setbacks due to the encroachment of the golf course easement. 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 authorization will not affect the public welfare or injurious to property in the vicinity.”

Staff Response

CDS could not find any reason that the proposed setback reduction from 25 feet to 15 feet would be injurious to adjacent property owners or the public welfare in any material way. 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 not effect the comprehensive development pattern..”

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 will allow for the applicant to build their residence 10 feet away from the golf course easement that encroaches on almost half of their parcel. The Rural 5 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 February 18, 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 February 25, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on March 12, 2021 and all comments were transmitted to the applicant on March 15, 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 Maynes 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 17.30A – Rural 5 Zone:

This proposal, with approval of the zoning setback variance, is consistent with the setbacks outlined in Kittitas County Zoning Code 17.30A Rural 5 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, Kittitas County Community Development Services- Building, Kittitas County Public Works, and Department of Archaeology and Historic Preservation. 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 March 3, 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 Community Development Services – Building (CDS-Building)

CDS Building provided comments on this application on March 5, 2021 that they have no issues 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 March 10, 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.

Department of Archaeology & Historic Preservation (DAHP)

Department of Archaeology & Historic Preservation provided comment on this application on March 11, 2021. DAHP requested that the applicant prepare an inadvertent discovery plan (IDP) and prepare construction crews for the possibility of encountering archaeological material during ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

Staff Response

CDS has provided these comments to the applicant and has conditioned this determination to ensure the applicant is aware of the possibility of uncovering cultural resources and their obligations under State law when/if these resources are uncovered.

Public Comments:

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

Residents of 430 Hermitage Drive

Residents of 430 Hermitage Drive provided comments on March 3, 2021. They commented that the variance should not be approved because, if approved, the residence would be 13 feet closer to the road than the average distance of surrounding residences. The comments also state that others in the community have had to redesign house plans to accommodate different setback requirements.

Staff Response

CDS has provided these comments to the applicant. CDS acknowledges the fact that the residence will be built closer to the road if this variance is approved. There will still be ample room for snow storage and the placement of the residence will not affect the

usability of the road or be an aesthetic obstruction for neighboring properties. CDS acknowledges that different residents had to re-design their structures to fit within the building setback requirements, however those situations do not impact or alter the circumstances of this application.

VIII. FINDINGS OF FACT

1. Orlando and Leanna Maynes, property owners, have submitted a zoning setback variance request to reduce a 25-foot front lot line setback within the Rural 5 zone to 15 feet.
2. Parcel # 956186 located on Hermitage Drive, approximately 0.3 miles from the intersection of Hermitage Drive and Golf Course Road in Cle Elum, WA. In Section 35, Township 20, Range 14. Map number 20-14-35059-0006.
3. Site Information

Total Property Size:	.51 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Group A Water System: Sun Country Estates 1-2-3
Sewage Disposal:	On-site septic system
Power/Electricity:	PSE
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	N/A

Site Characteristics:

North:	Primarily residential development
South:	Primarily residential development
East:	Primarily residential development
West:	Golf course greenway

Access: The site is accessed via Hermitage Drive.

4. The Comprehensive Plan land use designation is “Rural Residential” within Rural 5 zoning.
5. The purpose and intent of the Rural 5 zone is to provide areas where residential development may occur on a low density basis. A primary goal and intent in siting R-5 zones will be to minimize adverse effects on adjacent natural resource lands. 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 17.30A - Rural 5. 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**.
6. A Zoning Variance Application was submitted to Kittitas County Community Development Services department on January 21, 2021.
7. The application was determined complete on February 18, 2021.
8. 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 February 25, 2021, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on March 12, 2021 and all comments

were transmitted to the applicant on March 15, 2021.

9. 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 Maynes Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e).
10. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
11. The proposal is not consistent with the provisions of KCC 17.30A- Rural 5 zoning without approval of the zoning setback variance.
12. The proposal is consistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have been satisfied.
13. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code.
14. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety:
15. Comments were received from the following agencies: Kittitas County Public Health, Kittitas County Community Development Services- Building, Department of Archaeology and Historic Preservation, and Kittitas County Public Works. All comments are on file and available for public review.
16. 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:

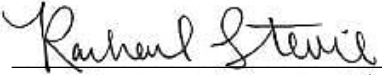
Kittitas County Community Development Services finds that the Maynes Zoning Setback Variance (VA-21-00002) is hereby **approved**. The Maynes Zoning Setback Variance has satisfied the requirements of a zoning setback variance pursuant to KCC 17.84.010.

CONDITIONS OF APPROVAL:

1. The project shall proceed in substantial conformance with the plans and application materials on file with CDS dated January 21, 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. Should ground disturbing or other activities related to the proposed project 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 
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: April 22, 2021

Pursuant to Chapter 15A.07 KCC, this determination may be appealed by submitting specific factual objections in writing with a fee of \$1550 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 May 6, 2021. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.