

Ward Zoning Setback Variance
File Number VA-22-00003
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. GENERAL INFORMATION

Requested Action: Sam & Val Ward, Landowners, submitted a zoning setback variance requesting a 6.3-foot reduction from the 15-foot side lot line setback on the western property line for the construction of a covered patio and a 6.7-foot reduction from the 15-foot side lot line setback from the eastern property line for construction of a covered patio. The 15-foot side setback requirements come from KCC 17.30.050. This would result in an 8.7-foot side lot line structural setback from the western property line and an 8.3-foot side lot line setback from the eastern lot line.

Location: Parcel # 482434 (Lot 51 of Wildwood #2 Plat) located at 461 S Lake Cabins Rd, Ronald, WA 98940. It is approximately .28 miles southeast from the intersection of S Lake Cabins Road and State Route 903 in Ronald, WA in Section 02, Township 20, Range 14. Map number 20-14-02054-0051.

II. SITE INFORMATION

Total Property Size:	.513 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Group A
Sewage Disposal:	Septic
Power/Electricity:	PSE
Fire Protection:	Fire District 6 (Ronald)

Site Characteristics:

North: Residential Development
South: Residential Development
East: Residential Development
West: Some Residential Development/Lake Cle Elum

Access: The site is accessed via S Lake Cabins Road.

III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Rural Recreation (R-R) within a Rural Recreation Land Use designation. The purpose and intent of the Rural Recreation zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. A primary goal and intent in siting R-R zones will be to promote rural recreation residential development associated with the many natural amenities found within Kittitas County. The applicant is requesting to utilize the variance process pursuant to KCC 17.84 Variances, to deviate from the prescribed side setback requirements in KCC 17.30 – Rural Recreation 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 is 13.99’ shorter in the back than the front causing this extension of open-air outdoor roof coverings to exceed the current setback requirements. The existing structures were also built many years ago when the setback requirements were much smaller. In trying to maintain and protect the existing structure and patios, we are respectfully requesting a variance from the new/updated setback requirements.”

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 finds that there are other lots in the plat and in the same vicinity that have a narrowing property line as the property goes back such as Lots 8, 9, 49 and 50 in the Wildwood 2 Plat. In addition, the increased setback requirements are not unique to the property and generally apply to all properties in the vicinity. CDS finds that the applicant has not satisfied the criteria outlined in KCC17.84.010(1).

The applicant has failed to demonstrate in a factual and meaningful way the existence of “unusual circumstances or conditions” that do not generally apply to other property in the same vicinity. Further the applicant has failed to demonstrate in a factual and meaningful way the existence of “undue hardship” caused by the application of the yard requirements as stipulated in KCC 17.30.050. The variance, as presented, is inconsistent 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

“During the maintenance and re-rebuilding process, we will be moving the fence along the west side of the house to the property line as it currently sits inside the property line on our side. We will also be trimming/fire-wising all trees along the west side of the house for our property and our neighbor’s property, at their request. There will be no cost to the neighboring property owners, and they are looking forward to our outdoor open-air remodel as much as we are.”

Staff Response

While CDS appreciates the applicant’s effort in trimming and fire-wising trees, staff finds that the applicant has not demonstrated that a reduction in the structural standards is necessary for preservation and enjoyment of a substantial property right as possessed by owners of other properties in the vicinity.

The applicant has failed to demonstrate 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 17.30A.050. The variance, as presented, is inconsistent 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

“We will not be buildings any walls and our existing exterior walls will continue to meet the minimum fire resistance of exterior walls per the International Residential Code.”

Staff Response

CDS finds that no fire rated walls would currently be required for neighboring property owners, and it is unlikely that snow storage could end up on the neighboring properties. 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 not be “materially detrimental to the public welfare or injurious to property in the vicinity”. The variance as presented, is consistent with 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 request will not adversely affect the comprehensive development patterns as it is zone residential, and we intend to keep it as residential use. The extension of our existing carport and outdoor patio covers comply with the comprehensive plan for the County and complies with the uses on neighboring properties.”

Staff Response

CDS has concluded that the requested zoning setback variance reduction will not adversely affect the comprehensive development pattern. The area is all residential and mostly built out. The area is intended for residential dwellings.

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 not** meet all four criteria outlined in KCC 17.84.010 as described above. Therefore, the zoning variance request is inconsistent with the conditions necessary to grant a variance under KCC 17.84.

IV. ADMINISTRATIVE REVIEW

Deem Complete: The application was determined complete on May 25, 2022.

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 2, 2022, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on June 17, 2022 and all comments were transmitted to the applicant on June 21, 2022.

V. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the subject parcel and found there to be no critical areas on the property.

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. No critical areas were found on the property.

Consistency with the provisions of KCC 17.30A R-R Rural Recreation Zone:

This proposal, without the approval of the zoning setback variance, is not consistent with the setbacks outlined in Kittitas County Zoning Code 17.30 Rural Recreation 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 inconsistent 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 and structures 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 Public Works, and the Snoqualmie Tribe. All comments are on file and available for public review.

Kittitas County Public Health (KCPH)

KCPH commented that they have reviewed the application and have no comments or concerns with the proposed variance.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Works (KCPW)

KCPW commented that they recommend approval with the following conditions:

1. Any new access would require an access permit from public works and
2. Any grading over 100 yards would require a grading permit. If any grading over 500 cubic yards would require engineered grading and stormwater plans to be submitted for review.

Staff Response

CDS has provided these comments to the applicant.

Snoqualmie Tribe

The Snoqualmie Tribe commented that they have cultural resource concerns and defer to more proximate tribes but have no substantive comments at this time. They also commented that they reserve the right to modify comments if the scope of the project changes.

Staff Response

CDS has provided these comments to the applicant.

All comments were transmitted to the applicant on June 21, 2022. The applicant responded on June 23, 2022 saying that they were not adding any new access and if they needed to move more than 10 cubic yards of material, that they would obtain a grading permit.

VIII. FINDINGS OF FACT

1. Sam & Val Ward, Landowners, submitted a zoning setback variance requesting a 6.3-foot reductions from the 15-foot side lot line setback on the western property line for the construction of a covered patio and a 6.7-foot reduction from the 15-foot side lot line setback from the eastern property line for construction of a covered patio. The 15-foot side setback requirements come from KCC 17.30.050. This would result in an 8.7-foot side lot line structural setback from the western property line and an 8.3-foot side lot line setback from the eastern property line.

2. Parcel # 482434 (Lot 51 of Wildwood #2 Plat) located at 461 S Lake Cabins Rd, Ronald, WA 98940. It is approximately .28 miles southeast from the intersection of S Lake Cabins Road and State Route 902 in Ronald, WA in Section, 02, Township 20, Range 14. Map number 20-14-02054-0051.

3. Site Information

Total Property Size:	.513 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Group A
Sewage Disposal:	Septic
Power/Electricity:	PSE
Fire Protection:	Fire District 6 (Ronald)

4. Site Characteristics:

North:	Residential Development
South:	Residential Development
East:	Residential Development
West:	Some Residential Development/Lake Cle Elum

The site is accessed via S Lake Cabins Road.

5. The Comprehensive Plan land use designation is “Rural Recreation” with a zoning designation of Rural Recreation.
6. The purpose and intent of the Rural Recreation zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. A primary goal and intent in

siting R-R zones will be to promote rural recreation residential development associated with the many natural amenities found within Kittitas County. The application is requesting a 6.3-foot reduction from the 15-foot side lot line setback on the western property line for the construction of a covered patio and a 6.7-foot reduction from the 15-foot side lot line setback from the eastern property line for construction of a covered patio. The 15-foot side setback requirements come from KCC 17.30.050. This would result in an 8.7-foot side lot line structural setback from the western property line and an 8.3 side lot line structural setback from the eastern property line. This variance is requested to build a covered patio. 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 13, 2022.
8. The Zoning Variance Application was deemed complete on May 25, 2022.
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 2, 2022, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on June 17, 2022 and all comments were transmitted to the applicant on June 21, 2022.
10. The applicant responded on June 23, 2022 saying they would not be adding any new access and would obtain a grading permit if needing to move 10 cubic yards of material.
11. CDS performed a critical areas review of the subject parcel and found there to be no critical areas on the property or nearby vicinity.
12. The proposal is consistent with the provisions of KCC 17A, Critical Areas.
13. The proposal is not consistent with the provisions of KCC 17.30, Rural Recreation zoning without approval of the zoning setback variance.
14. The proposal is inconsistent with the KCC 17.84 Variances. All four criteria in KCC 17.84.010 have not been satisfied.
15. This proposal is consistent with the provisions of the KCC Title 14.04, Building Code.
16. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety.
17. Comments were received from the following agencies: Kittitas County Public Health, Kittitas County Public Works and The Snoqualmie Tribe. All comments are on file and available for public review.
18. No public comments were received.

IX. STAFF CONCLUSIONS:

1. This proposal does not meet all four criteria of KCC Title 17.84.010, therefore it cannot be approved
2. A variance cannot be authorized as there is no unusual circumstances that cause undue hardship in the application of Title 17.

X. DECISION

Kittitas County Community Development Services finds and declares that the Ward Zoning Setback Variance (VA-22-00003) is hereby **Denied**. The Ward Zoning Setback Variance does not adequately meet the requirements of a zoning setback variance pursuant to KCC 17.84.010.

Responsible Official *Jeremiah Cromie*
Jeremiah Cromie

Title: Planner II

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7637

Date: July 7, 2022

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 July 21, 2022. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.