

## Mannes Zoning Setback Variance

### File Number VA-23-00002

## FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

### I. GENERAL INFORMATION

Requested Action: Leif Mannes, property owner, and Erik Hohmann, authorized agent, submitted a zoning setback variance requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of an 896 square foot detached storage garage, which would result in a 15-foot front line setback. The 25-foot front lot line setback is required by KCC 17.56.060(1).

Location: The subject property is parcel #612136 (Lots 21 & 22 of Lake Easton Estates) located off Kachess River Rd., approximately .26 miles northeast from the intersection of West Sparks Road and Kachess River Road. The property is in Section 03, Township 20, Range 13 in Kittitas County. Map number 20-13-03050-0022. The property is 1.08 acres and is zoned Forest & Range with a Rural Working land use designation.

### II. SITE INFORMATION

Total Property Size:	1.08 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	Individual Septic
Fire Protection:	Fire District 3 (Easton)
Irrigation District:	N/A

#### Site Characteristics:

<u>North:</u>	Kachess River and Kachess Lake
<u>South:</u>	Primarily residential development
<u>East:</u>	Primarily residential development
<u>West:</u>	Kachess River

Access: The site is accessed via Kachess River Road.

### III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Forest & Range and a Rural Working Land Use designation. The purpose and intent of the Forest & Range zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged. 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 17.56.060. 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 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

*“Properties in this area have been built to avoid the high-water flood area. I met with Fish and Game and we agreed this area noted on the site plan would be best for building the garage. Samantha Cox with Flood Plan [sic] Development has agreed as well and no Flood Plan [sic] Permitting is required.”*

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicant’s submitted information and comments received during the comment period. CDS recognizes the subject parcel contains an extension of the floodway from the rear lot line and easterly side lot line. Further review of the Lake Easton Estates neighborhood shows the floodway encroaches most severely into the subject parcel. Due to the lot’s proximity to the Kachess River and the extension of floodway into the subject parcel, CDS agrees that unusual conditions exist on the parcel. 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

*“Other owners do possess the same flood water issue and have built out of the high-water flood area. Our request will not impact any other property owners in the area.”*

Staff Response

CDS staff have reviewed the complete file information, including but not limited to, the applicant’s submitted information and comments received during the comment period. CDS agrees that without this variance, due to floodway and shoreline restrictions, the applicant would not be able to place a garage on the subject parcel. Garages are a common appurtenance to single-family residential properties in the area. 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 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 variance will not be detrimental to any public welfare, be injurious, or devalue any other property in the area.”*

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. The proposed structure will be located at least 15 feet from the front property line and would allow for an increased buffer from the Kachess River (designated as a shoreline of statewide significance) and the associated floodway. 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

*“There is no way that this variance will adversely [sic] the realization of the comprehensive development pattern. This garage is small an [sic] unobtrusive to any future development in the area.”*

Staff Response

CDS has concluded that the requested zoning setback variance reduction will not adversely affect the realization of the comprehensive development pattern of the area. The area contains similarly sized lots with single family residences and appurtenances.

**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 26, 2023.

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 2, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on February 17, 2023 and all comments were transmitted to the applicant on February 22, 2023.

**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 Mannes Zoning Setback Variance is exempt from SEPA review pursuant to WAC 197-11-800(6)(e). The subject property is located within shoreline jurisdiction and currently has a shoreline exemption permit application (SX-23-00002 Mannes) under review.

**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. The following agencies provided comments: Washington Department of Natural Resources, Washington Department of Transportation – Aviation, Kittitas County Public Health, Snoqualmie Tribe, Confederated Tribes of the Colville Reservation, Department of Archaeology and Historic Preservation (DAHP), and Kittitas County Public Works. A review of these comments can be seen below.

Washington Department of Natural Resources

Washington Department of Natural Resources provided comments stating if merchantable timber is removed/harvest as part of future development, an FPA may be required.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

“... We don't have anything to add other than we will be happy to meet on site with the "local forest practices forester" to show them the two, maybe three trees that would need to be removed to construct our detached garage. If making those arrangements now makes sense please let me know and I will schedule the appointment. Thank you.”

Washington Department of Transportation - Aviation

Washington Department of Transportation – Aviation provided comments stating there are no apparent conflicts with WSDOT policies.

Staff Response

CDS has provided these comments to the applicant.

Kittitas County Public Health

Kittitas County Public Health has provided comments stating they have no requirements for the proposed project.

Staff Response

CDS has provided these comments to the applicant.

Snoqualmie Tribe

Snoqualmie Tribe stated they have no substantive comments.

Staff Response

CDS has provided these comments to the applicant.

Confederated Tribes of the Colville Reservation

Confederated Tribes of the Colville Reservation provided comments stating if ground disturbing activities are to be conducted, a cultural resource survey and sub-surface testing of the area in and directly around the proposed ground disturbance are recommended. Additionally, they recommend an inadvertent discovery plan (IDP) be in place.

Staff Response

CDS has provided these comments to the applicant and has conditioned this determination to meet all conditions of the associated Shoreline Exemption permit application SX-23-00002 Mannes (See Condition #6). DAHP previously commented on PSA-22-00580 for this proposed project and stated a known archaeological site is located within approximately 500 feet of the proposed project area. Per KCC 17B.05.010(B)(1)(e), an archaeological survey shall not be required where the project proponent, the County, DAHP, and any affected Native American tribes, all approve a written plan for on-site project monitoring by a professional archaeologist throughout all project phases that include ground-disturbing work. This monitoring plan shall be drafted by a professional archaeologist at the applicant's expense. Shoreline Exemption SX-23-00002 has been conditioned to comply with this requirement.

Department of Archaeology and Historic Preservation (DAHP)

DAHP provided comment stating their recommendation for an inadvertent discovery plan (IDP) being prepared and preparing construction crews for the possibility of encountering archaeological material during ground disturbing activities and produces a monitoring report meeting DAHP's standards for cultural resource reporting.

Staff Response

CDS has provided these comments to the applicant and has conditioned this determination to meet all conditions of the associated Shoreline Exemption permit application SX-23-00002 Mannes (See Condition #6). DAHP previously commented on PSA-22-00580 for this proposed project and stated a known archaeological site is located within approximately 500 feet of the proposed project area. Per KCC 17B.05.010(B)(1)(e), an archaeological survey shall not be required where the project proponent, the County, DAHP, and any affected Native American tribes, all approve a written plan for on-site project monitoring by a professional archaeologist throughout all project phases that include ground-disturbing work. This monitoring plan shall be drafted by a professional archaeologist at the applicant's expense. Shoreline Exemption SX-23-00002 has been conditioned to comply with this requirement.

Kittitas County Public Works

Kittitas County Public Works provided comments stating the proposed variance to the front-yard setback is necessary for the applicant to be compliant with KCC 14.08.300 and shoreline setbacks by building outside of the floodway boundary and 115 from the OHWM. KCPW also states the applicant has utilized a surveyor to identify the floodway boundary.

Staff Response

CDS has provided these comments to the applicant.

Comment was received from one (1) member of the public.

Katya Allen

“I am writing in support of allowing the variance as proposed by the applicant. I am the owner of the adjacent lot #20 at 621 Kachess River Road. The subject lot is bisected by a runoff stream for much of our neighborhood and fed by a culvert from across the road. I trust that the county has or will approve the citing of the proposed building such that the building itself nor the construction thereto will interfere with the waterway. I believe that allowing the applicant to place the building closer to the road will help mitigate this possibility.”

Staff Response

CDS has provided these comments to the applicant.

**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 17.56 Forest and Range Zone:

This proposal, with approval of the zoning setback variance, is consistent with the setbacks outlined in Kittitas County Zoning Code 17.56 Forest & Range 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: Washington Department of Natural Resources, Washington Department of Transportation – Aviation, Kittitas County Public Health, Snoqualmie Tribe, Confederated Tribes of the Colville Reservation, Department of Archaeology and Historic Preservation (DAHP), and Kittitas County Public Works. All comments are on file and available for public review.

Public Comments:

Comment was received from Katya Allen and is on file and available for public review.

## VIII. FINDINGS OF FACT

1. Leif Mannes, property owner, and Erik Hohmann, authorized agent, have submitted a zoning setback variance application requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of an 896 square foot detached storage garage, which would result in a 15-foot front line setback.
2. Parcel #612136 (Lots 21 & 22 of Lake Easton Estates) located off Kachess River Rd., approximately .26 miles northeast from the intersection of West Sparks Road and Kachess River Road. The property is in Section 03, Township 20, Range 13 in Kittitas County. Map number 20-13-03050-0022.

3. Site Information

Total Property Size:	1.08 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	Individual Septic
Fire Protection:	Fire District 3 (Easton)
Irrigation District:	N/A

4. Site Characteristics:

North:	Kachess River and Kachess Lake
South:	Primarily residential development
East:	Primarily residential development
West:	Kachess River

The site is accessed via Kachess River Road.

5. The Comprehensive Plan land use designation is Rural Working within Forest & Range zoning.
6. The purpose and intent of the Forest & Range zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged. The application is requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of an 896 square foot detached storage garage, which would result in a 15-foot front line setback. The 25-foot front lot line setback is required by KCC 17.56.060(1). 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 17, 2023.
8. The application was determined complete on January 26, 2023.

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 February 2, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on February 17, 2023 and all comments were transmitted to the applicant on February 22, 2023.
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 Mannes 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 17.56, Forest & Range 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 as conditioned.
15. The proposal is consistent with the provisions of KCC Title 20, Fire and Life Safety as conditioned.
16. Comments were received from the following agencies: Washington Department of Natural Resources, Washington Department of Transportation – Aviation, Kittitas County Public Health, Snoqualmie Tribe, Confederated Tribes of the Colville Reservation, Department of Archaeology and Historic Preservation (DAHP), and Kittitas County Public Works. All comments are on file and available for public review.
17. Public comment was received from Katya Allen. This comment is 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 as conditioned including Kittitas County Code Title 14.04 Buildings & Construction, 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 Mannes Zoning Setback Variance (VA-23-00002) is hereby approved subject to the conditions below. The Mannes 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.
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 Community Development Services.
4. All structures and buildings shall be compliant with the International Fire Code.
5. All development shall occur outside of the floodway boundary.
6. The project shall comply with all conditions of Shoreline Exemption SX-23-00002.
7. This front lot line setback variance shall expire after one year of the decision date if no substantial construction has taken place or an extension has not been applied for under KCC 17.84.010(4).

**Responsible Official**   
Chace Pedersen

**Title:** Planner I

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

**Date:** March 09, 2023

**Pursuant to Chapter 15A.07 KCC, this determination may be appealed by submitting specific factual objections in writing with a fee of \$1670 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 23, 2023. Aggrieved parties are encouraged to contact Community Development Services at (509) 962-7506 for more information on the appeal process.**