

## Chappelle Zoning Setback Variance

File Number VA-23-00007

### FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

#### I. GENERAL INFORMATION

Requested Action: Dan Chappelle, property owner, and Frank H./Lissy Hamm, authorized agent(s), submitted a zoning setback variance requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of a 1274 square foot single-family residential structure, which would result in a 15-foot front line setback. The 25-foot front lot line setback is required by KCC 17.30A.050.

Location: The subject property is parcel #620534 (Lot 5 of Elk Meadows Park #2) located at the intersection of Wapiti Drive and Lynx Lane, approximately 1600 feet northeast of Interstate 90. The property is in Section 22, Township 20, Range 14 in Kittitas County. Map number 20-14-22051-0005. The property is 0.48 acres and is zoned Rural-5 with a Rural Residential land use designation.

#### II. SITE INFORMATION

Total Property Size:	0.48 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	Individual Septic
Fire Protection:	Fire District 2 (Kittitas Valley Fire and Rescue)
Irrigation District:	Kittitas Reclamation District

Site Characteristics:

<u>North:</u>	Yakima River
<u>South:</u>	Primarily residential development
<u>East:</u>	Primarily residential development
<u>West:</u>	Primarily residential development

Access: The site is accessed via Wapiti Drive.

#### III. ZONING AND DEVELOPMENT STANDARDS

The subject property has a zoning designation of Rural-5 and 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.050. 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

*“The biggest variable that this property faces are the restrictions that come with being right next to the Yakima River. As a result, the buildable footprint does not allow for a safe and adequate space suitable for full-time living year-round.”*

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 a significant portion of the Yakima River in the rear portion. Further review of the Elk Meadows Park #2 neighborhood shows the Yakima River encroaches severely upon this parcel in comparison to others in the neighborhood, burdening the buildable portion of the parcel. Due to the lot’s proximity to the Yakima River, 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 17.30A.050. 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

*“Our intent with this variance is to find a happy median between both parties. The potential increase in square footage gained through this variance is without a doubt a major impact on the overall design possibilities and enjoyment of the space. By encroaching in the front of the property, we are still following the guidelines set forth by the County to maintain the riverbanks and setbacks associated with the river as well as keeping a reasonable setback in the front of the property to maintain the surrounding neighborhood look and feel.”*

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 the presence of the Yakima River shoreline, the applicant would not be able to place a single-family residence on the subject 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 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 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

*“The variance will have zero impact on the public welfare or injurious to other properties in the vicinity.”*

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 Yakima 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

*“The granting of such variance will not adversely affect the realization of the comprehensive development pattern. In fact, we believe that a few neighbors have already set forth a precedent by requesting the same variance that we are.”*

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.

**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 September 21, 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 September 22, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on October 9, 2023 and all comments were transmitted to the applicant on October 10, 2023.

## V. ENVIRONMENTAL REVIEW

CDS performed a critical area review of the subject parcel and found there to be a designated wetland in the form of the Yakima River. CDS has determined that the Chappelle 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. The following agencies provided comments: Snoqualmie Tribe, Kittitas County Public Health, Colville Tribe, Department of Archaeological and Historic Preservation, Kittitas County Public Works, and Puget Sound Energy. A review of these comments can be seen below.

### Snoqualmie Tribe

The Snoqualmie Tribe provided comments stating that they have no immediate concerns, however they wish to be updated should the scope and scale of the project increase.

### Staff Response

CDS has provided these comments to the applicant.

### Applicant Response

It was not necessary to provide a response to this comment.

### Colville Tribe

The Colville Tribe provided comments stating that they request any ground disturbing activities to have an Inadvertent Discovery Plan in place.

### Staff Response

CDS has provided these comments to the applicant.

### Applicant Response

It was not necessary to provide a response to this comment.

### Kittitas County Public Health

Kittitas County Public Health has provided comments stating they have concerns about the size of the septic system and its ability to handle a household of this size.

### Staff Response

CDS has provided these comments to the applicant.

### Applicant Response

A site evaluation was conducted on August 4<sup>th</sup> to confirm septic size and location. Please

see the attached site plan which highlights the newly proposed septic location.

Department of Archaeology & Historic Preservation

DAHP requested to have an Inadvertent Discovery Plan in place for if any cultural resources are discovered.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

It was not necessary to provide a response to this comment.

Kittitas County Public Works

Kittitas County Public Works provided comments stating the following:

Access – An approved access permit shall be required from the Kittitas County Department of Public Works prior to creating any new driveway access or altering an existing access.

Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain any accesses. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards. In addition to the above mentioned conditions, all applicable Kittitas County Road Standards apply to this proposal. Access is not guaranteed to any existing or created parcel on this application.

Engineering – Except as exempted in Section KCC 14.05.060, no grading or filling upon a site involving more than one hundred cubic yards shall be performed without a grading permit from the County Engineer or Public Works designee (KCC 14.05.050). An applications for grading in excess of five hundred cubic yards shall be accompanied by an engineered grading plan (KCC 14.05.080).

Flood – The proposed variance to the front yard setback is necessary for the applicant to be in compliance with KCC 14.08.300 and shoreline setbacks by building outside of the floodway boundary and 115 feet from the OHWM. If not completed already, the applicant must utilize a surveyor to identify the floodway boundary.

Staff Response

CDS has provided these comments to the applicant.

Applicant Response

It was not necessary to provide a response to these comments.

Puget Sound Energy

Puget Sound Energy provided comments stating their setback requirements from electrical equipment.

Staff Response

CDS Has provided these comments to the applicant.

Applicant Response

We will redirect the power line underground directly from the street to the house. As well

as relocating the meter to the home.

No comments were received from members of the public.

## **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 is an identified wetland associated with the Yakima River, the project as outlined should remain out of the designated wetland/shoreline buffer. This request is consistent with critical areas provisions.

### Consistency with the provisions of KCC 17.30A:

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: Snoqualmie Tribe, Kittitas County Public Health, Colville Tribe, Department of Archaeology and Historical Preservation, Kittitas County Public Works, and Puget Sound Energy. All comments are on file and available for public review.

### Public Comments:

No comments were received from members of the public.

## **VIII. FINDINGS OF FACT**

1. Dan Chappelle, property owner, and Frank H./Lissy Hamm, authorized agent(s), 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 a 1274 square foot single-family residential structure, which would result in a 15-foot front line setback.
2. Parcel #620534 (Lot 5 of Elk Meadows Park #2) located off Wapiti Drive, approximately 1600 feet northeast from Interstate 90. The property is in Section 22, Township 20, Range 14 in Kittitas County. Map number 20-14-22051-0005.

3. Site Information

Total Property Size:	0.48 acres
Number of Lots:	1 (no new lots are being proposed)
Sewage Disposal:	Individual Septic
Fire Protection:	Fire District 2 (Kittitas County Fire and Rescue)
Irrigation District:	Kittitas Reclamation District

4. Site Characteristics:

North:	Yakima River
South:	Primarily residential development
East:	Primarily residential development
West:	Primarily residential development

The site is accessed via Wapiti Drive.

5. The Comprehensive Plan land use designation is Rural Residential within Rural-5 zoning.
6. 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 application is requesting a 10-foot reduction from the 25-foot front lot line required setback for the construction of a 1274 square foot single-family residence, which would result in a 15-foot front line setback. The 25-foot front lot line setback is required by KCC 17.30A.050. 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 August 28, 2023.
8. The application was determined complete on September 21, 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 September 22, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A). The comment period ended at 5:00 pm on October 9, 2023 and all comments were transmitted to the applicant on October 10, 2023.
10. CDS performed a critical areas review of the subject parcel and found there to be one established critical area in the form of the Yakima River. Based upon review of the submitted application materials and a critical areas review, CDS determined that the Chappelle 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 17.30A, Rural-5 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: Snoqualmie Tribe, Kittitas County Public Health, Colville Tribe, Department of Archaeology and Historical Preservation, Kittitas County Public Works, and Puget Sound Energy. All comments are on file and available for public review.
17. No comments were received from members of the public.

**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 Chappelle Zoning Setback Variance (VA-23-00007) is hereby **approved** subject to the conditions below. The Chappelle 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. 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 \_\_\_\_\_  \_\_\_\_\_  
Zach Torrance-Smith

**Title:** Planner I

**Address:** Kittitas County Community Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA. 98926  
Phone: (509) 962-7079

**Date:** October 16, 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.**