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KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS

In the Matter of RV-16-16  
Odegard and Davis,

Harlan Odegard and ~~John~~ Davis,

Appellant.

NOTICE OF APPEAL

This Notice of Appeal is prepared and filed pursuant to the procedures of Kittitas County Code 12.01.130 and 15A.07.010, despite the fact that the underlying decision on the subject Road Variance failed to contain provisions for administrative appeal as required under KCC 15A.06.010.

**1. Decision Appealed.**

The Decision being appealed is the Decision of the Road Variance Committee in the Matter of RV-16-16, which was applied for in conjunction with the preliminary plat for Filbert Estates SP-15-00004. The Decision states that it was made by the Road Variance Committee on September 21, 2016; it purports to have been mailed on September 30, 2016; and it was received by the Appellants through first class mail on Monday, October 3, 2016. A copy of the Decision is attached hereto.

**2. Name and Address of Person Appealing, and His Interest in the Matter.**

The Appellants are Harlan Odegard and John Davis, whose mailing address is 14227 6<sup>th</sup> Avenue South, Burien, WA 98618, with a copy of all future correspondence in the matter to be addressed to counsel of record at Shallbetter Law PLLC, 35714 SE 29<sup>th</sup> Street, Fall City, WA 98024. The Appellants are the owners of the property that is the subject of the preliminary plat

1 application and the Decision.

2 **3. Brief Statement of Specific Action Being Appealed; Why Decision Was**  
3 **Wrong.**

4 The Appellants appeal the Road Variance Committee's denial of the Appellant's request  
5 for a variance from the private road standard requiring a minimum width of 22 feet across the  
6 existing 14-foot private bridge that has passed weight and structural inspections and will  
7 comply with all other applicable standards of the applicable private road standards. The  
8 Appellants demonstrated that all five of the criteria set forth in KCC 12.01.130 have been  
9 satisfied, and the Committee's refusal to grant the variance is not supported by substantial  
10 evidence in the record, is clearly erroneous, and denies the Appellants the rights of development  
11 that are possessed by other property owners who are similarly situated (i.e. whose platting  
12 would not result in any greater determine to public welfare or property). Alternative means of  
13 ingress and egress exist to serve the existing and future development in the area, much less the  
14 three new lots that are proposing to be created through the Filbert Plat and that are the subject  
15 of the variance request. Furthermore, Kittitas County has previously approved a Road Variance  
16 from the same standard (e.g. Plat 08-20/Road Variance 08-38), and no grounds exist for treating  
17 the Appellant differently.

18 **4. Brief Statement of Relief Sought and Desired Outcome.**

19 The Appellant requests that the Commissioners reverse the Road Variance Committee's  
20 Decision and grant the Appellant's request for a variance from the private road standard  
21 requirement of a 20-foot width as it would apply to the existing the private bridge that is 14-feet  
22 in width. Such variance is appropriate in light of the unusual and unique circumstance (bridge)  
23 which would not apply generally to other property, was not created by the Applicants, and, in  
24 light of the alternative and additional means of ingress and egress in the area, will not create  
25 any materially detriment to public safety or welfare. The scope of the variance requested is  
26 extremely narrow and minimal, with the circumstances exceptional and unique, and alternative  
27 accesses and limitations on additional development in the area ensuring no threat to public

1 health and safety; this is precisely the sort of case for which road variances were intended.

2 **5. Appeal Fee.**

3 Submitted herewith is a check for the applicable appeal fee, which we understand to be  
4 Seven Hundred Eighty Dollars (\$780.00).

5 **6. Amendment.**

6 The Appellant reserves the right to amend this Notice of Appeal to more accurately state  
7 the facts and grounds of relief.

8 DATED this 13th day of October, 2016.

9 SHALLBETTER LAW  
10 Attorney for Appellant

11 By *Traci Shallbetter*  
12 Traci L. Shallbetter  
13 WSBA #29712

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**KITTITAS COUNTY**  
**DEPARTMENT OF PUBLIC WORKS**

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**KITTITAS COUNTY**  
**ROAD VARIANCE COMMITTEE**

IN THE MATTER OF

RV-16-16  
Odegard and Davis

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**FINDINGS OF FACTS,  
CONCLUSIONS AT LAW, AND  
DECISION**

**FINDINGS**

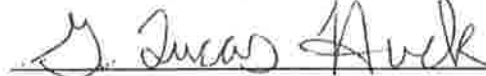
This matter having come before the Road Variance Committee upon the above referenced Road Variance Application submitted by Harlan Odegard and John Davis, owners, the Road Variance Committee makes the following Findings of Facts, Conclusions of Law and Decision related to the above referenced matter:

1. The Road Variance Committee finds that Harlan Odegard and John Davis, owners, submitted a road variance application on August 31, 2016.
2. The subject property is located on Filbert Road. Address: 820 Filbert Road. Map number: 20-14-29000-0009.
3. The Committee finds that Kittitas County Road Standards requires a private road bridge is required to meet the full width of the traveled lanes and shoulders of the approach roads.
4. The Committee finds that the existing private bridge is 14 feet wide and the applicant is asking for a variance to allow the existing bridge to remain in use.
5. The Committee finds that an open record hearing was held on September 21, 2016 and that testimony was taken from those persons present who wished to be heard.
6. The Committee finds that the proposal **is not** in the public interest and that requirements for safety function, fire protection, appearance and maintainability based upon sound engineering judgment **are not** fully met, as required by KCC 12.01.130.

7. The Committee unanimously Deny the Odegard and Davis Road Variance Application RV-16-16 based on the number of lots Filbert Road serves and the issues with Fire, Life and Safety surrounding the narrow bridge.

Dated this 21st day of September, 2016.

KITTITAS COUNTY ENGINEER



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G. Lucas Huck, PE



**KITTITAS COUNTY**  
**DEPARTMENT OF PUBLIC WORKS**

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September 30, 2016

Harlan Odegard and John Davis  
14227 6<sup>th</sup> Ave South  
Burien, WA 98168

RE: Odegard and Davis RV-16-16

Dear Mr. Bride:

The Road Variance Committee Denied Road Variance 16-16 on September 21, 2016. Enclosed is a copy of the signed Variance Findings.

Please contact me directly if you have any questions at (509) 962-7673.

Sincerely,

Kelly Bacon  
Engineer Technician I

Enclosure: Variance Findings



**Kittitas County Office Of The Treasurer**  
**Brett Wachsmith, Treasurer**  
205 W 5th Avenue, Suite 102  
Ellensburg, Wa 98926  
Phone (509) 962-7535 Fax (509) 933-8212

Cash Receipts

Receipt Number: 2016-7289 Date: 10/13/2016

Received From: BOCC/DEBBIEM - DEBBIE

Check Amount: \$780.00  
Cash Amount: \$0.00  
Other Amount: \$0.00  
Total Amount: \$780.00

Deputy: LISAMURRAY Receipt Type: CHK

Template:

Comments:

RECEIVED FROM JOHN DAVIS FOR APPEAL OF ROAD VARIANCE CHECK# 106  
CSR 2016-5251

<u>FundCode</u>	<u>GLCode</u>	<u>Description</u>	<u>Amount</u>
402	204213458910	APPEALS FEE	\$780.00
Total Amount:			\$780.00

Kittitas County Treasurer's Office  
Submitted By: LISA MURRAY