

12.01.130 Variances (Departures from the Standards) and Appeals.

Variances from these Standards may be granted by the ~~Road Variance Committee~~ County Engineer. ~~The variance will be heard by the County Engineer, and he/she shall render a decision in writing to the applicant. The applicant may then appeal the administrative decision of the County Engineer to the Hearings Examiner, pursuant to KCC 15A.07.015., comprised of the Public Works Director, Community Development Services representative, Fire Marshal, or designees, and three citizens appointed by the BOCC.~~

If the proposed road variance is located within a fire district, notice of the proposed variance shall be provided to the applicable fire district ~~a minimum of 14 days prior to at the same time the Road Variance Committee application is submitted to the County Engineer. The Fire District shall have a minimum of 14 days to submit comments between when copies of the variance application are submitted to them for comment and when the County Engineer takes up the matter for decision. meeting scheduled for consideration of the variance request. The fire district may submit comments on the road variance request up until the committee has made a decision on the request.~~

The granting of a variance shall be in the public interest. When the need for a variance can be identified in advance, the variance should be proposed at preliminary plat stage and be included for consideration during plan review and public hearing. Variances from the standards in this title will be considered on a case-by-case basis. Variances will be granted only upon evidence that the variance demonstrates the following:

1. Unusual circumstances or conditions apply to the property and/or the intended use that do not apply generally to other property in the same vicinity or district; and
2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the developer possessed by the owners of other properties in the same vicinity or district; and
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. Special conditions and circumstances do not result from the actions of the developer; and
5. The granting of such variance will not adversely affect the realization of the Kittitas County Comprehensive Plan, Long-Range Transportation Plan or this title.

The variance request(s) shall consist of:

1. Variance fee.
2. Variance application.
3. Identification of the standard provision to be waived or varied.
4. Identification of the alternative design or construction standards to be adhered to.
5. A thorough justification of the variance request.

Requests may be prepared by the developer, professional civil engineer licensed to practice in Washington, or professional land surveyor licensed to practice in Washington. To appeal the denial or imposition of conditions of a variance decision, an appeal shall be filed per [KCC](#)

15A.07 or KCC 15A.08, based on the underlying land use decision in accordance with Ch. 36.70B RCW. (Ord. 2018-001, 2018; Ord. 2015-010, 2015)

~~12.01.135 Variance Fairness Standard.~~

~~1.—Disqualification~~

- ~~1.—A Road Variance Committee member shall disqualify himself or herself from a proceeding in which the committee member's impartiality might reasonably be questioned. The fact that a committee member has considered the same or a similar proposal in another hearing, has made a ruling adverse to the interests of a party in this or another hearing, or has previously considered and ruled upon the same or a similar issue, is not a basis for disqualification.~~
- ~~2.—A request for disqualification shall be granted whenever the committee member:~~
 - ~~1.— Has a personal bias or prejudice concerning the party;~~
 - ~~2.— Has served in a professional or business relationship with respect to the matter in issue, or is currently associated with a person who is or was so engaged; or~~
 - ~~3.— Has directly, or through a family member or fiduciary relationship, a financial or personal interest in the outcome of the matter or issue.~~

~~2.—Ex Parte Contacts~~

- ~~1.—All Road Variance Committee quasi-judicial proceedings are subject to the appearance of fairness doctrine. No person shall contact a Road Variance Committee member off the record for the purpose of influencing the committee member's decision. Ex parte contacts limited strictly to the clarification of procedural matters (and not to the merits of a dispute) are permitted. A deliberate ex parte contact in violation of this section may be deemed an attempt to interfere with Road Variance Committee duties. If a substantive ex parte communication is made to or by the committee member, the committee member shall publicly disclose it. (Ord. 2018-001, 2018)~~