



Hearing Examiner Staff Report and Recommendation

Report Date: 01/16/2025
Hearing Date: 01/23/2025

Application Submittal Date: 05/05/2024
Application Complete Date: 05/31/2024

Project Name: WEATHERBY - Zoning Variance for Setback Requirements
Type of Application: Type III ZVAR – Hearing Examiner
Permit Number: 24-02165

Project Location

37190 MADRONA BLVD NE
HANSVILLE, WA 98340
Commissioner District #1

Assessor's Account

4279-000-019-0005

Applicant/Owner of Record

WEATHERBY SHELLEY J & JOHN B
37190 MADRONA BLVD NE
HANSVILLE, WA 98340

Recommendation Summary

Approved subject to conditions listed under section 13 of this report.

VICINITY MAP



1. Background

Subject property is a .41-acre lot measuring approximately 86-feet by 214-feet. The lot abuts a parcel zoned Rural Wooded, which requires a 100-foot building setback. With the current setback requirements, the lot is unbuildable as the entirety of the lot is within the 100-foot setback. Nearby properties have Single-family Residences built the relatively same distance from the Rural Wooded zone as sought by the applicant.

2. Project Request

The applicant is seeking a reduction of the building setback from 100-feet to 15-feet to accommodate the construction a Single Family Residence (SFR).

3. SEPA (State Environmental Policy Act)

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review

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of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated 01/03/2025. However, no determination was published since the project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

4. Physical Characteristics

The .41-acre wooded lot gently slopes from east to west.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA	1 dwelling unit
Maximum Density	NA	
Minimum Lot Size	5 acres	.41 acres
Maximum Lot Size	NA	NA
Minimum Lot Width	140 ft	~ 86 ft
Minimum Lot Depth	140 ft	~ 214 ft
Maximum Height	35 ft	NA
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes:

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet reduced to 20 feet for all structures by FN: (42)(b)	49 feet
Side (North)	20 feet; 5 feet for accessory structures reduced to 5 feet for all structures by FN: (42)(b) and increased to 100 ft by FN: (29)	16 feet

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Side (South)	20 feet; 5 feet for accessory structures reduced to 5 feet for all structures by FN: (42)(b)	10 feet
Rear (East)	20 feet; 5 feet for accessory structures reduced to 5 feet for all structures by FN: (42)(b)	105 feet

The following sub-sections of Kitsap County Code 17.420.060 A. apply to this request:

29. One-hundred-foot setback required for single-family buildings abutting FRL or RW zones.

42. The following exceptions apply to historic lots:

- a. ...
- b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

Staff Comment: Due to undersized lot for zone UR zoning setbacks will be used.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Currently undeveloped. Partially wooded.	Rural Wooded (RW)
South	Single-family residence	Rural Residential (RR)
East	Undeveloped and single-family residences	Rural Residential (RR)
West	Single-family residences	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

Parcel has direct access from Madrona Blvd NE which is a maintained county road.

6. Site Design

The submitted site plan shows the building envelope for a replacement single-family home located at or within the front and side setbacks so as to minimize the amount of intrusion into the 100-foot north/side setback which encompasses the entire property. A septic drain field is proposed in rear yard. See attached site plan.

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7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016 (amended in 2018 and 2020)

The following Comprehensive Plan goals and policies are most relevant to this application:

Land Use Goal 13

Protect Kitsap County's unique rural character.

Land Use Policy 51

Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.

Land Use Policy 53

Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.

Land Use Policy 54

In accordance with RCW 36.70A.070(5)(c):

- to preserve rural character of the County, emphasize controlling rural development; assuring visual compatibility of rural development with the surrounding rural area,
- reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,
- protect critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources, and,
- protect against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. This policy is implemented through

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Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions.

Housing, Human Services Goals and Policies

Housing, Human Services Policy 11

Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.

Housing, Human Services Policy 12

Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of the following exhibits.

Exhibit #	Document	Dated	Date Received
1	STAFF REPORT	1/16/24	
2	Building Elevations and Floor Plans	4/03/24	5/31/24
3	SEPA Checklist	5/29/24	5/31/24
4	Submission	5/06/24	5/31/24
5	Notice of Application	7/30/24	
6	Revised Site Plan	8/18/24	10/14/24

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7	Notice of Public Hearing	1/08/25	
8	Certification of Public Notice	1/10/25	
9	Public Comment - Petersen		1/13/25
10	Public Comment - Lee		1/15/25
11	Staff Presentation		
12	Hearing Sign In		

9. Public Outreach and Comments

Notice of Application was sent out 07/30/2024 with a concurrent SEPA Determination of Non-Significance and no comments were received.

10. Analysis

a. Planning/Zoning

An applicant can request a variation of any numerical standard, except density, when unusual circumstances cause undue hardship in the strict application of the Code. Pursuant to KCC section 21.04.100, a variance greater than 25% requires a Type III Hearing Examiner review process (see KCC section 21.04.080). A variance shall be approved only when all the following conditions and facts exist:

1. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone;

Applicant comment: With a 100' RW setback across an 86' deep lot, the lot is completely encumbered by this requirement and is unbuildable (0%). A variance allowing for a reduction of the setback to 15 feet from the abutting property line provides adequate buildable area for a single-family residence and necessary appurtenances on the property.

Staff Comment: The site is a 0.41-acre, rectangle-shaped parcel located in an area with a Rural Residential (RR) zoning designation in Kitsap County. This renders the parcel non-conforming by parcel size required by the RR zone (1 dwelling unit per 5 acres). The proposed home abuts one parcel with a Rural Wooded (RW) zoning designation to the north (side yard). Kitsap County Code (KCC) section 17.420.060, footnote 29, requires a one-hundred-foot setback for a single-family building that abuts parcels with a RW zoning designation. This setback renders the parcel unbuildable. A 20-foot setback reduction to the north allows enough area for a building site.

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2. Such variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same vicinity or zone;

Applicant comment: With a 100' RW setback across an 86' deep lot, the lot is completely encumbered by this requirement and is unbuildable (0%).

Staff Comment: The property is in an area of parcels with Rural Residential (RR) zoning designation wherein most parcels are developed with single family homes. Many of the parcels are smaller and legal non-conforming by parcel size in the RR zoning designation, having been platted some 40 years prior to the zoning designation taking place. The variance allows the property owner to reasonably develop the parcel with a single-family residence similar to properties in the RR zoning designation.

3. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which property is located; and

Applicant comment: The home design of the residence has been reviewed and approved by the Shore Woods Homeowners Association. Intended landscaping of the property will cohere with the atmosphere and appearance of neighboring properties as well as the RW zone.

Staff Comment: Staff Comment: The 20-foot setback variance will not have adverse impacts on the property or to properties in the near vicinity. Many parcels in the vicinity are smaller in size, similar to the project site. Reduced setbacks are consistent with development of these smaller parcels nearby.

4. The variance is the minimum necessary to grant relief to the applicant.

Applicant comment: With a 100' RW setback across an 86' deep lot, the lot is completely encumbered by this requirement and is unbuildable (0%). A variance allowing for a reduction of the setback to 15 feet from the abutting property line provides adequate buildable area for a single-family residence and necessary appurtenances on the property.

Staff Comment: The applicant is requesting a variance to reduce the required Rural Wooded zone setback to the north from 100 feet to 15 feet (85% reduction). The RR zoning designation requires a 20-foot side setback.

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However, 17.420.060 A.42.b. allows the parcel to use the next nearest zone setbacks of 5 foot side setbacks. Without a variance to the north setback the applicant would be unable to use the lot. The variance request to reduce the rear setback is the minimum necessary.

a. Lighting

Lighting is not analyzed in Zoning Variance proposals.

b. Off-Street Parking

Off-Street Parking of three parking spaces is consistent with KCC Section 17.490.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single Family Dwelling, Detached	3 spaces per dwelling unit	3 spaces per dwelling unit	3 spaces per dwelling unit
Total	3 spaces per dwelling unit	3 spaces per dwelling unit	3 spaces per dwelling unit

c. Signage

Signage is not analyzed in Zoning Variance proposals.

d. Landscaping

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

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e. Frontage Improvements

No frontage improvements are required or proposed as part of this application.

f. Design Districts/Requirements

This parcel is not located in a Design District.

g. Development Engineering/Stormwater

Stormwater review will be completed under building permit 24-02053.

h. Environmental

There are no mapped critical areas on or near this parcel.

i. Access, Traffic and Roads

The proposal was not reviewed for access, traffic, or roads.

j. Fire Safety

Fire Safety will be analyzed under building permit 24-02053.

k. Solid Waste

Solid Waste will be analyzed under building permit 24-02053.

l. Water/Sewer

Water/Sewer will be analyzed under building permit 24-02053.

m. Kitsap Public Health District

Kitsap Public Health District reviewed and approved the proposal with no conditions.

5. Review Authority

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are at KCC, Chapter 2.10.

6. Findings

1. The proposal meets the criteria for a critical area variance in KCC 17.560.010, as analyzed in Section 10.a of this report.

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2. The proposal is consistent with the Comprehensive Plan.
3. The proposal complies with requirements of KCC Title 17 and complies with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
4. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.

7. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.560.010, the Department of Community Development recommends that the Zoning Variance request for WEATHERBY - Zoning Variance for Setback Requirements be **approved**, subject to the following conditions:

a. Planning/Zoning

1. Review the linked Hearing Examiner decision for conditions of approval. The Staff Report conditions below are only recommended conditions to the Hearing Examiner and may not be valid.
2. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
3. This Variance approval shall automatically become void if no building permit application is accepted as complete by the Department of Community Development within four years of the Notice of Decision date or the resolution of any appeals. The decision set forth herein is based upon representations made and exhibits contained in the project application 24-02165. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
4. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

b. Development Engineering

None.

c. Environmental

None.

d. Traffic and Roads

None.

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e. Fire Safety

None

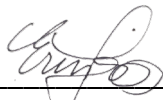
f. Solid Waste

None.

g. Kitsap Public Health District

None.

Report prepared by:



Erin Lewis, Associate Planner / Project Lead

01/16/2025

Date

Report approved by:



Darren Gurnee, Department Manager/ Supervisor

1/13/2025

Date

Attachments:

Attachment A – Site Plan

Attachment B – Zoning Map

Attachment C – Critical Areas Map

CC: Applicant/Owner: sjwinboise@outlook.com
Engineer or Project Representative: jschmid@adairhomes.com
Interested Parties: Edward Petersen, junkyarddog_ed@yahoo.com; Leslie Lee, leslielee000@gmail.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Erin Lewis

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Critical Areas Map

