



## Administrative Staff Report

**Report Date:** October 26, 2023

**Application Submittal Date:** July 24, 2023

**Application Complete Date:** September 26, 2023

**Project Name:** Clark Administrative Zoning Variance

**Type of Application:** Administrative Zoning Variance

**Permit Number:** 23-03487

### Project Location

38380 Vista Key Drive NE  
Hansville, WA 98340  
Commissioner District 1

### Assessor's Account #

4258-000-031-0004

### Applicant/Owner of Record

Dawson Clark  
34330 Bridgeview Dr NE  
Kingston, WA 98346

### Decision Summary

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

### VICINITY MAP



### 1. Background

The undeveloped 0.26-acre subject property is zoned Rural Residential and was platted in 1963. The subject property abuts the Rural Wooded (RW) zone which requires a 100ft rear setback per Kitsap County Code 17.420.060 Footnote 29.

Because the property is 150ft x 75ft, a variance is the only feasible way the applicant can fit a single-family residence and fit all the necessary appurtenances. The project is evaluated for setback reduction under Kitsap County Code 17.560 Variances.

### 2. Project Request

The Clarks are requesting an administrative zoning variance to reduce a rear setback from 100ft to 82ft (18%) to allow the construction of a single-family residence (Permit # 23-02202).

### 3. SEPA (State Environmental Policy Act)

Proposal was SEPA exempt per Kitsap County Code 18.04.090.A.b

**4. Physical Characteristics**

The property is undeveloped and is rectangular shaped measuring 150ft x 75ft.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	The subject property is existing and not creating a new lot
Maximum Density	1 dwelling unit per 5 acres	
Minimum Lot Size	5 acres	
Maximum Lot Size	N/A	
Minimum Lot Width	140ft	
Minimum Lot Depth	140ft	
Maximum Height	35ft	
Maximum Impervious Surface Coverage	N/A	
Maximum Lot Coverage	N/A	

Applicable footnotes:

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

*Staff Comment: This application seeks to reduce this required 100ft setback to 82ft per Variance Criteria found in Kitsap County Code 17.560.*

17.420.060 Footnote 42.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: The subject property is less than 1 acre, allowing urban restrictive setbacks for the front and side setbacks. The exemption to this is the rear 100ft setback to the Rural Wooded zoning.*

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front : South	20ft	30ft
Side: East	5ft	6ft
Side: West	5ft	29ft
Rear: North	100ft	82ft (reduced from 100ft)

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Hansville Heights Homeowners Open Space	Rural Wooded (RW)
South	Single-Family Residence	Rural Residential (RR)
East	Vacant Lot	Rural Residential (RR)
West	Single-Family Residence	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**

Access is off Vista Key Drive NE.

**6. Site Design**

Analyzed under Section 10 of this report.

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

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**

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Administrative CUP Application	July 24, 2023
Site Plan	September 26, 2023
Project Narrative	September 26, 2023
Geologic Report	October 2, 2023

**9. Public Outreach and Comments**

The variance request for this project to reduce the rear setback from 100ft to 82ft (18% reduction), requires a Type II permit review process with a decision by the Kitsap County Department of Community Development Director. Kitsap County prepared a notice of application consistent with Kitsap County Code (KCC) 21.04 published on October 3, 2023. Kitsap County received one public comment which objected to the project stating that granting this variance would cut back on the “rural-ness” of the neighborhood.

**10. Analysis****a. Planning/Zoning**

Kitsap County Code 17.560.010 Conditions for granting a variance:

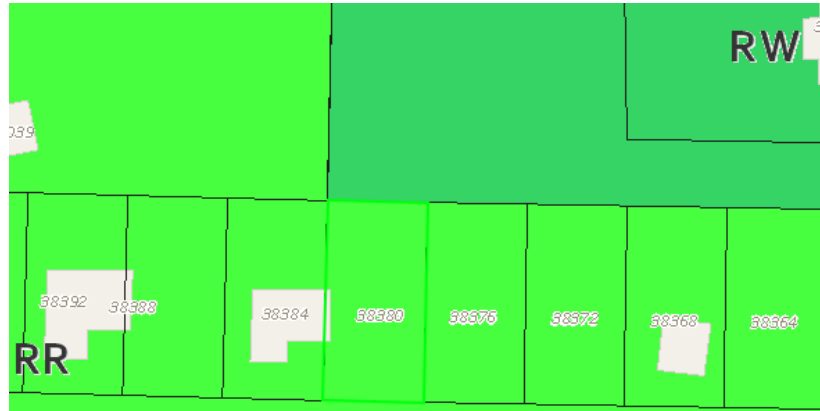
A. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone;

*Staff Comment: The subject property was platted in 1963 which was prior to Kitsap County building and zoning requirements. Kitsap County's added the 100ft setback in 2006 with the Comprehensive Plan update. The applicant purchased the property in 2022 after the requirement was added. The applicant did not create this hardship.*

*The subject property abuts the Rural Wooded zoning which extends to the east but not west of the subject property (see zoning map below). The single-family residence directly to the west is not required to adhere to the 100ft Rural Wooded setback because it abuts Rural Residential zoning. The 100ft setback does not generally apply to these properties which are in the same vicinity as the subject property.*

*To the east of the subject property the Rural Wooded zoning extends along with the 100ft setback requirement. However, there are two single-family residences (38392/38368 Vista Key Drive) to the east that are within the 100ft required setback that were built after 2006. However, after looking through permit files of the two residences, the County erred in approving those single-family residences within the required 100ft setback. Other single-family residences within the 100ft setback were built prior to the 100ft setback requirement.*

*The subject property is 150ft long running north to south. With the mandatory 100 foot rear setback, 20ft setback off the front, and 5ft setback off the sides, the property has a 30x40 (1,200sf) square buildable area in the middle of the lot to build a house including other appurtenances (parking, septic, drainfield, etc). This accounts for approximately 10% of the lot. This property size, relative to the county setbacks, creates a "special circumstance" to any construction on this property.*



B. 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;

*Staff Comment: The applicant is asking for the same rights and privileges as the surrounding properties which is a two-bedroom home with a garage. Imposing the 100ft rear setback would extremely limit the enjoyment of the property for the applicant.*

C. 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

*Staff Comment: Proposed construction within the RW zone setback will not damage the RW area in any way. Approved septic systems and drainage keep the lot self-contained and free of exterior effects. There are no public trails or direct access to the RW zone where other individuals would be affected by a construction within the 100ft setback. Setting the house 30ft from the property line (as seen in the site plan) is the best option considering the water line and power are already established on site to fit this location. Moving the house forward toward Vista Key Drive creates significant need for unnecessary excavation and disruption of the land material.*

*In addition, the RW zone that abuts the subject property is an open space for the plat to the north and does not contain a residence.*

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

*Staff Comment: The approximately 1,500 sf home footprint includes two bedrooms and a garage. Other properties in the surrounding vicinity generally have the same size.*

**b. Lighting**

Lighting was not analyzed for this proposal.

**c. Off-Street Parking**

The proposal has 650 sf of driveway reserved for parking. A standard parking space is 9ft by 12ft which is 180sf. The proposal has enough for three required parking spaces.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit - Historical lots or lots with no standing requirement,	3	3 proposed
Total			3 = meets requirement

**d. Signage**

Signage was not analyzed for this proposal.

**e. Landscaping**

Landscaping was not analyzed for this proposal per Kitsap County Code 17.500.010: Single-family lots shall be exempt.

**Table 6 - Landscaping Table**

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

**f. Frontage Improvements**

Frontage improvements are not required for this proposal.

**g. Design Districts/Requirements**

This proposal is not within a design district.

**h. Development Engineering/Stormwater**

Stormwater was analyzed by Kitsap County engineering staff who approved the building permit, #23-02202. All engineering conditions were placed on the building permit for inspection.

**i. Environmental**

There was a geologic report submitted prepared by Envirotech Engineering dated July 28, 2023. The report stated that the proposal would not have an adverse impact on the slopes or surrounding areas.

**j. Access, Traffic and Roads**

No comments at this time.

**k. Fire Safety**

No comments at this time.

**l. Solid Waste**

No comments at this time.

**m. Water/Sewer**

No comments at this time.

**n. Kitsap Public Health District**

The Health District reviewed the proposal and approved the building permit (#23-02202) on May 11, 2023.

**11. Review Authority**

The Director has review authority for this Administrative Conditional Use Permit application under KCC, Sections 17.540.020 and 21.04.100. The Director may approve, approve with conditions, or deny an Administrative Conditional Use Permit.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply 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.

3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

### **13. Decision**

Based upon the analysis above and the decision criteria found in KCC, the DCD recommends that the application be **approved**, subject to the following conditions:

#### **a. Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. 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.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application. 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**

N/A

#### **c. Environmental**

5. Project shall follow the recommendations of the Geologic Report Envirotech Engineering dated July 28, 2023

**d. Traffic and Roads**

N/A

**e. Fire Safety**

N/A

**f. Solid Waste**

N/A

**g. Kitsap Public Health District**

N/A

**Report prepared by:**



October 25, 2023

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Katharine Shaffer, Planning Supervisor / Project Lead

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Date

**Report approved by:**



October 26, 2023

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Scott Diener, Planning Manager

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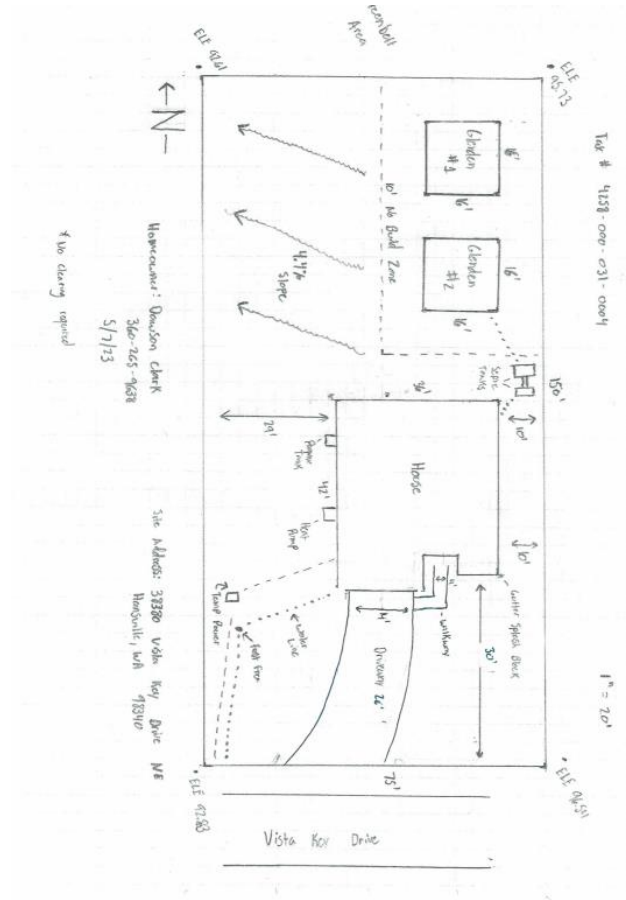
Date

**Attachments:**

Attachment A – Zoning Map

CC: Applicant/Owner email: Dawson and Kyle Clark  
Interested Parties: Jennifer Taylor  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Planner: Katharine Shaffer

Site Plan



Attachment A – Zoning Map:

