



## Hearing Examiner Staff Report and Recommendation

**Report Date:** March 16, 2022  
**Hearing Date:** March 24, 2022

**Application Submittal Date:** October 6, 2021  
**Application Complete Date:** October 7, 2021

**Project Name:** Lovett – Zoning Variance – Hearing Examiner (> 25%)  
**Type of Application:** Type III - Zoning Variance (ZVAR)  
**Permit Number:** 21-05172

### Project Location

7061 Pirates Cove Ave SW  
Port Orchard, WA  
Commissioner District 2 (South)

### Assessor's Account #

132301-2-012-1007

### Applicant/Owner of Record

Janet & Dylan Lovett  
7061 Pirates Cove SW  
Port Orchard, WA 98367

### Recommendation Summary

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

### VICINITY MAP



### 1. Background

Janet and Dylan Lovett (hereafter, “the Applicant”) propose to reduce the front setback from 50 feet to 25 feet (50% reduction) to allow for the construction of a detached garage on a parcel with a Rural Residential zoning (RR) designation (see attached zoning map). A Zoning Variance may be granted when criteria in KCC 17.560.010 are met.

The property is currently developed with an 1,892-square-foot single family dwelling with an attached garage, paved driveway, detached shed, and a septic system with associated drainfield and reserve areas. Approximately 55% of the property is encumbered by a large wetland and an associated 150-foot buffer which encompasses the existing home site. The front (west side) of the property is encumbered by a 50-foot easement and associated 25-foot buffer, beyond which there is the 50-foot zoning setback. Potential development area is further constrained by the septic system and the associated 10-foot no-build buffer, as well as zoning setbacks from the north side of the property. See attached site plan.

**2. Project Request**

The proposal requests a Zoning Variance to reduce the front setback for the RR zone from the standard 50 feet to 25 feet. The request would allow the applicant to construct a detached garage to protect their assets from the weather and theft. The request for a 50% reduction of the zoning setback requires a Type III process with Hearing Examiner approval.

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

The project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

**4. Physical Characteristics**

The site is a long and narrow rectangularly-shaped 4.81-acre lot. The site is developed with a 1,892-square-foot single-family dwelling with attached garage, paved driveway, detached shed, and septic system with associated drainfield and reserve areas. The site slopes slightly to the east toward a large wetland. About 55% of the central portion of the property is covered by this wetland which requires a 150-foot vegetation conservation buffer and 15-foot building setback.

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

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (West)	50 feet	25 feet
Side (North)	20 feet 5 feet for accessory structures	20 feet 5 feet for accessory structures

Side (South)	20 feet 5 feet for accessory structures	20 feet 5 feet for accessory structures
Rear (East)	20 feet 5 feet for accessory structures	20 feet 5 feet for accessory structures

Table 2 - Applicable Foot Notes (FN):

The following sub-section of KCC 17.420.060 A applies to this request:

48. Shoreline properties are subject to Title 22 and may have additional buffers and setbacks requirements not listed in the density and dimension tables. Properties constrained by critical areas are subject to Title 19 and may have additional buffers and setbacks requirements not listed in the density and dimension tables. Cornices, canopies, eaves, belt courses, sills, bay windows, fireplaces or other similar cantilevered features may extend up to twenty-four inches into any required yard area. In no case shall a habitable area be considered for encroachment into a required yard through any land use process. Additionally, fire escapes, open/uncovered porches, balconies, landing places or outside stairways may extend up to twenty-four inches into any required side or rear yards. Open/uncovered porches, balconies, landing places, or outside stairways shall not extend more than six feet into any required front yard and shall be a minimum of five feet from the front property line.

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

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)
South	Single-family residences	Rural Residential (RR)
East	Undeveloped	Rural Residential (RR)
West	Regional airport	City of Bremerton

**Table 4 - Public Utilities and Services**

	Provider
Water	Private two-party well
Power	Puget Sound Energy
Sewer	Onsite septic
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

**5. Access**

The property gains access from Pirates Cove Avenue SW, a private road.

**6. Site Design**

The attached site plan shows the proposed garage as a rectangle to the northwest of the existing primary dwelling, as well as the easements, buffers, setbacks, and no-build zones constraints. See attached site plan.

**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 and amended April 27, 2020.

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

*Land Use Policy 50*

*Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

*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.*

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
Title 19	Critical Areas
Chapter 18.04	State Environmental Policy Act (SEPA)
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 exhibits 1-11.

Exhibit #	Document	Dated	Date Received
<b>1</b>	<b>STAFF REPORT</b>		
2	KCHD Building Clearance Final Report - Lovett	8/20/2021	10/6/2021
3	Engineered Building Plans		10/06/2021
4	Permit Questionnaire – Setback Variance (submission)	9/28/2021	10/06/2021
5	Project Narrative - Variance Request Letter with Photos		10/06/2021
6	Site Plan (revised)	8/20/201	10/06/2021
7	Notice of Application	10/8/2021	
8	Notice of Public Hearing	3/09/2022	
9	Certification of Public Notice	3/10/2022	
10	Staff Presentation		
11	Hearing Sign In		

**9. Public Outreach and Comments**

A Notice of Application (Exhibit 7) was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment.

No comments were received by the department.

**10. Analysis**

**a. Planning/Zoning**

Per KCC 17.560.010 requests for a variance must meet four criteria to be considered for approval. Analysis of the criteria and the applicant’s responses is included below:

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.

*Applicant response: Despite being 4.81 acres, we have a wetland that blocks access to the back half of our property, and makes usability and enjoyment of property challenging due to the many building setbacks: Wetland Setback Buffer, Property, Easements, No Cut Buffers, Septic System, Reserve Drainfield. Property is long and narrow. Generally flat.*

*Staff comment: The developable area of this property is severely restricted by critical areas, easements, and other buffers imposed by the zoning and development of the property. About 55% of the property is encumbered by a large wetland and the associated 150-foot buffer which encompasses the existing home site. The front (west side) of the property is encumbered by a 50-foot easement and associated 25-foot buffer, beyond which there is the 50-foot zoning setback. Potential development area is further constrained by the septic system and the associated 10-foot no-build buffer, as well as zoning setbacks from the north side of the 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.

*Applicant response: This variance is a necessity to insure (sic) the security of the property and assets that are stored here. It should be every homeowners right to maintain safety of personal property and to aide in alleviating potential theft and harm. Neighboring Property Parcel #: 132301-2-020-1007 has a detached garage structure.*

*Staff comment: A reduced front setback which allows the applicant to construct a secure detached garage is consistent with the intent of the variance process and criteria.*

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.

*Applicant response: This variance will not be materially detrimental to the public welfare or injurious to any surrounding properties - it will allow for the property to maintain secure storage of assets, aiding to keep criminals out of the area.*

*Staff comment: The front of the property has a 50-foot easement and a 25 foot no-cut buffer. Reducing the front setback to 25 feet allows the applicant to construct a secure detached garage to protect the owner's assets. The reduced setback for this use is not detrimental to public welfare or other property in the vicinity.*

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

*Applicant response: The majority of the acreage is unusable due to a wetland blocking access to the second half of the property. This is the only location the garage can be placed on the property due to all setbacks.*

*Staff comment: This variance request to reduce the zoning setback will be the minimum necessary to construct the proposed 30-foot by 40-foot detached garage. The property is severely encumbered by easements, buffers, no-build areas, and critical area buffers.*

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

Off-street parking was not analyzed as part of this proposal.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
NA	NA	NA	NA
Total	NA	NA	NA

**d. Signage**

No signage is proposed or required.

**e. 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)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

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

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

Development Services and Engineering has reviewed the land use proposal and finds the concept supportable in its approach to civil site development. Further review will occur with associated site development or building permits.

**i. Environmental**

The proposed garage is outside the 150-foot wetland buffer and 15-foot building setback, there are no environmental issues at this time.

**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**

Potable water is provided by a two-party well; sanitary sewage disposal is provided by an on-site septic system.

**n. Kitsap Public Health District**

The applicant submitted a building clearance final report provided by the Kitsap Health District (Exhibit 2).

**11. Review Authority**

The Hearing Examiner has review authority for this Zoning Variance application under KCC 21.04.100. The Hearing Examiner may approve, approve with conditions, remand, or deny a Zoning variance. 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 in KCC Chapter 2.10.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Rural Residential (RR) zone in KCC Title 17.
2. The proposal meets the criteria for a critical area variance in KCC 17.560.010, as analyzed in Section 10.a of this report.

**13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 17.560.010, the Department of Community Development (DCD) recommends the Zoning Variance 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 be modified.
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 DCD within four years of the Notice of Decision date or the resolution of any appeals.
4. 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.
5. 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.

**Report prepared by:**



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Darren Gurnee / Project Lead

March 16, 2022

Date

**Report approved by:**



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Scott Diener, DSE Manager

March 16, 2022

Date

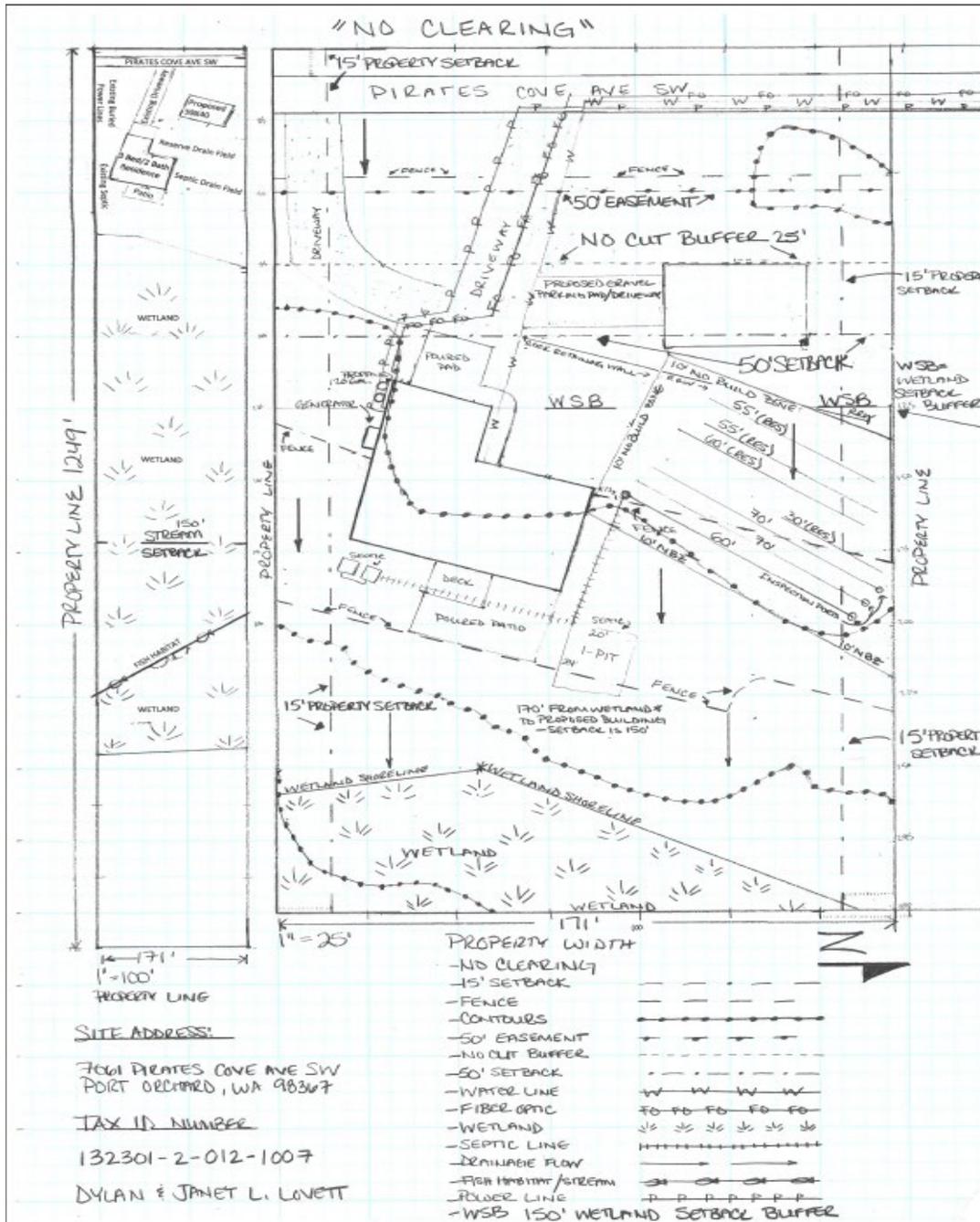
**Attachments:**

Attachment A – Site Plan

Attachment B – Zoning Map

CC: Owner/Applicant: Janet & Dylan Lovett, [jlovett210@gmail.com](mailto:jlovett210@gmail.com)  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Darren Gurnee  
DCD File  
DCD Building Permit File  
Interested Parties: None

Attachment A – Site Plan



Attachment B – Zoning Map

