



Notice of Hearing Examiner Decision

2/4/2025

To: Interested Parties and Parties of Record

RE: Project Name: Weatherby - Zoning Variance for Setback Requirements
Applicant: John and Shelley Weatherby
37660 Teel Ln NE
Hansville, WA 98340
Application: ZVAR-HE
Permit Number: 24-02165

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 24-02165: Weatherby - Zoning Variance for Setback Requirements – ZVAR-HE, subject to the conditions outlined in this Notice and included Decision.**

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:
<https://www.kitsap.gov/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC: Applicant/Owner: John and Shelley Weatherby, sjwinboise@outlook.com
Architect: Adair Homes Inc., jschmid@adairhomes.com

Interested Parties:

Edward Petersen, junkyarddog_ed@yahoo.com; Leslie Lee, leslielee000@gmail.com

Health District
Public Works
Parks
Navy

DSE
Kitsap Transit
North Kitsap Fire District
North Kitsap School District
Puget Sound Energy
Water Purveyor: PUBLIC UTILITY DIST NO 1
Sewer Purveyor: PUBLIC UTILITY DIST NO 1
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
Skokomish Tribe
WA Dept of Fish & Wildlife
WA Department of Natural Resources
Dept of Archaeological Historic Preservation
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Transportation
Prosecutor's Office
Assessor's Office
DCD
Kitsap Sun

BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Emily Terrell, Hearing Examiner

RE: Weatherby Zoning Variance File No. 24-02165	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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INTRODUCTION

John Weatherby has requested a zoning variance from a 100-foot building setback to 15 feet for his 0.41-acre vacant residential parcel. The lot abuts a parcel zoned Rural Wooded which imposes a 100-foot building setback for any development. Mr. Weatherby’s lot is entirely encumbered by this setback. He requests a variance to allow him reasonable use of the property. The variance is approved subject to conditions.

ORAL TESTIMONY

Kitsap County Planner Erin Lewis presented the staff report. The applicant, John Weatherby, commented to express gratitude to the County staff.

EXHIBITS

Exhibits 1-12 listed in the Index to the Record prepared by County staff were admitted during the hearing. At the hearing, the examiner also admitted Ex. 13, a statement from the applicant dated January 21, 2025.

FINDINGS OF FACT

Procedural:

1. Applicant. John Weatherby of 37190 Madrona Blvd NE, Hansville, 98340.
2. Hearing. The Hearing Examiner conducted a virtual hearing on the application at 9:10 am on January 23, 2025.

Substantive:

3. Site/Proposal Description. John Weatherby has requested a zoning variance from a 100-foot building setback to 15 feet for his 0.41-acre residential parcel. The lot abuts a parcel zoned Rural Wooded which imposes a 100-foot building setback for any development. Mr. Weatherby's lot is entirely encumbered by this setback. He requests a variance to allow him reasonable use of the property and to replace an existing single-family structure. A septic drain field is proposed for the rear yard.
4. Characteristics of the Area. The project area is a mix of zones including Rural Residential to the south, east and west and Rural Wooded to the north. Surrounding properties are a mix of wooded parcels and single-family homes with similar setbacks from the Rural Wooded zone as the setback the applicant has requested.
5. Adverse Impacts. No significant adverse impacts are anticipated from the proposed variance. The project is SEPA exempt. There are no critical areas on or impacting the project site. As noted in the staff report, many of the parcels in the neighborhood do not meet the minimum lot size but are legal nonconforming. These parcels were platted decades ago. As conditioned, the development will comply with all applicable code and regulatory requirements.
6. Special Circumstances. Special circumstances apply to the proposal due to the building setback from the Rural Wooded zone. The setback completely encumbers the project site. Without the variance, the property could not be developed. The special circumstance is no fault of the applicant. Granting the variance will allow the applicant to construct a single-family home in keeping with the surrounding properties in this residential subdivision and in compliance with the Rural Residential zone.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. KCC Section 21.04.100 Review Authority Table requires a Hearing Examiner approval for a zoning variance request greater than 25%. The applicant has requested a variance from the 100-foot Rural Wooded zoning setback to 15 feet, a reduction of 85%.

Substantive:

2. Zoning Designation. The property is currently zoned Rural Residential.
3. Review Criteria. KCC 17.560.010A governs the criteria for zoning variances. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

Variance

KCC 17.560.010: *A variance may be granted to any numerical standard of this title, excluding housing density, only when unusual circumstances relating to the property cause undue hardship in the application of this title. The granting of such a variance shall be in the public interest. A variance shall be made only when all of the following conditions and facts exist:*

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;

10. Criterion met. The criterion is met for the reasons identified in Finding of Fact No. 6.

KCC 17.560.010B: *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;*

11. Criterion met. The criterion is met. Without the variance, the applicant would not be able to develop his property. He requests the ability to develop his property with a single-family home in keeping with the adjacent properties.

KCC 17.560.010C: *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*

12. Criterion met. The criterion is met for the reasons identified in Finding of Fact No. 5.

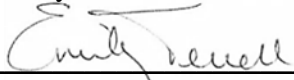
KCC 17.560.010D: *The variance is the minimum necessary to grant relief to the applicant.*

13. Criterion met. The criterion is met. Without the variance, the applicant would not be able to develop his property. His request to build a home of similar intensity and situation to other nearby properties is consistent with KCC Title 17 and as conditioned will comply with all other applicable provisions of the Kitsap County Code and development regulations. The variance is the minimum necessary to grant relief.

DECISION

Based upon the conclusions of law above, the zoning variance application is approved subject to the conditions of the January 16, 2025 staff report.

Dated this 4th day of February 2025.



Emily Terrell
Kitsap County Hearing Examiner

Appeal Right and Valuation Notices

Pursuant to KCC 21.4.100 and KCC 21.04.110, this decision is a final land use decision of Kitsap County and may be appealed to superior court within 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C RCW.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.