



COMMUNITY DEVELOPMENT

Notice of Hearing Examiner Decision

8/31/2026

To: Interested Parties and Parties of Record

RE:

Project Name: RODOLF - Hearing Examiner Zoning Variance for 20ft Encroachment into Current 50ft Front Yard Setback to Replace Existing Manufactured Home with a Newer Model (2x6)

Applicant: Ivy Rodolf
20588 WESTERN AVE NE
INDIANOLA, WA 98342

Application: ZVAR-HE

Permit Number: 25-04510

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **PERMIT 25-04510: RODOLF - Hearing Examiner Zoning Variance for 20ft Encroachment into Current 50ft Front Yard Setback to Replace Existing Manufactured Home with a Newer Model (2x6) (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: Ivy Rodolf, trident.ivy@gmail.com

Engineer: Envirotech Engineering PLLC, envirotech@geotechnicalinfo.com

Surveyor: AGO Land Surveying LLC, 1015 NE Hostmark St Poulsbo, WA 98370

Interested Parties: Melinda West, meljoy8@icloud.com; Joe Lubischer, jslubischer@gmail.com; Dollie Burkman, dburkman2@gmail.com; Rose Proctor, kelrose554@gmail.com; Mark Smoot, smoo26@hotmail.com; Pamela Dassel, pamdassel@hotmail.com; Celeste Cleveland, celestialcleveland@gmail.com, celestecleveland@live.com; Doug Hayman, seattleguitarman@hotmail.com; Rod Malcom – Suquamish Tribe, rmalcom@suquamish.nsn.us; Roger Sherman, rogersherman360@hotmail.com; James Dassel, jamesdassel87@gmail.com; Micah Stephenson, micah.stephenson98@gmail.com

Prosecutor's Office

Assessor's Office

DCD

Kitsap Sun

Point No Point Treaty Council

Suquamish Tribe

Skokomish Tribe

Port Gamble S'Klallam Tribe

Squaxin Island Tribe

Puyallup Tribe

Dept of Archaeological Historic Preservation

WA Dept of Natural Resources

WA Dept of Fish & Wildlife

WA State Dept of Ecology-SEPA

WA State Dept of Transportation

USACE

Health District

Public Works

Parks

Navy

DE & PEP

Kitsap Transit

North Kitsap Fire District

North Kitsap School District

Puget Sound Energy

Water Purveyor: PUD 1

Sewer Purveyor: PUBLIC UTILITY DIST NO 1

Cascade Natural Gas

**KITSAP COUNTY HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**Setback Variance
File No. ZVAR-HE 25-04510 (Rodolf)**

August 28, 2026

Findings of Fact

1. Project. Request for 20 foot encroachment into 50-foot front yard setback to allow replacement of existing manufactured home due to storm damage. (“[a] tree fell on my home during a storm and crashed through the roof above my kitchen.”).¹ The original manufactured home from the 1970’s will be replaced with a standard double-wide, two-bedroom manufactured home. The 20-foot setbacks on the two sides and rear are met. To avoid further encroachment into critical areas buffers to the east, the front setback is proposed for reduction from 50-feet to 30.

I am replacing my existing home in effectively the same location, with a modest expansion of approximately 20 feet in length. Because my property is heavily constrained by critical areas, the new home must expand toward the western property line rather than farther toward the environmentally sensitive area. That configuration requires an encroachment into the 50-foot front-yard setback and therefore requires the zoning variance presently before the County.²

2. Applicant/Property Owner and Location. Ivy Olivia Rodolf, 20588 Western Avenue NE, Indianola, WA 98342. Parcel #152602-2-025-2004.

4. Public Notice. Hearing notice was mailed, published in a paper of general circulation, and the posted 15-days before the hearing, meeting code requirements.³

5. Hearing. The Hearing Examiner considered the Applicant’s request at an open record public hearing on August 13, 2026. At the hearing, the Kitsap County Department of Community Development, through Planner Keith Hafner, summarized the proposal. Several citizens commented. Applicant Ivy Rodolf addressed citizen comment.

6. Public Testimony.

Neighbor Joe Lubischer spoke. He stated that he has worked on Kitsap Creek water quality and is involved with critical areas ordinance implementation. He was concerned the project is “skipping” CAO compliance. He stated that while the proposal is “not unreasonable” as the project is within the stream buffer, there are impacts. He stated it is not clear how code requirements are met. He also had concerns with the site plan, and submitted a diagram enlargement. He stated the

¹ Exhibit 32, p. 3.

² Exhibit 32, p. 5.

³ KCC 21.04.080; KCC 21.04.210; Exhibits 7, 20, and 21.

drawing omits the critical area buffer boundary and does not show the reserve drain field. He noted while ultimately a “de minimus” concern, this should be corrected. He also questioned the exact setback measurement. He believes the buffer mitigation is inadequate and described updated code language on avoiding yard waste/animal waste stream impacts.

Roger Sherman stated he was representing his 95-year old mother who lives in a residence to the south. He said she has always had access through the Hazel Street easement, not shown on the site plan. He stated that the 50-foot setback encompasses the 40-foot easement. He stated he agreed with the previous CAO comments and noted the presence of osprey, heron, and occasionally, bald eagles. He stated that tall trees on the back of the property are only accessible through the easement. He is concerned that the variance would block the easement and ultimately some large dead trees will have to be removed. He believes the home footprint could be flipped to stay out of the easement and critical areas setback. He noted there is a fence on the property line which blocks an easement for an adjacent neighbor.

Doug Hayman stated he had submitted a document referring to another hearing and approval of buffer reduction where conditions were not carried out. He said he works on fish and critical wildlife habitat area issues, which has resulted in increased fish bearing stream buffers. He stated he is concerned with property rights overriding critical areas and provided a map to illustrate his buffer impact concerns.

Mark Smoot stated he is the adjacent neighbor Mr. Sherman referenced. He stated with respect to the fence, it is restricting access to the back of his property and he said it has impacted property maintenance. He stated the fence cut off wildlife migration passing through a wildlife corridor. He is also concerned with river quality degradation.

The Department, through Planner Hafner, addressed the easement question. He stated the Department researched the question. He said the Applicant’s fence stops at the Applicant’s property and there is no legal record of the easements referred to in testimony crossing over the Applicant’s property.⁴ Also, the Department proposed conditions on permitting any new structures requiring a permit (which includes fences over seven feet tall).⁵ He noted that the planting plan provides added mitigation and the home is placed as far as possible from critical areas.

The Applicant stated that despite the lack of a recorded access easement over her property, her neighbors think of her property as theirs. She noted that after she bought it, neighbors have crossed her property despite the lack of legal access and despite having their own access. She reiterated that she has approached the project “by the book.”

Darren Gurnee, Department Planning Supervisor, explained that: (1) A central code tenet is to move structures as far as possible from critical areas. Moving a structure closer to a front setback as opposed to moving it closer to critical areas is the policy direction; and (2) The project redevelops an existing structure and the legally existing features do not require additional mitigation. Mitigation is only required for the 533 square feet of expansion.

⁴ See also Exhibit 35.

⁵ Exhibit 35.

7. **Administrative Record.** Exhibits 1-23 were received before the hearing. The record was kept open for additional comment, which the Department requested leave to address. The request was granted, additional comments were accepted, and Exhibits 1-36 were admitted.

8. **SEPA.** The Department determined the variance request is exempt.⁶

9. **Zoning/Comprehensive Plan.** The 1.08-acre site is zoned and designated Rural Residential. The Comprehensive Plan provides for rural residential uses consistent with the surrounding rural character in a way which protects wildlife habitat and ecological values.

- **LU-Policy 17.1.** Permit residential uses in rural areas in a variety of rural lot sizes consistent with the rural character of the surrounding area.
- **E-Policy 1.1.** Manage development to protect habitats and ecological processes.
- **E-Policy 6.2.** Employ Best Management Practices to protect the long-term integrity of the natural environment, adjacent land uses, and the productivity of resource lands.

10. **Site and Project Design.** The 1.08-acre irregularly-shaped lot does not meet current code requirements for minimum five-acre lot sizes and contains a stream buffer and geographically sensitive areas to the east. The lay-out minimizes intrusion into the critical areas to the east. The existing septic reserve area to the south is not being moved. The site has physical and environmental features that eliminate any other feasible building locations. These conditions, which the Applicant did not create, include: (1) a fish-bearing stream to the east; (2) a ravine and steep slopes limiting development to the east; and (3) the existing development pattern, including the historic placement of the original manufactured home before current setbacks were adopted.

With these constraints, if the structure were shifted further east, it would encroach into regulated stream buffers, increasing environmental impacts, contrary to Kitsap County's critical areas protection goals. Placing the home closer to the front yard setback minimizes buffer intrusion while allowing for the single family residence use. Qualified professionals prepared technical analysis on the geotechnical and stream issues. The geotechnical analysis concluded that the project "is not subjected to or [will] cause adverse impacts to a landslide area or its associated buffer or setback as defined in the KCO."⁷ The stream impact analysis concluded:

It is KES's professional opinion that the proposed project to replace the existing single-family residence (mobile home) with a new single-family residence (mobile) and expand the footprint 20' closer to the front yard will not have any impacts on the Type F stream or stream buffer. The existing single-family residence is already encumbered by the Type F stream buffer and building set-back. The expansion is in an already impacted cleared yard/lawn area, so no further impacts will be occurring. The slope down to the stream is very well vegetated and the new single-family residence is still set-back appropriately from the top of the slope, according to the geological report. KES concurs with the site plan.⁸

⁶ Exhibit 1, pp. 1-2.

⁷ Exhibit 4, p. 9.

⁸ Exhibit 19, p. 4.

In addition to locating the project away from the critical area buffers, a mitigation plan was designed. 870 square feet of mitigation will compensate for the 533 square feet of impact.

Mitigation will be implemented within designated areas of the buffer as shown on the updated site plan and will consist of:

- Native tree planting
- Native shrub installation
- Native groundcover enhancement
- Invasive species removal

The mitigation area exceeds the impact area, resulting in a net increase in native vegetation coverage and ecological function within the buffer.⁹

The mitigation report concludes that “[o]verall, the mitigation plan results in a **net improvement to the stream buffer** and ensures that no significant adverse impacts to the Type F stream or its associated buffer will occur.”¹⁰ Locating the structure as proposed avoids impacting stream buffers and steep slope areas. Concerns were raised on critical area buffer locations. However, when the site plan is reviewed in conjunction with the biological analysis, locations are clear, with exact distances confirmed at building permit review.¹¹

The proposed structure will remain consistent with surrounding residential development and does not introduce increased density or intensity of use. Visual and neighborhood impacts will be minimal. The encroachment represents the minimum variance necessary to accommodate a replacement home while avoiding environmental buffers and minimizing site disturbance. The expansion is the minimum necessary to allow for reasonable use of the property and does not have materially detrimental impacts.

11. Utilities and Public Services. Necessary infrastructure is available, as noted below. This includes fire service. Concerns on past burning activities were identified. The Department proposed a condition to address this issue (Condition 12).

- Water – Kitsap PUD #1
- Power - Puget Sound Energy
- Sewer – Septic
- Police – Kitsap County Sheriff
- Fire – North Kitsap Fire & Rescue
- School – North Kitsap School District No. 400

12. Access. Western Ave NE provides access, which is a mixture of a maintained County road and private easement across adjoining parcel 152602-2-111-2009. Concerns that the setback reduction would impact access to certain portions of other properties for vegetation/tree maintenance purposes were raised. Legal documentation demonstrating the presence of cognizable access rights to those areas, which the variance would obstruct, was not produced.¹²

⁹ Exhibit 19, p. 13.

¹⁰ Exhibit 19, p. 15, emphasis in text.

¹¹ Exhibits 18, 19, and 35.

¹² Exhibit 35; Exhibit 1. Hearing testimony also address this issue.

13. Staff Report and Conditions. The Staff Report and Supplemental Memo are incorporated as supplemental findings (Exhibits 1 and 35). The proposed conditions ensure code requirements are met and address public comments. The Applicant raised no concerns with the conditions as worded. They should be incorporated without substantive revision.

CONCLUSIONS OF LAW

1. Staff Report and Conditions. The Hearing Examiner has jurisdiction over the setback variance as it exceeds 25% of the code requirement.¹³

2. Variance Criteria. An applicant must demonstrate consistency with these criteria:

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;
- 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;
- 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
- D. The variance is the minimum necessary to grant relief to the applicant.¹⁴

Given the site's existing shape and size, coupled with the extensive critical areas (stream buffers and steep slopes) to the east, special and unusual circumstances which the Applicant did not create are present. The requested variance is necessary for the Applicant to enjoy reasonable use of their property (replacement of a storm damaged home), which others in the same vicinity and zone enjoy.

¹³ KCC 21.04.100, 21.04.080, Ch. 17.560 KCC.

¹⁴ KCC 17.560.010. KCC 19.100.130 may also independently authorize the replacement residence. Exhibit 35. This Decision only rules on the requested variance.

Strict application of the 50-foot front yard setback would prevent reasonable replacement of the existing residence or force relocation into environmentally sensitive areas. The replacement home stays largely within the existing footprint (except for 533 square feet), which is expanded away from the steep slope and Type F stream to minimize impacts and is fully mitigated. The geologist confirmed the approach was consistent with code requirements and would not create detrimental impacts to the eastern slopes.

A biologist confirmed that, from an environmental perspective, the proposed footprint expansion is feasible and appropriate. Locating the structure as proposed avoids impacts to stream buffers and steep slope areas. The proposed structure will remain consistent with surrounding residential development and does not introduce increased density or intensity of use. 870 square feet of mitigation will compensate for the 533 square feet of impact. The expansion is the minimum necessary to allow for reasonable use of the property and does not have materially detrimental impacts to the public welfare or neighboring properties.

The encroachment represents the minimum variance necessary to accommodate a functional replacement home while avoiding environmental buffers and minimizing site disturbance. This is particularly the case as a replacement with the same size is not feasible because new manufactured homes do not meet the same footprint of the original home.

The Applicant demonstrated there are not materially detrimental impacts and the proposal is consistent with the public welfare and does not injure neighboring properties. The Applicant also demonstrated that the setback reduction to accommodate an extremely limited footprint expansion is the minimum necessary to grant relief. The requested variance should be approved.

DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested Variance, provided these conditions are met:

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 (25-04510). 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.

5. Replacement home permits shall be reviewed for all clearing limits associated with the development. All developments requiring permits, including fences, shall be completed prior to occupancy of replacement home.
6. Subject to the conditions of the Stream Determination and Habitat Management Plan prepared by Key Environmental Solutions, LLC, dated February 22, 2026 (Revised May 4, 2026), associated with this permit and on file at the Department of Community Development.
7. Subject to the conditions of the Geologic Report prepared by Envirotech Engineering, PLLC, dated November 19, 2025, associated with this permit and on file at the Department of Community Development.

A 200 – foot native vegetation buffer shall be retained along the perimeter of the stream as depicted on the approved site plan. In addition, a building or impervious surface setback line of 15 ft is required from the edge of the buffer.

Buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.

Prior to final inspection and occupancy, the common boundary between the stream buffer and the adjacent land shall be permanently identified with critical area buffer signs. A total of 5 Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50 feet apart, visual from sign to sign. Signs must be attached to existing trees with diameter breast height greater than 4 inches. Alternative methods include 4x4 posts, metal posts or split rail fencing. Signs may be requested with any inspection prior to final, but not at final inspection. The consulting habitat biologist shall place the signs.

Danger Trees- Minor pruning, removal, or elimination of danger trees in the buffer may be allowed, subject to approval by the Department. (360) 337-5777

Bald Eagles- This permit is conditioned for compliance with the Federal Bald and Golden Eagle Protection Act and the National Bald Eagle Management Guidelines. The applicant is responsible for following all federal setbacks, construction windows and obtaining any federal permits as necessary through the US Fish and Wildlife Service.

8. Permit approval subject to chapter 19.150.170 of Kitsap County Code, which states that critical area ordinance (CAO) buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.
9. Monitoring and maintenance of the planted area shall be conducted for five years, and extended if necessary, after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules.

Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division annually. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival. The construction of the permitted project is subject to inspections by the Kitsap County Department of Community Development. Extensions of the monitoring period may be required if original conditions are not met. All maintenance and construction must be done in full compliance with Kitsap County Code, including the Kitsap County Critical Area Ordinance (Title 19 KCC) and Shoreline Master Program (Title 22 KCC). Any corrections, changes or alterations required by a Kitsap County Development Engineer Inspector shall be made prior to additional inspections. Any assignment of savings, financial surety or other like security for maintenance of the buffer mitigation plan shall only be released if monitoring requirements are satisfied in the final year of the monitoring term.

10. Vegetation planting shall occur as specified in the approved planting plan produced in support of this permit and will consist of:

- o Native tree planting
- o Native shrub installation
- o Native groundcover enhancement
- o Invasive species removal.

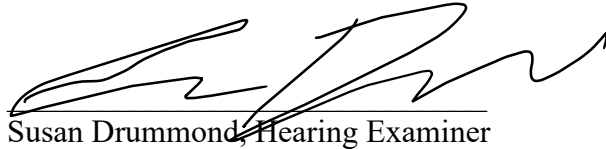
Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360) 337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for three years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap

County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival.

11. Applicant must upload a detailed planting plan with the building permit. Planting shall be installed prior to occupancy.
12. Must adhere to all conditions associated with demolition of existing manufactured home including providing affidavits of disposal. No on-site burning of demolition materials permitted.

DECISION entered August 28, 2026

KITSAP COUNTY HEARING EXAMINER



Susan Drummond, Hearing Examiner

Decision Finality. *This is Kitsap County's final decision. Absent a reconsideration request filed within five business days, final decisions must be appealed to superior court within 21 days.¹⁵ Parties are responsible for determining appeal requirements.*

¹⁵ Kitsap County Hearing Examiner Rules of Procedure 2.12.1; KCC 21.04.080, .100; Ch. 36.70C RCW.