



2000 24th Ave. NW, Olympia, WA 98502

Revised Variance Requests – April 2024

Per Thurston County Code (TCC) Section 18.12.170, “[a]ny subdivider may make application to the hearing examiner for a variance from the development standards where it appears there exist extraordinary conditions such as topography, access, location, shape, size, drainage or other physical features of the site or other adjacent development. Such application shall accompany the proposed division.”

Moreover, TCC Sec. 20.52 states that the hearing examiner may grant a variance after showing from findings of fact that the following circumstances exists:

1. That the granting of the proposed variance will not result in the allowance of a use which is not classified as a permitted or special use in the district wherein the use would be located;
2. That special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;
3. That the special conditions and circumstances are not the result of the actions of the applicant;
4. That granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district;
5. That the granting of the variance will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated;
6. That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land;
7. That the granting of the variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Vegetated Buffer Variance – NO LONGER BEING SOUGHT

~~The applicant is seeking a variance of the requirement for a 30’ 0” vegetated buffer for a portion of the perimeter adjacent to lot 2 as shown on plan sheet PP-01 and L1.00. Per TCC Section 23.26.190, a 30’ 0” vegetated buffer is required “where the common property line is at least twenty feet in length and where a new proposed use is adjacent to an incompatible use as described in section 1.” Section 1 of 23.36.190(A) states that an incompatible use is defined as “[a] proposed residential subdivision lot that is less than fifty percent of the square footage of an existing contiguous residential lot.” However, Sec. 23.36.190(A)(2)(c) states that the buffer width may be reduced via variance. We believe a variance is justified for the following reasons:~~

- a. ~~That the granting of the proposed variance will not result in the allowance of a use which is not classified as a permitted or special use in the district wherein the use would be located.~~
 - i. ~~This is not applicable here as use is not at issue. We are proposing permitted residential uses in a residential zone.~~
- b. ~~That special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.~~
 - i. ~~Special conditions peculiar to the land exist on the subject parcel. There are four wetlands affecting the subject parcel. Three of the wetlands impacting the subject parcel most significantly occupy approximately 195,000 square feet (4.47 acres) of the subject parcel. The smaller wetland in the northeast corner of the subject parcel occupies approximately 2,745 square feet. The presence of these wetland areas creates challenging conditions that deprive the property owner of rights commonly enjoyed by other properties similarly situated when literal interpretation of the TCC is applied because of a much more limited ability to create subdivided lots throughout the subject parcel. But for the large size of the wetlands, we could have maintained a 30' 0" vegetated buffer around the entire site perimeter as code requires.~~
- c. ~~That the special conditions and circumstances are not the result of the actions of the applicant.~~
 - i. ~~The special conditions and circumstances present on the subject parcel are naturally occurring (presence of a wetland) and not the result of any actions of the applicant.~~
- d. ~~That granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district.~~
 - i. ~~The granting of the variance for the subject parcel will not confer a special privilege to the property that is denied other lands in the same district. The applicant is unaware of any denied variance requests for this same issue, but it is the applicant's opinion that others may also apply for a variance of the same issue if and when they decide to apply for a subdivision of their property.~~
- e. ~~That the granting of the variance will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated.~~
 - i. ~~The granting of the variance for the subject parcel will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity. The current landscaping on the subject parcel in the area sought for the variance is very sparse. Subdivision and subsequent development of the subject parcel will create approximately 15,000 square feet of densely landscaped area that doesn't currently exist thereby creating more public and private benefit.~~
- f. ~~That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land.~~
 - i. ~~The reasons set forth here do justify this variance request. Moreover, we made great effort to minimize the variance request from 30' 0" to 20' 0" adjacent to only one~~

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~~lot in the proposed subdivision. But due to the location and size of the wetland on the subject parcel, we also believe this variance is needed to make possible the reasonable use of the land. Furthermore, we strived to maintain density of the proposed subdivision to the lower end of the allowed limit to create a community that blends well with the surrounding neighborhoods.~~

~~g. That the granting of the variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.~~

~~i. The granting of this variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or detrimental to the public welfare. As the application materials illustrate, the applicant is utilizing the Planned Residential Development (PRD) sections of the TCC. Section 23.56.020 states that “the intent of the PRD regulations is to permit greater flexibility and, consequently, more creative and imaginative design as required within...residential areas than generally is possible under conventional zoning regulations.” The applicant here believes that granting this particular variance achieves the code’s intent of a PRD by utilizing greater flexibility with the reduction of the vegetated buffer.~~

Building Setbacks Variance

The applicant is seeking a variance of the ~~front and~~ rear setback requirement for the subject property’s underlying zoning. The current rear setback requirement for the underlying zoning is 20’-0”. The applicant is seeking to reduce the rear setback to 10’-0”. Per TCC Sec. 23.66.010, the hearing examiner may grant a variance “if, because of special circumstances applicable to the subject property due to size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity....” Further, Sec. 23.66.020 specifically addresses front, side, and rear yard setback variances. Section 23.66.020 states “[t]he department may grant a modification of up to fifty percent from the front, side, and rear setback requirements in residential zones provided...conditions met as listed in Sec. 20.07.050.” We believe a variance is justified for the following reasons:

TCC Sec. 20.52

- a. That the granting of the proposed variance will not result in the allowance of a use which is not classified as a permitted or special use in the district wherein the use would be located.
 - i. This is not applicable here as use is not at issue. We are proposing permitted residential uses in a residential zone.
- b. That special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.
 - i. Special conditions peculiar to the land exist on the subject parcel. There are four wetlands affecting the subject parcel. Three of the wetlands impacting the subject parcel most significantly occupy approximately 190,355 square feet (4.37 acres) of the subject parcel. The smaller wetland in the northeast corner of the subject parcel

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occupies approximately 2,745 square feet. The presence of these wetland areas creates challenging conditions that deprive the property owner of rights commonly enjoyed by other properties similarly situated when literal interpretation of the TCC is applied because of a much more limited ability to create subdivided lots throughout the subject parcel. But for the large size of the wetlands, we could have created lots that maintained the required 20'-0" rear setbacks.

- c. That the special conditions and circumstances are not the result of the actions of the applicant.
 - i. The special conditions and circumstances present on the subject parcel are naturally occurring (presence of wetlands) and not the result of any actions of the applicant.
- d. That granting of the variance requested will not confer a special privilege to the property that is denied other lands in the same district.
 - i. The granting of the variance for the subject parcel will not confer a special privilege to the property that is denied other lands in the same district. The applicant is unaware of any denied variance requests for this same issue, but it is the applicant's opinion that others may also apply for a variance of the same issue if and when they decide to apply for a subdivision of their property.
- e. That the granting of the variance will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated.
 - i. The granting of the variance for the subject parcel will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity. The granting of this variance will have no affect on other land or improvements in the vicinity or district the subject parcel is located. Granting this variance will, however, allow greater flexibility in each lot's design once the project moves into construction. Due to the size and location of the wetlands, the road standard for the project, and the required vegetated buffer along the perimeter of the subject parcel, there are numerous lots throughout the subject parcel that need additional space within the lot to place a structure. This variance request also falls within the scope of the Planned Residential Development (PRD) sections of the TCC. Section 23.56.020 states that "the intent of the PRD regulations is to permit greater flexibility and, consequently, more creative and imaginative design as required within...residential areas than generally is possible under conventional zoning regulations." The applicant here believes that granting this particular variance achieves the code's intent of a PRD by utilizing greater flexibility with the reduction of the rear setback.
- f. That the reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land.
 - i. The reasons set forth here do justify this variance request. As noted above, due to the size and location of the wetlands, the road standard for the project, and the required vegetated buffer along the perimeter of the subject parcel, there are numerous lots throughout the subject parcel that need additional space within the lot to place a structure.

- g. That the granting of the variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - i. The granting of this variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood or detrimental to the public welfare. As previously noted, the applicant is utilizing the PRD sections of the TCC. The applicant here believes that granting this particular variance achieves the code's intent of a PRD by utilizing greater flexibility with the reduction of the rear setback.

TCC Sec. 20.07.050

- a. Administrative Front Yard Variance to Block Average. In any residential district, where a front yard less than that required by this title has been maintained on lots having fifty percent or more of the total frontage of the block, each structure built after the effective date of this title may maintain a front yard the same size as the average front yard of such existing structures. The applicant shall request such variance from the department and shall provide setback measurements for the subject block or group of lots.
 - i. This does not appear to apply to the subject parcel because there are no existing structures that occupy at least 50% of the total frontage of the block. There is one existing single-family home on the subject parcel, which will be removed, but all proposed structures will be new construction.
- b. Administrative Variance to All Yard Requirements. A reduction in yard requirements shall be permitted after department review and approval when:
 - i. Such variance for a structure, including any porch, deck or stairway over thirty inches above grade, will not reduce any required yard by more than fifty percent and no roof overhang will extend more than thirty-three percent into the reduced setback.
 - 1. The variance requested will not reduce any required yard by more than 50%. The porch designed for the homes shown on the plans will not exceed 30" above finished grade and therefore should not be included in the determination of this variance.
 - ii. Special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, or which are created by public action such as condemnation, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would result in a practical difficulty, as described in subsection (3) below, for the property owner not commonly experienced by other properties similarly situated in the same district under the terms of this title.
 - 1. There are four wetlands affecting the subject parcel. Three of the wetlands impacting the subject parcel most significantly occupy approximately 190,355 square feet (4.37 acres) of the subject parcel. The smaller wetland in the northeast corner of the subject parcel occupies approximately 2,745 square feet. The presence of these wetland areas creates challenging conditions that result in practical difficulties not commonly experienced by other properties similarly situated in the same district. But for the large size

of the wetlands, we could have created lots that maintained the required 20'-0" rear setback.

- iii. The special conditions and circumstances are not the result of deliberate actions of the applicant.
 - 1. The special conditions and circumstances present on the subject parcel are naturally occurring (presence of wetlands) and not the result of any actions of the applicant.
- iv. Granting of the variance request will not confer a special privilege to the property that is denied other lands in the same district.
 - 1. The granting of the variance for the subject parcel will not confer a special privilege to the property that is denied other lands in the same district. The applicant is unaware of any denied variance requests for this same issue, but it is the applicant's opinion that others may also apply for a variance of the same issue if and when they decide to apply for a subdivision of their property.
- v. Granting of the variance will be in harmony with the general purpose and intent of this title and will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and neighborhood in which the property is situated.
 - 1. The granting of the variance for the subject parcel will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity. The granting of this variance will have no affect on other land or improvements in the vicinity or district the subject parcel is located. Granting this variance will, however, allow greater flexibility in each lot's design once the project moves into construction. Due to the size and location of the wetlands, the road standard for the project, and the required vegetated buffer along the perimeter of the subject parcel, there are numerous lots throughout the subject parcel that need additional space within the lot to place a structure. This variance request also falls within the scope of the Planned Residential Development (PRD) sections of the TCC. Section 23.56.020 states that "the intent of the PRD regulations is to permit greater flexibility and, consequently, more creative and imaginative design as required within...residential areas than generally is possible under conventional zoning regulations." The applicant here believes that granting this particular variance achieves the code's intent of a PRD by utilizing greater flexibility with the reduction of the rear setback.
- vi. The reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land.
 - 1. The reasons set forth here do justify this variance request. As noted above, due to the size and location of the wetlands, the road standard for the project, and the required vegetated buffer along the perimeter of the subject parcel, there are numerous lots throughout the subject parcel that need additional space within the lot to place a structure.
- c. Practical Difficulty. A practical difficulty is present where the harm to the applicant denied a variance will be greater than the probable effect on neighboring properties if the variance

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is granted. The department shall consider the following factors in making a determination of practical difficulty: the nature of the zone in which the property lies, the character of the immediate vicinity and the uses intended therefor, and whether, if restrictions were removed, neighboring property would be seriously affected, and whether, if restrictions were not removed, they would create unnecessary hardship for the owner in relation to efforts to make normal improvements given the property's permitted use. An applicant's mere desire for a variance, even when motivated by economic reasons, does not constitute a practical difficulty.

- i. Practical difficulty is present here due to the applicant's limited ability to utilize the subject parcel more fully because of the considerable size of the wetlands, road design standards, and required vegetated buffer around the perimeter of the subject parcel. The applicant here has made great effort to dedicate as much area as possible to maintain the nature of the zone in which the property lies. The applicant has designed a subdivision at the lower end of the allowed density range in order to preserve more area for the wetlands. The applicant has also taken into account the character of the immediate vicinity and uses intended therefore by, again, maintaining a lower density for the subdivision while preserving ample acreage for the wetlands. Neighboring property would not be seriously affected by the granting of this variance. Neighboring properties to the east would benefit from the project with the added vegetated buffer not currently in existence, thereby providing additional privacy and landscaping that could enhance their desirability. If the variance here was not granted, it would create unnecessary hardship for the owner in relation to efforts to make normal improvements given the property's permitted use. The proposed project meets all TCC requirements subject to the approval of this variance. Due to the unique conditions of the subject parcel, as previously mentioned, denial of this variance request would cause great hardship upon efforts to reexamine the project's design.
- d. Minimum Setback. No portion of any structure over thirty inches above finished grade shall be closer than two feet from any property line.
 - i. No portion of any structure over 30" above finished grade will be closer than 2'-0" to any property line.