



Hearing Examiner Staff Report and Recommendation

Report Date: January 18, 2024
Hearing Date: January 25, 2024

Application Submittal Date: July 25, 2022
Application Complete Date: February 9, 2023

Project Name: Broere Zoning Variance
Type of Application: Type III Zoning Variance
Permit Number: 22-03678

Project Location

8884 NW Anderson Hill Road
Silverdale, WA 98383
Commissioner District 3

Assessor's Account

142501-2-003-1005

Applicant/Owner of Record

Kathleen and Paul Broere
8884 NW Anderson Hill Road
Silverdale, WA 98383

Recommendation Summary

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

VICINITY MAP



1. Background

The 1.6-acre shoreline parcel is developed with a 2,540-square-foot single-family residence and a 364-square-foot carport. The property is zoned Rural Protection and is served by onsite septic and water.

2. Project Request

The application seeks to reduce the 50 ft front setback required by the Rural Protection (RP) zone to 25 ft to allow for a new 480-square-foot garage. The application was analyzed under Kitsap County Code 17.560.010 Conditions for granting a variance.

3. SEPA (State Environmental Policy Act)

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

4. Physical Characteristics

The subject property is a 1.6-acre shoreline property with a slanted rectangle shape.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: Rural Protection	Standard	Proposed
Minimum Density	N/A	NA*
Maximum Density	1 du/10 acres	
Minimum Lot Size	10 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140'	NA
Minimum Lot Depth	NA	NA
Maximum Height	35 feet	
Maximum Impervious Surface Coverage	NA	
Maximum Lot Coverage	NA	NA

Staff Comment: The subject property is an existing lot and the submitted variance does not seek to the size or shape of the parcel.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front: South	50 feet	25 feet* standard being reduced by variance
Side: East	20 feet; 5 feet for accessory structures	25 ft
Side: West	20 feet; 5 feet for accessory structures	~140 ft
Rear: North (Shoreline)	Rural Conservancy Shoreline Designation 130' from Ordinary High Water	~303 ft

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Shoreline	Rural Protection (RP)
South	Short plat common area; Single-Family Residence	RP
East	Single-Family Residence	RP
West	Single-Family Residence	RP

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County

Police	Kitsap County Sheriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District #400

5. Access

Access to the site is directly of Anderson Hill Road.

6. Site Design

Site design is 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, low density 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

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-5.

Exhibit #	Document	Dated	Date Received
1	Application (submission form)		7/25/22
2	Site Plan		7/25/22
3	Geotechnical Report		2/1/23
4	Addendum to Zoning Variance		8/29/23
5	Health District Approval		5/11/23

9. Public Outreach and Comments

The variance request for this project to reduce the front setback from 25ft to 50ft (50% reduction), requires a Type III permit review process with a decision by the Kitsap County Hearing Examiner per Kitsap County Code 21.04.100. Kitsap County prepared a

notice of application consistent with Kitsap County Code Kitsap County Code 21.04 published on July 25, 2023. Kitsap County received no public comment on this project.

10. Analysis

a. Planning/Zoning

Kitsap County Code 17.560.010 Conditions for granting a variance.

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;

Staff Comment: The subject property is a shoreline parcel with a large cliff on the northern side that pushes development toward NW Anderson Hill Road. Though other properties in the vicinity are also shoreline parcels with difficult topography, not all of them (for example the neighbors across the street) experience this type of challenge. The topography and shoreline were not created by the applicant.

In addition, the subject property has two tiers due to the slope; only the upper tier is available for building, however a required 50-foot setback would render the garage impractical, impinge on the existing home, require tree removal and driveway destruction. The lower tier is too remote from the driveway and impinge upon the septic fields.

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 proposed garage is for the purpose of storing electric vehicles and will have solar panels to power these vehicles. Having electric and solar amenities will aid in the preservation of the property. There are several properties (8880, 9040, and 9200 NW Anderson Hill Road) on the same street that also have structures within the established 50 setback.

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: The proposed garage will be fully hidden due to the existing trees and vegetation. Due to the vast screening from existing trees, neighbors in the vicinity will not notice the proposed garage. The rural character would remain.

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

Staff Comment: The proposed garage is 480 square feet and has no proposed plumbing. It will accommodate two cars. No other space is proposed within the structure. This is considered a small request (when compared to other garages that also include shop or workspace).

b. Lighting

Lighting was not evaluated for this proposal.

c. Off-Street Parking

Because the subject property already has an established parking standard when the existing single-family residence was built, off street parking was not analyzed under this proposal.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
N/A	N/A	N/A	N/A
Total			N/A

d. Signage

There were no signs proposed within the permit application.

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	NA	NA
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA

East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

Frontage improvements were not required for this proposal.

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Stormwater review was done under the building permit 22-02044. Kitsap County engineering staff reviewed the proposal and approved.

i. Environmental

The subject property has high geologic hazards approximately 135’ from the proposed garaged. Submitted with the application was a geologic report prepared by All American Geotechnical dated December 2022. The report states, "The development site, while within 200 feet of two different landslide/bluff mappings, is in no danger of landslide failure or mass wasting." The report also states, "we recommend that the project proceed." The project will be conditioned to follow the recommendations of the report.

In addition to having geological hazards on site, the subject property is a shoreline parcel. Kitsap County Code 22.200.100.5 defines the shoreline jurisdiction properties “typically within two hundred feet of the ordinary high-water mark (OHWM).” The proposed garage is approximately 320 ft from the ordinary high waterline which is outside of the shoreline jurisdiction.

j. Access, Traffic and Roads

The proposal was not reviewed for access, traffic, or roads.

k. Fire Safety

Fire safety was analyzed under the building permit 22-02044. Kitsap County Fire Marshal’s staff reviewed and approved the proposal.

l. Solid Waste

Solid waste was not analyzed under this proposal.

m. Water/Sewer

Submitted with the application was a building clearance application to the Kitsap Public Health District (Exhibit 5) which shows the property has onsite sewage and water.

n. Kitsap Public Health District

Kitsap Public Health District reviewed and approved the proposal with no conditions.

11. Review Authority

The Hearing Examiner has review authority for this zoning variance application under Kitsap County Code Section 21.04.100. The Hearing Examiner may approve, approve with conditions, remand, or deny a zoning variance.

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. Recommendation

Based upon the analysis above and the decision criteria found in KCC, the Department of Community Development 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 (Permit 22-03678). 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

None

c. Environmental

5. The project shall follow the recommendations of the submitted geologic report prepared by All American Geotechnical dated December 2022.

d. Traffic and Roads

None

e. Fire Safety

None

f. Solid Waste

None

g. Kitsap Public Health District

None

Report prepared by:



1/17/24

Katharine Shaffer, Planning Supervisor/ Project Lead

Date

Report approved by:



1/18/24

Scott Diener, Planning Manager

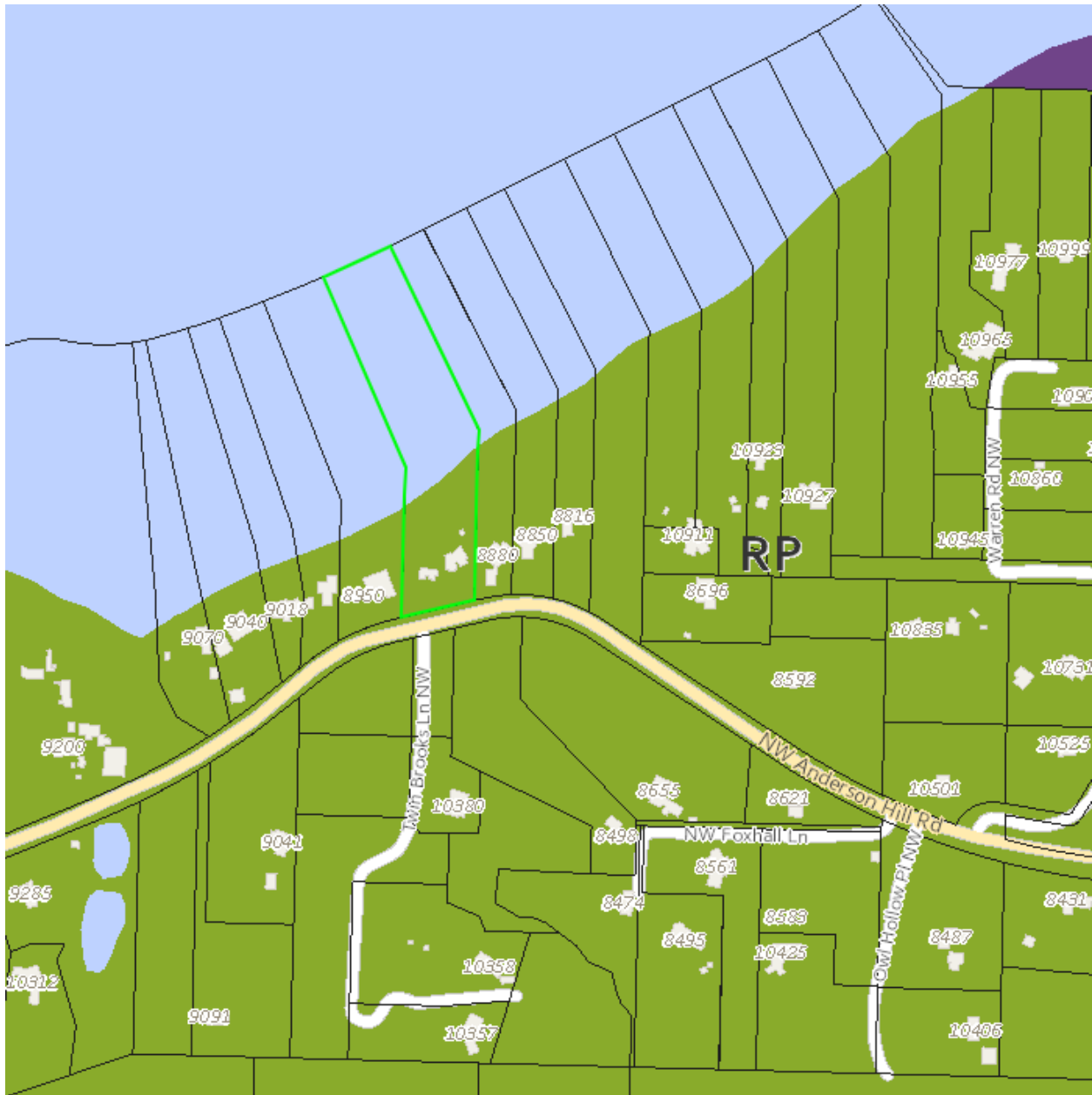
Date

Attachments:

Attachment A – Zoning Map

CC: Applicant/Owner: Paul and Kathleen Broere, broere@wavecable.com
Designer: Tom Herstad Building Design, tom@tomherstad.com
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer

Attachment A – Zoning Map



Site Plan

