



Notice of Administrative Decision

Date: 03/23/2022

To: RJ PEABODY INC, RJREALESTATE@MSN.COM
EAGLE HOMES INC, donvandusen@comcast.net

RE: Permit Number: 21-04186
Project Name: RJ PEABODY INC - reduce 100 foot setback from property to the North
Type of Application: Administrative Zoning Setback Variances (Two Type II requests)

The Kitsap County Department of Community Development has **APPROVED** the land use application for 21-04186: **RJ PEABODY INC - reduce 100 foot setback from property to the North – Administrative Zoning Setback Variances (Two Type II requests), subject to the conditions outlined in this Notice and included Staff Report.**

THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofirms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

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 at 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. Please note DCD is open Monday to Thursday from 8:00am to 4:00pm and on Friday from 9:00am to 1:00pm except holidays.

CC: Interested Parties:
None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: STEVE HEACOCK
DCD File # 21-04186

21-04186, RJ PEABODY INC - reduce 100
foot setback from property to the North
03/23/2022



ADMINISTRATIVE STAFF REPORT

Report Date: March 17, 2022

Application Submittal Date: August 2, 2021

Application Complete Date: October 7, 2021

Project Name: Peabody – Zoning Variance – Administrative (> 10% to ≤ 25%)

Type of Application: Administrative Zoning Setback Variances (Two Type II requests)

Permit Number: 21-04186

Project Location

12889 Bear Lake Dr SW
Port Orchard, WA
South Kitsap (District 2)

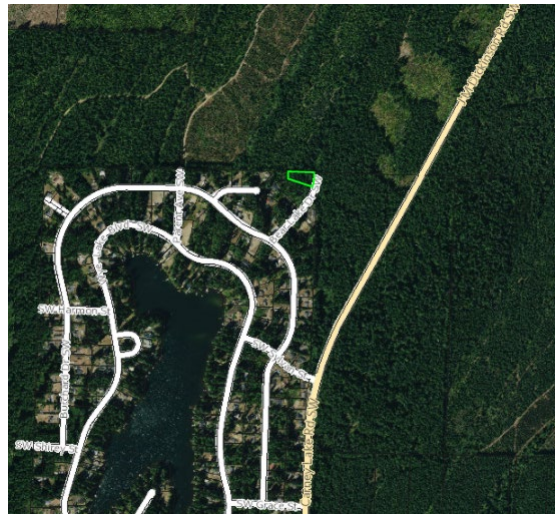
Assessor's Account

4858-002-022-0005

Applicant/Owner of Record

RJ Peabody Inc
PO Box 565
Burley, WA 98322

VICINITY MAP



1. Project Request

The applicant is proposing to construct a single-family residence, driveway, and septic drain field on a parcel with a Rural Residential (RR) zoning designation. Per Kitsap County Code (KCC) 17.420.060 A.42.b the setbacks from Urban Restricted ordinarily apply to the parcel because it is less than one acre. However, per KCC 17.420.060, footnote 29, a one-hundred-foot setback is required for a single-family building that abuts parcels with a Rural Wooded (RW) zoning designation. The proposed home abuts two properties with RW zoning designations to the north (side yard) and east (front yard). Per KCC section 17.100.060 Relationship to Procedures Ordinance the more restrictive setback applies. The applicant is requesting a variance to reduce 1) the required setback to the north from 100 feet to 75 feet (25% reduction) as measured to the northern property line; and 2) the required setback to the east from 100 feet to 75 feet (25% reduction) as measured from the center of the Right of Way, a 30-foot offset to the east from the project site's eastern property line.

2. SEPA (State Environmental Policy Act)

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

3. Physical Characteristics

The site is a 0.60 acre, wedge-shaped parcel located in a Rural Residential-zoned area in Kitsap County. The site is currently undeveloped and mostly wooded. There are no wetlands or streams on or around the site that would affect the development of this parcel. A moderate slope with erosion potential exists on the westerly portion of the site. However, a limited geotechnical assessment indicates that the lot may be developed with a single-family home provided the geotechnical expert inspects footing excavation prior to footing construction.

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 (East)	<ul style="list-style-type: none"> • 50 feet - reduced to 20 feet for all structures by FN: 42.b. • FN 29: 100 feet for single family building abutting Rural Wooded zoning designation as measured from the center of the Right of Way. 	75 feet (per variance request). Calculated from center of the 60 foot Right of Way. Equates to 30 feet to center line of the Right of Way + 45 feet = 75 feet total setback from Rural Wooded zoning designation.
Side (North)	<ul style="list-style-type: none"> • 20 feet; 5 feet for accessory structures - 	75 feet (per variance request)

	reduced to 5 feet for all structures by FN: 42.b. • FN 29: 100 feet for single family building abutting Rural Wooded zoning designation	
Side (South)	• 20 feet; 5 feet for accessory structures - reduced to 5 feet for all structures by FN: 42.b.	5 feet
Rear (West)	• 20 feet; 5 feet for accessory structures - reduced to 10 feet for all structures by FN: 42.b.	26 feet

Table 2 - Applicable Foot Notes (FN):

The following sub-sections of Kitsap County Code 17.420.060 A. apply to this request:

29. One-hundred-foot setback required for single-family buildings abutting FRL or RW zones.

42. The following exceptions apply to historic lots:

a. ...

b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

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
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North	Forest Land	Rural Wooded (RW)
South	Vacant	Rural Residential (RR)
East	Forest Land	Rural Wooded (RW)
West	Single-family residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Onsite system
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

4. Access

The site will be accessed directly with a private driveway to Bear Lake Dr SW, a County-owned road.

5. Site Design

The submitted site plan shows the building envelope for a future single-family home in the southeast portion of the property. A septic drain field is proposed in the southwest portion of the property. See attached site plan.

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 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

6. Analysis

a. Planning/Zoning

Setback Variance Criteria

An applicant can request a variation of any numerical standard, except density, when unusual circumstances cause undue hardship in the strict application of the Code. Pursuant to KCC section 21.04.100, a variance greater than 10% and up to 25%

requires a Type II administrative review process (see KCC section 21.04.070). A variance shall be approved only when all the following conditions and facts exist:

1. 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 Comment: 100 foot setback makes this lot unbuildable.

Staff Comment: The site is a 0.60-acre, wedge-shaped parcel located in a Rural Residential-zoned area in Kitsap County. The proposed home abuts two properties with RW zoning designations to the north (side yard) and east (front yard). Per KCC section 17.420.060, footnote 29, a one-hundred-foot setback is required for a single-family building that abuts parcels with a Rural Wooded (RW) zoning designation. These setbacks render the lot unbuildable. A 25-foot setback reduction to the north and the east allows enough area for a building site.

2. 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 Comment: 100 foot setback makes this lot unbuildable.

Staff Comment: The property is in an area of parcels with Rural Residential (RR) zoning designation wherein most lots are developed with single family homes. Many of the lots are smaller, legal nonconforming in size. The variances will allow the property owner the ability to reasonably develop the home with a single-family residence of similar nature to properties in the RR zoning designation.

3. 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

Applicant Comment: Building a small home on a .60 acre lot should not impair the neighborhood.

Staff Comment: The 25-foot setback variances are not expected to have any adverse impacts on the property or vicinity. Many parcels in the vicinity are smaller in size, similar to the project site. Reduced setbacks are consistent with

development of these smaller parcels nearby.

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

Applicant Comment: Without a reduction of the 100 foot setback to approximately 65 feet then this lot is disadvantaged and unbuildable.

Staff Comment: The applicant is requesting a variance to reduce 1) the required setback to the north from 100 feet to 75 feet (25% reduction) as measured to the northern property line; and 2) the required setback to the east from 100 feet to 75 feet (25% reduction) as measured from the center of the Right of Way, a 30-foot offset to the east from the project site’s eastern property line. This variance will allow for triangular shaped building envelope, approximately 20-50 feet wide by 70 feet deep. The variance request is the minimum necessary.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Per KCC section 17.490.030, a single-family dwelling requires 3 parking spaces. Per County code, spaces within a garage may not be counted toward this requirement. The proposed driveway and parking pad include enough area to park 3 vehicles.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 for single-family home	3	3 proposed.
Total	3	3	3

d. Signage

No signage is proposed or required.

e. Landscaping

Per KCC section 17.500.010, single-family lots are exempt from landscaping requirements.

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

No comments at this time.

i. Environmental

According to a downstream analysis (see attachment) and critical areas assessment (see attachment) the lot does not contain wetlands or streams, nor do offsite wetlands and streams exist that will affect the development proposal. Wye Lake is approximately 1300 feet southwest of the site, separated by multiple residential lots that border the lake.

“Observations made along Bear Lake Drive SW and desktop research public records indicate that the mapped Type N stream begins offsite to the south approximately as mapped and is immediately conveyed into a culvert beneath the road. The stream does not appear to “daylight” until it is conveyed beneath Burchard Drive SW, over 500 feet downslope from the lots (Figure 1). Type Ns streams require a buffer of 50 feet and the stream begins between 175 and 200 feet from the corner of the south lot. Therefore, it does not appear that any buffer from the mapped stream would overlap with the proposal on the subject lots” (Attachment C - Critical Areas Assessment letter dated 6/1/2021, Page 1 Paragraph 4).

According to the Kitsap County Geographic Information System (GIS) the back two-thirds of the parcel may have moderate erosion potential. The applicant provided a geologic report per KCC 19.400.440.D.2. According to the report the site has a low risk potential for erosion but still requires an engineered drainage design.

The parcel is located in a Category II Critical Aquifer Recharge area. Per KCC section 19.600.610 uses listed in section 19.600.620 require submittal of a hydrological report. A single-family residence is not listed as an activity with potential threat to groundwater quality and therefore exempt from the requirement to provide a hydrological report to address critical aquifer recharge areas.

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

No comments at this time.

n. Kitsap Public Health District

No comments at this time.

7. Review Authority

Per KCC chapter 21.04, a zoning setback variance (> 10% to ≤ 25%) is a Type II administrative decision.

Decision:

Based upon the analysis above and the decision criteria found in KCC section 17.540.040.A, the Department of Community Development recommends that the (Zoning Variance – Administrative (> 10% to ≤ 25%)) request for 21-04186 Peabody – Zoning Variance be **approved**, subject to the following conditions:

1. A SFR permit application will be required to be submitted and approved for legal occupancy of the structure (DCD understands an SFR permit application for the site is under concurrent review).
2. Pursuant to KCC chapter 21.04, land use approval is valid for a period of up to four (4) years from the decision date.
3. Land use approval is limited to the uses proposed by the applicant. Any modifications or expansion of the project will be subject to further review pursuant to the requirements of the appropriate sections of the KCC.
4. The applicant shall adhere to all applicable requirements of the Kitsap Public Health District.
5. The applicant shall adhere to all applicable requirements of Development Services and Engineering.
6. A geotechnical expert shall inspect finished footing excavation prior to footing construction.

Report prepared by:



Darren Gurnee / Project Lead

3/17/2022

Date



Scott Diener, DSE Manager

3/17/2022

Date

Attachments:

Attachment A – Site Plan

Attachment B – Zoning Map

CC: RJ Peabody Inc: Owner/Applicant
EAGLE HOMES INC
Kitsap County Health District, MS-30
Kitsap County Public Works Dept.,
MS-26 DCD Staff Planner: Darren
Gurnee

Attachment A – Site Plan



Attachment B – Zoning Map

