

City of Chelan, Washington
Community Development Department
Staff Report
November 2023

Zoning Variance (VAR))	File Nos. VAR2023-06
)	
122 Monte Carlo Dr, Chelan WA, 98816)	Staff Contact:
Chelan County Tax Parcel: 272210815130)	Maggie Boles, Senior Planner
)	
Applicant:)	
Dave Salvadalena (Owner))	
PO Box 2161, Snohomish, WA 98291)	
)	
Agent:)	
Emily Riddle, JWR Design)	
104 Front St, Lynden, WA 98264)	

STAFF RECOMMENDED DECISION

Based upon the following suggested findings of fact and conclusions of law presented below, the application for Zoning Variance 2023-06, submitted by Emily Riddle, on behalf of Dave Salvadalena, is recommended for **PARTIAL APPROVAL**, based on the listed conditions of approval.

DATED THIS 3rd day of November 2023



Maggie Boles, Senior Planner

This report is broken into seven sections, as follows:

- I. Summary of Request
- II. Application
- III. Zoning and Site Information
- IV. Application Processing
- V. Review/Analysis
- VI. Conclusions
- VII. Recommended Conditions

FINDINGS OF FACT

I. SUMMARY OF REQUEST

The proposal is a zoning variance (VAR2023-06) to the standards for building and retaining wall setbacks, as specified in Chelan Municipal Code (CMC) 17.20.040 and 17.04.075. The application includes three variance requests, as follows:

1. A request to reduce the front yard setback to 8 feet from the building foundation, for construction of a new single-family residence with attached garage.
2. A request to construct two verti-block retaining walls to support a new residential driveway, located within the required setbacks, due to wall height.
3. A request to allow a 6-foot eave and 8-foot cantilevered decks in the reduced setback.

II. APPLICATION

1. The applicant is Dave Salvadalena (property owner), mailing address PO Box 2161, Snohomish, WA 98291
2. The authorized agent is Emily Riddle, JWR Design, mailing address 104 Front St, Lynden, WA 98264
3. Submitted application materials are as follows:
 - 3.1. Variance Application
 - 3.2. Narrative
 - 3.3. Site Plan
 - 3.4. Preliminary floor plans and elevation drawings
 - 3.5. Geotechnical Evaluation
 - 3.6. Tower Designs Letter

III. ZONING AND SITE INFORMATION

4. The site address is 122 Monte Carlo Dr, Chelan, WA 98816; Assessor's tax parcel number 272210815130.
5. The site is a 0.23-acre residential lot, legally described as Lot 125, Plat of Riviera Chelan No. 1, recorded in Volume 7 of Plats, Pages 10-14.
6. The site is a vacant lot, on a moderately to steeply south-facing slope between Monte Carlo Dr and Boyd Rd. The slope is vegetated with grass and sagebrush.
7. Adjacent land uses are as follows:
 - 7.1. North: Boyd Rd (public right-of-way); R-L zoning district.
 - 7.2. South: Monte Carlo Dr (public right-of-way); single-family residential development; R-L zoning district.
 - 7.3. East: Single-family residential development; R-L zoning district
 - 7.4. West: Vacant residential lot; R-L zoning district.
8. Access to the subject property is provided by Monte Carlo Dr, a 50-foot public right-of-way, with a paved width of approximately twenty (20) feet.
9. The underlying Zoning District & Comprehensive Plan Land Use designation for the subject site is R-L – Single-Family Residential District.
10. Pursuant to CMC 17.20.020, a single-family residence is a permitted use in the R-L zone.
11. The R-L Zoning district setbacks are as follows:
 - 11.1. Front yard: Twenty-five (25) feet
 - 11.2. Side yard: Five (5) feet
 - 11.3. Rear yard: Twenty (20) feet
12. The maximum building height in the R-L zoning district is 30 feet, measured from average native grade to the highest point of the roof.
13. The maximum allowable lot coverage in the R-L zone is 30 percent for lots 8,500 square feet in size or greater.
14. Pursuant to CMC 17.04.075(F), rockeries and retaining walls equal or less than 48 inches in height may be located in required setback areas if not being used as a direct structural support for a building and if the wall complies with the clear sign zone standards specified in Section 10 of the city's development standards. Rockeries and retaining walls more than 48 inches and less than 72 inches in height shall have a five-foot minimum setback at the front, side, and rear yards.
15. Pursuant to CMC 17.04.077, rockeries or retaining walls over 72 inches in height must be setback one foot for every foot of wall height.

IV. APPLICATION PROCESSING

- 16. The application was submitted on August 31, 2023.
- 17. The application was deemed complete for processing on September 14, 2023.
- 18. Application materials and responses were submitted in fulfillment of the requirements in CMC 17.64.010.
- 19. The application is categorically exempt from SEPA review per WAC 197-11-800(6)(e).
- 20. Notice of Application was provided in the following manner:
 - 20.1. Mailed to property owners of record within 300 feet of the subject property on September 20, 2023.
 - 20.2. Posted on site on September 20, 2023
 - 20.3. Published in Lake Chelan Mirror Newspaper on September 20, 2023
- 21. Notice of Application was referred to the following agencies on September 14, 2023:
 - 21.1. Chelan County Public Utility District No. 1 – Alicia Hankins
 - 21.2. The Confederated Tribes of the Colville Reservation (CCT) - Guy Moura
 - 21.3. Department of Ecology
 - 21.4. Washington State Department of Fish and Wildlife
 - 21.5. Confederated Tribes and Bands of the Yakama Nation – Casey Barney
 - 21.6. Confederated Tribes and Bands of the Yakama Nation – Jessica Lally
 - 21.7. WSDOT
 - 21.8. Chelan County Fire District Seven, Brandon Asher
 - 21.9. Dept. of Archeology and Historic Preservation (DAHP) – SEPA Center
 - 21.10. City of Chelan, Public Works – Jake Youngren
 - 21.11. City of Chelan, Public Works – Thomas Tupling
- 22. Agency comments were received from the following:
 - 22.1. Jason Miller, Chelan County Public Utility District No. 1
 - 22.2. Ken Muir, Washington State Department of Fish & Wildlife
 - 22.3. Thomas Tupling, City of Chelan Public Works
 - 22.4. Natasha Kolostyak, WSDOT
- 23. Public comments were received from the following:
 - 23.1. Steve and Linda Bulzomi, 101 San Remo Lane, Chelan, WA 98816
 - 23.2. Soni Mundi & Munish Paul, 124 Monte Carlo Dr, Chelan, WA 98816
 - 23.3. Roger Erickson, 108 Riviera Dr, Chelan,
 - 23.4. William & Darlene Bishop, 22222 Dock Ave S, Unit 2C, Des Moines, WA 98198
- 24. The following table summarizes the public and agency comments and concerns:

Name	Agency	Comments
Jason Miller	CCPUD	1. Facility Modification may be necessary based on where existing PUD power and fiber is in the ground. Power and fiber should be located to ensure the proposed site plan does not conflict with existing power and fiber. Proper burial depth of power and fiber must be maintained in the proposed final grading. 2. Easements will be required for all primary power sited on the parcel or secondary power that crosses one or more parcels to serve another parcel. 3. Owner will need to apply for power with Chelan PUD.

Steve and Linda Bulzomi	N/A	Opposed
Soni Mundi & Munish Paul	N/A	Concerns with how this request will impact the development of their property (directly west). Concerns with water runoff.
Ken Muir	WDFW	Shrubsteppe habitat - if unavoidable impacts, consider requiring Development Standards, consistent with the requirements of CMC 14.10.060(C)(4)
Roger Erickson	N/A	Opposed
William & Darlene Bishop	N/A	Concerns with the project and impacts to their property across the street. Questions the necessity for this variance, has concerns with the hillside stability, and concerns with drainage and street parking.
Natasha Kolostyak	WSDOT	No Comment
Thomas Tupling	City of Chelan Public Works	Concerns with the reduced setback and impacts to the road and utilities. Recommends adjacent homeowners work together to design a load bearing wall continuous along the properties, with a shared driveway system.

25. Agency and public comments have been considered in the review and rendering of this decision.
26. Notice of Public Hearing was provided in the following manner:
 - 26.1. Mailed to property owners of record within 300 feet of the property owned by the applicant on or before November 1, 2023.
 - 26.2. Mailed to the applicant on or before November 1, 2023.
 - 26.3. Posted on site on or before November 1, 2023.
 - 26.4. Published in Lake Chelan Mirror Newspaper on November 1, 2023.

V. REVIEW / ANALYSIS

27. Pursuant to CMC 17.64.010, applications for variances from the terms of the zoning ordinance, the official map ordinance, or other land use regulatory ordinances under procedures and conditions prescribed by this title or other provisions in this Chelan Municipal Code, shall be granted only if the hearing examiner finds that all the following conditions exist:
 - 27.1. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and
 - 27.2. Such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
 - 27.3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
 - 27.4. Hardships of a financial nature, hardships which are self-created, and hardships which are personal to the owner and not to the property, shall not be grounds for a variance;
 - 27.5. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.

28. Applicant responses to the conditions required in CMC 17.64.010 are as follows:
- 28.1. *As discussed in the narrative provided, this property has an extremely steep slope in conjunction with sandy soils. This makes constructing a home with required utilities difficult. While other homes in the neighborhood have been constructed on steep slopes, 122 Monte Carlo Dr. and the properties to the west of this property, have a greater slope percentage. Granting 122 Monte Carlo Dr an 8 ft variance will not grant special privilege, and instead would allow for a safe and effective form of construction. As discussed in the attached narrative having our foundation 8 ft. from the property line with the verti-block retaining wall aligning with the neighbors in the right of way, provides the ability for the home to sit on top of the slope and avoid making large cuts in the instable soils. Due to the steep slope and sandy soils, the construction we are proposing has been discussed with professionals such as: Nelson Geology, the building designer, an engineer, and the septic installer.*
 - 28.2. *The variance is necessary for the reasons discussed above. Without the 8 ft. variance, the Geologist is concerned the neighboring properties could be negatively impacted. They are also very concerned that if this site is not disturbed correctly, the sandy soil could collapse and create many dangerous site issues.*
 - 28.3. *Moving the site to 8 ft. from the property line will not impact the public welfare. It will instead protect the neighboring properties and provide the properties with the ability to safely construct a home the same way we are requesting.*
 - 28.4. *The hardships are specifically related to the property due to the intense slope and sandy soils that have previously been discussed. This request would allow for a safe and stable building, keeping the ground stable for future and existing buildings.*
 - 28.5. *The intent of this property was for the construction of a single-family residence. This variance request is related to the construction of a single-family residence; therefore, this request being granted will not require rezoning.*

Staff review of the proposed project, applicable zoning requirements, and variance criteria include the following analysis:

Zoning Requirements

- 29. The Applicant is requesting a variance to reduce the front yard setback to 8 feet, to accommodate a new single-family residence with attached garage.
 - 29.1. Pursuant to CMC 17.20, the R-L zoning district requires a 25-foot front yard setback for all structures.
 - 29.2. Pursuant to CMC 17.04.070(C), the front yard may be reduced to 12 feet from the street right-of-way when the slope of the front 50 feet of the lot, measured from the flowline of curb (or the ditch bottom) at the midpoint of the proposed building frontage equals or exceeds two feet of fall in five feet of distance from the front property line.
 - 29.2.1. According to the site plan of record, the slope in the first 50 feet of lot is 40 percent (2 feet of fall in 5 feet). The site qualifies for an administrative front yard slope reduction to 12 feet, pursuant to CMC 17.04.070(C).
 - 29.3. Pursuant to CMC 17.04.075(D), Bay windows, eaves, cantilevered parts of a building and other elements of a structure, excluding gutters, that customarily extend beyond the exterior walls of a structure and do not require a foundation may extend up to 18 inches into any required setback area. The total horizontal dimension of the elements that extend into a required yard, excluding eaves, may not exceed 25 percent of the width of the facade upon which it is located.

- 29.3.1. According to the application materials, the applicant is seeking the allowance for a 6-foot eave and 8-foot cantilevered deck in the reduced setback. The request exceeds the allowable extension of 18 inches into setbacks and requires a variance.
 - 29.3.2. According to the preliminary floor plan, the front façade is 40 feet wide, and the cantilevered deck is 50 feet wide. The deck exceeds 25% of the width of the front façade and requires a variance.
30. Pursuant to City of Chelan Development Standards, Section 5E.050, Retaining Walls in Right-of-Way, poured-in-place concrete, mechanically stabilized earth (MSE) walls, gabion walls, rock concrete building block, or other approved material may be used for erosion protection of cut or fill embankments, for structurally retaining embankments, or as desired or aesthetic purposes. Retaining walls may be subject to design review.
- The height of a retaining wall is that distance as measured from the top of the footing, regardless of whether the footing is buried or exposed, to the top of the wall. Structural walls on private property require the issuance of a Building Permit prior to construction, and fall under the jurisdiction of the Building Official, per 17.04.077.
- Retaining walls over 4 feet in height located on a public right-of-way shall meet or exceed WSDOT design standards and be designed by a Washington State Licensed Professional Engineer and be approved by the City engineer.
- 30.1. Retaining walls can be permitted in the public-right-of way, subject to WSDOT design standards, engineering, and review and approval by the City engineer.
 - 30.2. An agreement between the property owner and the City is required for installation of retaining walls in the right-of-way.

Variance Criteria:

Staff findings and conclusions in response to CMC 17.64.010(A-E) are provided below.

- 31. In response to CMC 17.64.010(A):

Single-family residences and retaining walls are permitted uses in the R-L zoning district and do not grant special privilege.

CMC 17.04.070 permits a reduced setback of 12 feet based on the topography of the lot. The requested setback reduction to 8 feet from the property line would reduce this setback by an additional 4 feet. Staff finds this request to be inconsistent with the neighborhood, as other residential structures are setback between 12 and 25 feet. Because the conditions of the property are unique, due to the combination of steep slopes and sandy soils, staff would support a setback of 10 feet, consistent with the allowances for slopes exceeding 50 percent, per CMC 17.04.070.

The request for an 8-foot cantilevered deck and 6-foot eave is inconsistent with the zoning code and would grant a special privilege inconsistent with the limitation upon other residences in the vicinity. All structures are limited to a maximum encroachment of 18 inches for eaves and cantilevered portions of the structure, and limit cantilevers to a maximum of 25 percent of the width of the front facade.

The request for a retaining wall within the front and side yards, exceeding the height outlined in CMC 17.04.075 and 17.04.077, is consistent with the neighborhood. Properties in this neighborhood contain retaining walls exceeding 48 inches within the front and side yard areas. Allowing the walls to be placed in these areas does not grant a special privilege.
- 32. In response to CMC 17.64.010(B):

As indicated in the application materials, the variance is necessary due to the combination of steep slopes and sandy soils present on the property. As identified in the report by Neslon

Geotechnical, it is recommended that *the house be placed as close as possible to the lower road (Monte Carlo Dr) to reduce the need for major cuts into the slope.* In addition, the property is not served by city sewer and requires installation of a septic system; the topography and soil type limit the available locations for the system. The variance will allow for the construction of single-family residence and driveway, a similar use right and privilege permitted to other properties in the R-L zoning district.

33. In response to CMC 17.64.010(C):

As noted in the email from the City Public Works Department, there are concerns about reduced front yard setbacks increasing the load bearing portion of a structure on rock walls supporting the right-of-way. This causes extra weight on utilities and would also create right-of-way runoff issues.

With the following conditions of approval, the proposed variance will not be injurious to the public welfare or to the property or improvements in the vicinity.

Recommended Condition: The variance is limited to a building setback reduction to 10 feet from property line. Eaves and cantilevers shall comply with CMC 17.04.075(D).

Recommended Condition: The retaining walls located in the right-of-way shall be designed in accordance with the standards identified in 5E.050 of the City's adopted Development Standards

Recommended Condition: A stormwater management plan shall be prepared to address potential runoff resulting from the proposed development. The plan shall be reviewed and approved by the City of Chelan Public Works Department, prior to issuance of permits.

Recommended Condition: Retaining walls located on private property and within the required setbacks due to wall height are permitted. A building permit and engineering is required for all walls exceeding four feet in height and located on private property.

34. In response to CMC 17.64.010(D):

The hardship asserted by the Applicant is based on the topography and soil types on the property. The hardship was not created by the Applicant.

35. In response to CMC 17.64.010(E):

The variance request relates to setbacks and retaining wall height, not building use. The variance will not amount to a rezone or authorize any use not allowed in the R-L zoning district.

36. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

VI. CONCLUSIONS

1. The City of Chelan Hearing Examiner has been granted the authority to render this decision, pursuant to CMC 2.15.30(B).
2. The application was processed in accordance with the requirements for a Type III permit application, as outlined in CMC Title 19.
3. Public notice was provided in accordance with CMC 19.22.
4. As conditioned, the request for a reduced building setback is consistent with the variance conditions outlined in CMC 17.64.010(A-E).
5. As conditioned, the request to construct retaining walls in the front and side yards, exceeding the height limitations identified in 17.04.075(F)(3) and 17.04.077, is consistent with the variance conditions outlined in CMC 17.64.010(A-E).

6. The request for an 8-foot cantilevered deck and 6-foot eave would grant a special privilege inconsistent with the limitation upon other residences in the vicinity. This component of the variance request is inconsistent with the variance conditions outlined in CMC17.64.010(A-E).
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

Based on the above Findings of Fact and Conclusions of Law, staff offers the following recommendations for PARTIAL APPROVAL of VAR2023-06:

Staff recommends **CONDITIONAL APPROVAL** of the following:

1. A reduced front yard setback of **10 feet** from the building foundation.
2. Construction of a verti-block retaining wall to support a new residential driveway, located within the required setbacks due to wall height.

Staff recommends **DENIAL** of the following:

3. The request to allow a 6-foot eave and 8-foot cantilevered deck into the reduced setback.

VII. RECOMMENDED CONDITIONS

Staff recommends this partial approval be subject to the following recommended conditions of approval:

1. Construction shall proceed substantially as shown in the application materials on file with the City of Chelan, except for minor adjustments to conform to conditions of approval or any received agency comments.
2. The applicant is responsible for compliance with all applicable local, state, and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. The variance is limited to a reduced building setback of 10 feet from the front property line. Eaves and cantilevered portions of the building shall comply with CMC 17.04.075(D).
4. Retaining walls located on private property and within the required setbacks due to wall height are permitted. A building permit and engineering is required for all walls exceeding four feet in height and located on private property.
5. Retaining walls located in the right-of-way shall be designed in accordance with the standards identified in 5E.050 of the City's adopted Development Standards and shall be reviewed and approved by the City of Chelan Public Works Department prior to installation.
6. An agreement between the property owner and the City of Chelan is required for installation of retaining walls in the City right-of-way.
7. A stormwater management plan shall be prepared to address potential runoff resulting from the proposed development. The plan shall be reviewed and approved by the City of Chelan Public Works Department prior to permit issuance.
8. Retaining walls shall be constructed to the minimum height necessary, as determined by a Washington State licensed engineer.
9. The proposal shall be designed to minimize impacts to native vegetation.
10. Facility modification may be necessary based on where existing PUD power and fiber is in the ground. Power and fiber should be located to ensure the proposed site plan does not conflict with existing power and fiber. Proper burial depth of power and fiber must be maintained in the proposed final grading.

11. PUD easements will be required for all primary power sited on the parcel or secondary power that crosses one or more parcels to serve another parcel.

ATTACHMENTS

1. Exhibit A – Application
2. Exhibit B – Site Plan, Preliminary Floor Plans & Elevations
3. Exhibit C – Geotechnical Report
4. Exhibit D – Letter from Zack Tower
5. Exhibit E – Public & Agency Comments
6. Exhibit F – Noticing Materials
7. Exhibit F – Supporting Documentation from Applicant