

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WA 98802-4109

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

| | | |
|-------------------------|---|--------------------------------|
| IN THE MATTER OF |) | FINDINGS OF FACT, |
| |) | CONCLUSIONS OF LAW, AND |
| V-2025-01 |) | DECISION |
| Zavala Variance |) | |

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on February 19, 2026, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, and Decision as follows:

I. FINDINGS OF FACT

1. **Requested Action:** An application for a variance from DCC 18A.32.060 (Off-street parking requirements). DCC 18A.32.060 states that all off-street parking shall be located to the rear of any front yard setback line and shall not project beyond any side yard setback line. The applicant is seeking relief from this requirement in order to facilitate future residential development.
2. **Location:** The subject property is addressed as 1918 NW Bates Ave, East Wenatchee, WA 98802. The properties are further described as being located within Section 35, Township 23N, Range 20E, W.M. Douglas County Assessor’s Parcel Number 23203530039.
3. **SITE INFORMATION:**
 - 3.1. **Total Project Size:** 0.9 acre
 - 3.2. **Services and Utilities:**

| | |
|---------------------------|--|
| 3.2.1. Domestic Water: | East Wenatchee Water District |
| 3.2.2. Sewage Disposal: | Douglas County Sewer District |
| 3.2.3. Power/Electricity: | Douglas County Public Utility District |
| 3.2.4. Fire Protection: | Wenatchee Valley Fire Department |
| 3.2.5. School District: | Eastmont School District |
| 3.2.6. Irrigation: | Domestic Water |
| 3.2.7. Telephone Service: | Varied |
 - 3.3. **Site Characteristics:** The property is currently vacant with no existing structures or improvements. The subject property is flat with no variation in topography.
 - 3.4. **Uses adjacent to the subject properties:**
 - 3.4.1. North: Single-family dwellings

3.4.2.South: Single-family dwellings, Government office buildings

3.4.3.East: single-family dwellings, duplex

3.4.4.West: Single-family dwellings

3.5. **Access:** The subject property will be accessed via NW Bates Ave.

3.6. **Zoning and Development Standards:** The subject property is located within the Residential High-density/ office (R-H) Zoning District under Douglas County Code 18A.24.

4. **ENVIRONMENTAL REVIEW:**

4.1. Planning staff regard this proposal exempt from SEPA review pursuant to WAC 197-11-800(6)(e).

5. **AGENCY AND PUBLIC COMMENTS:**

5.1. Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as an attachment to this report.

5.2. **Agency comments:**

| Agency Notified | Response Date | Agency Notified | Response Date |
|---|---------------|---|---------------|
| Douglas County Land Services Department | 1/26/2026 | Douglas County Transportation and Stormwater Department | 12/29/2025 |

* N/R = No Reply

5.3. Agency comments have been included as suggested conditions of approval, where applicable.

5.4. No public comments were received regarding the application.

6. **Variance Criteria:** The subject property is located within the East Wenatchee Urban Growth Area, where variances are governed by Chapter 18A.88 DCC.

7. **Background Information**

7.1. In December 2022, Jesse Robbins and Brittany Roberson submitted a building plan to construct a duplex adjacent to this vacant lot. The project name was called Bates Duplex PH1 – Permit # BPR-2022-440. The address is 1912 & 1914 NW Bates Ave., Douglas County issued the Certificate of Occupancy on March 12, 2024. This is a duplex construction, and the two separate units are currently occupied. Off-street parking has never been an issue for these duplex buildings or their residents.

7.2. In August 2025, a 2-lot Short Plat was recorded, dividing the parcel to the west of this duplex building into two lots (see attached exhibits and site plan). The Recorded Short Plat SS-2024-02 identifies Lot 1 (4,030 square feet) and Lot 2 (4,695 square feet). Lot 1 is the subject property with this variance request. The lot size is approximately 49.92' x 80.75' and meets the R-H Residential High Density/ Office District dimensional standards and was approved by Douglas County.

7.3. Lot 1 with Parcel No. 23203530013 was created in the hope that a duplex unit similar to the one on the adjacent parcel could be constructed on this parcel, as allowed by the City of East Wenatchee, Chapter 18A.32 R-H Residential High Density/Office District. Given the current housing demand and shortages, the property owner was hopeful and encouraged by the prospect of constructing a duplex building to address the housing crisis facing our county

and the state. However, after an initial meeting with Land Services staff, it was discovered that while the duplex could be built, the off-street parking requirements posed a serious barrier.

7.4. Per DCC 18A.32.050, the following are required:

7.4.1.G. Minimum setback distances: except as provided in DCC 18A.72.040(B), (C), (D), (F), and (H):

7.4.1.1. 1. Front yard: 10 feet from the front property line. Any garage or carport with entrances facing a street shall be set back at least 20 feet.

7.4.1.2. 2. Rear yard: 15 feet.

7.5. Further, according to DCC 18A.32.060 Off-street parking, the following are required:

7.5.1. The off-street requirements shall be as set forth in DCC 18A.72.010, as the same exists now or may hereafter be amended.

7.5.2. All of the parking shall be located to the rear of any front yard setback line and shall not project beyond any side yard setback line. (Ord. TLS 23-11-44B Att. A).

7.6. Planning staff take the position that the above-mentioned standards, along with the off-site parking requirements, are serious regulatory barriers that need to be addressed expeditiously to encourage high-density housing in Douglas County to meet state mandates, specifically HB1220 (Housing Bill). This subject property is 49.92' wide x 80.75' deep; subtracting the front setback of 20' and the rear setback of 15' leaves only 45.75' depth to work with, which leaves the site as undevelopable as the applicant hopes.

7.7. Planning staff note the oddity that these stringent setbacks are ONLY required for this zoning district; other zoning districts do not have this barrier, which they consider inequitable and counterintuitive. Planning staff anticipate the removal of these provisions in 12 to 24 months through a code amendment.

7.8. Planning staff further take the position that housing mandates under state law require closer inspection and cooperation among all parties involved. To address regulatory barriers and process inefficiencies, the Douglas County Code will require serious updates and amendments. According to the Growth Management Act (GMA) requirements and Douglas County Comprehensive Plan Update project timetable, it is contemplated that a major overhaul of the Code will be undertaken as soon as the Comprehensive Plan Update is completed in December of 2026. Staff will review all existing code ambiguity problems and issues and remove these regulatory barriers and have clarity. Once the code has been amended, high-density developments will not face similar problems. It is expected that the Douglas County Code will be updated within that time frame, but staff cannot guarantee it at this time.

7.9. Planning staff met with the applicant and discussed the code update process and how it impacts the subject property timeline. The applicant maintains he cannot wait 12-24 months for the Code to be updated due to projecting financing circumstances, and requested the County to pursue the Variance option.

8. **Staff Analysis:**

8.1. DCC 18A.88.050(A)(1): [T]he 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 subject property is located...

- 8.1.1. **Staff response:** *This variance will not constitute a grant of special privilege inconsistent... because the adjacent property, which has two duplex units already, has an advantage and did not have to experience the same regulatory barrier or scrutiny.*
- 8.2. DCC 18A.88.050(A)(2): [S]uch 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...
- 8.2.1. **Staff response:** *This variance is necessary because the Douglas County Code has created a special circumstance that is unfair and inconsistent with parking standards in other zoning districts, whereby depriving this owner of his development rights, a right and privilege permitted to all single-family homeowners in Douglas County, including the adjacent duplex property owners.*
- 8.3. DCC 18.88.050(A)(3): [T]he granting of such variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.
- 8.3.1. **Staff response:** *Granting of the variance will not be detrimental to public welfare or injurious to property...*
- 8.4. With the incorporation of the conditions below, planning staff recommend approval.
9. Douglas County Transportation & Land Services, in a December 29, 2025 Memorandum attached to the Staff Report, notes:
- 9.1. *Bates Avenue NW currently does not meet the Urban Local Access standard;*
- 9.1.1. *Potential future improvements by others may include curb, gutter, sidewalk, and stormwater infrastructure.*
- 9.1.2. *Culverts may be required for driveways in areas without curb, gutter, and sidewalk.*
- 9.2. *Driveway widths are typically limited to 30' maximum for residential usage. A 30' with driveway does not appear adequate to serve the four (4) parking spaces noted on the site plan.*
10. Douglas County Transportation & Land Services suggested that following conditions of approval (which were further endorsed by planning staff at the February 19, 2026 public record hearing):
- 10.1. *At such time that improvements to Bates Avenue NW are constructed (including sidewalk, curb, and gutter), a maximum driveway approach width of 36' may be granted.*
- 10.2. *Approximately 7 feet will remain east and west of the driveway approach to accommodate ADA-compliant sidewalks and ramps.*
11. After due legal notice and open record public hearing was held on February 19, 2026.
12. The following exhibits were admitted into the record:
- 12.1. Ex. 1. Staff Report
- 12.2. Ex. 2. Remainder of Planning file of Record.
13. Appearing and testifying on behalf of the applicant was Daniel Zavala. Mr. Zavala testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Zavala stated that they agreed with all of the representations within the staff report and had no objections to the recommended conditions of approval set forth in the Transportation & Land Services Memorandum. Mr. Zavala bought subject property in the expectation that he would be

permitted to build a duplex on the subject property equivalent to the immediately adjacent duplex. Mr. Zavala maintains that the planned duplex is the “highest and best use” of the property, but only possible by means of variance. He denied having evaluated other possible developments on the property.

14. No member of the public testified at the hearing.
15. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

16. **DCC 18A.88.050 FINDINGS:**

- 16.1. The requested variance **does not** constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is located. The planning staff analysis of this question, quoted in paragraph 8.1.1. above, examines the “vicinity and zone,” of this property with an extremely narrow scope, focusing on only one immediately-adjacent property that was recently developed in a comparable manner to the applicant’s proposal. The requested variance does not appear to constitute a special privilege in comparison to the current use at that immediately-adjacent property, and no other evidence was presented at hearing concerning the prevalence or scarcity of similar multifamily developments in the neighborhood, the frequency similar requested variances are granted, or examples of building permits denied for off-street parking or setback faults. So, in light of the limited record concerning limitations upon uses of other properties in the broader “vicinity and zone,” the Hearing Examiner adopts the planning staff analysis and conclusion on that point.
 - 16.2. The 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. In particular, the variance is necessary to provide the applicant with use rights and privileges permitted to the adjacent property, where a building permit was granted (possibly in error) for comparable multi-family development. Special circumstances exist relating to the property’s size and location: it is located in the Residential High-Density zone, suggesting a preference for multi-family development, yet the property is somewhat small for multi-family development. This variance facilitates a use for the property that is ideal for its location and promotes equal treatment for the applicant as to the adjacent landowner.
 - 16.3. The granting of the variance **will not** be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity and zone in which the subject property is situated. The planning staff analysis of this question, quoted in paragraph 8.3.1 about, summarily accepts this to be true. No evidence was presented suggesting the variance would result in any detriment or injury, and indeed, the applicant’s proposed use appears to be suitable for the location and consistent with the vicinity and zone.
17. **REASONABLE CONDITIONS OF APPROVAL:** The conditions of approval recommended in the Transportation & Land Services Memorandum appear reasonable and necessary given their endorsement by planning staff and agreement of the applicant.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision under DCC 18A.88.050.

2. The development meets the goals, policies, and implementation recommendations set forth in the Greater East Wenatchee Area Comprehensive Plan and is subject to the suggested Conditions of Approval.
3. This proposal is consistent with applicable federal and state laws and regulations, subject to the suggested Conditions of Approval.
4. Public use and interests will be served by approval of this proposal, subject to the suggested Conditions of Approval.
5. The proposal is consistent with Title 18A DCC, subject to the suggested Conditions of Approval.
6. The proposal is consistent with Title 17 "Subdivisions", Title 19 "Environment", and Title 20 "Development Standards" of the Douglas County Code, subject to the suggested Conditions of Approval.
7. Any Finding of Fact that is more correctly Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Hearing Examiner has determined that V-2025-01 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

1. When improvements to Bates Avenue NW are constructed (including sidewalk, curb, and gutter), the subject property may be granted a maximum driveway approach width of 36'.
2. Approximately 7' shall be reserved east and west of the driveway approach to accommodate ADA-compliant sidewalks and ramps.

Dated this 4 day of March, 2026.

DOUGLAS COUNTY HEARING EXAMINER PRO TEM



Jay D. Eyestone

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is

publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.