

CHELAN COUNTY
LAND USE HEARING EXAMINER

IN THE MATTER OF	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
PL 26-168	)	DECISION AND
Follet Variance	)	CONDITIONS OF APPROVAL

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

I. FINDINGS OF FACT

1. An application for a Variance was submitted to reduce a front yard setback from 55 feet to 30 feet from the centerline of H Street, an unopened right-of-way in the county road system. The variance is requested for the construction of a garage and covered walkway that will connect to the existing residence.
2. General Information

Project Location:	13936 Brae Burn Road, Leavenworth, WA 98826
Parcel Number:	27-17-27-485-207
Legal Description & Lot Size:	Brae Burn Lot 70 The subject property is 0.31 acres according to Assessor's records
Owners:	Follet Vincent, et al. 1037 NE 65 th St. #316 Seattle, WA 98115
Agent:	Pacific Engineering & Design, PLLC (Ryan Walker)
Urban Growth Area:	The subject property is located outside of any Urban Growth Area
Comprehensive Plan Designation & Zoning:	Rural/Residential Resource 5 (RR5)
Existing Land Use & Permit History:	Pursuant to Assessor's records the property contains an existing legal non-conforming single-family residence that was built in approximately 1947 and a 264 sq. ft. shed with a 192 sq. ft. lean to attached built in 2008. SV 18-316: An application for a shoreline variance was approved to vary the existing residential structure height from twenty-five feet (25 ft.) to

	twenty-eight feet (28 ft.) above average grade level to protect the residence from flood waters associated with a 100-year flood event. FDP 25-0057: Flood Development Permit for the after-the-fact home elevation. BP 250666: Building Permit for after-the-fact remodel of existing single-family residence foundation. CC Access Permit #9596: Approved driveway connected to Brae Burn Rd.
--	--

3. Site Information

Site Physical Characteristics:	The subject property is located on the south shore of the Wenatchee River off Brae Burn Rd. The property is located west of a platted, unopened right-of-way that allows public access to the river. There is an existing legal non-conforming single-family residence and accessory structure on the subject property.
Property North:	Wenatchee River & Rural/Residential Resource (RR5)
Property South:	Brae Burn Road & Rural/Residential Resource (RR5)
Property East:	H Street – (unopened County right-of-way) & Rural/Residential Resource (RR5)
Property West:	Rural/Residential Resource (RR5)
Aquifer Recharge Area:	The Aquifer Recharge form was completed with the variance application. Pursuant to Chelan County Code (CCC) Section 11.82.060(2)(A), <i>residential dwelling units and their accessory uses are exempt from the aquifer recharge area regulations under this chapter.</i>
Chelan County Shoreline Master Program (CCSMP)	Pursuant to CCSMP 3.4, Wenatchee River is considered a shoreline of statewide significance; therefore, the provisions of the CCSMP would apply to the subject property.
Fish & Wildlife Habitat Conservation Areas:	According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject property contains Mule Deer, Aspen Stands, and Northern Spotted Owl habitats; therefore, the provisions of CCC Chapter 11.78 would apply.
Wetlands:	Based on WA Dept. of Ecology mapping system, there are no wetlands located on the subject property; therefore, the provisions of CCC Chapter 11.80 would not apply.
Floodplain:	According to the Federal Emergency Management Agency, FIRM panel # 5300150750B, the subject property is located within a known

	floodplain; therefore, the provisions of CCC Chapter 11.84 and CCC Chapter 3.20 would apply. Comments from Christina Wollman indicate that the parcel is located within the “donut hole” of the Wenatchee River floodway.
Geologically Hazardous Areas:	According to the Chelan County GIS mapping, the subject property is not located within a geologically hazardous area; therefore, the provisions of CCC Chapter 11.86 would not apply.
Cultural Resources:	There are no known cultural resources in the project location.

4. Project / Design Information

Construction Phasing/Timing:	Applicants intend for construction to commence once variance, building permit, and flood development permit are all approved and issued.
Traffic Circulation:	The subject property is accessed from Brae Burn Road, a county right-of-way.
Domestic Water:	Single Private Well.
Power:	The subject property is provided power by Chelan County PUD.
Sanitation:	The subject property is provided sewer service by an on-site septic system.
Fire Protection:	The subject property is located within the boundaries of Fire District #9.
Noise:	Any future development of the subject property must comply with the noise requirements of CCC Chapter 7.35 and Revised Code of Washington (RCW) Chapter 70.107.
Visual Impact:	Visual impacts are not anticipated.

5. **SEPA Environmental Review:** Pursuant to WAC 197-11-800(6) (b), variance applications that do not result in an increase in density are categorically exempt from the environmental review process.

6. Noticing & Comments:

- 6.1. The Notice of Application was referred to surrounding property owners within 300’ (excluding 60’ of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on July 25, 2026, with comments due August 08, 2026. Community Development Staff referenced agency and public comments in the staff report and, when appropriate, incorporated certain comments into the recommended Conditions of Approval.
- 6.2. The following is a list of agencies who received notice, and the date and nature of comments returned by responding agencies:

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	November 19, 2025	No comment
Chelan County Building Official	No Comment	
Chelan County Public Works	August 05, 2026	No objection
Chelan-Douglas Health District	No Comment	
Chelan County PUD	August 04, 2026	Potential electric line relocation
WA Dept. of Archaeology and Historic Preservation	No Comment	
Yakama Nation	No Comment	
Confederated Tribes of Colville	No Comment	
WA Dept. of Ecology	No Comment	
WA Dept. of Natural Resources	No Comment	
US Army Corps of Engineers	No Comment	
WA Dept. of Fish & Wildlife	No Comment	

6.3. The following is a list of members of the public who returned comments:

6.3.1. John & Kristy Bradwin – returned August 6, 2026.

6.3.2. Audry Henniger – returned August 7, 2026.

7. Application & Public Hearing Notice Compliance

Application Submitted:	June 26, 2026
Determination of Completeness issued:	July 16, 2026
Notice of Application:	July 25, 2026
Notice of Public Hearing:	August 08, 2026
Public Hearing:	August 19, 2026

8. Open Record Public Hearing

8.1. An open record public hearing was held, after legal notice, on August 19, 2026.

8.2. Ryan Walker, 200 S. Columbia St., Ste. 300, Wenatchee, Washington, appeared and testified as Applicant and agent of the property owners. Mr. Walker testified that he had reviewed the staff report and agreed with its factual representations. He had no objection to the

recommended Conditions of Approval in the staff report, and believed they could be satisfied. Mr. Walker called attention to the distinction between floodplain and floodway, and pointed out that the property is within the Wenatchee River floodplain but outside the floodway. He asserted that the 2025 Wenatchee River flood referenced in the John & Kristy Bradwin comment was “the second-largest in recorded history,” and that certain claims in the Bradwin comment were false. In reference to the Audry Henniger comment, Mr. Walker testified that there were no unresolved code violations.

8.3. No member of the public testified at the hearing. An individual introduced as Heather Hansen indicated interest in the variance process and outcome, but did not give testimony or evidence.

8.4. The following exhibits were admitted into the record:

- 8.4.1. Ex. A Site plan of record dated July 27, 2026
- 8.4.2. Ex. B Agency Comments
- 8.4.3. Ex. C Inadvertent Discovery Plan
- 8.4.4. Ex. D John & Kristy Bradwin Comment
- 8.4.5. Ex. E Audry Henniger Comment
- 8.4.6. Ex. F Application Materials
- 8.4.7. Ex. G Staff Report

9. Chelan County Comprehensive Plan

9.1. Community Development staff reviewed the proposed residential development for consistency with the Comprehensive Plan, and specifically, the goals and policies related to the Rural Residential Resource 5 (RR5) Comprehensive Plan designation and Critical Areas. Staff found that the project, with recommended conditions, appears to be consistent with the Comprehensive Plan.

9.2. The project is consistent with the Rural Residential/Resource 5 (RR5) purpose statement: *to provide rural development consistent with the rural character and rural development provisions outlined in goals and policies of the comprehensive plan. These areas can provide buffering or transitions between existing rural developments and areas of higher or lower densities. appropriate uses include: residential; agriculture; and forestry.*

9.3. The project is consistent with the following Goals and Policies:

9.3.1. Goal CL 1 of the Resource Element: *Identify and protect critical areas from adverse environmental impacts while providing for reasonable use of the property.*

9.3.2. Goal RE 1 of the Rural Designations: *Maintain a balance between human uses and the natural environment in rural areas of the county.*

9.4. The project, appropriately conditioned, is consistent with the Comprehensive Plan.

10. Chelan County Shoreline Master Program (CCSMP) Section 6.2.4, Pre-existing Residential Structures

10.1. The purpose of the requested variance is for applicant to construct a garage and covered walkway connected to a pre-existing legally established residential structure. The garage and walkway are to be built on the landward side of the pre-existing residential structure, and there will be no increase of nonconformity waterward. The application materials included an Ecological Function Assessment offering a credible conclusion that the project will result in

no net loss of shoreline ecological functions. Verification of setbacks in compliance with the report will be reviewed with the building permit submittal.

10.2. The applicant's proposal would be in compliance with CCSMP 6.2.4.

11. CCC 11.12.020, Standards for the Rural Residential/Resource 5

- 11.1. Minimum Lot Size: The applicant is not requesting to modify the lot size, so this standard does not demand review.
- 11.2. Minimum Lot Width: The subject property was created by the recording of the Brae Burn Plat on May 07, 1945, prior to the establishment of any zoning codes in Chelan County. The lot does not comply with the current required minimum lot width of one hundred feet at the front building line. The applicant is not requesting to modify the lot width, so this standard does not demand review. The narrowness of the lot is, however, a unique circumstance over which the applicant has no control, relevant to variance evaluation criteria under CCC 11.95.030(1)(B).
- 11.3. Maximum Building Height: No new structures are being proposed with this application. However, the purpose for the variance request would be for the development of a new garage and covered walkway connected to the existing residence. Maximum building height of 35' will be verified and enforced upon submittal of a building permit application.
- 11.4. Maximum Lot Coverage: According to Chelan County Assessor's records, the property is 0.31 acres, this would allow for 4,726 sq. ft. of lot coverage. Maximum lot coverage of 35% of the lot area will be verified and enforced upon submittal of a building permit application.
- 11.5. Minimum Setback Distances: The subject property has two front line setbacks due to the platted unopened H Street right-of-way adjacent to the east lot line, and Brae Burn Road just south of the property. The subject property's current condition and proposed condition with development of a new garage comply with the required 25-ft. setback from the front property line on Brae Burn Road (or 55-ft. setback from the Brae Burn Road centerline), the required 20-ft setback from the rear property line, and the required 5-ft. setback from the west side property line. However, without the requested variance, the lot would be considered unbuildable under current zoning regulations due to the required 55-ft. setback from the H Street centerline. The applicant is requesting a reduction of the front yard setback from 55 ft. to 30 ft. from the H Street centerline. The circumstances of this narrow lot with two front property lines are unique and beyond the applicant's control, and relevant to variance evaluation criteria under CCC 11.95.030(1)(B).
- 11.6. Off-Street Parking: The applicant indicates two existing parking spaces on site for the single-family residence, satisfying the requirement.

12. Chelan County Code 11.95.030: Variance Evaluation Criteria

- 12.1. Necessity: The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same neighborhood or district and shall not constitute a grant of a special privilege. The applicant requests this variance to develop a garage appurtenant to an existing single-family residence. Such a garage is consistent with existing pattern of single-family development in the surrounding area. It is consistent with reasonable use of the parcel as outlined in the CCC Chapter 11.98.
- 12.2. Unique Circumstances: The plight of the applicant is due to unique circumstances such as topography, **lot size or shape**, or size of buildings, over which the applicant has no control. The subject property and adjacent H Street are in the same configuration as they were platted

in 1943. The subsequent adoption of zoning regulations and setback standards leave no building envelope on the subject property.

12.3. Owner/Applicant Responsibility for Hardship: The hardship asserted by the applicant is **not** the result of the applicant's or the owner's action. Instead, the hardship asserted is the result of a plat more than 80 years old that predates current zoning regulations and setback standards. H Street was once viewed as an easement not requiring a front yard setback, but that is no longer the case.

12.4. Materially Detrimental or Injurious: The authorization of the variance shall **not** be materially detrimental to the public welfare and safety, to the purposes of this title, be injurious to property in the same district or neighborhood in which the property is located, or be otherwise detrimental to the objectives of the comprehensive plan.

12.4.1. After reviewing the proposal, Community Development staff recommended a finding that the garage development facilitated by this variance would not be materially detrimental to the public welfare and safety or injurious to property in the neighborhood, or be otherwise detrimental to the objectives of the comprehensive plan, noting that the garage and single-family residence on the property conform to permitted uses in the RR5 zoning district.

12.4.2. The Bradwin comment argues that the requested variance and construction of a garage on the subject property would be materially detrimental and directly injurious to the Bradwins's adjacent property. In support of this argument, the comment posits that the existing single-family residence on the subject property exacerbated the damage the 2025 Wenatchee River flood had on the Bradwin property, and that further development on the subject property would compound the problem in future flood events. The Bradwin comment is unpersuasive.

12.4.2.1. The concerns raised in the Bradwin comment are shoreline and floodwater management concerns. This variance request deals with a setback standard established in CCC Chapter 11.12 that serves goals wholly unrelated to shoreline or floodwater management.

12.4.2.2. The CCSMP governs shoreline management for the subject property. The subject property contains a single-family residence within the 100-ft. rural shoreline buffer. As discussed above, the garage development facilitated by this variance request complies with CCSMP 6.2.4 requirements for the expansion of legally established pre-existing residential structures.

12.4.2.3. According to the Applicant's site plan, the Bradwin property also contains a single-family residence and an outbuilding within the 100-ft. rural shoreline buffer. The Bradwin property is upstream from the subject property. The Bradwin comment does not credibly show that the described "high-velocity channel of water" is attributable to structures on the subject property rather than the condition of the Bradwins's own property.

12.4.2.4. The 2025 Wenatchee River flood was historic in scale and the destruction it caused. Comparable floods in the future will undoubtedly cause some measure of damage to properties, such as the Bradwins's, located within the Wenatchee River floodplain. There is no persuasive evidence that this variance, if granted, will be the actual cause of greater flood damage on neighboring properties during future flood events.

- 12.4.3. Applicant's proposed garage is almost entirely outside of the 100-ft. rural shoreline buffer, and outside the Wenatchee River floodway. The proposed walkway between the garage and existing single-family residence will be elevated and span the distance between the residence and garage, allowing for the free flow of floodwater underneath. Other than flood-related concerns, there is no evidence in the record of other potential harms to come from the requested variance.
- 12.5. Source of Hardship: The hardship asserted by the application results from the **application of this title** to the property. That hardship is the lack of any building envelope as a consequence of a CCC Title 11 setback standard.
- 12.6. Basis in Illegal/Nonconforming Precedent: Substantial basis for this variance exists **without** considering precedent established by illegal or nonconforming circumstances. That basis is found in the subject property's lack of building envelope due to its unique size and frontage on both Brae Burn Road and H Street.
- 12.7. Basis in Lack of Reasonable Economic Return: Substantial basis for this variance exists **without** considering lack of reasonable economic return or any claim that the existing/proposed structure is too small. That basis is found in the subject property's lack of building envelope due to its unique size and frontage on both Brae Burn Road and H Street. The applicant has not claimed that any existing or proposed structure is "too small."
- 12.8. Basis in Pre-Existing Condition: Basis for this variance exists **without** considering whether the condition, for which the variance is requested, existed at the time the applicant acquired the property. The subject property's lack of building envelope due to its size and frontage on both Brae Burn Road and H Street is a unique and compelling circumstance regardless of when the applicant acquired the property.
- 12.9. *De Facto* Zone Reclassification: This variance would **not** result in a *de facto* zone reclassification. It would not change the permitted land uses, and does not diminish the enforcement or effect of other applicable zone standards.
- 12.10. Circumvention of Density Regulations: It does **not** appear that the substantial purpose of this variance is to circumvent density regulations. The subject property already contains a legal nonconforming single-family residence and there is no evidence of intent to increase or otherwise change density.
13. **Community Development Department Analysis of Code Compliance:** Community Development staff reviewed the application and submitted materials and found the proposal to be in compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code.
14. The Henniger comment does not give evidence conflicting with the findings above. Mr. Walker testified that the subject property was in compliance with code and permit requirements, and Community Development staff did not disagree.
15. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
16. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted the authority to render this decision.

2. As conditioned, this application is consistent with the Chelan county Code and Chelan County Comprehensive Plan.
3. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, PL 26-168 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Any future development shall be in compliance with the Chelan County Code, in addition to all other applicable local, state and federal regulations.
2. The development shall proceed in substantial compliance with the application submitted on June 26, 2026 and the site plan of record date stamped July 27, 2026 (Exhibit A).
3. Pursuant to CCC Section 11.88.190, no construction activity shall be permitted within 1,000 ft. of an occupied residence between the hours of 10 p.m. to 7 a.m.
4. Pursuant to CCC Section 11.95.050, no building or other permit shall be issued until after the end of the appeal period allowed in CCC Title 14. An appeal of the decision shall automatically stay the issuance of building or other permits until such appeal has been completed.
5. Pursuant to CCC Section 11.95.060, the granting of this variance and the conditions herein run with the land; compliance with conditions of the variance is the responsibility of the current owner of the property, whether that is the applicant or a successor.
6. Pursuant to CCC Section 11.95.080, this variance shall become void three years after approval if no substantial construction has taken place.
7. Pursuant to CCC Section 11.02.040, prior to commencement of construction, the applicant shall obtain all required and necessary building permits.
8. Pursuant to comments received from Chelan County Public Works on August 05, 2026:
 - 8.1. No work shall be done within the unopened right-of-way of H Street. This includes removal of trees or brush.
 - 8.2. The applicant shall not use H Street as their personal driveway, and shall not block access to the public use of the right-of-way.
 - 8.3. The applicant shall place permanent surveyed property corner markers (rebar spikes with caps) on all corners bordering County rights-of-way. (Along Brae Burn Road and H Street.)
9. Pursuant to RCW 27.53.020, if the applicant or his agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/agent shall immediately stop work and notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
10. Pursuant to RCW 27.53.060, if any Native American grave sites or archaeological resources are discovered or excavated, work shall stop immediately.

10.1. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of such plan was attached to the Staff Report and included in the hearing record as Exhibit C.

11. Pursuant to comments received from Chelan County PUD dated August 04, 2026: There is an overhead electric line on the property. No garage may be built under the electric line, and if the garage requires relocation of the electric line that relocation will be at the applicant's expense. The process to relocate the electric line will start with the applicant submitting a residential electric application to the District.
12. Chelan County is not responsible for notification or enforcement of covenants or deed restrictions affecting use or title. Any permit issued does not acknowledge or recognize any covenants or deed restrictions or reservations that may burden or otherwise affect this property. Applicant/owner assumes all risks and liability for any claims and liabilities for covenants or deed restrictions or reservation.

Dated this 24th day of August, 2026

CHELAN COUNTY HEARING EXAMINER


Jay Eyestone

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan 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.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.