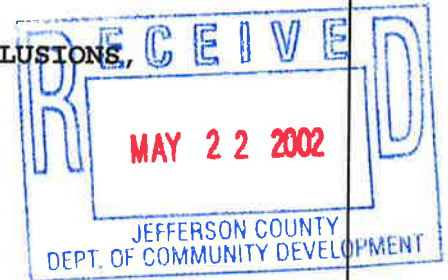


1 **BEFORE THE HEARING EXAMINER FOR JEFFERSON COUNTY**

2 Irv Berteig, Hearing Examiner

3 **RE:** Lisa & Ray Stout variance) **File No. ZON02-00015**
4 application to setback 5-feet)
5 rather than the required 20-foot)
6 setback from a local access road.)
7) **FINDINGS, CONCLUSIONS,**
8) **AND DECISION**
9)



9 **BACKGROUND INFORMATION**

10 Lisa & Ray Stout purchased Lot 8, Block 1, in the plat of Cape
11 George Colony Div 1, which had been platted in 1961. The lot is one
12 of a limited number that remain undeveloped, in this case likely due
13 to site difficulties. The variance request is to the required setback
14 from an access "bulb" at a right-angle turn in Victoria Loop.

15 **PROCEDURAL INFORMATION**

16 **Notices:** **Mailed:** April 5, 2002
17 **Posted:** April 12, 2002
18 **Publication:** April 10, 2002 (Port Townsend-
19 Jefferson County Leader).

20 **Site Visit:** May 7, 2002.

21 **Open Record Hearing Date:** May 7, 2002.

22 The hearing was opened at 1:00 p.m. in the Courthouse First Floor
23 Conference Room. After the procedures were explained, testimony was
24 accepted. A verbatim recording of the public hearing was made. The
25 tape is maintained in the Jefferson Permit Center file.

26 **Participants:**

27 Stacie Hoskins, Assistant Planner

28 Susan Miller, Realtor, Authorized Representative for the Applicants.

29 No other parties were present to testify.

1 The Hearing Examiner closed the public hearing at 1:25 p.m.

2 **TABLE OF EXHIBITS:**

3

Exhibit	Document	Date
1	Staff Report together with a copy of the file containing 42 Log Items	4/29/2002

4

5

6 **FINDINGS OF FACT**

7 1. On or about February 5, 2002, Lisa & Ray Stout through their
8 Authorized Representative, Susan Miller, filed an application for a
9 setback variance from the right-of-way of Victoria Loop.¹

10 Specifically, the application is to vary from the residential setback
11 requirements of Section 6 (Table 6-1) of the Jefferson County Unified
12 Development Code. The standard setback pursuant to the UDC is 20-feet
13 from any property line abutting a local access road.

14 2. The project site is legally described as parcel # 937 800 108,
15 Cape George Colony Div 1, Block 1, Lot 8, in Section 12, Township 30,
16 Range 02 West, WM.

17 3. The subject parcel is approximately .28 acres in size. The site
18 is an irregular shape measuring 39.06-feet along a portion of the
19 front yard lot line (Victoria Loop), an unidentified distance along
20 the turnaround portion of Victoria Loop, 90.27-feet along the northern
21 side yard lot line, 165-feet along the southwestern lot line (Marina
22 Drive), and 127.62-feet along the southeastern side lot line. The
23 topography is slightly sloping (8 degrees) at the northeastern portion
24 of the property breaking to a steep slope (20 degrees) at the southern
25 portion of the parcel. The property is covered mostly in grass and
26 some brush with a few trees at the base of the slope. The site

27

28 ¹ The Site Plan Approval Advance Determination (SPAAD) application was
29 submitted on February 5, 2002 and determined to be substantially complete on
February 6, 2002. The variance application was submitted on April 4, 2002.

1 contains an existing septic drainfield located in the western portion
2 of the property. A Type 5 stream is mapped at the southern corner of
3 the parcel; however, no evidence of a type 5 stream exists on-site.

4 4. The *Jefferson County Comprehensive Plan* designates the subject
5 parcel and parcels in the immediate vicinity as "Rural Residential"
6 with a density of one dwelling unit per five acres.

7 5. Chronology:

- 8 • The parcel was created through the Cape George Colony Div I
9 subdivision recorded July 18, 1961.
- 10 • A Sewage Disposal Permit was approved October 30, 1996 for
11 installation of a septic system on Lot 8 of Cape George Colony
12 Div I. The drainfield is currently installed and located
13 adjacent to the northern property line. The permit was finalized
14 November 15, 1999.
- 15 • On September 13, 2001, the Cape George Colony Club conducted a
16 Variance Hearing and approved a reduction of the setback from the
17 right-of-way (delineated on the plat as turnaround space) from 25
18 feet to 5 feet. (Refer to Log Item 5.)
- 19 • The current property owners are Jim R Kunst and Marjorie E
20 Johnson. Ray and Lisa Stout are prospective buyers of the parcel,
21 and the sale is contingent upon SPAAD approval subject to a
22 variance.

23 6. The adjacent property to the northwest (PIN#937-800-109) obtained
24 a building permit (BLD00-00308) for an addition to a single-family
25 dwelling and maintained a minimum 25-foot setback from Victoria Loop
26 per Cape George Colony Div I plat condition. The Assessor's records
27 identify the area of the first floor at 1,368 square feet with a 440
28 SF deck and a 528 SF attached garage. The parcel is rectangular in
29 shape and .39 acres in size.

1 7. The adjacent property to the southeast (PIN#937-800-107) has an
2 existing residence and detached garage. The site plan submitted for
3 the septic permit (SEP84-0011) identifies a setback of 25 feet for the
4 residence from Victoria Loop. The Assessor's records identify the
5 area of the first floor at 1,250 square feet and a 506 SF attached
6 garage. The parcel is rectangular shape and .25 acres in size.

7 8. A 10-foot walking easement exists along the northern property
8 line from Victoria Loop to Marina Drive.

9 9. A change in topography occurs approximately midway along the
10 southeastern property line from gradual slope to steep slope. The
11 minimum setback from the top of a bank is 30 feet. The UDC
12 Administrator may reduce the 30-foot setback to no less than 15 feet
13 administratively.

14 10. Proposed structures have a minimum setback of 5 feet from septic
15 tanks; and 10 feet from drainfields and reserve drainfield areas.

16 11. Cape George Colony requires a minimum setback of 25 feet from any
17 street right-of way. Cape George Colony Club conducted a Variance
18 Hearing on September 13, 2001 and approved a reduction of the setback
19 from right-of-way delineated on the plat as turnaround space from 25
20 feet to 5 feet.²

21 12. No one commented or testified in opposition to the variance.

22 13. Susan Miller, Applicant's Representative, testified that the Cape
23 George Colony Club has approved the variance request. Ms. Miller also
24 testified that she had reviewed the Staff Report and found it to be
25 accurate.

26 14. A variance proposal is exempt from review under the State
27 Environmental Policy Act (SEPA) pursuant to WAC 197-11-800(6)(b).

28 _____
29 ² See Exhibit 1, Log Items 35 and 41 regarding Cape George Colony building and
property regulations.

1 **REVIEW CRITERIA**

2 A variance request must be shown to meet all the six variance
3 criteria defined in UDC 8.9.5.a-f.

4 **CONCLUSIONS OF LAW**

5 The following Conclusions of Law are organized by the Review
6 Criteria of UDC 8.9.5, and may contain additional Findings:

7 *UDC 8.9.5.a. The variance will not constitute a grant of special
8 privilege inconsistent with the limitation upon uses of other
9 properties in the vicinity and land use district in which the
subject property is located;*

10 1. Other single-family lots in the immediate vicinity conform to the
11 setback requirements; however, those same lots do not have limitations
12 similar to the subject property. Criterion **a** is met. See also
13 conclusions for Criteria b & d.

14 *UDC 8.9.5.b. The variance is necessary because of special
15 circumstances relating to the size, shape, topography, location
16 or surroundings of the subject property, to provide it with use
17 rights and privileges permitted to other properties in the
vicinity and in the land use district in which the subject
property is located;*

18 2. As noted in Findings 3, 8 and 9, the subject property contains
19 physical conditions—when combined with the shape of the parcel—that
20 set it apart from other properties in the immediate vicinity.
21 Criterion **b** is met.

22 *UDC 8.9.5.c. The granting of the variance will not be materially
23 detrimental to the public welfare or injurious to the property or
24 improvements in the vicinity and land use district in which the
subject property is located;*

25 3. The variance will allow construction of single-family residence
26 similar in size to surrounding residences, and most importantly, be
27 set back an allowed distance from the top of slope. This conclusion
28 also assumes an administrative reduction by the UDC Administrator
29 based on site conditions to a setback of no less than 15-feet.

1 Since the site plan only shows a rectangular building envelope
2 and an indication of a driveway in the northeast corner of the lot, a
3 condition will be necessary to assure that off-street parking can be
4 safely accommodated. A garage located without adequate space in front
5 of its doors can result in vehicles protruding into the roadway. A
6 five-foot setback would create a hazardous condition if the garage
7 were located at the variance end of the house. On the other hand,
8 placement of the driveway and garage at the northeast property line
9 could safely accommodate vehicles within the 20-foot setback that
10 would exist at that location. Criterion **c** can be met.

11 *UDC 8.9.5.d. The special circumstances of the subject property*
12 *make the strict enforcement of the provisions of this code an*
unnecessary hardship to the property owner;

13 4. The applicant has shown through a series of site maps how several
14 regulations combine to reduce the buildable area. These include (in
15 addition to the UDC front and side yard setbacks) a 10-foot walking
16 easement, a 30-foot setback from top of bank, and on-site septic
17 drainfield requirements. Criterion **d** is met.

18 *UDC 8.9.5.e. The special circumstances are not the result of the*
19 *actions of the applicant;*

20 5. Although the Cape George Colony plat was approved in 1961, zoning
21 and subdivision regulations did not include setbacks from the top of
22 steep slopes. Such regulations were enacted before the applicant
23 purchased the lot. Criterion **e** is met.

24 *UDC 8.9.5.f. The variance is consistent with the purposes and*
25 *intent of the Unified Development Code.*

26 6. Staff Report contains an analysis of the application's
27 relationship to the Jefferson County Comprehensive Plan, including its
28 General Land Use Policy. Staff Findings 3 and 4 at pages 3-4 are
29 hereby adopted. Criterion **f** is met.

1 **DECISION**

2 Based upon the testimony presented at the Public Hearing, a site
3 visit by the Examiner, the documents and exhibits admitted into the
4 record, and the above Findings of Fact and Conclusions of Law, it is
5 hereby the decision of the Hearing Examiner that the variance
6 application by Ray and Lisa Stout be **APPROVED**, subject to the
7 following condition:

- 8 1. The driveway and garage shall be designed to assure a full
9 car length in front of the garage without extending into the
10 right-of-way.

11 **DATED this 20th day of May 2002.**

12
13 

14
15 **Irv Berteig**
16 **Jefferson County Hearing Examiner**

17 ib

18 Transmitted by the Jefferson Count Permit Center to the following:

19 DATE TRANSMITTED:

20
21 Ray & Lisa Stout, PO Box 55, Lake Villa, IL 60046

22 Susan Miller, 80 Gull Shadow Lane, Port Townsend, WA 98368
23
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27
28
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