



King County

Permitting Division

Department of Local Services

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FINAL CODE INTERPRETATION
CINT21-0004 Hoetger Residential Driveway

Background

On January 13, 2021, Jason Hoetger filed a code interpretation request with the Permitting Division of the Department of Local Services (“the Department”). The request asks for interpretations of King County Code¹ (K.C.C.) section 21A.12.110 (measurement of setbacks), in relation to Mr. Hoetger’s request to construct a single family residence and detached accessory dwelling unit on an RA-5-zoned property in unincorporated King County.

As outlined in the supporting information submitted with the code interpretation request, Mr. Hoetger owns Parcel 2422029133. The parcel is zoned RA-5 (Rural Area, one dwelling unit per 5 acres) and is just over 5 acres in size. Mr. Hoetger previously submitted an application and plans to the Permitting Division to construct a single-family home and a detached accessory dwelling unit (ADU) on his property. Mr. Hoetger was informed by the Permitting Division that the permit could not be processed because the ADU was with the required 30-foot street setback measured from the western property boundary. The permit application was withdrawn and Mr. Hoetger subsequently filed the code interpretation request.

The Hoetger’s parcel is rectangular in shape and abuts private properties on all four sides. Access to the property is gained via a private driveway that crosses the private property to west before entering the property over the western property boundary. The access driveway travels in an easement and serves only the Hoetger property. The ADU was proposed to be located approximately 10 feet from the western property boundary.

Code Sections Subject to Interpretation

K.C.C. 21A.12.110A

“Interior setback: the interior setback is measured from the interior lot line to a line parallel to and measured perpendicularly from the interior lot lines at the depth prescribed for each zone.”

¹ https://www.kingcounty.gov/council/legislation/kc_code.aspx

K.C.C. 21A.12.110B

“Street setback: the street setback is measured from the street right-of-way or the edge of a surface improvement which extends beyond a right-of-way, whichever is closer to the proposed structure, to a line parallel to and measured perpendicularly from the street right-of-way or the edge of the surface improvement at the depth prescribed for each zone.”

Discussion & Analysis

In the RA-5 zone, the setbacks specified in K.C.C. 21A.12.030 are 10 feet and 30 feet for interior and street setbacks, respectively. Setbacks are defined as, “the minimum required distance between a structure and a specified line such as a lot, easement or buffer line that is required to remain free of structures.”²

The traditional interpretation the Permitting Division has used in applying the interior and street setback standards has been that every parcel must have at least one property line that receives a street setback and all other property lines would require an interior setback unless other property lines also abut a street right-of-way.

A street is defined as, “a public or recorded private thoroughfare providing pedestrian and vehicular access through neighborhoods and communities and to abutting property.”³

In most typical neighborhood or community layouts, at least one of the property boundaries directly abuts the street, public or private, to provide access to the adjacent properties. This property boundary which would then require that the entire property boundary adjacent to the street would incur the street setback. Similarly, if any other property boundary were adjacent to a street, that boundary would incur a street setback, as well. K.C.C. does not specify that all properties must have at least one property boundary that incurs the street setback requirement.

The first question for interpretation posed by Mr. Hoetger is how the code requires measurement of the street setback if the street terminates at a point along a property line but does not run parallel to and adjacent to the entire length of the property boundary. K.C.C. 21A.12.110B specifies that the street setback is measured from, the street right-of-way or the edge of the surface improvement with a line that is parallel to and perpendicular to the street right-of-way for the specified depth. This section does not specify that the street setback need to extend along the entire property boundary. Therefore, the code requires that only that portion of the property boundary that is adjacent to a street is required to have the street setback.

The second question for interpretation posed by Mr. Hoetger was how the code measures the required setback when none of the property boundaries are adjacent to a street, such

² K.C.C. 21A.06.1070

³ K.C.C. 21A.06.1245

as is the case with the Hoetger property. Rather, when a property gains access either via a joint use driveway or a private driveway. Joint use driveway is defined in K.C.C. as, “a jointly owned and/or maintained vehicular access to two residential properties.”⁴

In April 25, 2013, the County’s Regulatory Review Committee (RRC) determined that, “for the purposes of determining setbacks, interior setbacks are applied to a joint use driveway.” This determination was based largely on the distinction between a street and a driveway and the nature of the access provided, whereas a street is a thoroughfare through neighborhood to abutting properties, while a driveway provides access to properties, not through neighborhoods.

In Mr. Hoetger’s situation, access to the property is from a driveway across an adjacent property. The driveway serves only the Hoetger property, so would be one level below a joint use driveway, which serves two properties. Carrying the April 25, 2013 RRC determination forward, it then follows that a setback from a private, single-use driveway should only trigger the application of an interior setback

Decision

K.C.C. specifies that a street setback shall be measured from the street right-of-way or edge of surface improvement. It does not specify that the setback is to be measured along the entire property boundary, if only a portion of the property boundary is adjacent to the street right-of-way or surface improvement.

When a property’s only access is from a private driveway and none of the property boundaries are adjacent to a street, then all of the property boundaries shall have the interior setback required based on the zoning classification of the property.

Finality of Code Interpretations

Under K.C.C. 2.100.050.A, the director’s decision on a code interpretation is final. A code interpretation issues by the director governs all staff review and decisions unless withdrawn or modified by the director or modified or reversed on appeal by the King County Hearing Examiner, King County Council or an adjudicatory body (K.C.C. 2.100.040.H).

DocuSigned by:

Jim Chan

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Jim Chan

Director, Permitting Division
Department of Local Services

March 15, 2022

Date

⁴ K.C.C. 12.06.658