

Return to
Hearing Examiner

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SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

VAR 91 054.ORD

LENNY MCINTURE
SKAGIT COUNTY CLERK

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In the matter of:

Application No. VAR 91 054
of JOEL BARBER
for a Variance for:
To allow alteration of an existing
residence that is not in compliance with
current required setbacks

)
) Findings of Fact
) Entry of Order
) No. VAR 91 054
)
)
)

RECORDED _____ FILED _____
REQUEST OF _____

This matter having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Department of Planning and Community Development on behalf of the Applicant requesting a Variance as described and located in the attached Report and Findings of the Department of Planning and Community Development;

And, notice having been given to all property owners within 300 feet of said property and all matters in the file having been considered together with the testimony, evidence, and exhibits in open hearing and made a part of the record in this matter; the Hearing Examiner makes the following findings of fact.

FINDINGS OF FACT

1. February 26, 1992 was fixed as the date of the public hearing and the Hearing Examiner held a public hearing on that date.
2. All persons present at the Public Hearing were given an opportunity to present evidence and testimony, and all correspondence received was read and made part of the record.
3. The Hearing Examiner adopts the findings of the Department of Planning and Community Development as presented in the attached Report and Findings of that Department.
4. The Hearing Examiner finds that this project conforms to the following standards pertaining to Variances (Chapter 14.04.223(1)(e), Skagit County Code):
 - (i) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - (ii) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter,
 - (iii) That the special conditions and circumstances do not result from the actions of the applicant,
 - (iv) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.
5. The Hearing Examiner makes the following findings as required by Chapter 14.04.223 (3) of the Skagit County Code:
 - a. The reasons and information submitted in the application and in the testimony and evidence submitted during the hearing and for the record justify the granting of the Variance, and that the Variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - b. The granting of the Variance will be in harmony with the general purpose and intent of this Chapter, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.
 - c. The use proposed is permissible under the terms of this Chapter in the district involved.

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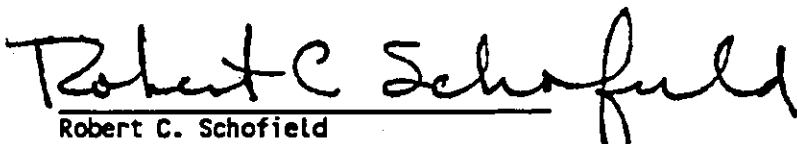
DECISION

The Hearing Examiner APPROVES the application for a Variance subject to the modifications and conditions listed below.

- A. The conditions proposed by the Staff will be part of this order except condition no. 3-C shall be amended to read:

3 feet 6 inches from east property line, with a recorded side yard easement.

This decision shall become final fourteen (14) days from the date of this order unless appealed in accordance with Chapter 14.04.240 (16) of the Skagit County Code.


Robert C. Schofield
Skagit County Hearing Examiner

Date of Action: March 3, 1992

Copies Transmitted to Applicant: March 3, 1992

Attachment: Staff Report and Findings

C (with attachment): Applicant, Applicant File, Board of County Commissioners, Hearing Examiner

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SKAGIT COUNTY PLANNING AND COMMUNITY DEVELOPMENT
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: FEBRUARY 26, 1992

APPLICATION NUMBER: VAR 91-054

APPLICANT: JOEL BARBER

ADDRESS: 12025 PALATINE AVE NORTH
SEATTLE, WA 98133

PROJECT LOCATION: Located at 823 Samish Island Road, Bow; Lot 15, Samish Island Estates, Section 35, Township 36 North, Range 2 East W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Variance request to allow alteration of an existing residence that is not in compliance with current required setbacks.

ASSESSOR'S ACCOUNT NUMBER: 4403-000-015-0008

STAFF FINDINGS:

1. The subject property is zoned Residential and the Northwest District Comprehensive Plan designates the area as Residential.
2. The public hearing has been advertised in accordance with the requirements of Chapter 14.04 of the Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C) and has been found to be exempt.
4. The subject property is located out of any designated flood hazard areas.
5. A portion of the subject property appears to be located in a designated Unstable area by the Coastal Zone Atlas of Washington.
6. The property appears to be located within jurisdiction of the Shoreline Management Master Program.
7. The subject property is lot "C" of short plat 60-88, approved March 28, 1989 and filed under Auditor's File Number 89032800020. The subject property is approximately .73 acres (32,060 square feet) in size. Approximately .54 acres (23,522 square feet) of the lot is located to the south of Samish Island Road, and has no structures located on it. The lower portion of the lot appears to be unbuildable due to

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topography.

Approximately .196 acres (8,537 square feet) of the lot is located to the north of Samish Island Road, and currently has an existing residence located on it. The portion on the north side of Samish Island Road has approximately 125 feet of frontage on Samish Island Road and approximately 101 feet of frontage of Filbert Lane. The lot is accessed from Filbert Lane by a driveway.

8. The existing residence is a non-conforming structure, as it does not meet the required rear yard setback of 25 feet. The existing structure is approximately 816 square feet in size. The site plan indicates that the existing structure is approximately 94 feet from Filbert Lane, approximately 43 feet from Samish Island Road, approximately 40 feet from the north property line (side lot line), and approximately 3 feet 6 inches feet from the east property line (rear lot line). The subject structure is approximately 115 feet from an existing residence to the east.
9. The applicant is requesting to remodel the existing non-conforming residence. The proposed remodel consists of the addition of approximately 350 square feet of (interior) storage, removal of interior and exterior finishes, and upgrade insulation and windows to meet Washington State Energy Code standards. The applicant has indicated that the footprint of the structure will not be expanded and that the alterations will be interior.
10. Section 14.04.223 (1)(E) Variances of the Skagit County Code states that certain items will be reviewed when approving or denying Variances. Those items are as follows:
 - A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - B. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - C. That the special conditions and circumstances do not result from the actions of the applicant.
 - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.
11. The applicant has not indicated any special conditions or circumstances that are peculiar to the land, structure, or

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building involved. It appears that the point of access has created a special circumstance. Staff has noted that if access were obtained from Samish Island Road (note: The site is addressed off of Samish Island Road), the rear property line would become the side property line with a required minimum setback of 8 feet. A common side lot line would be provided as the adjoining property to the east accesses from Samish Island Road.

The reserve drainfield area is located in the center of the upper portion of the lot. The location of the reserve area eliminates the possibility of relocating the structure to meet the required setbacks.

12. The literal interpretation of the provisions of this chapter would deprive the applicant the right to maintain the residence in a efficient manner.
13. The special conditions are not a result of the applicant. The structure has existed for approximately 60 years and was existing at the time of short platting. The point of access was granted by Skagit County and was most likely granted from Filbert Lane rather than Samish Island Road for safety reasons.
14. The granting of the requested variance would not confer on the applicant a special privilege that is denied to other lands, structures, or buildings in this district.

RECOMMENDATION:

Based on the above findings the Department of Planning and Community Development would recommend approval of the requested variance subject to the following conditions:

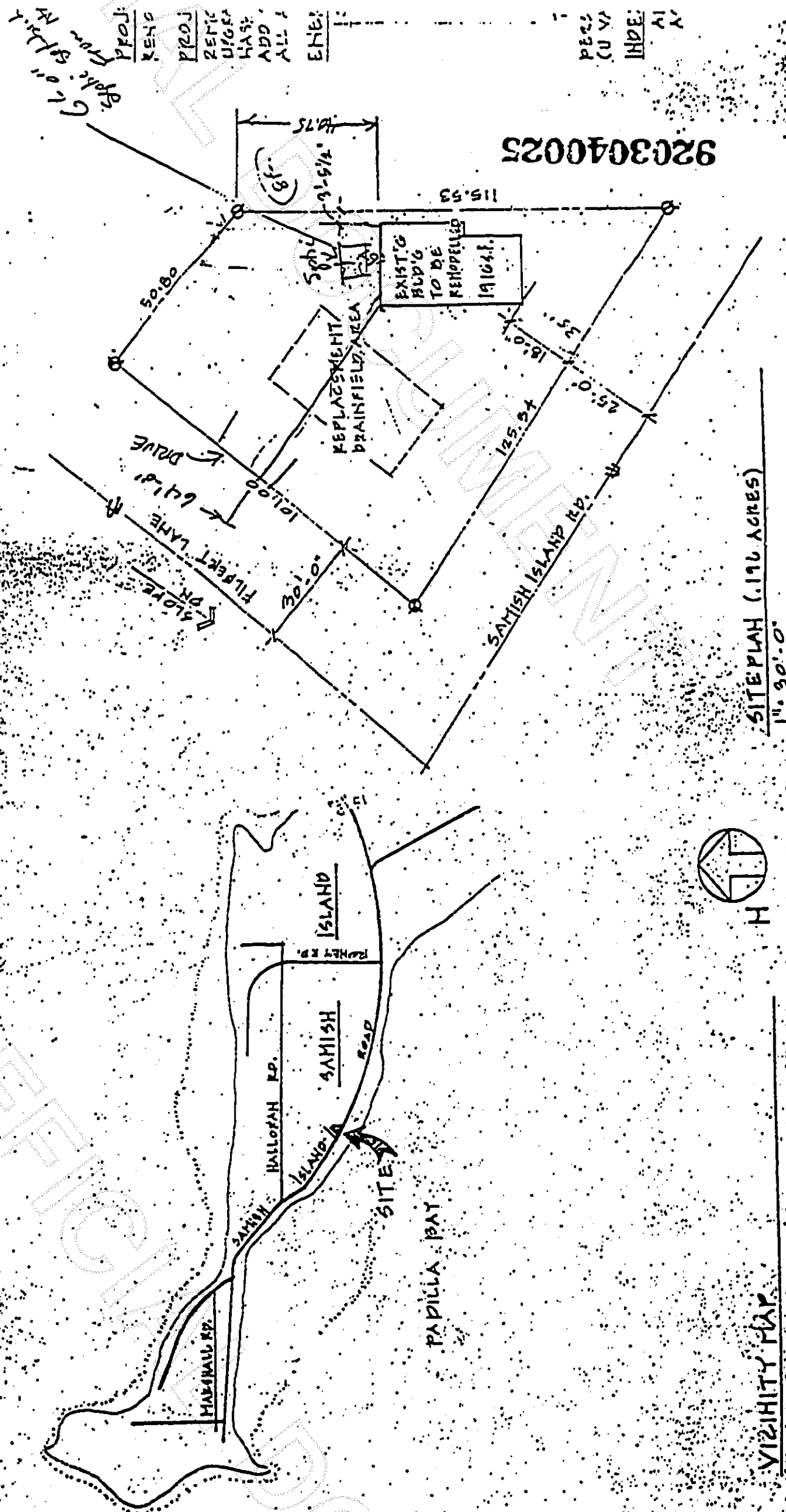
1. The alterations shall be limited to interior only. No expansion of the building footprint will be allowed.
2. The applicant shall obtain and record with the Skagit County Auditor a side yard easement as provided in Skagit County Code Section 14.04.190 (13).
3. The following setbacks shall apply to the building permit:
 - A. 43 feet from Samish Island Road.
 - B. 94 feet from Filbert Lane.
 - C. 5 1/2 feet from east property line, with a recorded side yard easement.
 - D. 40 feet from the north property line.
4. Maintain existing access off of Filbert Lane.

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VISIBILITY MAP
HO SCALE

0.305" (7.61 mm)

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