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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

9906010189

DOCUMENT TITLE: APPEAL AP 99 0288

GRANTOR(S): SKAGIT COUNTY HEARING EXAMINER

APPELLANT: DENA BLATT

ASSESSOR PARCEL NO: P19049

ABBREVIATED LEGAL DESCRIPTION: a portion of Section 2, Township 34 North, Range 1
East, W.M., Skagit County, Washington

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BK 1999 PG 0140

AP 99 0288.ORD

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the matter of:)
Administrative Appeal AP 99 0288) Findings of Fact
Of DENA BLATT) Entry of Order
for: appeal of administrative decision by) No. AP 99 0288
the Skagit County Building Official to deny building)
permit no. 97-1304.)

THIS MATTER having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an administrative appeal filed with the Skagit County Planning and Permit Center on behalf of the Applicant DEAN BLATT appealing a determination of the Skagit County Building Official for property located at 1274-A Marine Drive, Anacortes, WA; within Section 2, Township 34 North, Range 1 East, W.M., Skagit County, Washington;

Assessor Account No: 340102-0-025-0008; P19049

And, notice having been given to all parties of record 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:

BACKGROUND AND HISTORY

1. The Appellant constructed an addition to a residence without a Building Permit in May, 1997.
2. This addition consisted of a 20 foot by 25 foot garage with a 20 foot by 10 foot deck area on the lower level with a 20 foot by 25 foot area for living quarters on the second floor plus a 10 foot by 20 foot deck on the second floor.
3. The second story living quarters contained a large room (identified on the plan as a rec room), a bedroom and a bath. The "rec" room plans show a complete kitchen area.
4. The new addition is attached to the north end of the residence and overlooks a 170 foot bluff. The addition is approximately 18 feet from the top of the bluff. The deck area appears to be approximately 5 feet from the top of the bluff.
5. The Skagit County Planning and Permit Center issued a "Stop Work" Notice for this addition on June 3, 1997. At this time, the addition was substantially completed. (Exhibit No. 5)
6. The Appellant applied for a Building Permit on October 23, 1997. (Exhibit No. 5)

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7. The Skagit County Planning and Permit Center (by Jon Schmidt, Skagit County Code Compliance Officer) formally denied the Building Permit application by letter on June 16, 1998. (Exhibit No. 10) This denial was based on the following circumstances:
- The Skagit County Critical Areas Ordinance, SCC 14.06.430(7), requires a 30 foot buffer from the edge of a landslide hazardous area.
 - The addition may not meet the required setback from the adjoining property on the north. This setback was not verified by survey as requested on January 16, 1998 and on February 12, 1998.
 - The addition contains a bedroom for a total of four in the dwelling. The septic system was sized for a total of three bedrooms.
8. Mr. John Schultz, Dena Blatt's attorney, filed an Appeal on June 29, 1998. (Exhibit No. 13)
9. Mr. Corey Schmidt, Assistant Director Permit Center/Skagit County Building Official, in his Memorandum (Exhibit No. 1) dated January 20, 1999, stated that Mrs. Blatt's plans did not satisfy the requirements of the following codes:
- Section 1806.53, Uniform Building Code
 - Skagit County Code 12.05, 14.04, 15.04

FINDINGS OF FACT

- January 20, 1999, February 17, 1999, April 14, 1999, and May 12, 1999 were fixed as dates for public hearing and the Hearing Examiner held public hearing on those dates.
- All persons present at the public hearings were given an opportunity to present evidence and testimony and all correspondence received was made a part of the record.
- The Skagit County Planning and Permit Center presented testimony and evidence for the record.
- The Appellant was present and presented testimony and evidence for the record. The Appellant was represented by John Schultz, Attorney at Law.
- The proposed site was found to be in a landslide hazardous area. The applicant has submitted two Geotechnical Reconnaissance and Consultation Reports on this subject. (Exhibits No. 3 and No. 4)
- From the above and the record, the Hearing Examiner makes the following:

CONCLUSIONS

- This appeal was filed in accordance with Skagit County Code 14.01.060 and the Open Record Hearing was conducted and the matter resolved in accordance with the requirements of this Section.
- The Hearing Examiner has jurisdiction in this matter in accordance with Skagit County Code 14.01.025.
- The Notice of Public Hearing was correctly given in accordance with Skagit County Code 14.01.042.
- An adequate record, consisting of findings and conclusions, testimony under oath, and a taped or written transcript has been prepared in this matter.
- The Burden of Proof rests with the Appellant.
- Determination of the Responsible Official carry substantial weight.

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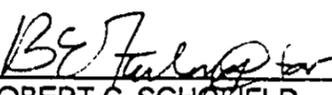
7. Exhibit No. 2, submitted by the Building Official, illustrates the requirements of Section 1806.53 of the Uniform Building Code (UBC). This drawing illustrates the requirement that the structure setback should be 40 feet landward from a 45 degree line running from the toe of the slope. This fact is unrefuted by the Appellants and is not contested by the Geotechnical Reports.
8. The two Geotechnical Reports (Exhibits No. 3 and No. 4) and Exhibit No. 7, a letter supplement to the Geotechnical Reports, address the problem of sluffing and erosion of the slope, and, outside of stating in general terms that the engineers believe that there is little danger to the structure in the next 72 years, the failure to meet the requirements is not addressed.
9. The Hearing Examiner notes that the inclusion of a kitchen in the addition changes the classification of the structure from a single-family residence to that of a multi-family residence or duplex.
10. A summary of the facts are as follows:
 - a. The addition was constructed without a building permit.
 - b. The addition was constructed without regard to the required setbacks.
 - c. The addition was constructed without consideration of the geotechnical hazards.
 - d. The addition was constructed without regard to the zoning regulations pertaining to single-family residences.
11. The Hearing Examiner concludes that the Skagit County Building Official was correct in denying the issuance of a Building Permit.
12. Any finding of fact which is deemed a conclusion of law is hereby adopted as such. From the foregoing, the Examiner issues this:

DECISION

For the reasons set forth above, the Hearing Examiner DENIES the appeal of DEAN BLATT.

This decision has been made in accordance with Section 14.01.059 of the Skagit County Code.

SKAGIT COUNTY HEARING EXAMINER


ROBERT C. SCHOFIELD

Date of Action: 5/26/99

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