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

DOCUMENT TITLE: ORDER ON VARIANCE APPLICATION VA 99 0698

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: FLEETWOOD HOMES

ASSESSOR PARCEL NO: P1109065

ABBREVIATED LEGAL DESCRIPTION: located at 2919 Cedardale Road, Mount Vernon, Washington; within Section 32, Township 34 North, Range 04 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of FLEETWOOD HOMES)	VA 99-0698
)	
For a Variance from the Setback from Cedardale Road for Manufactured Homes Displayed for Sale within the Mount Vernon Urban Growth Area)	Findings of Fact, Conclusions of Law And Decision
)	

THIS MATTER relates to a variance from the setback along Cedardale Road within the Mount Vernon Urban Growth area. The application came on for hearing on January 26, 2000, after due notice. The Skagit County Planning and Permit Center was represented by Brandon Black, Associate Planner. The applicant appeared through John Rogers, General Manager. The owner of the site, John Walton also attended and spoke. Members of the public were given an opportunity to testify, but there was no public testimony. The Examiner visited the site on February 9, 2000.

A Staff Report for the variance proposal was prepared by Brent Baldwin, Associate Planner for the City of Mount Vernon. The Staff Report was accompanied by four exhibits, as follows:

1. Area map, showing location of proposal
2. Variance application (11/16/99)
3. Applicant's justification, applying the variance criteria
4. Letter of 10/20/99 from Rick Cisar, Director, Community and Economic Development Department, to John Rogers

At the hearing the applicant added an exhibit showing graphically where each of the display units is now located and illustrating the tightness of the space. In addition the County presented its permit file on this matter. The Examiner determined to assign an exhibit number to the Staff Report. These additional exhibits were marked and admitted as follows:

5. Map showing present location of display units and of office.
6. Skagit County permit documents
7. City Staff Report

Based on the exhibits and testimony, the following is entered:



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FINDINGS OF FACT

1. Fleetwood Homes (applicant) displays manufactured homes for sale on a parcel bordering the west side of Cedardale Road. The applicant seeks a variance to place these units 10 feet from the property line. The Skagit County setback here is 35 feet. The generally applicable Mount Vernon setback apparently would be 25 feet.
2. The subject property is located within the Urban Growth Area (UGA) for the City of Mount Vernon. The City and Skagit county have entered into a Memorandum of Understanding under which the County is to enforce the City's site plan standards for commercial projects within the UGA. The subject property is zoned commercial. The use in question is a commercial use.
3. The parcel is bordered by Interstate 5 to the west, Cedardale Road to the east and south, and a gas station to the north. Across Cedardale Road to the east is a manufactured home dealership.
4. The lot is triangular in shape with a storm water detention pond occupying the south end where the apex of the triangle is situated. This pond was built in order to fulfill conditions of approval of an earlier lot division. Fleetwood Homes occupies the property under a lease.
5. The manufactured homes have already been moved onto the lot and occupy the perimeter of the available space with the middle being devoted to parking and turning space for customers' vehicles.
6. Access to the lot is from Cedardale Road, an arterial. According to the applicant, the property line is now about 14 feet from the paved surface. Several of the manufactured homes are now located about 10 feet of the property line. Because there is a drop off between the subject property and the pavement, the units are several feet lower than the street.
7. The existence of the detention pond reduces the space available for display of homes. The applicant argues that a 10 foot setback is needed in order to do business on the remainder of the lot in a reasonably efficient way. As the display is now configured, there is enough maneuvering room to get sold units out and to bring new units in to replace those that are sold.
8. If the present units on site were made to comply with Mount Vernon's 25 foot setback, there would not be enough room to get some of them out. According to the applicant, this would mean that the display units would have to be sold all at once and the new ones delivered all at once. Even if this could be accomplished, it would create a gap of a month during which no units would be showable on the site.
9. The applicant asserts that some other dealers have their units in the setback. In addition, he notes that the units themselves are not permanent structures. Each display unit is mobile with the wheels attached.



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10. To mitigate the effect of the reduced setback, the applicant proposes to landscape the area within the setback. A crushed gravel path, street trees, rhododendrons and shrubs are planned.

11. The applicant asks that compliance with whatever decision is made on the variance request not be required until mid-August. This would permit the continued display and sale of the units presently on site before the yearly change of model years in July. New units delivered thereafter would comply with the setback determined.

12. Before applying for the variance, the applicant talked to planning officials of the City of Mount Vernon. On October 20, 1999, Rick Cisar, Director of the City's Community and Economic Development Department, sent a letter to John Rogers of Fleetwood, stating that the City would support a setback of 20 feet on an administrative basis. However, any smaller setback would have to go through formal variance review before the Hearing Examiner.

13. The applicant determined to seek a 10 foot setback, and therefore undertook the formal variance process.

14. The variance criteria of the Mount Vernon Municipal Code are set forth at Section 17.105.050. The decision maker must determine:

(1) That the variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is located.

(2) That such variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other property in the vicinity and zone in which the subject property is located.

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is located.

15. The Staff analysis provided by Mount Vernon concludes that the first two of these criteria are not satisfied, but that the third one is. For approval, all three must be met.

16. The Examiner has reviewed the Staff analysis and concurs with it. That analysis, as set forth on pages 1-3 of the Staff Report, is incorporated herein as though fully set forth.

17. That the units are only temporarily on site is technically correct, but functionally the situation is as though a permanent structure were located at the various unit sites. Whenever a



unit is sold it is replaced by a new one. The Staff found that existing surrounding uses have not been given reductions to their front yard setbacks. Accordingly, allowing the requested reduction would be a grant of special privilege.

18. There are no special circumstances relating to the property that make a variance necessary here to provide the lot with the rights and privileges permitted to other properties in the vicinity. The requirement for the detention pond existed before Fleetwood became a tenant. There have been no changes in the space legally available to Fleetwood since they took occupancy. The problem is really that they placed the display units where they are before they became aware of the setback requirement. Any hardship they may suffer is largely of their own creation. They should have known what the restrictions applicable to the property were before they set up shop.

19. The Staff Report recommends that the request for a 10 foot setback be denied. However, they recommend approval of the limit that would have been administratively allowed had the formal variance not been sought -- that is a 20 foot setback. Such a setback would allow eaves of buildings to encroach two feet into the setback area, but would not permit porches or stairs to encroach into the setback.

20. A 10 foot setback is not necessary for the reasonable commercial use of the property. The net effect on the applicant's particular use of a denial of its request may be that the company cannot maintain as many units on the site as it has in the past.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the parties and the subject matter of this proceeding.
2. The applicant has failed to carry its burden to establish that the proposal for a 10 foot setback is consistent with MVMC 17.105.050.
3. The Examiner defers to the City of Mount Vernon in its determination that circumstances of this property justify allowing a 20 foot setback.
4. Further, the Examiner agrees that the applicant should be given until August 15, 2000, to comply with the limitation set.



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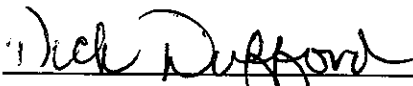
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DECISION

The variance establishing a 10 foot setback is denied. However, a variation is allowed, establishing the set back in question at 20 feet from the property line, subject to the following conditions:

- (1) The eaves of buildings may encroach two feet into the 20 foot setback.
- (2) Porches and stairs may not encroach into the 20 foot setback.
- (3) Landscaping shall be installed and maintained in accordance with a landscape plan accepted by the City of Mount Vernon.
- (4) Compliance with the 20 foot setback shall be achieved by August 15, 2000.


Wick Dufford, Hearing Examiner

Date of Action: February 22, 2000.

Copy transmitted to Applicant: February 22, 2000



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