



200003080093

Kathy Hill, Skagit County Auditor
3/8/2000 Page 1 of 9 1:10:45PM

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

DOCUMENT TITLE: ORDER ON VARIANCE APPLICATION VA 99 0665

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: GAVIN CLIFFORD

ASSESSOR PARCEL NO: P115761

ABBREVIATED LEGAL DESCRIPTION: located at 18780 West Big Lake Blvd., Mount Vernon, Washington; within the SW ¼ of Section 06, Township 33 North, Range 05 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the matter of:

Application No. VA 99-0665
of Gavin Clifford

for a Variance to allow
a single family within required setbacks

)
) Findings of Fact
) Entry of Order
)
) No. VA99-0665
)
)

THIS MATTER having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Planning and Permit Center on behalf of the Applicant requesting a Variance as described in the attached Report and Findings of that department, and located at 18780 West Big Lake Blvd., Mount Vernon; within the SW ¼ of Section 6, Township 33 North, Range 5 East, W.M., Skagit County, Washington;

Assessor Account No: 3863-000-083-0200, P115761

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 23, 2000 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 made a part of the record.
3. The Planning and Permit Center issued a Staff Report and Findings The Hearing Examiner adopts Findings No. 1-10 as presented in that Report, a copy of which is attached to this document.
4. The Hearing Examiner reviewed this project with regard to the following criteria pertaining to Variances (Section 14.04.223(1)(f), Skagit County Code):



200003080093

Kathy Hill, Skagit County Auditor

3/8/2000 Page 2 of 9 1:10:45PM

- (i) That special conditions and circumstances exist which are peculiar to the land or 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 Section 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 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 Section in the district involved.

DECISION

The Hearing Examiner **APPROVES** the application for a Variance subject to the following conditions:

1. All required permits shall be obtained by the applicant prior to construction.
2. Building setbacks shall be no less than that indicated in the conclusions and on Figure 1 of Advanced Soil Mechanics Geotechnical report dated November 4, 1999 and shall be no less



then 10 feet from the 30% slopes.

3. Surface drainage shall not be directed across the face of a landslide hazard.
4. All infiltration systems such as, stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drain, are prohibited in geologically hazardous areas and their buffers unless a geotechnical report indicates such facilities or systems will not affect slope stability and the systems are designed by a licensed civil engineer. The engineer shall also certify that the system and/or facilities are installed as designed.
5. Vegetation Removal and Replanting. Removal of vegetation in landslide hazard area shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long term survival.
6. Excavations and placement of fills shall be subject to structural review under Appendix, Chapter 33 of the Uniform Building Code, as adopted by Skagit County.

This decision shall become final unless Request for Reconsideration is made in accordance with Skagit County Code §14.01.057 or unless appeal is made to the Skagit County Board of Commissioners in accordance with Skagit County Code §14.01.061.

SKAGIT COUNTY HEARING EXAMINER


BRADFORD E. FURLONG, PRO TEM

Date of Action: 3/7/00

Copies Transmitted to Applicant: 3/7/00

Attachment: Staff Report and Findings



200003080093

Kathy Hill, Skagit County Auditor.

3/8/2000 Page 4 of 9 1:10:45PM

SKAGIT COUNTY PLANNING AND PERMIT CENTER FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: February 23, 2000

APPLICATION NUMBER: VARIANCE PL#99-0665

APPLICANT: Gavin Clifford

ADDRESS: PO Box 5298
Lynnwood, WA 98046

PROJECT LOCATION: Located at 18780 W. Big Lake Blvd. Mount Vernon, WA: a portion of Lot 82 and Lot 83 1st Addition to Big Lake Waterfront Tracts; within a portion of the SW ¼ Section 06, Township 33 North, Range 05 East, W.M., Skagit County, Wa.

PROJECT DESCRIPTION: Variance Request to allow for the placement of a single-family residence within the required setbacks of the residential zone.

ASSESSOR'S ACCOUNT NUMBER: 3863-000-083-0200

PARCEL ID NUMBER: P115761

ZONING: Forestry

COMPREHENSIVE PLAN: Rural Reserve

RECOMMENDATION: The Planning and Permit Center would recommend of the requested variance with conditions.

EXHIBITS:

- a. Application dated November 19, 1999
- b. Assessor map
- c. Site Plan
- d. Staff Photos
- e. Letter of Opinion prepared by Advanced Soil Mechanics dated August 13, 1997.
- f. Geotechnical Report prepared by Advanced Soil Mechanics dated November 4, 1999.
- g. Letter of Completeness dated December 21, 1999
- h. Notice of Development dated December 30, 1999



200003080093

Kathy Hill, Skagit County Auditor

3/8/2000 Page 5 of 9 1:10:45PM

STAFF FINDINGS:

1. The subject property is zoned and the Comprehensive Plan designates the area as Rural Reserve.
2. Per Section 14.01.033 of the Skagit County Code, a letter of completeness was issued on December 21, 1999. A Notice of Development Application for the application was posted on the subject property and published in a newspaper of general circulation on as required by Section 14.01.040(2) of Skagit County Code on December 30, 1999. The public hearing has been advertised in accordance with the requirements of Chapter 14.01.042 of the Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Act Guidelines WAC 197-11-800 (6)(b) and has been found to be exempt.
4. The subject property is not located within a designated flood hazard area. The subject property is not located within 300 feet of land designated as natural resource.
5. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance. A site review was done on December 17, 1999. The results of the critical area review indicated the presence of one critical area condition adjacent to the project area, which included the presence of slopes greater than 30 percent. Slope Stability maps of the area indicated that the formation in this area is relatively stable with a competent rock formation. A geohazard and Slope Stability assessment report and Geotechnical Investigation report was prepared by Advanced Soil Mechanics. The assessment and investigation reports indicated that the subgrade of the subject lot was stable and included recommendations for building setbacks from the adjacent slopes. The conditions for critical areas approval include the following:
 - Building setbacks shall be no less than that indicated in the conclusions and on Figure 1 of Advanced Soil Mechanics Geotechnical report dated November 4, 1999 and shall be no less than 10 feet from the 30% slopes.
 - Surface drainage shall not be directed across the face of a landslide hazard.
 - All infiltration systems such as, stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drain, are prohibited in geologically hazardous areas and their buffers unless a geotechnical report indicates such facilities or systems will not affect slope stability and the systems are designed by a licensed civil engineer. The engineer shall also certify that the system and/or facilities are installed as designed.
 - Vegetation Removal and Replanting. Removal of vegetation in landslide hazard area shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long term survival.
 - Excavations and placement of fills shall be subject to structural review under Appendix, Chapter 33 of the Uniform Building Code, as adopted by Skagit County.
6. The subject property is approximately .4 acres in size and is irregular in shape. The property is located on the west side of West Big Lake Blvd and runs in a northwesterly direction. There is a 30 foot easement running through the property that provides access to this lot and to the adjoining lot to the north. According to the site plan submitted by the applicant, the property measures approximately 136 feet along south property line, approximately 160 feet along the east property line (W. Big Lake Blvd), approximately 130 feet along the north property line, and approximately 120 feet along the west



200003080093

Kathy Hill, Skagit County Auditor

3/8/2000 Page 6 of 9 1:10:45PM

property line. The property is located atop a rocky knoll with an approximate 71-ft. x 45-ft. plateau for a building site. To the south of the building site is an approximate 50% slope, an approximate 40% slopes to the north, and a sheer cut rock wall to the east approximately 25 feet in height going down to West Big Lake Blvd. The easement road leading up to the site has approximately 12 to 15% slope. Public water and individual septic systems serve the property. The septic system area is on another plateau north of the building site.

7. Although the property is zoned Forestry on the official zoning maps; the current comprehensive plan designation of Rural Reserve dictates the use of the rural setback requirements. SCC 14.04.100(5)(c) Rural District setbacks for primary structures is listed as front: 35 feet, side 8 feet on interior lot; 20 feet on street right of way; 25 feet rear. Because of the easement that runs through the property, staff has determined that the front property line for building purposes runs parallel with the easement line.
8. The applicant is requesting a variance to allow for a single family residence to be built on the building plateau with a setback of 13 feet to the front (road easement) and 8 feet to the rear property line. The applicant is proposing to build a 50-ft. x 25 ft. two story residence.
9. The application was routed to the appropriate county departments for review. **Public Works** had no concerns except that the property line as shown on the initial site plan was labeled as assumed. They commented that the property line (ROW line for West Big Lake Blvd) should be established by a P.L.S. Staff notes that the applicant provided another site plan showing the east property line as 65 feet from the center of W. Big Lake Blvd. **Greg Geleynse, Septic Division**—a septic permit S98-0477 was approved for the site.
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.**

Staff recognizes that special conditions and circumstances generally apply to topographic hardships, i.e., a large ditch or creek or other physical feature peculiar to a particular parcel of property, that has a detrimental impact on a proposed development. A site visit has confirmed the topography of the site. The approximate 70-ft. by 45-ft. plateau is the only place on the property where a residence could be built. Because of the steep slopes directly north and south of plateau, the building site is relatively narrow which will only allow the length of a home to be perpendicular to the east property



200003080093

Kathy Hill, Skagit County Auditor
3/8/2000 Page 7 of 9 1:10:45PM

line along West Big Lake Blvd. In addition, the right of way width for that section of West Big Lake Blvd is 135 feet as opposed to the normal 60 feet. This reduces the size of the building pad area.

- 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.**

Staff notes that the 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. The applicant is proposing to build a 25-ft. wide by 50-ft. long two-story residence with a portion of the bottom floor reserved for the garage. This is not an uncommon size residence for the area. In order to meet the required setbacks, the house would have to be no larger than 21 ft. x 24 ft., which is not a reasonable size for a residence. In reviewing the site plan and verified with a site visit, there does not appear to be any other manner in which to locate a structure.

- c. **That the special conditions and circumstances do not result from the actions of the applicant.**

The special conditions of the topography (steep slopes) and the unusual wide right-of-way for West Big Lake Blvd are not results of 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.**

The applicant has provided documentation from a qualified professional geologists that this lot is stable with good soils, plenty of room to build on, fairly modest slopes both above and below the building pad, and a solid bedrock and sandstone rock face adjacent to West Big Lake Blvd. Therefore staff concurs that the granting of this variance will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same district. The proposed plan will utilize the property in the best manner.

RECOMMENDATION:

Based on the above findings the Planning and Permit Center would recommend **approval** of the requested variance with the following conditions:

7. All required permits are obtained by the applicant prior to construction.
8. Building setbacks shall be no less than that indicated in the conclusions and on Figure 1 of Advanced Soil Mechanics Geotechnical report dated November 4, 1999 and shall be no less than 10 feet from the 30% slopes.
9. Surface drainage shall not be directed across the face of a landslide hazard.
10. All infiltration systems such as, stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drain, are prohibited in geologically hazardous areas and their buffers unless a geotechnical report indicates such facilities or systems will not affect slope stability and the systems are designed by a licensed civil engineer. The engineer shall also certify that the system and/or facilities are installed as designed.
11. Vegetation Removal and Replanting. Removal of vegetation in landslide hazard area shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long term survival.



200003080093

Kathy Hill, Skagit County Auditor

3/8/2000 Page 8 of 9 1:10:45PM

12. Excavations and placement of fills shall be subject to structural review under Appendix, Chapter 33 of the Uniform Building Code, as adopted by Skagit County.

Prepared by: MS

Approved by:



200003080093

Kathy Hill, Skagit County Auditor
3/8/2000 Page 9 of 9 1:10:45PM