



200003140044

Kathy Hill, Skagit County Auditor

3/14/2000 Page 1 of 5 1:11:07PM

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

DOCUMENT TITLE: ORDER ON ZONING VARIANCE VA 99 0620

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: DOHN DELARM

ASSESSOR PARCEL NO: P114271

ABBREVIATED LEGAL DESCRIPTION: located on South Westview Road, Mount Vernon, WA; within Section 06, Township 33 North, Range 05 East, W.M., Skagit County, Washington.

**SKAGIT COUNTY HEARING EXAMINER**  
**STATE OF WASHINGTON**

In the Matter of the Application of	)	
<b>DOHN DELARM</b>	)	VA99--0620
	)	
For a Critical Areas Variance to Build	)	Findings of Fact,
A Single Family Residence and Garage	)	Conclusions of Law
Within a Category III Wetland and	)	And Decision
Associated Buffer off South Westview	)	
Road near Big Lake	)	
	)	

THIS MATTER relates to an application for variance filed by Dohn Delarm. The application came on for hearing on January 26, 2000, after due notice. The Skagit County Planning and Permit Center was represented by Dan Cox. Members of the public were given an opportunity to be heard.

Testimony was taken, exhibits were admitted and argument was made. On the basis thereof, the following is entered:

**FINDINGS OF FACT**

1. Dohn Delarm (applicant) seeks a variance in order to build a home and garage within a Category III wetland and its buffer. The home will be of moderate size, measuring 56 by 40 feet. The garage will be 30 by 30 feet.
2. The subject property is a 0.4 acre parcel, part of an abandoned railroad grade that sits above South Westview Road near Big Lake. The lot is within a portion of the SW1/4, NW1/4 of Sec. 6, T33N, R5E, WM.
3. The property is within an area designated Rural Village Residential by the Comprehensive Plan. It is zoned Residential.
4. A drainage ditch flows across the northeast side of the property. A 30-foot utility easement occurs along the southwest property line. The wetland hydrology found on the property is probably the result a historic lack of maintenance of the ditch.
5. The Category III wetland occupies approximately .10 acres or 4,356 square feet in the center of the lot. For such a wetland, a 50-foot standard buffer is required.
6. The wetland in question does not perform substantial wetland functions. The detention function is low. The habitat value is low. There is virtually no water quality, recreation or aesthetic function. Maintenance of the ditch would probably result in eventual loss



of the wetland altogether. It is a Category III, rather than an exempt Category IV, because of the proximity to Big Lake.

7. The utility easement and the drainage ditch limit development to the middle of the lot. Combined with the small lot size, these circumstances create a situation where residential development cannot occur on the parcel without impinging on the wetland and buffer areas. Neither avoidance nor minimization will mitigate the problem due to the restricted amount of developable land.

8. The applicant has not altered the property since acquiring it in September of 1999. Prior to purchase he was apparently unaware of the wetland conditions. Such conditions are not the result of his actions. A building permit application for the proposed residential development is pending. Critical Areas approval must be obtained prior to final permit approval.

9. Because the physical facts prevent compliance with Critical Area mitigation standards, a variance is sought for relief from requirements for mitigation.

10. The Staff Report accurately describes the project, the setting and the criteria for approval. The Examiner adopts Findings 1 through 11 of the Report, a copy of which is attached hereto.

11. SCC 14.06.100 set forth the following criteria for approval of a Critical Areas Ordinance variance:

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 building 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 under similar circumstances.

12. The Staff's analysis applying these criteria to the instant application is set forth in the Staff Report under Finding 11 therein. The Examiner concurs in and adopts that analysis. In short, the avoidance of wetland impacts will preclude reasonable residential development. The mitigation standards cannot be addressed on-site due to the small lot size. Adjacent lots are in residential development. Allowing the same on this lot will not constitute a special privilege.



13. The granting of a variance in this case will not conflict with the general purpose and intent of the Critical Areas Ordinance. The variance sought is the minimum that will make possible reasonable residential use of the property.

14. The reasons set forth in the application justify the granting of the variance. Given the minimal wetland functions affected, the development will not create significant adverse impacts to a critical area or otherwise be detrimental to the public welfare.

15. There was no concern by consulted agencies over this application. There was no public testimony. One letter was received from a homeowner in the vicinity. She expressed the opinion that any variance allowing encroachment on a wetland in this area reduces habitat associated with Big Lake and that the cumulative impact of many such variances will represent major damage to wild areas.

16. There is nothing in the record to suggest that conditions exist that will lead to numerous similar variance requests in the area that would result in cumulative harm if granted.

17. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Examiner has jurisdiction over the parties and the subject matter of these proceedings.

2. The residence and garage proposed will meet the approval criteria of SCC 14.06.100, if the following conditions are imposed and complied with:

a. The applicant shall construct his project in accordance with the approved site plan.

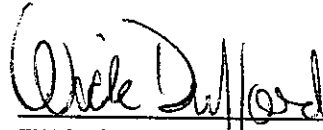
b. The applicant shall obtain all applicable permit approvals for the development of this property, including final permit approval for building permit #99-1111.

3. Any finding herein which may be deemed a conclusion is hereby adopted as such.



## DECISION

The variance is approved, subject to the conditions set forth in Conclusion 2 above.



Wick Dufford, Hearing Examiner

Date of Action: March 13, 2000

Copy transmitted to Applicant: March 13, 2000

## RECONSIDERATION/APPEAL

This decision shall become final unless a request for reconsideration or appeal is filed. A request for reconsideration shall be filed with the Hearing Examiner within ten (10) days from the date of this decision. An appeal shall be filed with the Board of County Commissioners within fourteen (14) days from the date of this decision, or if reconsideration has been requested, within fourteen (14) days from the decision after reconsideration.

