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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 VA 99 0581

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: DAVID HAWTHORNE

ASSESSOR PARCEL NO: P47408

ABBREVIATED LEGAL DESCRIPTION: located at 5049 Vaara Drive, Bow, WA; within Section 35, Township 36 North, Range 02 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the matter of:

Application No. P1990581
Of David Hawthorne
for a setback Variance
to allow for remodeling

)
) Findings of Fact
) Entry of Order
) No.PL 99-0581
)
)
)
)

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 5049 Vaara Drive, Bow; within a portion of Section 35, Township 36 North, Range 2 East, W.M., Skagit County, Washington;

Assessor Account No: 360235-1-005-0008, P47408

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 through 12 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):



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- (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.



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DECISION

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

1. Prior to start of construction, applicant shall obtain all required permits.
2. The building footprint shall not be expanded.

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

BY: *BE Furlong*
Bradford E. Furlong, Hearing Examiner, *Pro Tem*

Date of Action: *March 9, 2000*

Copies Transmitted to Applicant: *3/9/00*

Attachment: Staff Report and Findings



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SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: FEBRUARY 23, 2000

APPLICATION NUMBER: VARIANCE REQUEST PL99-0581

APPLICANT: DAVID HAWTHORNE

ADDRESS: 5049 VAARA DRIVE
BOW, WA. 98232

PROJECT LOCATION: Located at 5049 Vaara Drive, Samish Island, Bow, within a portion of Section 35, Township 36N, Range 2 East W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Variance request #PL99-0581 from 14.04.090 (5)(b)(i) of the Skagit County Code for the purpose of converting a portion of the garage area into residential living space and the addition of a loft area. The proposal is to increase the residential living area within the existing non-conforming structure.

ASSESSOR'S ACCOUNT NUMBER: 360235-1-005-0008, P47408

ZONING: The subject parcel is located within a Residential zoning district.

COMPREHENSIVE PLAN: The Comprehensive Plan designates the area as Rural Intermediate as identified by the Skagit County Comprehensive Plan and associated maps adopted June 1, 1997.

LEGAL DESCRIPTION: Lot C-1, Short Plat 41-85, Northeast ¼ of NE ¼ of Section 35, Township 36 North, Range 2 East W.M., Skagit County.

RECOMMENDATION: The Skagit County Planning and Permit Center recommends approval of the requested setback variance.

EXHIBITS:

1. Application dated September 16, 1999
2. Assessor's Section Map
3. Letter of Completeness dated October 5, 1999
4. Notice of Development published October 14, 1999



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STAFF FINDINGS:

1. The subject property is zoned Residential and the Comprehensive Plan and associated maps as adopted June 1, 1997 designates the area as Rural Intermediate. A letter of completeness was issued as per Section 14.01.033 (1) of the Skagit County Code and the application was determined to be complete on October 5, 1999.
2. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on October 14, 1999 as required by Section 14.01.040(2) of Skagit County Code. The public hearing has been advertised in accordance with the requirements of Chapter 14.01.042 and 14.04 of the Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines WAC 197-11-800 (6)(b) and has been found to be exempt.
4. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance 14.06 of the Skagit County Code. Staff reviewed indicated that there would be no change in the footprint therefore the project is exempt from further critical areas review. Staff approved the application without conditions.
5. The subject property is located out of any designated flood hazard.
6. The subject property is approximately 37,888 square feet in size located off of the east side of Vaara Drive, Samish Island. The property measures approximately 296 feet in length along the east and west property lines and approximately 128 feet in width along the north and south property lines. There is an existing single family residence located along the southeast portion of the parcel with measures approximately 3,096 square feet in size. The majority of the structure currently consists of a 648 square foot existing carport on the north side of the house, and existing 648 square foot lean-to storage area along the south side of the residence, and the remaining 1,800 square feet is left for the residential living area and garage space. The access to the site is off of Vaara Drive and the parcel utilizes an individual on site septic system with water provided by Samish Farms Water Association.
7. The surrounding area is residential and recreational in character with existing common uses. There are residential structures with attached and detached accessory structures located throughout the area and there is an existing County Park located nearby.
8. The applicant is requesting a variance from Skagit County Code 14.04.090 (5)(b)(i) for the purpose of adding a loft area and converting a portion of the



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garage area to increase the residential living area within the structure. The structure currently does not meet the required setbacks along the rear and south side property lines. Skagit County Code 14.04.090 (5)(b)(i) states that the side and rear yard setback requirements for primary structures shall be 8 feet from the side property line and 25 feet from the rear property line. The structure is currently 3 feet off of the south side property line and 21 feet off of the rear property line. Skagit County Code Section 14.04.270(3), Nonconforming uses, structures, lots, states: "A legal conforming building or structure housing a nonconforming use shall be permitted to be repaired, altered, remodeled or reconstructed providing said repairs, alteration or reconstruction meet all zoning and building code requirements. An existing legal building or structure that does not comply with zoning and building code requirements shall not be enlarged, altered or extended. Structural repairs needed to maintain the building in a safe structural condition may be permitted..." This proposal will increase the amount of residential living area within an existing structure that does not meet the required setbacks. The proposal does not intend any enlargement of the footprint of the nonconforming structure.

9. The application was reviewed by the Skagit County Department of Public Works. Public Works had no comments or concerns with the proposal and recommended approval.
10. The application was routed to Skagit County Environmental Health Specialist for review. Environmental Health had no concerns with the proposal.
11. The application was routed to the Water Resources division of the Skagit County Planning and Permit Center. Water Resources indicated that proof of water service from Samish Farms Water Association will be needed prior to approval. Once proof of water service is submitted, Water Resources has no concerns with the proposal and recommends approval without conditions.

Staff notes that since the time of initial review by Water Resources, the applicant submitted a copy of the water bill for the subject property indicating that water service is provided by Samish Farms Water Association.

12. Section 14.04.223 (1) (e) Variances of the Skagit County Code states that certain items will be reviewed when approving or denying Variances. Staff comments as they relate to the Variance criteria 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



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development. This parcel is flat and measures approximately 37,888 square feet in size. Staff notes that although there are no topographical conditions which are peculiar to the parcel, the residence is a pre-existing structure that does not meet current setback requirements. The proposal does not include expanding the foot print and the intent is to convert a portion of the garage area into residential living area and add a loft to expand the existing residential area within the structure.

- 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 use proposed by the applicant is a permitted use common with this zoning designation. The majority of the lots in this area have small lot sizes with structures that do not meet current setback requirements. This proposal will not change the use of the structure and will not encroach further into the setback area.

The applicant has indicated that the residence was purchased in August of 1998 with the attached garage. The square footage of the garage is greater than that of the residence. The applicant has indicated that the proposal is to extend the loft area within the existing structure to increase the living square footage and reduce the garage square footage which will allow for conventional residential status providing for insurance and mortgage purposes.

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

The applicant has indicated that the property was purchased in 1998 with the condition existing.

Staff notes that the action of the applicant did not result in the current configuration of the parcel or the current siting of the existing structure. Staff notes that the applicant is not requesting an expansion of the structures footprint. The applicant is requesting to enlarge the living area within the existing structure along with the addition of a loft.

- 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, buildings in the same district.*

The applicant has indicated that the granting of this variance request will not confer a special privilege that is denied by this chapter to other lands or structures in the same district. The applicant has indicated that the proposal is to extend the



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loft area, relocate the exiting stairwell and remodel the existing structure to increase the living area square footage.

Staff notes that the siting of the structure will not confer a special privilege on the applicant that is denied to other lands in the area because there are similar structures located in the area. The applicant is requesting the County to allow them to construct a loft addition and increase the living area of the existing structure that does not meet current setback requirements.

RECOMMENDATION:

Based on the current code the Planning and Permit Center would recommend approval of the requested setback variance with the following conditions:

1. The applicant shall obtain all permits and approvals from the appropriate jurisdiction.
2. *Footprint not be enlarged.*

Prepared by: BB

Approved by:

Dated: 2-8-00



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