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Kathy Hill, Skagit County Auditor

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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 0549

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: ARTHUR HAMMOND

ASSESSOR PARCEL NO: P69470

ABBREVIATED LEGAL DESCRIPTION: located at 9545 Colony Lane, Concrete, WA; Lot 19 of Skagit River Colony, within Section 20, Township 35 North, Range 09 East, W.M., Skagit County, Washington.

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

In the Matter of the Application of	)	
<b>ARTHUR HAMMOND</b>	)	VA99-0959
	)	
For A Variance from the Front Setback	)	Findings of Fact,
for Construction of A Storage Shed/Garage	)	Conclusions of Law
Within the Skagit River Colony	)	And Decision
Subdivision at 9545 Colony Lane, West	)	
of Rockport	)	
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THIS MATTER, a variance request by Arthur Hammond, came on for hearing on January 26, 2000, after due notice. The Skagit county Planning and Permit Center was represented by Linda Kuller, Senior Planner. Richard Banta of Blue Ribbon Steel Buildings appeared for the applicant. 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. Arthur Hammond (applicant) seeks a variance in order to build a storage shed/garage building within the 35 foot front setback. The structure would be within 19 feet of an access easement that runs along the front of the property.
2. The subject site is Lot 19 of the Skagit River Colony Subdivision which abuts the south bank of the Skagit River within a portion of Section 20, T35N, R9E, WM. The address is 9545 Colony Lane. The property is zoned Residential Reserve. The Comprehensive Plan designates the area as Rural Reserve.
3. The Sauk Valley Road runs along the front of the subdivision lots. Colony Lane is an access easement running parallel to the Sauk Valley Road about 30 feet inside the subdivision. The reason for this arrangement was apparently to limit exits to the County road.
4. The lot is long and narrow (60 by 312 feet), sloping up from the river. The property is cleared and planted with grass and some ornamental trees. A homesite has been set aside behind a 100-foot setback from the river and behind that is an area containing a septic system drainfield. Further upslope is a relatively flat area where the proposed storage/garage building is to go and where Colony Lane runs. The County road is located above Colony Lane.

5. Colony Lane is an unpaved, flat, grassy accessway. In appearance it is similar to an alley. There is little traffic on it. There are only two lots to the east that will need to use it. These lots are currently undeveloped. It is unlikely that the easement will ever be subject to widening or improvements.

6. The applicant's proposed building is well beyond 35 feet from the Sauk Valley Road. Its presence would not disrupt the development pattern along the access easement. There are existing structures closer than 35 feet to Colony Lane. Indeed, the property's well, installed by a prior owner, is actually within the easement.

7. Two neighbors wrote letters concerning this application. Both endorsed the proposal. There were no other expressions of public sentiment, either oral or in writing. The County's Environmental Health Specialist asked that no above ground or under ground storage of petroleum products or other dangerous substances be allowed. No other consulted departments expressed concerns.

8. The applicant initially thought that he might be able to legitimize the placement of the proposed structure through vacating the access easement. Colony Lane, however, was never dedicated to the County and so vacation is not an available option.

9. Under SCC 14.04.223, variances are authorized in specific cases where departure from the requirements of the zoning code "will not be contrary to the public interest" and "where, owing to special conditions, a literal enforcement of the provision of this chapter would result in unnecessary hardship." The explicit criteria for approval of a variance are:

- 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.
- b. 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.
- 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 in the same district.

10. 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. The proposed building will occupy the usable space remaining after constraints imposed by other



developments on the site are considered. The location is consistent with other construction in the subdivision and compatible with the notion of preserving views of the river for residences.

11. The property contains no Critical Areas. No probable adverse environmental impacts have been identified. The site is within 300 feet of designated Natural Resource Lands.

12. The Examiner finds that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum necessary to make possible reasonable use of the land. The granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

13. 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 subject matter of this proceeding.

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6).

3. The proposed 19 foot front setback will meet the approval criteria of SCC 14.04.223, if the following conditions are imposed and complied with:

(1) The applicant shall construct his project in accordance with the approved site plan.

(2) The applicant shall obtain all applicable approvals for this project.

(3) No above ground or underground storage of petroleum products or other dangerous materials shall be allowed.

(4) The applicant shall sign, notarize and record a title notice relating to proximity to Natural Resource Lands, as required by SCC 14.04.190(15)(e)(i).

(5) Construction on the property shall comply with the Flood Damage Prevention Ordinance.

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



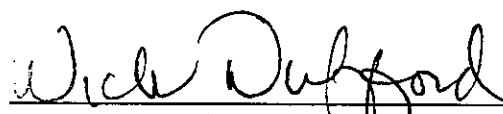
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## DECISION

The variance is approved, subject to the conditions set forth in Conclusion 3 above.



Wick Dufford, Hearing Examiner

Date of Action: March 15, 2000

Copy Transmitted to Applicant: March 15, 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.



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