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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 00 0081

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: LAWRENCE VERBANO and CHRISTINE DAMARJIAN

ASSESSOR PARCEL NOS: P107785, P60856, P60858, P60859, P60862

ABBREVIATED LEGAL DESCRIPTION: located at 7001 Guemes Island Road, Anacortes, WA; within Sections 1 and 12, Township 35 North, Range 01 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of)	
LAWRENCE D. VERBANO)	VA #00-0081
CHRISTINE DAMARJIAN)	
)	Findings of Fact,
For a Variance to Allow Use of a 30-foot)	Conclusions of Law
Wide Easement for Access to Two)	And Decision
10-acre Parcels Located at 7001 Guemes)	
Island Road, Guemes Island.)	
)	

THIS MATTER, a variance request filed by Lawrence D. Verbano and Christine Damarjian, came on regularly for hearing on April 12, 2000, after due notice. The Skagit County Planning and Permit Center was represented by Brandon Black. Darl Kvasager represented the petitioners. 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. Lawrence Verbano and Christine Damarjian desire to short plat a 20+ acre parcel, creating two 10-acre parcels. They seek to provide access to these two lots via an existing 30-foot-wide access easement. They are requesting a variance from SCC 14.08.090(3)(b)(iv) which requires a 60-foot-wide easement for access to two lots.
2. The property is located on Guemes Island at 7001 Guemes Island Road, within a portion of Sec. 12, T35N, R1E, W.M.
3. The subject parcel is zoned Rural. The Comprehensive Plan designates the area as Rural Reserve. No critical areas are located on the site.
4. The property is located approximately 660 feet to the east of Guemes Island Road. In the northwest part of the 20+ acres is an existing single family residence that is connected by a driveway to an access easement leading across intervening property to the County road. The easement is 30 feet wide with a 12-foot-wide gravel driving surface. The easement extends directly east from Guemes Island Road to the intersection what is proposed as the northwest corner of lot A and the southwest corner of lot B.
5. The surrounding area is rural in character. Residential structures are scattered throughout the vicinity, along with open fields and wooded areas.



6. The existing access easement is known as Ellensburg Street. It is flat and without topographical constraints. Though the easement crosses or abuts other properties, none of the property owners use it for access to their parcels. Neighboring owners have submitted statements disclaiming any intent ever to use Ellensburg Street as an access.

7. The same neighbors, however, are not interested in selling more right-of-way across their properties.

8. The easement is County owned, but has never been opened as a public street. Public Works regards Ellensburg Street as a private road located on County right-of-way. The private use has been allowed by a Public Works Department Trail Permit.

9. The subject property was part of an 1894 plat of "North Anacortes" which was never developed and was later vacated in the 1930's. However, a few dedications were saved and the now-substandard portion of Ellensburg Road right-of-way was one of them.

10. The applicants have owned the property since the 1960's. They built the log home currently located there. Now they hope to retire and build a new home on the south 10 acres. The 10-acre lot on the north is to be used by their son. There are no plans for further subdivision of the property.

11. Ellensburg Street is a well-developed existing private road. Recent improvements to the width and depth of the roadbed were constructed to comply with the Trail Permit. The present right-of-way and roadway has suitable facilities for handling surface water. If the access were expanded to a 20-foot-wide paved road on a 60-foot-wide right-of-way, additional drainage work would be needed.

12. Alternative means of access to the property does not appear practical. The applicants indicated that using Homestead Lane to the north is not feasible because of the opposition of property owners presently using that private easement.

13. No consulted agency expressed concerns about this proposal. The present 12-foot-wide gravel road meets the Fire Marshal's requirements for the passage of emergency vehicles. Public Works stated only that any future subdivisions will require the dedication of additional right-of-way. There was no public testimony and no opposition in the record.

14. 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.

15. The Staff's analysis applying the variance criteria to the instant application is set forth in the Staff report under Finding 12. The Examiner concurs in and adopts that analysis. The roadway is built to adequate standards for accessing two lots. There are other accesses of similar length and width within the immediate vicinity that serve more homes than would this proposed two-lot access.

16. The reasons set forth in the application justify the granting of the variance sought. The variance is the minimum that will make possible the reasonable use of the property. The proposed use will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the parties and the 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 findings support a conclusion that the proposal meets the variance criteria of SCC 14.04.223.

4. The variance should be granted subject to the following conditions.

(a) The approval is limited to the use of the existing 30-foot-wide access easement and 12-foot-wide driving surface to access a two-lot short plat.



(b) The use of the 30-foot-wide- easement as access for the short plat is contingent upon approval of the short plat.

(c) The applicants shall obtain any other permits and approvals that may be required.

(d) The variance number and date of approval shall appear on the face of the plat.

(e) If further division of the land occurs or if more than two residences propose to use the access easement, the road shall be brought up to short plat standards; namely, a 60-foot-wide easement and a 20-foot-wide driving surface for access.

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

DECISION

The requested variance is **APPROVED**, subject to the conditions set forth in Conclusion 4 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: May 4, 2000

Copy Transmitted to Applicants: May 4, 2000

Attachment: Staff Report

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 to the Board of County Commissioners shall be filed with the Planning and Permit Center 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.