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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 0068

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: GERALD SNOOK

ASSESSOR PARCEL NOS: P64726

ABBREVIATED LEGAL DESCRIPTION: located at 18376 Myrtle Drive, Burlington, WA;
within Section 6, Township 34 North, Range 4 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARINGS EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of GERALD J. SNOOK)	
)	VA00 0068
)	
For a Variance from Setbacks for an Accessory Residential Structure at 18376 Myrtle Drive, within the Urban Growth Area of the City of Burlington)	Findings of Fact, Conclusions of Law, And Decision
)	
)	

THIS MATTER, a variance request by Gerald J. Snook, came on regularly for hearing on April 26, 2000, after due notice. The Skagit County Planning and Permit Center was represented by Brandon Black. 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. Gerald J. Snook (applicant) desires to build a 576 square foot accessory structure for garage and storage use on a 9,630 square-foot residential lot. There is an existing family residence of approximately 1,700 square feet on the property.
2. The property is located at 18376 Myrtle Drive within the Urban Growth Area (UGA) of the City of Burlington. The site is within a portion of Sec. 6, T34N, R4E, W.M. The zoning is Residential. The residence is served with water from Public Utility District #1 and utilizes an on-site septic system.
3. The lot is irregularly shaped. It measures approximately 125 feet along the south property line, 87.5 feet along the east property line, 92.5 feet along the north property line, and 41.1 feet along the west property line. The front is to the northwest where the property line includes a culdesac which provides access.
4. The existing residence is approximately 12 feet from the north property line and 8 feet from the south property line. The proposed accessory structure would be about 6.5 feet west of the residence.
5. The proposed structure would be a 24 by 24 foot square. When constructed it would be 3 feet from the west property line and 17 feet from the north property line.

6. Skagit County has adopted Chapter 17.15 of the Burlington Municipal Code through an Interlocal Agreement for purposes of reviewing proposals within the Burlington Urban Growth Area.

7. Sections 17.15.050 and 060 of the Burlington Municipal Code establish setbacks applicable to the proposed structure as follows: side and rear line - 5 feet; front property line - 20 feet; distance from existing residence - 10 feet. The applicant seeks a variance from these setback requirements in order to place the accessory structure as proposed.

8. The existing residence is located at mid-property. The septic tank and drainfield are in the rear. There is no place on the lot other than the proposed location to put the proposed accessory building.

9. The structure itself is a permitted use, common to the zoning district. The surrounding area is a developed residential neighborhood. Attached and detached accessory structures are located throughout the area. Indeed, the majority of lots in the vicinity have similar accessory structures.

10. The configuration of existing development on the lot is not of the applicant's making. He purchased the property with its present features.

11. No consulted agency expressed objections to this proposal. The City of Burlington expressed no concerns. There was no public testimony and no opposition in the record.

12. Skagit County did not adopt Burlington's variance criteria, so the County's variance standards have been applied in analyzing this application. 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.

13. The Staff's analysis applying the variance criteria to the instant application is set forth in the Staff Report under Finding 13. The Examiner concurs in and adopts that analysis.

14. The reasons set forth in the application justify the granting of the variance sought. The variance is the minimum that will make possible a reasonable use of the property.

15. The granting of the variance will be in harmony with the general intent and purpose of the relevant zoning. The proposed use will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

16. 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) Approval is limited to construction of a building of the size proposed, at the location proposed.

(b) The applicants shall obtain all other required permits and approvals from the appropriate jurisdiction.

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



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DECISION

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


Wick Dufford, Hearing Examiner

Date of Action: May 24, 2000

Copy Transmitted to Applicant: May 24, 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, of if reconsideration has been requested, within fourteen (14) days from the decision after reconsideration.



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**SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT**

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: APRIL 26, 2000

APPLICATION NUMBER: VARIANCE REQUEST PL00-0068

APPLICANT: GERALD J. SNOOK

ADDRESS: 18376 MYRTLE DRIVE
BURLINGTON, WA. 98233

PROJECT LOCATION: Located at 18376 Myrtle Drive, Burlington, within a portion of Section 6, Township 34N, Range 4 East W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Variance request #PL00-0068 from Chapter 17.15.050 of the City of Burlington Municipal Code for the purpose of constructing a 576 square foot accessory structure not able to meet the required setbacks of at least 5 feet off of the side and rear property lines, at least 20 feet off of the front (street) property line, and at least 10 feet from the existing residential structure on site.

ASSESSOR'S ACCOUNT NUMBER: 3894-000-009-0004, P64726

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

COMPREHENSIVE PLAN: The Comprehensive Plan designates the area as Residential within the Urban Growth Area for the City of Burlington, as identified by the Skagit County Comprehensive Plan and associated maps adopted June 1, 1997.

LEGAL DESCRIPTION: Cummings 2nd Addition Lot 9.

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

EXHIBITS:

1. Staff Report
2. Application dated February 7, 2000
3. Assessor's Section Map
4. Letter of Completeness dated February 16, 2000
5. Notice of Development published February 24, 2000



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6. City of Burlington comment letter dated December 13, 1999 from Margaret Fleek, Planning Director.

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 Residential within the Urban Growth Area for the City of Burlington. 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 February 16, 2000.
2. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on February 24, 2000 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 the site for the presence of critical areas with building permit application #BP00-0134 and approved the application without conditions.
5. The subject property is located within a Zone B designated flood hazard as identified by FEMA on Flood Insurance Rate Map (FIRM) #530151 0250 C with the effective date of January 3, 1985.
6. The subject property is approximately 9,630 square feet in size located off of the east end of Myrtle Drive, Burlington. The lot measures approximately 125 feet in depth along the south property line, approximately 87.5 feet in width along the east property line, approximately 92.5 feet in depth along the north property line and approximately 41.1 feet in length along the west property line. The front, north, property line also includes a cul-de-sac, and the parcel is accessed via the cul-de-sac off of Myrtle Drive. There is an existing single family residence (approximately 1,700 square feet in size) on site located approximately 12 feet off of the north property line and approximately 8 feet off of the south property line. The proposed accessory structure would be located approximately 6.5 feet to the west of the existing single family residence. The parcel is currently provided water from Public Utility District #1 and utilizes an individual on site septic system.



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7. The surrounding area is residential in character with existing common uses. There are residential structures with attached and detached accessory structures located throughout the area. The street is lined with existing single family residences with accessory structures on uniform lot sizes.
8. The applicant is requesting a variance from Chapter 17.15.050 of the City of Burlington Municipal Code for the purpose of constructing a 576 square foot accessory structure not able to meet the required setbacks of at least 5 feet off of the side and rear property lines, at least 20 off of the front (street) property line, and at least 10 feet from the existing residential structure on site. The proposal is to construct a 24' x 24' square foot accessory structure on a parcel with an existing single family residence. When constructed, the proposed structure would be 3 feet off of the south property line, 3 feet off of the west property line, 17 feet off of the north (front) property line and approximately 6.5 feet from the existing residence. Skagit County has adopted Chapter 17.15 of the City of Burlington Municipal Code through an Interlocal Agreement and the adoption of Burlington's development standards. Projects within the Burlington Urban Growth Area are reviewed under City standards through the County review process. Since the County did not adopt Burlington's development standards for variance criteria, this project is being reviewed under Skagit County variance criteria.
9. The proposal is located within the Urban Growth Area for the City of Burlington. The application was routed to the City of Burlington for comments. The City did not submit concerns with the proposal.
10. 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.
11. The application was routed to Skagit County Environmental Health Specialist for review. Environmental Health had no concerns with the proposal.
12. The application was routed to the Water Resources division of the Skagit County Planning and Permit Center. Water Resources had no concerns with the proposal and recommended approval without conditions.
13. 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.*



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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. This parcel is flat with a gentle slope to the south. Staff notes that although there are no topographical conditions which are peculiar to the parcel, the existing residence sits approximately mid property and the existing septic and drainfield are located to the southeast (rear) of the existing residence which eliminates the placement of the accessory structure in any other location on the parcel.

- 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 similar accessory structures located within the area which clearly indicates 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.

The applicant has indicated that the proposed building is an allowed use based on the fact that there are other similar structures in the surrounding area.

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

The applicant indicated that the property was purchased approximately 9 years ago and the house was located in the center of the parcel which does not leave enough room to locate an accessory structure and meet the required setbacks. The applicant is proposing to construct the structure for use as a garage and storage area.

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 residence. Staff notes that the proposal falls under the City of Burlington's development standards and there has been correspondence submitted which indicates that the City does not have a concern with the proposal.

- 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.*



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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 construct a 576 square foot accessory structure for garage and storage purposes. Several other parcels in the area have similar structures.

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 an accessory structure not able to meet the City of Burlington setback requirements in order to meet their current storage needs.

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.

Prepared by: BB

Approved by:

Dated: 4-7-00



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