



200007270050

Kathy Hill, Skagit County Auditor
7/27/2000 Page 1 of 5 2:24:27PM

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

DOCUMENT TITLE: ORDER ON REMAND TO HEARING EXAMINER OF
APPEAL AP 99 0288

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: DENA BLATT

ASSESSOR PARCEL NO: P19049

ABBREVIATED LEGAL DESCRIPTION: located at 12724 Marine Drive, Anacortes, WA;
within Section 2, Township 34 North, Range 1 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Appeal of)	
DENA BLATT)	AP 99 0288
)	Permit App. #97-1304
From an Administrative Determination)	
Denying a Building Permit Application)	Findings and Conclusions
For an Addition to a Residence at)	On Remand
1274-A Marine Drive.)	
_____)	

THIS MATTER, having been remanded to the Hearing Examiner by the Skagit County Board of Commissioners to correct deficiencies in the record, came on regularly for hearing on May 31, 2000, after due notice. Corey Schmidt, Building Official, and Marge Swint, Planner, represented the County. John Shultz, Attorney at Law, represented the Appellant.

If it does not already do so, the Hearing Examiner's record is hereby made to include all of the following:

- (a) Geotechnical Evaluation -- JB Scott & Associates, November 20, 1997
- (b) Geotechnical Reconnaissance and Consultation -- J. Keith Cross, June 5, 1998.
- (c) Geotechnical Reconnaissance and Consultation -- J. Keith Cross, December 5, 1998
- (d) Supplement to December 5, 1998 Letter -- J. Keith Cross, April 13, 1999
- (e) Record of Survey, Metron and Associates Inc., May 1999.
- (f) Appeal of Hearing Examiner's Decision to the Skagit County Board of Commissioners, filed June 9, 1999
- (g) Resolution No. 17759

On the basis of the entire record and of the presentations made, the following is entered.

FINDINGS

1. On May 26, 1999, the Hearing Examiner denied the appeal of Dena Blatt from a decision of the Code Compliance Officer, Planning and Permit Center, denying her a building permit for an addition to a dwelling located at 1274-A Marine Drive.



2. The property in question is situated on the western shore of Fidalgo Island and includes a steep bluff rising about 170 feet above the waters of Burrows Bay. The location is approximately one-half mile northeast of Edith Point.

3. The Hearing Examiner's decision was appealed to the County Board of Commissioners which heard the case and, on February 8, 2000, and remanded the matter to the Hearing Examiner to correct deficiencies in the record. By Resolution No. 17759, the Board found "that the record on appeal was insufficient regarding the question of the location of property lines and the necessity for variances from the dimensional requirements as described in Skagit County Code."

4. The Board voted to remand the matter "to correct such deficiencies and specifically the health and safety codes, variance considerations and to resolve property boundary issues."

5. The building permit application in question arose from an enforcement action. In May of 1997, the Appellant constructed the addition to the subject dwelling without a building permit. On June 3, 1997, a Stop Work Notice was posted on her property. The construction was substantially completed at that time. The permit application was an attempt to obtain authorization after-the-fact for what had been built.

6. The building permit application was denied by letter dated June 16, 1998. Three reasons were given: (1) Geotechnical evaluation showed that construction of the addition negatively affected the adjoining bluff slope; (2) Survey information had not been provided to show that the addition does not encroach on the setback from the adjoining property to the north; (3) The addition adds one more bedroom than the septic system was approved for.

7. The geotechnical investigation was performed in response to County inspection of the site which determined that the Critical Areas Ordinance regarding geologically hazardous areas was applicable. Clarification subsequent to the permit denial demonstrated that, in fact, the residential addition has not negatively affected the adjoining bluff slope. Moreover, water contribution from the septic system was determined to have little to do with slope stability.

8. A standard buffer width of 30 feet from the top of the bluff is established by the Critical Areas Ordinance (CAO). SCC 14.06.430(7). However, this may be reduced to a minimum of 10 feet when the applicant demonstrates that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area.

9. The original residence is 18 feet from the top of the bluff at its nearest point. The addition is farther from the top of the bluff than the original house. Given the



existence of the original house, no feasible alternative exists to considering an alteration to the buffer.

10. The geotechnical reports involved here are dated November 20, 1997, June 5, 1998, December 5, 1998, and April 13, 1999. These reports support a determination that a reduction in buffer area is justified, if minor drainage improvements are made as recommended.

11. A professional survey shows that the deck to the new addition does encroach upon property to the north. However, with removal of the deck, the addition is within three feet of the north property line. The applicable side setback is eight feet. SCC 14.04.090(5)(b).

12. The original house, in fact, was a two bedroom house. The addition added one bedroom, bringing the total to three. The septic system has been inspected by a contractor and found to be of an adequate size to accommodate a three-bedroom home. Confirmation by the County as to the adequacy of the septic system is needed.

13. The Appellant has applied for a reduction from the 30 foot buffer requirement of the CAO and for a variance from the eight-foot side yard setback.

14. The Hearing Examiner's decision (Conclusion 7) indicated that, in addition to the grounds for building permit denial listed by the Planning and Permit Center, the County Building Official was asserting a violation of Section 1806.53 of the Uniform Building Code (UBC). At the hearing on remand, this objection was withdrawn. The Building Official stated that the geotechnical evaluations show that a lesser setback from the bluff can be allowed without unreasonable risk. Compliance with the CAO should be adequate to accommodate setback concerns.

15. In his decision, the Examiner also took note that inclusion of the kitchen in the addition changes the classification of the structure from single-family to multi-family residence (Conclusion 9). This conclusion is unsupported in the record.

CONCLUSIONS

1. The above supplementary findings are intended to correct the deficiencies identified in the remand of this matter by the County Board of Commissioners.

2. The Examiner concludes that the reduced critical area buffer and the side setback variance sought by the Appellant are needed in order for the residential addition in question to comply with the County's land use laws.



3. If these requests are granted, and an official approval of the septic system is obtained, the land use prerequisites to the issuance of a building permit will have been satisfied.

4. Upon satisfactory completion of the additional approval processes now being pursued, the objections listed in the denial letter of June 16, 1998, will all have been overcome. When and if the Examiner is advised of such satisfactory completion, he will then enter an Order reversing the permit denial decision.

DONE this 27th day of July, 2000

Wick Dufford

Wick Dufford, Hearing Examiner



200007270050

Kathy Hill, Skagit County Auditor
7/27/2000 Page 5 of 5 2:24:27PM