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, 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: VARIANCE APPLICATION VA 00 0353

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: THOMAS MOODY

ASSESSOR PARCEL NO: P41031

ABBREVIATED LEGAL DESCRIPTION: located at 7590 Scott paper Road, Sedro Woolley, Wa; within the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 11, Township 35 North, Range 6 East, W.M., Skagit County, Washington.



5. This configuration of topography, use, and development severely constrains the possibilities for structural additions. The proposal to add a new shop attached to the present garage presents the only reasonable locale for adding shop capacity.

6. The proposal, in fact, has the effect of preserving clustered development in a highly attractive rural setting. From an aesthetic standpoint, this is a desirable approach, avoiding the interruption of open space uses with structural clutter.

7. The garage was built in 1974 approximately 45 feet from the front property line. The present 100 foot setback on all sides for buildings within Secondary Forest Natural Resources Land was not then in effect. The applicant seeks a variance from this standard in order to construct a shop building that is 27 by 30 feet by 12 feet high. The new structure would reach within 15 feet of the front property line.

8. There is no development on the other side of the front property line which this addition would have the effect of crowding. The adjacent property to the north is timber land which is essentially undeveloped. To the west the road leads to the Crown Pacific gate. There is no other residence in that direction.

9. Other than the front setback, the proposed addition would more than meet all other setbacks. The applicant's house and land are at the end of the road in terms of residences. However, to the east and south on the road leading to the applicant's property, there are numerous single-family residences with similar accessory buildings.

10. 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.



11. The Staff Report analyzes the application in light of these criteria and concludes that the project will meet them. The Examiner concurs in this analysis and adopts the same.

12. The shop addition sought is part of the reasonable residential use of this rural property. The variance is the minimum that will make possible this reasonable use.

13. The reasons set forth in the application justify the granting of the variance. The variance will be in harmony with the general purpose and intent of the zoning code and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

14. No consulted department had objections to this application. There was no public opposition.

15. 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)(b).

3. The proposal, as conditioned, meets the variance criteria of SCC 14.04.223.

4. The following conditions should be imposed.

(a) The permittee shall strictly adhere to the project information (site plan) submitted herein. The structure shall not approach closer than 15 feet from the front boundary of the property.

(b) Prior to construction, the permittee shall obtain all other required permits and approvals.


(c) The permittee shall comply with the provisions of SCC 14.04.190(15)(a)(i), Notification of Development Activities on or adjacent to Designated Natural Resource Lands.

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



## DECISION

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

  
Wick Dufford, Hearing Examiner

Date of Action: November 7, 2000

Copy transmitted to Applicant: November 7, 2000

Attachment: Staff Report

## RECONSIDERATION/APPEAL

A request for reconsideration may be filed as provided in SCC 14.06.180. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Clerk of the Board within 14 days after the date of the Examiner's decision, or decision on reconsideration if applicable.



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

**HEARING AUTHORITY:** SKAGIT COUNTY HEARING EXAMINER

**HEARING DATE:** September 27, 2000

**APPLICATION NUMBER:** VARIANCE PL#00-0353

**APPLICANT:** Thomas Moody

**ADDRESS:** 7590 Scott Paper Road  
Sedro-Woolley, WA 98284

**CONTACT:** Mark Smith  
Farm & Home Steel Buildings  
15609 Peterson Road, Suite A  
Burlington, WA 98233

**PROJECT LOCATION:** Located at 7590 Scott Paper Rd. Sedro-Woolley, WA; within a portion of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 11, Township 35 North, Range 06 East, W.M., Skagit County, Wa.

**PROJECT DESCRIPTION:** Variance Request to allow for a 27' x 30' x 12' addition to an existing shop building within the required front setback of the Secondary forest Zone pursuant to 14.04.125 (5) (c).

**ASSESSOR'S ACCOUNT NUMBER:** 350611-2-004-0002

**PARCEL ID NUMBER:** P #41031

**ZONING:** Secondary Forest

**COMPREHENSIVE PLAN:** Secondary Forest

**RECOMMENDATION:** The Planning and Permit Center would recommend approval of the requested variance with conditions

**EXHIBITS:**

- a. Application dated June 21, 2000
- b. Narrative Statement



- c. Site Plan
- d. Title Company Assessor map (not to scale)
- e. Letter of Completeness dated August 3, 2000
- f. Notice of Development dated August 17, 2000
- g. Photos

**STAFF FINDINGS:**

1. The subject property is zoned Secondary Forest and Comprehensive Plan designates the area as Secondary Forest.
2. A letter of completeness was issued on August 3, 2000. A Notice of Development Application for the application was posted on the subject property and published in a newspaper of general circulation on August 17, 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 of the Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Act Guidelines WAC 197-11-800 (6)(b) and has been found to be exempt.
4. The subject property is not located in Flood Hazard Zone. The subject property is located in lands designated as Natural Resource. The applicant shall comply with the provisions of Skagit County Code 14.04.190 15(a)(i), Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.
5. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance. No critical areas were identified within 200 feet of the project area.
6. The subject property is approximately 6 acres in size and is located northwest of Hamilton at the end of the Scott Paper Road. The road was formerly an old railroad grade and follows the contour of the hill to the Scott Paper Mainline Road. The subject parcel has an unusual configuration and the applicant is not able to provide accurate dimensions of his property. The property is benched with the existing residence and garage/shop located a narrow plateau of approximately  $\frac{3}{4}$  of an acre on the upper portion of the property. The remainder property is a steep side hill of approximately 100 feet top to bottom, then flat pastureland of approximately 5 acres. There is a garden and orchard located on the west end of the plateau next to the shop area. However this area is concave in shape and would require established fruit trees to be cut down and an enormous amount of fill to be brought in order to build there. The garage/shop, built in 1974, is located approximately 45 feet from the front property line. The property is served by



private well located approximately 150 feet southeast of the residence and an individual septic system located northeast of the residence. There are no other residences beyond the applicant's. The property across the access road is owned by Crown Pacific Timber Company and is undeveloped except for a couple of small accessory buildings owned by the applicant.

7. The applicant has requested a variance from the 100 foot front setback requirement of SCC 14.04.125(5)(c) to place a 27' x 30' x 12' addition to an existing shop building 15 feet from the front property line. The proposed addition would provide cover for the applicant's travel trailer and wood storage.
8. Skagit County Code Section 14.04.125 (5)(c) establishes setbacks in the Secondary Forest zone as 100 feet from all sides. The proposed storage unit will be attached to the front of the existing garage/shop locating it approximately 15 feet from the front property line. The proposed addition would meet the necessary setback requirements for the remaining property lines.
9. Skagit County Code Section 14.04.270(3) Enlargements, Alteration Reconstruction states that an existing legal building or structure that does not comply with zoning and building code requirements shall not be enlarged, altered, or extended. It has been a common practice of the Department to consider such structures for enlargement, alteration or extension through the Variance process. The request is then judged on its own merits.
10. The application was routed to the appropriate county departments for review. **Public Works**—no concerns, **Septic Division**—no concerns.
11. Section 14.04.223(1)(e) Variances of the Skagit County Code states that certain items will be reviewed when approving or denying Variances. Those items 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 generally recognizes that special conditions and circumstances 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. The special condition/circumstances in this request is that there is no other place on the developed part of the property to put this type of structure. The developed portion, which consists of





the residence and garage/shop, is on a small narrow plateau. The rest of the property consists of a steep side hill of approximately 100 feet top to bottom, then flat pastureland of approximately 5 acres. In addition, there is a garden and orchard located on the west end of the plateau next to the shop area. However this area is not level and would require established fruit trees to be cut down and an enormous amount of fill to be brought in order to build there. A site visit confirmed the physical makeup of the property.

- 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 type of structure the applicant is proposing to build is not uncommon in the area. Although the applicant is at the end of the "road", the area leading up to his residence is fully developed with single-family residences and accessory buildings.

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

The applicant is not responsible for the topographical makeup of the property. At the time that he built the garage/shop, where he wants to add the addition, the setback requirements were different than they are today.

- 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.

Staff concurs that the granting of this variance will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same district. The proposed plan will utilize the property in the best manner and is the minimum that will make possible the reasonable use of the land, building or structure.

**RECOMMENDATION:**

Based on the above findings the Planning and Permit Center would recommend **approval** of the requested variance with the following conditions:

1. Prior to construction, the applicant will obtain all required permits.



2. The applicant shall comply with the provisions of Skagit County Code 14.04.190 15(a)(i), Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

Prepared by: MS  
Approved by:

