



200011090095

, Skagit County Auditor

11/9/2000 Page 1 of 10 9:27:31AM

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

DOCUMENT TITLE: VARIANCE APPLICATION VA 00 0352

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: JOHN WHITNEY

ASSESSOR PARCEL NO: P67595

ABBREVIATED LEGAL DESCRIPTION: located at 20787 West Jordan Road, Burlington, WA; within the SE ¼ of Section 28, Township 35 North, Range 4 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of
JOHN WHITNEY

VA 00-0352

For a Variance from Setbacks to Allow
Placement of a Covered Storage for a
Recreational Vehicle at 20787 West
Jordan Road.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION

THIS MATTER, an application for a variance, came on regularly for hearing on September 27, 2000, after due notice. The Planning and Permit Center was represented by Marge Swint. The applicant represented himself. Members of the public were given an opportunity to be heard.

Based on the exhibits entered, the testimony taken, and the argument made, the following is entered:

FINDINGS OF FACT

1. John Whitney (applicant) seeks to build a covered area in which to store his recreational vehicle. The structure would be next to the existing carport attached to his residence at 20787 West Jordan Road.
2. The property is a part of Lot 1 of Morgan's Tracts, located within a portion of the SE ¼, Sec. 28, T35N, R4E, WM. The zoning is residential. The property is adjacent to designated Natural Resource lands.
3. The application was deemed complete by a letter of completeness dated July 21, 2000, and was processed under the zoning regulations then in effect.
4. The property is approximately .5 acres in size, located on the north side of West Jordan Road. The lot is nearly a square, measuring 119.7 feet wide by 110 feet deep. The existing residence and carport are located 20 to 22 feet from the front (south) property line, 43 feet from the rear property line and 30 feet from the west side property line. Built sometime in the 1960's before current setbacks were established, these features constitute a legal nonconforming use.
5. Located in the side yard on the east is a mobile home which is about 26 feet from the road, 38 feet from the rear line and 20 feet from the east boundary. There is a septic tank and an on-site drainfield in the back yard. A small storage shed has been



installed in the northwest corner of the parcel. There are several shade trees in the back yard. The back yard is completely fenced.

6. Next to the west property line is a paved easement road used for access to two lots northwest of the subject parcel. The intersection of this easement with West Jordan Road causes the applicant's property to be considered a corner lot.

7. In residential districts, the front setback for accessory structures is 35 feet, and the side setback is 20 feet when the side property line is adjacent to a street right-of-way. SCC 14.04.090 (5)(b)(ii). The applicant seeks a variance so that the RV shelter can be located within 32 feet of the front boundary and 14 feet of the west side boundary.

8. When this application was filed, the west boundary was landscaped with a 15-20 foot thick border of evergreen shrubs and other bushes. The new structure will have a footprint of 16 by 32 feet and will impinge on this border area. In anticipation of construction, the applicant has removed taller shrubbery toward the southwest corner of the lot.

9. On a corner lot, the zoning code prohibits structures or plantings that will impair vision within a prescribed triangle. The applicant believes that his clearing efforts have provided the site distance required. The proposed RV shelter itself will not interfere with achievement of vision clearance objectives.

10. The neighborhood along West Jordan is fully developed with single-family homes similar in size and placement to the applicant's. It is common in the neighborhood to have separate RV storage and garage structures. The subject property differs from most of the others in that it is a corner lot and therefore subject to a greater side setback.

11. There is no other place on this developed parcel where this type of structure could be placed. When the applicant purchased the property in 1988, the present configuration and development were already in existence.

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

14. The recreational vehicle storage unit sought is a part of the reasonable residential use of the property. The variance is the minimum that will make possible this reasonable use.

15. 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.

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

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)(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 14 feet from the west side boundary nor closer than 32 feet from the front boundary of the property.

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



(c) The permittee shall achieve compliance with SCC 14.04.190(1) -- Vision Clearance.

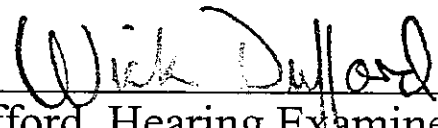
(d) The permittee shall comply with the provisions of Skagit County Code 14.04.190(15(a)(i), Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

(e) The applicant shall comply with the Flood Damage Prevention Ordinance, SCC Chapter 15.30.

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#00-0352

APPLICANT: John Whitney

ADDRESS: 20787 West Jordan Rd.
Burlington, WA 98233

PROJECT LOCATION: Located at 20787 West Jordan Rd. Burlington, WA; a portion of Lot 1 of Morgan's Tracts; within a portion of the SE $\frac{1}{4}$ of Section 28, Township 35 North, Range 04 East, W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Variance Request to allow for the placement of 16' x 32' RV storage unit within the required sideyard setback of the residential zone pursuant to SSC 14.04.090 (5)(b)(i).

ASSESSOR'S ACCOUNT NUMBER: 3959-000-001-0103

PARCEL ID NUMBER: P 20787

ZONING: Residential

COMPREHENSIVE PLAN: Rural Intermediate

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. Assessor map (not to scale)
- e. Letter of Completeness dated July 21, 2000
- f. Notice of Development dated August 3, 2000



- g. Photos
- h. Vision Clearance Triangle Illustration per Skagit County Roadway Standards

STAFF FINDINGS:

1. The subject property is zoned Residential and Comprehensive Plan designates the area as Rural Intermediate.
2. A letter of completeness was issued on July 21, 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 3, 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 located in an A-7 Flood Hazard Zone per FIRM Map 530151 0235D dated September 29, 1989. The base flood elevation is 42-ft. mean sea level. The subject property is adjacent to 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 .5 acres in size and is located on the north side of West Jordan Road. The subject parcel has a square configuration measuring 119.7 ft. long by 110' wide. There is a single-family residence with an attached carport located approximately 20 feet, at its closest point, to the front (south) property line. The residence is approximately 43 ft. from the rear (north) property line and approximately 30 feet from the west (side) property line. According to the Assessor's records, the residence was built in 1966. Also located on the property, approximately 12 feet east of the existing residence, is a mobile home. This home is approximately 26 feet from the front property line, 38 feet to the rear property line and approximately 20 feet to the east (side) property line. The property is served by public water and an individual septic system located in the back yard.



The west property line is landscaped with approximately 15-20 feet of evergreen shrubs and other bushes. The back yard is completely fenced and there are several shade trees. In addition, a small storage shed is located in the northwest corner of the back yard. Adjacent to the west property line is a 30-foot easement for ingress, egress, and utilities serving 2 lots to the northwest of the property. Due to this easement, the subject property is considered a corner lot. The neighborhood is fully developed with single-family residences. West Jordan Road turns south at the subject property ending in a cul-de-sac approximately 270 feet from the subject parcel. West Jordan Road serves 16 homes including the subject property.

7. The applicant is requesting a variance from the side yard setback requirements (from 20 ft. to 14 ft.) to allow for the construction of a 16' x 32' foot RV storage unit attached to the existing residence & carport. The storage unit will be attached to the carport on the west side of the property. The applicant is proposing that the unit will be approximately 32 feet from the front property line and approximately 14 feet from the side (west) property line and approximately 51 feet from the rear property line. The septic tank and drain field is located in the middle of the property away from the proposed addition.
8. Skagit County Code Section 14.04.090(5)(b)(i) establishes setbacks in the Residential zone as the following: Primary structures-front: 35 feet, 25 feet on minor access and dead-end streets; side: 8 feet on interior lot, 20 feet on street right-of-way; rear: 25 feet. The proposed storage unit will be attached to the existing residence. The existing residence, built prior to established setback requirements, does not meet the required setbacks. Therefore, it is considered a preexisting nonconforming structure.
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. SCC Section 14.04.190(1) Vision Clearance. On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impair vision between the height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting streets within a triangle formed by the road right-of-way lines of such corner lots and a line joining points along said road lines thirty (30) feet from the point of



intersection. The applicant will need to show that this request will be in compliance with this section of the code.

11. The application was routed to the appropriate county departments for review. **Public Works**—no concerns, **Septic Division**—no concerns.
12. 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 property to put this type of structure. The subject property is flat and fully developed. The two residences located on the property occupy the front half of the property. The back yard is completely fenced with several shade trees and a small storage shed. In addition the septic system is located in the back yard. A site visit confirms 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 neighborhood, which consists of 16 homes, is fully developed. It is common within the neighborhood to have separate RV storage or garages that can be used for storage. The subject parcel is somewhat unique in that it is a corner lot and if it were an interior lot would not have the extra setback requirement.

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

The applicant purchased the property in 1988 fully developed and is not responsible for the configuration or the makeup of the lot. The further expansion of the pre existing nonconforming structure is a result of 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.

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 addition will not extend into the established landscaping along the west property line and appears to be set far enough back from the front property line to avoid any vision clearance problems. 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 must be in compliance with SCC 14.04.190(1) Vision Clearance.
3. Prior to issuance of the building permit, a vision clearance site plan shall be submitted and approved.
4. 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 applicant shall comply with the Flood Damage Prevention Ordinance SCC 15.30.

Prepared by: MS
Approved by:



200011090095
, Skagit County Auditor