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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 APPLICATION VA 00 0683

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: JEFF and LINDA HENDRICKS

ASSESSOR PARCEL NO: P68196

ABBREVIATED LEGAL DESCRIPTION: 11622 North Del Mar Drive, Anacortes, WA;
within Section 34, Township 35 North, Range 1 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of
JEFF AND LINDA HENDRICKS

PL00-0683

For a Variance to Allow the Construction
Of a Garage Addition Within the
Front Yard Setback at 11622 N. Del
Mar Drive

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

THIS MATTER, an application for a setback variance, came on regularly for hearing on March 14, 2001, after due notice. Brandon Black appeared for the Planning and Permit Center. The applicants were represented by Mike Underwood, Architect. Members of the public were given an opportunity to be heard.

From the testimony given, exhibits entered, and argument made, the following is entered:

FINDINGS OF FACT

1. Jeff and Linda Hendricks (applicants) seek a variance from the front yard setback in order to build an addition to the garage on their house at 11622 N. Del Mar Drive.

2. The property is located within a portion of Sec. 34, T35N, R1E, WM. The subject parcel is in a Rural Intermediate zoning district.

3. The application was determined to be complete on November 17, 2000. A Notice of Application was published on November 23, 2000.

4. North Del Mar Drive is a dead-end access easement which occupies the east (front) 25-30 feet the subject property. A water detention pond lies to the east of the easement. The improved surface is narrower than the described easement, so that the east boundary of the property is actually within the detention pond.

5. The property is a relatively narrow 100 feet in width (north to south). There is an existing single-family residence with attached garage on the property. The existing garage has been converted to living space. The proposal is add a new garage to the east side of the old garage space..

6. To the west of the property is Burrows Bay. There are existing residences to the north and south. To the east, there are several houses on the other side of the



detention pond. These face west with the existing house on the subject property being within their viewscape.

7. The proposed garage addition will lie more than 30 feet back from the front property line, but will be about five feet from the west edge of the easement.

8. SCC 14.16.300(5)(a) establishes a front setback in the Rural Intermediate district of 25 feet on dead-end streets. In the circumstances of the case, the Permit Center interprets this to mean 25 feet from the west edge of the easement. Therefore, the applicants request a variance to allow the garage to come within five feet of the easement.

9. Structures on the properties of neighbors on either side of the applicants intrude into the 25 feet setback as defined by the Permit Center. The carport to the south is closer to the easement than the applicants' garage addition will be. Existing residential structures throughout the near vicinity, as well as along the easement, fail to meet current setback requirements.

10. The application was routed to appropriate County departments. None had any concerns.

11. There were letters of comment from three neighbors. Two opposed the variance, if the garage addition is so high as to impact their views of the bay. The third -- one of the alongside neighbors -- favored the proposal.

12. There was testimony in opposition from a purchaser of property on the other side of the detention pond. His concern was also interference with views, although he purchased only recently with the applicant's existing house in place, blocking views of the horizon along its entire width.. He asserted that the development of the lot has exceeded plat restrictions.

13. The proposed variance is sought only for the setback. There is no applicable height restriction for the garage.

14. The proposal is to match the existing building roof line of 26.5 feet for the first 10 linear feet of the garage addition and then to drop down to one story for the remaining 15 linear feet. The lower elevation portion will mimic the height of the neighboring residence to the west.

15. The effect will be to eliminate a sliver of bay water from some points of view. However, overall the effect of the addition on views will be minor.

16. The criteria for variance approval are set forth at SCC 14.10.030(2), as follows:

a. 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. Topics to be addressed include topographic or critical area constraints that make use of the particular site infeasible without the proposed variance.

b. 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 SCC Titles 14 and 15.

c. 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 SCC Titles 14 and 15 to other lands, structures or buildings in the same district.

(e) An explanation of how the variance meets any other specific criteria required for the type of variance requests, where applicable . . .

17. No specific criteria for a special type of variance are applicable in this case. The requested variance may be approved if SCC 14.10.030(2)(a through d) are satisfied.

18. 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.

19. 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. SCC 14.06.050(b), 14.10.020(3).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. Single family residences and residential accessories are a permitted use in the Rural Intermediate zoning district. SCC 14.16.300(2)(d),(g).

4. Enforcement of private plat restrictions is not within the authority of the Examiner.



5. As conditioned, the proposed garage addition will meet the criteria for a setback variance. SCC 14.10.030(2).

6. The following conditions should be imposed:

(1) The proposed addition shall approach no closer than five feet from the westerly edge of the access road easement.


(2) The general configuration of the structure shall be as described in the project description accompanying the application and in hearing testimony.

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

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

DECISION

The requested front setback variance is granted, subject to the conditions set forth in Conclusion 6 above.


Wick Dufford, Hearing Examiner

Date of Action: March 29, 2001

Copies Transmitted to Applicants: March 29, 2001

Attachment: Staff Report

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 dates after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.



SKAGIT COUNTY PLANNING AND PERMIT CENTER FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: MARCH 14, 2001

APPLICATION NUMBER: VARIANCE REQUEST PL00-0683

APPLICANT: JEFF AND LINDA HENDRICKS

ADDRESS: 11622 NORTH DEL MAR DRIVE
ANACORTES, WA. 98221

PROJECT LOCATION: Located at 11622 N. Del Mar Drive, Anacortes, within a portion of Section 34, Township 35N, Range 1 East W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Variance request #PL00-0683 from 14.16.300 (5)(a) of the Skagit County Code to allow for the construction of a garage addition not able to meet the setback requirement of 25 feet.

ASSESSOR'S ACCOUNT NUMBER: 3972-000-010-0006, P68196

ZONING/COMPREHENSIVE PLAN: The subject parcel is designated as Rural Intermediate as identified by the Skagit County Comprehensive Plan and associated maps adopted June 1, 1997.

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

EXIBITS:

1. Staff Findings 1- 12
2. Application dated October 20, 2000
3. Site Plan
4. Assessor's Section Map
5. Notice of Development published November 23, 2000
6. Photos



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STAFF FINDINGS:

1. The subject property is zoned Rural Intermediate and the Comprehensive Plan and associated maps as adopted June 1, 1997 designates the area as Rural Intermediate. A letter of completeness was not issued as per Section 14.06.100 (4) of the Skagit County Code and the application was determined to be complete on November 17, 2000.
2. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on November 23, 2000 as required by Section 14.06.150(2)(b) of Skagit County Code. The public hearing has been advertised in accordance with the requirements of Chapter 14.06.150 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 respect to the Skagit County Critical Areas Ordinance 14.24 of the Skagit County Code. Staff reviewed the site for the presence of critical areas with building permit application #BP00-0591 and approved the application without conditions.
5. The subject property is not located within a designated flood hazard area as identified by FEMA.
6. The subject property measures approximately 100 feet in width along the east and west property lines and approximately 190 feet in length along the north and south property lines. The parcel is accessed off of North Del Mar Drive, which is a dead end easement/access road that actually runs through the front portion of this parcel. The easement is approximately 25 – 30 feet in width with an existing water detention (pond) area located on the east side of the easement which puts the actual front property line within the pond area. There is an existing single family residence and accessory structure located on site and the proposal is to add on to the east side of the garage. The applicant is proposing to locate the finished eastern edge of the addition approximately 5 feet from the easement line. The parcel is currently provided water from a community water system and utilizes an individual on site septic system.
7. The surrounding area is residential in character with existing common uses. There are existing residential structures located throughout this area, as well as along the easement, that do not appear to meet the current setback requirements due the shapes and sizes of the lots, as well as the location of N. Del Mar Drive (easement). There are existing residences located directly to the north and south of this site, shoreline (Burrows Bay) located to the west, and the easement road and detention pond area located directly to the east. The adjacent property directly to the south has a carport that does not meet the current setback



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requirement and which extends further into the front yard setback than where the proposed addition would be located.

8. The applicant is requesting a variance from Skagit County Code 14.16.300 (5)(a) to allow for the addition to the existing garage along the east side of the residence. The proposed garage will be two stories in height, approximately 26 +/- feet in height, and match the roof line of the existing structure. Skagit County Code 14.16.300 (5)(a) states that the front yard setback requirement for primary structures on minor access and dead-end streets is 25 feet from the front property line. If the variance is approved the proposed structure would be approximately 5 feet from the edge of the easement line and would be approximately 30 – 35 feet from the location of the actual front property line.
9. 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.
10. The application was routed to Skagit County Environmental Health Specialist for review. Environmental Health had no concerns with the proposal.
11. 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.
12. Section 14.10.030 (2) 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.*

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, which has a detrimental impact on a proposed development. This parcel is flat and measures approximately 100 feet in width by approximately 190 feet in length with the front property line located to the east of the existing easement/access road. Staff notes that the variance is actually being applied for to setback approximately 5 feet from the existing easement/access road as opposed to the front property line. The easement runs through the east side of the parcel and measures approximately 25 or 30 feet in width. The applicant is proposing to locate the finished edge of the addition approximately 5 feet to the west of the easement line.



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The applicant has indicated that this parcel has a 25-foot access easement on the proposed addition side of the lot, that many parcels do not have, which reduces the available area for development on the land.

- 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 structures which do not appear to meet the current setback requirements. The adjacent residence to the south has an existing carport which currently extends further into the setback area than the proposed structure would when finished and many of the other structures in the immediate area do not appear to be meeting the existing setback requirements 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 adjacent and nearby properties have already built residences and garages to this requested 5 foot front setback line and they are requesting the same use of this property that is currently enjoyed by the neighbors.

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

The applicant has indicated that the property was purchased with the conditions existing. The applicant indicated that the conditions and circumstances did not result from their actions.

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 access easement.

- 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.*

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 they only want the same privileges enjoyed by the neighboring parcels.



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Staff notes that the granting of the requested variance will not confer a special privilege on the applicant that is denied by this chapter to other parcels due to the fact that there are several parcels in the immediate vicinity that do not appear to meet the required setbacks at this time. The parcel directly to the south has an attached carport that extends further into the front setback line than the applicants proposal will if approved.

RECOMMENDATION:

Based on the current code the Planning and Permit Center would recommend **approval** of the requested setback variance to reduce the front yard setback requirement to allow the edge of the structure to locate 5 feet from the access road easement line with the following condition:

1. The applicant shall obtain all permits and approvals from the appropriate jurisdiction.

Prepared by: BB

Approved by:

Dated: 2-20-01



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