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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: ORDER ON VARIANCE APPLICATION VA 01 0175

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: ROY and JACKIE FRAZIER

ASSESSOR PARCEL NO: P96195

ABBREVIATED LEGAL DESCRIPTION: The property is located at 17483 Sam Bell Road, Bow, WA; a portion of Section 13, Township 35 North, Range 3 East, W.M., Skagit County, Washington.

UNOFFICIAL SKAGIT COUNTY DOCUMENT

**SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON**

In the Matter of:

Application No. PL01-0175
of Roy and Jackie Frazier,
for a VARIANCE to allow single-family
residence on substandard lot.

FINDINGS OF FACT
ENTRY OF ORDER
No. PL01-0175

This matter having come regularly before the Skagit County Hearing Examiner for a public hearing under an application filed with the Skagit County Department of Planning and Permit Center by the applicant requesting a Variance Permit as described and located in the Report and Findings of the Skagit County Department of Planning and Permit Center:

PROJECT LOCATION: Located at 17483 Sam Bell Road, Bow, within a portion of Section 13, Township 35N, Range 3 East W.M. Skagit County, Washington.

ASSESSOR'S ACCOUNT NUMBER: 350313-3-012-0100, P96195

And, notice having been given to all property owners within 300 feet of said property and all matters submitted at the public hearing having been considered together with the testimony, evidence and exhibits in open hearing and made a part of the record in this matter, and the Hearing Examiner having made a site visit to the real property, the Hearing Examiner make the following:

FINDINGS OF FACT

1. The subject property is zoned as Agricultural Natural Resource Land and the Comprehensive Plan and associated maps adopted July 24, 2000 designates the area as Agricultural Natural Resource Land. A letter of completeness was issued as per Section 14.06.100 of the Skagit County Code and the application was determined to be complete on March 13, 2001.
2. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on March 15, 2001 as required by Section 14.06.150 of Skagit County Code. The public hearing has been advertised in accordance with the requirements of Chapter 14.06 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 indicated that there were no critical areas indicators observed within 200 feet of the subject site. Staff approved the application without conditions.
5. The subject property is located within a zone B designated flood hazard area as determined by FEMA on Flood Insurance Rate Map (FIRM) #530151 0235 D with the effective date of September 29, 1989.
6. The subject property is approximately 2.99 acres in size located off of the north side of Sam Bell Road. The parcel measures approximately 326 feet in width along the north and south property lines and approximately 400 feet in length along the east and west property lines. There is an existing 3,660 square foot agricultural accessory structure located along the southeast corner of the site, approximately 8 feet off of the east property line, and an existing 120 square foot metal shed located approximately 50 feet to the west of the existing accessory structure. The southeast ¼ of the parcel is primarily graveled and is currently being used for the storage of farm vehicles and equipment. The access to the site is off of Sam Bell Road and the parcel is currently served water by Public Utility District #1. There is an existing septic system on site associated with the accessory structure and the applicant will need to evaluate the capacity of that system to determine if it is adequate for use, or a new system will need to be designed.
7. The surrounding area is residential and agricultural in nature with existing common uses. There are several existing residential structures located along Sam Bell Road with open agricultural fields behind and around the structures.
8. The applicant is requesting a variance modification of a previous variance approval #V-90-037 granted on January 16, 1991. The applicant is requesting that the previous variance be modified to eliminate condition #2 outlined in the Hearing Examiner written order. That condition reads as follows: "The three acre parcel shall be labeled "Not for residential building purposes unless approved by the appropriate county officials"".
9. The application was reviewed by the Skagit County Department of Public Works. Public Works had no comments or concerns with the proposal.
10. The application was routed to Skagit County Environmental Health Specialist for review. Environmental Health indicated that a site evaluation was approved for this lot in 1994.
11. The application was routed to the Water Resources division of the Skagit County Planning and Permit Center. Water Resources indicated that proof of water service shall be provided with a future building permit application if the variance is approved, as per Skagit County Code 12.48.030.



Staff noted that since the time of initial review by Water Resources, the applicant submitted a letter from Public Utility District #1 indicating that the district presently provides a domestic water service to the site.

12. Section 14.10.030, 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. *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.*

Although there are no topographical conditions which are peculiar to the parcel, the site has been used for the storage and maintenance of farm equipment and is unsuitable for farming. The size of the parcel, the existing and previous uses of the site for storage and maintenance, and the pre-existing graveled portions of the site show that special conditions exist which are peculiar to the parcel itself that are not applicable to other parcels in the same district.

The applicant has indicated the following: As was the case with the original variance, the special conditions that exist are topographic by virtue of usage. This area has been used as equipment storage and maintenance for a long enough time, that even if the building were removed, this area would not be cultivated. The area has continued to be used for storage and maintenance since approval of the variance until very recently. Further, the property now exists as an approved short plat lot and is in separate ownership from surrounding farm properties. The applicants have historically leased much of the farmland in the vicinity. They are no longer leasing farmland in the area nor are they farming. The people who are now farming the surrounding properties have no need for a storage/machine maintenance facility. The applicant has attempted to sell the subject parcel but has been unable to do so since no home can be built on it and it is unsuitable for farming.

- 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 of Skagit County Code Titles 14 and 15.*

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 and several other lots in this area have small lot sizes with residential structures existing or with a residential development right. Further this parcel is a lot of record that has been previously divided through the formal short plat process.



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

Staff noted that the circumstances do not result from the actions of the applicant. The parcel was purchased with the conditions existing and the structures in place.

The applicant has indicated that the conditions and circumstances are not the result of the applicant. In 1990, the property was owned by a different owner than the applicant. The buildings were established by someone prior to the property being owned by the previous owners. The applicant is therefore twice removed from the construction of the buildings that result in the special conditions.

- a. *The granting of the variance will not confer on the applicant any special privilege that is denied by Skagit County Code Titles 14 and 15 to other lands, structures, buildings in the same district.*

The applicant has indicated that the granting of the variance modification would allow the construction of a single family home on a substandard lot (provided all of the requirements discussed previously could be met). This is a right that is allowed to all other substandard lots in the agricultural district as well as all other districts. Denying the variance modification would result in the applicant being denied the privilege allowed to all other substandard lots in the County.

Staff noted that the granting of the requested variance modification will not confer any special privileges on the applicant. There are several other substandard lots in the immediate area that exist with single family residences

- e. *An explanation of how the requested variance meets any other specific criteria required for the type of variance requested, where applicable, including, but not limited, to the following:*

- (i) Explanation of compliance with the criteria for a Critical Area Ordinance variance under SCC 14.24.140.
- (ii) Explanation of compliance with the criteria for a shoreline variance under Skagit County Shoreline Management Master Program.
- (iii) Explanation of compliance with the criteria for a public works alternative under the Skagit County Public Works Standards adopted pursuant to SCC 14.36.
- (iv) Explanation of compliance with the criteria for variance from the agricultural siting criteria found in SCC 14.16.400(6).
- (v) Explanation of compliance with the criteria for a Flood Hazard Ordinance variance found in SCC 14.34.130.



The application has been reviewed for compliance with the Critical Areas Ordinance, The Shoreline Management Master Program, Public Works Standards, agricultural siting criteria and the Flood Hazard Ordinance.

Critical Areas has been approved. The parcel is not located within Shoreline jurisdiction and Pubic Works has reviewed and approved the proposal. If the variance modification is approved the residence will need to comply with the provision outlined within SCC 14.16.400(6), the agricultural siting criteria, and SCC 14.34.130, the Flood Hazard Ordinance.

- f. *If applicable, an explanation from the applicant as to why, if a variance is denied, the applicant would be denied all reasonable use of his or her property.*

The applicant's explanation is as follows:

"The property is small (2.99 acres) and segregated from the surrounding farmland by use and by a fence line. It is an approved short plat lot in separate ownership from the surrounding farmlands. There are existing buildings and an associated maintenance area located on the parcel. County staff determined during the variance procedure in 1990 that the property would not be suitable for cultivation even if the buildings were removed. It is unlikely that any reasonable commercial agricultural use could be sustained on this 2.99-acre parcel. The applicant has attempted to sell the property and has not been successful since no home can be constructed. The individual that is currently leasing the surrounding area for farming does not require a storage or maintenance facility in the location of this property and therefore has no interest in the property. Without the ability to place a home on the property, it is virtually useless. Denial of the variance modification would not only remove all reasonable use of the property; it would remove all use of the property.

CONCLUSIONS

The Hearing Examiner, having duly considered the matter and all testimony and evidence presented at the public hearing makes the following conclusions:

1. The Hearing Examiner has jurisdiction over the applicant and subject matter of this application.
2. The proposal, as submitted by the Applicant, is consistent with the criteria for granting a Variance.



DECISION

The Hearing Examiner **APPROVES** the application for a Variance Permit subject to the following conditions:

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


C. THOMAS MOSER, PRO TEM
Skagit County Hearing Examiner

Signed July 10, 2001

Skagit County Hearing Examiner

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