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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 Shoreline Variance SL 00 0028 and
Administrative Decision Request PL 00 0569

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: Richard and Sigrid Strand

ASSESSOR PARCEL NO: P66187

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 20863 Lake
Sixteen Road, Lake Sixteen, within a portion of Section 15, Township 33 North, Range 4
East, W.M., Skagit County

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Richard and Sigrid Strand
5618 82d Avenue West
University Place, WA 98467

File Nos: PL 00-0028 (SHL)
PL 00-0569 (ADMD)

Requests: Shoreline sideyard and height variances

Location: 20863 Lake Sixteen Road on the shore of Lake
Sixteen, within a portion of Sec. 15, T33N, R4E, WM.

Summary of Proposal: To build a 20 foot high garage six feet from the south
(side) property line and 22 feet from Lake Sixteen Road.
The garage will measure 24' by 44' and will replace
an existing smaller garage.

Land Use Designations: Shoreline: Rural Residential
Comp Plan & Zoning: Rural Intermediate

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on May 22, 2002.

Decision: The application is approved, subject to conditions.



FINDINGS OF FACT

1. Richard and Sigrid Strand (applicants) seek permission to replace an existing garage with an enlarged garage on residential property on the shore of Lake Sixteen.
2. The address is 20863 Lake Sixteen Road. The property is located within a portion of Sec. 15, T33N, R4E, WM. The property is designated Rural Residential under the County's Shoreline Master Program (SMP). The Comprehensive Plan and Zoning designation is Rural Intermediate.
3. The property is already improved with a single family residence and detached garage. The proposed replacement garage structure will measure 24 feet by 44 feet with a height of 20 feet.
4. The new garage will be set back six feet from the side property line and 22 feet of Lake Sixteen Road. The setback from the lake (OHWM) will be 68.5 feet.
5. The minimum side setback in Rural Residential shoreline environments is eight feet. The maximum allowable height for an accessory structure (garage) in the shoreline jurisdiction is 15 feet. SMP 7.13(2)(c), Table RD. A variance from each of these limits is sought.
6. The minimum side setback in the Rural Intermediate zone is also eight feet. The street setback is 25 feet. SCC 14.16.300(5)(a)(i),(ii).. These limits may be reduced by administrative approval where "topography or critical areas or the lot's size and configuration impact the reasonable development of the property." SCC 14.16.810(4). The Staff has determined that this is the situation here, and has administratively granted the side and street setbacks sought under the zoning code.
7. The subject property is near the terminus of Lake Sixteen Road and contains slightly less than 17,500 square feet. It is characterized by a steep bank that slopes down to the lake. The structures on the lot are above or overhanging this bank. The developable area atop the bank is limited. Driveway access and drain field requirements take up much of the available space.
8. The garage to be replaced was built about 40 years ago, prior to the adoption of modern shoreline dimensional regulations. It conforms to the current minimum 50-foot shore setback, but is undersized for most contemporary vehicles. With enlargement, the structure will retain a more than adequate shore setback and will remain a two-car garage. However, unlike now, the vehicles will fit in with the doors closed. The enlargement plan also includes room for shop and hobby activities as well as garaging. The 20 foot height is intended to allow for attic storage of arts and crafts materials.



10. In addition to the garage replacement, the project calls for the removal of a small shed extending slightly waterward of the footprint of the proposed new garage structure.

11. Adjacent properties to the south have been similarly developed for rural residential use. Lots in the vicinity are generally of less than one acre and development is of relatively high density. The placement of buildings in the area has been influenced and constrained by the steep bank. Structures exist on neighboring properties that are less than six feet of the side property lines.

12. The proposed garage replacement will not impose new adverse effects on the shoreline. It will be placed well back from the water. It will be built on a previously developed portion of the lot. A Fish and Wildlife Assessment, prepared for Critical Areas compliance, concluded that no significant impact on the lake (Type 1 Water of the State) will occur.

13. Designation of a Protected Critical Area (PCA) on the area waterward of the house has been agreed to.

14. No views will be impacted by the project. The neighbors do not object to the height of the garage. The orientation of the roof peak on the new garage will improve site aesthetics by matching that direction of the roof peak on the house. The garage will not be as high as the house.

15. There was no written or oral comment from members of the public on this application. One written comment from the State Department of Ecology questioned why the planting of native vegetation is not being required within the PCA. The creation of the PCA comports with County requirements. However, the enlargement of the garage is outside of the PCA and will not affect it. Thus, there is no nexus between the project and the PCA to serve as a basis for imposing any planting conditions.

16. For development landward of the OHWM, the criteria for approval of a variance are set forth at SMP 10.03(1). The applicant must prove:

a. That the strict application of the bulk, dimensional or performance standards set forth in this Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by this Master Program.

b. That the hardship described above is specifically related to the property and is the result of unique conditions such as irregular lot shape, size or natural features and the application of this Master Program and not, for example, from deed restrictions or the applicant's own actions.

c. That the design of the project will be compatible with other permitted



activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation.

d. That the variance does not constitute a grant of special privilege not enjoyed by the other properties in the same area and will be the minimum necessary to afford relief.

e. That the public interest will suffer no substantial detrimental effect.

In the granting of variance permits, the cumulative impact of additional requests for like in the area is to be considered.

17. The Staff Report analyzes the project in light of these criteria and determines that the project will meet them. The Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

18. 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 persons and the subject matter of this proceeding.

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

3. The proposal, as conditioned, complies with the Critical Areas ordinance.

4. Residential development is a permitted use in the Rural Residential shoreline designation. SMP 7.13.2(2). The proposed development does not conflict with the policies of the Shoreline Management Act or the policies of the SMP.

5. The proposed enlarged garage will be compatible with the overall pattern of development in the neighborhood. The proposal represents a reasonable use of the property that would be significantly interfered with if the dimensional standards of the SMP were strictly applied.

6. No adverse impacts on adjacent parcels or on the shoreline environment have been identified.

7. As conditioned, the proposed development meets the criteria for the shoreline sideyard setback and height variances sought.

8. The following conditions should be imposed:



(1) The permittee shall strictly adhere to the plans submitted, except as they may be modified by these conditions.

(2) The sideyard setback for the garage shall be six feet. The height shall not exceed 20 feet.

(3) Proper sedimentation and erosion control measures shall be used during construction. Construction material and other debris shall not be allowed to enter the water.

(4) The permittee shall record a site plan showing the lot in question, clearly marking the area to be included within a Protected Critical Area (as shown on Figure #3, Earth Systems Science Fish and Wildlife Assessment, dated February 23, 2001). The site plan must be recorded with the County Auditor prior to construction.

(5) Prior to construction, the permittee shall obtain a building permit and any other necessary approvals.

(6) If the permittee proposes modification of the subject proposal, a shoreline permit revision shall be obtained from the Planning and Permt Center prior to construction of the same.

(7) Approval of these variances shall be obtained from the Department of Ecology. After such approval is obtained, construction shall commence within two years, and project completion shall be achieved within five years.

(8) Violation of any condition of approval may result in permit revocation.

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

DECISION

The requested Shoreline Variances from dimensional requirements of the Shoreline Master Program are granted, subject to the conditions set forth in Conclusion 8 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: June 17, 2002

Copy transmitted to Applicants: June 17, 2002

Attachment: Staff Report

RECONSIDERATION/APPEAL

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with the Planning and Permit Center within five (5) days after the date of this decision. 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 five (5) days after the date of decision, or decision on reconsideration, if applicable.



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3 **SKAGIT COUNTY PLANNING & PERMIT CENTER**

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5 **FINDINGS OF FACT**

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8 REVIEWING AUTHORITY: Skagit County Hearing Examiner

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10 PUBLIC HEARING DATE: May 22, 2002

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12 APPLICATION FOR: Shoreline Variance #PL 00-0028 (SHL)
13 Administrative Decision #PL00-0569 (ADMD)

14
15 APPLICATION DATE: January 17, 2002

16
17 APPLICANT: Richard & Sigrid Strand
18 5618 82d Ave West
19 University Place, WA 98467

20 PARCEL# 66187

21
22 PROJECT DESCRIPTION: To replace an existing garage with a enlarged garage (24'X
23 44') to be located 5 feet from south property line and 22 feet from Lake Sixteen road. The
24 proposal triggers the need for a side yard variance of 3 feet (8 feet required), and 3 feet
25 from the road (25 feet required). The proposal also requests a variance from the 15-foot
26 accessory use height requirement to 20 feet within shoreline jurisdiction.

27
28 The proposal triggers the need for a shoreline variance because:

- 29 1. The minimum side shoreline setback from the property line in the rural residential
30 shoreline designation is 8 feet (see SCSMMP 7.13(2)© Table RD).
31 2. The minimum side yard zoning setback in the Rural Intermediate zone is 8 feet from
32 the property line (see SCC 14.16.300(5)(a)(ii)).
33 3. The maximum allowable height for a accessory structure (garage) in shoreline
34 jurisdiction is 15 feet (see SCSMMP 7.13(2)© Table RD).

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37 PROJECT LOCATION: The proposed project is located at 20863 Lake Sixteen Road,
38 Lake Sixteen, within a portion of Section 15, Township 33 North, Range 4 East, W.M.,
39 Skagit County. The subject proposal is located on the a shoreline designated Rural
40 Residential under the Shoreline Master Program.

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43 RECOMMENDATION: Approval, with conditions stated at the end of the report.
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EXHIBITS:

1. Staff report.
2. February 21, 2001 Fish & Wildlife Site assessment prepared Earth Systems Science.
3. July 10, 2001 letter from of concern from Richard Strand.
4. January 16, 2002 letter of concern from Richard Strand.
5. January 17, 2002, Shoreline Variance application, a narrative, ownership certification and photos.
6. February 21 & 28 Notice of Application.
7. April 2, 2002 letter of concern from Joan Velikanje from the Washington State Department of Ecology (DOE).
8. April 4/1-4/19 Technical team review sheet.

STAFF FINDINGS:

1. The application has been advertised in accordance with Section 9.04 of the Skagit County Shoreline Management Master Program (SCSMMP) and WAC 173-14-070.
2. The subject proposal is located on the shoreline of a property with a single-family residence adjacent to Lake Sixteen in an area designated as Rural Intermediate by the Skagit County Comprehensive Plan and the Skagit County Zoning Ordinance. The property is designated as Rural Residential in the SCSMMP.
3. The minimum side yard zoning setback in the Rural Intermediate zone is 8 feet from the side property line (see SCC 14.16.300(5)(a)(ii)). The applicant has requested to be able to place the new structure as close as 5 feet to the side property line thereby requesting a 3 foot variance at that location.
4. SCC 14.16.810(4) allows the Administrative Official the ability to reduce the required front and side setbacks where topography, lot size, and /or lot configuration may impact the reasonable development of the property. In addition the Official must determine that the public health safety and welfare will be maintained. Consultation with the Skagit County Department of Public Works concerning traffic safety may also be solicited during this analysis. Staff has determined that the current proposal is necessary to allow the reasonable use of the property primarily because of the lot configuration and the location of existing infrastructure.
5. The property is somewhat shaped with only 65 feet of the lot facing the terminus of Lake Sixteen Road. The property slopes down from the road to a retaining wall and then drops off to the area directly adjacent to the lake. The property is designated as Rural Intermediate in the Skagit County Comprehensive Plan and zoning map.
6. Staff determined that the subject proposal required a Fish & Wildlife Site Assessment/Habitat Management Plan pursuant to 14.06.510 & 520 of the Skagit County Critical Areas Ordinance (CAO). The report identified no significant



1 impact from the proposal if appropriate erosion control measures were taken
2 during construction. The report proposed the following mitigation:

- 3
4 a) The area landward of the OHWM should be designated as a Protected Critical
5 Area (PCA) consistent with the attached site plan and filed with the County
6 Auditors office as required in SCC 14.24.170.
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8 Technical team review with a April 1, 2002 to April 19, 2002 comment was
9 circulated to agencies of possible jurisdiction. One comment was received from
10 Joan Velikanje of the Washington State Department of Ecology.
11

- 12 7. The proposal is categorically exempt from the State Environmental Policy Act
13 (SEPA) as noted in WAC 197-11-800(1)(b)(I) regarding residential structures.
14
15 8. One comment was received from Joan Velikanje of the Washington State
16 Department of Ecology. No comments have been received regarding the proposal.
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18 9. Staff determined that the proposal is not located on a Shoreline of Statewide
19 Significance.
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21 10. The SCSMMP, Chapter 10 Variances, sets forth the criteria for granting Shoreline
22 Variance Permits. Section 10.03(1) - Criteria for granting shoreline variance permits
23 reads:
24

25 Variance permits for development to be located landward of the ordinary high
26 water mark (OHWM), except within areas designated marshes, bogs or swamps
27 pursuant to Chapter 173-22 WAC, may be granted provided the applicant can meet
28 all the following criteria; the burden of proof shall be on the applicant.
29

- 30 a. **That the strict application of the bulk, dimensional or performance**
31 **standards set forth in this Master Program precludes or significantly**
32 **interferes with a reasonable use of the property not otherwise**
33 **prohibited by this Master Program.**

34 *The parcel is pie shaped with only a 65 foot wide access to the terminus of*
35 *Lake Sixteen Road. A large portion of the lot towards the lake is on a steep*
36 *slope and unsuitable for building. The proposed garage would allow*
37 *construction on a previously developed portion of the property thereby*
38 *causing the least environmental impact to the lake or the lot at large.*
39

- 40 b. **That the hardship described above is specifically related to the**
41 **property and is the result of unique conditions such as irregular lot**
42 **shape, size or natural features and the application of this Master**
43 **Program and not, for example, from deed restrictions or the applicant's**
44 **own actions.**

45 *The hardship is due to the lot size, topography and access constraints.*



- 1 c. **That the design of the project will be compatible with other permitted**
2 **activities in the area and will not cause adverse effects to adjacent**
3 **properties or the shoreline environment designation.**
4 *The surrounding area has been developed for rural residential use as*
5 *demonstrated by the rural residential shoreline designation. Adjacent*
6 *properties also have pre-existing development within 5 feet of side property*
7 *lines.*
8
9 d. **That the variance authorized does not constitute a grant of special**
10 **privilege not enjoyed by the other properties in the same area and will**
11 **be the minimum necessary to afford relief.**
12 *The issuance of a variance for this proposal would be consistent with the*
13 *relatively high-density development within the area.*
14
15 e. **That the public interest will suffer no substantial detrimental effect.**
16 *No substantial detrimental effects however remote have been identified.*
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19 **REVIEW OF APPLICABLE COUNTY SMMP POLICIES & REGULATIONS.**

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21 The proposal has been reviewed for consistency with SMP Chapter 7.13 Residential
22 Development as defined in Chapter 3.03. The entire chapter 7.13 of the SCSMMP regarding
23 Residential Development is included as Attachment "A" of the staff report, staff has
24 summarized the policies involved.

25 Staff determined that the proposal does not conflict with the **general policies** regarding
26 residential development, coordination, optimum use, joint use, public access, public use,
27 natural resource processes, hazardous areas, water quality & quantity, PUD's, floating
28 homes, community services, Shoreline Management jurisdiction, location and design and
29 construction and impacts. Staff has further determined that the proposal complies with all
30 SCSMMP **regulations** regarding shoreline designation, general regulations, accessory uses,
31 hazardous areas, shore defense works, landfilling, public access, fragile areas, utilities, roads
32 and parking areas, drainage, sewage and screening **except** shoreline setbacks.

33 The following inserts from the Regulation section are considered below with staff notes
34 in italics:
35

36 **2. REGULATIONS**

37 **A. Shoreline Area**

38 **(2) Rural Residential**

39 **(a) Residential development is permitted subject to the General and Tabular Regulations.**

40 **C. Tabular Regulations**

41 **(2) Sideyard setbacks**

42 **(d) Accessory Uses – Rural Residential**

43 **The standard setback in the rural residential shoreline designation is 8 feet.**
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3 RECOMMENDATION

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5 Based on the above findings, the Skagit County Planning and Permit Center would
6 recommend for approval of a Shoreline Variance Permit subject to the following
7 conditions:
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9

- 10 1. The applicant shall record a site plan showing the lot in question, clearly marking
11 the land waterward of the proposed structure as an Protected Critical Area (as
12 demonstrated on the site plan noted as Figure #3 from the Earth Systems Science
13 Fish & Wildlife Site assessment dated February 23, 2001). The site plan must be
14 recorded by the County Auditor's (SCC 14.06.145(2) office prior to construction
15 of the proposal.
16
17 2. The applicant must obtain a Skagit County Building Permit and receive all the
18 necessary approvals.
19
20 3. The subject proposal shall comply with the Skagit County Shorelines Management
21 Master Program and the Shoreline Management Act RCW 90.58.
22
23 4. The applicant shall strictly adhere to the project information (site diagram) submitted
24 for this proposal. If the applicant proposes any modifications of the subject proposal,
25 he/she shall request a shoreline permit revision from this office prior to the start of
26 construction.
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32 Prepared By: DD

33 Approved By:

34 Date: May 15, 2002.

35 Amended:



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Skagit County Auditor

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