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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 Request VA 02-0132

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: David and Tammie Grobschmit

ASSESSOR PARCEL NO: P18282 and P24186

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 24186 North Westview Road and 18282 South Westview Road, Mount Vernon, WA; a portion of Section 06, Township 35 North, Range 05 East, W.M., Skagit County, WA.

**SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON**

In the Matter of:

DAVID and TAMMIE GROBSCHMIT,

Applicants,

Variance Application, Number PL02-0132.

PL02-0132

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

This matter having come before the Hearing Examiner for public hearing on June 26, 2002, upon application of David and Tammie Grobschmit for a variance from the provisions of Interim Ordinance No. R200200376 and SCC 14.16.310(5)(c), for property 24186 South Westview Road, Mount Vernon, P74662, Section 6 Township 35, Range 5. The applicants seek a variance from the provisions contained in Interim Ordinance No. R20020037 and the related lot size requirements of SCC 14.16.310(5)(c) to allow for the construction of a single family dwelling on P74662, a substandard sized lot in the Rural Village Residential zoning district. The Hearing Examiner having considered the record and the testimony at the public hearing, now makes the following:

Findings of Fact

The subject property is designated as Rural Village Residential by the Skagit County Comprehensive Plan and Zoning Ordinance adopted July 24, 2000. The applicants own two adjacent lots on Big Lake:

Lot with Home: P# 74691 ASSESSOR'S ACCOUNT # 4135-042-030-0006

Vacant Lot: P# 74662 ASSESSOR'S ACCOUNT # 4315-041-003-0001



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1. Pursuant to Skagit County Code Section 14.06.100, a Letter of Completeness was issued on April 29, 2002. A Notice of Development was published in the Skagit County Herald on May 2, 2002 as required by Section 14.06.150(2) of the Skagit County Code. A public hearing was been advertised in the Skagit Valley Herald in accordance with the requirements of Chapter 14.06.150(3) of the Skagit County Code and will be held on June 26, 2002.
2. The application was reviewed in accordance with the State Environmental Act Guidelines WAC 197-11-800 (6)(b) and was found to be exempt.
3. The property is not located in a flood plain according to Flood Insurance Rate Map No. 450c. The flood zone is identified as Zone C.
4. The properties are served by PUD #1 and Skagit County Sewer District #2.
6. The subject properties are located in the Big Lake Rural Village on Westview Road within a portion of the plat of the Town of Montborne. According to a sewer easement agreement submitted for documentation, a sewer easement runs through P74691 from the road towards the lake and a lift station is developed in a 14 X 14 square foot easement on the same property.
7. The applicants own an adjacent lot, 24186 North Westview Road (P74691) on which their existing home is located. Lot of record certifications were issued for both parcel numbers in file number PL01-0835. At the time of Applicants' building permit submittal for development on P74662 Skagit County had adopted R20020037 (the lot aggregation requirements) as part of a settlement agreement process in Superior Court Case No. 01-2-00423-1. Skagit County Interim Ordinance No. R20020037 adopted January 28, 2002, requires aggregation of substandard sized lots in contiguous ownership. The minimum lot size in the Rural Village Residential zoning district is one acre. The Grobschmit's building permit was submitted approximately two hours after the adoption of Interim Ordinance R20020037.
8. The application was routed to the appropriate county departments for review. **Public Works:** No Comments. **Critical Areas staff:** Critical areas review was approved on P74662 with BP02-0102 pending recording of a PCA with the Auditor. P74691 is a developed site. Any proposed development would have to have CAO review at the time of development application. **Health Department water review:** At the time of building permit, a letter of PUD water availability would be required. **Fire Marshall:** No comments.
9. Skagit County Code 4.10.030(2) requires the Hearing Examiner to consider the following criteria for variance applications:

- 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.**

There are certain special circumstances related to the lot size and infrastructure associated with the subject parcels. The Grobschmit's purchased portions of the plat of Montborne in two separate sales. According to the Assessor's records, one parcel, P74691 is developed with a small, two bedroom, 620 square foot single family home. Parcel 72662 is vacant. A sewer line and easement runs down P74691 near the adjoining property line. This existing infrastructure and easement would preclude the Grobschmit's from demolishing the small existing home and developing a home large enough to reasonably suit their family needs across the two lots of record.

Interim Ordinance No. R20020037 was adopted on January 28, 2002 by the Board of County Commissioners as a result of a Superior Court order in Case No. 01-2-00423-1. This Interim Ordinance modifies slightly, but basically requires that the lot aggregation requirements of SCC 14.04.190(5) that were in effect prior to the adoption of the Unified Development Code on July 24, 2000 be implemented until July 15, 2002 unless readopted, amended or repealed prior to that time. This Ordinance applies to all properties in Skagit County where contiguous properties are held in common ownership and are applicable to all such lands in the same district.

Due to the sewer easement location, the development of a home large enough to meet the Grobschmit family needs is precluded by a literal interpretation of the rules. The easement precludes development of a larger home across the subject parcels that are now required to be aggregated.

In addition, the particular vacant lot in question, P74662, is one of the largest lots in the vicinity. The subject parcels are located in the Town of Montborne plat established prior to the adoption of land division codes in the county. A review of the Assessor's maps and records of nearby surrounding lakeside development reflects the following lot sizes and patterns of existing development. The Grobschmit's properties are highlighted in bold type.



P74672	SFR	.53	P74691	SFR	.28
P74671	SFR	.31	P74690	SFR	.14
P74669	SFR	.35	P74689	SFR	.38
P74668	SFR	.36	P74688	SFR	.22
P74667	SFR	.31	P74687	SFR	.28
P74666	SFR	.45	P74685	SFR	.34
P74665	SFR	.21	P74684	VAC	.13
P74664	SFR	.32	P74683	SFR	.14
P74663	SFR	.28	P74682	SFR	.13
P74662	VAC	.45	P74681	SFR	.24
			P74680	SFR	.11

A review of the Assessor's maps indicates that many of these parcels, including the Grobschmit's P74662, contain several of the original Town of Montborne lots that were aggregated to meet previous code requirements due to common ownership before the adoption of the Unified Development Code in July 24, 2000. The range in sizes of developed lots is from .13 of an acre to .53 of an acre. The average of all lot sizes with single family development in the area reviewed was .29 of an acre. In the nearby vicinity, there is one other vacant parcel that is .11 of an acre. The Grobschmit's proposal is to build on a vacant lot that is .45 of an acre. Their proposed building site would be the third largest in the vicinity.

The Comprehensive Plan designated the Rural Village as an area for infill of rural development. The area of infill development is subject to the adopted minimum lot size of one acre for the Rural Village Residential zoning district. One acre sized infill would be consistent with Comprehensive Plan objectives. However, in areas of historic development, the Grobschmit's proposal to develop on a lot that is larger than the average historic development would not be contrary to the public interest given the similar development in the area and the constraints of the existing sewer easement.

Staff finds that the existing sewer easement and infrastructure that divides P74662 and P74691 are special circumstances related to the parcels in questions which would warrant the issuance of a variance from the lot size requirement and the application of Interim Ordinance R20020037.

Staff finds that that reasonable use of the property should include development on the substandard lots as separate parcels due to the lot size and sewer infrastructure.



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Historically, reasonable use has been provided to other much smaller substandard lots that met Skagit County Health codes requirements.

No topographic or critical areas constraints were identified during review.

- 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.**

The literal interpretation of this chapter would deprive the applicant of rights enjoyed by other properties in the same district under the terms of this chapter. The proposal requesting that two substandard be recognized for residential development is compatible with historic lot sizes and development patterns. The proposed lot exceeds the average developed lot size in the area. The proposed use is consistent with the land uses allowed in the adopted Comprehensive Plan.

If the variance is not granted, it would create an unnecessary hardship for the Grobschmit family.

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

The adoption of the one acre minimum lot size requirement in Rural Village Residential Comprehensive Plan designation and Zoning district did not result from the actions of the applicant. The Court order requiring the adoption of Interim Ordinance R20020037 was not the result of the actions of the applicant.

The sewer easement and infrastructure was established prior to the Grobschmit's purchase of the property. Had the Grobschmit's not purchased the vacant property, the parcel would have been eligible for development purposes. Only adjacent ownership now precludes the Grobschmit's from that development potential.

The Grobschmit's purchased the vacant lot (P74662) on July 27, 2000 after the adoption of the Unified Development Code. This lot includes several of the previously plated Town of Montborne lots that were previously aggregated under prior aggregation rules in effect before July 24, 2000 to make this parcel.

The Unified Development Code implemented new development codes for



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development on substandard lots of record (SCC 14.16.850) opening a window of development potential that was closed for owners of adjacent substandard lots of record upon adoption of Interim Ordinance R20020037. In a good faith attempt to comply with the Unified Development Code, the Grobschmit's expended time and money hiring contractor's, obtaining permits, etc. in an attempt to comply with the codes in effect.

The special conditions and circumstances suggested by the applicant such as the location of the sewer line, payment of taxes, identification by the county as a "lot of record", payment of district fees on various parcel number accounts do not result from the actions of the property owner.

- 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.**

A review of development patterns and lot sizes in the area as well as specific site constraints such as the existing sewer easement and infrastructure results in a finding that the granting of a lot size variance would not confer a special privilege on the applicant.

In addition, the granting of such variance does not conflict with the intent of the Comprehensive Plan. If not granted, the Grobschmit family would incur unnecessary hardship. Reasonable use of the lots that they purchased during a time when development codes allowed development on substandard lots of record would not be possible.

Conclusions

1. The Hearing Examiner has jurisdiction over this matter.
2. The application is consistent with the criteria of Skagit County Code 4.10.030(2) and the application should be approved.

Based upon the above findings and conclusions, the application for a variance is now **APPROVED**, with the following conditions:

1. The Town of Montborne lots of record encompassed in P74662 are now extinguished as legal lots and the only lot that will be recognized shall be the certified lot.
2. Issuance of a building permit is contingent upon compliance with all Skagit County Codes.

Entered this 26th day of June, 2002

Wick Dufford

Wick Dufford, Hearing Examiner



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