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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 03 0329

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: RAYMOND and CYNTHIA KNUTZEN

ASSESSOR PARCEL NO: P66130

LEGAL DESCRIPTION: The project site is located at 9777 Samish Island Road, Bow, WA;
within Section 27, Township 36 north, Range 2 east, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Raymond and Cynthia Knutzen
1811 Dull Place
Everett, WA 98203

File No: PL03-0329

Request: Shoreline Variance

Location: 9777 Samish Island Road, Samish Island, within a portion
Sec. 27, T36N, R2E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To remodel an existing residence, including 272 square feet
(kitchen expansion) that is within the shore setback area.
The project would not increase the existing nonconformity
of the house with the shore setback.

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on August 27, 2003.

Decision: The application is approved, subject to conditions.



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FINDINGS OF FACT

1. Raymond and Cynthia Knutzen seek a Shorelines Variance to remodel their existing residence on Samish Island, adjacent to Samish Bay.

2. The project site is at 9777 Samish Island Road, within a portion of Sec. 27, T36N, R2E, W.M. The shoreline designation of the property is Rural Residential.

3. There is an existing house on the property. The northern end of this structure is set back 41 feet from the Ordinary High Water Mark (OHWM) of Samish Bay. The regulatory shore set back at the site (derived from the average of setbacks for dwelling units within 300 feet on either side) is 81 feet. The existing house was constructed sometime around 1950, long before shoreline regulations became effective. It is a legal nonconforming structure as to the shore setback.

4. The request is to build two small additions to the house, totaling 436 square feet. Of this expanded footprint, approximately 272 square feet will be located within the 81-foot setback. Locating a portion within the setback will allow for expansion of the kitchen. The expanded kitchen area will be about 61 feet from the OHWM. Thus, in terms of closeness to the shore, the nonconformity of the structure will not be made any worse.

5. In connection with the proposed remodel, the applicants will create a Protected Critical Area (PCA) covering that area of the property seaward of the existing deck. The PCA will be appropriately planted and will be kept free of structural development in the future.

6. The shoreline in the vicinity is primarily developed as a single family residential neighborhood. The subject property is bordered by residential parcels to the east and south and by vacated roadway to the west. Samish Bay Road abuts the parcel on the south. To the north is the bay. The eastern end of the island is used as commercial oyster beds.

7. The subject property is approximately .5 acres in size and measures about 120' wide by 220' deep. From the road seaward the parcel is relatively flat to a point approximately 41 feet from the OHWM where it falls away steeply (50% slope) to the beach. The OHWM on the site is the landward extent of the riprap bulkhead along the toe of the slope near the beach. The bulkhead is tied to adjacent rock bulkheads to the east and west.

8. A Fish and Wildlife Assessment was conducted in connection with this application by Graham-Bunting Associates. The report noted that sewage disposal and shoreline defense works constitute the primary shoreline impacts associated with residential use on Samish Island. Both the bulkhead and the septic system on the subject



property are functioning properly. Neither will be affected by this project. The report concluded that no project-generated impacts will occur as a result of the subject proposal. Mitigating conditions were recommended in order to achieve a small net gain for habitat along the shore.

9. The location of the existing house necessitates that the kitchen remodel be within the setback. Placing it along the southeast portion of the residence will have no effect on views from other residences. The resulting footprint will not exceed the site coverage limits for the site.

10. There were no comments on this application by County departments. There was no public correspondence. No members of the public testified at the hearing.

11. The Skagit County Shoreline Master Program (SMP) sets forth the criteria for granting shoreline variances for developments landward of the ordinary high water mark at SMP 10.03(1). The criteria are:

- 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 authorized 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.

12. The Staff Report analyzes the applicants' responses to these criteria and on the basis thereof finds that the proposal will be consistent with the criteria. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.



13. The Staff Report also recommends the inclusion of certain standard conditions and conditions suggested in the Fish and Wildlife Assessment. Again the Examiner concurs.

14. 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. SMP 9.06.

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

3. The findings support a conclusion that the project, as conditioned, will be consistent with the variance criteria of SMP 10.03(1).

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

5. The following conditions should be imposed:

(1) The project shall be constructed and maintained as described in the application materials, except as the same may be changed by these conditions.

(2) The subject development shall comply with all applicable statutes, rules and ordinances, including Chapter 173-201A WAC (Surface Water Quality), Chapter 173-200 WAC (Ground Water), Chapter SCC 14.32 (Drainage), Chapter 14.24 SCC (Critical Areas), Chapter 14.16 SCC (zoning), and Northwest Air Pollution Authority requirements.

(3) The applicants shall submit a copy of this decision with the building permit application.

(4) A copy of the approved Protected Critical Area easement, recorded at the Skagit County Auditor's Office, shall be submitted to the Planning and Permit Center referencing file number PL03-0329 with the building permit application.

(5) The mitigation recommendations of the Fish and Wildlife Assessment prepared by Graham-Bunting Associates and dated April 2003 shall be carried out.

(6) The project shall be commenced within two years of the date this decision becomes final and completed within five years thereof or the project will become void.

(7) Failure to comply with any of the conditions of approval may be grounds for permit revocation.

DECISION

The requested Shorelines Variance is approved, subject to the conditions set forth in Conclusion 5 above.



Wick Dufford, Hearing Examiner

Date of Action: September 16, 2003

Copy Transmitted to Applicant: September 16, 2003

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.

DEPARTMENT OF ECOLOGY REVIEW

If this decision to grant the Variance becomes final at the County level, the Department of Ecology must approve or disapprove it, pursuant to RCW 90.58.140.

