



200309170141
Skagit County Auditor

9/17/2003 Page

1 of

7 11:34AM

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON SHORELINE VARIANCE SL 03 0311

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: DANIEL and LINDA BALLARD

ASSESSOR PARCEL NO: P73620

LEGAL DESCRIPTION: The project site is located at 14313 Jura Drive, Anacortes, WA.;
within Section 17, Township 34 north, Range 2 east, W.M., Skagit County, Washington

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Daniel and Linda Ballard
14313 Jura Drive
Anacortes, WA 98221

File No: PL03-0311

Request: Shoreline Variance

Location: 14313 Jura Drive on the shore of Similk Bay, Fidalgo Island, within a portion of Sec 17, T34N, R2E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To remodel an existing residence which is nonconforming as to the shore setback and the lot coverage limit. The remodel will add 200 square feet to the footprint of the house, but some impervious surface will be removed, so that lot coverage will approach compliance. The shore setback will not be further reduced.

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.



200309170141

Skagit County Auditor

FINDINGS OF FACT

1. Daniel and Linda Ballard (applicants) seek a Shoreline Variance to remodel their existing residence on Fidalgo Island, adjacent to Similk Bay.

2. The project site is as 14313 Jura Drive, within a portion of Sec. 17, T34N, R2E, W.M. The shoreline designation is Rural Residential.

3. Similk Bay lies to the east of the house. The southern end of the residence is approximately 25 feet from the Ordinary High Water Mark (OHWM). The standard shore setback is 50 feet. The house was built in the 1960's before the adoption of contemporary shoreline regulations. The residence is legally nonconforming as to the shore setback.

4. The proposal is to build a small (approximately 200 square foot) addition to the south end of the house without causing any additional encroachment into the shore setback. The purpose is to add space for a master bath and closet/storage for the master bedroom and a smaller bedroom. The house now has three bedrooms and 1 1/2 baths. The overall project is planned in order to bring the whole house up to current energy, electrical, plumbing, building and safety standards. The small addition plus the improvements in the house overall are said to be needed to bring the home up to normal expectations in current home construction. The existing location of the house dictates the location of the addition.

5. There is a reinforced concrete bulkhead at the OHWM that includes wing walls to the north and south. A concrete boat ramp is located near the southern boundary and extends waterward of the bulkhead approximately 15 feet into the intertidal zone. The northern portion of the parcel includes a concrete slab that extends to the bulkhead wing wall. North of this slab is a very small perennial stream that drains an area west of the property. The stream runs below the surface through beach sand prior to discharging into the bay. The proposed addition will be approximately 80 feet from the stream which is more than ample to accommodate the 50 foot buffer for Type 4 waters.

6. Adjacent properties are developed with residential shoreline structures that are also in many cases closer to the OHWM than 50 feet. The parcels to the north and south include protective bulkheads which are similar in design and location to the bulkhead on the applicants' property.

7. The topography of the properties in the area demands that a lane for access be located at the toe of the slope on the western edge of the lots. Jura Lane, therefore, bisects the subject property, impacting the location of the house and any additions to it (as well as the location of the garage and associated vehicle parking areas). No other area is suitable for the proposed addition. Placing it south of the house will have no effect on views from other residences.



8. A Fish and Wildlife Assessment was performed at the site by Graham-Bunting Associates. The report concluded that because of the small scale of the project and because there is no additional encroachment into the shore setback, no project-generated impacts to fish and wildlife species are anticipated.

9. In conjunction with the addition, the applicants plan to remove the existing concrete parking pad and reduce the size of the concrete patio, replacing these impervious surfaces with geo-grid-turf blocks. In addition they will replace the gravel recreational vehicle parking pad with grass and planting. These changes will remove 3,090 square feet of impermeable area, with the result that lot coverage will be reduced from 44.6% to 32%.

10. The Fish and Wildlife Assessment pointed out that minimizing the area of impervious surface will reduce uncontrolled runoff and erosion while allowing for infiltration of stormwater to provide primary treatment before such water is released into the bay. The changes in lot coverage are included within the mitigation plan.

11. In addition, the mitigation plan calls for installing native shrub and tree species along the stream creating an element of riparian habitat where none now exists, and designating areas adjacent to the OHWM and the stream as Protected Critical Areas (PCAs) where further development will not occur in the future.

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

13. The Skagit County Shoreline Master Program (SMP) spells out the criteria for granting shoreline variances for developments landward of the ordinary high water mark. The criteria, as set forth at SMP 10.93(1), 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.

14. 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.

15. The Staff Report also recommends the inclusion of the mitigation plan and certain standard requirements as conditions of approval. Again the Examiner concurs.

16. 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 14.32 SCC (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 PL 03-0311 with the building permit application.

(5) During the building permit application process, the applicants will be required to verify whether the proposed development is on or out of the flood zone. If the proposed structure is within the flood zone, mitigation may be required pursuant to Chapter 14.34 SCC (Flood Damage Prevention).

(6) The mitigation recommendations of the Fish and Wildlife Assessment prepared by Graham-Bunting Associates in cooperation with Russ Orrell, dated January 30, 2003, shall be carried out. Reduction in impervious surface shall conform to the applicants' supplemental mitigation plan to reduce lot coverage.

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

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

DECISION

The requested Shoreline 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 State Department of Ecology must approve or disapprove it, pursuant to RCW 90.58.140.



200309170141

Skagit County Auditor

9/17/2003 Page

7 of

7 11:34AM