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Skagit County Auditor

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JAN 14 2004

SKAGIT COUNTY AUDITOR

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

DOCUMENT TITLE: ORDER ON SHORELINE VARIANCE SL 03 0571

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: SUSAN SENTNER

ASSESSOR PARCEL NOS: P47041

LEGAL DESCRIPTION: The project site is located at 11549 Blue Heron Road, Bow, WA, a portion of Section 25, Township 36 North, Range 2 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Susan Sentner
C/O John Stewart
P. O. Box 4099
Bellingham, WA 98227

Agent: David Hough
17483 W. Big Lake Blvd
Mount Vernon, WA 98274

File No: PL03-0571

Request: Shoreline Variance

Location: 11549 Blue Heron Road adjacent to Samish Bay on Samish Island,
within NE1/4 Sec. 25, T36N, R2E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To construct an addition to a residence, expanding the footprint by approximately 640 square feet, but approaching no closer to the Ordinary High Water Mark (OHWM) than does the existing structure.

Public Hearing: After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on December 10, 2003.

Decision: The application is approved, subject to conditions.



FINDINGS OF FACT

1. Susan Sentner (applicant) seek a Shoreline Variance to allow an addition to an existing house adjacent to Samish Bay on Samish Island.
2. The subject property is located at 11549 Blue Heron Road, with the NE1/4 Sec. 25, T36N, R2E, W.M. The shoreline designation is Rural Residential.
3. The parcel is about 75 feet wide and 160 feet deep. It is bordered by developed residential parcels to the east and west. The bay lies to the north. Blue Heron Road is on the south boundary.
4. The parcel is flat and composed primarily of sand and gravel accretion material. Vegetation is limited to mixed grasses, ornamental shrubs and a single pine tree. There is an existing riprap bulkhead which marks the Ordinary High Water Mark (OHWM).
5. The present residence is setback 25 feet from the OHWM. An accessory deck (less than 30 inches above grade) extends to within approximately 10 feet of the OHWM. The propose addition will not changes these setbacks.
6. The present residence occupies about 1,050 square feet. The plan is to add a second story, and expand the house's footprint by about 640 square feet to the east. This will necessitate the removal of an existing boathouse on the lot. The result will be a side setback on the east of 8 feet -- an improvement over the present. The proposed height of the structure will be 29 feet.
7. The north beach community on Samish Island, adjacent to the subject property, is densely developed for residential purposes. The eastern end of the island is used for commercial oyster production.
8. The residential community in the vicinity developed long before modern shoreline regulations were adopted. Initially it was devoted to small cabins used on a seasonal basis. Over recent decades, there has been a progressive conversion of the homes to full-time residences.
9. The dense development along this shoreline consists of many houses closer to the OHWM than the standard Rural Residential setback of 50 feet, established by the Shoreline Master Program (SMP). The typical setback for existing residences is 25 feet. The proposed remodel will, thus, remain consistent with the pattern of development in the neighborhood.
10. A Fish and Wildlife Site Assessment was conducted for this proposal, pursuant to the Critical Areas Ordinance (CAO). The report noted that previous development has already affected geohydraulic processes and altered habitat. The report concluded that the habitat conditions which have evolved in the area will not be degraded by project generated impacts. "Maintenance of the existing shoreline setback and designation of the PCA [Protected Critical



Area] will effectively avoid additional impacts to Samish Bay.” The report recommended the following mitigation measures:

- (a) The shoreline setback for the subject [site] shall be a minimum of 25 feet landward of the OWHM.
- (b) An accessory deck, no more than 30 inches above existing grade level, shall extend no further waterward or 10 feet landward of the OHWM.
- (c) All undeveloped shoreline areas disturbed during construction should be re-vegetated with self-sustaining vegetation immediately upon completion of the project.
- (d) Any future proposals for shore defense works including repair or replacement of the existing protective bulkhead should be reviewed by Skagit County for consistency with the Shoreline Master Program.
- (e) The area extending waterward of the residential deck should be designated as a protected critical area (PCA) and recorded with the Skagit County Auditor consistent with the requirements of the CAO.

11. Of the County agencies contacted, only the Health Division commented. They noted that the proposed underground fuel tank must meet Department of Ecology requirements and recommended that the applicant contact DOE to determine necessary state approvals for installing such a tank.

12. The subject site is located within a flood zone as indicated on FEMA maps. The total area of the residence must therefore meet or exceed prescribed elevation requirements. This can be demonstrated by submission of an elevation certificate during the building permit process.

13. The project will conform with the site coverage requirements of the SMP. Moreover, both the height limitations and sideyard setbacks will also be met. The instant request is solely for a variance from the shore setback.

14. The proposal will not increase the existing setback nonconformity. The resulting home will be compatible in size, placement and appearance with other residences in the area. The small size of the lot constrains development possibilities. Moving the house to meet the 50-foot setback would adversely impact the installed septic system and dedicated reserve area.

15. The criteria for a Shoreline Variance are set forth at SMP 10.03. For developments landward of the OHWM the requirements 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 other 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.

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

16. The Staff Report analyzes the application in light of these criteria and concludes that as conditioned it is consistent with 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.

17. Three letters of support for this proposal were received from neighbors. There were no critical comments. At the hearing, there was no public testimony on this application.

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 categorically exempt from the requirements of the State Environmental Policy Act (SEPA). WAC 197-11-8090(6)(b).

3. The project will not increase the existing shore setback nonconformity. Removal of the boathouse will result in bringing the sideyards into setback conformity. The development overall will have no adverse impacts and will be compatible with the development that already exists in the vicinity. As conditioned, the project will meet the criteria for issuance of a Shoreline Variance. SMP 10.03.



4. The following conditions should be imposed:

(1) The applicant shall construct the project in accordance with the application materials submitted, except as the same may be modified by these conditions.

(2) The applicant shall use best management practices in regard to sedimentation and erosion control during construction. The measures used shall be in accordance with Chapter 14.32 SCC, Drainage Ordinance.

(3) The application shall comply with all applicable statutes, rules and ordinances, including the state requirements for fuel tank installation and the County Flood Control Ordinance. Compliance with flood control requirements shall be demonstrated during the building permit process.

(4) The applicant shall obtain a building permit and shall submit a copy of this decision with the building permit application.

(5) The applicant shall comply with all mitigation measures recommended in the Fish and Wildlife Site Assessment, prepared by Graham-Bunting Associates, dated July 16, 2003. (See Finding 10.)

(6) With the building permit application, a copy of an approved Protect Critical Area easement, recorded at the Skagit County Auditor's Office, shall be submitted to the Planning and Permit Center referencing file number PL03-0571.

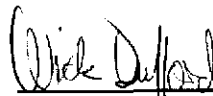
(7) The project shall be commenced within two years of the date that this variance becomes final, and shall be completed within five years thereof or the permit will become void.

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

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

DECISION

The requested Shoreline Variance is approved, subject to the conditions set forth in Conclusion 4 above.



Wick Dufford, Hearing Examiner

Date of Action: December 31, 2003

Copy Transmitted to Applicant: December 31, 2003



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Skagit County Auditor

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days after the date of this decision. As provided in SCC 14.06.120(9), 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 14 days after the date of the decision, or decision on reconsideration, if applicable.

DEPARTMENT OF ECOLOGY REVIEW

If this decision to grant a Shoreline Variance becomes final at the County level, it will then be subject to additional review by the State. The Department of Ecology must approve or disapprove it pursuant to RCW 90.58.140.

