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Skagit County Auditor

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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 0405

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: JOE FARINA

ASSESSOR PARCEL NOS: P46545

LEGAL DESCRIPTION: The proposed project is located at 4425 Agate Beach Road, Anacortes, WA; a portion of Section 26, Township 36 North, Range 1 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Joe Farina Joe Farina, Jr.
17475 Dunbar Road 11702 Summit View Drive
Mount Vernon, WA 98273 Yakima, WA 98908

File No: PL02-0405

Request: Shoreline Variance

Location: 4425 Agate Beach Road, Guemes Island, within a portion of
Sec. 26, T36N, R1E, W.M.

Shorelines Designation: Rural Residential

Summary of Proposal: To construct a 764 square foot addition to an existing small single
family residence with a setback of 29 feet landward of the
Ordinary High Water Mark (OHWM).

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. Joe Farina (applicant) seeks a Shoreline Variance to allow an addition to an existing cabin on the northeast shore of Guemes Island.
2. The subject property is located at 4425 Agate Beach Road, within a portion of Sec. 26, T36N, R1E, WM. The shoreline environmental designation is Rural Residential.
3. The lot is rectangular -- 120 feet wide and 338 feet long. It faces Padilla Bay on the east. Near the middle of the parcel a significant ridge slopes up to an elevation of roughly 200 feet at Guemes Road on the west. Nearly 66% of the lot is encompassed by the steep slope.
4. The existing cabin is about 766 square-feet in footprint and is located on the flat eastern portion of the property with a setback of 29 feet from the Ordinary High Water Mark (OHWM). Behind the house on the north side of the lot, there is a 32' x 36' boat house. Access is provided by a steep driveway that runs along the toe of the hill, bisecting the lot in the middle. This driveway also provides access to adjacent properties. There is a bulkhead at the OHWM and a boat launch.
5. Most of the proposed 764-square-foot addition will cover the area that is occupied by an existing deck. A small area will be located near the southwest corner of the cabin covering approximately 10' x 12' feet of what is now lawn. The addition will approach no closer to the OHWM than does the current structure.
6. A Fish and Wildlife Site Assessment was conducted pursuant to the Critical Areas Ordinance. The study concluded that the proposed addition is not likely to cause any negative environmental impacts.
7. The standard shore setback for the Rural Residential designation is 50 feet landward from the OHWM. The request is for a variance that allows the maintenance of the 29 foot setback established when the cabin was built.
8. The lot and surrounding area were developed prior to the advent of shoreline regulations. Development in the area is relatively dense. Adjacent properties to the north and south are developed with single-family residences. Within 300 feet of both side property lines, the average shore setback is just 21 feet from the OHWM.
9. The applicant wishes to convert the house from a vacation cabin to a year-around residence. He testified that his desire is simply to enclose the existing deck and add a little more living area. The resulting house (1,530 square feet), in his opinion, will not be incompatible size or appearance with other development in the neighborhood.
10. Development on the lot is constrained by the topography, the location of the water well, and the driveway and other pre-existing development. The house cannot readily be



extended to the rear because of the steep grade and the access road. An extension to the rear would also encroach upon the well protection zone and would necessitate the removal of several mature firs that are used as perches by bald eagles.

11. The criteria for a Shoreline Variance are set forth in the County's Shoreline Master Program 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.

12. 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.

13. At the hearing, there was no public testimony on this application. One comment letter in support of the proposal was received from a neighbor.

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.

2. Because there is no adverse impact on a critical area, recording a Protected Critical Area is not required.

3. The proposal is categorically exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(1)(b)(I).

4. The project is for a modest residential improvement that will not increase the existing non-conformity and will be compatible with the pattern of development in the vicinity. As conditioned, the project will be the criteria for issuance of a Shoreline Variance. SMP 10.03.

5. 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 utilize best management practices in regard to sedimentation and erosion control during construction.

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

(4) The subject development shall comply with all applicable statutes, rules and ordinances, including the Skagit County Shorelines Master Program.

(5) 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.

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

6. 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 5 above.



Wick Dufford, Hearing Examiner

Date of Action: December 30, 2003

Copy Transmitted to Applicant: December 30, 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 a Shoreline Variance becomes final at the County level, it will then be subject to additional review by the State. The Department of Ecology may approve or disapprove it pursuant to RCW 90.58.140.

