



200404290035

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 0651

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: PATRICK QUANN

ASSESSOR PARCEL NO: P#: 66864

LEGAL DESCRIPTION: The proposed project is located at 33054 Deer Park Lane, Mount Vernon, WA; a portion of Sections 22 & 27, Township 33 North, Range 6 East, W.M., Skagit County, Washington.

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Patrick Quann  
2129 NW 204<sup>th</sup>  
Shoreline, WA 98177

**File No:** PL 03-0651

**Request:** Shoreline Variance

**Location:** 33054 Deer Park Lane, on the shore of Lake Cavanaugh;  
Lot 93, Lake Cavanaugh Subdivision 3 Block 1, within  
a portion of Secs 22 & 27, T33N, R6E, W.M.

**Shoreline Designation:** Rural Residential

**Summary of Proposal:** To remodel an existing residence, enclosing the existing upper  
story deck to living space and constructing a new upper story  
deck on the shore side. The new construction will not extend  
beyond the existing lower story deck.

**Public Hearing:** After reviewing the Report of the Planning and Permit Center,  
the Hearing Examiner conducted a public hearing on  
February 25, 2004

**Decision:** The application is approved, subject to conditions.



## FINDINGS OF FACT

1. Patrick Quann (applicant) seeks a Shoreline Variance in order to remodel an existing residence on the shore of Lake Cavanaugh.
2. The property is located at 33054 Deer Park Lane, Lot 93 of Lake Cavanaugh Subdivision 3 Block 1, within a portion of Secs. 22 & 27, T33N, R6E, W.M. The lot is only 60 feet wide.
3. The shorelines environment designation for the area is Rural Residential.
4. The property has a concrete bulkhead at the Ordinary High Water Mark (OHWM). The existing residence is set back 28 feet from this bulkhead. The area between the bulkhead and the house is in a Protected Critical Area.
5. The applicant wishes to enclose a 4' x 24' upper story deck to create an additional 96 square feet of indoor living space. In front of the enclosed area, a new 4' x 24' deck will be built on the upper story on the lake side.
6. The proposed construction will not expand the development closer to the shore than what currently exists. The lower deck is the closest feature to the OHWM. The present project will not cause any part of the residence to project beyond the lower deck.
7. This house was built after issuance of Shoreline Variance #18-88 which allowed it come within 25 feet of the OHWM of Lake Cavanaugh. The proposed project will not extend beyond the limits established by the prior variance.
8. Portions of existing decks on the house were constructed without the benefit of an approved building permit. All existing decks, however, meet the setback approved in Shorelines Variance #18-88.
9. The standard shore setback in this area is 50 feet. The applicant seeks a variance from this setback for the new construction. The project will not increase the existing non-conformity.
10. In addition to the features waterward of the 50-foot setback, the applicant proposes to raise the roof of the back portion of the house to create a new bedroom. The height of the bedroom will conform with the limits of the Shoreline Master Program. Also a new garage behind the house is being built pursuant to a building permit. These project features are exempt from shoreline permitting. Overall construction on the site will not increase the present 25.2% lot coverage, which is conforming.
11. Under the Shoreline Master Program (SMP), non-conforming uses may be continued provided that the structure is not enlarged, or increased or extended to occupy a greater area. SMP 12.02. A variance is sought because a small enlargement within the setback is proposed.



12. A Fish and Wildlife Assessment was prepared and concluded that "neither the low-value fish and wildlife habitat buffer, nor the lake itself will be degraded by the proposed construction landward of the edge of the lake buffer". A number of specific measures were recommended during construction to reduce or eliminate erosion and sedimentation.

13. Reviews by the Public Works and Health Department elicited no critical comments. Health noted that the existing septic system is satisfactory.

14. The lot is steep and narrow and its topography acts as a constraint on development. The proposed project will improve the function of the living area, but will not expand the house to the side or back. The construction on the front will retain the present setback from the water. No effects to adjacent properties are foreseen. The improvements should have negligible visual impact.

15. The lakeshore in this area is heavily developed, with numerous structures within the shoreline setback. Photographs demonstrate that the existing house is consistent with surrounding development. The proposed minor remodel will not change this.

16. Three neighbors provided letters of support. There was no critical public comment.

17. 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 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.

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

18. The Staff Report analyzes the application in light of these criteria and concludes that, as conditioned, the proposal will be 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.

19. 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 procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The project, as conditioned, will be consistent with the criteria for a Shoreline Variance. SMP 10.03.

4. The following conditions of approval should be imposed:

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

(2) The applicant shall obtain a County Building Permit and all other necessary approvals.

(3) The applicant shall comply with the recommendations of the Fish and Wildlife Site Assessment, as follows:

(a) Silt fences shall be constructed immediately waterward of the proposed garage. The silt fencing shall cross the slope at the edge of the graveled area as indicated in the Critical Area Site Plan. The silt fencing will set construction limits and minimize transport of particulate matter, including concrete.

(b) A silt fence shall be installed immediately below the entrance to the space below the deck if new deck supports or other foundation work are installed. The silt fence shall be within the lake buffer and is needed to prevent erosion and sedimentation effects from the construction area.

(c) No waste construction materials, including soil, shall be stored within the riparian buffer.



(d) Disturbed areas of the site, including the buffer, shall be reseeded immediately upon completion of construction and silt fencing shall be removed once site vegetation is established.

(e) Concrete footings and slabs shall be covered with polyethylene sheeting if rain is likely to occur within 72 hours of pouring concrete. Concrete spills or runoff may be neutralized by the application of sodium bicarbonate (baking soda) to lower the pH.

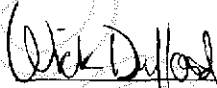
(4) The project shall be commenced within two years of the date of the Department of Ecology's approval and finished within five years thereof, or the permit shall become void.

(5) Failure to comply with any of the conditions of this permit may result in its 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: March 29, 2004

Date Transmitted to Applicant: March 29, 2004

### 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.



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