



200410040010

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 APPLICATION SL 04 0065

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: LORI LANGBERG

ASSESSOR PARCEL NO: P66907

ABBREVIATED LEGAL DESCRIPTION The proposed project is located at 22034 Lost Island Lane, Mount Vernon, WA; within Section 22, Township 33, Range 6 East, W.M., Skagit County.

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**Applicant:** Lori Langberg  
12631 93d Place N.E.  
Kirkland, WA 98034

**File No:** PL04-0065

**Request:** Shoreline Variance

**Location:** 22034 Lost Island Lane on the shore of Lake  
Cavanaugh, within a portion of Sec 22, T33N,  
R6E, W.M.

**Shoreline Designation:** Rural Residential

**Summary of Proposal:** To replace an existing cabin with a new single-family residence, containing a foot print of approximately 1600 square feet of which nearly 600 square feet will be in deck and stairs. The structure will have a 25 foot setback from the ordinary high water mark (OHWM), the same as the existing cabin.

**Public Hearing:** After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on August 11, 2004.

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



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## FINDINGS OF FACT

1. Lori Langberg (applicant) seeks a Shoreline Variance for the replacement of a cabin with a new residence on the shore of Lake Cavanaugh.

2. The property is located at 22034 Lost Island Lane, Lot 132, Lake Cavanaugh Subdivision #3, Block 1. Lost Island Lane is a gravel dead-end road off of West Shore Drive.

3. The shoreline environment designation for the area is Rural Residential.

4. The lot is narrow and steep. The existing cabin is set back about 25 feet from the Ordinary High Water Mark (OHWM) of the lake, which here coincides with a concrete bulkhead. The cabin has been in this location for over 40 years.

5. Lost Island Lane runs through the middle of the lot, providing access for both the applicant and the neighbors. The drain field and septic tank for the property are above this road. West Shore Drive lies at the upper end of the lot. The lot slopes at an average of approximately 34% from West Shore Drive to the shore.

4. The existing cabin occupies approximately 576 square feet and has a 276 foot deck. It encroaches to a small degree on neighboring property to the west.

5. The proposed replacement residence will be moved laterally eliminating the encroachment of neighbor property, It will be placed so that the set back from the OHWM is the same as at present – about 25 feet.

6. The latest application information indicates that the new house with its deck will measure 38' and 42' or 1596 square feet. The deck will occupy 568 square feet. This leaves a house footprint of roughly 1,028 square feet. There will be a main and upper floor, as well as an unfinished basement.

7. The plans also call for installing a small garage between the new house and Lost Island Lane.

8. The shore setback established by the Shoreline Master Program (SMP) for this lakeshore is 50 feet. The applicant requests a variance from this standard in order to put the new home in the same location relative to the shore as the old one. Other dimensional aspects of the project (height, lot coverage, side yards) will meet SMP standards.

9. A Fish and Wildlife Habitat Assessment and Geohazard Report, dated April 11, 2004, was prepared by Edison Engineering. The new house will occupy a small amount of additional footprint within the 50-foot setback. The effect will be the removal of some vegetation (seven trees, understory and groundcover). The impact of this



activity can be mitigated by replacement planting. The report recommends replacement of trees and shrubs on a two-to-one basis.

10. The area of the 50-foot setback not covered by the structure can be placed in a Protected Critical Area (PCA). Construction impacts on water quality can be eliminated by temporary control measures.

11. The topography will oblige the house to be built into an excavated slope. There is no indication of slope instability at the site.

12. Structures on the lots on either side are zero feet and 13 feet, respectively, from the OHWM. The proposed setback is consistent with the pattern of development in the area.

13. The topography of the lot and location of the access road constrain the applicant's ability to build a reasonable home with a garage on the lot consistent with the standard setback.

14. Review by the Critical Areas Staff resulted in a recommendation that the mitigating actions recommended in the Fish and Wildlife Assessment be included as conditions of approval. These measures are imposed as conditions by this decision. Review by other County department produced no concerns that cannot be addressed by conditions.

14. There was no correspondence critical of this proposal. The neighbors wrote letters that are highly supportive. There was no public testimony at the hearing.

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 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.

16. The Staff Report analyzes the proposal against these criteria and determines that, as conditioned, the project will be consistent with them. 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.

17. 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 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 below, will be consistent with the criteria for a Shoreline Variance. SMP 10.03.

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

### **CONDITIONS**

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. A copy of this decision shall be submitted with the building permit application.

3. The shore setback shall be a minimum of 25 feet landward from the OHWM.

4. All undeveloped shoreline area disturbed during construction shall be re-vegetated with self-sustaining vegetation immediately upon completion of the project.

5. A Protected Critical Area shall be established as described in the Critical Area Site Plan. A drawing of this area shall be recorded with the County Auditor consistent with the Critical Areas Ordinance.



6. The construction practices outlined in the Fish and Wildlife Habitat Assessment and Geologic Investigation, dated April 11, 2004, shall be carried out.

7. The planting recommendation set forth in the Fish and Wildlife Habitat Assessment and Geologic Investigation, dated April 11, 2004, shall be carried out. The plantings shall be monitored until firmly established. Any plantings that fail to thrive shall be replaced.

8. A copy of the approved PCA easement, as recorded with the Auditor, shall be submitted to the Planning and Permit Center with the building permit application.

9. The applicants shall comply with all applicable State regulations and County codes, including Chapters 173-201A WAC and 173-200 WAC (surface and ground water quality), Chapter 14.32 SCC (drainage), Chapter 14.24 SCC (critical areas), Chapter 14.16 SCC (zoning).

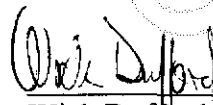
10. The project shall not be commenced until all appeal periods have run after the final approval by the Department of Ecology.

11. The project shall be commenced within two years of Department of Ecology approval and completed within five years thereof, or the permit shall become void.

12. Failure to comply with any conditions of this permit may result in its revocation.

### DECISION

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



Wick Dufford, Hearing Examiner

Date of Action: 21, 2004

Date Transmitted to Applicants: 21, 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 the decision or the decision on reconsideration if applicable.

**DEPARTMENT OF ECOLOGY REVIEW**

If this decision 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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