

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicants: Thomas & Mariana Wright
28554 West Lakeview Lane
Mount Vernon, WA 98274

Request/File No: Critical Areas Variance, PL13-0100

Location: 18554 West Lakeview Lane with E1/2W1/2SE1/4 Sec. 1, T33N, R4E, W.M.

Land Use Designation: Rural Reserve

Summary of Proposal: To reduce standard wetland and stream buffers in order to accommodate construction of a detached garage with a second story accessory dwelling unit (ADU).

SEPA Compliance: Exempt per WAC 197-11-800(6)(b).

Public Hearing: June 26, 2013. Testimony by County staff and applicant. No public testimony. Planning and Development Services recommended approval.

Decision/Date: The application is approved, subject to conditions. July 18, 2013.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 10 days of this decision. An appeal to the Board of County Commissioners may be filed with PDS within 14 days of the decision, or decision on reconsideration if applicable.

Online Text: The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Thomas and Mariana Wright (applicants) seek a Critical Areas Variance in order to build a garage with a second story accessory dwelling unit (ADU) on encumbered property.
2. The project is located above the west side of Big Lake at 18554 West Lakeview Lane within E1/2W1/2SWE1/4 Sec. 1, T33N, R4E, W.M. The parcel number for the project site is P112713. The zoning is Rural Reserve.
3. The property totals 9.65 acres which has been certified as one lot of record. There is an existing residence which is served by PUD water. The proposed garage/ADU will be located across the road from the existing residence and a water line will be extended to it.
4. Sewage treatment will be handled by an on-site septic system. Soils have been approved for installation of such a system, but the septic design has not been submitted.
5. The property is heavily wooded. It does not appear that any significant timber harvest has occurred there within the last 50-60 years. The proposed garage/ADU will not be visible to neighbors.
6. The proposal is to construct a 30-foot by 34-foot building with a two-car garage below and an ADU above. The living space within the ADU will be no more than 900 square feet. The structure will be 35 feet from the easement for West Lakeview Lane.
7. The applicants are in the medical field and are both frequently required to be away from the home. They have two young children. The objective of the new garage/ADU is to create a place for the wife's parents to live and grow old, while at the same time providing on-site child care.
8. Edison Engineering performed a wetland delineation and fish and wildlife habitat assessment and determined that the property is significantly encumbered by critical areas. The proposed structure will be a minimum of 80 feet from a Type F watercourse and a minimum of 50 feet from the edge of a Category III wetland.
9. The standard stream buffer here is 100 feet and the standard wetland buffer is 110 feet. Thus, in order to build the project, the standard buffers must be reduced.
10. Under the Critical Areas Ordinance, necessary stream buffer reduction may be accomplished without a variance when, after application of mitigation sequencing, the impacts are mitigated and the result is equal or greater protection of habitat functions and values. This will be the result here under the mitigation requirements of the habitat assessment. Planting of native vegetation and monitoring is required in the remaining buffer area.
11. Modification of the wetland buffer by greater than 50% requires a Hearing Examiner variance.

12. The proposed structure cannot be located entirely outside the wetland buffer without becoming a hazard to traffic safety on West Lakeview Lane. A zoning variance would not cure this problem.

13. The modification of the wetland buffer sought is supported by best available science relative to existing site conditions, as reflected in the fish and wildlife habitat assessment.

14. The proposed placement of the garage/ADU allows for reasonable development of the property while minimizing impacts to all critical area. Putting the structure adjacent to the existing house would increase impacts on the Type F watercourse to the north.

15. Under all the circumstances, the proposed critical areas variance is the minimum necessary to make reasonable use of the property. Significant adverse impacts to the functions and values of the streams and wetlands affected will be avoided.

16. The inability of the applicants to meet the standard wetlands setback is not a result of actions by the owners in subdividing or adjusting boundaries. The requested variance for an allowed use is necessitated by the presence of critical areas.

17. The granting of the variance sought will be in harmony with the general purpose and intent of the Unified Development Code and will not be injurious to the neighborhood or otherwise injurious to the public welfare.

18. The Staff Report analyzes the application in light of the appropriate criteria of the Critical Areas Ordinance and concludes that the proposal is consistent with applicable requirements. The Hearing Examiner concurs with 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 subject matter of this proceeding.
2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act.
3. Residential accessory uses are allowed outright in the Rural Reserve zone. SCC 14.16.320 (2)(i).
4. The stream buffer reduction is justified pursuant to SCC 14.24.540(3).
5. The wetland buffer reduction meets the variance requirements of SCC 14.24.140(3)

6. The wetland buffer reduction meets the criteria for general variance from the provisions of Title 14 of the Skagit County Code. SCC 14.10.030(2).

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

CONDITIONS

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

2. The applicants shall obtain all other required permits and abide by the conditions of same.

3. The applicants shall follow all recommendations of the December 22, 2012 Edison Engineering Report.

4. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor prior to approval of the building permit application.

5. The applicant shall submit a copy of this decision with the building permit application.

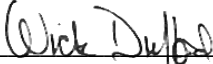
6. This variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicants.

7. Failure to comply with any condition may result in permit revocation.

DECISION

The requested Critical Areas Variance for the wetland buffer is approved, subject to the conditions set forth above. The requested stream buffer reduction is affirmed.

DONE, this 18th day of July, 2013.



Wick Dufford, Hearing Examiner

Transmitted to Applicants: July 18, 2013.

See Notice of Decision, Page 1, for Appeal information.