

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

**Applicants:** Brian and Barbara Palmer  
33237 South Shore Drive  
Mount Vernon, WA 98274

**Agent:** Ruth Gonzales  
P. O. Box 97  
Arlington, WA 98223

**Request:** Critical Areas Variance, PL19-0349

**Location:** Shore of Lake Cavanaugh, at 33237 South Shore Drive;  
described as Lot 2, Block 1, Lake Cavanaugh Sub Div 3,  
within Sec 27, T33N, R6E, W.M. Parcel No. P105064.

**Land Use Designation:** Rural Village Residential

**Summary of Proposal:** To allow for construction of an addition to an existing residence  
by reducing the 100 feet shoreline buffer to 57 feet and reducing  
the standard Type F stream buffer to 5 feet.

**Public Hearing:** By telephone on June 10, 2020. Testimony by Planning and  
Development Services (PDS) staff, Applicant's agent, and  
Applicant. No public testimony.

**Decision/Date:** The applicant is approved, subject to conditions. June 12, 2020

**Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10  
days of this decision. Appeal is to the Board of County  
Commissioners by filing with PDS within 14 days of this decision  
or decision on reconsideration if applicable.

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

## **FINDINGS OF FACT**

1. Brian and Barbara Palmer seek a Critical Areas Variance in order to build an addition to an existing residence on the shore of Lake Cavanaugh.
2. The project will be located at 33237 South Shore Drive. The parcel is Lot 2, Block 1, Lake Cavanaugh Sub Div 3. The property is within Section 27, T33N, R6E, W.M. The parcel Number is P105064.
3. The site comprises 0.34 acre within a Rural Village Residential zoning designation. The adjacent shoreline properties are developed with single family residences. The subject home and proposed addition are located within a Zone C flood hazard area.
4. The parcel is forested between the existing house and South Shore Drive. There are also mature conifers within the lake shoreline buffer. A small stream is located near the eastern property line, regulated as a fish bearing (Type F) watercourse. The stream has experienced erosion where it enters the property adjacent to South Shore Drive.
5. The home was built as a general purpose structure in 1980 and converted to residential use around 2003. A 644-square-foot deck was permitted in 2007. Currently the home contains 1152 square feet of living space on a footprint of approximately 576 square feet. The septic drainfield and reserve area are located on upland between the house and the road. A drilled well is situated about 35 feet from the lakeshore. There is also a small storage shed on site.
6. The current project includes building a new attached garage, a stairway and a second story addition to the southern portion of the home. A sunroom over the deck is proposed for the waterward side of the house. The overall footprint of the home and garage will be approximately 1700 square feet.
7. The variance application seeks modification of the standard 100 foot lake shoreline buffer to 57 feet and reduction of the 100 foot stream buffer to 5 feet.
8. The project will meet the dimensional standards, including setbacks, of the local Shoreline Master Program (SMP).
9. The size of the project is somewhat smaller than neighboring developments.
10. A Fish and Wildlife Habitat Site Assessment using best available science was prepared by Edison Engineering, dated June 7, 2019, and amended August 27, 2019. The site assessment includes a buffer enhancement (mitigation) plan to offset any project generated impacts. The site assessment supports the buffer modifications sought.
11. The proposed development has been located in a previously disturbed area and as far from the lake and stream as feasible. The buffer enhancement plan includes installation of 14 native trees or 55 native shrubs over an area of approximately 1357 square feet. English ivy on the site will be removed.

12. Notice of Development was published, posted and mailed in September 2019. The public hearing was properly noticed in May of 2020. No written public comments were received. No members of the public appeared to testify at the hearing.

13. Review by interested agencies and departments disclosed no concerns.

14. Applicants' consultant testified that every effort was made to minimize new impacts to the site. Applicant Brian Palmer stated that the project is consistent with other development in the area and that neighbors on either side are supportive of the proposal.

15. The improvement of this residential use in this residential neighborhood is a reasonable use of land and the variance sought is required to make such use possible. The need for it arises from special conditions of lot size, history and topography. The special conditions are not the result of action of the Applicants. Literal application of the setbacks involved would deprive the Applicants of rights commonly enjoyed by other owners in the same district. No special privilege will be conferred by granting the variances.

16. The Staff evaluated the application in light of the general variance criteria and of the specific variance criteria for Critical Areas. They found that, as conditioned, the proposal will be consistent with these criteria. 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.

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

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over these proceedings. SCC 14.24.140(1)(b).
2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(1).
3. The proposal, as conditioned, is consistent with the variance criteria of Chapter 14.10 SCC and SCC 14.24.140(3).
4. Any finding 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 applicants shall obtain all required permits and abide by the conditions of same.
3. The applicants shall comply with all applicable State and local regulations.

4. The recommendations of the Fish and Wildlife Habitat Site Assessment (June 7, 2019) and Addendum (August 27, 2019), prepared by Edison Engineering shall be considered conditions of this approval.

5. A revised Protected Critical Area (PCA) site plan reflecting the modified buffers widths on Lake Cavanaugh and the Type F stream shall be recorded prior to submittal of the building permit application.

6. Prior to final inspection of the home additions, the mitigation plan described in the Fish and Wildlife Habitat Site Assessment shall be completed. A minimum of 14 native trees or 55 native shrubs must be installed within the remaining stream and lake buffer areas.

7. Outdoor irrigation shall be limited to the mitigation plantings only.

8. Stormwater may not be directed toward the wellhead protection area.

9. Current drinking water test results shall be submitted prior to submittal of the building permit application.

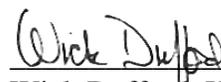
10. This variance shall expire if the use or activity for which it is granted is not commenced within three years of its final approval. Knowledge of the expiration date is the responsibility of the applicant

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

### **ORDER**

The requested Critical Areas Variance (PL19-0349) is approved, subject to the conditions set forth above.

**SO ORDERED**, this 12th, day of June, 2020.



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Wick Dufford, Hearing Examiner

Transmitted to Applicant, Applicant's agent, and County staff June 12, 2020.

See Notice of Decision, page 1, for appeal information.