

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Susan Sentner
c/o John Stewart
PO Box 4099
Bellingham, WA 98227

Agent: David Hough
17483 W. Big Lake Blvd.
Mount Vernon, WA 98274

File No: PL04-0852

Request: Shoreline Variance Revision

Location: 11549 Blue Heron Road adjacent to Samish Bay on Samish Island, within NE 1/4 Sec. 25, T36N, R2E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To construct a replacement residence expanding the original footprint by approximately 640 square feet, but approaching no closer to the Ordinary High Water Mark (OHWM) than the original structure. (Revising PL03-0571)

Public Hearing: After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on January 12, 2005.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Susan Sentner seeks to revise a Shoreline Variance received pursuant to PL03-0571. The original variance allowed her to construct an addition to an existing residence, expanding the foot print by approximately 640 square feet, but approaching no closer to the Ordinary High Water Mark (OHWM) than the original structure.

2. After receiving the initial variance, Ms. Sentner applied for and received a building permit for the project. During the remodeling process it was discovered that the building foundation was failing and the entire structure was demolished and removed from the site. The contractor did this without benefit of review by the County staff.

3. The present request is for reconstruction of the residence including those elements originally proposed as an expansion. The resulting footprint will be the same as that previously authorized.

4. No over water construction is proposed. No increase of ground coverage is proposed. None of the dimensional requirements of the Shoreline Master Program will be violated, other than the shore setback which was authorized by the original variance approval. No landscaping revisions are proposed. The proposed use remains the same. No adverse environmental impacts will result.

5. The planning staff has reviewed the revision and determined that the modifications are “insignificant” changes to the original permit. The Hearing Examiner concurs and finds that the proposed revision is “within the scope and intent of the original permit.”

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding.

2. The proposed project cannot be regarded as the authorized reconstruction of a non-conforming structure under the SMP because the project exceeds 75% of the assessed valuation of the pre-existing building. See SMP 12.03. Therefore the variance is necessary.

3. The SMP allows the revision of Shoreline Variance permits if there is an administrative determination that the modifications are “insignificant” changes to the original permit. SMP 9.13. Such a determination has been made in this case.

4. “Insignificant” modifications are those that are “within the scope and intent of the original permit.” Under WAC 173-27-100(2), this formula is met if:

- (a) No additional over water construction is involved . . . ;
- (b) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;
- (c) The revised permit does not authorize development to exceed height, lot coverage, setback or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or part thereof;
- (d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
- (e) The use authorized pursuant to the original permit not changed; and
- (f) No adverse environmental impact will be caused by the project revision.

4. The subject proposal meets the criteria of WAC 173-27-100(2).

5. Except as necessarily modified by this decision, the findings and conclusions of the original decision (PL03-0571) are hereby ratified.

DECISION

The requested revision to Shoreline Variance PL03-0571 is approved, subject to the conditions set forth in the original decision. The revision shall be submitted to the Department of Ecology pursuant to WAC 173-27-100(6).



Wick Dufford, Hearing Examiner

Date of Approval: February 10, 2005

Date Transmitted to Applicant: February 10, 2005

RECONSIDERATION/APPEAL

Any person aggrieved by the revision of a shoreline Permit may request reconsideration before the Examiner or submit an appeal to the Board of Commissioners. All requests for reconsideration or appeals must be submitted in writing within five (5) days of the date of the Examiner's written decision or decision after reconsideration.