

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Peter Browning  
17258 Lakeview Blvd  
Mount Vernon, WA 98274

**File No:** PL 05-0006

**Request:** Shoreline Variance

**Location:** 17258 Lakeview Boulevard on the shores of Big Lake, within a portion of Sec. 36, T34N, R4E, W.M.; Parcel # P64456.

**Shoreline Designation:** Rural Residential

**Summary of Proposal:** To expand the footprint of an existing residence toward the shore by building an elevated deck to within 42 feet of the Ordinary High Water Mark (OHWM), thereby increasing lot coverage to 32%.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on May 11, 2005.

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

## **FINDINGS OF FACT**

1. Peter Browning (applicant) seeks a Shoreline Variance to build within 42 feet of the OHWM of Big Lake and to increase lot coverage to 32% on residential property at 17258 Lakeview Boulevard.

2. The lot is within a portion of Sec. 36, T34N, R4E, W.M. The parcel number is #64456. The zoning is Rural Village Residential. The shoreline environment is Rural Residential.

3. The proposed project would add an elevated deck, extending waterward about eight feet from the house and increasing impermeable surface at the site by 425 square feet. The standard shore setback in the area is 50 feet. The standard lot coverage is 30%.

4. The lot is 12,000 square feet in size and 119 feet deep. The house is located 25 feet from the road on the landward boundary of the property. The house, as it is, conforms to the 50-foot setback. Parking facilities are between the house and the road.

5. The lakefront in the vicinity is in residential development. Residences in the area are of comparable size and construction to that of the applicant. Most other homes have elevated decks on the lake side. The addition of the subject deck would be consistent with the pattern of development in the neighborhood. Most other homes nearby are closer to the water. The average of setbacks within 300 feet of the subject parcel is 41 feet from the OHWM.

6. An amended Fish and Wildlife Site Assessment by Graham Bunting Associates, dated March 1, 2004, concludes that the proposal will have no significant impact on environmental values on the shore. A PCA has been recorded for the area adjacent to the lake.

7. The proposed deck will not affect the views of others. Additional runoff will be minimal. The deck will have no effect on the septic system.

8. Development on the lot is constrained by its shallow depth and by steep topography between the road and the home site. There is room for a reasonably-sized house, but not for a reasonably-sized house and a deck. To deprive the applicant of the opportunity for a lakeside deck would deprive him of a reasonable amenity that is available to other homes in the vicinity – many closer to the lake. Added to the existing house on the small lot, the modest proposed deck brings the total lot coverage to 32%. This only very slightly exceeds the 30% standard.

9. Variances from the Skagit County Shoreline Management Master Program for construction landward of the OHWM must meet the following criteria (SMP 10.03(1)):

- a. 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. 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 the adjacent properties or the shoreline environment designation.
- d. The variance granted 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. The public interest will suffer no substantial detrimental effect.

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

10. The Staff Report analyzes the proposed deck in light of the above criteria and finds that, as conditioned, it will be consistent with them. The Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

11. Counsel appeared for Suzanne Gilbert, an architect, who was initially involved design-work for the house. He provided evidence regarding her lack of involvement with the proposal now under consideration. She has not participated in this variance process. She did not authorize the submittal of the plans for the deck. She does not attest to the lot coverage figure now being used.

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

## **CONCLUSIONS OF LAW**

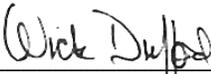
1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding.
2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).
3. The project, as conditioned below, will be consistent with the criteria for a Shoreline Variance. SMP 10.03(1).
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 prior to commencing construction. A copy of this decision shall be submitted with the building permit application.
3. The shore setback shall be at least 42 feet from the OHWM of Big Lake.
4. Lot coverage shall not exceed 32%.
5. The applicant shall comply with all relevant County ordinances and State statutes and rules.
6. Construction shall be commenced within two years and completed within five years of the effective date of this shoreline permit (WAC 173-27-090).
7. Failure to comply with any condition of this permit may result in its revocation.

**DECISION**

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

  
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Wick Dufford, Hearing Examiner

Date of Action: May 31, 2005

Date Transmitted to Applicant: May 31, 2005

**RECONSIDERATION/APPEAL**

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with Planning and Development Services 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 Planning and Development Services within five (5) days after the date of decision or decision on reconsideration, if applicable.

**DEPARTMENT OF ECOLOGY REVIEW**

If approval of a Shoreline Variance or Shoreline Conditional Use becomes final at the County level, the Department of Ecology must approve or disapprove it, pursuant to RCW 90.58.140.