

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Sven Stroosma
18273 West Big Lake Boulevard
Mount Vernon, WA 98274

File No: PL05-0086

Request: Shoreline Variance

Location: 18273 West Big Lake Boulevard on the shore of Big Lake,
with a portion of Sec. 1, T33N, R4E, W.M. Parcel #62028.

Shoreline Designation: Rural Residential

Summary of Proposal: The construction of a second floor on an existing garage
for use as a bedroom. An enclosed breezeway will be built
between the house and the garage. At the closest point the
new development will be within 93 feet of the Ordinary
High Water Mark (OHWM).

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
On May 25, 2005.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Sven Stroosma (applicant) seeks a Shoreline Variance to construct a second story bedroom on an existing garage and a breezeway between the garage and his home on the shores of Big Lake.

2. The property is Parcel #62028, located at 18273 West Big Lake Boulevard, within a portion of Sec. 1, T33N, R4E, W.M. The shoreline environment designation is Rural Residential. The area is well developed with residences.

3. The half-acre property is bordered by the lake on the north and east. West Big Lake Boulevard is to the west. The lot is flat with a non-typed stream running into the lake through the eastern portion.

4. The proposed second floor for the garage will have a dormer that connects to the house with a second story enclosed hallway. The new second floor will be approximately 900 feet square (30' x 30') and contain a bathroom as well as the sleeping area. The footprint of the garage will not increase.

5. The setback from the lake of homes in the immediate vicinity exceeds the average setback along Big Lake generally. The average distance from the Ordinary High Water Mark (OHWM) of other residences within 300 feet on both sides is 109 feet. Under the local Shoreline Master Program (SMP) this represents the regulatory shore setback in the area. See SMP 7.13(2)(C), Table RD. The proposed development will be about 93 feet from the OHWM.

6. A variance in the setback from the road was granted in 1987 to allow construction of the garage. Staff has determined no additional zoning variance is needed for this proposed second floor addition and dormer.

7. However, Staff concluded that the project constitutes an expansion of a non-conforming development for shoreline purposes. In general, the expansion of a non-conforming shoreline use is forbidden. SMP 12.02. However, under SMP 12.04, such expansion may be allowed by variance if the Hearing Examiner determines

that enlargement, extension or increase of the non-conforming . . . structures on shorelines can be accomplished without appreciable threat to the health, safety and general welfare of the public or the shoreline environment and purpose of this Program and the Act, and that to deny the enlargement, extension or increase in the non-conformity would constitute a hardship greater than the public benefit derived from denial of the non-conformity.

8. The project will use public sewer and public water supply (PUD #1). There is no appreciable threat to the health, safety and general welfare of the public. The impact on shoreline resources will be almost nil. The development will occur in a designated residential environment. Nothing in the proposal contravenes the purposes of the SMP or the Shoreline Act.

9. Consulted agencies had no critical comments. Critical area review was not deemed necessary. There were no adverse public comments. One letter of support was received from a neighbor. At the hearing, a neighbor testified that the three closest neighbors to the development have no objections.

10. The roofline of the proposed second story addition isn't any higher than the present garage roofline. The project will have no effect on views. Denial of the application would confer no identified public benefit. A denial, however, would constitute a hardship to the applicant who seeks additional bedroom space for his children.

11. Variance from the SMP 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.

12. The Staff Report analyzes the proposal in light of the above criteria and determines that, as conditioned, it will be consistent with them. 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.

13. 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 the subject matter of this proceeding.

2. The application is categorically exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The proposal meets the special standards for allowing expansion of a non-conforming use. Denial would impose a hardship greater than the public benefit conferred thereby. SMP 12.04.

4. The project, as conditioned below, will be consistent with the criteria for approval of a Shoreline Variance. SCC 10.03(1).

5. Approval of this proposal shall not become final until the Department of Ecology has reviewed the permit and issued its approval, or until approval has been obtained on appeal of Ecology's ruling.

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

CONDITIONS

1. The development shall be constructed substantially as shown in the application materials, except as the same may be modified by these conditions.

2. The applicant shall obtain all other required permits and approvals and abide by the conditions thereof. This decision shall accompany any application for a building permit.

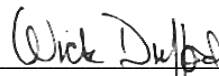
3. The project must be started within two (2) years of the date of final approval of this permit and shall be finished within five (5) years thereof or the permit shall become void.

4. Construction shall not be undertaken until the permit decision becomes final.

5. Failure to comply with any condition of this permit may result in its revocation.

DECISION

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



Wick Dufford, Hearing Examiner

Date of Action: June 21, 2005

Date Transmitted to Applicant: June 21, 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 becomes final at the County level, the Department of Ecology must approve or disapprove it, pursuant to RCW 90.58.140.