

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Dave and Ann Harrison
1637 219th Place SE
Sammamish, WA 98075

File No: PL05-0133

Request: Shoreline Variance

Location: 33152 West Shore Drive, Lake Cavanaugh, within a portion of Sec. 22, T33N, R6E, W.M. Parcel #66889.

Shoreline Designation: Rural Residential

Summary of Proposal: To replace an existing 362 square foot cabin with a 1,154 square foot cabin with basement. A new 632 square foot deck is proposed to be located 36 feet landward from the Ordinary High Water Mark, slightly more landward than the existing deck.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on November 23, 2005.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Dave and Ann Harrison (applicants) seek a Shoreline Variance to build a replacement cabin within the shore setback on Lake Cavanaugh.
2. The project site is at 33152 West Shore Drive, directly south of the road. It is Lot 114, Block 1, Lake Cavanaugh Subdivision No. 3, within a portion of Sec. 22, T33N, R6E, W.M. The parcel number is 66889.
3. The lot is situated on a bay that extends north of the main body of the lake. The shoreline designation for the property is Rural Residential.
4. The property is typical of the narrow lots on the lake which were platted years ago. It is 60 feet wide and 169 feet deep. The long dimension is roughly perpendicular to the shoreline.
5. There is an existing 362 square foot cabin with a small attached deck that was built on the lot in 1957. The deck is set back about 32.5 feet from the Ordinary High Water Mark (OHWM). The cabin is served by an outhouse. The proposal is to replace the existing cabin with a new house and up-to-date sewage treatment facilities.
6. The new house will measure 28 feet by 24, with a footprint of 672 square feet. With a second story it will contain about 1,154 square feet. A 672 square foot basement will also be included.
7. The new house will have a deck of approximately 632 square feet. The new deck will be setback 36 feet from the Ordinary High Water Mark (OHWM), slightly farther landward than the existing one.
8. Under the local Shoreline Master Program (SMP), the shore setback is established as 50 feet from the OHWM. Most of the older pre-shoreline management development along the lake is much closer to the water.
9. What the applicant seeks here is essentially to replicate the existing setback situation. For neighboring properties within 300 feet, the average of setbacks is 36 feet from the OHWM. The proposal, thus, is consistent with the pattern of development that exists.
10. The property slopes up to the road in the rear. A driveway is needed to access the house and requires some of the lot's limited width. The only area available for the new septic tank and drainfield is behind the house. If the house is located as far back as 50 feet from the OHWM, space available for the septic tank and drainfield will be constrained.

11. Anne Harrison testified and introduced pictures to show that the proposed new cabin will not have an adverse impact on neighboring views. Indeed, those views will be somewhat improved. The new construction will enhance the appearance of the subject property.

12. The new deck is wider than the existing deck and will push the house itself further away from the OHWM than the existing cabin. However, a small additional area within the 50 foot setback will be covered.

13. A Fish and Wildlife Habitat Site Assessment was prepared by Edison Engineering. The assessment noted that there will be a small increase in the building footprint within the setback and that several trees will need to be removed. But, the conclusion was that the loss of habitat will be insignificant and that mitigating plantings can offset the small loss. A planting plan was proposed. The assessment also made a number of recommendations for lowering impacts during construction. The assessment's recommendations are reflected in the conditions of approval.

13. The County Health Department stated that the applicant will need to provide details in regards to the water and septic system for approval during the building permit process. This requirement is also reflected in the conditions of approval.

14. A single comment letter was received about this application. It was from a neighbor who favors the project. The same neighbor provided supportive testimony at the hearing.

15. Variances 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 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 are irregular lot shape, size or natural features and the application of this Master Program and, not, for 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.

16. The Staff Report analyzes the proposal against these criteria and determines that, as conditioned, the project 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.

17. 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 subject matter of this proceeding.

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

3. As conditioned, the proposed shore setback 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 shown on the revised site plan dated September 12, 2005, except as the same may be modified by these conditions.

2. The applicants shall obtain all other required permits and approvals, including a Skagit County building permit.

3. The shore setback shall be at least 36 feet from the OHWM.

4. A Protected Critical Area shall be established within the 50-foot shore setback area not occupied by the house and deck. A drawing of the PCA shall be recorded with the County Auditor and submitted to Planning and Development Services with the building permit application.

5. The project shall carry out the recommendations of the Fish and Wildlife Habitat Assessment by Edison Engineering dated March 28, 2004. This includes both the

provisions of the planting plan and the general site development recommendations (BMP's). The required actions shall be implemented within three years of the effective date of the Shoreline Variance Permit.

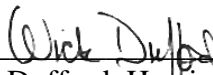
6. The applicant shall submit the required information to the Health Department about water and septic usage upon submittal of the building permit application.

7. The project must be commenced within two years and completed within five years of the effective date of the Shoreline Variance Permit.

8. Failure to comply with any conditions of this permit may result in its revocation.

DECISION

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



Wick Dufford, Hearing Examiner

Date of Action: January 18, 2006

Date Transmitted to Applicants: January 18, 2006

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.