

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Carl and Charlene Corbin  
1918 W. 10<sup>th</sup> Street  
Anacortes, WA 98221

**File No:** PL07-0951

**Request:** Shoreline Variances

**Location:** 15264 Channel Drive on the shore of the Swinomish Channel, within a portion of Sec. 24, T34N, R2E, W.M.

**Parcel No:** P79570

**Shoreline Designation:** Rural Residential

**Summary of Proposal:** To construct a new single family residence to be located 36 feet landward of the Ordinary High Water Mark with a total developed site coverage of 44%.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on September 24, 2008.

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

## **FINDINGS OF FACT**

1. Carl and Charlene Corbin seek to construct a new single-family residence on the shore of the Swinomish Channel.
2. The proposed project is located at 15264 Channel Drive, within a portion of Sec. 24, T34N, R2E, W.M. The property is designated Rural Residential in the county's Shoreline Master Program (SMP).
3. The new home will be 36 feet landward of the Ordinary High Water Mark (OHWM). The total developed area will take up 44% of the site.
4. Under the SMP, the applicable shore setback is 50 feet. The lot coverage limit is 30%. SMP 7.13C, Table RD. Therefore, variances are sought from these two standards.
5. The parcel is included in Division 4 of the Plat of Skagit Beach. The channel is to the west, the road is to the east, and established homes lie on neighboring properties to both the north and south. The subdivision predates the adoption of the SMP and of the Critical Areas Ordinance.
6. The uplands along the slough were created by the discharge of spoils in conjunction with the dredging of the Swinomish Channel. The lot is generally flat, has been cleared, and is devoid of vegetation, except for grasses in spots. It is one of the few remaining undeveloped lots in the subdivision. There is rip rap on the shore which ties in with similar shoreline armoring on the north and a pile and timber bulkhead on the south.
7. The subject property is 85 feet side and 175 feet deep. The proposed residence will cover 2,259 square feet; the garage another 1,090 square feet; the driveway 2,056 square feet. The total is 5,405 square feet of developed area on a 14,875 square-foot lot.
8. Sewage disposal, as with other lots in the area, will be provided by an on-site septic system. East of the house along the road will be landscaping and lawn covering the septic system drainfield.
9. Because of the lot's proximity to the Swinomish Channel, a Fish and Wildlife Habitat Assessment was prepared. The report, prepared by Graham-Bunting Associates and dated December 2, 2007, identified no significant environmental impacts above existing baseline conditions. However, the assessment recommended that a Protected Critical Area (PCA) be created between the shore and the house. A planting plan has been developed. It includes: a) planting of 24 shrubs selected from native species; b) placement of ground cover species; c) encouraging existing grasses to cover bare areas.

10. The pattern of development on this heavily developed shoreline has been to build houses well inside the 50-foot shore setback. The Channel Drive community association covenants allow residences to be located 25 feet from the OHWM. The four adjacent houses to the south are all 25 feet from the OHWM. The lot to the north has a 36-foot setback. The average shore setback of homes within 300 feet on both sides of the subject property is 27.2 feet.

11. Similarly, the pattern of development on the generally small lots has been to exceed the lot coverage limit. The average amount development on lots within 300 feet on both sides of the subject lot is slightly over 39%. The lot directly to the north has a developed area of 44%, approved by shoreline variance.

12. In 1988, the Corbin's sought and received a shoreline variance to place a residence 25 feet landward of the OHWM (SHL 19-88). However, this approval expired before they began construction.

13. The proposed project is compatible with the residential development that has occurred over time on similar lots in the vicinity. The size of the house proposed is typical of others in the neighborhood.

14. 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 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.

15. The Staff Report analyzes this application in light of the above criteria and finds that, as conditioned, the project 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.

16. The hearing was properly noticed. There was no public testimony. The record contains eight letters from neighboring property owners, all in favor of the proposed variances. Potentially interested agencies were consulted and none expressed any objections.

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 the subject matter of this proceeding. SMP 10.02(3).

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

3. As conditioned the proposal is consistent with the criteria for approval of Shoreline Variances. 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 building permit and receive any other necessary approvals. A copy of this decision shall be submitted with the building permit application.

3. The applicant shall adhere to the recommendations of the Fish and Wildlife Habitat Assessment, dated December 2, 2007.

4. The PCA shall be delineated on a map and filed with the County Auditor as required by SCC 14.24.170.

5. The planting plan shall be implemented within one year of building permit issuance.

6. The applicant shall comply with all applicable State and local regulations.
7. The project shall commence within two years of the date of final approval and be completed within five years thereof or the variances shall become void.
8. Failure to comply with any condition may result in permit revocation.

### **DECISION**

The requested Shoreline Variances (PL 07-0951) for shore setback and for site coverage are approved, subject to the conditions set forth above.

DONE this 6<sup>th</sup> day of October, 2008.

  
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Wick Dufford, Hearing Examiner

Date Transmitted to Applicant: October 6, 2008.

### **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.