

BEFORE THE SKAGIT COUNTY HEARING EXAMINER
FINDINGS, CONCLUSIONS AND DECISION

Applicants: Roger and Donnie Jewel
18730 45th Place NE
Lake Forest Park, WA 98155

File No: PL09-0469 (revision of PL08-0331)

Request: Shoreline Variance Permit Revision

Location: 33567 Cliff Road on the shore of Lake Cavanaugh,
within portions of Secs. 22 & 27, T33N, R6E, W.M.

Parcel No: P66929

Shoreline Designation: Rural Residential

Summary of Proposal: To modify a Shoreline Variance approved in April 2009
to allow an existing cabin to be demolished and
reconstructed with the same footprint as allowed earlier.

Public Hearing: After reviewing the Report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
on January 13, 2010.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Roger and Donnie Jewel (applicants) seek to modify a Shoreline Variance Permit issued on 2009. The variance was for the creation of an addition to an existing cabin on lakefront property on Lake Cavanaugh.
2. The property is located at 33567 Cliff Road, within a portion of Secs. 22 & 27, T33N, R6E, W.M. The parcel number is P66929. The Shoreline Designation is Rural Residential.
3. The lot is rectangular (.3 acres) measuring 219.5 feet long by only 60 feet wide, situated between the road and the lake. It was platted in pre-shoreline-management days as Lot 156, Block 1, Lake Cavanaugh Subdivision No. 3. The slope of the lot averages 31% from road to water but slopes vary from 20 to 128% and there is slightly more than 68 feet of elevation gain on the property.
4. The existing cabin, situated near the lake, measures 20.3 feet along the lakefront and is 32 feet deep. It is a two bedroom, one bath, two story structure.
5. The initially approved proposal was to add a 20.3' by 12' addition to the rear of the cabin (243.9 square feet) in order to provide more kitchen and bathroom space and to enlarge the second bedroom.
6. During preparation for the remodel, the architect and structural engineer for the project determined that a new foundation is necessary to meet current building codes and provide a structurally sound building. They recommended that the entire existing cabin be demolished and rebuilt. The instant request is to revise the variance to allow this to occur.
7. The new residence will be located within the footprint of the existing cabin, plus the approved addition. It will total 2,395 square feet and will be constructed in a manner consistent with the design approved by the original Shoreline Variance Permit.
8. The additional area is to be constructed on the side of the home away from the water. Thus, the reconstructed residence will be the same distance from the Ordinary High Water Mark (OHWM) as is the present one. This means it will continue to intrude into the regulatory 50-foot shore setback. The original variance authorized intrusion of new construction within the setback in order to install the addition. This permit revision would simply continue this authorization with respect to the entire structure.
9. The project will involve altering the roof line so that it runs perpendicular to the lake rather than parallel to it. The change will not cause the building height to exceed the 30 foot limit.

10. A Fish and Wildlife and Geohazard Assessment (dated March 23, 2008) was prepared by Edison Engineering. The Assessment determined that disturbance of the 50-foot lakeside buffer will be minimal. The reconstruction will newly affect less than 120 square feet within the 50-foot setback. Some habitat will be gained by removing an existing stairway and moving a woodshed from the 50-foot buffer. An additional 155.3 square feet will be gained by removing the hot tub and its pad. The mitigation plan initially contemplated will be carried out.

11. The proposed reconstruction on the same footprint does not allow any over-the-water construction. Ground area coverage and height are not increased. The revised permission will not authorize any new variations from the requirements of the local Shoreline Master Program (SMP). No changes will be made to landscaping requirements. The authorized use will not be changed. No adverse environmental impacts will be caused.

12. The Examiner finds that the proposed revision to the variance will be within the scope and intent of the original variance.

13. The Staff recommends approval of the revision with the inclusion of Conditions 1-10 of the original Hearings Examiner's decision in PL08-0331. There was no public comment on the revision request. There was no public testimony at the hearing.

14. The applicants want to make Lake Cavanaugh their permanent home. The reconstruction will not alter the existing pattern of development along the waterfront. The Examiner determines that the project can be accomplished without appreciable threat to the health, safety and general welfare of the public. It will not violate the purposes of the Shoreline Management Act or the local SMP. The Examiner finds that to deny the enlargement would constitute a hardship greater than the public benefit derived from denial.

15. 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 proposal for the residential addition is exempt from the procedural requirements of State Environmental Policy Act.

3. The project is consistent with the provisions for permit revision under WAC 173-27-100. The proposed changes are not "significant" within the meaning of SMP 9.13.

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

CONDITIONS

1. The conditions of approval for the original variance shall remain in effect.

2. The existing hot tub shall be removed from the Fish and Wildlife Habitat conservation area.

3. The applicant shall strictly adhere to the project information submitted for PL 089-0221, as modified by PL09-0469.

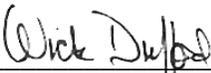
4. The project shall be commenced within two (2) years of the date of final approval hereof and completed within five (5) years thereof or the permit shall become void.

5. The County shall comply with the provisions of WAC 173-27-100(5) and (6).

DECISION

The requested Shoreline Variance Permit Revision is approved, subject to the conditions set forth above. The revised permit shall become effective immediately upon final action by the State Department of Ecology.

DONE this 19th day of January, 2010



Wick Dufford, Hearing Examiner

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 this variance revision becomes final at the County level, the Department of Ecology must approve or disapprove it, pursuant to WAC 173-27-100(6).