

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicants: Doug and Judee Overturff
7100 Roosevelt Way NE
Seattle, WA 98115

Agent: Polymer Land Consultants
c/o Chris Wilson
370 N. East Camano Drive, Suite 5
Camano Island, WA 98282

Request/File No: Shoreline Variance, PL12-0010
Critical Areas Variance, PL12-0009

Location: 22873 Lakeside Lane, on the shore of Lake McMurray, located within Gov't Lot 5, Sec. 25, T33N, R4E. W. M. Parcel #P17290.

Land Use Designations: Shoreline: Rural Residential
Zoning: Rural Village Residential

Summary of Proposal: Demolition and reconstruction of a residence and garage. The house will be at the location of the previous structure -- 17 feet from the Ordinary High Water Mark (OHWM), with four and five foot side yard setbacks. The garage will be landward of the house and set back four feet from the side yard line.

SEPA Compliance: Exempt

Public Hearing: July 11, 2012. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision: The Shoreline Variance and Critical Areas Variance are approved.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 5 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 5 days of the date of decision or decision on Reconsideration, if applicable.

Online Text: The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Doug and Judee Overturff seek variances to setbacks in order to rebuild a house on a narrow lot on the shore of Lake McMurray.
2. The property is located in a residentially developed neighborhood at 22873 Lakeside Lane on the waterfront. The lot is within Gov't Lot 5, Sec. 25, T33N, R4E, W. M. The Parcel number is P17290.
3. Residential development in the neighborhood began prior to the enactment of the Shoreline Management Act and current zoning regulations. The original house on the applicants' lot was built in 1952. The lot is considerably smaller than what is required under present-day zoning.
4. During the course of a remodeling project, the applicants discovered rot in the walls and foundation requiring demolition of the existing residence. The project at that point ceased to be an exempt repair and maintenance effort and became new construction requiring a variance from the dimensional requirements of the local Shoreline Master Program. (SMP).
5. The subject lot is about 243 feet deep, but only 45 feet wide. There is thus inadequate space for a reasonable dwelling meeting the side yard setbacks of eight feet of either side. The proposed construction would replace the residence on its existing footprint which means that the structure would come within four feet of the property line on the south and within five feet of the property line on the north. The proposed replacement house will occupy a footprint of around 1,000 square feet.
6. The applicant has received an administrative variance (PL12-0008) to reduce the side yard setbacks otherwise required by the zoning code.
7. Additionally, the proposed residence would be within 17 feet of the Ordinary High Water Mark (OHWM). A deck which extended further toward the shore has been eliminated. The standard shore setback is 50 feet. The shore setback of the proposal will be similar to that of the home next, to the north.
8. The garage in the past was on the property line, but the applicants propose to rebuild it slightly inside the lot so that it would share the same four-foot side setback as the house. The replacement garage would be 18' x 30' in size, located 70 feet landward of the OHWM.
9. The northern boundary of the site is located within a flood zone per FIRM maps. The applicant proposes to raise the floor elevation of the structure to withstand flooding.
10. The site is relatively flat with a gentle slope towards the lake. An existing dock provides recreational access to the lake. The lot has a gravel driveway leading to a parking area on the upland side of the house. A septic system including drainfield and reserved drainfield occupy space landward of the propose garage. There is also a domestic well on the rear portion

of the property. The proposed structures and infrastructure encompass about 27% of the overall site.

11. The proposal was circulated to County departments. In general, they had no objections. Departmental comments are reflected in conditions of approval.

12. The application and the hearing were given notice as required by law. There was a single public comment -- a letter from neighbors who support the project.

13. Because it is within 200 feet of the shore, the project is within a critical area. The standard critical areas buffer is 100 feet from the OHWM of the lake meaning that this proposal requires a Critical Areas Variance in addition to a Shoreline Variance.

14. A Critical Areas Assessment and Mitigation Plan, dated December 22, 2011, was prepared by Polymer Land Consultants. On the lake fringe is a narrow wetland dominated by cattails. Adjacent is the deep water habitat of Lake McMurray. The mitigation plan is designed to ensure that no loss in function occurs as a result of the development proposal. Upland areas will be planted with native vegetation.

15. The Staff Report analyzes the proposal in light of the criteria for a Shoreline Variance and for a Critical Areas Variance and determines that the project, as conditioned, will meet all the criteria. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is incorporated herein as though fully set forth.

16. Construction of the proposed structures will not adversely alter current conditions impacting the subject critical areas and shorelines. The variance recommendation incorporates reduction of the relevant 40-foot wetland buffer.

17. The reasons set forth in the application justify the granting of the variances sought. Special conditions peculiar to this site make its reasonable use infeasible without the proposed variances. These conditions do not result from the actions of the applicants. The variances sought will not result in a grant of any special privilege. The variances will be the minimum that will make possible reasonable use of the property and will not conflict with the general purposes of the development code, nor be injurious to the neighborhood or to the public welfare generally.

18. 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 subject matter of this proceeding. SMP 10.02, SCC 14.24.140, SCC 14.10.020.
2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6).
3. The project, as conditioned, will meet the approval criteria for shoreline and critical areas variances. SMP 10.03(1), SCC 14.24.140(3). SCC 14.24.540(3).
4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicants shall obtain all other required permits and shall abide by the conditions of same. This includes, but is not necessarily limited to a building permit.
3. The applicants shall comply with all applicable local, state, and federal regulations, including but not limited to temporary erosion controls per the Skagit County Drainage Code (Chapter 14.32 SCC), Northwest Clean Air Agency requirements, State surface and groundwater quality rules (Chapters 173-200 and 201A WAC), the Skagit County critical areas and zoning codes (Chapters 14.24 and 14.16 SCC).
4. Aesthetic impacts shall be minimized.
5. The applicants shall comply with the recommendations of the Critical Area Assessment and Mitigation Plan, issued by Polymer Land Consultants on December 22, 2011.
6. The shore setback area shall be placed in a Protected Critical Area as per the requirements of SCC 14.24.170. The PCS shall be recorded with the building permit application.
7. All plumbing, wiring and other utility lines shall be installed underground or otherwise rendered inconspicuous.
8. The recommendations of the Skagit County Health Department shall be complied with. The water line shall, if necessary, be relocated so that it is not beneath the garage.
9. The project shall be commenced with two years from the date of final approval of the shoreline variance. The project shall be completed within five years thereof.

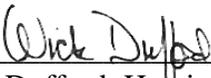
10. The critical areas variances shall be void if the project is not commenced within three years of final approval.

11. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Variance (PL12-0010) and the requested Critical Areas Variance (PL12-0009) are approved, subject to the conditions set forth above.

DONE, this 23rd day of July, 2012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on July 23, 2012.

See Notice of Decision, Page 1, for Reconsideration and Appeal information.