

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicants:** Howard and Lori Wilson
2222 254th Street NW
Stanwood, WA 98292
- Request:** Shoreline Variance, PL15-0030
Critical Areas Variance, PL15-0031
Zoning Variance, PL15-0032
- Consultant:** Graham-Bunting Associates
3643 Legg Road
Bow, WA 98232
- Location:** Shore of Big Lake, 18988 Sulfer Springs Road, within SE1/4
Sec. 6, T33N, R5E, W.M.
- Shoreline Designation:** Rural Residential
Land Use Designation: Rural Village Residential
- Summary of Proposal:** To replace an old existing cabin with a new single family residence setback 21 feet from the Ordinary High Water Mark (OHWM) of Big Lake. The replacement home will be two stories high with a footprint of 1,872 square feet.
- SEPA Compliance:** Exempt
- Public Hearing:** June 10, 2015. Testimony by staff, applicants and applicants' consultant. No public testimony. Planning and Development Services (PDS) recommended approval.
- Decision/Date:** The application is approved, subject to conditions. June 16, 2015.
- Reconsideration/Appeal:** Shoreline: Reconsideration may be requested by filing with PDS within five days of this decision. Appeal is to Board of County Commissioners by filing with PDS within five days of this decision or decision on reconsideration, if applicable.
Critical Areas/Zoning: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to Board of County Commissioners by filing with PDS within 14 days of this 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. Howard and Lori Wilson (applicants) seek to replace an existing small cabin with a larger residence on the shore of Big Lake.
2. The site is at 18988 Sulfer Springs Road, within SE1/4 Sec. 6, T33N, R5E, W.M. The parcel number is P69846.
3. The zoning of the site is Rural Village Residential. The shoreline designation is Rural Residential. Big Lake is developed along a majority of its shoreline in single family homes and recreational and accessory structures. Small homes and cabins have existed along this part of the lakeshore for decades.
4. The project site is approximately .5 acres in size and is divided by Sulfer Springs Road. It consists of Tracts 26, 27, and 28 of the 1931 plat of Sulphur Springs Lake Tracts as well as the vacated street abutting the south side of these lots and one half of the vacated Northern Pacific Railway right-of-way abutting the east side of these lots.
5. The cabin to be replaced is an 824 square-foot structure built in 1943. It is located approximately 13 feet landward of the Ordinary High Water Mark (OHWM) of the lake. The replacement home will have a footprint of 1,872 square feet and will be two stories high. The total living space will be approximately 2,600 square feet. The new home will be setback 21 feet from the OHWM with a patio extending to within 13 feet of the OHWM.
6. To the north of the existing cabin is a 244 square-foot garage. To the south is a 170 square-foot shed. The shed will be removed as part of the project.
7. Across the road on the bisected lot is a 1,288 square foot shop with 648 square feet of loft space above, built in 2011. The building permit allows conversion of the loft to an accessory dwelling unit (ADU).
8. The lot slopes to the shore from east to west at an average of 12 percent. The slope west of the road is fortified with quarry spalls. A bulkhead is located near the shore landward of the OHWM. The area east of the road adjacent to the shop is partially covered with crushed rock to provide a surface for driving and parking. Vegetation at the site is dominated by lawn and ornamental landscape species.
9. Parking is currently provided on the east side of Sulfer Springs Road adjacent to the shop and located outside the county right-of-way.
10. While larger than some of the older cabins, the replacement house will in fact blend in well with the neighborhood. Many of the newer homes in the area are two-story structures. All the dwellings in the vicinity are located close to the shore and close to the paved road.
11. The average setback for residences within 300 feet of this site is 13 feet. The replacement home will be 21 feet from the OHWM. The new patio area will use pervious

material, thus reducing the overall impervious surface on the lot. The parcel will meet all drainage requirements, with the drainage plan to be provided at the time building permit submittal.

12. The project site is served by the local sewer district. The applicant will be required to provide a current letter of availability at the time of building permit submittal.

13. The application included the preparation of a site assessment and mitigation plan by a qualified professional. The site assessment and mitigation plan were prepared using the best available science.

14. The need for variances here is dictated by the conditions of the property which is bisected by Sulfer Springs Road approximately 65 feet landward of the OHWM. There is insufficient building area for a reasonable home on the shore side behind the 50 foot shore setback. Staying out of the 100-foot critical areas buffer is likewise impossible for a shore side home. All existing homes in this area are located within the shoreline buffer and within the critical areas buffer.

15. Moreover, the right-of-way is too close to the rear of the proposed house to permit conformity with the zoning setback. Literal interpretation of the 25-foot zoning setback would deprive the applicant of the ability to use the shoreward part of the lot in a manner consistent with current use and with other parcels in the vicinity.

16. The new residence will be located approximately 19 feet 6 inches from the edge of the pavement. The average setback for homes in the area is about 24 feet from the pavement. The additional 4.5 feet of encroachment here will scarcely be noticeable. The dead-end road has little traffic and the zoning variance will not result in any traffic problems. As noted, parking on this lot is located outside of the right-of-way on the gravel adjacent to the existing shop.

17. Though encroaching within required setbacks from the road and from the shore, the proposal will meet side setback requirements.

18. Further, a buffer enhancement plan has been developed which will provide for the installation of additional native plants. These plantings will enhance the shoreline area and the southern parcel boundary. They will provide increased habitat function as well as screening. The enhanced buffer will be protected over time through placement within a Protected Critical Area (PCA).

19. The Staff Report has analyzed the proposal against the shoreline, critical areas and zoning variance criteria and concluded that, as conditioned, the project will be consistent with the relevant criteria. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

20. The variances to be granted are the minimum necessary to make possible the reasonable use of this property. The granting of the variances will be in harmony with the

general purpose of the Unified Development Code and other provisions of the Skagit County Code and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.06.050(1)(b)(i), SMP 10.02(3).

2. The project is exempt from the procedural requirements of the State Environmental Policy Act (SEPA).

3. As conditioned, the proposal meets the requirements for a Critical Areas Variance. SCC 14.24.149(3) (a-h).

4. As conditioned, the proposal meets the requirements for a Shorelines Variance. SMP 10.03(1).

5. As conditioned, the proposal meets the requirements for the administrative reduction of the setback from the road. SCC 14.16.810(4). The public health, safety and welfare will be maintained.

6. 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 may be modified by these conditions.

2. The applicant shall obtain all other required approvals and abide by the conditions of same.

4. The applicant shall comply with applicable state and local regulations, including but not limited to:

- a. Chapter 14.32 SCC -- Drainage Ordinance, including temporary erosion and sedimentation control measures
- b. Chapter 14.16 SCC -- Zoning ordinance
- c. Chapters 173-200 and 173-201A WAC -- Surface and Ground Water Quality
- d. Chapter 173-60 WAC -- Environmental Noise

5. The existing side slope within the road right-of-way shall not be disturbed.

6. The recommendations of the Fish and Wildlife site assessment dated January 20, 2015, and amended by the addendum dated March 24, 2015, shall be followed unless modified herein.

7. The applicants shall submit an as-built site plan of the mitigation plantings as well as provide photographs of the installed plants. The plan and photographs shall be submitted within 30 days of plant installation.

8. Except for the emergent species planted at the toe of the bulkhead, all mitigation plants shall maintain a survival rate of 100% following the first year and 80% following years three and five. If the plants do not meet the specified survival rates, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.

9. The project shall be commenced within two years of the Shoreline Variance approval and completed within five years thereof.

10. The Critical Areas Variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant

11. The applicants shall submit a copy of this decision with the building permit application. The drainage plan and letters of utility availability shall be submitted at the time of building permit application.

12. If the applicants propose any modification to the project, they shall request a permit revision from PDS prior to the start of construction.

13. The shoreline setback area shall be placed into a protected critical area (PCA) per the requirements of SCC 14.24.090. The PCA may be recorded at the time of building permit application.

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

DECISION

The requested Shoreline Variance (PL15-0030), Critical Areas Variance (PL15-0031), and Zoning Variance (PL15-0032) are approved, subject to the conditions set forth above.

DONE, this 16th day of June, 2015.



Wick Dufford, Hearing Examiner

Submitted to applicant and parties of record, June 16, 2015.

See Notice of Decision, page 1, for appeal information.