

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** JoAnn Harke
4416 – 240th Place SE
Bothell, WA 98021
- Consultant:** Graham-Bunting Associates
3643 Legg Road
Bow, WA 98232
- Request:** Shoreline Variance, PL16-0075
Critical Areas Variance, PL16-0076
- Location:** 11561 Blue Heron Road on Samish Island. The parcel is located within the SE1/4 Sec. 25, T36N, R2E, W.M.
- Land Use Designations:** Zoning – Rural Intermediate; Shorelines –Rural Residential
- Summary of Proposal:** To construct a replacement single family residence, located the same distance from the Ordinary High Water Mark (OHWM) as the existing cabin. The proposed patio will be farther from the OHWM than the existing deck. In addition to the original cabin, a detached garage and a concrete boat launch will be removed. The rock bulkhead and the existing septic system will remain.
- SEPA Compliance:** Exempt
- Public Hearing:** July 27, 2016. Testimony by Staff and Applicant’s consultant. No public testimony. Planning and Development Services (PDS) recommended approval.
- Decision:** The application is approved, subject to conditions.
- Reconsideration/Appeal:** Shorelines: Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to County Commissioners by filing with PDS within 5 days of this decision or decision on reconsideration, if applicable.
Critical Areas: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to County Commissioners by filing with PDS within 14 days of this decision or decision on reconsideration, if applicable.
- Online Test:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. JoAnn Harke (applicant) seeks setbacks to construct a replacement single family residence in an established neighborhood of waterfront homes.
2. The location is at 11561 Blue Heron Road within the north beach community on Samish Island. The parcel is within the SE1/4 Sec. 25, T36N, R2E, W.M.
3. The property is zoned Rural Intermediate and designated as Rural Residential in the Count Shoreline Master Program (SMP).
4. The project will include removal of a cabin, detached garage, decks and concrete boat launch. The existing septic system behind the home (permitted in 2007) and the rock bulkhead will remain.
5. Existing buildings to be removed total 1409 square feet. The proposed replacement residence and attached garage will total 1,828 square feet. However, the total of structures to be removed is 3,166 square feet. The redevelopment project will cover 2,758 square feet.
6. When the boat launch is removed, the bulkhead will be filled in to complete the shore frontage. The deck in front of the house will be replaced with pervious pavers. Also included in the project are a concrete parking area (710 square feet) south of the garage and a small gravel driveway totaling 220 square feet.
7. The site is approximately 150 feet deep from north to south and 75 feet wide from east to west. Adjacent parcels are similar in size. The residential structures on the subject site have been in place since 1951. The property is served by a community water system.
8. The relevant shore setback is 50 feet from the Ordinary High Water Mark and the relevant critical areas setback (shoreline buffer) is 100 feet.
9. The subject parcel is bordered to the east and west by residences well within 50 feet of the shore. The average distance of neighboring residences along the beach within 300 feet of the site is about 15 feet from the Ordinary High Water Mark (OHWM). The proposed replacement residence will be 23 feet from the OHWM, the same distance as the existing cabin.
10. The residential pattern along this stretch of shore was established in the late 1940s, long before the adoption of the Shoreline Management Act and the current Critical Areas Ordinance. With the trend toward redevelopment, the average size of home in the neighborhood is about 2,200 square feet. The applicant's proposed new home will be consistent with the pattern of redevelopment occurring in the area.

11. A Notice of Development was published, mailed and posted as required by law. One comment letter, supporting the project, was received during the comment period. Due notice was given for the public hearing. There was no public testimony at the hearing, but several letters favoring the project were received just prior to it. No opposition was expressed.

12. An addendum to a previous Fish and Wildlife Assessment was prepared in February 2016 by Graham-Bunting Associates. No likely adverse effects on endangered species were found. Conservation measures included a requirement that shoreline areas disturbed by demolition or construction be revegetated with self-sustaining native plants consistent with the prior Assessment.

13. The application was circulated to County departments. None had objections. Departmental comments are reflected in conditions of approval.

14. The Staff reviewed the project in light of the SMP and critical areas criteria for approval of setback variances. The Staff concluded that, as conditioned, the proposal is consistent with all the relevant approval criteria. 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.

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 this proceeding. SMP 10.02(3), SCC 14.10.020(3).

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

3. As conditioned the proposal is consistent with the Shoreline Master Program criteria for a variance. SMP 10.03(1).

4. As conditioned the proposal is consistent with the Critical Areas Ordinance criteria for a variance. SCC 14.24.140(3), SCC 14.10.030(2).

5. The reasons set forth in the application justify granting the variances. The variances are the minimum that will make possible the reasonable use of the land and are in harmony with the general purpose and intent of the County Code.

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

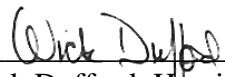
CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain all other required permits and shall abide by the conditions of same.
3. The recommendations of the May 17, 2011 Site Assessment and Mitigation Plan prepared by Cantrell & Associates, Inc., and the February 10, 2016 Addendum prepared by Graham-Bunting Associates shall be adhered to, except as modified by these conditions.
4. The mitigation shall happen concurrently with redevelopment of the site and shall be completed prior to final inspection of the building permit.
5. Within 30 days of plant installation, the applicant shall submit an as-built plan of the mitigation plantings as well as provide photographs of the installed plants.
6. 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 survival rate, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants. Noxious weeds shall not exceed 10% aerial cover in the buffer enhancement area during all monitoring years.
7. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to submittal of the building permit application.
8. The applicant and her contractors shall comply with all relevant local and State regulations, including but not limited to:
 - a) Chapters 173-200 and 173-201A (surface and ground water quality)
 - b) Chapter 173-60 WAC (environmental noise levels)
 - c) Chapter 14.32 SCC (stormwater management), including temporary erosion/ sedimentation control measures.
 - d) Chapter 14.16 SCC (zoning)
9. The applicant shall submit a copy of this decision with the building permit application.
10. For shorelines approval purposes, the application shall be commenced within two years of final variance approval and completed within five years thereof. The critical areas variance shall expire if the use or activity is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.
11. If the applicant proposed any modification of the subject project, she shall notify PDS prior to the start of construction thereof.
12. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Variance and Critical Areas Variance are granted, subject to the conditions set forth above.

DONE, this 8th day of August, 2016.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, August 8, 2016

See Notice of Decision, page 1, for appeal information