

BEFORE THE SKAGIT COUNTY HEARING EXAMNER

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Dennis and Connie Milliken
14414 Channel Drive
La Conner, WA 98257

File No: PL06-0891

Request: Shoreline Variance Permit

Location: 14414 Channel Drive, on the shoreline of Swinomish Channel within a portion of Sec. 13, T34N, R2E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To remodel an existing house, modestly increasing the the developed area of the site from 34% to 35%.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a pubic hearing on April 26, 2006.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Dennis and Connie Milliken (applicants) seek a shoreline variance to remodel and slightly expand their existing house on the eastern shoreline of Swinomish Channel.

2. The property is located a 14414 Channel Drive, within a portion of Sec. 13, T34N, R2E, W.M. The shoreline designation is Rural Residential.

3. The norm for houses in this development along the channel is for setbacks that are significantly closer to the Ordinary High Water Mark(OHWM) than the standard of 50 feet. This trend was set before the modern shoreline regulations were adopted. The average setback of residences in the area of the subject house is 35 feet. The house itself is located 39 from the OWHM. The proposed remodel will not increase the setback nonconformity.

4. What the applicants wish to do is add a 240 square-foot enclosed area (12' x 20') onto the north side of the house, occupying to a large extent existing deck space. The total increase in lot coverage will be just 107 square feet. The addition will be at 71 feet back from the OHWM. Side yard setback and height standards will continue to be met.

5. The existing lot coverage on the property is 34%. The proposed addition will increase this to 35%. The lot coverage limit set by the local Shoreline Master Program (SMP) is 30%. Thus, the addition will cause a 1% increase in the current lot coverage non-conformity.

6. The effect of the addition will be to increase the overall home size to 1868 square feet. This is considerably smaller than the average size of other homes in close proximity. The project will provide an entry area for the house, a feature that other homes in the vicinity enjoy.

7. The subject lot covers approximately 12,962 square feet. The existing asphalt driveway is large for the lot size and this contributes to the lot coverage non-conformity. However, reducing the driveway size and converting the area to lawn would not result in any significant benefits to the shoreline environment.

8. The application was determined to be complete on January 5, 2006. It was then reviewed by various County departments. The reviewing agencies had no comments. The water and sewage disposal facilities serving for the house are approved and will be unaffected by this project.

9. The project will have negligible impact on environmental conditions in the shoreline area. A Fish and Wildlife Assessment prepared by Skagit Wetlands and

Critical Areas, Inc. was prepared. The Assessment concluded that there will be no impacts to fish and wildlife from the project.

10. Nevertheless, the plan is to include the open area within the standard 50-foot setback within a Protected Critical Area (PCA) which will be recorded at the time of applying for a building permit.

11. No increase in elevation of the house or of the addition is needed because the structure is not within the 100 year flood plain.

12. Residential development is contemplated in this shoreline designation. The area is, in fact, already heavily developed. Although the existing home and the improvement are non-conforming, the remodel project will not alter existing conditions for the preservation and wise use of the natural features of the area. No adverse view impacts or aesthetic impacts will result.

13. 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 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 are irregular lot shape, size or natural features and the application of this Master Program and, not, for 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.

14. The Staff Report thoroughly evaluates the proposal in light of these criteria and determines that, as conditioned, the project will be consistent with them. The

Hearing Examiner concurs with this evaluation and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

15. The public hearing was properly noticed. There was no public testimony. The only written public comment was from a neighbor who supported the proposal.

16. 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.

2. The lot coverage limit for residential development for single-family homes in the Rural Residential designation is 30%. SMP 7.13(2)(C), Table RD

3. The Examiner concludes that the enlargement of the non-conforming structure can be accomplished without appreciable threat to the health, safety and general welfare of the public or the shoreline environment and the purpose of the SMP and Shoreline Management Act. To deny the increase in the non-conformity here would constitute a hardship greater than the public benefit derived from denial of therof. See SMP 12.04.

4. The findings support a conclusion that the project, as conditioned, will be consistent with the criteria for approval of a Shoreline Variance. SMP 10.03(1).

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

CONDITIONS

1. The construction of the project shall conform to the proposal in the application materials, except as the same may be modified by these conditions.

2. The applicant must obtain a County Building Permit and all other necessary permits and approvals.

3. The shoreline setback area shall be placed in a Protected Critical Area (PCA). The applicant shall provide a map of the PCA, and record with same with the County Auditor pursuant to SCC 14.24.170, at the time of applying for a building permit.

4. A copy of this decision shall be submitted with the building permit application.

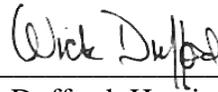
5. The applicant shall comply with all relevant State and County regulations, including those relating to water quality and erosion and sedimentation control.

6. Construction shall commence within two years of the date of the Department of Ecology's approval and shall be completed within five years thereof or the permit shall become void.

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

DECISION

The requested Shoreline Variance Permit is approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Date of Action: May 30, 2006

Date of Transmittal to Applicant: May 30, 2006

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.