

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: James and Linda Ryan
5045 Sunrise Beach Road
Olympia, WA 98502

Agent: Roberta Clark, Architect
Arbour North Architecture
3647 Toad Lake Road
Bellingham, WA 98226

File No: PL07-0194

Request: Shoreline Variances (setback and lot coverage)

Location: 14794 Channel Drive, within a portion of Sec. 13,
T34N, R2E. W.M., on the shore of the Swinomish
Channel.

Parcel No: 77775

Shoreline Designation: Rural Residential

Summary of Proposal: To remodel an existing single-story residence making it a two-story home. The second story would be placed over the existing structure at a setback of 34 feet from the Ordinary High Water Mark. The total site coverage of the developed area would be 46%

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on August 29, 2007.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. James and Linda Ryan (applicants) seek shoreline variances to allow the planned remodeling of a residence on the shore of the Swinomish Channel. The plan is to add a second story to an existing single-story dwelling.

2. The property is located at 14794 Channel Drive within a portion of Sec. 13, T34N, R2E, W.M. The lot number is 77775. The Shoreline designation is Rural Residential.

3. The Swinomish Channel lies to the west. The property is 120 feet along the channel and just 75 feet from east to west. The topography is flat. There is a riprap bank on the channel.

4. The existing single-story residence includes an enclosed sun porch that is about 24 feet landward from the Ordinary High Mark (OHWM). This feature will be removed, so that the resulting setback of the residence after adding the proposed second-story will be 34 feet from the OHWM. The remodel will create a straight building line on the structure's west side that is slightly further inland than the 30-foot average of adjacent homes within 300 feet.

5. The existing developed area on site is 5,180 square feet or 57% of the lot. The applicant proposes to remove some existing concrete, thereby reducing the developed area to 4,134 square feet (46%). In addition the applicant will make extensive use of permeable pavers that allow run-off to flow through the surface and infiltrate the underlying soil. If the area covered by these pavers is taken out of the developed area, total lot coverage will be just 32%.

6. The applicants provided a Fish and Wildlife Site Assessment, dated June 22, 2007, prepared by Cantrell and Associates, Inc. The assessment determined that a proposed buffer mitigation plan will effectively compensate for any impacts to the channel-side critical area or its buffer. The plan calls for planting 50 native plants within an 860 square-foot buffer enhancement area and recommends a five-year monitoring effort with a required 90% success rate.

7. County Departments consulted had no objections to the proposal.

8. The project and the public hearing were given appropriate public notice. There was no public testimony at the hearing. There were no written public comments.

9. The Shoreline Master Program (SMP) requires a 50-foot shore setback for single-family residences in the Rural Residential environment. The applicable site

coverage limit is 30%. SMP 7.13(2)(C), Table RD. The applicants seek variances from both of these standards.

10. Variances from the Skagit County Shoreline Management Master Program 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 as 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.

11. The Staff Report analyzes the application in light of these criteria and finds that, as conditioned, the proposed development will be consistent with them. 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.

12. The proposal is entirely consistent with the pattern of development along Channel Drive which began years before the current shoreline regulations were adopted. The 1960's era plat has a covenant requirement for a shore setback of 25 feet. That private limit essentially set the tone for the development that followed.

13. The lot is shallow and constrained as to buildable space. There is a high level of development on surrounding properties.

14. The Examiner notes that the proposal will improve the existing non-conformity as to both the shore setback and the site coverage.

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.

2. The requests are exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6).

3. Residential development is allowed in the Rural Residential environment. SMP 7.13(2)(A)(2).

4. Under the SMP, single-family home construction is exempt from the Substantial Development Permit requirement. SMP 2.05(f). However, the dimensional standards of the program still apply and deviations therefrom must be approved by variance.

5. Both as to the shore setback and as to the lot coverage, the proposal, as conditioned, will be consistent with the criteria for approval of a Shoreline Variance. SMP 10.03(1).

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

CONDITIONS

1. The project shall be constructed as shown on the site plan dated March 29, 2007, and as otherwise described in the application materials, except as the same may be modified by these conditions.

2. The applicants shall obtain a building permit and receive all other necessary County approvals.

3. If the applicants propose any modifications to the proposal, they shall apply for a new permit or a permit revision prior to commencing construction.

4. The project shall comply with all applicable provisions of the Skagit County Code, including the provisions of the local Shoreline Master Program.

5. The project shall adhere to all recommendations in the Fish and Wildlife Site Assessment prepared by Cantrell and Associates, Inc., and dated June 22, 2007.

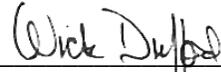
6. The buffer mitigation map, dated June 8, 2006, provided in the Fish and Wildlife Assessment shall be recorded with the County Auditor as a Protected Critical Area prior to building permit approval.

7. The project shall be commenced within two years of the date of final approval and finished within five years thereof or the shoreline variances shall become void.

8. Failure to comply with any of these conditions may result in revocation of permits.

DECISION

The requested Shoreline Variances are approved, subject to the conditions set forth above. The residence shall be set back 34 feet from the Ordinary High Water Mark. The lot coverage shall not exceed 46%.



Wick Dufford, Hearing Examiner

Date of Action: September 5, 2007

Date Transmitted to Applicants: September 5, 2007

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.