

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicants: Scott and Sara Lemke
33082 Deer Park Lane
Mount Vernon, Washington 98274

Agent: Ken Beane
2125 South Cedar Hills Drive
Mount Vernon, Washington 98274

Request/File No: Shoreline Variance. PL12-0324

Location: Shore of Lake Cavanaugh at 33082 Deer Park Lane, within the SW1/4 Sec. 22, T33N, R6E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To expand the second story of a residence by a cantilever extending two feet waterward from the existing structure. Though there will be no change in building footprint, the residence will not conform to the shore setback standard. The project will reduce the developed area of the site, but still not comply with the Master Program site coverage standard.

SEPA Compliance: Exempt per WAC 197-11-800(6)(b).

Public Hearing: February 27, 2013. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision: The application is approved, subject to conditions.

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. Scott and Sara Lemke seek a shoreline variance in order to remodel their existing residence on the shore of Lake Cavanaugh.
2. The house is located at 33082 Deer Park Lane within the SW1/4 Sec. 22, T33N, R6E, W.M. The designation under the local Shoreline Master Program (SMP) is Rural Residential. The residential use is permitted outright.
3. The property is roughly rectangular, being about 70 feet wide near the water and 266 to 274 feet long. Present development includes a garage behind the house and a 29.6' by 26' main dwelling area fronted by a deck elevated about 8 feet above the ground. The lakeshore along the lot has a bulkhead and there is a recreational dock extending into the lake from it.
4. The project is a residential remodel. The footprint of the present house will not be changed. The site coverage on the lot will be reduced, but the overall level of development will continue to violate the applicable SMP standards for site coverage (30%) and shore setback (50 feet).
5. As a result of field work in connection with another application (PL11-0022), the official location of the Ordinary High Water Mark (OHWM) on the subject property has changed. The Department of Ecology has reviewed and approved this change.
6. When built, the residence was thought to be 53 feet from the OHWM. The OHWM is now identified as the bulkhead on the property which was constructed after the house was built. The measurement from the house to the newly designated OHWM is 44 feet.
7. After the house was built an elevated deck was constructed. This deck is set back 31 feet from what is now recognized as the OHWM. It was built without benefit of a building permit and is considered as part of the house for setback purposes.
8. The subject property is within a well-developed area of shoreline homes. Existing homes within 300 feet average 42.76 feet back from the OHWM. The decks on such homes average 32.50 feet back from the OHWM.
9. The applicants' remodel project involves expanding the second story of the house by cantilever out approximately two feet waterward from the existing structure. The expansion will increase the size of the second story room by approximately 38 square feet. The cantilever will increase the amount of deck that is covered. However, neither the footprint of the house, nor the waterward edge of the elevated deck will change.
10. Most of the work of the project will involve remodeling of the home's interior, but another exterior change will be an addition to the breezeway between the home and garage to facilitate construction of an additional 17' by 10.5' second story room. This construction will occur well landward of the 50-foot shore setback line.

11. The design of house and deck on the subject property is typical of other development in the area. The proposed remodel will have no impact on adjacent views and no adverse impact on the aesthetics of the area.

12. The project involves removal of a ground level deck, reducing the developed area onsite from 43% to 32.5%, much closer to the 30% site coverage standard of the SMP.

13. The applicants submitted a Fish and Wildlife Assessment, prepared by Edison Engineering and dated July 1, 2011. The report found no adverse impacts from the project to critical areas or their buffers. Because there will be no change in the house's footprint, critical area approval was given by Staff under SCC 14.24.070(5) which allows the modification of an existing single-family residence that does not expand the building footprint.

14. The proposal was circulated among the various County departments. None had objections.

15. Notice of this application and of the public hearing was given as required by law. There were no written comments from the public on the proposal. There was no public testimony at the hearing

16. The Staff reviewed the application under the SMP criteria for variances landward of the OHWM and determined that the project, as conditioned, will be consistent with the applicable criteria both as to site coverage and shore setback. 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.

17. The project will not impose any new negative impacts on the shorelines of Lake Cavanaugh. It will, in fact, be consistent with the type and level of development that already exists in the vicinity.

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(3).

2. The proposal is exempt from the procedural requirements of SEPA. WAC 197-11-800(6)(b).

3. The proposal, as conditioned, is consistent with the relevant approval criteria for Shoreline Variances. SMP 10.03(1).

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 abide by the conditions of same.
3. A building permit shall be obtained prior to construction. The applicants shall comply with any requirements of the Fire Marshal imposed at the time of building permit application.
4. The applicants and their contractors shall comply with all applicable local, state and federal regulations, including but not limited to temporary erosion/sedimentation control measures per Chapter 14.32 SCC (drainage), water quality criteria for surface and ground water per Chapters 173-201A and 173-200 WAC, noise limits per Chapter 173-60 WAC, Northwest Clean Air Agency requirements, and critical areas requirements per Chapter 14.24 SCC.
5. The applicants shall comply with the site development recommendations of the Fish and Wildlife Assessment, dated July 1, 2011.
6. Aesthetic impacts shall be minimized.
7. All plumbing, wiring and other utility lines shall be installed underground or otherwise rendered inconspicuous.
8. A copy of this decision shall be submitted with the building permit application.
9. Prior to issuance of the building permit, the shoreline setback area shall be placed into a Protected Critical Area (PCA) per the requirements of SCC 14.24.170.
10. Prior to any modification of the project, the applicant shall request and receive a permit revision from PDS.
11. The project shall be commenced within two years from the date of the final approval of the Shoreline Variance Permit. The project shall be completed within five years thereof.
12. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Variance Permit (PL12-0324) is approved, subject to the conditions set forth above.

DONE this 8th day of March, 2013.



Wick Dufford, Hearing Examiner

Transmitted to Applicants on March 8, 2013.

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