



199911050004

Kathy Hill, Skagit County Auditor

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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: DECISION ON VARIANCE  
PERMIT VA 99 0441

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: LARRY and LYNDA HILDEBRANT

ASSESSOR PARCEL NO: P40168

ABBREVIATED LEGAL DESCRIPTION:

Located AT 29680 South Skagit Highway, Sedro Woolley, within the SW 1/4 of the SE 1/4 of Section 25, Township 35 North, Range 5 East, W.M., Skagit County, Washington.

**SKAGIT COUNTY HEARING EXAMINER**  
**STATE OF WASHINGTON**

In the Matter of :	)	No. VA 99-0441
Application of Larry and Lynda Hildebrant	)	
for a VARIANCE to Allow Placement of a	)	Findings of Fact,
Single-Family Residence, Garage and Shop	)	Conclusions of Law
Within the Side Setback for the Rural Resource	)	And Order
Zone.	)	
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THIS MATTER, an application for a Variance Permit, came on regularly before the Skagit County Hearing Examiner in a public hearing on October 27, 1999. The Skagit County Planning and Permit Center presented its Staff Report. The applicants spoke for themselves. Members of the public were given an opportunity to testify.

Testimony was heard, exhibits were entered and argument was made. On the basis thereof, the following is entered:

**FINDINGS OF FACT**

1. Larry and Lynda Hildebrant seek a variance in order to install a residence, a garage and a shop building which would encroach on the side setback for the zone.
2. The project is located at 29680 south Skagit Highway, Sedro Woolley, WA; Plat of Marine View, Lot #7; within a portion of the SW1/4 of the SE1/4, Section 25, Township 35 North, Range 05 East, W.M.
3. The subject property is designated Rural Resource. Under SCC 14.04.107(2)(c) "single-family residential dwellings, together with the usual accessory buildings and uses" are permitted uses on Rural Resource lands. Pursuant to SCC 14.04.107(5)(c) the minimum building setback on all sides is 100 feet.
4. The subject property is approximately five (5) acres in size, located south of the South Skagit Highway. It is connected to the highway via a driveway, approximately of 380 feet by 24 feet. The main body of the property measures approximately 360 feet (north-front) by 725 feet (east-side) by 275 feet (south-rear) by 730 feet (west-side). In addition there is a 40 foot by 723 foot easement along the west property line running south from the South Skagit Highway.
5. The property is currently vacant with the western portion being heavily wooded. The northeastern corner is also wooded, although less heavily. The southeastern portion is cleared.
6. The neighboring property to the south and to the east has been logged and is currently undeveloped. The property to the north, between the applicants' and the highway, is pasture land



with an occupied residence. The property to the west is also wooded with a single family residence located closer to the highway than the applicants' proposed house.

7. The applicants state that prevailing winds are from the south. They say that as a result of logging on adjacent property, winds blew down trees in the southeastern portion of their lot, with the result that the area was cleared. The applicants do not wish to cut down more trees to create a clearing for their homesite. They do not wish to build close to trees that are exposed to the southerly winds. They want to preserve existing vegetation to the extent that they can.

8. The plans call for the home and garage to be together in a single structure which would be 450 feet from the north (front) property line, 140 feet from the west (side) property line, 185 feet from the south (rear) property line, and approximately 60 feet from the east (side) property line. This location is in the already cleared southeastern portion of the lot and would not require the removal of any additional trees.

9. The proposed placement of the shop would also be in the cleared portion of the property, to the north and to the side of the residence/garage. The location is well within the required setback on the south, west and north. However, the initial drawing of the shop showed it only 18 feet from the east property line. At the hearing, the applicants introduced a revised drawing showing the shop re-oriented so that it would be set back 30 feet from the east property line. They modified their variance request to ask for this 30 foot setback.

10. As proposed, both the residence/garage and the proposed shop would encroach upon the 100 foot setback on the east.

11. The new home will be served by a water well in the northwest part of the property and by a septic tank and drainfield in southeast of the proposed residence. The applicants assert that their building plan is "the most logical and environmentally sound" placement of structures on the property.

12. The Staff in its Report and at the hearing recommended approval of the variance as it applies to the residence/garage (60 feet from the east property line), but concluded that the same 60 foot setback should be met by the shop. The Staff determined that there is adequate space on the site for the shop to meet this 60 foot setback and still be located within the cleared area.

13. The applicants resist moving the shop further than 30 feet from the east line, because to do so would place it either in front of or directly behind their home. The effect would be aesthetically undesirable for them, blocking views of the mountains in the rear or forming a large obstruction in their front yard as one approaches the house.

14. The aesthetic concerns of the applicants are reasonable interests of owners seeking to develop property for residential use. The placement of the residence/garage, as proposed, with the shop to one side, would be the optimum positioning from their point of view. Moreover, this placement would not interfere with the aesthetic concerns of anyone else. All of the



development proposed would be within the interior of the lot, out of sight from the highway. On two sides the only use of the neighboring property has been for logging. On the other two sides, there are residences whose views would be unaffected by the placement of either the shop or the residence/garage.

15. The Staff in its analysis states notes that the area under consideration was re-designated with the adoption of the Natural Resource land Ordinance in September 1996. This had the effect of increasing the side setback from 8 feet to 100 feet. The new setback, according to Staff, was "designed to protect the resource lands." The applicants, intending residential development, purchased the parcel in 1990, well in advance of the setback change.

16. Here there is a special condition of the property. The parcel has already been cleared in the southeast. The remaining portions are wooded. To keep the presently wooded area in its natural state would be consistent with the Natural Resource designation. To allow the construction as proposed would allow uses permitted to other properties in the district in a neighborhood where the development pattern does not in all cases conform to the recently imposed 100 foot setbacks. The clearing of the southeastern portion of the property is the result of logging on other properties, not the actions of the applicants. To allow the variance requested would not grant a special privilege unavailable to other properties in like circumstances.

17. The Examiner finds that reasons put forward by the applicants justify the granting of the variance. Under all the circumstances, the setback sought for both the residence/garage and the shop is the minimum variance that will make possible the reasonable use of the land.

18. The granting of the variance in this case will be in harmony with the general purpose and intent of the zoning ordinance and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

19. One member of the public testified at the hearing. This was James Cook who sold the parcel to the applicants and continues to own neighboring property. He said he doesn't think the 30 foot setback for the shop would hurt a thing.

20. 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 parties and the subject matter of this proceeding.

2. SCC 14.04.223(1)(f) sets for the following criteria for approval of a variance:

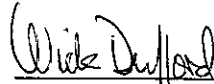


- UNMONTREKED DOCUMENT
- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - b. The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
  - c. That the special conditions and circumstances do not result from the actions of the applicant.
  - d. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
3. The findings above support a conclusion that the proposed development is consistent with the applicable criteria of the Skagit County Code for the approval of a variance. If any other configuration is imposed, the likely result would be the removal of more trees.
4. The variance sought should be approved, subject to the following conditions:
1. Prior to construction, the applicant will obtain all required permits (i.e., building, septic, water, etc.)
  2. The applicant shall comply with the provisions of Skagit County Code 14.04.190(15)(a)(i), Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.
  3. The proposed residence shall be located a minimum of 60 feet from the east property line as depicted on the submitted site plan and shall maintain the required setbacks from the other property lines.
  4. The proposed shop shall be located a minimum of 30 feet from the east property line as depicted in the revised site plan and shall maintain the required setbacks from the other property lines.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.



**ORDER**

The Variance is APPROVED, subject to the conditions set forth in Conclusion 4 above.



Wick Dufford, Hearing Examiner

Date of Action: November 1, 1999

Copies transmitted to Applicant: November 1, 1999

**RECONSIDERATION/APPEAL**

This decision shall become final unless a request for reconsideration or appeal is filed. A request for reconsideration shall be filed with the Hearing Examiner within ten (10) days from the date of this decision. An appeal shall be filed with the Board of County Commissioners within fourteen (14) days from the date of this decision, or if reconsideration has been requested, within fourteen (14) days from the decision after reconsideration.



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