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, Skagit County Auditor

7/19/2001 Page 1 of 7 10:09:39AM

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

DOCUMENT TITLE: ORDER ON SHORELINE VARIANCE APPLICATION SL 00 0191

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: JOANNA SISSONS

ASSESSOR PARCEL NO: P66866

ABBREVIATED LEGAL DESCRIPTION: The property is located at 33058 Deer Park Lane, Lake Cavanaugh; a portion of Section 22, Township 33 North, Range 6 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of)	
JOANNA M. SISSONS)	SL 00-0191
)	
For Shoreline Setback and Lot Coverage)	FINDINGS OF FACT,
Variances for a Replacement Cabin)	CONCLUSIONS OF LAW
To be Built on the Shore of Lake)	AND DECISION
Cavanaugh)	
)	
_____)	

THIS MATTER, an application for shorelines permits, came on regularly for hearing on June 27, 2001, after due notice. Daniel Downs appeared for the Planning and Permit Center. Joanna Sissons was represented by herself and by Mike Howard. Members of the Public were given an opportunity to be heard.

From the testimony taken, exhibits admitted and argument made, the Examiner enters the following:

FINDINGS OF FACT

1. Joanna Sissons (applicant) seeks approval for the replacement of an existing cabin at 33058 Deer Park Lane on the shore of Lake Cavanaugh.
2. The subject property is within a portion of Sec. 22, T33N, R6E, WM. The shoreline is designated Rural Residential. The Comprehensive Plan designation is Rural Village.
3. The existing cabin is about 531 square feet in size. The new residence would have a footprint of approximately 1,458 square feet. The existing cabin's deck is 30 landward of the Ordinary High Water Mark (OHWM). The new residence's deck would maintain the same 30-foot setback. Existing developed site coverage is 37.2%. The project would result in shoreline site coverage of 44%.
4. The Skagit County Shoreline Management Master Program (SMP) requires a 50-foot shore setback in the Rural Residential designation. The applicable shoreline coverage limit is 30%. Therefore, the applicant seeks a variance from the setback and site coverage limitations.
5. The property is about 1/3 acre in size and slopes toward the south along the driveway from the high point by Deer Park Lane. There is a garage near the top of the lot. The driveway serves as the access for adjacent lots on either side. At its south end the driveway flattens in an area used for parking. This portion of the driveway is supported by a rock retaining wall.



6. South of the driveway there is a 40 degree slope down a vertical distance of 20 feet to the site of the house. Below the pad for the house, the land again slopes to the lake shore. Over the entire lot there is a drop of approximately 58 feet. The shore is protected by a concrete bulkhead.

7. The topography and the configuration of existing development constrain development on the site. There is no room for residential expansion upslope of the existing residence because of the previously-built access driveway that serves the adjacent lots. The footprint of the proposed house cannot be set further back from the shore without significant steep slope excavation. The solution is to retain the existing shore setback, expand the house laterally, and end up with greater site coverage within the shoreline. Long-reach equipment will be used to reduce damage to the site during construction.

8. The new house will also extend somewhat more to the rear than does the existing cabin. The preliminary site profile shows use of a retaining wall between the steep slope and the proposed residence. A wedge of soil will be removed from the steep slope.

9. A Fish and Wildlife Site Assessment/Habitat Management Plan was prepared. The report identified the potential effects of the project as being increased storm drainage, increased visual impact, and possible construction damage. A number of conditions of approval were recommended to minimize adverse impacts. A map was prepared showing the area landward of the proposed structure as a Protected Critical Area.

10. Because of the steep slope at the foot of the driveway, a geohazard assessment was also performed. The report concluded that conditions on the site are suitable for the proposed development, but warned that the retaining wall for the parking lot poses a hazard under earthquake conditions. No severe erosion or landslide hazards were identified.

11. The report recommended that soft or loose soil on the face of the steep slope be removed and replaced with structural fill. It also suggested that the rock wall that retains the driveway should be modeled to assess its stability. Based on the outcome of the modeling, the wall could be retained, further stabilized or removed.

12. The area in the vicinity of the project is residentially developed. The small existing cabin on the site was built in the 1950's. Now, the character of lakeside development is changing as owners transition from vacation homes to full-time residences. Because of its downslope location, the proposed new house will not be visible from the road. In design and appearance it will not be out-of-character or out-of-scale with neighboring homes. The visual impact from the water will not be adverse.

13. The neighbors on either side of the applicant's lot wrote letters of support for the project. The only other public comment was a letter from the Friends of Skagit County. The Friends took issue with allowing greater lot coverage on the grounds that the existing cabin is a reasonable use of the property and that applying the Master Program would not, therefore, prohibit "any reasonable use of the property." There was no public testimony.

14. For development landward of the OHWM, the criteria for approval of a variance are set forth at SMP 10.03(1). The applicant must prove:

- a. That the strict application of the bulk, dimensional or performance standards set forth in this Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by this Master Program.
- b. That 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 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 adjacent properties or the shoreline environment designation.
- d. That the variance 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. That the public interest will suffer no substantial detrimental effect.

In the granting of variance permits, the cumulative impact of additional requests for like in the area is to be considered.

15. There is a distinction between precluding any reasonable use and significantly interfering with a reasonable use. In consideration of the trend of surrounding development, a somewhat larger house must be viewed as reasonable in this particular district. The existing cabin does not even have a bedroom. Under the circumstances, the Examiner finds that the strict application of the setback and lot coverage standards significantly interferes with a reasonable use of the property.

16. The steep slope and the space consumed by the shared access road for three parcels provide property-related limitations on the room available for residential development. The design of the new home is compatible with neighboring development.



and allowing the setback sought would not give the applicant a special privilege. The average shore setback of houses within 300 feet of the side property lines is 30 feet from the OHWM.

17. The proposed home will be consistent in dimension with other homes in the area. In context, the variances sought are the minimum necessary to afford relief. Granting them, subject to conditions that insure environmental protection, will not be detrimental to the public interest.

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 persons and the subject matter of this proceeding.

2. The application is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6)(b).

3. The proposed development does not conflict with the policies of either the Shoreline Management Act or the local SMP. As conditioned, the project will meet the requirement for a Shoreline Variance (SMP 10.03(1)).

4. The following conditions should be imposed:

(1) The applicant shall record a site plan showing the lot in question, clearly marking the land waterward of the proposed structure as a Protected Critical Area (PCA) and shall show the types and location of native vegetation to be planted.

(2) The applicant must obtain a Skagit County Building Permit and receive all of the necessary approvals.

(3) The applicant shall strictly adhere to the project information (site diagram) submitted for this proposal. If the applicant proposes any modifications of the subject proposal, she shall request a permit revision from the Planning and Permit Center prior to the start of construction.

(4) The applicant comply with recommendations of the Fish and Wildlife and Geohazard Assessments as set forth in the report of Edison Engineering, dated February 14, 2001. In particular the following actions shall be taken:

a) Silt fences shall be erected on the east, south and west sides of the work at a distance of five feet away from the edges of the proposed development.



- b) If construction is done during the wet season, another line of silt fencing shall be erected just landward of the OHWM.
- c) Drainage from roof downspouts shall be distributed at each corner of the completed residence to minimize water accumulation and reduce erosion potential.
- d) Disturbed areas of the site, including all areas within the PCA, shall be reseeded immediately upon completion of construction. Silt fencing shall be removed once site vegetation is re-established.
- e) All waste construction material shall be removed from the shoreline setback at the end of the working day. No construction materials, including soil, shall be stored within the shoreline setback.
- f) Concrete footings and slabs and all outdoor brickwork shall be covered with polyethylene sheeting if rain is likely to occur within 72 hours of pouring concrete. No debris or deleterious materials shall be allowed to enter the water.
- g) All loose and soft soil shall be removed and replaced with more stable structural fill.

(5) The project must be started within two (2) years of the date of the Department of Ecology's approval and finished within five (5) years thereof, or the shoreline approvals shall become void.

(6) Failure to comply with all conditions of the approvals may result in revocation.

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

DECISION

The requested Shoreline Variances (shore setback and shoreline area coverage) are approved, subject to the conditions of approval set forth in Conclusion 4 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: July 17, 2001

Copies Transmitted to Applicant: July 17, 2001



RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 dates after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.

