



200410040013
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: SHORELINE VARIANCE APPLICATION SL 04 0232

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: DOUGLAS WELCH and KEN FREDERICK

ASSESSOR PARCEL NO: P66598

LEGAL DESCRIPTION: The project site is located at 33769 South Shore Drive, Mount Vernon, WA; a portion of the southeast quarter of Section 27, Township 33 north, Range 6 east, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Douglas Welch and Ken Frederick
22622 Third Avenue SE
Bothell, WA 98021

File No: PL04-0232

Request: Shoreline Variance

Location: 33769 South Shore Drive on the shore of Lake
Cavanaugh, within a portion of Sec. 27, T33N,
R6E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To construct a cabin with a deck that is 30 feet from
from the Ordinary High Water Mark (OHWM) of the
lake. The cabin will contain approximately 1,008
square feet of living space, with approximately 280
square feet of deck. Existing structures on the property
will be removed.

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on August 11, 2004.

Decision: The application is approved, subject to conditions.



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FINDINGS OF FACT

1. Douglas Welch and Ken Frederick (applicants) seek a Shoreline Variance for the placement of a cabin on the shore of Lake Cavanaugh.
2. The property is located at 33769 South Shore Drive, Lot 120, Lake Cavanaugh Subdivision #2, Block #1., within the SE1/4 Sec. 27, T33N, R6E, W.M.
3. The shoreline environment designation for the area is Rural Residential.
4. The site is steep and narrow. South Shore Drive lies to the south uphill from the lake. There is an approved retaining wall just off the road that holds fill for an area used for parking. Two small outbuildings and a trailer, now located near the rear of the lot, are slated to be removed.
5. The proposed cabin will be served by an on-site sewage system. The septic tank and approved drain field are located between the cabin and the parking area.
6. The cabin will be a two-bedroom A-frame structure, measuring 28' x 36' with a footprint of approximately 1,008 square feet. On the lake side will be a deck occupying another approximately 280 square feet. The deck will extend about 14 feet from the house.
7. Because of the steepness of the site, the house will be built on piles or caissons. The front of the house will be about 12 feet above ground surface and the waterward edge of the deck will be about 18 feet above ground surface. Developed surface will comprise about 21% of the lot. The estimated building height will be 30 feet.
8. The dwelling has been pushed lakeward by the topography and the spatial constraints imposed by the parking area and the drain field. The front of the deck will lie about 30 feet from the ordinary high water mark (OHWM) of the lake.
9. The standard shore setback in the area is 50 feet. The applicants request a variance from this setback for their project. By far the majority of the structural incursion into the setback will be by the proposed deck. Other dimensional aspects (height, lot coverage, side yards) will meet the standards of the Shoreline Master Program (SMP).
10. A Fish and Wildlife Habitat Assessment and a supplement thereto were prepared by Edison Engineering. The habit value of the riparian buffer is presently poor due to low vegetative height and sparseness of cover. No woody vegetation will need to be removed to construct the cabin. The report recommended mitigation for actual and potential habitat loss in the form of plantings.



11. The plan is to place the 30 foot area between the deck and the OHWM in a Protected Critical Area (PCA). Plantings will extend to the 50 foot setback line along the east side of the lot.

12. There is considerable residential development along the lake on either side of the subject property. The applicants introduced photographs showing that what they have proposed is compatible with existing setbacks for neighboring houses. In many cases buildings have approached even closer to the water than the 30 feet requested here. According to the Staff Report, the average setback for the area is 19.83 feet.

13. The proposal will be consistent in scale, design and use of space with surrounding structures. The size of the lot, the position of South Shore Drive, and the topography combine to make the selected building site the reasonable location on the lot for a cabin.

13. Review by the Critical Areas Staff resulted in recommendations for mitigation that are set forth below as conditions of approval. Review by other County Departments produced no concerns that cannot be addressed by conditions.

14. There was no correspondence critical of this proposal. There was no public testimony at the public hearing.

15. The criteria for a Shoreline Variance are set forth at SMP 10.03. For developments landward of the OHWM, the requirements are:

(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 of 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 authorized 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 effect.



16. The Staff Report analyzes the proposal against these criteria and determines that, as conditioned, the project will be consistent with them. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

17. 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 proposal is categorically exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The Findings support a conclusion that the project, as conditioned, will be consistent with the criteria for a Shoreline Variance. SMP 10.03.

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

CONDITIONS

1. The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.

2. The applicants shall obtain a County building permit and all other necessary approvals. A copy of this decision shall be submitted with the building permit application.

3. The shoreline setback shall be a minimum of 30 feet landward of the OHWM.

4. All undeveloped shoreline areas disturbed during construction shall be re-vegetated with self-sustaining vegetation immediately upon completion of the project.

5. Any future proposals for shore defense works shall be reviewed by Skagit County for consistency with the Shoreline Master Program.

6. The area extending waterward of the residential deck shall be designated as a PCA and recorded with the Auditor consistent with the Critical Areas Ordinance.



7. The planting plan included in the Fish and Wildlife Report Addendum, dated June 29, 2004 shall be fully implemented. The plantings shall be monitored until firmly established. Any plantings that fail to thrive shall be replaced.

8. A copy of the approved PCA easement, as recorded with the Auditor, shall be submitted to the Planning and Permit Center with the building permit application.

9. Appropriate temporary erosion/sedimentation control measures shall be taken during construction.

10. The applicants shall comply with all applicable State regulations and County codes, including Chapters 173-201A WAC and 173-200 WAC (surface and ground water quality), Chapter 14.32 (drainage), Chapter 14.24 (critical areas), Chapter 14.16 (zoning).

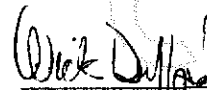
11. The project shall not be commenced until all appeal periods have run after final approval by the Department of Ecology.

12. The project shall be commenced within two years of Department of Ecology approval and finished within five years thereof, or the permit shall become void.

13. Failure to comply with any conditions of this permit may result in its revocation.

DECISION

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



Wick Dufford, Hearing Examiner

Date of Action: September 16, 2004

Date Transmitted to Applicants: September 16, 2004

RECONSIDERATION/APPEAL

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with the Planning and Permit Center 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 the Planning and Permit Center within five (5) days after the date of the decision or the decision on reconsideration, if applicable.

DEPARTMENT OF ECOLOGY REVIEW

If this decision becomes final at the County level, the Department of Ecology must approve or disapprove it, pursuant to RCW 90.58.140.



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