

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Robert and Priscilla McElhose  
34120 North Shore Drive  
Mount Vernon, WA 98274
- Request:** Critical Areas Variance, PL17-0526
- Location:** 34120 North Shore Drive, Lake, consisting of Lots 61, 62, and 63, Block 1, Lake Cavanaugh Subdivision, Div. No. 1, except the northwesterly 30 feet of Lot 61. Parcel No. P66340.
- Zoning:** Rural Village Residential
- Summary of Proposal:** To reduce the stream buffer to 40 feet and shore setback to 62 feet in order to build an addition to an existing residence. The addition will be a 560 square-foot ground floor area which will include a bathroom, music/TV area, office space and storage space. The proposal includes installing a 6' by 20' pedestrian bridge across the stream.
- SEPA Compliance:** Exempt
- Public Hearing:** March 28, 2018. Testimony by Planning and Development Services (PDS) staff, and Robert McElhose, Applicant. No public Testimony.
- Decision/Date:** The application is approved, subject to conditions. April 6, 2018
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the County Commissioners by filing with PDS within 14 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearingexaminer](http://www.skagitcounty.net/hearingexaminer)

## **FINDINGS OF FACT**

1. Robert and Priscilla McElhose (applicants) seek to build an addition to an existing single family residence on the shore of Lake Cavanaugh. The site is bisected by a Type F (fish bearing) stream.
2. The location is 34120 North Shore Drive which is the current residence of the applicants. The property is Parcel No. P66340, a .88-acre lot on the shore side of the road. The legal description is Lots 61, 62 and 63, Block 1, Lake Cavanaugh Subdivision No. 1, except the northwesterly 30 feet of Lot 61.
3. The applicants also own Parcel No. 66379, a 0.41 acre area which lies on the other side of North Shore Drive.
4. The zoning of the site is Rural Village Residential.
5. The site is on part of a small peninsula. Proximity to the lakeshore and to the stream puts the entire site within critical areas and their buffers. The property is flat and generally well vegetated with trees and shrubs. Adjacent to the shore is an area of lawn. The existing house is built on pilings.
6. The proposal is to construct a new 560-square-foot room on pilings, connected to the existing house via a heated elevated hallway. The hall will also provide outdoor access. A small 8' x 8' deck will be located on the southwest side of the addition.
7. The addition will be located a minimum of 62 feet from the Ordinary High Water Mark (OHWM) of the lake and a minimum of 40 feet from the OHWM of the stream. As proposed, the new room does not require a variance from the local Shoreline Master Program but does necessitate a critical area variance. Under the Critical Areas Ordinance the lake buffer is 100 feet and the stream buffer is 150 feet.
8. The applicants are also proposing a new 6' x 20' footbridge across the stream located out of doors and upstream of the house. This feature will be reviewed by jurisdictional substitution through the Hydraulic Project Approval of the Department of Fish and Wildlife.
9. The existing house is essentially two separate structures connected by an enclosed hallway which crosses the on-site stream. One portion of the homes is 646 square feet. The other is 768 square feet. The site also contains an elevated walkway to the shore and a dock.
10. The new ground floor addition is intended to accommodate the health condition of one of the owners. Even with the added space, the home will still be slightly smaller than the average for the neighborhood.

11. The proposed siting of the new room is advantageous from the standpoint of tree preservation, requiring the removal of only two or three trees. The plan requires no change in the existing septic system configuration and will maintain adequate separation from the site's well. The existing septic system and well are adequate to serve the expanded home.

12. Notice of this application was mailed, published and posted as required by law. No public comments were received. No members of the public testified at the hearing.

13. Departmental reviews yielded no criticism. Comments of County departments are reflected in conditions of approval.

14. The Staff reviewed this proposal against the approval criteria for Critical Areas Variances and the buffer reduction mitigation sequence. They concluded that, as conditioned, the project will meet the relevant approval standards. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by tis reference incorporated herein as though fully set forth.

15. The mitigation plan included with the site assessment provides a list of recommended native plants to be used in the degraded portions of the buffer area, but doesn't specify where the plants will be placed. Prior to building permit issuance, the owner should be required to provide a site specific planting plan.

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

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.06.050(1)(b)(i), SCC 14.24.140(1)(b).

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

3. The project, as conditioned, meets the Critical Areas Variance approval criteria. SCC 14.24.140(3).

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. All required permits shall be obtained and their conditions complied with.

3. The recommendations of the June 3, 2017 site assessment prepared by Edison Engineering are adopted as conditions of approval, except as modified below:

- a. A site specific planting plan shall be submitted with the building permit application.
  - b. The planting plan shall require the use of native vegetation for buffer restoration.
  - c. The mitigation plantings must achieve a survival rate of 100% following the first year and of 85% following years 3 and 5. If plants do not meet these survival rates, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.
4. The applicants shall comply with all Skagit County stormwater management requirements, including temporary erosion/sedimentation control measures (Chapter 14.32 SCC).
  5. The applicants shall comply with all other State and local regulations.
  6. A Hydraulic Project Approval shall be obtained from the Washington State Department of Fish and Wildlife prior to the construction of the proposed pedestrian bridge.
  7. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor prior to submittal of the building permit application.
  8. A copy of this decision shall be submitted with the building permit application.
  9. The variance shall expire if the activity for which it is granted is not commenced within three years of its approval. Knowledge of the expiration date is the responsibility of the applicants.
  10. If any modification of the subject project is proposed, Planning and Development Services (PDS) shall be notified prior to the start of construction.
  11. Failure to comply with any condition may result in permit revocation

### **ORDER**

The application for a Critical Areas Variance (PL17-0526) from both the lakeshore buffer and the stream buffer is granted, subject to the conditions set forth above.

**SO ORDERED**, this 6<sup>th</sup> day of April, 2019.

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicants and Staff, April 6, 2018

See Notice of Decision, page 1, for appeal information.