

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Norman Nelson
P. O. Box 870
Burlington, WA 98233

Consultant: Oscar Graham
Graham-Bunting Associates
3643 Legg Road
Bow, WA 98232

Request: Critical Areas Variance, PL17-0239
Zoning Variance, PL17-0240
Shoreline Variance, PL17-0241

Location: 11513 Blue Heron Road, within SW1/4 Sec. 25, T36N,
R2E. W.M.

Shoreline Designation: Rural Residential
Zoning Designation: Rural Intermediate

Summary of Proposal: To replace an existing cabin with a new single-family residence, located about 25 feet from the Ordinary High Water Mark (OHWM) of Samish Bay. A roof overhang will extend to 19 feet from the OHWM. The new structure will be five feet from the side property lines. Developed area of site will be 44%.

SEPA Compliance: Exempt

Public Hearing: September 27, 2017. Testimony by Planning and Development Services (PDS) staff and the project builder. No public testimony.

Decision & Date: The application is approved, subject to conditions. 10/03/2017

Reconsideration/Appeal: Shorelines: Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to County Commissioners by filing with PDS within 5 days of this decision, or decision on reconsideration if applicable.
Zoning: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to 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

FINDINGS OF FACT

1. Norman Nelson seeks to replace an existing cabin with a new single-family residence on a narrow lot on the shore of Samish Bay.

2. The site is Parcel 47034 at 11513 Blue Heron Road within SW1/4 Sec. 25, T36 N, R2E, W.M. The shoreline designation of the property is Rural Residential. The zoning designation is Rural Intermediate. The property is within an A1 designated flood hazard area.

3. The lot was created in the 1940's and the existing 868 square-foot cabin was built in the 1950's --long before enactment of the Shoreline Management Act.

4. The lot is just 40 feet wide. The depth, inland from the Ordinary High Water Mark (OHWM) is 186 feet. The existing drainfield is located between the cabin and Blue Heron Road.

5. There is no functional shoreline vegetation on the site, as the shoreline area is covered with concrete. The site is in a line of eight properties that have continuous concrete patios and bulkheads at the OHWM.

6. The adjacent properties are generally developed with residential and recreational buildings. Most of the lots in the area are about 50 feet wide.

7. The proposal is for a two-story replacement residence with a footprint of approximately 30 feet by 54 feet. The overall height will be less than 30 feet.

8. The septic drainfield must be located a minimum of 100 feet from the OHWM which here forces any residence closer to the shore line. The new residence will be located a minimum of 25 feet from the OHWM. A roof overhang is proposed to extend to 19 feet from the OHWM. The average setback for residences within 300 feet of the side property lines is approximately 20 feet.

9. The side setbacks prescribed for this area are eight feet. Meeting these setbacks would limit the building width to about 24 feet. The average width of homes in the area is 31 feet. A variance is requested for the replacement home to be five feet from the side property lines, allowing a 30 foot width.

10. The proposal includes the addition of concrete walkways along the sides of the home. However, a concrete slab located near Blue Heron Road will be removed and the new septic drainfield will be installed in that area. The driveway will be pervious. The project will result in a decrease in developed area from 78.2% to 44%.

11. Reducing the area of impervious surface on site will allow the installation of native shrubs and groundcover, an improvement from the standpoint of shoreline buffer impacts. Graham-Bunting Associates prepared a complete site assessment and mitigation plan. The project will not adversely affect the functions and values of the marine shoreline buffer.

12. The new home, while larger than the existing cabin, will still be consistent with the overall aesthetics and character of the residential setting. This property renovation is part of a trend in the neighborhood.

13. The Examiner finds that the variances requested for proposed development, on the lot in question are the minimum needed for reasonable development of the property.

14. Notice of Development for this project was published, mailed and posted as required by law. Comments of neighbors were positive. The Samish Tribe expressed concern about proximity to an archaeological site. After meeting onsite between the applicant and a tribal representative it was determined that use of the Inadvertent Discovery Protocol will suffice for this property.

15. The application was routed to various County departments. None had adverse comments. The design of the new septic system will need to be submitted at the building permit stage.

16. Potable water for the proposed home will be provided by the Samish Homes Water Association.

17. The Staff Report analyzes the application in light of the local Shoreline Master Program (SMP), and the applicable shoreline, critical areas and zoning variance criteria. The Report finds that, as conditioned, the proposal will be consistent with the approval criteria. 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.

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 this proceeding. SMP 10.02.(3), SCC 14.06.050(1)(b)(i).

2. The applications are exempt from the requirements of the State Environmental Policy Act (SEPA). WAC 1197-11-800(6)(e).

3. As conditioned, the proposed Shoreline Variance, Zoning Variance, and Critical Areas Variance are consistent with the relevant approval criteria. SMP 10.03(1), SCC 14.10.040(1)(d), SCC 14.24.140(3).

4. The variances are in harmony with the general purpose and intent of the Skagit "Count Code.

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

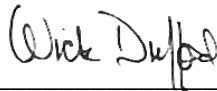
CONDITIONS

1. The project shall be carried out as described in the application materials, except as may be modified by these conditions.
2. All required permits shall be obtained and their conditions shall be adhered to.
3. The recommendations of the Graham-Bunting Associates site assessment, dated April 28, 2017, shall be considered conditions of approval, unless modified below.
4. The mitigation must be completed prior to final inspection of the proposed house. The applicant shall submit an as-built site plan of the mitigation plantings as well as provide photographs of the installed plants, within 30 days of plant installation.
5. All mitigation plants shall maintain a survival rate of 100% following the first year. All dead plants must be replaced. At the end of years three and five, any plants not surviving shall be replaced to insure 85% survival (three years) and 80% survival (five years). If the plants do not meet the specified survival rates, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.
6. The applicant shall comply with recommendations of the Washington State Department of Archaeology and Historic Preservation. A completed Inadvertent Discoveries Protocol must be kept on site through the project.
7. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to submittal of the building permit application.
8. The critical areas variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.
9. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Stormwater Management).
10. The applicant shall comply with all applicable state and local regulations.
11. A copy of this permit decision shall be submitted with the building permit application.
12. The project shall commence within two year of the shoreline variance approval and completed within five years thereof.
13. If the applicant proposes any modification of the subject proposal, he shall notify PDS prior to the start of construction.
14. Failure to comply with any condition of approval may result in permit revocation.

DECISION

The subject applications (PL17-0239, PL17-0240, PL17-0241) for a Critical Areas Variance, a Zoning Variance, and a Shoreline Variance are approved, subject to the conditions set forth above.

SO ORDERED, this 3rd day of October 2017.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, Graham-Bunting, and County staff, October 3, 2017.

See Notice of Decision, page 1 for appeal information.