

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicants:** Jeffrey & Elizabeth Angelo
8241 NE 110th Place
Kirkland, WA 98034
- Request:** Shoreline Variance, PL18-0182
Critical Areas Variance, PL18-0013
- Location:** 15589 Yokeko Drive, within SE1/4 Sec. 24, T34N, R1E, W.M.
Parcel #P73419
- Land Use Designations:** Shorelines: Rural Residential
Zoning: Rural Intermediate
- Summary of Proposal:** To reduce marine shoreline buffer to a minimum of 50 feet to accommodate expansion of deck on existing single family residence. Additional development at least partially within 100 feet of Ordinary High Water Mark (OHWM) includes new landscape walls and a swimming pool. Standard critical areas buffer is 100 feet; shoreline setback is 86.9 feet based on average of homes within 300 feet of site.
- SEPA Compliance:** Exempt
- Public Hearing:** July 11, 2018. Testimony by Planning and Development Service (PDS) staff, and applicant. Two members of the public opposed the precedent.
- Decision/Date:** The application is approved, subject to conditions. July 26, 2018
- Reconsideration/Appeal:** Shorelines: Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to the County Commissioners by filing with PDS within 5 days of this decision, or decision on reconsideration if applicable.
Critical Areas: 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

FINDINGS OF FACT

1. Jeffrey and Elizabeth Angelo seek variances to make improvements to their residential property on the shore of Similk Bay.

2. The location is at 15589 Yokeko Drive, within SE1/4 Sec. 24, T34N, R1E, W.M. The property is the north ½ of Lots 8 & 19 and all of Lots 6, 20 and 21, Block 290, Julius S Potters Plat of Fidalgo City, recorded in volume 2 of Plats, page 77, Records of Skagit County, together with a portion of vacated alley and streets adjacent. The Parcel Number is P73419.

3. The zoning is Rural Intermediate. The shoreline designation is Rural Residential. The surrounding properties along Yokeko Drive are single family homes of similar size and construction. Most properties have detached accessory structures.

4. The project involves repair and replacement of a deck for an existing single family residence to within 50 feet of the Ordinary High Water Mark (OHWM) over an area already developed. Also at least partially within 100 feet of the OHWM will be new landscape walls and a swimming pool.

5. The required shore setback under the Shoreline Management Act Master Program (SMP) is 86.9 feet, based on the average of homes within 300 feet of the site. The Critical Areas shore setback is 100 feet.

6. The western half of the site is well-vegetated with native trees. The eastern half contains the existing house and a detached garage. Much of the lot is covered with lawn. The slope to the shore contains native trees and shrubs as well as invasive blackberries and ivy. Adjacent to the OHWM is a rock bulkhead.

7. The home was built around 1900 and is located 66.6 feet from the OHWM. The deck was constructed in the 1970's and is now failing. It extends to 60.9 feet from the OHWM. The garage lies landward of the house. The septic drain field is between the home and the top of the bank.

8. Repairs to the bulkhead and to the existing stairs to the shore were approved under shoreline exemption PL18-0078. As part of that approval, invasive species are to be removed and additional native plants installed.

9. The new deck will extend over an existing concrete ramp used to access the basement. The stairs closest to the shoreline will be removed and a raised planter will be installed adjacent to the new deck. A 34-foot expansion of the roofline will be added to accommodate a new door from the replaced deck. An exterior porch to access the pool area will cover 148 square feet and a covered walkway will be 58 square feet. The roofline of the western portion of the home will be reconfigured to match the eastern portion of the house without increasing the overall height.

10. An in-ground swimming pool will be installed south of the house (upland of the shoreward side). To accommodate the pool, a retaining wall of no more than four feet in height will be built approximately 90 feet from the shore. The patio around the pool will be built of “grasscrete” or other vegetated surface. A six-foot high privacy fence will be constructed along the southern property line

11. Overall, the improvements contemplated will be minor and low-profile. The deck, in-ground swimming pool and landscape walls will have minimal visual impact. The improvements will blend with the surrounding residential scene.

12. Public notice of the project and the hearing were given as required by law. Written comments were received about impacts on privacy, noise, views, removal of vegetation. At the hearing a neighboring couple argued that allowing these variances would set a bad precedent which could lead to impairment of views in the future.

13. The Hearing Examiner has considered the public comments and concludes they do not provide a substantial basis for denying the requests made. The alterations sought will not in fact impair views and thus cannot serve as a precedent for impairing views. The changes made will not significantly change the status quo as to privacy, noise, or screening.

14. A Fish and Wildlife Habit and a Geologic Hazard Assessment were professionally prepared and revealed no likely significant impacts. The location of the home exceeds the recommended 30-foot setback from the top of the slope. Expert review likewise disclosed no likely impacts on endangered species or essential fish habitat.

15. The application was circulated to appropriate departments and none had objections. Their comments are reflected in conditions of approval.

16. The Staff Report analyzes the application in light of the approval criteria for shoreline and critical areas variances. The Report concludes that, as conditioned, the project will meet the 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.

17. The changes contemplated to this non-conforming use can be accomplished without appreciable threat to the public health, safety and welfare or to the shoreline environment. Denial of the project would result in greater hardship than the public benefit of such denial.

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 14.24.140.
2. The applications are exempt from the requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(c).
3. As conditioned, the proposed variances meet the relevant approval criteria. SMP 10.03.1, SCC 14.10.040, SCC 14.24.140(3).
4. The variances are in harmony with the general purpose and intent of the Skagit County Code.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The projects shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. All permits shall be obtained and their conditions shall be adhered to.
3. The recommendation of the Edison Engineering site assessment dated December 18, 2017, shall be considered conditions of approval unless modified below.
4. All mitigation plants shall maintain a survival rate of 100% following the first year and 80% following years three and five. 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.
5. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's office prior to submittal of the building permit application for the proposed property modifications.
6. Additional stormwater review will take place with the building permit applications.
7. The applicants and their contractors shall comply with all applicable State and local regulations, including but not limited to temporary/sedimentation control measures in accordance with Chapter 14.32 SCC (stormwater management), relevant provisions of Chapter 14.16 SCC (zoning), Chapters 173-201A and 173-200 WAC (surface and groundwater quality criteria), Chapter 173-60 WAC (noise).

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. The project shall be commenced within two years of the final approval of the Shoreline Variance and completed within five years thereof.

10. The applicants shall submit a copy of this decision with the building permit application for the proposed house modifications.

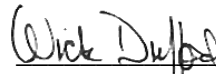
11. If the applicants propose any modifications of this proposal, they shall notify Planning and Development Services prior to the start of construction.

12. Failure to comply with any condition of approval may result in permit revocation.

DECISION

The applications for a Shoreline Variance (PL18-0182) and a Critical Areas Variance (PL18-0013) are approved, subject to the conditions set forth above.

SO ORDERED, this 26, day of July, 2018



Wick Dufford, Hearing Examiner

Transmitted to applicants and staff, July 26, 2018