

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Kenneth Drake
1517 NW 186th Street
Shoreline, WA 98177

Contact: Jackie Chriest
33688 Bamboo Lane
Mount Vernon, WA 98274

Request: Critical Areas Variance, PL18-0268
Shoreline Variance, PL18-0269
Zoning Variance, PL18-0500

Location: 22056 Lost Island Lane, Lake Cavanaugh, within NW1/4 Sec. 27,
T33N, R6E, W.M. Parcel #P66911

Land Use Designations: Zoning: Rural Village Residential
Shoreline: Rural Residential

Summary of Proposal: To replace an existing cabin with a new single family residence and detached garage. The home will be located 26.6 feet from the ordinary high water mark (OHWM), 15 feet from the front property line and 8 feet from the rear property line. The garage will be located 8 feet from the front property line, 16 feet from the rear property line and 100 feet from the OHWM.

Public Hearing: May 8, 2019. Testimony by Planning and Development Services (PDS) staff and applicant. No public testimony.

Decision/Date: The application is approved, subject to conditions. May 20, 2019.

Reconsideration/Appeal: Zoning: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to Board of County Commissioners by filing with PDS within 14 days of this decision or decision on reconsideration, if applicable.
Shoreline: Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to Board of County Commissioners by filing with PDS within 5 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. Kenneth Drake seeks permission to replace an existing cabin with a new residence and garage on the shore of Lake Cavanaugh.

2. The project site is at 22056 Lost Island Lane. The parcel is located in the NW1/4 Sec. 27, T33N, R6E, W.M. The parcel number is P66911. The zoning is Rural Village Residential. The shoreline designation is Rural Residential.

3. An existing 624 square foot cabin, built in 1979, will be demolished along with an existing deck and two small storage buildings. The new home will be constructed in approximately the same location as the cabin. The new dwelling will have a footprint of about 1200 square feet.

4. The existing cabin and deck extend to 24 feet from the ordinary high water mark (OHWM) of the lake. The new home will be 26.6 feet from the OHWM. The average shore setback of neighboring homes in this locale is about 15 feet.

5. The Critical Areas Ordinance (Chapter 14.24 SCC), requires a buffer of 100 feet from the lake. The Shoreline Master Program (SMP) requires a shore setback of 50 feet in this location. Thus, variances are required to locate the home as proposed. Site topography prevents locating the home farther from the lakeshore.

6. The detached garage will have a footprint of about 650 square feet will be located 100 feet from the OHWM. A new septic drainfield and reserve area will be located on the slope landward of the garage.

7. West Shore Drive fronts the subject parcel, but the topography between this road and the shore is steep. The slope of the land precludes direct access from West Shore Drive. Vehicle access to the site is via Lost Island Lane, a narrow switchback that serves five parcels.

8. Because the main access point to the site is across the northwest property line, under applicable zoning regulations that line is by definition the front lot line. The lot line opposite the front is considered the rear property line. The zoning setback is 25 feet from the front lot line and 25 feet from the rear lot line. West Shore Drive here is a secondary front lot line, requiring a 20 foot setback for structures.

9. The narrowness of the parcel restricts the available building envelope required under the zoning code. The applicant is requesting reduction of the primary front setback and rear setback. The new residence would be located 15 feet from the primary front lot line and 8 feet from the rear lot line. The garage would be 8 feet from the primary front lot line and 16 feet from the rear lot line.

10. Under the SMP, the side property lines are perpendicular to the shore. Except for the shore setback, the proposed structures will meet SMP dimensional requirements: 8 foot side setback, less than 30% site coverage, 30 feet house height, 15 foot garage height.

11. A maximum of five mature trees will be removed to allow construction of the new buildings. A mitigation plan has been developed which includes enhancement of 640 square feet of remaining buffer area with native trees and shrubs. Additional native conifers will be planted in the buffer offsetting those removed within the construction footprint.

12. The project will likely begin in the summer of 2019. A new parking area to serve the residence will be developed between the new home and the garage, but parking space adjacent to West Shore Drive will be retained. No shore defense works are necessary or proposed. No fill material will be placed waterward of the OHWM.

13. The variances requested are necessitated by the steep topography and lot shape. The project will be consistent with the development pattern in the area. The proposed new residence will blend aesthetically with other homes in the vicinity.

14. The application was deemed complete on November 16, 2018. Notice of the application was published, mailed and posted as required by law. There were no adverse comments. One supporting comment was received.

15. The application was circulated to appropriate departments. Their comments are reflected in conditions of approval.

16. The Staff analyzed the project under the Development Code and the local Shoreline Master Program and determined, that as proposed and conditioned, the project is consistent with the applicable variance criteria. The Hearing Examiner concurs with these findings 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 this proceeding. SCC 14.10.020(3), SCC 14.24.140(1)(b), SMP 10.02(3).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(1).

3. As conditioned, the requested project meets the relevant variance criteria. SCC 14.24.140(3), SMP 10.03, SCC 14.10.040(1).

4. Any findings 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 adhered to.
3. The recommendations of the Fish and Wildlife Habitat Assessment, dated March 4, 2018, prepared by Edison Engineering shall be deemed conditions of approval.
4. The recommendations of the Subsurface Exploration, Geologic Hazard and Geotechnical Engineering Report, dated July 25, 2017, prepared by Associated Earth Sciences shall be deemed conditions of approval.
5. A minimum of 15 native conifers or 26 native shrubs must be planted within the remaining shoreline buffer area as mitigation for project generated impacts. A detailed planting plan shall be submitted with the building permit application for the house. All required plants must be installed prior to final inspection of the house.
6. All mitigation plants shall maintain a survival rate of 100% following the first year and 85% following years three and five. If the 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.
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. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC.
9. The design of the structures shall comply with the International Building/Residential Code.
10. The applicant shall install 13D sprinklers, due to limited access. The applicant shall adhere to all Fire Marshal requirements which may include a water storage tank with dry hydrant.
11. The applicant shall comply with onsite sewage disposal requirements. Septic system approval shall be required prior to submittal of the building permit application.
12. An alternative water source application must be approved prior to submittal of the building permit application. The garage may not have any plumbing.

13. The project shall comply with all relevant State and County regulations, including but not limited to Chapter 173-201A and 173-200 WAC (surface and ground water quality), Chapter 173-60 WAC (noise), Chapter 14.16 SCC (zoning), Chapter 12.05 SCC (on-site sewage), Chapter 12.48 (drinking water).

14. 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.

15. The project shall be commenced within two years of shoreline variance final approval and completed within five years thereof.

16. The applicant shall submit a copy of this decision with the building permit applications.

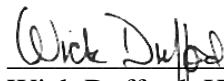
17. If the applicant proposes any modification of the subject project, he shall notify Planning and Development Services prior to the start of construction.

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

DECISION

The applications for variances (PL18-0268, PL18-0269, P18-0500) are approved, subject to the conditions set forth above.

SO ORDERED, this 20th, day of May 2019.



Wick Dufford, Hearing Examiner

Transmitted to applicant and staff, May 20, 2019.