

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** James and Dixie Nash
22448 Bulson Road
Mounts Vernon, WA 98274
- Request:** Shoreline Variance, PL19-0209
Critical Areas Variance, PL19-0112
- Location:** 20925 Lake Sixteen Road, within SW1/4 Sec.15, T33N, R4E,
W.M. Parcel #P66180
- Land Use Designations:** Shorelines: Rural Residential
Zoning: Rural Intermediate
- Summary of Proposal:** To build a replacement single family residence on Lake Sixteen, with a setback of 35 feet from the edge of a shoreline associated wetland. The new two bedroom home will have a footprint of 1040 square feet.
- Public Hearing:** September 25, 2019. Testimony by Planning and Development Services (PDS) staff and the applicant. No public testimony.
- Decision/Date:** The application is approved, subject to conditions.
September 30, 2019
- Reconsideration/Appeal:** Shorelines: Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to the Board of 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 the Board of 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. James and Dixie Nash (applicants) seek to build a replacement home on the approximate footprint of a prior residence on the shore of Lake Sixteen.
2. The location is at 20925 Lake Sixteen Road. This is within SW1/4 Sec. 15, T33N, R4E, W.M. The parcel number is P66180. The lot size is .23 acre, created by a 1961 land division.
3. The zoning of the property is Rural Intermediate. The shoreline designation is Rural Residential. While a majority of the lake's shoreline is undeveloped, the subject lot is within a plat containing a number of existing waterfront homes.
4. The former single family residence on the property was in disrepair and did not have a foundation, making remodel cost-prohibitive. It was removed under an approved demolition permit, BP18-0800. It had approximately 630 square feet of living space.
5. The new two-bedroom home will have a footprint of 1040 square feet. There will be a 360 square foot deck on the waterward side. The average size of homes in the area is about 1448 square feet of living space. The replacement home will blend with other homes along this portion of the shoreline.
6. The home site is located outside of the floodplain. No fill material will be placed waterward of the OHWM as part of this project. An old wooden bulkhead on the shore will not be affected.
7. The shoreline area contains an associated wetland which will be enhanced as a part of this proposal. The shore setback will be measured from the wetland edge. The new home will be 35 feet from the wetland edge.
8. The regulatory shore setback in this location is 53 feet based on the average setback for homes within 300 feet. Thus, a shoreline variance is needed to build the new home at 35 feet from the wetland. The location will likewise require a variance for reduction of the critical areas lakeshore (100 feet) and wetland (300 feet) buffers.
9. There is an existing septic system located in the northwest corner of the site. This system has been inspected and found adequate for the new home. The property is served by PUD water. The project will be required to comply with current stormwater regulations.
10. Construction of the replacement residence is permitted outright in the Rural Intermediate zone. The location of the home is dictated by the small lot size and the location of the septic system. The proposed building site is the only space available on the property. The variances sought are the minimum needed to allow continued residential use of the site.

11. The granting of the variances will not result in significant adverse impacts to the wetland or shoreline of Lake Sixteen. To compensate for any impacts that do occur, the applicant will be required to implement a planting plan involving the installation of native shrubs on the slope and with the wetland.

12. The application was published, mailed and posed as required by law. No written comments were received from other agencies or from the public. There was no public testimony at the public hearing.

13. The application was circulated to County Departments. Their comments are reflected in conditions of approval.

14. The Staff reviewed the proposal for consistency with applicable variance criteria and for conformity with general shorelines and critical areas requirements. The Staff determined that, as conditioned, the proposal will meet the applicable criteria for the variances and will otherwise comply with County regulations. 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.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings. SMP 10.02, SCC 14.24.140.

2. The proposal is exempt from the requirements of the State Environmental Policy Act (SEPA).

3. The project, as conditioned, is consistent with the requirements for a Shoreline Variance. SMP. 10.03(1).

4. The project, as conditioned, is consistent with the requirements for a Critical Areas Variance. SCC 14.24.140(3).

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 the same may be modified by these conditions.

2. All required permits shall be obtained and their conditions adhered to.

3. The recommendation of the Critical Area Site Assessment and Buffer Mitigation Plan prepared by Wetland Resources, dated April 16, 2019, shall be deemed conditions of approval.

4. In addition to the mitigation recommendations of the Wetland Resources report, all degraded portions of the remaining buffer area must be enhanced with native vegetation. The native shrubs will be planted five feet on center to augment the existing native and ornamental species present. A small area of lawn will be kept near the base of the slope to allow for continued access to the dock.

5. Within 30 days of plant installation, the applicants shall submit an as-built site plan of the mitigation plantings and provide photographs of the installed plants.

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

9. The critical areas variance shall expire if the use or activity for which is it granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.

10. Temporary erosion/sedimentation control measures shall be used in accordance with the Stormwater Management code, Chapter 14.32 SCC.

11. The applicants shall comply with water line setbacks as outlined in Chapters 12.05 and 12.48 SCC. The cistern, pump, and associated lines will be removed.

12. The applicants shall comply with all other relevant State and County regulations, including but not limited to Chapters 173-200 and 173-201A WAC (surface and ground water quality), Chapter 173-60 WAC (noise), Chapter 14.32 SCC (stormwater), Chapter 14.16 (zoning).

13. The applicants shall submit a copy of this decision with the building permit application.

14. If the applicants propose any modification to the subject proposal, they shall notify Planning and Development Services prior to the start of construction.

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

DECISION

The applications for a Shoreline Variance (PL19-0209) and a Critical Areas Variance (PL19-0112) are approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Transmitted to applicants and staff, September 30, 2019.