

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicants:** Don and Barbara Clasen  
P. O. Box 232  
Hobart, WA 98038
- Request:** Shoreline Variance, PL19-0581
- Location:** 9367 Marshall Road on Samish Island. The parcel is within SW1/4 Sec. 27, T36N, R2E, W.M. Parcel No. P47192
- Shoreline Designation:** Rural Residential
- Summary of Proposal:** To reduce the shore setback from 169 feet to approximately 110 feet from the Ordinary High Water Mark (OHWM) of Samish Bay in order to build a replacement single-family residence.
- Public Hearing:** By telephone on July 8, 2020. Testimony by Planning and Development Services (PDS) staff. No public testimony
- Decision/Date:** The application is approved, subject to conditions. July 15, 2020
- Reconsideration/Appeal:** 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.
- Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearingexaminer](http://www.skagitcounty.net/hearingexaminer)

## **FINDINGS OF FACT**

1. Don and Barbara Clasen seek a reduction in the average shore setback from Samish Bay to allow for construction of a replacement single family residence.

2. The project site is at 9367 Marshall Road on Samish Island. The parcel is located within SW1/4 Sec. 27, T36N, R2E, W.M. The parcel number is P47192.

3. The site is designated Rural Residential in the Skagit County Shoreline Management Master Program (SMP).

4. Surrounding properties are between one and three acres in size and well vegetated with native trees and shrubs as well as landscaping. Many contain single family homes served by septic systems.

5. The average setback of residences in the area is 169 feet from the Ordinary High Water Mark (OHWM) of the bay. The request is to allow a setback of 110 from the OHWM on an atypical lot. The plan is to replace a manufactured home with a wood frame house slightly landward of the current footprint.

6. The parcel is smaller than neighboring properties because of a land division completed in 1978 (AF#894251). A 169-foot setback would prevent the construction of the replacement home. The site has been used as a residence since 1964.

7. The site is high bank waterfront. The upper slope is vegetated with native trees. The lower slope is nearly vertical glacial till with no vegetation. The overall grade is about 51%.

8. Although the slope is shown as stable by the Department of Ecology Coastal Zone Atlas, review of the specific site by Edison Engineering concluded that the slope is a severe landslide hazard. Their professional recommendation is for a minimum 50-foot setback from the top of the bluff. The proposal will meet this recommendation. Additional plantings were recommended for land on top of the bluff.

9. The new home will be in scale with other residences in the neighborhood and will improve the overall aesthetics of the site. No neighboring views will be adversely affected. The septic system permitted in 2007 is adequate and will continue to be used. Access will continue to be via a long shared driveway from Marshall Road.

10. The application was determined to be complete on November 14, 2019. A Notice of Development Application was posted, published and mailed as required by law. No comments were received.

11. The application was circulated to various County departments. No critical comments were received. Storm drainage details will be addressed at the building permit stage.

12. The Staff evaluated the application in light of shoreline variance criteria of the local Shoreline Master Program (SMP) and found that, as conditioned, the proposal will be consistent with the applicable 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.

13. The public hearing elicited no public comments.

14. The requested variance will allow continued reasonable use of the site for residential purposes.

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 this proceeding. SMP 10.02(3).

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

3. As conditioned the proposal meets the requirements for approval of a Shoreline Variance. SMP 10.03(1)

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

### **CONDITIONS**

1. The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.

2. The application shall obtain any other required permits and abide by the conditions of same.

3. The recommendations of the Edison Engineering Fish and Wildlife and Geohazard Site Assessment, dated August 26, 2019, shall be considered conditions of approval.

4. All waste organics, such as grass clippings, sticks and limbs shall be removed from the bluff. No additional waste organics may be placed on or near the bluff.

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.

6. Temporary erosion/sedimentation control measures shall be utilized in accordance with Chapter 14.32 SCC. Storm drainage details shall be addressed in the building permit process.

7. The applicants and their contractors shall comply with all other applicable State and local regulations, including but not limited to Chapters 173-200 and 173-201A WAC (surface and ground water), Chapter 173-60 WAC (noise), and Chapter 14.16 SCC (zoning).

8. Applicants shall submit a copy of this decision with the building permit application.

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

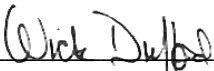
10. If the applicants propose any modifications of the subject proposal, as approved, they shall notify PDS prior to the start of construction.

11. Failure to comply with any permit condition may result in permit revocation.

### **ORDER**

The requested Shoreline Variance (PL19-0581) is approved, subject to the conditions set forth above.

**SO ORDERED**, this 15<sup>th</sup> day of July, 2020.

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicants and County staff July 15, 2020.