

**BEFORE THE HEARING EXAMINER FOR SKAGIT COUNTY**

**Applicant:** Justin and Aly Huerter  
17446 Mallard Cove Lane  
Mount Vernon, WA 98274

**Request:** Shoreline Variance, PL20-0522  
Critical Areas Variance, PL20-0523  
Zoning Variance, PL20-0524

**Location:** 17184 Lake View Boulevard on Big Lake, within NW1/4 Sec. 36,  
T34N, R4E, W.M. Parcel Nos: P64438, P29985

**Land Use Designations:** Shorelines: Rural Residential  
Zoning: Rural Village Residential

**Summary of Proposal:** To increase the footprint of an existing lakeside residence by 600 square feet, bringing the total living space to 2526 square feet. The home will not be extended further toward the lake but will encroach on the north side setback and extend landward to 15 feet from the County right-of-way.

**Public Hearing:** July 28, 2021. Testimony by Planning and Development Services (PDS) staff, Public Works staff and Applicant. Two members of the public testified.

**Decision/Date:** The application is approved, subject to conditions.  
August 18, 2021

**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 10 days of this decision, or decision on reconsideration if applicable.

## **FINDINGS OF FACT**

1. Justin and Aly Huerter seek variances to allow them to add to an existing single-family residence on the shore of Big Lake.
2. The home is located at 17184 Lake View Boulevard, within NW1/4 Sec. 36, T34N, R4E, W.M. The parcel numbers are: P64438 and P29985.
3. The site is designated Rural Residential in the Skagit County Shoreline Management Master Program (SMP) and Rural Village Residential on the Comprehensive Plan and Zoning maps.
4. The entire property is within the 100-foot critical areas buffer from the lakeshore.
5. The subject property was platted in 1927 and developed in the 1960's. Most of the development in the area was in place well before adoption of the SMP.
6. The site is in a fully developed residential neighborhood with established homes of comparable size to the proposal. The average setback from the lake of residences within 300 feet of applicants' side lines is approximately 28 feet from the Ordinary High Water Mark (OHWM). The applicants' home is 32 feet from the OHWM and this will not change.
7. The present home intrudes into the shoreline side setback of 8 feet and the proposed addition would not change that. The north side setback would be 5' 5", necessitating a Shoreline Variance. The next tract to the north is vacant and unbuildable.
8. It is possible that the applicants may decide to rebuild their home. If this is the case, the new structure will meet the established 8-foot side yard setback.
9. The height of the proposed home will not exceed 30 feet which is adopted height limit for this shoreline area.
10. There is an existing 72 square foot storage shed along the southern property line. There is a dock at the shore. The property is landscaped with ornamental shrubs and maintained lawn. The lot is served by public water and sewer.
11. The impacts of the proposed addition have been minimized by keeping the expansion over existing hard surfaces.
12. A Fish and Wildlife Habitat Assessment was completed for the property by Edison Engineering. Environmental impacts will not be significant. Mitigation in the form of planting has been proposed.
13. Lake View Boulevard runs by the applicant's house and other residences in the neighborhood on the upland side. The property slopes from the road down to the shore.

14. The zoning setback from the road as it passes the homes in the area is 25 feet. The pattern established by development –most of it pre-code-- is one of frequent encroachment on this setback.

15. The applicants seek a 15-foot setback from the road. The Department of Public Works opposes this request. Public Works has a policy of asking for a 20-foot setback in the area -- an effort to ensure that vehicles are able to park, stand or load outside of the right-of-way.

16. The record shows many instances of homes along this roadway which have a setback of around 15 feet or less from the road. (See Exhibit 15.)

17. The property presently has a 660 square foot parking area, approximately 15 feet deep, abutting the street. This area has been used for parking since 1968. The area will remain as it is.

18. The project includes a single-car garage, which is set back from the concrete parking pad. It is over 22 feet from the proposed garage addition to the street paving.

19. The evidence demonstrates that on the subject property, a 15-foot distance is sufficient for parking off of the road. The existing parking will not be diminished by the addition.

20. Under all the circumstances, imposition of a 20-foot setback here would deprive the applicant here of rights commonly enjoyed by other properties in this area. Furthermore, even with a 15-foot setback the objective of insuring off-road parking would still be accommodated.

21. In its setting, the subject project is a reasonable use of the property. Strict application of the dimensional standards of the SMP and zoning code would preclude this use. The hardship involved is not the result of the applicants' actions.

20. The design of the project will be compatible with existing activities in the area. Based on the dimension of the lot and the development pattern in the area, the requests are for the minimum variances that will make this reasonable use possible.

21. 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 9.06(1), SCC 14.24.140(1)(b), SCC 14.10.020(3).
2. The project is exempt from the requirements of the State Environmental Policy Act. WAC 197-111-800(6)(e).
3. The proposal, as conditioned, meets the criteria for approval of Shoreline Variance. SMC 10.03(1).
4. The proposal, as conditioned, meets the criteria for approval of a Critical Areas Variance. SCC 14.24.140(3).
5. The proposal, as conditioned, meets the criteria for approval of a Zoning Variance. SCC 14.10.040.
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

## **CONDITIONS**

1. The proposal shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicants shall obtain all required permits and approvals and shall abide by the conditions of same.
3. The recommendations of the Edison Engineering Fish and Wildlife Habitat Assessment, dated August 18, 2020, shall be considered conditions of approval unless modified by the conditions below.
4. No later than 30 days from the date of plant installation, the applicant shall submit an as-built plan of the mitigation plantings as well as provide photographs of the installed plants.
5. 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 that survival rate, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.
6. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's office prior to approval of the building permit application.
7. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Stormwater Management).

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

9. The applicants shall not park and shall not permit their visitors to park on the public roadway.

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

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

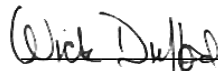
12. The Critical Areas Variance will expire if the use or activity for which it is granted is not commenced within three years of final approval.

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

### **ORDER**

The requested Shoreline Variance (PL20-0522), Critical Areas Variance (PL20-0523) and Zoning Variance (PL20-0524) are granted, subject to the conditions set forth above.

**SO ORDERED**, this 18<sup>th</sup>, day of August, 2021.

  
Wick Dufford, Hearing Examiner

Transmitted to Applicants, County Staff, interested parties, August 18, 2021.