

**NOTICE OF DECISION**

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**Applicant:** Sheila Boze  
14621 – 24<sup>th</sup> Ave. SW  
Burien, WA 98166

**Request/File No:** Shoreline Variance PL09-0061

**Location:** 13233 Satterlee Road, Anacortes, WA; within the NE ¼ of Section 8, Township 34 North, Range 2 East, W.M., Skagit County, Washington

**Shoreline Designation:** Rural Residential

**Summary of Proposal:** This is a variance request under the Shoreline Master Program (SMP) to locate a new residential structure closer to the Ordinary High Water Mark (OHWM) than allowed, and to grant larger than allowed lot coverage.

**SEPA Compliance:** Exempt

**Public Hearing:** November 16, 2011. Planning and Development Services (PDS) recommended approval.

**Decision/Date** Approval, subject to conditions. December 7, 2011.

**Reconsideration/Appeal:** A Request for Reconsideration may be filed with PDS within five days of this decision. The decision may be appealed to the Board of County Commissioners by filing an Appeal with PDS within five days of the date of the decision or decision on reconsideration, if applicable.

**Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

When this permit becomes final at the County level, it must be submitted to the Washington State Department of Ecology for review and approval.

## **FINDINGS OF FACT**

1. This is shoreline variance application PL09-0061 submitted by property owner Sheila Boze.
2. The property is designated as rural intermediate in the Comprehensive Plan (CP) and zoning maps adopted October 10, 2007. The site is designated as Rural Residential in the SMP.
3. The address is 13233 Satterlee Road, Anacortes, WA. The proposed improvements are located within the NE ¼ of Section 8, Township 34 North, Range 2 East, W.M., Skagit County, Washington. The parcel number is P69261.
4. The revised proposal involves conversion of an existing 484 square foot cabin into a garage. The applicant proposes construction of a new 1,474 square foot residence with a 775 square foot deck. The new building is to be located 50 feet landward of the ordinary high water mark (OHWM). The proposal will increase the developed area on the subject property to 47%.
5. The average setback from the OHWM for residential buildings in the vicinity is 54 feet.
6. The SMP prohibits lot coverage beyond 30% unless a shoreline variance is obtained. The SMP also requires a shoreline variance if the building portion is landward of 54 feet from the OHWM.
7. The site is located on the shoreline of Similk Bay with access from Satterlee Road via a gravel driveway. The property slopes gently downhill from Satterlee Road to the lowbank coastal bluff. At the coastal bluff, the property drops approximately 11 feet at an angle of 30 degrees to the shoreline.
8. Currently a 440 square foot cabin is located 105 feet from the OHWM. A 110 square foot shed is located four feet landward of the OHWM.
9. The project is to be initiated in the summer of 2012.
10. There is an existing access. No additional traffic nor parking will result from the proposed improvements.
11. The shoreline of Similk Bay is predominantly single family residences and recreational cabins. Some commercial operations are located within the shoreline area.
12. The improvements will be larger than the existing buildings resulting some aesthetic impacts.
13. Initially the application was deemed complete on April 21, 2009. A notice of development application was published and notice to adjoining property owners was send. The allowed comment period ended May 22, 2009. Two comments letters were received.

14. A revision of the application was submitted on September 16, 2010; a second notice of development application was published, posted and mailed. The 30-day comment period ended December 6, 2010. No letters were received. A notice of hearing was published October 27, 2011. The written comment period closed on November 15, 2011. No written comments were received.

15. A Level I hearing was held November 16, 2011.

16. At the hearing Mr. John Cooper presented the staff report, findings and exhibits which were denominated exhibits A-G and admitted into the record. Ms. Boze and one other member of the public appeared. There was no public opposition to granting the shoreline variance.

17. Granting of this variance will not result in alteration of the natural conditions of the area that would impact preservation and wide use of natural features and resources of the shoreline. The proposed shoreline setback of 50 feet would be adequate to allow for recreation and leisure activities. There is no evidence of any increased impacts to the integrity to the shoreline resource.

18. The shoreline in the vicinity of the site is not public and therefore public access would not be appropriate.

19. There is no evidence of any significance adverse impact on the shoreline or its ecologic system as shown by the Fish and Wildlife Assessment submitted by the applicant. There is no evidence that the proposal would result in a significant net increase of the currently existing cumulative impacts to wildlife, habitat or scenic vistas.

20. The proposed new structure meets SMP height limitations and side yard setback requirements.

21. Construction of the subject site will be scheduled and designed to minimize and control all runoff, erosion and other potential adverse water quality and quantity impacts.

22. Given the surrounding neighborhood uses, the proposed development will not likely result in significant adverse impacts to views to and from the shoreline.

23. Large rocks have been positioned near the OHWM to function as a wave energy dissipater.

24. The proposed parking area is located greater than 54 feet from the OHWM.

25. The proposal will increase the impermeable surfaces to 47%. Some additional surface water runoff would be expected but will likely be insignificant.

26. The Skagit County Health department did not have any concerns about the proposal's effect on the septic system operation.

27. The small size of this particular lot does limit development within the strict requirements of the SMP. Because of the steep shoreline bank the area available for development of residence, deck and onsite sewage disposal is limited to 5,218 feet. The sewage system setback requirement further reduces the available building envelope.

28. In order to comply with the sideyard setback requirement the proposed residence and deck must necessarily encroach into the shoreline setback area by four feet. The resulting construction will exceed the 30% lot coverage limitation by 17%.

29. The adjacent eight lots within 300 feet of the side property lines average 44% lot coverage while four of those lots exceed 60% coverage. Four of the eight residences within 300 feet of the side property lines have shoreline setbacks less than 50 feet.

30. PDS recommends approval of the variance subject to a number of conditions.

31. The January 25, 2011 PDS staff report containing 14 pages is adopted herein as though fully set forth.

32. 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 application.

2. The notice requirements of SCC and state law have been met.

3. The SMP (SCC 14.26) requires that policies and regulations will be reviewed for any proposed shoreline permit. That review was completed and the policy and regulation requirements have been met.

4. The SMP variance criteria requirements (Section 10.03) have been achieved. The small lot size limitation because of the steep bank and onsite sewage disposal system requirements and the eight foot side lot setback requirements represents a hardship for residential development on the property. The proposal is generally consistent with other residences in the area and will not cause significant adverse effects to the shoreline environment. Approving the proposal would not constitute a grant of special privilege. The environment will not suffer any substantial detrimental effects from granting the variance. The public interest will suffer no substantial detrimental effects.

5. The waiver provisions of RCW 90.58.143(2) and (3) require a shoreline permit to be issued before “local government” can authorize a “single extension” for beginning the project and/or a “single extension” for completion of the project. Granting those extensions as part of the permit is not allowed under RCW 90.58.

6. Properly conditioned the shoreline variance request meets the policies and requirements of the CP and the SMP.

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

### **CONDITIONS**

1. The applicant and its contractors shall comply with the State WaterQuality Criteria, Surface Water WAC 173-201A and Ground Water WAC 173-200, and WAC 173-60 Maximum Environmental Noise Levels for noise and light.

2. Temporary erosion/sedimentation control measures shall be utilized in accordance with the Skagit County Code 14.32, Drainage.

3. The applicant shall comply with Northwest Clean Air Agency requirements.

4. The applicant shall comply with all relevant provisions of Skagit County Code 14.24, Critical Areas and Skagit County Code 14.16, Zoning.

5. Aesthetic impacts shall be minimized.

6. The applicant shall submit a copy of the Hearing Examiner’s written order (decision) with the building permit application.

7. The applicant shall strictly adhere to the project information (site diagram) submitted for this proposal including the recommendations in the Fish and Wildlife Habitat Assessment. If the applicant proposes any modification of the subject proposal, she shall request a permit revision from PDS prior to the start of construction.

8. The shoreline setback area shall be placed into a protected critical area (PCA) as per the requirements of SCC 14.24.170. The PCA may be recorded with the building permit application.

9. All plumbing, wiring, and other utility lines shall be installed underground or otherwise rendered inconspicuous.

## DECISION

The requested Shoreline Variance (PL09-0061) is approved, subject to the conditions set forth above.

**DONE**, this 7<sup>th</sup> day of December, 2011.

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Wm. H. Nielsen, Hearing Examiner *pro tem*

Transmitted to Applicant on December 7, 2011

See Notice of Decision, Page 1, for Reconsideration and Appeal information.

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