

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Sandra Boeskov
121 W. Comstock Street
Seattle, WA 98112

Request: Shoreline Variance, PL14-0153
Critical Areas Variance, PL 14-0154

Location: 4429 Agate Road, Guemes Island, on the northeast shore bordering Padilla Bay. The site is within the NE1/4 Sec. 26, T36N, R3E, W.M. Parcel No: P46551.

Shoreline Designation: Rural
Land Use Designation: Rural Intermediate

Summary of Proposal: To renovate an existing residence, demolish an existing garage, and build a new guest house within the footprint of the demolished garage. The existing residence is approximately 18 feet from the Ordinary High Water Mark (OHWM). The garage is about 27 feet from the OHWM.

SEPA Compliance: Exempt

Public Hearing: February 25, 2015. Testimony by County and Applicant's architect. One neighbor testified in favor.

Decision/Date: The application is approved, subject to conditions. March 16, 2015.

Reconsideration/Appeal: (1) Shoreline Variance. Reconsideration may be requested within five days of this decision. Appeal to County Commissioners within five days of this decision, or decision on reconsideration if applicable.
(2) Critical Areas Variance. Reconsideration may be requested within 10 days of this decision. Appeal to County Commissioners within 14 days of this 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)

FINDINGS OF FACT

1. Sandra Boeskov (applicant) seeks a Shoreline Variance and a Critical Areas Variance to renovate an existing residence and replace a garage with a guest house on the northeast shore of Guemes Island.

2. The site is at 4429 Agate Road, Guemes Island, located within the NE1/4 Sec 26, T36N, R1E, W.M. The Parcel number is P46551. The property is within a Rural shoreline designation and within a Rural Intermediate land use zone.

3. The current development of the site is located on a flat area below a steep coastal bluff. The bluff extends to about 100 feet above Mean Sea Level (MSL). The area below the bluff was created by placing fill behind a four-foot-high concrete bulkhead which is located at the Ordinary High Water Mark (OHWM). The fill and bulkhead were installed prior to the effective date of the Shoreline Management Act.

4. The Agate Road easement cuts across the slope from the top of the bank to the level area below. The access road will not be affected by this project. There are a number of neighboring houses on the shore-side fill that are accessed by the easement road.

5. The level area at the base of the slope measures about 125 feet wide by 95 feet deep (11,875 square feet). The lot is currently developed with a residence, garage and storage shed. There is an approved septic system and drainfield on site.

6. The applicant proposes to remodel the residence which is located approximately 18 feet landward of the OHWM. The project will include replacing the roof, windows and siding, and adding 70 square feet of living space in the northwest corner of the residence. The added living space will be under the current overhang. The distance of the structure from the OHWM will not change.

7. The existing garage, located about 27 feet landward of the OHWM will be demolished and replaced with a new guest bedroom, occupying the same footprint. A parking area has been identified outside of the road easement west of the proposed guest house.

8. The Shoreline Variance request seeks to approval of a shore setback of 18 feet and a critical areas setback of 18 feet. The standard shore setback is 50 feet and the standard critical areas setback is 100 feet. The average setback of homes in the area is 22 feet. The proposal is consistent with the existing development pattern in terms of setback.

9. The maximum height of the structures is 15 feet. The developed area of the site is estimated at 25%. The proposal appears to be fit the general pattern of development in the area as to dimensions. Recreational cabins and residences are common along this section of shoreline and some larger homes have been constructed.

10. The residences have preserved much of the vegetation on the slope above them, creating an aesthetically pleasing view from the water. The proposed project will not change this situation. A mitigation plan has been submitted for restoration of vegetation within the proposed buffer area on the property.

11. The northern extent of the bulkhead is failing and requires repair. The applicant has received a shoreline exemption to repair the bulkhead. No changes to the bulkhead are proposed.

12. The subject parcel received a shoreline variance (PL02-0748) from a remodel of the residence, but the project was never initiated and the building permit expired on January 5, 2008.

13. The instant application was determined to be complete on May 21, 2014 and a Notice of Development Application was published on May 29 and June 5, 2014. Notice by mail was given to all property owners within 300 feet of the property. No comment letters were received during the comment period.

14. Site assessments and a mitigation plan were professionally prepared.

15. The western portion of the site is within an A4 flood hazard area and a floodplain development permit is required for the proposal. The base flood elevation is 9 feet MSL. The proposed new guest house will need to be elevated to at least 10 feet MSL.

16. The proposal was circulated to various County departments. None had objections. The Building Official noted that a building permit will be required.

17. The Staff reviewed the application under the policies and regulations of the local Shoreline Master Program (SMP) and under the variance criteria for both shoreline development and development within critical areas. The Staff concluded that, as conditioned, the project will be consistent with the applicable standards and variance 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.

18. The need for the variances sought is created by the topography of the site. The proposal will merely upgrade existing structures in a manner spatially and aesthetically similar to the present pattern of development along this stretch of waterfront. No views will be blocked. The public interest will not be detrimentally affected. The variances are required for the reasonable development of the site. The project will not adversely affect fish and wildlife or otherwise negatively impact critical area values.

19. No comments were received from Federal, State or Tribal resource agencies regarding this proposal. The only public comment was from a neighbor, Michael Crawford, who testified at the hearing that the project will be an enhancement.

20. 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). SCC 14.24.140(1)(b),

2. The project is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The project, as conditioned, is consistent with the criteria for approval of s Shoreline Variance. SMP 10.03(1)

4. The project, as conditioned, is consistent with the criteria for approval of a Critical Areas Variance. SCC 12.24.140(3).

5. The variance criteria of Chapter 14.10 SCC have been met. The Critical Areas variance is the minimum variance that will make possible the reasonable use of the property. The variance will be in harmony with the general purpose and intent of Title 14 SCC and other provisions of the County Code.

6. 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 modified by these conditions.

2. The applicant shall obtain all other required approvals and shall abide by the conditions of same.

3. The applicant shall comply with all applicable state and local regulations, including but not limited to, temporary erosion/sedimentation control measures in accordance with Chapter 14.32 SCC, zoning ordinance requirements (Chapter 14.16 SCC), state surface and ground water quality standards (Chapters 173-200 WAC and 173-201 WAC) and maximum environmental noise levels (Chapter 173-60 WAC).

4. The recommendations of the critical areas site assessment reports and addenda shall be considered conditions of approval.

5. The mitigation plan for enhancement of the remaining shoreline buffer area shall be fully implemented.

6. All mitigation plans shall maintain a survival rate of 100% following the first year and 80% following years three and five. If the plants do not meet the survival rate, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.

7. The remaining critical area buffer shall be placed into a protected critical area (PCA) as required by SCC 14.24.090. The PCA and site plan shall be recorded by the time of build permit application review.

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

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

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


11. If any modification of the project is contemplated, the applicant shall request a permit revision from PDS prior to the start of construction.

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

DECISION

The requested Shoreline Variance (PL14-0153) and Critical Areas Variance (PL14-0154) are approved, subject to the conditions set forth above.

DONE, this 16th day of March, 2015.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, March 16, 2015.

See Notice of Decision, Page 1, for appeal information.