

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Cameron Cleeland
18367 Majestic Ridge Lane
Mount Vernon, WA 98274

Agent: Young-Soo Kim
Summit Engineers & Surveyors, Inc.
2218 Old Highway 99 South Road
Mount Vernon, WA 98273

File No: PL07-0032

Request: Variance

Location: West side of State Route 9 on shore of Big Lake,
immediately north of 17648 State Route 9, within
a portion of Sec. 36, T34N, R4E, W.M.

Parcel No: P119104

Land Use Designation: Rural Village Residential (RVR)

Summary of Proposal: To have a .74 acre parcel recognized as a legal lot in order
to build a residential structure.

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
on April 25, 2007.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Cameron Cleeland seeks a variance to have a .74 acre parcel recognized as a legal lot within the Rural Village Residential (RVR) zone. The minimum lot size for the zone is one (1) acre.

2. The property is located on the shore of Big Lake on the west side of State Route 9, immediately north of 17648 State Route 9, within a portion of Sec. 36, T34N, R4E, W.M. The parcel number is P119104. The parcel is directly across the road from Overlook Golf Course.

3. The subject lot is presently a part of a larger parcel that includes the golf course and is more than 33 acres in size. The lakefront piece was aggregated with the adjacent golf course property when both were under the same ownership. The applicant innocently purchased the small lakefront area reasonably believing it to be a separate legal lot.

4. The applicant is seeking this variance from the minimum lot size as a prelude to a land division which will separate the lakefront parcel from the golf course. He also seeks a variance relieving him of the normal requirement to survey the entire acreage involved in platting.

5. The Big Lake Tracts were established in the early 1900's with many small waterfront parcels. In fact, the applicant's lot at .74 acres will be larger than the other waterfront lots in the immediate vicinity.

6. The lot is currently undeveloped and used only for recreation. There is a pre-existing dock. The property presents some variations in elevation that require grading before the residence is built. The subject application was reviewed by the Critical Areas staff and approved from their standpoint in connection with Grading Permit issuance. Indications are that the proposed home will readily meet lot coverage and setback requirements, including shoreline setbacks. Thus, no additional variances should be needed for the development ultimately contemplated.

7. The subject property is not within a designated flood hazard area.

8. Public Works reviewed the proposal and had no concerns. The Washington State Department of Transportation noted that an Access Permit has been applied for.

9. The property is served by public sewer and public water facilities. The Environmental Health Unit stated that a current letter of water availability from the Public Utility District will be required and that a hydrogeo report is needed to identify any wells within 1,000 feet of the parcel.

10. The variance request was properly noticed. Two letters were received during the public comment period. Neither opposed the request.

11. The applicant's ownership includes shore lands that extend into the lake. If this underwater area were included, the lot size would be adequate for the zone. However, historically the shore lands for the property were acquired separately and never officially attached to the upland. The County's policy is not to recognize such shore lands for the purposes of minimum lot size determinations.

12. The criteria for approval of a variance are set forth at SCC 14.10.030(2). That subsection requires a narrative statement included in the application that demonstrates that the requested variance conforms to the following standards:

(a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(b) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the terms SCC Titles 14 and 15.

(c) The special conditions and circumstances do not result from actions of the applicant.

(d) The granting of the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(e) An explanation of how the requested variance meets any other specific criteria required for the type of variance requested, where applicable . . .

(f) If applicable, an explanation as to why, if a variance is denied, the applicant would be denied all reasonable use of his or her property.

13. The Staff Report analyzes the applicant's requests in light of the above criteria and determines that, as conditioned, the application is consistent with them. 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.

14. Granting this variance will clear up past misunderstandings and allow the property to be recognized as a legal lot of record. Far from granting a special privilege, the action will place the property on a par with the neighboring lakefront lots.

15. Surveying the golf course parcels currently attached to the subject lakefront parcel is not necessary to recognizing P119104 as a legal lot and would provide no benefit to the applicant or to the County.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. SCC 14.06.050(1)(b).

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

3. SCC 14.16.310(5) establishes the one (1) acre minimum lot size for the RVR zone. SCC 14.18.100(1)(a) (xii) and (xvi) establish the survey requirements for plats. The requests for variances from these requirements meet the relevant criteria for approval, if conditioned as set forth below. See SCC 14.10.030(2).

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

CONDITIONS

1. The applicant shall obtain all necessary permit and approvals from the appropriate jurisdiction.

2. The variance number and date of approval shall appear on the face of the land division map.

3. The land division shall comply with all remaining applicable requirements of Chapters 14.16 and 14.18 SCC.

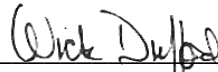
4. Prior to building permit approval, the applicant shall obtain an access connection permit from the State.

5. Prior to land division approval, a current letter of water availability from Public Utility District #1 shall be submitted and a hydro-geo report shall be submitted, identifying any well locations within 1,000 feet of the parent parcel.

6. All proposed residential development within 200 feet of the shoreline of Big Lake shall meet the dimensional requirements of the Skagit County Shoreline Management Master Program.

DECISION

The requested variances are approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Date of Action: May 29, 2007

Date Transmitted to Applicant: May 29, 2007

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.