



## **KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT**

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# **STAFF REPORT**

## **RECOMMENDATION TO THE HEARING EXAMINER**

**Date:** December 12, 2007

**Application Date:** February 6, 2007

**Project:** Keenan Critical Area and Zoning Variances

**LIS #:** 07 44730

### **Type of Application and Description of Proposed Project:**

Gary and Sherry Keenan are requesting variances from KCC Title 17 (Zoning) and KCC Title 19 (Critical Areas) to allow construction of a single family residence and garage, with a 2,880 square foot footprint, on a parcel constrained by lot depth and size. The applicants request a reduction to the required 20 foot front yard setback to 2 feet. Additionally, applicants request a reduction of the currently required 100 foot shoreline buffer to 15 feet at ground level and 10 feet at upper deck level.

### **Project Location:**

The subject parcel is located at 14660 Seabeck Highway NW, on Hood Canal, Kitsap County, Commissioner District 3.

**Assessor's Account #:** 4454-002-015-0002 and 4454-002-014-0003

### **Applicant and Owner of Record:**

Gary and Sherry Keenan  
PO Box 777  
Tracyton, WA 98393

### **Project Representative:**

David Grellier  
Atelier Northwest, Inc.  
1921 Bentley Drive NE  
Bremerton, WA 98311

**SEPA Status:** Pursuant to WAC 197-11-800(6)(b), the proposal is SEPA exempt.

**Physical Characteristics:**

The 0.34 acre parcel slopes steeply from the Seabeck Highway for approximately 16 feet, then consists of three paved terraces and a shoreline bulkhead. The lot depth ranges from 70 to 78 feet, and the lot width is approximately 150 feet. The lot is sparsely vegetated, primarily on the slopes below the road and between the terraces.

The lot has been used by the applicants as a recreational lot for many years. There are two small sheds, a shelter, a hot tub and a deck on the property. The hot tub, shelter, deck and one of the sheds are within 15 feet of the shoreline.

**Comprehensive Plan and Zoning Designation:**

The property is designated Rural Residential (1 dwelling unit per acres).

- Minimum lot area = 10 acres
- Minimum Setbacks = 50 feet - front yard\*
- = 20 feet - side and rear yard

\*Pursuant to the Zoning Code, the 50-foot front yard setback is reduced to 20 feet for lots less than one acre or less than 140 feet wide. The setback is measured from the edge of the right of way.

**Surrounding Land Use and Zoning:**

The surrounding area is zoned Rural Residential. The intent of the Rural Residential zone is “...to recognize areas which have been committed or developed for rural residential uses on smaller lots” (KCC 17.310.010). Lots on both sides of the Seabeck Highway range from very small, similar to the subject lot, to lots of an acre or more in size. The majority of the existing lots are historic lots that do not conform to the 5 acre minimum lot size.

The surrounding area is characterized by single family residences along the waterfront and the upland side of the Seabeck Highway. Existing homes range from small cabins to homes of the size proposed by the applicants.

The single family residence to the south is approximately 15 feet from the shoreline and has a second story deck approximately 10 feet from the shoreline. Those setbacks were approved through a shoreline variance in 1999.

**Public Utilities:**

- Water: PUD # 1
- Power: Puget Sound Energy
- Sewer: Off-site septic system

**Transportation and Off-Street Parking:**

Existing access is across an easement on the property to the north. Areas within graveled terraces on the property provide off-street parking. The proposed single family residence and attached garage would provide off-street parking for a motor home, boats and three cars. Additional area would remain in order to allow off-street parking for additional vehicles.

**Public Services:**

Police: Kitsap County Sheriff  
Fire: Fire Protection District No. 7  
Schools: Central Kitsap School District

**Policies and Regulations Applicable to the Subject Proposal:**

*Kitsap County Code:*

*Title 17 (Zoning):* Chapters 17.305 (Rural Residential) and 17.500 (Variances).

*Title 19 (Critical Areas):* Chapters 19.100.135 (Variances) and 19.300 (Fish and Wildlife Conservation Areas).

*Title 21, Chapter 21.04 (Land Use and Development Procedures)*

**Analysis:**

County Health District:	No comments. (The applicant has a Building Site Application for an off-site septic drainfield approved in 2005.)
County Development Engineering:	No comments.
Public Utility District #1:	A letter dated July 21, 2005 states the property is served by the water system.
Skokomish Indian Tribe:	A letter dated October 22, 2007 states that the area is culturally sensitive. The Tribe asks if archeological surveys have been complete for this project and requests one be done in the area that will be impacted. If the variance is approved the Department will determine if one is necessary prior to site development activity. The site is highly altered from past activity.
Public Input:	An email from William and Linda Riplinger, who shares the access easement with the Keenans. The

Riplingers believe the site is suitable for development and supports the proposed variances.

A letter to the applicants from adjacent neighbors to the south Jerry and Judi Carter supporting the variance requests. In 1999 they had a shoreline setback variance approved for the same setbacks requested in this application.

The request for the variances to the front yard and shoreline setbacks been reviewed for consistency with KCC Chapters 17.500 (Zoning Variances) and 19.100.135 (Critical Areas Variances). The existing historical lot is constrained by its very shallow depth. Current zoning setbacks and critical area buffers do not allow for an area for a single family residence without a variance to one or both regulations. The shoreline buffer and setback are the most significant limitation to site development. The required 100 foot buffer and 15 foot setback would extend across the lot and into the road right of way. The current 20 foot front yard zoning setback additionally limits the foot print for the proposed single family residence and garage.

In order to allow development of the site with a residence and garage, the applicants are requesting approval to build within 15 feet of Ordinary High Water (OHW) at the ground level and within 10 feet for a second story deck. The applicants also request a reduction of the front yard setback of 20 feet to 2 feet from the property line adjacent to the Seabeck Highway.

The applicable variance criteria found in Title 17 (Zoning) and Title 19 (Critical Areas) are similar, but not identical. The criteria and analysis of each are listed below, with cross-referencing where applicable.

***KCC Chapter 17.500 (Zoning Variances). A variance shall be made only when all of the following conditions exist:***

*A. There are special circumstances applicable to the subject property, including size, shape, topography location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone.*

The subject parcel contains special circumstances not created by the applicant and generally not applicable to other parcels in the zone. The majority of the lots in the area have greater depth to the shoreline. The applicant's lot meets the definition of an historic lot under Kitsap County Code (KCC) 17.382.100. It was created many years ago, prior to current lot size and shoreline restrictions.

*B. Such Variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same zone.*

Reduction of the front yard setback, as proposed, would allow for construction of the single family residence and attached garage with motor home and boat storage. The variance is not necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same zone because of the scale of the proposal. A proposal with a smaller footprint could meet the current code or reduce the need for a setback reduction to the extent proposed. The Department does not consider enclosed motor home and boat storage to be within the rights or uses under this criteria due to the extremely limited lot dimensions.

*C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which the property is located.*

No objections have been raised by property owners in the vicinity. Two of the neighbors have submitted letters in support of the neighbors. The Kitsap County Department of Public Works has indicated that while not preferred from a safety standpoint, they do not have a code basis to deny the second point of access to Seabeck Highway that would be created at street level.

*D. The variance is the minimum necessary to grant relief to the applicant.*

The requested variance is not the minimum necessary to grant relief to the applicant. A smaller footprint could be realized by eliminating the space for the motor home and boat storage. The proposal is not the minimum necessary to provide for a standard single family home and a garage. Some homes in the area do have garage/shop buildings of similar size, but are on lots that are larger with greater depth to the shoreline.

***KCC 19.100.135 (Critical Area Variances). A variance may be granted when it can be shown that the application meets all of the following criteria:***

*A. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this Ordinance is found to deprive the subject property of rights and privileges enjoyed by other property owners in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.*

Other waterfront homes in the vicinity have been built over many decades under varying regulations. Many of them have greater depth and met the setbacks required at the time they were built. In 1999 a similar reduction, from what was then a required 35 foot shore line setback, was approved for the adjacent lot to the south. This lot can not be developed with out a variance based on is depth to the shoreline.

*B. The special circumstances, referred to in item A above, are not the result of the actions of the current or previous owner.*

The lot was platted many years ago before shoreline or critical area buffers or setbacks where required.

*C. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or be injurious to the property or improvements in the vicinity and area in which the property is situated, or be contrary to the goals, policies and purpose of this Ordinance.*

The lot has been heavily altered in the past when it was terraced to create useable area and a bulkhead was construed. There is very little habitat on the site. Development of the residence and garage will not result in additional loss of habitat. Impermeable surfaces will increase very little since much of the building foot print will be in areas that are already developed.

*D. The granting of the variance is the minimum necessary to accommodate the permitted use.*

Single-family development is the permitted use in the Rural Residential zone and in the Semi-Rural Shoreline Designation. The currently required shoreline buffer and building setback found at KCC 19.300.315 would not allow development of a single-family residence on the site. The proposal is the minimum necessary to meet the basic goals of the applicant. It would allow for development of a single-family residence.

*E. No other practicable or reasonable alternative exists (See Definitions, Chapter 19.100.170).*

The Critical Areas Code defines a reasonable alternative as “an activity that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.” The applicant could reduce the footprint to better conform to the front yard set back, and possibly the shoreline setback. However, the requested shoreline setbacks are consistent with those approved in 1999 for the home to the south, and reasonable considering the lot depth.

*F. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.*

Due to the extremely small size of the lot there are no opportunities for mitigation.

### **Conclusions:**

1. The Hearing Examiner has review authority for the subject variance requests under KCC Sections 19.100.135.B and 21.04.03.
2. Staff has reviewed the request to allow variances to KCC Title 17 (Zoning) and KCC Title 19 (Critical Areas) against the applicable criteria in each code.
3. Staff finds that the proposal does not meet the criteria for granting the zoning variance under KCC Title 17, but does meet the criteria for granting the shoreline setback reduction under KCC Title 19.

Strict application of the Critical Areas requirements would prevent the applicant's objective of constructing a single-family residence and garage on a very constrained residential lot. The lot has very limited depth between Seabeck Highway and the shoreline. A variance from the shoreline buffer and set back is necessary as a result of special circumstances applicable to the subject property.

The variance from the front yard setback does not meet applicable criteria because it is not "the minimum necessary to grant relief to the applicant" on such a restricted lot. A house and smaller garage can be designed that could meet the required front yard setback, or significantly reduce the amount of necessary setback reduction.

**Recommendation:**

Based upon the above findings and conclusions, it is recommended that the request for the Zoning Variance be **denied** and the request for the Critical Area Variance be **approved**, subject to the following conditions:

1. With the exception of setback reductions granted under this variance request, site development shall meet all applicable Kitsap County codes and Kitsap Health District regulations.
2. Consideration may be given to a limited front yard setback reduction (not to exceed 50%) that allows an increase to the proposed shoreline setback by an equivalent amount.

cc: Gary and Sherry Keenan PO Box 777, Tracyton, WA 98393  
David Grellier 1921 Bentley Drive NE, Bremerton, WA 98311  
Interested Parties:  
Jerry and Judi Carter 14674 Seabeck Hwy NW, Seabeck, WA 98380  
William and Linda Riplinger 14650 Seabeck Hwy NW, Seabeck, WA 98380  
Skokomish Indian Tribe  
Bremerton-Kitsap County Health District, MS-30  
Kitsap County Development Engineering / Public Works  
DCD Staff Planner David Greetham  
Hearing Examiner  
Clerk of Hearing Examiner  
DCD File