

WHATCOM COUNTY HEARING EXAMINER

re: The application of **Brenda Reeder** for a Zoning Variance Permit

VAR2021-00002

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The applicant is requesting a zoning variance to reduce the front yard property line setback on a 9,000 square foot lot. Specifically, the applicant is requesting to reduce the required front yard property line setback from 25 feet to five (5) feet to accommodate a manufactured home and a deck. The applicant is also requesting a variance to reduce the parking stall width and length for two (2) parallel off-street parking stalls, addressed 502 Hilltop Drive, Sedro Wooley, WA 98284

Decision: The requested Zoning Variance Permit is approved, subject to conditions.

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

FINDINGS OF FACT

I.

Applicant: Brenda Reeder

Site Address: 502 Hilltop Drive
Sedro Wolley, WA 98284

Agent: Mark Robinson
12121 Admiralty Way
Everett, WA 98204

Assessor's Parcel Number: 370432-205542

Legal Description: Glenhaven Lakes Div. No. 2, Lot 32, Block 3

Zoning: Rural (R2A)

Subarea: Lake Whatcom

Lot Sizes: 9,000 square feet

Roads: Public

Water & Sewer Supply: Public Water (Glenhaven Lakes Club Water System) & On-Site Sewage

Fire Protection: Fire District #18

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: School District #507

Topography: The entire site is sloping toward the west and has a steep slope on the west end of the property.

Vegetation: The subject site is vegetated with trees and shrubbery.

Adjacent Land Uses:

North:	R2A - Residential
East:	R2A - Residential
South:	R2A - Residential
West:	R2A - Residential

SEPA Review: Categorically exempt from SEPA threshold review.

Authorizing Codes, Policies, Plans, And Programs:

1. Revised Code of Washington (RCW) Chapter 36.70
2. Revised Code of Washington (RCW) Chapter 58.17
3. Whatcom County Comprehensive Plan
4. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance

5. Whatcom County Code, Title 14, Use of Natural Resources
6. Whatcom County Code Chapter 12.08, Development Standards
7. Whatcom County Code Chapter 15, Building Code/Fire Code
8. State Environmental Policy Act (SEPA); Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
9. Whatcom County Code Chapter 16.16, Critical Areas
10. Whatcom County Code Title 24, Health Regulations
11. Whatcom County Code Title 22, Land Use and Development Procedures

Legal Notices: Mailed – Notice of Public Hearing, May 4, 2021
Posted – Notice of Public Hearing, May 9, 2021
Published – Notice of Public Hearing, May 12, 2021
Online Publication of Agenda and Zoom links – May 12, 2021

Hearing Date: May 26, 2021

Parties of Record

Brenda Reeder, Applicant
PO Box 22357
Juneau, AK 99802

Mark Robinson
12121 Admiralty Way
Everett, WA 98204

Robby Eckroth – Planner II – Current Planning
5280 Northwest Dr
Bellingham, WA 98226

Aaron Carbon
450 Hilltop Drive
Sedro Woolley, WA 98284

Hearing Examiner Exhibit List:

1. Application
2. Agent Authorization
3. Fee Responsibility
4. Preliminary Stormwater

5. Preliminary Traffic
6. Encroachment Application
7. Deed
8. Site Plan
9. Receipt
10. Determination of Incompleteness
11. Determination of Completeness
12. Legal Notice
13. Mailing Notice
14. Vicinity Maps
15. Site Visit Photos
16. Public Comments
17. Staff Memos
18. Staff Reports
19. HE Exhibit List
20. Bellingham Herald Legal Notice May 12, 2021
21. Certificate of Posting Public Hearing May 9, 2021
22. Notice of Hearing Mailed May 4, 2021

II.

The Applicant on behalf of the property owner is requesting a zoning variance to reduce the front yard setback from 25 feet to 5 feet to accommodate an existing 1,296 sq.ft. manufactured home, the replacement of an existing retaining wall, and replacement and reconfiguration of an existing deck. Additionally, the applicant is requesting a zoning variance to reduce the parking stall width from 10 feet to 9 feet for 2 parallel off-street parking stalls. Staff determined that the retaining wall is a permitted use and is no longer part of the Variance request.

III.

The Whatcom County Technical Review Committee has recommended approval of the requested Zoning Variance Permit in the Staff Report, Exhibit 18, dated May 3, 2021, subject to the conditions. The Applicant testified that there were no factual inaccuracies in the staff report and that the applicant had no objections to the recommended Conditions of Approval.

The findings of staff set forth in the Staff Report are supported by the record as a whole (a copy of which is attached hereto), and are incorporated herein as findings of fact by this reference.

IV.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

As indicated in the factual findings the subject property is a modest sized lot encumbered by steep slopes and the need for an onsite sewage system. These limitations result in a home location that requires a variance from the front yard setback requirements. Staff has concluded that the requested variance is consistent with the Variance criteria in WCC 22.05.024(4) (a) through (c). The Hearing Examiner concurs in this conclusion and should grant the requested Variance subject to the conditions recommended by Staff.

DECISION

A Zoning Variance Permit is hereby granted to Brenda Reeder to reduce the front yard property line setback from 25 feet to 5 feet to accommodate a manufactured home and a deck, and a variance to reduce the parking stall width and length for 2 parallel off-street parking stalls. Assessor's Parcel No. 370432 205542, addressed as 502 Hilltop Drive, Sedro Wooley, Washington, subject to the following conditions:

1. Permit Changes or Modifications: The use and location on site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Inadvertent Discovery: If archaeological materials (bone, shell midden, cobble tools, etc.) are observed during site work, work in the area of discovery shall cease and the

Whatcom County SEPA Administrator (778-5900) LNTHPO (384-2280) and Washington State Office of Archaeology and Historic Preservation (360-586-3065) shall be contacted immediately to determine the significance of the discovery. If human remains are observed, the Whatcom County Sheriff (911) and Lummi Sche'lan'en Department (384-2312) shall be contacted immediately. Compliance with all other applicable laws pertaining to archaeological resources is required.

3. Inadvertent Discovery Plan: A copy of the Whatcom County Inadvertent Discovery Plan shall be on site during all ground disturbing activities and the plan shall be discussed with all contractors on site prior to any ground disturbing activities.
4. Drainage: All development must comply with the drainage standards found in WCC 20.36.656. Stormwater from the proposed development shall be controlled in a manner which does not degrade any critical areas or surface waters, or direct water onto neighboring properties.
5. Right to Farm: Pursuant to WCC, Title 14, the owners of the property upon which this variance is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on the building permit issued by Whatcom County Planning & Development Services.
6. Septic: The property appears to be served by a permitted on-site sewage system. The applicant will be required to provide a current Report of System Status (ROSS) septic evaluation at the time of building permit application.
7. Building Permit: A building permit will be required for this project for previously constructed buildings without permits.
8. Prescreening: Submittal of a building permit application requires a prescreening of the project and a prescheduled application appointment. Refer to the *Residential Structures and Detached Accessory Structures - Permit Application Packet* for additional information and a description of the submittal documents required to apply for a building permit. The packet is available in our office or on-line at: www.whatcomcounty.us/pds under Quick Links > Applications/Forms.
9. Parking Stalls: The 19 feet length parking stalls being applied for in the context of this variance application shall be limited to vehicles that are 19 feet or less in length.
10. Project Expiration: Project permit approval status shall expire two years from the date of approval except where a different duration of approval is authorized by Whatcom County Code, or is established by a court decision or state law, or executed by a development agreement. The decision maker may extend this period

up to one year from the date of original expiration upon written request by the applicant.

NOTICE

This Approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing. Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final.

The Applicant, any party of record, or any County Department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040.

More detailed information about appeal procedures is contained in the Whatcom County Code Title 22 and Title 23.60 and which is available at <http://www.codepublishing.com/WA/WhatcomCounty>.

DATED this 28th Day of May 2021.



Michael Bobbink, Hearing Examiner