

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Variance) VAR2013-0002
Application for)
Doug and Ellen Cameron) 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 setback from 25-feet to 15-feet to accommodate a proposed 480-square foot detached garage.

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

FINDINGS OF FACT

INTRODUCTION

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

I.

Applicant: Doug and Ellen Cameron

Property Location: 7546 Rob-Lee Drive
Blaine, WA 98230

Assessor's Parcel Number: 400131 178358

Zoning: Urban Residential Medium (URM6)

Comprehensive Plan: Urban Growth Area (UGA)

Subarea: Birch Bay - Blaine

Roads: Public

Water Supply: Birch Bay Water and Sewer District

Fire Protection: Whatcom County Fire District No. 21

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Blaine School District No. 503

Topography: The subject site is generally flat in topography.

Vegetation: The subject site is lightly vegetated with decorative landscaping around the existing residence. However, large alders, a willow and a Douglas fir are located near the southwest property line.

<u>Adjacent Land Uses:</u>	North:	URM6 - Single-family residences
	East:	URM6 – Single-family residences
	South:	URM6 – Single-family residences
	West:	URM6 – Single-family residences

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington (RCW) Chapter 36.70

Revised Code of Washington (RCW) Chapter 58.17

Whatcom County Comprehensive Plan

Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures

Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance

Whatcom County Code, Title 14, Use of Natural Resources

Whatcom County Code Chapter 12.08, Development Standards

Whatcom County Code Chapter 15, Building Code/Fire Code

State Environmental Policy Act (SEPA); Washington Administrative Code Chapter 197-11,

Whatcom County Environmental Policy Administration Chapter 16.08

Whatcom County Code Chapter 16.16, Critical Areas

Whatcom County Code, Title 17 – Flood Damage Prevention Code

Whatcom County Code, Title 23 – Shoreline Management Program

Whatcom County Code Title 24, Health Regulations

Legal Notices: Posted – January 30, 2014
Mailed – Notice of Application, October 18, 2013
Notice of Public Hearing, January 21, 2014
Published – Notice of Application, December 6, 2013
Notice of Public Hearing, January 30, 2014

Hearing Date: February 12, 2014

Parties of Record

Doug and Ellen Cameron
250 H Street #823
Blaine WA 98230

Alia Hiller
Pioneer Post Frame Inc.
PO Box 2965
Ferndale, WA 98248

Nick Smith
Whatcom County Planning and Development Services

Sanja Barisic
Division of Engineering

Exhibits:

- 1 Land Use Application with attachments
 - 1-1 Fee Responsibility
 - 1-2 Agent Authorization
 - 1-3 Customer Receipt
 - 1-4 Statutory Warranty Deed
 - 1-5 Determination of Completeness, October 15, 2013
 - 1-6 PDS Address Instructions
 - 1-7 Mailing Labels
 - 1-8 Land Disturbance Permit
 - 1-9 Preliminary Stormwater Proposal
 - 1-10 Preliminary Traffic & Concurrency Information
 - 1-11 PDS Memo to Tech Committee, October 16, 2013
 - 1-12 Form Comment Letter dated October 18, 2013
 - 1-13 Revocable Encroachment Permit Application
 - 1-14 Hearing Examiner Checklist, #1 and #2
- 2 Staff Report, dated February 5, 2014
- 3 Agency Comments
- 4 Site Sketch Map
- 5 Site Photos
- 6 Revised Site Plan
- 7 Public Comment, D. Dean

- 8 Certificate of Mailing, Notice of Application, October 18, 2013
- 9 Legal Notice of Application, December 6, 2013
- 10 Certificate of Posting, Notice of Public Hearing, January 30, 2014
- 11 Legal Notice of Public Hearing, January 30, 2014

II.

The Land Use Services Division of Whatcom County Planning and Development Services, in a Staff Report, dated February 5, 2014, recommended approval of this proposal, subject to conditions. The Findings of Fact and Conclusions of Law set forth in the Staff Report, Exhibit No. 2, a copy of which is attached hereto, are incorporated herein by this reference. The Applicant has indicated that there are no factual inaccuracies in Staff's factual findings. There are no contested facts in this matter. There was no public testimony on the matter at the public hearing.

The Applicant has indicated no objection to the Conditions of Approval requested by Staff.

The Findings of Fact in the Staff Report are hereby adopted by the Hearing Examiner as the Findings of Fact herein.

III.

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.

The request to reduce the front yard setback for the purpose of constructing a detached garage can be granted only if the request is consistent with the Zoning Variance Criteria of WCC 20.84.120 (1 through 3). Subject to Conditions of Approval, this Zoning Variance will be consistent with the applicable Variance Criteria. The requested Variance should be granted subject to conditions.

II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

DECISION

Doug and Ellen Cameron are hereby granted a Zoning Variance to reduce the front yard setback from 25-feet to 15-feet for the construction of a detached garage to be located on Assessor's Parcel No. 400131 178358, addressed as 7546 Rob-Lee Drive, Blaine, Washington, subject to the following conditions:

1. 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. The Applicant shall obtain a building permit issued by Whatcom County Planning and Development Services prior to the commencement of construction activities.
3. 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 (676-6907) 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.
4. Pursuant to WCC, Title 14, the owners of the property upon which this Zoning 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 and Development Services.
5. The Applicant shall comply with Whatcom County Development Standards for all development, unless modified by the administering Official, or appealed to the appropriate agency.
6. The Applicant shall submit a Temporary Erosion and Sedimentation Control Plan to Planning and Development Services for review and approval at the time the building permit is issued.
7. The Applicant shall not extend structural overhangs further than 18-inches into the side and rear yard setbacks, unless modified by the administering Official, or appealed to the appropriate agency.

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

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the Applicant, any opponent of record, or any County Department.

Appeal to County Council. Within ten business days of the date of the Decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the Decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office.

After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 14th day of February 2014.



Michael Bobbink, Hearing Examiner

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-676-6907, TTY 800-833-6384
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RECEIVED
FEB 05 2014
D.E. "Sam" Ryan
Director
WHATCOM COUNTY
HEARING EXAMINER

**WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT**

Date: February 5, 2014
Hearing Date: February 12, 2014

The application of Doug & Ellen Cameron for a Zoning Variance	VAR2013-00002 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant is requesting a zoning variance to reduce the front yard setback off of Rob-Lee Drive from 25 feet to 15 feet. The reduction in setback would accommodate a proposed 480 square foot detached garage.

Recommendation: The Technical Review Committee recommends approval subject to the attached conditions.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant/Agent: Pioneer Post Frame Inc.
Alia Hiller
P.O. Box 2965
Ferndale, WA 98248

Owner: Doug & Ellen Cameron
7546 Rob-Lee Drive
Blaine, WA 98230

Site Location/Address: 7546 Rob-Lee Drive
Blaine, WA 98230

Legal Description: Lot 1, Block 2, Birch Crest Estates, Division No. 1, according to the plat thereof, recorded in Volume 9 of Plats, Page 95, Records of Whatcom County, Washington.

Assessor's Parcel Number: 400131 178358 0000

Zoning: Urban Residential Medium (URM6)

Comprehensive Plan: Urban Growth Area

Subarea: Birch Bay Area

Lot Size: 7,154 Square Feet

Roads: Public

Water & Sewer Supply: Birch Bay Water & Sewer

Fire Protection: North Whatcom Fire District #21

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Blaine School District # 503

Topography: The subject site is flat.

Vegetation: The subject site is lightly vegetated with decorative landscaping around the existing residence. However, large alders, a willow and a Douglas fir are located near the southwest property line.

Adjacent Land Uses:

North:	URM6 - Single-Family Residences
East:	URM6 - Single-Family Residences
South:	URM6 - Single-Family Residences
West:	URM6 - Single-Family Residences

B. 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 2, Chapter 2.33 – Permit Review Procedures
5. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
6. Whatcom County Code, Title 14, Use of Natural Resources
7. Whatcom County Code Chapter 12.08, Development Standards
8. Whatcom County Code Chapter 15, Building Code/Fire Code
9. State Environmental Policy Act (SEPA); Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
10. Whatcom County Code Chapter 16.16, Critical Areas
11. Whatcom County Code, Title 17 – Flood Damage Prevention Code
12. Whatcom County Code, Title 23 – Shoreline Management Program
13. Whatcom County Code Title 24, Health Regulations

III. APPLICATION PROPOSAL

The applicant, Alia Hiller of Pioneer Post Frame Inc. and on behalf of the subject property owners, has submitted an application requesting a zoning variance to reduce the front yard setback off of Rob-Lee Drive from 25 feet to 15 feet. The variance is being requested because the property owners wish to construct a 480 square foot one-story, detached garage. The garage is proposed to be used for personal storage.

The applicant has proposed to locate the single car garage four feet to the south of the existing single-family residence and over an existing concrete pad. The proposed garage would match the existing site line of the residence. The garage will be setback approximately five feet from the rear property line and 32 feet from the south property line. As proposed, only 1/3rd of the southwest portion of the garage would be located within the 25 foot front setback because the width of the property decreases in size towards the south property line.

IV. SITE DESCRIPTION

The subject site (Lot 1, Block 2 of Birch Crest Estates) is approximately 7,154 square feet in size. The property is bound by Leaside Drive to the north/northeast and Rob-Lee Drive to west/southwest. The property is similar in size to other lots within the plat of Birch Crest Estates, but it is of an irregular shape. Specifically, the west (Rob-Lee Drive facing) property line is curved, which varies the overall width of the lot. The lot is 74 feet wide near the north property line, but decreases in size to a width of only 19.26 feet at the south property line.

Currently, the site is developed with a 1,404 square foot doublewide mobile home. The existing mobile home is setback approximately 12 feet from the property line fronting Leaside Drive and 29 feet from the property line fronting Rob-Lee Drive (from the southwest corner of the building). Access to the site is obtained off of Rob-Lee Drive, which is approximately 70 feet south of the intersection of Rob-Lee Drive and Leaside Drive. The applicant has proposed to maintain the existing access point and gravel driveway. The 20 foot by 20 foot driveway will continue to be utilized for two off-street parking stalls.

The subject site is zoned Urban Residential medium (URM6) and is surrounded by existing single family residences. The subject site is lightly vegetated with decorative landscaping around the residence and large trees such as alders, a willow and a Douglas fir near the south property line.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: The Notice of Application for this proposal was published on October 18, 2013. The fifteen (15) day comment period ended on November 6, 2013.

Notice of Public Hearing: The Notice of Public Hearing for this application was published in a one-time newspaper publication in the Bellingham Herald.

Public Comment: During the public comment period for the Notice of Application, Whatcom County Planning & Development Services Department received one comment. A summary and discussion of that comment is listed below:

Comment: The property owner to the south stated that she was concerned that the existing vegetation along the south (shared) property line would need to be removed.

Response: PDS and Public Works Engineering staff met with the concerned property owner at the subject site. Staff stated that the subject property exhibited poor vehicular site distance and that a tree on the concerned neighbor's property would need to be trimmed back. After discussing the issue, the concerned neighbor with the help of Public Works Engineering staff trimmed back the applicable branches.

During the on-site meeting, the property owner handed staff a written comment (see document of record). The comment discussed the importance of landscaping and park-like settings. However and by the end of the meeting, the concerned property owner appeared to be satisfied to learn that only a few branches on one tree had to be removed.

On November 18, 2013, staff from Public Works Engineering submitted a revised memorandum stating no additional site distance concerns.

The Technical Review Committee finds that public comment submitted during the 15 day public period have been adequately addressed in the above discussion.

VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from SEPA threshold review.

Pursuant to WCC 16.08 and WAC 197-11-800 (6)(b), minor land use decisions such as the granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location and/or surrounding are categorically exempt.

VII. CONSISTENCY WITH REGULATIONS, FINDINGS OF FACT

Zoning Variance - Applicable Policies and Regulations

In order for a variance to be approved it must satisfy the criteria of WCC 20.84.120 (1) through (3). In summary, these criteria state that any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone, but be granted because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding, and when the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in the identical zoning classification.

Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section, and the granting of this variance shall not be materially detrimental to the public welfare, or injurious to the property or improvement in the vicinity and zone in which the subject is situated.

The following circumstances, pursuant to WCC 20.84.120 (1)-(3), shall be found to apply in order to grant a variance:

- 1. That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone.**

Staff has no reason to believe that this variance has been requested for financial reasons, is based upon reasons of hardship caused by previous actions or is for pecuniary reasons. In fact, the granting of the variance would be consistent with the surrounding development. Birch Crest Estates primarily consists of single-family residences with either attached or detached garages. However, a much larger portion of the subject site is encumbered by building setbacks than other lots within the development, because the subject property fronts two and half times the amount of road right-of-way (approximately 156.94 feet along Rob-Lee Drive compared to an average of 60 feet of road frontage for other lots within Birch Crest Estates).

- 2. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding, the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in the identical zone classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section.**

The applicant has proposed to construct a 480 square foot detached garage on

a uniquely shaped lot. As stated, the property is very narrow, especially along the south property line where it is only 19.26 feet wide. According to WCC 20.80.210 & 20.80.230 (3), there is a minimum 25 foot setback from the property line fronting Rob-Lee Drive. Rob-Lee Drive runs the length of the subject property. As such and subject to a variance, any new development on the property would be severally restricted because of the width of the lot and location of the front yard setback.

Staff also believes that the proposed location is not for aesthetic reasons. The proposed location appears to be in the most viable spot because the building will not obstruct the view corridor of vehicles at the intersection and the location conforms more closely to the applicable building setbacks. As proposed, only 1/3rd of the building will be located within the front yard setback, whereas more than half of the building would be located in the setback at any other location on site.

As such and with the above circumstances considered, staff believes that the strict application of the zoning ordinance would deprive the subject property owner of an improvement that is otherwise allowed on other lots.

3. The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject is situated.

The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the vicinity. During the review period, staff was initially concerned about vehicles backing out onto the county road right-of-way. However, staff (with the help of the neighbor of lot 17) removed several branches, which improved the view corridor for drivers leaving the subject site. The applicant has also revised the size of the proposed building to ensure that the site contained enough area for two off-street parking spots. With these design changes and improvements, staff now believes that the proposed development will not pose any dangerous situations to the traveling public.

The Technical Review Committee finds that the requested variance meets the three requirements of WCC 20.84.120.

A. WCC Chapter 12.08 – Roads and Bridges

WCC Chapter 12.08 adopts and gives authorization for development standards for development within Whatcom County. Whatcom County shall establish uniform, comprehensive and distinct requirements which shall be applied to all developments. These requirements shall be established as "Whatcom County development standards" and shall exist to provide clear development guidelines for all construction activity within the county. These standards shall establish administrative and technical requirements for the

implementation of land use regulations and shall provide the basis by which developments are evaluated to ensure compliance with county regulations.

The Whatcom County Public Works Department Division of Engineering reviewed the proposal and submitted a revised memo dated November 18, 2013 with the following comments and recommended conditions:

The existing driveway access had some sight distance problems. Some vegetation was trimmed to improve the sight distance requirement. This was accomplished through a Revocable Encroachment Permit: ENC2013-00860.

Engineering Services recommends the following conditions for approval:

1. All development shall comply with the WC Development Standards.
2. The proposed development is subject to Birch Bay watershed review. Preliminary Stormwater Proposal and Temporary Erosion and Sedimentation Control Plan shall be submitted for the review and final approval at the time of building permit.

The Technical Review Committee has determined that as conditioned, the proposed variance meets the requirements of WCC Chapter 12.08.

B. WCC Title 15 – Buildings & Construction

Building Code: WCC Title 15 adopts and amends the applicable building and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the building services division of the Whatcom County Planning and Development Services Department.

The Whatcom County Chief Plans Examiner submitted a memo dated October 30, 2013 with the following comments and conditions:

1. A building permit is required for the proposed structure.
2. 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.

Fire Code: The Whatcom County Fire Marshal submitted a memo dated October 22, 2013 stating no conditions, concerns, or comments on this project at this time.

The Technical Review Committee has determined that as conditioned, the variance would meet the requirements of WCC Title 15.

C. WCC Title 16 – Whatcom County Critical Areas Ordinance

WCC Chapter 16.16 of the Whatcom County Code contains standards, guidelines, criteria and requirements intended to identify, analyze, preserve and mitigate potential impacts to the County's critical areas and to enhance and restore degraded resources such as wetlands, riparian stream corridors or habitat, where possible.

Whatcom County Planning & Development Services Department Natural Resources Division Critical Areas wetlands staff reviewed the proposal and determined that no potential wetlands or habitat conservation areas on the site will adversely be affected with the proposed development of a detached garage.

The Technical Review Committee has determined that the proposed variance will meet the requirements of WCC Chapter 16.16.

D. WCC Title 20.80.636 – Whatcom County Stormwater Special District.

Whatcom County Planning & Development Services Department Watershed staff submitted a memo dated October 31, 2013 with the following comments:

The detached structure will be placed over an existing concrete pad. WCC 20.80.636 requires a stormwater system for all projects on parcels less than 5 acres which increase the impervious surfaces by more than 500 sq. ft. The proposed detached structure will not increase the impervious surfaces.

The watersheds office has no objection to approval of the requested variance. At the time of building permit submittal, an Erosion and Sedimentation Control (ESC) plan must be submitted.

The Technical Review Committee has determined that as conditioned, the proposed variance will meet the requirements of WCC Chapter 20.80.635.

E. WCC Title 20 – Official Whatcom County Zoning Ordinance

WCC 20.22.350 – Building Setback Criteria:

Building setbacks shall be administered pursuant to WCC 20.80.210 and 20.80.230 (3).

WCC 20.80.210 (URM) states minimum building setbacks of 25 feet from the front property line and 5 feet from the rear and side property lines. For corner lots, the owner/builder has the option of selecting the front yard setback if both roads are classified as Local Access streets. Yards on the other flanking streets may be considered side yards; pursuant to WCC 20.80.230 (3).

Discussion: The subject variance is for a reduction of the 25 foot setback from the property line fronting Rob-Lee Drive. The owner/builder had previously selected the front yard setback to be located off of Rob-Lee Drive because that property line offered the safest vehicle access point (i.e. driveway location).

The Technical Review Committee finds that the proposed development, besides the reduction in the front yard setback, will conform to the applicable building setback requirements.

WCC 20.22.400 – Height Limitations:

Maximum height shall be limited to 45 feet. Height of structures shall also conform, where applicable, to the general requirements of WCC 20.80.675.

Discussion: The proposed one-story detached garage conforms to this requirement.

WCC 20.22.450 – Lot Coverage:

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 2,500 square feet or 35 percent, whichever is greater of the total area.

Discussion: As proposed, the total structural coverage will be 1,884 square feet, which is less than the maximum allowable coverage.

WCC 20.22.653 – Parking Requirements:

Parking shall conform to the requirements of WCC 20.80.500, which requires two (2) off-street parking stalls with a minimum rectangular dimension of 10 feet in width and 20 feet in length.

Discussion: The applicant revised the size of the building to ensure that the driveway is large enough to accommodate two-off street parking stalls. As proposed, the development conforms to this requirement.

WCC 20.22.655 – Drainage:

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

Discussion: Whatcom County Engineering staff has reviewed the preliminary stormwater proposal and further has determined no concerns. As conditioned, an Erosion and Sediment Control Plan will need to be provided at the time of submittal of the building permit.

WCC Chapter 20.78 Transportation Concurrency

WCC Chapter 20.78 gives authority to ensure adequate transportation facilities are available or provided concurrent with development.

Public Works Engineering Services reviewed the Preliminary Traffic and Concurrency information submitted at the time of application. Based on the information submitted, a determination was made indicating that there are no further requirements for this proposal.

Discussion: The Technical Review Committee has determined that the proposal conforms to the requirements of WCC Chapter 20.78.

Water & Sewer

Discussion: The site is served by Birch Bay Water and Sewer. The Technical Review Committee finds that no county facilities will be reduced below applicable levels of service as a result of the development.

Fire Protection

Discussion: The proposed use is located within the service area designated as the North Whatcom Fire District #21. Residential uses are considered Rural levels of services, per the Whatcom County Comprehensive Capital Facility Plan. Therefore, the Technical Review Committee has determined that the project meets the requirements of WCC Chapter 20.80.212. The Technical Review Committee finds that no county facilities will be reduced below applicable levels of service as a result of the development.

The Technical Review Committee finds that the proposed variance, besides the reduction in the front building setback, conforms to the applicable requirements of the Whatcom County Zoning Ordinance.

F. WCC Title 23 – Shoreline Management Program

WCC Title 23 contains standards that regulate development within the shorelines of the state pursuant to the State of Washington Shoreline Management Act (SMA). The purpose and intent of the Whatcom County Shoreline Management (SMP), Title 23, is to promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development

and use of Whatcom County shorelines; and to manage shorelines in a positive, effective, and equitable manner.

The proposed development is not located within the jurisdiction of the Whatcom County Shoreline Management Program; therefore the proposed use is exempt from the requirements of Title 23.

G. Health Code (Title 24)

The purpose of Title 24 is to provide minimum standards to safeguard public health and welfare.

The Whatcom County Health Department (WCHD) reviewed the application and stated no comments or concerns for this application.

The Technical Review Committee has determined that the project meets the requirements of WCC Title 24.

VIII. RECOMMENDATION

The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve the applicant's variance request to reduce the front yard setback from 25 feet to 15 feet for the construction of an accessory detached garage, subject to the requested conditions in Section IX of this report.

IX. CONDITIONS OF APPROVAL

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. Building Permit: Whatcom County Planning and Development Services must issue a building permit prior to the commencement of construction activities.
3. Chapter 5 Development Standards: The development shall comply with the Whatcom County Development Standards.
4. Erosion and Sediment Control: A Temporary Erosion and Sedimentation Control Plan shall be submitted for review and final approval at the time of the building permit.
5. Structural Overhangs: Structural overhangs may not extend further than 18 inches into the side and rear yard setbacks.
6. 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 (676-

6907) 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.

7. 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.

Report prepared for the Technical Review Committee by:

Nick Smith
Planner