



## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

Jim Miller

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January 13<sup>th</sup>, 2017

Mr. Miller,

After review of relevant sections of the Shoreline Master Program, the following determinations have been made in regards to your proposed structure. Considering that the primary structure for the existing home is approximately 54 feet from the Ordinary High Water Mark, the Kittitas County Shoreline Master Program (SMP) 7.2(4) applies, with the existing residence qualifying as a nonconforming structure.

Relevant provisions are found in SMP 7.2(4)(c):

- iv. *Enlarging or expanding a nonconforming residential structure used for a conforming use in a manner that increases the extent of nonconformity may be allowed if the change is consistent with the provisions of this Program and demonstrates no net loss of shoreline ecological functions.*
- vi. *A nonconforming structure which is moved any distance must be brought into conformance with this Program and the Act.*

Further, SMP 7.(6)(b) provides the criteria a project must meet in order to qualify for a variance. They read as follows:

- b. *Review criteria for all variances. Variance permits for uses and/or development that will be located landward of the OHWM and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:*
  - i. *That the strict application of the bulk, dimensional or performance standards set forth in the applicable Master Program precludes, or significantly interferes with, reasonable use of the property;*
  - ii. *That the hardship is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;*
  - iii. *That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will not cause adverse impacts to the shoreline environment;*

- iv. *That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;*
- v. *That the variance requested is the minimum necessary to afford relief;*
- vi. *That the public interest will suffer no substantial detrimental effect; and*
- vii. *That the cumulative impact of additional requests for variances in the area where similar circumstances exist would not produce substantial adverse effects to the shoreline environment.*

The structure is legally established, though nonconforming due to the short distance from the OHWM. As a single family residence, the structure is allowed under the use provisions of the SMP. Under SMP 7.2(4)(c)(iv) above, expanding the existing structure is allowed without a variance provided that it can be demonstrated that the expansion will result in “no net loss” of ecological function, and that the expansion does not move the existing structure closer to the shoreline.

The original proposal included removing and the rebuilding the structure. Under SMP 7.2(4)(c)(vi), removing and then replacing the structure will require a variance in order to bring it into compliance with the SMP.

Variance applications require applicants to demonstrate that all conditions in SMP 7.6(b) apply to the proposed project. The variance process would involve an application made to CDS, and if approved by CDS, would then be either granted final approval or denied by the Washington Department of Ecology.

The proposed residence may run into an issue with 7.(6)(b)(i). The provision can be interpreted to mean that the existing use is “reasonable”. To summarize, expansion of the existing structure is permitted without obtaining a variance provided that the expansion moves no closer to the OHWM, and removing and replacing the structure will require a variance.

If we can be of any further assistance, please do not hesitate to contact me at Community Development Services.

Sincerely,

A handwritten signature in cursive script that reads "Robert 'Doc' Hansen".

Robert 'Doc' Hansen  
Planning Official, Kittitas County