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SKAMANIA COUNTY
BY Ed Callahan

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**Skamania County
Department of Planning and
Community Development**

Skamania County Courthouse Annex
Post Office Box 790
Stevenson, Washington 98648
509 427-9458 FAX 509 427-4839

Critical Areas Variance Administrative Decision

APPLICANT: Ed Callahan

FILE NO.: CA-99-10

DESCRIPTION: Request to reduce the Critical Areas setback of 100 feet from the Wind River to 50 feet for a cabin site. Existing old foundation is present on site and is in good condition.

LOCATION: Lyons Road, off of Berge Road, Home Valley, Section 27, T3N, R8E, Tax Lot No. 3-8-27-3-200. Legal Description is recorded on Book 118, Page 98 and is attached. *on Page 6.*

ZONING: Community Commercial

DECISION: Based upon the entire record before the Director, including particularly the Staff Report, the application by Ed Callahan, described above, subject to the conditions set forth in this Decision, is found to be consistent with Title 22 SCC and is hereby approved.

Although the proposed development is approved, it may not be buildable due to inadequate soils for septic and/or lack of potable water. These issues are under the jurisdiction of Skamania County's Building Department and the Washington State Health District.

Approved by _____
Signed _____
Signed _____
Signed _____

Approval of this request does not exempt the applicant or successors in interest from compliance with all other applicable local, state, and federal laws.

January 7, 2000

Dear Mr. Callahan :

Section 21A.04.020(C)(3) of the County's Critical Areas Ordinance establishes an administrative variance procedure for requests that reduce setbacks no more than 50%. Your request to reduce the 100 foot setback established for the Wind River falls within the administrative review process.

The Planning Department has reviewed your Variance request for a reduction from the 100 foot setback established for the Wind River. Based on the criteria in the County's Critical Area Ordinance and the County's Zoning Ordinance set out below, the following decision has been made.

DECISION:

THE VARIANCE REQUEST TO REDUCE THE 100 FOOT SETBACK ESTABLISHED FOR THE WIND RIVER TO NO LESS THAN 60 FEET IS HEREBY APPROVED BASED ON THE FOLLOWING FINDINGS OF FACT. (The 60 feet was established by Staff based on the existing foundation location and measurements taken from the OHWM of the Wind River as the applicant did not clearly state on the application what distance he was requesting from the Wind River.)

Applicable review criteria from County Code:

- §21.16.060(B) *[A]ny variance granted. . . shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated. . . .*
- §21.16.060(B)(1) *Because of special circumstances applicable to [the] subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classification and/or special purpose district;*
- §21.16.060(B)(2) *That 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 classification and/or special purpose district in which subject property is situated;*

In addition to the criteria set out in Section 21.16.060(B), any applicant for a variance under this Chapter must further show:

Planning and Community Development
(Callahan)

no practicable alternative exists to locating the proposed development within a 100 foot buffer from the Wind River, Creek or other water.

the mitigation measures agreed to by the applicant are adequate to avoid significant degradation of the pond, lake or creek.

This lot is zoned Community Commercial and the cabin site the applicant is requesting is a permitted use in this zone. The applicant is merely asking to reduce the 100 foot buffer to 60 feet in order to be able to utilize an existing foundation on the property. This foundation existed prior to the establishment of a Critical Areas buffer from the Wind River and the applicant has no alternative, without disturbing other undisturbed areas on the property, but to reconstruct a cabin from the old site slightly within the buffer zone. This zone allows for this activity to occur. This approval should not result in a special privilege. Also, the applicant, similar to other homeowners in the area, is entitled to develop his property in this manner and this approval should not grant a special privilege.

However, this approval is only granted due to the existing foundation the applicant is proposing to utilize. Staff has determined that requiring the applicant to utilize another undisturbed site would cause additional portions of the property to be disturbed unnecessarily. Any and all additional sites that may be utilized in the future will be required to maintain the undisturbed buffer from the Wind River. Furthermore, the 60 foot buffer shall not be disturbed in any manner which includes all portions of the cabin (i.e. decking, roof eaves, steps, stairways, etc.) Furthermore, as stated below, the applicant should be required to plant all required vegetation prior to the issuance of a building permit in order to reduce impacts to the water resource.

The size and the shape of the lot do not seem to be special circumstances that would require a variance, however, as stated above and as shown on the applicant's site plan, he is limited in location due to the existing foundation on the property. If a variance was not granted, the applicant would have to locate the proposed cabin (which includes utilizing the existing foundation) into a previously undisturbed area and would require more grading and vegetation removal than to locate it within the proposed building site.

Based on staff's analysis of the site and the opportunity to use an existing disturbed area rather than disturb an un-used portion of the property, there does not appear to be any practicable alternative to locating the development outside of the 100 foot buffer. Although the applicant will be utilizing an existing foundation, thus not removing any existing trees, a condition requiring additional planting prior to issuance of a building permit and a requirement to re-seed all graded areas prior to the building permit's final inspection, should provide for adequate on-site mitigation.

The granting of this variance should not be detrimental to the public welfare or injurious to the property or improvements in the area with appropriate conditions as follows:

1. Designate the area between the proposed cabin site and within 60 feet of the Wind River as a natural area and the vegetation and ground within the natural area shall not be disturbed nor developed. All persons are restricted from constructing any new structures, or doing vegetation removal or trimming, excavation, grading, filling, bank stabilization or other disturbance of the natural

environment to occur, or allowing motorized vehicles or tools within said natural area. All persons entitled to use said natural area shall only use the same for recreational purposes which do not disturb the natural environment. This natural area is intended to control surface water and erosion, maintain slope stability, visual and aural buffering, and protection of plant and animal habitat.

2. The 60 foot undisturbed buffer, described in Condition # 1, above, shall be entirely planted with vegetation to reduce impacts to the Wind River. This buffer area shall be planted with Douglas Firs and Western Red Cedars to create a vegetative cover at a minimum of 6 foot centers.
3. All graded areas shall be re-seeded with native vegetation. Prior to the Building Department's final inspection, the applicant shall notify the Planning Department and Planning Staff shall conduct a site visit to determine compliance with this condition.
4. All trees planted shall be flagged. Prior to the Building Department's final inspection, the applicant shall notify the Planning Department and Planning Staff shall conduct a site visit to determine compliance with Conditions # 2 and 3, above.
5. All other appropriate permits shall be obtained from public agencies.
6. Prior to the issuance of any building permits on the subject lot, this decision with an attached legal description shall be recorded at the County Auditor's office.

If you disagree with this administrative decision you may appeal this decision to the Skamania County Board of Adjustment. If you have any further questions regarding this decision please feel free to call the Planning Department at (509) 427-9458.

Sincerely,

Kari R. Fagerness
Kari R. Fagerness
Planner

APPEALS

This Administrative Decision shall be final unless reversed or modified on appeal. A written Notice of Appeal may be filed by an interested person within 20 days from the date hereof. Appeal may be made to the Skamania County Board of Adjustment, P.O. Box 790, Stevenson, WA 98648, on or before 1/27/00. Notice of Appeal forms are available at the Department Office.

cc: Property owners within 300 feet of the parcel
Other interested parties
Steve Manlow, WDFW
Building Department

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SITE PLAN:

Scale: _____ inches = _____ feet

Hand-drawn site plan diagram showing a rectangular area labeled "Youth's Home" and a smaller rectangular area labeled "Road". A wavy line is drawn across the middle of the plan. A small square is labeled "Cabin".

I will be moving more than 100 cubic yards of soil: yes _____ no _____
Additional pages must have 1" margins. Site plan must be completed in ink.

NOTICE: This is an initial site plan, it may be revised throughout the application process.

A parcel of land located in Section 27, Township 3 North, Range 8 E.W.M., described as follows:

Beginning at the Northwest corner of the WILLIAM M. MURPHY D.L.C. No. 37; running thence East 447.03 feet; thence South 14 deg. 15 min. West 193.50 feet; thence North 82 deg. 43 min. East 107.0 feet; thence South 28 deg. 31 min. West 260.0 feet; thence South 19 deg. 17 min. East 471.0 feet; thence South 84 deg. 28 min. West 89.5 feet; thence North 24 deg. West 142.0 feet; thence North 14 deg. West 60.0 feet; thence North 23 deg. West 93.0 feet; thence North 26 deg. West 100.0 feet; thence North 44 deg. West 200.0 feet; thence North 47 deg. West 116.0 feet; thence North 43 deg. West 111.4 feet; thence West 71.31 feet; thence North 22 deg. East 201.50 feet to the point of beginning.