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Return Address: Steve and Kelli Hickey  
2421 Canyon Creek Road  
Washougal, WA 98671

BOOK 231 PAGE 650

FILED RECORD  
SKAMANIA WASH

BY Steve Hickey

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Amosen

J. MICHAEL GARVISON

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

Received  
DATE 11-1-02  
BY 4

Critical Areas Administrative Variance CA-99-09

**APPLICANT:** Steve and Kelli Hickey  
**FILE NO.:** CA-99-09  
**PROJECT:** Critical Areas Variance Request reducing the 100 foot buffer from Canyon Creek to 50 feet for construction of an accessory structure.  
**LOCATION:** 2421 Canyon Creek Road, in Washougal; Section 9 of TIN, R5E, W.M., and identified as Skamania County Tax Lots # 1-5-9-402. Legal Description is LOT 1 of the HAACK SHORT PLAT recorded in Book 1, Page 10.  
**ZONING:** Forest/Agriculture (FA-20)

January 7, 2000

Dear Mr. and Mrs. Hickey:

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%.

Page 2

Your request to reduce the 100 foot buffer established for Canyon Creek to no less than 50 feet falls within the administrative review process.

The Planning Department has reviewed your Variance request for a reduction from the 100 foot buffer established for Canyon Creek to a buffer no less than 50 feet. 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 CANYON CREEK TO NO LESS THAN 50 FEET IS HEREBY APPROVED BASED ON THE FOLLOWING FINDINGS OF FACT.**

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:

- a. *that no practicable alternative exists to locating the proposed development within a pond, lake or buffer area;*
- b. *that on-site mitigation measures agreed to by the applicant are adequate to avoid significant degradation of the pond, lake or creek.*

The applicants are merely asking to reduce the 100 foot buffer to 50 feet, in order to be able to construct an accessory structure on their property and construction of the accessory structure should not grant a special privilege based on site specific restrictions.



Approximately  $\frac{1}{4}$  of the subject property is south of Canyon Creek and is currently undeveloped. Specifically the lot dimensions are approximately 330 feet (wide) by 425-450 feet (long) ranging from approximately 200 feet down to 100 feet of buildable area north of Canyon Creek. Furthermore, as indicated on the site plan, there is approximately 60 feet of unbuildable land from the centerline of Canyon Creek Road to the applicants' driveway due to a steep hillside, reducing buildable areas even further. The applicants are proposing to build the structure on the north side of Canyon Creek clustering the structure with existing development. The applicants currently have an existing residence and should reasonably be allowed to construct an accessory building to that residence.

The above site conditions should be considered special circumstances. If the 100 foot buffer was not varied the applicants would have no feasible building area on the property and would not be able to build the structure.

Furthermore, based on the above stated buffers, there is no practicable alternative to locating the proposed structure outside of the 100 foot buffer. Requiring the reduced 50 foot buffer be left in an "undisturbed state" should provide for adequate on-site mitigation to offset the loss of the 50 foot buffer. The current site conditions consist of a grassy lawn down to the creek's edge and a small cleared lawn area on the south side of the creek. Although this condition reduces land disturbing activities and vegetation removal during construction, a grass lawn is not considered an "undisturbed buffer". Therefore the 50 foot buffer should be re-vegetated with riparian type vegetation and then left in a natural state. Re-vegetation should satisfy on-site mitigation requirements. Staff completed a site visit on October 1, 1999 and the 50 foot buffer is the maximum buffer possible while still allowing the structure to reasonably be placed on the property.

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 south of the proposed structure and within 50 feet of Canyon Creek on both the North and South banks 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 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 fish, plant, and animal habitat.
2. The 50 foot undisturbed buffer, described in Condition # 1, above, shall be entirely re-planted with riparian-type vegetation to reduce impacts to Canyon Creek. The riparian area within 25 feet of Canyon Creek shall be

planted with Native Willows, Alders and Red Osier Dogwoods at 4 foot centers. The remainder of the 50' buffer area shall be planted with the above trees in addition to Western Red Cedars to create a vegetative cover at a minimum of 8 foot centers.

3. The existing grass lawn within this 50 foot buffer shall not be further mowed with the exception of cutting around the above specified plantings as is necessary for their survival and healthy growth. The above specified plantings need not occur in areas with existing riparian vegetation.
4. Prior to issuance of a building permit, Planning Staff shall conduct a site visit to determine compliance with Condition # 2, 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 shall be recorded at the County Auditor's office.

If you disagree with this 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. Fagermess*

Kari R. Fagermess  
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 1/27/02. 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



**SITE PLAN:** Scale: \_\_\_\_\_ inches = \_\_\_\_\_ feet

CANYON CREEK RD.

HILL

DRIVE WAY

YARD

HOUSE

DECK

steep slope

WOODS ROAD

PROPOSED 20' x 60' SHED

YARD

12' x 16' STORAGE SHED

12' x 16' STORAGE SHED

GARDEN

WOOD SHED

CANYON CREEK

YARD

HILL

I will be moving more than 100 cubic yards of soil: yes \_\_\_\_\_ no ☒ X

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.