



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3011178
Applicant Name: Jeffrey Smith
Address of Proposal: 10111 – 51st Avenue SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow expansion of a nonconforming single family residential structure.

The following approvals are required:

Shoreline Variance - To expand a residential structure waterward of adjacent residences in an Urban Residential environment (SMC 23.60.198.B.1).

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition,
Or involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The property is a waterfront lot fronting Puget Sound in West Seattle. The site has six sides and resembles a boomerang, or two rectangles joined together at an angle. It has a total area of approximately 24,150 square feet with approximately 8,000 square feet of dry land area. The dry land portion is approximately 48 feet wide along the street frontage with 51st Avenue SW and 60 feet wide at the shoreline bulkhead, and is about 145 feet deep. The property is accessed directly from 51st Avenue SW.



The property is zoned SF-5000: Single-Family Residential, with a minimum lot size of 5000 square feet. The dry land portion of the property exceeds the minimum lot size of the zone. The subject site, similar to neighboring properties on the west side of 51st Avenue SW, is within 200 feet of the Ordinary High Water Mark (OHWM) of Puget Sound. The dry land portion of the site is designated as an Urban Residential Shoreline Environment (UR); the portion of the site waterward of the OHWM is designated as a Conservancy Recreation Shoreline Environment (CR). The property has also been designated as within an Environmentally Critical Area under Seattle Municipal Code (SMC) Chapter 25.09, Regulations for Environmentally Critical Areas, due to the presence of flood-prone areas, liquefaction-prone areas, and fish and wildlife habitat conservation area (shoreline habitat buffer).

The property is developed with a legally existing 1.5-story duplex, constructed on the easterly portion of the property near 51st Avenue SW and a separate single family residence constructed on the westerly portion of the property near the water. Both structures were constructed in 1918, according to King County Assessor's records. The separate single family residence is the structure proposed for remodeling. It has been established by DPD as a single family residence "for the record" under Seattle Building Permit No. 6240587, issued March 28, 2011. The easterly portion of the site is relatively level, but slopes gradually downward toward the west, where the water is located. The slope is more pronounced on the westerly portion of the property in the vicinity of the existing single family structure on the property, where there is a drop off between the easterly portion of the site and the westerly area.

Because the shoreline angles from northwest to southeast in the vicinity of the property and the house to the north of the property is set well back from the water, the westerly residence on the lot is mostly forward of the residential shoreline setback. The west façade of the house is actually slightly landward of the west façade of the water-ward house to the south (10119 51st Avenue SW, which is also a site with multiple residences), but the west façade of the house to the north (10039 51st Avenue SW) is about 60 feet east of the shoreline, and thus the subject house is much closer to the water and in front of the house to the north. The existing house, however, is much lower than the house to the north, as there is about a 10-foot drop in elevation between the southwest corner of the house to the north and the water-ward or west façade of the subject house, and the subject house is somewhat terraced into the slope beneath its neighbor to the north. Because of the location of the subject house in relation to its neighbors, the structure is non-conforming to the Shoreline setback requirements of SMC 23.60.198.B and as determined by DPD Director's Rule 4-89.

Many other parcels in the immediate area are of similar size and shape, with similar ratios of dry land to submerged land, and with multiple structures on the dry land portion of the site. At least two other parcels in the immediate vicinity, 10027 and 10119 51st Avenue SW, have more than one principal residence on the same lot.

Proposal Description

The applicant proposes to remodel the existing structure to raise the ground floor 3.55 feet above the base flood elevation (BFE) and raise the overall height of the structure by five feet. The additional height allows a minimum sloped roof instead of a flat roof for better drainage from the roof and improved second floor ceiling height of eight feet instead of seven feet. The footprint and square footage of the structure will remain unchanged, but the entire structure is forward of the residential shoreline setback, and the change in height will increase the bulk of the structure in the required shoreline setback. The alterations will result in a change to the physical appearance of the structure and an increase in the building envelope due to increase in height.

Single family dwelling units are allowed outright in the underlying SF 5000 zone. The subject structure is nonconforming to the development standard of SMC Section 23.44.006.A that limits the number of single family structures per allowed to one per lot. Both structures were constructed on the property well prior to the adoption of the Code requirement limiting the number of houses to one per lot, so the existing structure is considered legally nonconforming to the standard. The UR Shoreline Environment further allows both single and multi-family uses but requires that for a use to be allowed it must be permitted in both the designated Shoreline Environment and the underlying land use zone (SMC 23.60.122). The proposed renovation and structural alterations to the single-family residence will not affect conformance with the allowed uses of the underlying Land Use zone or with the Shoreline Master Program regulations.

The existing structure is a non-conforming structure in the UR Shoreline Environment due to its partial location in the shoreline setback and its location just slightly within the 25-foot buffer required under the Regulations for Environmentally Critical Areas, Section 25.09.200.B.4.d.3, the shoreline habitat buffer. Non-conforming structures may be maintained, renovated, repaired, or structurally altered but are prohibited from expanding or extending in any manner that increases the extent of the nonconformity (SMC 23.60.124). Any physical expansion of a non-conforming structure water-ward of the shoreline setback, as opposed to renovation or repair, is considered an increase in that non-conformity.

The proposed renovation and alteration will increase the overall height of the structure by raising the first floor level above the base flood elevation level to address periodic flooding in the flood-prone critical area and substitute a pitched roof for the existing flat roof, with no increase in floor area or building footprint. No changes would be made to cause the structure to project further water-ward of the existing shoreline setback.

The shoreline setback for the subject property and structure is determined by the “string-line” method outlined in DPD Director’s Rule 4-89. In this situation it is a line drawn from the nearest shore-side corner of the adjacent residence to the north (10039 51st Avenue SW) to the shore-side corner, closest to the shoreline, of the water-ward structure to the south (10113 51st Avenue SW, which is on a site addressed as 10119 51st Avenue SW that also has two residences on one lot). The resultant Shoreline set-back line runs through the existing subject structure approximately 26 feet to the east of its northwest corner and approximately 13 feet to the east of its southwest corner (roof overhangs extend about 18 inches further into the setback).

The determined setback, affecting approximately 80 percent of the applicant’s existing structure, is due to the substantial set-back of the structure to the north (10039) from the shoreline. This ranges from a setback of about 53 feet to 65 feet from the OHWM (existing seawall) and is greater than the setbacks of many of the existing residential structures, both single family and multifamily, to the north and south in the vicinity.

In any case, the applicants are requesting a variance only to allow a modest increase in the height of the structure forward of the string line setback. The proposed remodeling will not increase the footprint or the habitable space of the existing house. The increase in height is necessary to protect the structure from flooding and to create adequate ceiling height for the two floors of the structure.

The renovated house will appear to be one story from Beach Drive SW and will appear to be two stories as viewed from the water-ward side, just as it does now. The increase in height will slightly affect views from the upper story, particularly the second story deck, of the structure to the north. The proposed alterations are in compliance with the underlying SF 5000 zone.

Public Comment

The project's 30-day public comment period ended September 14, 2010. No comment letters were received.

ANALYSIS – SHORELINE VARIANCE

In specific cases the Director, with approval of the Department of Ecology, may authorize variances from certain requirements of the Shoreline Master Program, if the request complies with WAC 173-14-150 (See SMC Section 23.60.036). Shoreline variance criteria are as follows:

- 1. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.***

RCW 90.58.020 sets forth preferences for types of uses allowed by local Shoreline Master Programs. Use preferences and development standards in Shoreline Districts contained in local Shoreline Master Programs and approved by the State Department of Ecology are presumed to be consistent with these policies.

Seattle's Shoreline Master Program (SMP) establishes Shoreline Districts, with their accompanying development standards, to direct the nature and extent of development in its shorelines of statewide significance. Seattle's SMP also provides a variance process to allow for flexibility in certain bulk, dimensional or performance standards when extraordinary circumstances relating to the physical character or configuration of a property would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. The subject property is located in an Urban Residential (UR) Shoreline Zone, which allows the development of single-family structures. The variance request for expansion of the envelope of the existing single-family residence is based on the substantially larger setback of the neighboring structure (10039), which in effect establishes a substantially greater setback for the applicant's property. Further, most of the increase in bulk is required to protect the structure against periodic flooding and to comply with current Code requirements for structures in flood-prone areas (see SMC Section 25.09.120.C.) The effect on views of the water from adjacent property is minimal. No detrimental effect to the public interest or surrounding neighborhood can be expected, or thwarting of the policies of 90.58.020.

- 2. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:***

- a) 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;*

Seattle's SMP and ECA regulations require the greater of either the shoreline "string-line" determined setback or the Shoreline Habitat setback, whichever is greater. Applicable intentions of this setback standard are to limit the bulk of shoreline structures and protect views from adjacent properties.

The adjacent structure at 10039 is an exception to the general development pattern along the street, although several other structures also have setbacks of 50 feet or more from the seawall. The 10039 residence is located about 65 feet from the seawall at its northwest corner and 53 feet from the seawall at its southwest corner. The house to the south of the site at 10013 is only about 21 feet from the seawall. The strict application of the residential setback would thus prohibit the applicant's ability to perform a modest and reasonable remodel and alteration of the existing single family residence and therefore significantly interferes with reasonable use of the applicant's property.

A small portion of the structure is also located forward of the Shoreline Habitat buffer setback line. The proposal does not change the structure footprint and, again, strict application of the setback would prohibit the applicant's ability to perform a modest and reasonable remodel and alteration of the existing single family residence.

- b) That the hardship described in (a) of this subsection 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;*

No deed restrictions or current or previous actions by the applicant have produced this situation. It is the unique conditions of the property location in a flood-prone critical area and the location of existing development on the adjacent property to the north that produces this hardship in conjunction with the application of the SMP setback and ECA Shoreline Habitat setback requirements.

- c) 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 shoreline master program and will not cause adverse impacts to the shoreline environment;*

Other than the shoreline setback issue being considered by this application, the proposed alterations are compatible with other authorized uses in the area, both existing and allowed. As noted, the properties to the north and south along the shoreline are substantially of the same size and with the same location relative to the beach, and several have multiple principal structures on the same lot.

The proposed increase in height of the structure for flood protection and addition of a pitched roof will have no impacts on the shoreline environment. The proposed remodeling will occur completely within the existing building footprint and will not change the habitable space within

the structure. More than 95 percent of the proposed increase in bulk would occur entirely behind the 25-foot shoreline habitat setback line on the property and about 20 percent would be behind the existing string-line setback.

Views from adjacent parcels are to the northwest, west, and southwest. The location of the adjacent residential structure at 10039 gives it unobstructed views to the west and northwest. The view to the south and southwest is more limited by the location of the subject residence and by existing vegetation. The views to the southwest from the 10039 residence would be slightly reduced, particularly from the small upper level deck, but the overall view of the water would be similar to the current view, according to the applicant's view analysis. Thus, the proposed alterations are in keeping with the area's established development pattern and view limitations and are consistent with the view protection intent of the SMP. The proposed alterations are therefore compatible with other authorized uses.

d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

A variance for allowing an increase in structure height for compliance with flood control regulations and to add a pitched roof would not constitute a grant of special privilege. The remodeled structure is consistent with the area's development pattern. Very few other properties in the vicinity have a comparable setback limitation caused both by an atypically sited adjacent structure and by the condition of multiple principal structures on the same lot. Considerably more of the adjacent structure (10039 51st Avenue SW) is located behind the stringline setback between the 10111 structure and the structure to the north of 10039 addressed as 10035 51st Avenue Southwest, and remodeling of that structure and others in the same vicinity would be more likely to comply with setback standards without variance relief. Further, it is not a grant of special privilege to allow the applicants to raise their structure to the minimum needed to comply with flood control regulations, a condition that other structures could meet more easily, and to add a pitched roof for better drainage and increase of ceiling height within the structure to match comparable ceiling heights and roof patterns in the vicinity.

e) That the variance requested is the minimum necessary to afford relief; and

The increase in height to comply with minimum floor standards above the base flood elevation is designed to meet the minimum height requirement of 3.55 feet above the BFE. The additional 1.45 feet allows only a minimal pitched roof and minimal increase in ceiling height within the structure, with no increase in building footprint or habitable space.

f) That the public interest will suffer no substantial detrimental effect.

For this proposal, the public interest includes the view impacts to neighboring properties, particularly the property and structure at 10039 51st Avenue SW, and impacts on the shoreline (habitat) itself.

As discussed above, the proposed remodeling will have no substantial detrimental effect on adjacent properties. Most other structures in the vicinity would likely not need variance approval for similar modest expansions of their building envelopes, as they are either behind the stringline setback or behind the 25-foot shoreline habitat setback. Existing views from the adjacent

properties would not be more than minimally affected; this potential affect is in keeping with anticipated impacts for development allowed under the SMP and other Land Use regulations. Finally, views from other shoreline parcels and upland parcels to the east will not be significantly affected by the granting of this variance due to the modest increase in bulk, according to the applicant's view analysis.

Finally, this proposal does not propose work outside of the current building footprint and will have no effect on the shoreline's physical environment. The UR Shoreline Environment is specifically tailored to allow this type of single-family development. The SMP also allows the continuation of certain non-conformities with certain restrictions. This proposal includes the continuation of setback non-conformity within the allowed restrictions. Consequently, the public interest will suffer no substantial detrimental effect.

3. *Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:*

- a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

Not applicable.

- b) *That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and*

Not applicable.

- c) *That the public rights of navigation and use of the shorelines will not be adversely affected.*

The subject site's development proposal is occurring landward of the ordinary high water mark. The public rights of navigation and use of the shorelines will not be adversely affected.

4. *In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.*

The likely number of parcels with this circumstance would be small. There are some other structures forward of the shoreline setback line, but there are likely few structures like the subject structure that do not meet flood elevation standards or require the addition of a pitched roof. If any were to seek a similar variance permit the cumulative impact(s) would be for greater compatibility with the established development pattern in the area. As such, these variances could also be considered to be consistent with the policies of RCW 90.58.020 and also not cause substantial adverse affects to the shoreline environment.

