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SPOKANE COUNTY HEARING EXAMINER

SHORELINE VARIANCE TO ALLOW A
RESIDENTIAL DECK TO BE
EXPANDED Laterally, LOCATED 78
FEET FROM THE ORDINARY HIGH
WATER MARK OF LIBERTY LAKE

APPLICANT: JARED & GRETCHEN
STRASSER

FILE NO. SMA-241-19

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION**

I. SUMMARY OF DECISION

Hearing Matter: The application for a Shoreline Variance to allow a residential deck to be expanded laterally, located 78 feet from the Ordinary High Water Mark of Liberty Lake, came before the Hearing Examiner for hearing on January 8, 2020 pursuant to Spokane County Code (SCC) 12.400.114.

Summary of Decision: Approved, subject to *revised* conditions.

II. FINDINGS OF FACT

A. Procedural Matters:

An application for a Shoreline Variance was submitted to the Spokane County Building and Planning Department on October 9, 2019, to allow a residential deck located 78 feet from the Ordinary High Water Mark of Liberty Lake to be expanded across the lakeside of the house on each end of the existing deck, without expanding toward the water from the existing location. The subject property is located within the area designated as Shoreline Residential, Shoreline Environment, pursuant to Table 5B and Section 7.1 of the Spokane County Shoreline Master Program.

The property is approximately 125 feet south of the intersection of South Liberty Drive and East Clark Street, adjacent to Liberty Lake, on a platted lot within the Wicomico Beach subdivision, in Section 22, Township 25 North, Range 45 EWM, Spokane County, Washington. The address of the property is 919 South Liberty Drive, Liberty Lake, Washington and identified as Spokane County Auditor's Parcel Number 55224.0804.

The applicants are Jared & Gretchen Strasser, 919 South Liberty Drive, Liberty Lake, Washington.

1 Pursuant to Spokane County Code (SCC) Section 13.500, Notice of Application,
2 and SCC Section 13.700, Notice of Hearing, the following notices were properly
prepared, mailed, and posted as noted:

3 Notice of Application – posted on the North West side of the site on November
4 17, 2019, by the applicant. Affidavit of Posting by Gretchen Strasser.

5 Notice of Application – Mailed by Department on November 18, 2019.
6 Certification of Mailing signed by Martha Thornton and dated November 18,
2019.

7 Notice of Public Hearing – mailed to Liberty Lake Property Owners
8 Association on December 16, 2019. Declaration of Mailing by Martha
Thornton dated December 16, 2019.

9 Notice of Hearing – mailed to property owners within 400 feet on December 19,
10 2019, Affidavit of Mailing signed by Gretchen Strasser, dated December 23,
2019.

11 Public Hearing Notice – posted on 919 S. Liberty Drive on December 21, 2019,
12 Affidavit of Posting by Gretchen Strasser, dated December 23, 2019.

13 Notice of Hearing – published in the Spokesman Review, a recognized legal
14 newspaper for the publication of notices, on December 24, 2019. See Affidavit
of Publication signed by E. Jean Robinson, December 24, 2019.

15 Because variance and Shoreline Substantial Development permits are
16 considered minor land use actions, this application is categorically exempt from the
State Environmental Policy Act (SEPA). Washington Administrative Code (WAC)
197-11-800(6)(b).

17 The Hearing Examiner visited the site and the surrounding area on January 6,
2020.

18 The Hearing Examiner heard the matter as scheduled at 10:30 a.m. on
19 January 8, 2020, in the Commissioner's Hearing Room, 1026 East Broadway,
Spokane, Washington. pursuant to the Spokane County Hearing Examiner
20 Ordinance, codified in SCC Chapter 1.46; the County Hearing Examiner Rules of
21 Procedure, adopted by County Resolution No. 1996-0294; Chapter 14.406 (Variance)
of the Spokane County Zoning Code (SCZC); and the Spokane County Shoreline
22 Master Program (SMP).

23 The following persons testified at the hearing, under an oath administered by
the Hearing Examiner:

24

1 Corey Smith
2 Building and Planning Department
3 1026 W Broadway Avenue
4 Spokane, WA 99260

Gretchen Strasser
919 South Liberty Drive
Liberty Lake, WA 99019
gestrasser@me.com

5 Ryan Lieuallen
6 ridgeline decks@gmail.com

7 The following exhibits were submitted at the hearing:

8 Exhibit 1 – Site Plan, submitted by Corey Smith (1 page)

9 Exhibit 2 – Photograph of the rear of the house showing the red deck,
10 submitted by Corey Smith, dated 09/03/2015 (1 page)

11 The Hearing Examiner takes notice of the Spokane County Comprehensive
12 Plan (“Comprehensive Plan”), the SMP, the SCZC, the SCC, and other applicable
13 development regulations; recent land use decisions for the site and area, including
14 those listed in the Staff Report submitted by the Department.

15 The record includes the documents in the Building and Planning File No.
16 SMA-241-19 at the time of the hearing, the electronic recording of the hearing by
17 Hearing Examiner staff, Exhibits 1 and 2 referenced above, the sign-in sheet for the
18 hearing, and the items taken notice of by the Hearing Examiner.

19 Having heard testimony from the Department staff, applicant and applicant’s
20 contractor on the matter, the testimony and record were closed at approximately
21 11:15 a.m., January 8, 2020 and the hearing adjourned.

22 **B. Description of Site:**

23 The subject property is a waterfront lot approximately 11,000 square feet in
24 size with 50 feet of waterfront, which is a legal, nonconforming parcel within the
Rural Traditional (RT) zone. The site contains an existing 2-story residence with
attached garage, associated driveway and parking, and dock, the residence and
attached deck are lawfully existing non-conforming structures. The subject lot is part
of the “Wicomico Beach” plat recorded in 1907.

The property slopes downward approximately 25 feet from the front of the
property on South Liberty Drive to the lake shore.

Two separate decks are attached to the rear (lake side) of the residence, one at
the second level and another at the lower level. The existing upper level deck is
approximately 20 feet wide and 16 feet deep. The roof of the residence extends
partially over the upper deck. Access to the upper deck is by stairs on the east side of

1 the deck that extend to the ground level. The existing stairs from the upper deck to
2 the ground level do not comply with the currently applicable building codes and is
3 unsafe for continued use in its current condition. Testimony of Ryan Lieuallen. The
4 lower deck is accessed via a separate entrance from the lower-level of the residence.
5 See Exhibit 1 and the Site Plan in the Department file.

6 The residential structure on the site covers a substantial percentage of the
7 subject lot. The remainder of the lot is landscaped with lawn, other plants and
8 hardscaped areas. The only natural shoreline feature on the property is a narrow
9 sandy beach area directly adjacent to the lake. A retaining wall with planters
10 separates the beach from a lower yard area. A public sidewalk separates the lower
11 yard area from an upper yard area. The upper yard area functions as a stormwater
12 swale. See the Aerial Map in the Department File.

13 The property is located entirely within the 200-foot shoreline jurisdiction of
14 Liberty Lake and is designated as Shoreline Residential in the SMP. The currently
15 applicable SMP identifies a Shoreline Buffer of 100 feet from the Ordinary High
16 Water Mark (OHWM) of Liberty Lake¹. The existing deck and the proposed deck
17 expansion are within shoreline jurisdiction, and located 78' from the OHWM per the
18 applicant's Site Plan.

19 The subject property is within a Critical Aquifer Recharge Area (CARA)
20 identified as having low susceptibility. The existing residence is served by a public
21 sewer system. The proposed deck expansion will not create additional wastewater
22 flow.

23 Spokane County Critical Areas Maps identify no priority habitat species
24 habitat associated with the subject site. Application materials were circulated to the
Washington State Department of Fish & Wildlife for consultation. The Department
of Fish & Wildlife did not identify any concerns over the proposed deck expansion.

25 **C. Description of Proposed Project:**

26 The existing second-story deck is 16 feet deep and extends 20 feet across a
27 portion of the rear (waterward) wall of the home, approximately half of the length of
28 the waterward wall. The area of the upper deck is constructed of wood frame with
29 wooden support joists, beams, posts, decking, and railings, with an area of 320

30 ¹ The required setback from the shoreline at the time of the construction of the house and existing
31 deck was 50 foot from the OHWM of Liberty Lake. The currently applicable Shoreline Master Program
32 was adopted January 22, 2013.

1 square feet excluding a portion used for stairs. The lower deck is offset from the
2 upper deck and measures approximately 10' wide by 14' deep.

3 The application proposes to rebuild the upper deck with updated materials and
4 expand the footprint of the deck laterally (both north and south) to increase the
5 overall width of the upper deck without encroaching any closer toward the lake than
6 the closest point of the current deck (16 feet in depth from the residence). The deck
7 is proposed to be extended laterally to the north approximately 8 feet and flush with
8 the northerly wall of the residence, and south approximately 8 feet which would be
9 approximately 4 feet from the southeast corner of the residence, adding
10 approximately 256 square feet to the existing upper deck area for a total area of 576
11 square feet. The new design proposes to replace the existing stairs to the ground
12 level, on the south side of the deck such as to meet current building codes. The
13 applicant intends to replace the lower deck with updated materials in the same
14 footprint and configuration as the lower deck currently covers. Replacement of the
15 lower deck is not included in the application for the shoreline variance.

16 The setback from the Ordinary High Water Mark (OHWM) of Liberty Lake of
17 the proposed lateral expansions of the deck at the closest point is 78 feet, which is the
18 same distance as the closest point of the existing deck to the OHWM. See the Site
19 Plan in the Department file. The second-story roof line will remain unchanged.

20 Additional construction methods and details are explained in the JARPA
21 application submitted in regard to this proposed project. See the Department file. A
22 narrative, date-stamped October 9, 2019 explaining the reasoning and justification
23 behind the variance request is also part of the Department file.

24 A Site Plan of Record drawn to scale and illustrates the existing as-built
location of the residence and deck, property lines, Ordinary High Water Mark
(OHWM) of Liberty Lake, complete with dimensioned setbacks to property lines and
the OHWM and elevation drawings (side profile) to aid in evaluation the proposal
were submitted by the applicants. The Site Plan illustrates the applicant's request
for a 78' reduced Shoreline Buffer for the lateral deck expansion. See also Exhibits 1
and 2.

D. Land Use Designations and Surrounding Conditions for Site and Neighboring Land:

Surrounding uses include single family residences on similarly sized lots along
the shore of Liberty Lake and upland from the subject lot. Most lots in the vicinity of
the subject site are also nonconforming with respect to the minimum lot size required
by the Rural Traditional (RT) zone.

1 Notwithstanding the compact urban type development in the area, zoning to
2 the north and south of the site are Rural Traditional (RT) established on January 15,
3 2002. Land use north of the site is single family with primary waterfront access to
4 Liberty Lake. Land use south of the site is single family with primary waterfront
5 access to Liberty Lake. The Liberty Lake shoreline is located east of the subject
6 property. The applicant's uses on the lake include the applicant's personal dock,
7 beach, and waterfront access. No zoning designation is assigned to the lake. A
8 common-use sidewalk runs north-south through the waterward portion of the subject
9 property serving the public. Zoning to the west of the site is Rural Traditional (RT).
10 Land use west of the site, across S Liberty Drive, is single family residential on
11 urban-sized lots.

8 **E. Agency/Public Comments:**

9 Prior to the Hearing on January 8, 2020, the Department received comments
10 from the Spokane County Public Works Department: Division of Engineering and
11 Roads suggesting conditions of approval regarding the requested variance and
12 criteria to be met when applying for building permits. The comments and suggested
13 conditions of approval from the Division of Engineering and Roads are reflected in
14 the conditions of approval.

15 Notice of the application for shoreline variance was provided to other agencies,
16 including: Spokane County Public Works Department: Floodplains Division,
17 Spokane County Environmental Services, Spokane County Building and Planning
18 Department: Building Code Enforcement, Spokane Valley Fire District #1, Liberty
19 Lake Sewer and Water District, Washington State Department of Ecology,
20 Washington State Department of Fish & Wildlife. No other agencies provided
21 comments regarding the proposed variance. The absence of comments from these
22 agencies is taken as approval of the action or a finding of compliance with regulations
23 under the jurisdiction of the agency.

24 No public comment regarding the application was submitted to the
Department prior to the hearing and no public comment was offered at the hearing.

20 **F. Consistency with Comprehensive Plan and Zoning:**

21 **Comprehensive Plan:**

22 The subject property is located within the Rural Traditional category of the
23 Spokane County Comprehensive Plan which typically includes large-lot residential
24 uses and resource-based industries, including ranching, farming, mining and forestry
operations, with a density limitation of 1 dwelling unit per 10 acres.

1 The subject property and the surrounding properties are part of the "Wicomico
2 Beach" plat recorded in 1907 and are thus legal nonconforming lots of record. The
3 current Rural Traditional category does not necessarily characterize the vicinity of
4 the project, which is more similar to a low-density residential setting in terms of lot
5 sizes, density, and services. The purpose of the adopted Comprehensive Plan category
6 and zoning for the area was to prevent further urban style development at this time
7 in the immediate vicinity of Liberty Lake.

8 **Zoning:**

9 The subject property and surrounding area is located within the Rural
10 Traditional (RT) zone established as a result of adoption of the Phase I Development
11 Regulations on January 15, 2002. The Rural Traditional (RT) zone allows for
12 residential development.

13 The Rural Traditional category of the Rural Land Use chapter of the Spokane
14 County Comprehensive Plan does not address Shoreline Variance requests as
15 allowed by Section 7.1 of the Spokane County SMP.

16 **G. Consistency with Shoreline Master Program:**

17 The subject property is located within the 200-foot shoreline jurisdiction of
18 Liberty Lake and thus is within the jurisdiction of the Spokane County Shoreline
19 Program. The following references to the Shoreline Master Program, adopted on
20 January 22, 2013, are specifically applicable to the project site and the proposal:

21 **2.5 Element 5 - Shoreline Use**

22 Goal 1: Assure that shoreline uses are either water-dependent or water-related,
23 and are compatible with adjacent land uses.

24 Policy 1: Shoreline uses should consider the environmental impact of their
location, distribution and design.

Policy 2: All existing and proposed developments should be provided with a full
range of utility services adequate to serve the developments and
protect against hazards to the public and the physical environment.

Policy 3: Adverse changes to the natural character of the shorelines and
interference with the public's use of publicly owned water bodies and
shoreline areas should be minimized or prevented.

The impact, if any, on the of the shoreline of Liberty Lake of the proposed
expansion of the upper deck will be negligible. The subject lot was created in 1907.
See recorded Plat of Wicomico Beach, Spokane County Auditor's Office. A residential

1 structure was constructed on the property at some time after the recording of the
2 plat. In 1997 a demolition permit and subsequent building permit were issued by
3 Spokane County to allow the demolition of the existing structure and replacement
4 with the now existing structure. The 1997 building permit allowed an upper deck
5 wider than that exists at the site currently, though without explanation, the smaller
6 existing deck was built at the time. See Staff Report, p.4, Department file. The
7 Shoreline Master Program as it existed prior to an amendment adopted January 22,
8 2013, required only a 50 foot setback from the OHWM on Liberty Lake, thus the
9 existing deck was well within the required setback at the time.

10 The proposed expanded deck does not require any public services that are not
11 already available at the site and does not present any adverse change to the natural
12 character of the shorelines of and interfere with the public's use of publicly owned
13 water bodies and shoreline areas.

14 **3.5 Shoreline Residential Environment**

15 **3.5.1 Purpose**

16 The purpose of the Shoreline Residential Environment is to accommodate
17 residential development and appurtenant structures that are consistent with this
18 chapter. An additional purpose is to provide appropriate public access and
19 recreational uses.

20 **3.5.2 Management Policies**

- 21 1. Standards for density or minimum frontage width, setbacks, lot coverage,
22 buffers, shoreline stabilization, vegetation conservation, critical area
23 protection, and water quality shall be set to assure no net loss of shoreline
24 ecological functions, taking into account the environmental limitations and
sensitivity of the shoreline area, the level of infrastructure and services
available, and other comprehensive planning considerations.
2. Multifamily and multilot residential and recreational developments should
provide joint use of recreational facilities.
3. Access, utilities, and public services should be available and adequate to
serve existing needs and/or planned future development.
4. Commercial development should be limited to water-oriented uses and
shall be consistent with the Comprehensive Plan.
5. Allow new over-water structures only for water-dependent uses, public
access, or ecological restoration, provided that new privately owned docks

1 and boat ramps serving individual privately owned lots or parcels should
2 not be allowed.

- 3 6. The size of new over-water structures should be limited to the minimum
4 necessary to support the structure's intended use.
- 5 7. All developments and uses on navigable waters or their beds should be
6 located and designed to minimize interference with surface navigation and
7 public access, to consider impacts to public views, and to allow for the safe,
8 unobstructed passage of fish and wildlife, particularly those species
9 dependent on migration.
- 10 8. Existing public access should be maintained consistent with the Property
11 Rights Element of this plan.
- 12 9. To protect shoreline ecological function, natural character, aesthetics and
13 scenic vistas, and commercial and recreational navigation, multiple use of
14 over-water structures such as docks should be promoted.
- 15 10. Uses that adversely impact the ecological functions of critical aquatic
16 habitats should not be allowed except where necessary to achieve the
17 objectives of RCW 90.58.020, and then only when their impacts are
18 mitigated according to the mitigation sequencing, described in Section 4.1.2
19 as necessary to assure no net loss of ecological functions.
- 20 11. Shoreline uses and modifications should be designed and managed to
21 prevent degradation of water quality and alteration of natural hydrologic
22 conditions.

23 The net impact, if any, to the shoreline of the proposed expansion of the upper
24 deck is minimal. The proposed expansion of the deck will cause no net loss of
shoreline ecological functions and will have no impact on the level of infrastructure
and services available or provided to the property. Nor will the proposed expansion
impact the use of the shoreline and will not extend any nearer the shoreline than the
currently existing deck. There are no over water structures proposed.

Section 5 - Use Regulations

5.1.3 Application

1. These regulations shall apply to any uses, activities, and developments, any
extension or enlargement of any existing building improvement or use of
land in shorelines of the state, and to any division of land, any portion of
which is in jurisdiction of this SMP.

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5.2.1 Use Standards

15. All developments, structures, associated landscaping, and uses of shorelines shall be designed, constructed, operated and maintained so as not to intrude into, or damage the topography, soils, vegetation or any other element of any shoreline buffer specified in Table 5B of this SMP.

The proposed deck expansion will have no impact upon the topography, soils, vegetation of any other element of the shoreline buffer. Demolition of the existing deck and construction of the replacement deck shall comply with all shoreline construction regulations.

5.2.2 Structures and Site Development

3. No structure shall be erected within buffers and disturbance setbacks set forth in Table 5B, as measured from the ordinary high water mark, except for:

- bridge approaches and bridges;
- utility transmission lines;
- authorized shoreline stabilization structures;
- stream restoration or enhancement projects;
- culverts;
- marinas, docks, public or community boat launches;
- buildings related to water dependent public recreation developments, or other uses demonstrated to be necessary in the public interest and specifically authorized as exceptions by the use regulations in Section 5.3.

The proposed deck expansion is to replace an existing aging and unsafe deck that is in need of repair or replacement.

5.2.5 Protecting Shoreline Ecology and Aesthetics

5. Buffers of native plant communities specified in Table 5B of this SMP, measured landward on a horizontal plane perpendicular to the ordinary high water mark, shall be maintained on all shorelines, provided that the following exceptions to this requirement are permitted subject to the mitigation provisions of Section 4;

This section of the SMP is inapplicable to the proposed deck expansion because the proposal will not impact the native plant communities as described in the SMP.

1 5.3.8. Residential

2 1. All Environments

3 d. All single family and multi-unit residential developments shall
4 comply with the buffer, setback, bulk and dimensional standards set
5 forth in Table 5B of this SMP, and shall be authorized only after
6 approval of a site development plan, indicating the total disturbance
7 footprint as required in Section 4 of this SMP.

8 Section 5.1.3 of the SMP "Use Regulations - Application" states:

9 "These regulations shall apply to any uses, activities, activities and
10 developments, any extension or enlargement of any existing building
11 improvement or use of land in shorelines of the state... "

12 The purpose of the application for a variance is to allow the replacement and
13 expansion of an existing legally non-conforming deck without increasing the size of
14 the deck toward the shoreline or OHWM of Liberty Lake. As proposed the application
15 complies with the requirements of this section.

16 6.5 Nonconforming Use and Development

17 4. Structures that were lawfully established and are used for a conforming
18 use but which are nonconforming with regard to setbacks, buffers or yards,
19 area, bulk, height or density may be maintained and repaired and may be
20 enlarged or expanded provided that said enlargement does not increase the
21 extent of nonconformity by further encroaching upon or extending into
22 areas where construction or use would not be allowed for new development
23 or uses.

24 As proposed the application complies with the requirements of this section

H. Shoreline Variance:

Shoreline Master Program Section 7.1

 In some cases, strict application of the provision of these regulations may
 cause practical difficulties regarding the use of a property on a shoreline. This
 Section provides a procedure for a person to request a variance from certain
 standards in Section 5.

Section 7.1.4 "Variance Criteria (WAC 173-27-120) provides the following:

 The Hearing Examiner may approve an application for a Variance if all the
 following criteria are met:

1 1. The applicant must demonstrate that extraordinary circumstances exist
2 and the public interest shall suffer no substantial detrimental effect by
3 approval of the variance.

4 Extra ordinary circumstances exist in that the existing deck was originally
5 approved in the location and approximate size as is proposed for the expansion; the
6 existing deck is aging, does not meet current building codes and is unsafe for
7 continued use. To deny the application would prevent the homeowner from continued
8 and safe enjoyment of the existing deck as it continues to deteriorate. As proposed
9 the public interest would suffer no substantial detrimental effect by approval of the
10 variance.

11 2. Strict application of the performance standards set forth in this regulation
12 precludes, or significantly interferes with, reasonable use of the property.

13 To deny the application would prevent the homeowner from continued and safe
14 enjoyment of the existing deck as it continues to deteriorate.

15 3. If based on a hardship, such hardship shall be specifically related to the
16 property and be the result of unique conditions such as but not limited to
17 lot shape, size, or natural features and precludes reasonable use of the
18 property.

19 To deny the application would prevent the homeowner from continued and safe
20 enjoyment of the existing deck as it continues to deteriorate.

21 4. The design of the project shall be compatible with other authorized uses
22 within the area and with uses planned for the area under the
23 comprehensive plan and this regulation.

24 As proposed the application is compatible with other uses, eg. decks on other
25 houses in the vicinity, most of which are non-conforming uses established a
26 significant time prior to this application.

27 5. The approval of the variance shall not cause adverse impacts to the
28 shoreline environment.

29 Approval of the variance will not cause adverse impacts to the shoreline
30 environment.

31 6. The variance shall not constitute a grant of special privilege not enjoyed by
32 the other properties in the area.

33 As conditioned hereby, the variance will not constitute a grant of special
34 privilege not enjoyed by the other properties in the area.

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7. The variance requested shall be the minimum necessary to afford relief.

The variance requested is the minimum necessary to afford relief.

8. The public rights of navigation and use of the shorelines will not be adversely affected.

The public rights of navigation and use of the shorelines will not be adversely affected.

9. 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 and developments in the area where similar circumstances exist the total impact of the variances shall also remain consistent with the goals and policies of the Comprehensive Plan and shall not cause substantial adverse effects to the shoreline environment.

As conditioned the variance will comply with this requirement.

10. 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 environmental designation in which the property is situated.

As conditioned the variance will comply with this requirement.

11. The proposal is consistent with the variance criteria specified in WAC 173-27-170.

As conditioned the variance will comply with this requirement.

12. The granting of the variance shall be consistent with the general intent and purpose of the Comprehensive Plan, the purpose and intent of these regulations and the Shoreline Management Act, RCW 90.58.

As conditioned the variance will comply with this requirement.

13. Other considerations: The approval of a variance should not:

- a. Be based upon the precedent established by illegal or nonconforming circumstances.
- b. Establish a precedent that will adversely affect the environmental designation concept for the land in the area or the County as a whole.
- c. Be based upon a lack of reasonable economic return or a claim that the existing structure is too small.

- 1 d. Permit the establishment of a use otherwise prohibited in the
2 environmental designation in which the property is located.
3 e. Be based on unique circumstances.

4 As conditioned the variance will comply with this requirement.

5 Based on the above findings of fact, the Hearing Examiner enters the
6 following:

7 III. CONCLUSIONS OF LAW

- 8 1. Any finding of fact above that is a conclusion of law is deemed a conclusion of law.
9 2. Minor revisions should be made to the conditions of approval to ensure proper
10 formatting, clarity, and consistency with the findings of fact above.
11 3. As a legal non-conforming lot and structure within the shoreline jurisdiction of
12 Liberty Lake, the proposed expansion of the existing deck at the subject property
13 is compliant with the Comprehensive Plan and the zoning code as applicable to
14 this application and property.
15 4. As conditioned, the application is compliant with the Shoreline Master Program.
16 5. The approval of the application for variance is appropriate under SCC 1.46.110
17 (Hearing Examiner Ordinance) and the Shoreline Master Program.
18 6. Any conclusion of law above that is a finding of fact is deemed a finding of fact.

19 IV. DECISION

20 Based on the Findings of Fact and Conclusions of Law above, the application
21 for a Shoreline Variance to allow a residential deck to be expanded laterally, located
22 78 feet from the Ordinary High Water Mark of Liberty Lake is hereby approved,
23 subject to compliance with the conditions of the various agencies specified below.

24 Any conditions of approval of public agencies that have been added or
significantly altered by the Examiner are *italicized*. This approval does not waive the
applicant's obligation to comply with all other requirements of other public agencies
with jurisdiction over land development.

25 **Conditions of Approval:**

26 Spokane County Building and Planning Department:

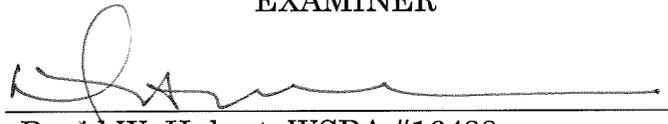
- 1 1. All conditions imposed by the Hearing Examiner shall be binding on the
2 "Applicant," which term shall include the owner and developer of the site and
their agents, heirs, assigns, and successors.
- 3 2. The variance applies to the following real property: WICOMICO BEACH L3 B12
4 INC PTN TR B BET SIDE LNS EXTD (Assessor's abbreviated legal)
- 5 3. The proposal shall comply with the regulations of the Shoreline Master Program,
6 except for the deviation(s) permitted to the required shoreline buffer, and shall
comply with all other applicable chapters of the Spokane County SMP, as
amended.
- 7 4. The applicant shall develop the subject property substantially in accordance with
8 the Site Plan of Record submitted on October 9, 2019.
- 9 5. The Building and Planning Department shall prepare and record with the
10 Spokane County Auditor a Title Notice noting that the property in question is
11 subject to a variety of special conditions imposed as a result of approval of a land
12 use action. This Title Notice shall serve as public notice of the conditions of
13 approval affecting the property in question. The Title Notice should be recorded
within the same time frame as allowed for an appeal and shall only be released, in
14 full or in part, by the Building and Planning Department. The Title Notice shall
15 generally provide as follows:
16 "The parcel of property legally described as (insert legal description here) is
the subject of a land use action by a Spokane County Hearing Examiner on
17 January 8, 2020, imposing a variety of special development conditions. File
18 Number SMA-241-19 is available for inspection and copying in the Spokane
County Building and Planning Department"
- 19 6. Development of the subject site shall comply with the Spokane County Zoning
20 Standards, including provisions for building setbacks, height, and land use
provisions.
- 21 7. Development of the subject site shall comply with the critical aquifer recharge
22 area (CARA) provisions of the Spokane County Critical Areas Ordinance, as
23 amended.
- 24 8. The applicant shall submit a building permit for review and approval in
accordance with Spokane County Building codes, including any required plans,
studies, or engineering necessary (as to ensure that the structure meets all code
requirements.
9. The applicant should contact the Department of Building and Planning Permit
Center at the earliest possible stage in order to be informed of code requirements

1 administered/enforced as authorized by the State Building Code Act.
2 Design/development concerns include addressing, grading, fire apparatus access
3 roads, fire hydrant flow, approved water systems, building accessibility,
4 construction type, occupancy classification, existing exterior wall protection and
5 energy code requirement.

6 10. The applicant shall submit any necessary Floodplain permit applications, studies,
7 or submittal requirements with Spokane County Public Works (Floodplains
8 division), as necessary for review and approval of the associated building permit.

9 DATED this 21st day of January, 2020

10 SPOKANE COUNTY HEARING
11 EXAMINER

12 

13 David W. Hubert, WSBA #16488

14 **NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL**

15 The above decision regarding the Shoreline Variance is a final decision by the
16 Hearing Examiner on the above-referenced application. Pursuant to RCW
17 90.58.140(10), the Hearing Examiner's decision must now be submitted to the
18 Department of Ecology for its approval or disapproval.

19 A petition for review of the decision by the Department of Ecology must be
20 commenced within twenty-one days from the date of filing of the decision of the
21 Department of Ecology pursuant to RCW 90.58.140(6). See also RCW 90.58.180.

22 The complete record in this matter, including this decision, is on file during
23 the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works
24 Building, 1026 W. Broadway Avenue, Spokane, Washington, 99260-0245, (509) 477-
7490. The file may be inspected Monday through Friday of each week, except
holidays, between the hours of 8:00 a.m. and 4:00 p.m. Copies of the documents in the
record will be made available at the cost set by Spokane County.

Pursuant to RCW 36.70B.130, affected property owners may request a change
in valuation for property tax purposes notwithstanding any program of revaluation.