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**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON**

IN RE:	HE-24-PW-039
SCOTT WICKLUND, Property Owner	FINDINGS, CONCLUSIONS, AND DECISION
1109 18th Street	
VAR2024-0009 / Public Works Variance from street standards	SHARON A. RICE HEARING EXAMINER

SUMMARY OF DECISION

The requested variance from construction of a minimum standard street established pursuant to Bellingham Municipal Code Chapter 13.04 to allow relief from the requirement that the right-of-way be improved to minimum standards in order to provide access to an existing single-family building at 1109 18th Street is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

Bruce Ayers of Ayers Consulting LLC, on behalf of Scott Wicklund (Applicant), requested approval of a street standard variance from Bellingham Municipal Code Chapter 13.04 to be excused from constructing minimum standard street improvements in order to access an existing single-family residence on the property addressed as 1109 18th Street, Bellingham, Washington.

Hearing Date:

The Bellingham Hearing Examiner conducted a hybrid open record hearing on the request on January 22, 2025. The record was held open two business days to allow for post-hearing written public comment from individuals who had technology issues that prevented them from participating in the hearing, with additional days for responses by

1 the parties. No public comment meeting the admission criteria was submitted, and the
2 record closed on January 24, 2025.¹

3 **Testimony:**

4 At the hearing, the following individuals presented testimony under oath:

5 Brent Baldwin, Development Manager, Public Works Department

6 Bruce Ayers, Applicant Agent

7 Scott Wicklund, Property Owner

8 McKenzie Funk

9 **Exhibits:**

10 The following exhibits were admitted in the record through the open record hearing
11 process:

12 Exhibit 1 Public Works Memorandum, dated January 14, 2025, with the following
13 attachments:

14 A. Variance Application, dated September 18, 2024

15 B. Findings, Conclusions, and Decision, HE-21-PL-016, dated
16 September 6, 2022

17 C. Ruling on Appellants' Request for Reconsideration, HE-21-PL-016,
18 dated September 26, 2022

19 Exhibit 2 Notice of Hybrid Public Hearing and Declaration of Mailing, dated
20 January 8, 2025; Corrected Notice of Hybrid Public Hearing and
21 Declaration of Mailing, dated January 13, 2025; photos of posting

22 Exhibit 3 Email from Applicant, re: legal description of lot, dated January 13, 2024

23 Exhibit 4 Public Comment:

24 ¹ McKenzie Funk, who testified at the hybrid hearing, was invited to submit some additional documents
25 he referenced during his testimony, which were admitted as Exhibit 10. During his testimony, it was also
26 discovered that photographs Mr. Funk had submitted prior to hearing had been inadvertently left out of
27 Exhibit 4.A. After the hearing, these photographs were added to Exhibit 4A. Subsequently, per
28 information provided by the Hearing Clerk, following the end of the public comment period, Mr. Funk
29 submitted additional comments via email to the Clerk, which could best be characterized as his response
30 to the Applicant's verbal response to public comment during the hearing. The post-hearing written
comment period is not intended to allow members of the public to rebut the responses of parties to verbal
public comment at hearing; it is intended to allow people who had technology problems that prevented
their participation to submit written comments. The last email(s) from Mr. Funk was/were not admitted,
as he had had full participation in the hearing process and was not entitled to further comment.

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- A. Emails from McKenzie Funk, dated January 13, 2025 and January 14, 2025
- B. Emails from Skip Williamson, dated January 15, 2025 and January 22, 2025

Exhibit 5 Owner's Statement

Exhibit 6 Applicant Narrative, submitted by Bruce Ayers, dated January 16, 2025, with the following attachments:

- A. Photo, connecting point, looking uphill to Knox Avenue
- B. Photo, continuing, uphill to Knox Avenue
- C. Photo, gravel connection, from 1109 18th Street to existing driveway
- D. Photo, standing on connecting point looking downhill to 1109 18th Street
- E. Wicklund lot line adjustment recording document, executed April 13, 2021
- F. Wicklund lot line adjustment record of survey, filed with County Auditor on April 22, 2021
- G. Critical areas permit, CAP2024-0046, approved October 30, 2024
- H. Critical area permit application for driveway and parking area construction at 1109 18th Street, signed by the Applicant on September 10, 2024
- I. Driveway and drainage plan, 1115 18th Street, prepared by Greg Dibble and Associates for Scott Wicklund, dated Augst 3, 1993
- J. Email from Fred Cruz Public Works Department Water Division Operations Supervisor, re: likely location for Wicklund's proposed fire hydrant, dated April 19, 2021
- K. Hydrant Permit, PBW2021-0290
- L. Engineer's Attestation that the driveway improvements serving 1112 18th Street were built in accordance with the approved plans (PBW2021-0697)
- M. Real Estate Excise Tax Affidavit, re: transfer of 1112 18th Street from Wicklund to Funk
- N. Location of installed fire hydrant
- O. [duplicate of Exhibit 6, on letterhead]

- 1 P. [duplicate of Exhibit 6.G]
- 2 Exhibit 7 Topographical survey of 1109 18th Street, dated August 29, 2024
- 3 Exhibit 8 Email from Skip Williamson, dated January 22, 2025 [duplicate - also
- 4 included at 4.B]
- 5 Exhibit 9 Additional Applicant photo from below/looking up at proposed driveway
- 6 entrance
- 7 Exhibit 10 Topographical study of 1109 18th Street and 1116 19th Street, dated
- 8 July 24, 2023, submitted by McKenzie Funk
- 9 Exhibit 11 Applicant's response to public comment submitted the day of hearing, dated
- 10 January 24, 2025²

10 No in-person site visit was conducted, but the Examiner viewed the subject property on
 11 Google Maps.

12 After considering the testimony and exhibits submitted, the Hearing Examiner enters
 13 the following findings and conclusions:

14
 15 **FINDINGS**

- 16 1. Bruce Ayers of Ayers Consulting LLC, on behalf of Scott Wicklund
- 17 (Applicant), requested a street standard variance in connection with an existing
- 18 single-family residence on the property addressed as 1109 18th Street in
- 19 Bellingham, Washington.³ Exhibits 1 and 1.A.
- 20 2. No improvement to the residence is proposed at this time. The Applicant has
- 21 applied for the instant variance pursuant to Bellingham Municipal Code (BMC)
- 22 13.04.110 to connect the existing residence by a gravel apron to an existing
- 23 driveway built to serve the residence at 1112 18th Street within the otherwise

23 ² At the conclusion of the hearing, the Applicant was offered an opportunity to respond in writing to the
 24 emails and documents submitted on January 22nd, prior to and at the public hearing. The response was
 25 timely submitted on January 24, 2025 and is admitted.

26 ³ The legal description of Lot A of the Wicklund lot line adjustment is as follows: "LOT 30, EXCEPT
 27 THE SOUTH 5 FEET THEREOF, AND LOTS 31 THROUGH 33, INCLUSIVE, BLOCK 89, PLAT OF
 28 FAIRHAVEN LAND COMPANY'S FIRST ADDITION TO FAIRHAVEN, WASHINGTON,
 29 WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN
 30 VOLUME 2 OF PLATS, PAGE 16, RECORDS OF WHATCOM COUNTY, WASHINGTON;
 TOGETHER WITH THE EAST 10 FEET OF 18TH STREET ABUTTING SAID LOTS, AS
 VACATED BY THE CITY OF BELLINGHAM ORDINANCE NO. 6817. SITUATE IN WHATCOM
 COUNTY, WASHINGTON." Exhibit 1.

1 unimproved 18th Street right-of-way that abuts the subject property. *Exhibits 1*
2 *and 1.A.*

- 3 3. The subject property is situated south of Knox Avenue, west of 21st Street, north
4 of Mill Avenue, and east of 15th Street. Topographically, the land between
5 Knox and Mill Avenues slopes steeply. While many lots are developed between
6 the two avenues, 16th, 17th, 18th, and 19th Streets are only partially improved or
7 are completely unimproved between the two avenues. A short section of 18th
8 Street is improved at Mill Avenue. From the Google Maps images available at
9 the time of this writing, the improved section serves as vehicular access for the
10 residences addressed as 1717 and 1805 Mill Avenue, and it connects to private
11 driveways serving residences addressed as 1129 and 1125 18th Street and a third
12 residence without a street number identified by Google Maps simply as “18th
13 Court.” Otherwise, 18th Street is unimproved below Knox Avenue. *Google*
14 *Maps site view.*
- 15 4. The subject property (1109 18th Street) is improved with an existing single-
16 family residence built in 1889. Its north parcel boundary abuts a single-family
17 residential lot addressed as 1800 Knox Avenue, and its south parcel boundary
18 abuts a single-family residential lot addressed as 1115 18th Street. The east
19 boundary of the subject property abuts an unimproved platted alley right-of-
20 way, and its west boundary abuts the unimproved 18th Street right-of-way. It
21 appears from available aerial images that neither 1109 nor 1115 18th Street -
22 both owned by the Applicant - have formal (paved) vehicular access to any
23 public right-of-way. *Exhibit 1; Google Maps site view.*
- 24 5. Vehicular access for the residence addressed as 1112 18th Street was the subject
25 of the Hearing Examiner decision HE-21-PL-016, issued September 6, 2022. In
26 that matter, the owners of several residences on Knox Avenue appealed the
27 City’s Public Works Department’s issuance of a street obstruction permit
28 PBW2021-0697 authorizing construction of a driveway in the unimproved 18th
29 Street right-of-way connecting the existing residence addressed as 1112 18th
30 Street (subject property of HE-21-PL-016) to Knox Avenue.⁴ They argued,
among other grounds, that the additional traffic using their Knox Avenue curb
cut would result in danger to the residents of 1800 Knox and 1720 Knox because
the driveway’s grade is steep and, in wet or icy weather, use of the driveway
would be dangerous. They also contended that the original proponent of the

4 Of note, the Applicant for the street obstruction permit was Scott Wicklund, who is also Applicant in the instant proceeding; however, during the pendency of the appeal decided in HE-21-PL-016, Mr. Wicklund transferred title to 1112 18th Street to McKenzie Funk. *Exhibit 1.B (Finding 1).*

1 Public Works variance request for 1112 18th Street (Wicklund), who owned
2 multiple properties along unimproved 18th Street, was intending to provide
3 access to his other landlocked parcels via the then-proposed unsafe driveway in
4 the future. For the reasons explained in the conclusions of HE-21-PL-016, as
5 well as in a decision on reconsideration of that decision (issued September 26,
6 2022), the appeal was denied and the driveway connecting 1112 18th Street to
7 Knox Avenue in the 18th Street right-of-way was allowed to be built. *Exhibits*
8 *1.B and 1.C.*

9 6. Following denial of the appeal, McKenzie Funk was allowed to build a
10 driveway that connected 1112 18th Street to Knox Avenue in the fall of 2022.
11 The driveway is 10 feet in width, 226 feet long, comprised of curves to allow
12 vehicles to safely traverse the steep grade of up to 24.6%, and is surfaced with
13 brushed concrete. Photographs in the record show the steep and winding nature
14 of the driveway that is currently used exclusively by 1112 18th Street. *Exhibits*
15 *4.A, 6.A, 6.B, 6.C, 6.D, 9, and 11; McKenzie Funk Testimony.*

16 7. The instant proposal would allow installation of an approximately 1,488 square
17 foot graveled apron that would provide both a vehicular connection from 1109
18 18th Street to the driveway built by Mr. McKenzie to serve 1112 18th Street and
19 a graveled vehicle turn-around and parking area within 1109 18th Street. The
20 proposed driveway and turn-around are to be constructed of a permeable ballast
21 rock material that would allow infiltration of stormwater falling on the driveway
22 surface. *Exhibit 6.G.* In describing how the project would not be materially
23 detrimental to surrounding properties, the application states:

24 No trees cut. Best possible grade less than 25%. Stone for traction all
25 weather surface. Provides needed parking and turn-around on available
26 flat ground. No impact on traffic or disruption of adjacent property.

27 *Exhibit 1.A.*

28 8. Based on photos and public comment, the Applicant began installing the
29 graveled apron and was stopped by the posting of one or more Stop Work
30 orders. Subsequently, Mr. Wicklund applied for a critical area permit to
construct a gravel driveway and on-site parking for the existing residence. The
proposed driveway also includes a turn-around in or adjacent to the right-of-way
to provide maneuvering area in order to safely navigate the steep topography of
the subject property and abutting right-of-way. *Exhibits 4.A and G.6.*

9. The critical area permit is needed because the subject property contains
landslide geologic hazard area and associated 10-foot buffers on the northern

1 and southern portions of the parcel. According to information submitted on
2 behalf of the Applicant by a qualified professional, the rolling terrain within the
3 subject parcel consists of grades generally between 15% and 30% and is
4 interpreted to be broadly stable. While the project area contains slope grades
5 that locally exceed 40%, these steeper slopes are short and discontinuous, a few
6 feet in height, and surrounded by grades of around 30% or less. In review of the
7 instant street standards variance request, Planning Staff reviewed a critical area
8 permit application together with the information provided by the qualified
9 professional, and Staff determined that the site's slopes do not classify as an
10 erosion hazard area, given the stabilized conditions observed. However, the
11 northern ascending slope feature beginning along the north boundary of the
12 subject parcel and northeast of the proposed driveway meets the City's
13 definition of a landslide hazard area (LHA) based on the grades consistently
14 over 40% and typically over 10 feet in height. The Applicant's geotechnical
15 consultant delineated the geologically hazardous areas and submitted that a 10-
16 foot buffer from the slope would satisfy critical area requirements. Following
17 review of the information from the Applicant's qualified professional, Planning
18 Staff determined the proposed gravel driveway and on-site parking are located
19 outside of the geologically hazardous area and associated buffers. A critical
20 area permit for the proposed gravel driveway was issued on October 30, 2024.
21 The deadline to appeal the critical area permit was November 13, 2024. The
22 record contains no indication that it was appealed. *Exhibit 6.G.*

17 10. Of note, the approved critical area permit imposed conditions including (but not
18 limited to) the following:

19 ...

- 20 3. All activities shall be conducted using the best management practices
21 that result in the least amount of impact to the critical area. Best
22 management practices shall be used for tree and vegetation protection,
23 construction management, erosion and sedimentation control, and water
24 quality protection.
- 25 4. Site work shall only occur between May 1st and October 1st of any
26 calendar year unless otherwise approved by the Planning and
27 Community Development Department pursuant to BMC 16.55.460.A(4).
- 28 5. Based on the recommendation from the qualified professional in Exhibit
29 B, the permeable driveway construction shall follow typical guidelines
30 for installation in accordance with local municipal and state standards,
including the DOE SMMWW (2019). A suitable material for
performance as both a gravel base and pervious surfacing media should
be employed. We recommend a "permeable ballast" type of material, or

1 similar substitute. See WSDOT SS (2024) 9-03.9(2) for a representative
2 specification of permeable base material. Additional stormwater review
3 will be completed under the Stormwater Permit for compliance with
BMC 15.42.

- 4 6. No use or construction associated with the driveway for the existing
5 residence located at 1109 18th Street shall be allowed until the Hearing
6 Examiner has issued approval for the variance from the requirement to
7 abut a minimum standard street. In the event the Hearing Examiner
8 denies the variance the subject critical area permit shall become null and
9 void.

Exhibit 6.G.

- 10 11. Some of the same neighboring property owners who were involved in the 2022
11 appeal of the driveway at 1112 18th Street have submitted similar concerns
12 regarding the instant Public Works variance request pertaining to the safety
13 impacts of an additional residence using the narrow, winding driveway.
14 McKenzie Funk notes that the driveway has no curbs or guard rails, and that
15 when it is icy, wet, covered in leaf litter, or gets gravel on it, it becomes slippery
16 and traction is difficult. There are two areas he describes as blind corners,
17 where traffic coming face to face wouldn't be able to see each other until each
18 has traveled a distance that would be difficult to motor backwards to allow one
19 another to pass. The grade between the two blind corners is 20%, and presently
20 there is no pull out along the entire width of the driveway; one of the two cars
21 would have to drive in reverse up or down a very steep, often slippery hill
22 around a blind corner to let the other pass. Mr. Funk and his wife and the
23 tenants who currently live at 1112 18th Street have implemented a system of
24 calling whenever leaving or entering the driveway to make sure neither car has
25 to back up. Mr. Funk submits it would not be possible for multiple drivers from
26 two residences to use this communication system. To date, one car has backed
27 or slid off the driveway and required tow truck rescue. Mr. Funk submitted that
28 the view of a driver exiting 1109 18th Street to the top at Knox Avenue and to
29 the bottom towards 1112 18th Street would provide drivers from that property
30 with advance notice if a vehicle were coming from either direction; however,
drivers existing 1112 18th Street would not be able to see anyone entering from
Knox Avenue or 1109 18th Street until they were already committed. *Exhibit
4.A; McKenzie Funk Testimony.*

12. Mr. Funk's second area of concern in the instant matter, also similar to
arguments made by the Appellants in the 2022 hearing process, is knowledge he
acquired from the transaction in which he bought 1112 18th Street from Mr.

1 Wicklund. Originally Mr. Funk was attempting to purchase both 1112 and 1109
2 18th Street, but near the end of negotiations, Mr. Wicklund required that 1109
3 grants an access easement to allow vehicles from Mr. Wicklund's other
4 properties farther down the slope to cross 1109 and access the driveway; his
5 other properties are 1115 18th Street, 1116 19th Street, and 1122 19th Street. *See*
6 *Exhibit 4.A, .pdf page 9, annotated CityIQ map*. When Mr. Funk didn't agree to
7 the easement, Mr. Wicklund rescinded the offer to sell 1109 18th Street and
8 instead sold only 1112 18th Street to Mr. Funk. Then, when he began installing
9 the gravel driveway connection and apron/parking area on 1109 without permits
or notice to Mr. Funk (who built the driveway serving 1112 18th Street and
currently has sole access to it), Mr. Wicklund brought the gravel in from his
other properties that front 19th Street. *Exhibit 4.A; McKenzie Funk Testimony*.

- 10 13. In his written comment, Mr. Funk offered to submit emails documenting the
11 facts he alleges, but he did not attach them outright due to their containing
12 information for both parties that he felt may not appropriately be included the
13 public record. *Exhibit 4.A*. The supporting emails were not added to the record.
14 Mr. Funk submitted a copy of a July 2023 survey of 1109 18th Street, and 1116
15 19th Street performed for Mr. Wicklund. *Exhibit 10*.
- 16 14. Skip Williamson, who was an Appellant in the 2022 appeal of the now-existing
17 driveway serving 1112 18th Street, also submitted public comment opposing the
18 requested variance. His safety concern, which was forwarded in the 2022
19 appeal, is that pedestrians and others using the sidewalk on Knox Avenue will
20 not be able to see cars coming up the driveway until the cars enter the sidewalk,
21 and that the drivers will likewise not be able to see pedestrians or cyclists, and
22 that there will be an accident. Additionally, both in 2022 and presently, Mr.
23 Williamson shared Mr. Funk's concern that Mr. Wicklund intends to use the
24 now-existing driveway for access to his multiple properties on the hillside. His
25 opposition to the instant request is based on the 2022 appeal decision's premise
26 that only one residence would use the driveway. He contended that the instant
27 request would add a second residence - and potentially others in the future -
28 increasing the safety risks. *Exhibits 4.B and 8*.
- 29 15. Some of the concern in the 2022 appeal was whether the driveway would allow
30 for emergency access to the residence at 1112 18th Street, and if it would not,
whether fire at that property would pose a risk to the other residences on the
hillside. At some point in early 2021, Mr. Wicklund contacted the Bellingham
Fire Department to inquire about adding a hydrant in the area. Bellingham Fire
Marshal/Life Safety Division Chief Ron Richard reviewed the driveway then
proposed by Mr. Wicklund and, as stated in a May 18, 2021 email, determined it

1 could not provide emergency vehicle access due to its width, steep grade, design
2 not adequate to support the imposed load of 75,000 pounds for a fire apparatus,
3 and lack of turn-around. Chief Richard indicated that emergency response for
4 1112 18th Street would continue to be provided as it was then - parking and
5 staging on Knox Avenue. Chief Richard also noted that Mr. Wicklund had
6 recently had a new fire hydrant installed. The permit to install the hydrant
7 (PBW2021-0290) was issued April 30, 2021. In his email, Chief Richard also
8 noted that any future subdivision of the parcels, addition of accessory dwelling
9 unit(s), or significant remodeling or expansion of the structures served by the
10 driveway would likely trigger additional mitigation to meet Fire Code, which
11 could include (but would not be limited to) sprinklering the structures and
12 adding steps to the residences from Knox Avenue. *Exhibits 4.A (pdf pages 13-*
13 *14), 6.J, and 6.K.* The location of the new hydrant is on Knox Avenue
14 approximately near the 18th Street right-of-way. *Bruce Ayers Testimony.*

15
16 16. While the existing driveway was constructed by Mr. Funk solely to serve 1112
17 18th Street, and Mr. Funk opposes approval of the instant application, Public
18 Works Staff submitted that because the driveway is located within the public
19 right-of-way, it is open to the public including the Applicant. Staff submitted
20 that “private” driveways that occupy substantial portions of the right-of-way
21 may not physically block other property owners from using the right-of-way to
22 access their properties. To prohibit the public from use of improvements located
23 within right-of-way would be inconsistent with the fundamental purpose of
24 dedicated rights-of-way, which is to provide for public transportation and
25 ingress and egress to abutting properties. *Exhibit 1.*

26
27 17. In its memorandum submitted before the hearing (Exhibit 1), the Public Works
28 Department recommended approval of the street standard variance. The primary
29 reason for this recommendation is that the property at 1109 18th Street, which
30 has been developed with the existing residence since 1898, abuts the 18th Street
right-of-way and, as such, was intended to be allowed to access public rights-of-
way by this frontage. Further, 18th Street cannot be improved to minimum City
street standards due to topography. Brent Baldwin, Public Works Development
Services Manager, testified that there are no “driveway standards” with which
the existing driveway must comply in order to serve the additional lot at 1109
18th Street; however, the safety concerns forwarded by the members of the
public do merit further discussion and efforts to maintain the safety of driveway
users as well as of pedestrians, cyclists, and drivers along Knox Avenue. He
himself had not visited the driveway, but another member of Public Works staff
had seen it. To address the safety concerns about vehicles not being able to pass
on the narrow, steep driveway, Mr. Baldwin suggested that a condition be

1 imposed requiring the contemplated improvements to provide a paved area wide
2 enough at the connection point (between the existing driveway and the proposed
3 apron/connection) that could function as a refuge to allow vehicles that come
4 face to face on the one-lane driveway to pass, or to allow vehicles generally to
5 be able to turn-around along the narrow, steep section. He suggested an
6 additional six feet of hardened width could provide adequate safety, but that
7 actual dimensions and final construction specifications would need to be
8 determined in the field prior to construction. An amendment to the critical area
9 permit could be issued if needed. *Brent Baldwin Testimony; Exhibit 1.*

10 18. Regarding other concerns in public comment, given the addition of the hydrant
11 at Knox Avenue and 18th Street and the comments of the Fire Marshal, Mr.
12 Baldwin stated that he had no concerns about fire or emergency access. He
13 further testified that whether or not 1109 18th Street could possibly obtain access
14 via 19th Street across the other properties owned by the Applicant (as argued by
15 the neighbors) is not relevant to his department's recommendation for approval,
16 because since the time of platting, 1109 has fronted 18th Street and is expected to
17 access public streets from its frontage, but the street cannot be brought to
18 standard due to the steep slopes. The City would have no role in any driveway
19 maintenance agreements between the private properties for maintaining the
20 driveway in a safe condition. *Brent Baldwin Testimony.*

21 19. In response to neighbor concerns that the Applicant has further plans to connect
22 other parcels he owns to the existing driveway, the Applicant's agent submitted
23 that none of Mr. Wicklund's other properties front on 18th Street, and therefore
24 none of his other properties would be entitled to approval of a variance to access
25 Knox Avenue by the driveway in 18th Street.⁵ Additionally, the Applicant's
26 agent emphasized that any traffic from 1109 18th Street would only use the
27 portion of the driveway between 1109 and Knox Avenue and provided a
28 photograph showing that a car exiting 1109 would be visible to a car exiting
29 1112 from the lower segment of the driveway, implying that this should
30 alleviate safety concerns. *Exhibit 11.*

21 20. Mr. Wicklund submitted that he "understands and affirms that [the instant
22 variance, if approved] is solely for the use of 1109 18th Street..." and that he
23 simply asks that 1109 be granted the same right to use the driveway that was
24 approved for 1112 18th Street. Mr. Wicklund testified that he would be willing

28 ⁵ The undersigned notes that the Applicant resides in 1115 18th Street, which fronts 18th Street and does
29 not appear to have an existing paved access. *Exhibit 1.A; Google Maps site view.*

1 to work with neighbors to create a turn-around that would allow cars to safely
2 pass each other on the existing driveway. *Exhibit 6; Testimony of Scott*
3 *Wicklund and Bruce Ayers.*

4 CONCLUSIONS

5 **Jurisdiction:**

6 The Hearing Examiner is granted authority to hold hearings and make decisions on
7 variance permit applications pursuant to BMC 2.56.050.B(6).

8 **Street Standard Variance Criteria for Approval:**

9 Pursuant to BMC 13.04.110, a variance from any of the requirements specified by BMC
10 Chapter 13.04 may be granted by the hearing examiner when practical difficulties arise
11 in the design and construction of streets due to topography, geological limitations, and
12 other problems inherent [in] or peculiar to the area upon the recommendation from the
13 city staff and when in the best interest of the public welfare.

14 **Conclusions Based on Findings:**

- 15 1. The record clearly demonstrates that there is a practical difficulty arising from
16 design and construction of a street within the right-of-way capable of meeting
17 minimum City street standards, and that it is based on existing natural
18 topography. A minimum standard street within the right-of-way would be too
19 steep and would impact all adjacent properties in terms of resulting roadbed
20 construction, grade, and drainage. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.*
- 21 2. Having heard testimony about the ramifications of allowing traffic from a
22 second residence on the steep, one-lane driveway that currently lacks any refuge
23 area sufficient to allow one car to pull over to allow another to pass, the Public
24 Works Development Manager testified that approval of the instant variance can
25 and should be conditioned to require the Applicant to establish a safe refuge
26 space within or adjacent to the proposed driveway entrance. While City Staff
27 offered some suggested design specifications, including a minimum additional
28 width of six feet and a hardened (or paved) surface, no specific design was
29 proposed by the Applicant or identified by City Staff as adequate to address
30 safety concerns. The current sole user of the driveway, Mr. Funk, indicated he
had some design suggestions/requests, but these were not added to the record. A
condition of approval will be imposed requiring the design of the driveway
access to provide adequate room to allow vehicles to safely pass at the point of
driveway connection. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,*
17, 18, 19, and 20.

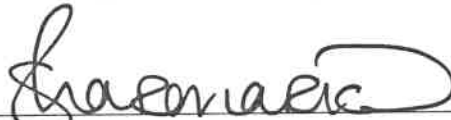
1 **DECISION**

2 Based on the preceding findings and conclusions, the requested variance from the
3 requirement to construct a full standard street to provide access to an existing single-
4 family residence at 1109 18th Street as described herein is **APPROVED** subject to the
5 following conditions:

- 6 1. The Applicant shall be required to construct the connection point such that it
7 provides room to function as a refuge for vehicles traveling in opposite
8 directions on the driveway to allow passing. The design specifications for this
9 driveway connection and refuge point shall be coordinated among the owners of
10 1112 and 1109 18th Street and shall receive approval from the Public Works
11 Department.
- 12 2. The instant variance only authorizes additional traffic from 1109 18th Street to
13 use the existing driveway. No vehicles from other properties may cross 1109
14 18th Street to access the driveway.
- 15 3. This variance shall expire two years from the date of its approval unless
16 construction has begun or a valid building permit for construction is in force.

17 DECIDED February 18, 2025.

18 **BELLINGHAM HEARING EXAMINER**

19 

20 Sharon A. Rice