

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EDWARD C. SHOPE

FILE NO. MUP-81-014

APPLICATION NO. X-81-67

from a decision of the Director
of the Department of Construction
and Land Use on a Master Use Permit
application

Introduction

Appellant, Edward C. Shope, appeals the decision of the Director of the Department of Construction and Land Use to deny the variance component of a Master Use Permit application for property at 1222-20th Avenue East.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended).

This matter was heard before the Hearing Examiner on July 22, 1981.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Appellant proposes to construct a second story greenhouse addition to an existing garage and applied for a master use permit. The Director of the Department of Construction and Land Use denied the two variances requested. Appellant filed the instant appeal.

2. The subject property is a 60 by 115 ft. lot at 1222-20th Avenue East in a Single Family High Density (RS 5000) zone. The lot is developed with a single family residence and a detached garage located 18 in. from the rear and 18 in. from the north property lines.

3. The proposed addition would make the garage structure 17.66 ft. high. A garage may be located without required side and rear yards if it is no higher than 12 ft. Section 24.62.080 provides that minimum side yards must be required for accessory building exceeding 12 ft.

4. The location, on top of the existing garage, was selected for the greenhouse and future solar installation because it is the only site on the lot which receives sufficient sun which is feasible for development. The south side of the house is shaded by the 2 story house on the adjoining lot. That lot is 3 to 3½ ft. higher in elevation than the subject lot.

The rear yard, south of the garage is shaded by the garage on the adjoining property and a large tree. The house two lots south is 3½ stories high and casts a shadow in the winter over the southern half of the back yard.

The portion of the lot between the house and garage is the only portion suitable for a garden but it receives only 5 hours of sun exposure each day in the summer.

5. The greater height is likely to throw a shadow over a portion of the lot to the north of the subject site used as a driveway and parking area.

6. Many lots in the immediate area have grades which allow two story accessory garage structures in otherwise required yards, including five lots on the block with the subject property and another 19 on the blocks surrounding the subject property. Three lots within two or three blocks have greenhouses.

At least 14 two story garages exist in the vicinity of the subject property. Three have greenhouses in the second story and most are on or near a property line.

7. The record contains many letters and comments from neighboring residents and property owners supporting the application and appeal including one from the owner of the property immediately adjacent to the garage.

8. The subject lot abuts upon a 16 ft. wide alley.

9. The proposed structure would not be out of character with neighborhood development.

Conclusions

1. The topography of the subject lot in relation to others and the shading caused by other development are conditions which would deprive the property of development enjoyed by many other properties in the vicinity so no special privilege would be involved if the variances were granted. The location selected appears, from the record, to be the only possible one and the height desired the minimum necessary. Since the garage is in existence, variance for the established setbacks are also the minimum necessary for relief.

2. The variances would not injure adjacent properties nor would they be materially detrimental to the public welfare.

3. The variances would not conflict with the spirit of the Single Family Areas Policies.

Decision

The decision of the Director is reversed and the variance is GRANTED.

Entered this 3rd day of August, 1981.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).