

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EVERETT G. HOLLENBECK

FILE NO. MUP-81-028

APPLICATION NO. X-81-045

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

Introduction

Appellant, Everett G. Hollenbeck, president, Puget Sound Association for the Deaf, Inc., appeals the denial of certain variances and the conditioning of others by the Director of the Department of Construction and Land Use for property at 2407 N.W. 60th.

Parties to the proceeding were: Appellant, represented by Carl Kuzyk, and the Director of Construction and Land Use (DCLU) represented by Carol Proud, environmental specialist.

This matter was heard before the Hearing Examiner on August 5, 1981.

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

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

Findings of Fact

1. Appellant applied on behalf of Puget Sound Association for the Deaf, Inc., for a master use permit to establish a social club at 2407 N.W. 60th. It was determined that a number of variances were needed. DCLU granted a variance to allow a private club closer than 20 ft. to a RD zoned lot, a side yard variance and a variance to allow the expansion of a building nonconforming as to bulk on the condition that a "signed and notarized parking covenant between the applicant and the owner of the accessory parking site, which must provide five parking spaces that comply with Section 23.21 of the Seattle Zoning Ordinance" be filed. A variance to waive four parking spaces and one to allow parking in the front yard were denied. Appellant filed a timely appeal.

2. The subject site is in a Community Business (BC) zone and contains 3,134 sq. ft. The lot is developed with a residence of one story and basement and a two car detached garage in the rear.

3. Puget Sound Association for the Deaf, Inc., is a social club for senior citizens who are deaf. The group's usual meeting time is on Saturday from about 6:30 to 9:30 p.m. The club has 70 members and average attendance at their gatherings is 35 members.

4. For chiefly economic reasons, the majority of the members do not drive. Public transit is available on 25th N.W.

5. Seven parking spaces are required by Sections 24.64.060 and 24.64.120. Two cars can be parking in the garage. The application provided for the parking of one car in the required front yard. Five spaces were to be provided through the joint use of the property at 6001-24th Avenue N.W., Roy's Auto Repairs.

6. While the operator of the business at 6001-24th N.W. has agreed to allow the use of the property for the club's parking needs he refuses to sign the formal covenant required by the City, not wanting to be involved with "City Hall".

7. Northwest Sixtieth Street dead-ends one block west of the subject site. On-street parking is heavily used because several apartment buildings nearby do not provide adequate off-street parking.

8. The Ballard Community Center and Playfield is located to the west of the subject site. A parking area within the street right-of-way accommodates 29 vehicles. The nearest parking space is 604 ft. from the subject property. Mr. Kuzyk observed the parking area four different times - - Saturday afternoon, evening, Wednesday noon, and late Thursday afternoon - - in July on clear days. From 0 to 6 spaces were occupied at the times of his observations. At least one parked vehicle belonged to a tenant of a nearby apartment building.

9. Parking in the front yard would be incompatible with the character of the residential area and could create a hazard to pedestrians.

10. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, the action proposed in this appeal has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. DCLU is correct that a variance to waive off-street parking would be detrimental in this neighborhood because of the demand for street parking. The off-street parking requirement can be satisfied, however, by the two on-site spaces and the use of the auto repair property. Since the signed covenant is a prerequisite for that parking to be formally recognized, variance from the code's parking requirement for the five spaces would be the minimum necessary for relief. As long as that parking remains available for club use, the code requirement for off-street spaces would be satisfied.

2. With the provision of parking as described above, a variance to permit parking in the required front yard would go beyond the minimum necessary for relief. It would also be materially detrimental to the public welfare. Therefore, that variance should not be granted.

3. The condition imposed by DCLU on the approval of the other variances is unduly restrictive where a showing has been made that the parking is available but the owner will not sign the required document. A condition requiring that such parking be available would be sufficient to remove the potential for detriment.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED as to the variance for parking in the required front yard, REVERSED as to the waiver of parking and the variance GRANTED subject to the condition that five off-street parking spaces, in addition to the two on-site, be provided (within a reasonable walking distance of the club facility) by informal joint-use agreement, and that the condition imposed on the granting of the other variances be modified to allow provision of the five parking spaces through an informal joint use agreement. Utilization of the space by the club will be considered evidence of such an agreement.

Entered this 19th 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).