

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CHARLES F. HAWK

FILE NO. MUP-81-077(V)
APPLICATION NO. 81188-0170

from a decision of the Director
of the Department of Construction
and Land Use on a master use permit
application

Introduction

The applicant proposes to erect a double-faced illuminated sign extending from the roof of the building located at 11749 Greenwood Avenue North.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellant, pro se; the Director of the Department of Construction and Land Use (DCLU) by Ed Somers.

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

This matter was heard before the Hearing Examiner on December 14, 1981.

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 proposes to erect a double-faced illuminated sign to extend from the roof of a building located at 11749 Greenwood Avenue N. The subject application was for a 4 ft. by 6 ft. sign roughly 10 ft. above grade. The subject building has roof top brackets which the building owner suspects supported a pre-1974 sign of unspecified dimensions.
2. Greenwood Avenue N. is north-south arterial. The proposed sign would extend from the building in an east-west direction to Greenwood Avenue N.
3. The subject property is located in one of two strips of RM 800 zoned properties located on the east and west sides of Greenwood Avenue N. Zoning surrounding the RM strip is RS 7200, Single Family Medium Density.
4. The subject site is developed with a one story commercial building used by dentists and by the Broad-View Travel Company, appellant's business. North adjacent to the subject site is a four story condominium located closer to Greenwood Avenue than the appellant's building. South adjacent to appellant's building is a realty office which has two lighted signs, one a flood lit sign extending up from the roof and angled in an east-west fashion; and the other a printed and curved arrow sign fronting on Greenwood Avenue. Two properties south adjacent is another building which has a sign extending from the front of the building.

5. Residential development is to the north, east and west of the subject site.

6. The appellant sought permission for a sign to exceed the maximum allowed square footage area of 1½ sq. ft. Seattle Municipal Code Section 24.30.080, reference 24.26.040, reference 24.24.050.

7. No similar variances have been granted in this vicinity. The DCLU witness accordingly surmised that some vicinity signs may have been constructed without permit.

8. DCLU approved the variance from the 1.5 sq. ft. limitation on the conditions that the sign not exceed 15 sq. ft., that the sign rest flush against the building, and that other exterior signs be removed. Appellant prosecuted an appeal from the imposition of the conditions, arguing that the north adjacent condominium would unduly block the view of the sign by Greenwood Avenue south-bound motorists; further, that a hanging sign as proposed would provide these motorists greater reading time; and that larger signs do exist on south adjacent properties; but that appellant "could live with" a 15 sq. ft. sign so long as it could be perpendicular to the building in a fashion initially proposed.

9. That portion of the subject building leased or rented by appellant and facing Greenwood is glass front. Accordingly, appellant urged, a flush sign could only be placed on the north brick facing which is nearer to the co-tenant's use.

10. Some opinions expressed in opposition to the variance cited precedent, and impacts of the sign on the residential character of the neighborhood.

11. Churches and institutions are allowed signs of 15 sq. ft. in residential areas. Section 24.16.050(F) et seq.

12. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The decision of the Director is afforded no particular weight but is considered as part of the entire record. Hearing Examiner Appeal Rule 1.26(a); Seattle Municipal Code Section 24.84.170. Appeals shall be considered de novo. Hearing Examiner Appeal Rule 2.8. The Hearing Examiner may affirm, reverse, remand or modify the Director's decision. Hearing Examiner Appeal Rule 2.10; Seattle Municipal Code, Section 24.84.180(B).

2. The subject building's location on an arterial between a more easterly north adjacent condominium would seem to support some relief from the strict application of the zoning ordinance. Accordingly, DCLU conditionally approved variance relief. The 15 sq. ft. limitation on the sign was based on the size allowed for churches and other such uses in residential zones.

3. The Director's decision is hereby remanded for further consideration. In contravention of the variance criteria of Seattle Municipal Code Section 24.74.030, the relief initially requested by appellant would clearly exceed the minimum necessary for relief and would prove materially detrimental to the public interest. Appellant proposed an east-west extended sign of 24 sq. ft. in a zone and vicinity primarily developed with residences. The proposed sign would intensify the commercial appearance of the area; and would serve as negative precedent inasmuch as no similar variances have been previously reported for the vicinity.

4. Additionally, the relief conditionally approved by DCLU exceeds the minimum necessary for relief and amounts to a grant of a special, detrimental privilege to the applicant. A review of sign size variances considered by the Hearing Examiner is instructive. In X-79-177, the Hearing Examiner noted that in relation to size variances

...exceptions have been made to size limits in residential zones but generally for hospitals where the need for rapid identification is critical...

A sign for Harborview Hospital was considered in X-79-017 wherein the Examiner noted that

...variances of this nature have been granted to other facilities and institutions which serve the general public and therefore the granting of this variance would not convey a special privilege to the applicant...

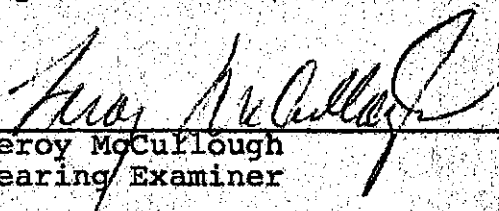
In accord are decisions X-80-219; X-80-035; and X-79-412. Generally, where interests of non-public facilities such as hospitals and institutions have been considered, applications for variances from the restrictions on sign dimensions have not met with much success, e.g., X-79-313, X-79-315 and X-80-309 (concerning a "semi-public" institution). However, continuation of roof signs of more than the permitted size where the signs had a history of more than 18 years was approved on a limited 2-year basis in X-79-468. And in X-80-511, the Hearing Examiner approved a 3.2 sq. ft. area store front sign located in an RM 800 zone.

5. In one sense, appellant requests a larger than permitted sign in order to visually compete with the south adjacent signs and with the north adjacent condominium. However, in terms of viewing the comparative development rights of the appellant, consideration of the south adjacent signs is not particularly helpful. Their legal status nor history is clear. Thus, we are unable to state that they resulted from variance approval now sought by appellant. Secondly, comparison of this private interest facility with public institutions such as hospitals for the purpose of approved sign dimensions is improper and would amount to a sub silentio amendment of the zoning ordinance.

Decision

The decision of the Director of the Department of Construction and Land Use is hereby REMANDED.

Entered this 22nd day of December, 1981.


Leroy McCullough
Hearing Examiner