

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

RICHARD W. KLEIN

FILE NO. MUP-81-086(V)
APPLICATION NO. 81257-0332

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

Introduction

The applicant seeks to construct a carport addition to an existing single family residence at 6731-37th Avenue N.W.

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: Richard Klein, applicant-appellant; the Department of Construction and Land Use (DCLU) by Diane Althaus, environmental specialist.

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 January 13, 1982.

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. The subject property is located in the Single Family Residence High Density (RS 5000) zone at 6731-37th Avenue N.W. The property is also known as 3701 N.W. 68th Street.

2. The site, located at the end of dead-ending N.E. 68th and 37th Avenue N.W., is irregularly shaped. It narrows to the north to the vacated portion of N.W. 68th Street. The property is on a bluff overlooking Shilshole Marina to the west.

3. The 4,251 sq. ft. area lot is developed with a two story single family residence constructed in 1953. A kitchen was added and the original attached garage/carport converted to living space in 1972 or 1973, prior to this applicant's December, 1974, purchase.

4. The subject dwelling is primarily located on the southern portion of the lot. A concrete slab on the north end provides open parking for three cars. Applicant proposes covered parking for these cars by way of a two car carport addition. As stated in the application, the requested variance

...would allow erecting a roof over two of the three parking spaces and would provide shelter for automobiles which are expensive. The proposed roof...is less than 3 ft. higher than an existing fence. It is well below the bulk of the house, and is designed in keeping with the general style of the house.

DCLU denied the requested variance relief to accommodate this project and applicant pursued this appeal.

5. The development is nonconforming as to bulk with a 7.8 ft. front yard setback (a minimum 20 ft. setback is required per the zoning code). Further, proposed lot coverage results are nonconforming at 48.15 percent.

6. A similar variance request for the subject property was denied by the Hearing Examiner in File No. X-76-322.

7. Regarding the subject application, several letters of opposition stated apprehensions that the proposed construction would block open space views to the west and would further establish a negative precedent. Applicant acknowledges some west view blockage would occur but states that the only view affected would be that directly from the street, and not from the residences.

8. No similar variances were reported for the vicinity. However, DCLU acknowledged a "side yard" variance for an accessory detached garage at 6714-33rd N.W.; and a side yard variance for 7103-32nd N.W. DCLU distinguished these properties and the attendant variances by the topography.

9. The nearest adjacent single family residence, removed one lot and to the south has a front yard setback of approximately 20 ft.

10. With regard to the State Environmental Policy Act of 1971 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. Assuming that other properties in the vicinity enjoy covered parking and that the size and shape of the lot are unusual, approval of the variance would nevertheless constitute a grant of special privilege to the applicant and should be denied. No variances of the nature and degree sought by applicant have been granted for the subject zone or vicinity (See X-74-072). Negative precedent could result if the requested variance relief were approved, particularly in light of the history of initially provided covered parking, which predated the applicant's purchase of the home.

2. Further, variance approval would conflict with the spirit and terms of the Single Family Policies. Resolution 25968. At page 7, Implementation Guideline 4, those policies provide that

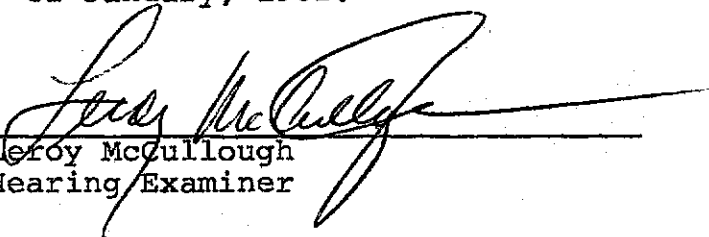
...Front yard setbacks shall be at least as great as the average front yard setback of the adjacent single family residences.

The nearest adjacent single family residence is south, one lot removed, and provides an estimated setback of 20 ft. Although there is no technical average per the Policies, the spirit of the Policies would be negatively affected by allowing the front yard setback proposed. The Policies also provide that yard setbacks "must be maintained"; and that as related to lot coverage, single family residences should not exceed 35 percent, although to a maximum of 42 percent lot coverage, lots smaller than 5,000 sq. ft. may benefit on a sliding scale basis. Applicant is proposing 48.5 percent. Accordingly, the Comprehensive Plan as modified by the Policies, would be adversely affected in contravention of the variance criteria of Section 24.74.030.

Decision

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

Entered this 27th day of January, 1982.


Leroy McCullough
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). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.