

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DAN CAREY AND JAY CAREY

FILE NO. MUP-82-012(V)
APPLICATION NO. 81219-0252

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

Introduction

Appellants, Dan and Jay Carey, appeal the decision of the Director of the Department of Construction and Land Use (Director) to deny variances for property at 1421-2nd Avenue North.

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

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 March 3, 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. Appellants applied for a master use permit to add two units to an apartment building at 1421-2nd Avenue North. The Director determined that variances to allow the expansion of a nonconforming use and nonconforming building and to provide less than the required off-street parking would be needed. The Director denied both variances. Appellants appealed.

2. The subject property is an 85 ft. by 100 ft. lot developed with a ten unit apartment building in a Duplex Residence High Density (RS 5000) zone. Six parking spaces are established on the site.

3. The apartment building was determined to be nonconforming as to use, as to lot coverage (46 percent existing where 35 percent is allowed), as to front yard (10.5 ft. where 20 is required), and required parking (6 existing where 10 would be required).

4. Appellants propose to create two additional dwelling units within the existing building. There is evidence that could indicate that one more unit may have existed in the basement in the past.

5. Section 24.14.060 prohibits the expansion of a nonconforming use or building which is nonconforming as to bulk. Variance is requested from that provision to allow for use expansion.

6. The Director determined that the twelve units would require twelve off-street parking spaces less the credit for the four spaces by which the building had been nonconforming for a total of eight required. Appellants intended to show a total of 10 spaces on-site on their plot plan and not request a variance to waive any required parking. Since it is not clear that the

spaces can be accommodated on-site that variance will be considered and then if parking is provided, the decision on that issue will be irrelevant.

7. The area of the subject site appears to be slated for Lowrise 2 designation under the Multi-family Land Use Policies. The Policy intent for bulk is not met by this proposal because of inadequate parking.

8. The subject property is located across the street from Queen Anne High School which is now closed. The school's gymnasium is located across the northend of the subject block and a playfield is across the alley to the west.

9. Access to the parking lot at the rear of the building is via the alley which dead-ends at the property. Four vehicles can park on the west side of the alley across from the subject site on school district property.

10. The RD 5000 zone has the school property, single family residences, two duplexes and at least six nonconforming apartment buildings, three with four units apiece, one with seven units, the subject building and one with 16 units.

11. No variances to allow expansion of a nonconforming use have been granted in the zone or vicinity.

12. The other nonconforming apartment buildings in the zone have density ranging from approximately one unit per 1,500 sq. ft. to one unit for each several hundred square feet. The smallest single family developed lot in the zone appears to be 3,000 sq. ft.

13. The on-street parking situation has improved with the closure of the school. Orange Place, the next street west of 2nd Avenue North, is narrow with parking restricted to one side and has parking problems. It is not likely to be affected directly by parking demand generated by the subject building unless the school building is occupied by a use which generates a large parking demand. Lee Street also has parking restricted to one side.

14. The Southeast Queen Anne Association opposes the variances.

Conclusions

1. As to the variance for expansion of a nonconforming use, appellants have failed to establish the existence of a unique condition because of which the code operates to deny the subject property rights which with other properties enjoy. The record shows development or density on the subject lot to be much greater than most properties in the zone. The few which exceed it were developed prior to this code so no right exists to that level of development. The subject property now enjoys greater rights than most properties so the variance would go beyond the minimum necessary for relief and confer special privilege on this property.

2. The increase in frequency of vehicular trips down the alley past the other residences and increased demand for on-street parking from the additional units would not be desirable and some detriment to the public welfare from this unscheduled increase would accrue.

3. The proposed addition, without adequate required off-street parking, would not be consistent with the Multi-family Land Use Policies.

Decision

Since the code requirements for variance relief have not been met the decision of the Director to deny the variances is AFFIRMED.

Entered this 17th day of March, 1982.

M. Margaret Klockars
M. Margaret Klockars
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). 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.