

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EVVIAN WILLIS FOR JOHN GORMAN

FILE NO. MUP-82-025(V)
APPLICATION NO. 81357-0505

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

Introduction

Appellant, Evvian Willis for John Gorman, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny variances for property at 3817 Gilman Avenue West.

The appellant exercised his 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 May 5, 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. An application for a master use permit was made by appellant to allow the construction of an addition to a repair garage at 3817 Gilman Avenue West. The Director determined that variances would be required from the rear yard requirement and for the expansion of a building nonconforming as to use and bulk. The variances were denied and this appeal followed.

2. The property is a roughly triangular lot with frontage on Gilman Avenue West developed with a auto repair garage. The lot is in a Duplex Residence High Density (RD 5000) zone so the use is nonconforming.

3. The addition for parts storage is to be 16 by 20 ft. and located at the south end of the building in line with the existing rear wall.

4. Section 24.26.090 requires a rear yard setback of at least 15.4 ft. The existing structure is partially within the required rear yard as would be part of the addition, continuing the 5 ft. 2 in. rear yard.

5. Section 24.14.060 prohibits the expansion of a building nonconforming as to either use and bulk.

6. The uses in the RD 5000 zone are largely single family with one duplex to the west. The residences to the west are on a slope and above the site.

7. Gilman Avenue West separates the properties on the westerly side from the railroad yards with their noise, activity and smoke. Farther south along Gilman are located commercial zones. Some nonconforming commercial uses are located in residentially zoned areas to the south.

8. Appellant believes the property is more appropriate for commercial than residential use because of its location, across from the railroad yards, and odd shape.

9. The Multi-Family Land Use Policies discourage the expansion of nonconforming uses.

Conclusions

1. The location and shape of the property are not dissimilar from other properties in the vicinity along Gilman. Therefore, those conditions do not cause the property to be deprived of rights enjoyed by other properties. The Director is correct in viewing the more intensive use of the subject property as a right not available to others. Any variance to permit expansion would exceed the minimum necessary for relief and would confer special privilege.


2. The addition, as proposed, would not materially injure any other property given its placement, relatively small size and the topography of the area. The precedent of allowing the expansion of a non-conforming use would be detrimental to the extent it affects the future residential character of the area.

3. The variance to expand a nonconforming use would be contrary to the Multi-Family Land Use Policies.

Decision

The Director's decision to deny the variances is AFFIRMED.

Entered this 10th day of May, 1982.


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.