

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

J. EDWARD JONES III

FILE NO. MUP-82-033(V)
APPLICATION NO. 82-0077

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

Introduction

Appellant, J. Edward Jones III, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny one variance and partially grant another for property at 4128 North Woodland Park Avenue.

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 June 1, 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. Appellant applied for a master use permit to legally establish the use of the house at 4128 N. Woodland Park Avenue as a duplex. The Director determined that variances would be required to provide less than the minimum required side yard and sum of the side yards and to allow parking in the required front yard. The Director denied the side yard variances and granted variance for front yard parking for one car with landscape conditions. Appellant filed this appeal.

2. The residence has been used as a duplex for 2½-3 years. Several ownerships intervened between appellant's and the owner who made the conversion. The front yard was paved for parking some 17 years ago.

3. The property is in a Multiple Residence Low Density (RM 800) zone which contains a mixture of residential uses. Next to the subject property is a single family residence and a duplex. Single family use predominates in the area.

4. The lot measures 30 ft. by 105 ft. 5.28 in. The north side yard is 3 ft. except for a bay window on the back half of the wall, now walled in, which extends 1.5 ft. into that. The bay window extension is elevated 4 ft. off the ground. The south side yard measures 4 ft. 10 in. from the shingled wall of the house and 5 ft. from the foundation.

5. Section 24.66.030B permits the conversion of a residence into a duplex in this zone if, in pertinent part, no side yard is less than 3 ft., the total of the side yards is at least 8 ft. and it will comply with the bulk and density requirements of the zone in all other respects except for existing front yards. Variances are requested for the side yards.

6. Section 24.64.040A(5) prohibits parking in a required front yard. Two parking spaces are required for a duplex. A variance is requested to allow both in the front yard.

7. The single family residence on the south side of the subject property has a one-car carport in the required front yard. A variance for front yard parking at 4022 Woodland Park was granted in 1958. Yards are paved in front of apartment buildings at 4040, 4216 and 4259 Woodland Park North.

8. The land use maps, adopted by the City Council May 10, 1982, and signed by the Mayor May 13, 1982, as part of the new land use policies for the City, show the subject site as part of an area proposed for single family zoning.

9. Appellant filed his application prior to the adoption of the map specifying single family designation.

10. The Multi-Family Land Use Policies provide for parking in the front for ground-related housing where there is no alley and allow continuance of a deficit when dwelling units are added to an existing building.

11. The Single Family Residential Areas Policies generally prohibit front yard parking.

Conclusions

1. The narrowness of the lot and the configuration of the house are property conditions which make meeting the code requirements for conversion to a duplex impossible without variance. But since single family use of the site is possible, despite these nonconforming conditions, and because the majority of the properties in the area and zone are in single family use, the property is not denied the right to comparable development. The variances to allow two dwelling units would, then, go beyond the minimum necessary for relief.

2. Special privilege would be conferred by granting variances to gain a use more intensive than most of the properties. Most properties have off-street parking available, however, so the variance to allow one car in the required front yard would allow this property that right and a variance for one car parking would not convey a special privilege.

3. The side yard variance would cause no material detriment or injury since no physical change would occur. The variance for front yard parking would be detrimental in that the front yard, which is intended for landscaping and open space, would be devoted to parking. Though it has been used for parking over a long term that use has not been legal and can be converted to yard again. The landscaping conditions imposed by the Director for the one space would remove the detriment.

4. Because the land use map connected with the land use policies showing single family designation for the property were not adopted at the time of the variance application, policies applicable to the property, as zoned, should be applied. The Multi-Family Policies discourage parking in front of buildings except under certain conditions. It appears that if screening or landscaping could be provided the variances would not conflict with those policies. The record does not show, however, that there is adequate space to screen both parking spaces.

5. Since the application does not meet the required showing of Section 24.74.030A(1), that the property is deprived of property rights and privileges enjoyed by other properties in the same zone or vicinity, so long as single family use is available, the variances for two parking spaces in the front yard and side yards are not warranted. A variance for one parking space in the front yard, as conditionally granted by the Director, would be warranted.

Decision

The Director's decision granting variance for one parking space in the required front yard with conditions is AFFIRMED.

Entered this 15th day of June, 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.