

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

In the Matter of the Appeal of

JOHN P. WILLISON

FILE NO. MUP-82-066(V)
APPLICATION NO. 82-0348

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

Introduction

Appellant, John P. Willison, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny a variance for property at 1216 N.E. 89th Street.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on October 12, 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 is in the process of remodelling his house at 1216 N.E. 89th Street by replacing the garage door with a wall, window and door and converting the garage space to living/workshop/storage space. A variance is required from Section 23.44.10B(4) (a) (b) to allow 4 ft. of the required parking space to intrude into the 20 ft. required yard. The Director denied the variance and this appeal followed.
2. Appellant bought the subject property in 1963. After 1965, the garage was no longer used as a garage and appellant's car was parked in the driveway. Appellant began the conversion of the garage without a permit because of his misunderstanding of the requirement.
3. The garage is below grade. Retaining walls on each side partially obscure a car parked in the driveway.
4. The lot is 44.64 ft. wide. The side yards are too narrow to allow vehicular access to the rear yard. There is no alley.
5. The house next door once had a garage which has been converted to living space and the car is parked in the driveway. The garage at another house around the corner of 12th N.E. and N.E. 89th also has been converted. A sliding glass door replaced the garage door and the car is parked in the driveway within the required yard.
6. The alternative to the variance, according to appellant, is to construct an addition to the house over the existing driveway to the point where the required front yard ends and to use the front part for the garage and the rear part for the needed space. If structural conditions allow he would make the addition two stories. The addition would bring the house farther forward than any other on the block.
7. Section 23.44.10B(b) (d) allows the parking of an automobile in the driveway within the required front yard when the one parking space required is otherwise provided.

Conclusions

1. The property, shown to be similar to adjacent properties, has no unusual condition that would deprive it of rights and privileges enjoyed by other properties. While two others do not provide the required off-street parking, the absence of recorded variances makes it necessary to presume those properties are not in conformance with the law and do not have the right to that use.

2. Granting a variance with these facts would confer special privilege.

3. The variance would not occasion any material detriment or injury since the situation would be unchanged and the new code provision would even permit parking at the current location were the garage still there.

4. The literal interpretation and strict application of the code provision does cause unnecessary hardship when it is considered that there would be no benefit to the public from its enforcement.

5. Deviation from the code without the requisite property related condition would be inconsistent with the purpose of the Land Use Code.

6. Since all criteria for variance relief must be met for granting of that relief, the application must be denied.

Decision

The decision to deny the variance is AFFIRMED.

Entered this 26th day of October, 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, instruction 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 of the appellant is successful in court.