

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EVVIAN WILLIS for RALPH E. CALDWELL

FILE NO. MUP-83-003(V)
APPL. NO. 82-0456

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

Introduction

Appellant, Evvian Willis, agent for Ralph E. Caldwell, appeals the denial by the Director, Department of Construction and Land Use, of a front yard variance and conditional granting of another variance for property at 5762 East Greenlake Way.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76 Seattle Municipal Code.

This matter was heard before the Hearing Examiner February 15, 1982. The record remained open until July 11, 1983, for further submittals by appellant.

Parties to the proceedings were: Evvian Willis for Ralph E. Caldwell, and Anne Marlowe representing the Director.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

After due consideration of the evidence elicited during public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings

1. Appellant applied for a master use permit to legalize a covered deck addition which had already been constructed and to allow the construction of a carport on property at 5762 East Greenlake Way. The Director determined that variances would be required from minimum front yard and street side yard requirements and to allow for the expansion of a structure nonconforming as to development standards. He granted the variances for the street side yard and for expansion into the side yard but denied variances for the front yard and expansion of a nonconforming structure into the front yard. Appellant appealed the decisions denying the variances.

2. The subject lot is triangular with frontages on East Greenlake Way and Ashworth Avenue North. Development, prior to the addition, consisted of a single family residence and a garage. A parking pad has been placed at the northerly end of the house which has room for two cars.

3. Required yards for the property are 20 feet for the front on East Greenlake Way, Section 23.44.14A, and 10 feet for the side on Ashworth Avenue North, Section 23.44.14C. Existing development encroaches into these required yards.

4. The covered deck proposed for legalization leaves a five foot side yard.

5. The 20 foot by 21 foot carport would result in a front yard of 6 feet where 16 feet, 8 inches exists.

6. The property is supported by a concrete retaining wall approximately eight feet high along East Greenlake Way. The retaining wall gets lower as it continues up the slope on Ashworth Avenue North.

7. Greenlake Park lies across the street to the north and west.

8. Houses across Ashworth Avenue have views across the property to the park and lake.

9. The proposed carport would be at the location of the existing parking which has been excavated into the lot. The carport would be no more than 10 feet above existing grade of the remainder of the lot.

10. At the height proposed, the carport would eliminate some of the view of the shoreline from at least one neighboring house.

11. There is a garage on most lots in the area but not a second parking provision. One nearby, 5722 East Greenlake Way North, has a garage and a 2-space carport. The streets and driveways are extensively used for parking.

12. No evidence was offered of the granting of any variances for carports or garages in the vicinity.

13. The carport would be visible from both streets and a prominent feature of the front yard.

Conclusions

1. While the triangular shape of the lot is unusual, the strict application of the code does not deprive the property of development rights enjoyed by others. In fact, the combination of the garage parking and two other uncovered spaces appears to exceed that provided on any other lot but the one mentioned.

2. Granting variances to allow the property to have three covered parking spaces would go beyond the minimum necessary for relief and confer special privilege on the property where the new covered parking is not necessary to achieve comparable development.


3. The variances to allow the carport would cause some minor injury to at least one property in the form of loss of view. If otherwise justified, the variance should not be denied on that basis because of the limited extent of the blockage.

4. The carport would slightly alter the streetscape, which is to be protected according to Single Family Residential Areas Policies. Where no justification has been provided, the carport in the required front yard and expansion of the nonconforming structure would not be consistent with the Land Use Code.

Decision

The appeal is DENIED.

Entered this 25th day of July, 1983.


M. Margaret Lockars
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.