

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

Anatol Maleanu

FILE No. MUP-83-031
APPLICATION No. 83-203

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

Introduction

Appellant, Anatol Maleanu, appeals the decision of the Director, Department of Construction and Land Use, to deny variances for property at 5208-21st N.E.

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 on July 25, 1983. Parties to the proceedings were: Appellant represented by C.P. Hanson, Construction and Development Services and the Director represented by Cliff Portman.

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 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 variances to legalize an addition to the property at 5208-21st N.E. constructed by the previous property owner. The Director denied the variances and appellant appealed.
2. The subject property is a lot with 5050 sq. ft. of area developed with a triplex residence. A carport which had been detached is located in front of the residence.
3. The property is in a SF 5000 zone. The triplex is non-conforming in this zone. Many other nonconforming residential uses are nearby although the blockface across the street is almost exclusively single family.
4. The previous owner connected the carport to the residence with a 144 sq. ft., two story addition.
5. The detached carport was permitted in the otherwise required 20 foot front yard. Sections 23.44.14A., 23.44.16D2. When attached to the main structure by the addition it violates the setback requirement so a variance from that section is required.
6. Maximum lot coverage permitted is 35%. Section 23.44.10.C. With the addition coverage is 39.8% for which variance would be required.
7. Section 23.44.80.D prohibits the expansion of a nonconforming use. The Director determined that the addition is an expansion of the multi-family use and requires a variance from this section.

8. The addition is to be used for storage space, according to appellant. The second story, at least, appears to have been built as additional living space.

9. The lot slopes steeply down to the rear. The front and rear 20-25 feet are relatively level.

10. No similar variances have been granted in the zone.

11. Storage for yard maintenance equipment, etc., is desirable. No facts were adduced, however, showing that other properties do have storage space beyond garages or carports. Further, a two story storage space was not shown to be enjoyed by any other property in the vicinity.

Conclusions

1. While the topography of the lot is very steep, this condition does not appear to be the cause of any deprivation of development rights enjoyed by other properties in the zone. Front yard parking is required because of the slope, but already enjoyed. The triplex use of the property already exceeds the rights other properties enjoy so no expansion is warranted.

2. The requested variances go beyond the minimum necessary for relief since none is necessary. To grant variance for the addition would confer special privilege on this property.

3. No physical detriment or injury would accrue from the granting of the variances so long as the space were not used to increase the living area and thus the number of residents. The front yard incursion would not be increased.


4. The strict application of the Code will cause appellant to suffer hardship in that it will mean removal of the offending addition. The existence of the illegal addition cannot be the basis for variance relief, however.

5. Expansion of the nonconforming use would be contrary to the Single Family Residential Areas Policies which provide for the continuation of higher density residential uses but prohibit expansion except for improved handicapped access.

Decision

The variances are denied.

Entered this 5th day of August, 1983.


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.