

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

KENT HINDS

FILE NO. MUP-84-014(V)  
APPLICATION NO. 8400011

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

#### Introduction

Kent Hinds, appellant, appeals the decision by the Director, Department of Construction and Land Use, to deny a variance to allow a garage to exceed the maximum permitted height for property at 3508-43rd Avenue 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 March 16, 1984.

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. Kent Hinds applied for a master use permit to allow the construction of a garage accessory to his home at 3508-43rd Avenue N.E. The Director determined that a variance from the height limit would be required and denied that variance. The applicant appealed.

2. Section 23.44.40(F) limits the height of a garage in a required yard to a maximum of 12 ft. Section 23.44.16 allows the ridge of a pitched roof to extend up to three ft. above the 12 ft. height limit.

3. Appellant proposes to construct a two car garage at the rear of his lot to replace a one car garage nearer the house. The new garage would be 19.5 ft. high and provide second story space for storage and a "green room."

4. Appellant's lot measures 50 by 100 ft. and is in an SF 5000 zone. The house on the lot has been remodelled and is now comparable in size to others in the blockfront.

5. The property is the only one without a double garage in the area.

6. The lot has an average slope of 28% upward toward the rear. Just behind the proposed garage it is much steeper so a retaining wall would be required. Appellant's architect has calculated that the wall needs to be 14 ft. plus one to avoid sloughing over the top. The Director's representative testified that the wall needs to be no higher than 11 ft. if some soil is removed.

7. The garage has been designed by Professor Grant Hildebrand to match the architectural style of the house. The extra height is needed for this as well as for the extra space. The extra height would also mask the retaining wall.

8. Most garages in the area are one story however there is one two-story garage approximately one block away.

9. Because of the topography of the lot in relationship to other neighboring lots the extra height would not affect any views or block the light and air to any other lot.

#### Conclusions

1. Appellant has not adequately shown that there is an unusual property condition that requires relaxation of the height limit to avoid depriving the property of rights and privileges enjoyed by other properties in the vicinity. There is no difficulty with a two-car garage under the code. The extra height is not a development right commonly enjoyed in the area. The topography of the lot does present special development problems and if a 15 ft. retaining wall had to be built greater height could be necessary. Appellant did not counter the land use specialist's opinion that a lower wall could be used however.

2. Without an unusual property condition and a showing of a deprivation of comparable development rights, the granting of a variance would confer special privilege on this property.

3. It is clear from the record that the variance for the second story would not cause any harm to the public welfare or to other properties in the area. It is likely that the design possible with the two stories would be more pleasing, in its relationship to the house, than one meeting code standards.


4. The Single Family Residential Areas Policies do not address height of accessory structures. The variance would conflict with the spirit of the Code, however, which is to require adherence unless an unusual condition warrants variance to allow comparable development.

5. Since not all criteria for variance relief have been met, the variance must be denied.

#### Decision

The variance is denied.

Entered this 30th day of March, 1984.

  
M. Margaret Klockars  
Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request 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.