

FILE
BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Appeal of

LEWIS/NELSON ASSOCIATES

FILE NO. MUP-84-028
APPLICATION NO. 8400407

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

ORDER AMENDING DECISION

The decision on the above referenced matter was issued on May 4, 1984. Said Decision's Finding of Fact No. 9 and Conclusion No. 6 indicated that a flare would add 1.5 ft. of depressed area per side to a driveway access.

Appellant's Exhibit 7 was referenced by Conclusion 6 of the Findings and Decision.

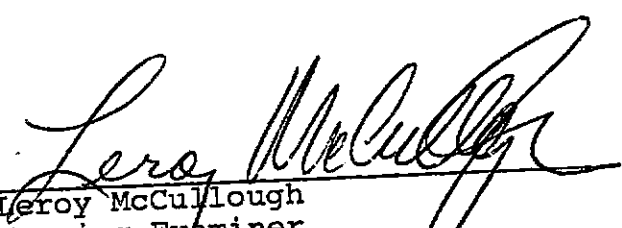
Subsequent to the decision appellant requested review of the flare depressed area width, referencing appellant's Exhibit 3, a Department of Engineering illustration.

After its review of the matter, DCLU agreed that the flare would add 1.0 ft. of flat area per side to a driveway.

It appearing that an error has been made in the Findings and Decision, the Decision is hereby modified and shall read as follows:

The variance is approved on the condition that the total depressed area not exceed 16 ft.

Entered this 18th day of May, 1984.


Leroy McCullough
Hearing Examiner
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FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal

LEWIS/NELSON ASSOCIATES ARCHITECTS

FILE NO. MUP-84-028
APPLICATION NO. 8400407

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

Introduction

Appellant contests the denial of variance relief requested to exceed the 10 ft. maximum permitted width for a curb-cut.

The appellant exercised its 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 April 20, 1984.

Parties to the proceedings were: project applicant-appellant by Cindy Bassett and the DCLU Director by Ed Somers.

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 and subsequent to the Examiner's site visit, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject property is located in the Inverness Park subdivision area of Seattle in the Single Family 7200 (SF 7200) zone. The proposal address is 8659 Inverness Drive N.E.

2. The particular lot at issue has approximately 80 ft. of frontage on Inverness Drive and extends north (rearward) for roughly 120 ft. The lot is somewhat irregularly shaped.

3. The area south, across Inverness and Paisley Drives N.E., is developed with single family residences, most with curb cuts more than 10 ft. wide. Properties immediately west, north and east of the subject site are presently undeveloped.

4. Project applicant proposes to develop the subject site with a single family residence. Variance relief is requested to allow the curb cut access to the 2-car garage to exceed by 6 ft. the 10 ft. maximum of Seattle Municipal Code Section 23.54.30.E.1.b. DCLU denied the variance request and applicant submitted this appeal.

5. The topography of the site and abutting street is somewhat pronounced. As described by DCLU the site slopes "moderately to steeply" down from south to north (front to rear). The topography map of record shows a significant northerly decline for the (approximate) front one third of the lot, after which the lot countours are less frequent.

6. The topography of Inverness Drive also appears on the map of record, which shows that the street rises to its peak at 190.65 ft. of elevation some 150 ft. west of the subject site's west property line. In front of the subject site the street rises some 14 ft. in height over a horizontal distance of roughly 80 ft.

7. At 160 ft. in height, the driveway's west side is 4 ft. higher than its east side, so that an entering vehicle would have to negotiate the turn and the slight west to east bank. Appellant's Exhibit 8.

8. Director's Exhibit 1 is a diagram to illustrate how a Chevrolet Malibu could access a 10 ft. driveway from a street 25 ft. wide curb-to-curb. The illustration does not specify whether a degree of elevation would make a difference. It is not drawn to scale and does not identify a turning radius.

9. Director's Exhibit 2 was submitted to show Council intent to limit curb cuts to 10 ft. in width, exclusive of 2.5 ft. flare, in order to provide more on-street parking. Of the 2.5 ft. per side, 1.5 ft. would be depressed, or driveable.

10. Applicant presented that with a 10 ft. wide path a westbound vehicle with a 20 ft. turning radius, based on architectural graphic standards, would damage an east facing parked vehicle. The twenty ft. radius would also require a westbound vehicle to swing out into the eastbound lane. See Appellant's Exhibit 5.

11. Appellant's Exhibit 6 also uses the 20 ft. radius and shows that a wider portion of the planting strip and the west abutting rockery would be impacted by a car attempting driveway ingress. (Basic construction framing has already begun). Further, the right rear quadrant of a car parked in the west portion of the garage would be impacted by an approaching vehicle, that is, following a 10 ft. wide path. Appellant's Exhibit 7 illustrates that a vehicle approaching the driveway could access a 16 ft. wide driveway without impacting the curbs or rockery.

12. The illustrations of Appellant's Exhibits 6 and 7 show a radius center some 15 ft. from the curb, while the illustration of Exhibit 5, showing that the vehicle approaching the driveway would be required to invade the eastbound lane and impact the parked vehicle, has a radius center less than 5 ft. from the curb. Since a 20 ft. radius is designed to show the probable vehicle path, Exhibits 6 and 7 are found to be more representative; a 20 ft. north distance of the westbound vehicle path places the radius center as in Exhibits 6 and 7. In any case, the approaching vehicle could partially enter, back out, and then complete the access. Backing out on this street is not a desirable activity from the standpoint of pedestrian or vehicular safety. The driveway measures roughly 17 ft. deep.

13. The 20 ft. radius is standard, and is more inclusive of the various sized automobiles than the diagram of the Chevrolet Malibu used in DCLU's illustration.

Conclusions

1. When the legislature adopted a 10 ft. maximum curb cut in 1982, it did not exclude the codified provision from the Land Use Code variance relief provisions. Accordingly, "variances may be sought" from the Land Use Code restriction here at issue. Seattle Municipal Code Section 23.40.20.A.

2. Criteria for variance relief include a requirement for unusual property conditions which, uncompensated, would deprive the applicant of comparable development privileges. The other conjunctive requirements are also at Seattle Municipal Code Section 23.40.20.C.

3. Based on the record of this specific case, the unusual topographical features would seem to justify some variance relief. The driveway is short and sloping, making entry negotiation more difficult. The facing street rises, so that visibility of approaching vehicles is somewhat restricted. Denial of the variance would increase the likelihood that incomplete driveway ingress be compensated by backing out over the sidewalk into a street with a pronounced incline. Other developed properties in the zone and vicinity have wider driveways although approved prior to the current 10 ft. restriction.

4. The variance to allow safe ingress and egress would be consistent with the spirit, purpose and legislative intent of the Land Use Code. The variance would minimize pedestrian and automobile safety concerns.

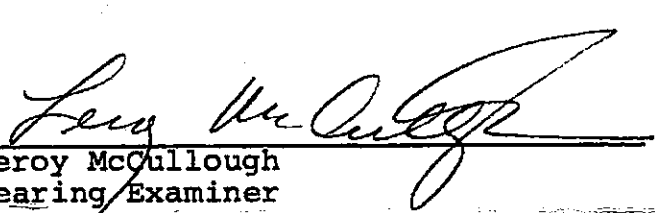
5. Depriving applicant of safe and reasonable entry to off-street parking would constitute an undue and unnecessary hardship, and would deprive applicant of comparable development privileges.

6. It is less clear, however, that 16 ft. is the minimum necessary for relief. Appellant's Exhibit 7 shows a 16 ft. depressed area, in addition to side extensions, or flares, 2.5 ft. to 3 ft. in width. The flare would add 1.5 ft. of depressed area per side, i.e., the total depressed area would, with a 16 ft. wide driveway, be 19 ft. The testimony and evidence of record show that some negotiating room is available with a total width of 16 ft., including flare depressed area. Variance relief is granted on the condition that the curb cut width not exceed 13 ft.

Decision

The variance is approved on the condition that the curb cut width not exceed 13 ft.

Entered this 4th day of May, 1984.


Leroy McCullough
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.