

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

In the Matter of the Appeal of

ALBERTSONS

FILE NO. MUP-84-031(V)  
APPLICATION NO. 8400688

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

Introduction

Appellant, Albertsons, appeals the decision of the Director, Department of Construction and Land Use, to deny variances from parking and landscaping requirements for property at 2550 32nd Avenue West.

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 May 5, 1984.

Parties to the proceedings were: appellant by S.L. Wippel, property manager, Western Washington Division, and the Director by Amy Luersen.

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 a master use permit to construct an addition to an existing grocery store at 2550-32nd Avenue West. Variances were requested to provide less than the minimum number of parking spaces and to waive landscaping requirements. The Director denied those variances and the applicant appealed.

2. The property is zoned Community Business (BC) and is a 41,151 sq. ft. lot developed with a grocery store covering 16,140 sq. ft. The store now has 60 parking spaces in two lots, one on its north side and one on the south with access to each from 32nd Avenue West and from the alley.

3. There are multi-family residences on the north and south sides of the store property and single family residences to the east across the alley. Across 32nd West to the west is a school playfield.

4. Appellant intends to remodel its store to remain competitive. Additional space is needed to carry out the renovation plans. Appellant's witness explained that unless the renovation takes place the business will go into a decline and the store will eventually be converted into some other use.

5. The Director has determined, based on Section 23.64.120, that the 2,446 sq. ft. addition would require provision of an additional 16 parking spaces for a total of 76. Though five spaces would be removed for the addition the applicant would provide five more spaces than before, 65, by restriping the existing spaces to conform to what the code now allows.
6. Under current code requirements, the size of the existing building results in a 83 space requirement and the addition would make a total requirement of 96. Because of a prior approval the provision of 60 is legal for the current building size.
7. No survey of customers' transportation modes has been conducted for this store and there are no special conditions of the surroundings which would make it reasonable to predict an unusually high proportion of customers not using a car.
8. Because of the convenience of street parking and the topography of the parking lots, customers may park on the street when parking is available in the store parking lots. The street parking is also needed for playfield users and apartment residents and guests, since the off-street parking provided by the adjacent apartment buildings is quite limited.
9. Neighbors report that part of the parking lot is often not available because of large trucks delivering goods. This is one reason shoppers park on the street.
10. Not all business and commercial uses in the area provide off-street parking. The record does not reflect, however, whether off-street parking is required for those uses or whether they are exempt from the requirement because of size, type, variances or grandfathering.
11. Section 24.64.150.F. provides for landscaping in and along the borders of the parking areas because they abut premises in the R zone.
12. The Director's representative urges screening along the street and alley boundaries as the minimum landscaping requirement.

#### Conclusions

1. Though the expansion of the building may be essential to the business to remain competitive, the requested variances must be based on the presence of all of the facts and conditions set forth in Section 23.40.20. The variances cannot be granted because there are no unusual conditions applicable to the property, not created by the applicant, because of which the code requirement would deprive the property of rights and privileges enjoyed by others in the same zone and vicinity. While the size of the lot is too small to provide the necessary parking, that is the case only because the applicant desires greater development than the lot can accommodate. There appears to be no condition which would excuse the provision of landscaping either.
2. To grant a variance to increase the degree of nonconformity as to providing required parking when there is no unusual condition would go beyond the minimum necessary for relief. Unless similar variances have been granted, and there was no evidence of that, granting the variance would confer special privilege.
3. To the extent that additional customers are attracted to the store, due to the contribution of the extra space to the remodeling, there would be material detriment from the increased demand for on-street parking.


4. The applicant suffers some hardship from the parking requirement in that its inability to provide the parking prevents it from expanding. The requirement is not unnecessary in this case so that hardship is not unnecessary.

5. The variances would not be consistent with the spirit and purpose of the Land Use Code which is, presumably, to accommodate the demand for parking generated by the use while attempting to moderate the aesthetic impact of an expanse of parking lot.

Decision

The variances are denied.

Entered this 9th day of May, 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 14th 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.