

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

In the Matter of the Appeal of

CHARLES AND KATHARINE LARKIN

FILE NO. MUP-85-040(V)
APPLICATION NO. 8501948

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

Introduction

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

The matter was heard before the Hearing Examiner on August 22, 1985.

Parties to the proceedings were: appellants, pro se; and the Department of Construction and Land Use (DCLU) Director by Malli Anderson.

No correspondence was received from the public in opposition to the application.

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. Applicants propose to expand an existing single car garage accessory to the residence at 5645 Beach Drive S.W. DCLU denied the four variances required and applicants submitted this appeal.

2. The subject property is located on the west side of a curving portion of Beach Drive S.W. and slopes down from Beach Drive to its 75 ft. of Puget Sound frontage.

3. The lot is zoned Single Family 5000 and is within the Urban Residential (UR) shoreline environment.

4. The subject lot is developed with a single family residence that is within roughly 2 ft. 3 in. of the north property line. Attached is a single car, 12 ft. by 19.5 ft. garage that is within the required front setback and which is accessed by a 12 ft. curb cut. South of this curb cut is a secondary, 22 ft. curb cut that leads simply to the residence's front stone wall and its access gate. Applicants intend to restore this portion of the curb as part of their proposal.

5. Applicants desire to respond to the numerous accidents to parked cars, acts of auto vandalism and to their two-car family circumstance by adding a 11 ft. wide by 19.5 ft. deep addition to the south of the existing garage. The resulting double garage would have a total dimension of 23 ft. in width and 19.5 ft. in depth. In line with the existing garage, the addition would rest between 1 ft. 7 in. and 3 ft. of the front property line.

6. The view west across applicants' property to Puget Sound from the public sidewalk would not be affected by the proposal.

7. The vicinity development consists primarily of single family development. Most of the dwellings on the west side of Beach Drive have one or two-car garages or carports that are located within the required front yard. The majority of the vicinity homes have off-street parking for two cars.

8. Neighbors approve of the proposed addition.

9. The south adjacent dwelling at 5657 Beach Drive S.W. has a two car garage with a roofline roughly 1 ft. from the sidewalk. The property at 5633 Beach Drive S.W. has a double parking structure located roughly 2 ft. from the sidewalk. Recent constructions at 4801 and 6735 Beach Drive S.W. have double parking structures within the front setback area a short distance from the sidewalk.

10. With regard to the State Environmental Policy Act of 1971 (SEPA) and Chapter 25.05, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC Chapter 197-11.

Conclusions

1. Applicants seek variance relief from several Land Use Code restrictions. Seattle Municipal Code 23.44.82(C) generally prohibits extension of a nonconforming accessory structure or of a nonconforming part of a principal structure. Section 23.14.14(A) generally requires a front setback area which the existing or new garage would not provide. The proposed access curb cut would be 21 ft. 11 in.; thus a variance from the 10 ft. curb cut width limit is requested. Section 23.54.30(E). Finally, applicants request parking in the front yard. Section 23.14.16(D).

2. In application number 8502193, for a property addressed 9217 Fauntleroy Way S.W., DCLU noted as one unusual condition that the subject lot, without alley access, sloped down to the water and therefore had limited options for location of house or garage construction. The same applies to the instant case. The preexisting location of the applicants' house and garage on the lot, with Puget Sound to the west, are unusual conditions not created by applicants that support the requested variance relief.

3. The property conditions limit alternatives for location of off-street parking. The majority of vicinity homes have two-car off-street parking privileges. While some of the comparative development pre-dated the 1982 adoption of the Land Use Code, other development such as the two-car garages at 4801 and 6735 Beach Drive S.W. are more recent. The fundamental standard of the variance criteria, Section 23.40.20, would clearly be eviscerated by variance denial in this case.

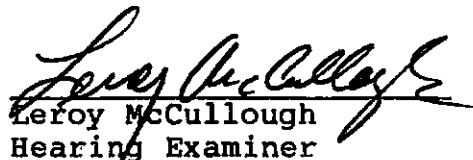
4. The simple extension of the existing garage to accommodate a second auto does not exceed the minimum necessary for comparable relief in light of the existing development pattern and will present no special privilege to applicants. The closing of the secondary 22 ft. curb cut will result in additional on-street parking, while the garage addition will remove one car from the accident prone street setting. Because of the pattern of adjacent and other existing development, the proposed addition will not detract from the existing streetscape, nor from the spirit or purpose of the Land Use Code and Policies.

5. No material detriment was presented.

Decision

The variance relief is granted on the condition that applicants restore the secondary curb cut.

Entered this 28th day of August, 1985.


Leroy McCullough
Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104.