

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

In the Matter of the Appeal of

CELIA AND GORDON BOWKER

FILE NO. MUP-85-045(V)  
APPLICATION NO. 8502080

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

Introduction

Appellants contest variance denial for property addressed as 3261 Perkins Lane West.

The appellants exercised the 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 September 12, 1985.

Parties to the proceedings were: appellants, pro se, and by Folke Nyberg, and the Department of Construction and Land Use (DCLU) Director by Jim Barnes.

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. The subject property is zoned Single Family 7200 and is addressed as 3261 Perkins Lane West.

2. The rectangular lot has approximately 150 ft. of frontage on north adjacent W. Bertona Street and approximately 76 ft. of frontage on east adjacent Perkins Lane W. Total lot area is approximately 11,250 sq. ft.

3. The lot slopes downhill to the west and permits a view in that direction of Puget Sound. North adjacent Bertona Street also constitutes a significant east-west view corridor.

4. The subject parcel is developed with a single family dwelling that has a front setback of 19 ft. to Perkins Lane, a 75 ft. rear setback, a south sideyard setback of 4 ft. and a north side setback of approximately 16 ft.

5. Auto entry to the lot is via a lower level driveway from Bertona. The curbcut is 15 ft. wide. The driveway leads to a two car carport with roof deck. A daylight basement is also at the lower level. An approximately 6 ft. drop in topography separates the Perkins Lane entry from this lower level entry.

6. Appellants propose a major remodeling of the dwelling. They propose to remove the existing carport and deck and replace it with a newly constructed carport to be located at the front of the dwelling. It would be accessed from Perkins Lane West.

7. Appellants initially proposed that the new carport extend to the front lot line. They have since modified the proposal to provide a 7 ft. front yard setback.

8. DCLU denied the variance relief needed to allow a portion of the new carport to extend into the required 20 ft. front setback, Seattle Municipal Code Section 23.44.14, and to allow parking in the front yard, which is generally prohibited, Section 23.44.16(D). Applicants appealed that portion of the DCLU decision.

9. DCLU approved variance relief to extend the front yard and side yard nonconforming wall line upward for a second story addition. DCLU also conditionally approved variance relief for the proposed second story eaves to extend into the front and side yards. No appeal was submitted in response to the approved variances.

10. The proposed third level of the appellants' dwelling involves no variances.

11. The appellants desire the front carport for several reasons. Since Bertona dead ends just west of the subject property, the public uses the appellants' driveway as a turnaround. Appellants' children cross the driveway to get to the play area in the rear, raising some safety concern.

12. Secondly, it would be more convenient to unload passengers and goods with off-street parking available at the dwelling's front. The present rear stairs would no longer have to be negotiated. Additionally, the narrow, alley-type of nature of Perkins Lane dictates that total off street, rather than on-street parking, is the preferred option. No more than 20 ft. of Perkins Lane is paved. Because of the nature of Perkins Lane, appellants urge, people are more apt to drive slowly on Perkins Lane than on Bertona.

13. A third consideration is that alternative siting of a new parking facility, to the Bertona Street side yard setback, would tend to detract from Bertona's view and ambience. Appellants also urge that all other Perkins Lane addresses have "convenient, direct access to the kitchen and living area" and that other Perkins Lane addresses have front yard area parking. Exhibit 8.

14. In fact some vicinity homes do have parking pads or structures to the adjacent street or lot lines, such as the house two homes south of appellants'.

15. No variance relief was shown to have been granted for these properties. However, the testimony shows that autos park by straddling the vicinity streets and otherwise shows that front area parking is not unusual.

#### Conclusions

1. Appellants currently have parking that is accessed from Bertona. They desire to relocate parking for Perkins Lane access. The desired option requires variance relief.

2. The proposal for front yard parking has safety, aesthetic and other merit. However, not all variance criteria were shown to be met by the proposal. The variances were therefore properly denied.

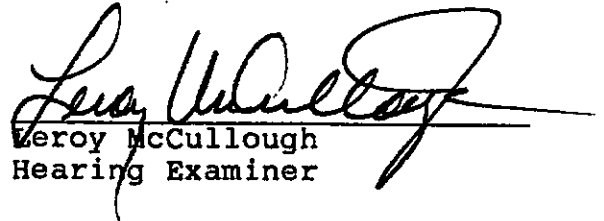
3. Some vicinity properties have front yard area parking and an easier access to living areas. These properties are not proper comparables, however, because they were not shown to have the non-variance option available that appellants have, i.e., accessory parking that is not located in a required yard setback. Granting applicants the requested relief would therefore constitute a special privilege to applicants in contravention of the Land Use Code spirit and purpose relating to front yard setbacks and restricting variance relief to more appropriate circumstances, such as those in which no conforming parking location is available.

4. The alternative and the personal considerations have been reviewed. However, they may not serve as the basis for variance relief. 3 Anderson, American Law of Zoning, Section 18.30 and cases cited (2nd ed. 1977).

Decision

The variance relief is DENIED.

Entered this 26th day of September, 1985.

  
Leroy McCullough  
Hearing Examiner

CONCERNING FURTHER REVIEW OF  
HEARING EXAMINER FINAL DECISION ON MASTER USE PERMITS

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 persons 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, Seattle, Washington 98104.