

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

HUNTER M. BLACK

FILE NO. MUP-81-026(V)
APPLICATION NO. X-81-036

from a decision of the Director of
the Department of Construction and
Land Use on a Master Use Permit
application

Introduction

Appellant, Hunter M. Black, appeals from the decision by the Director of the Department of Construction and Land Use (DCLU) to deny a variance for property at 1746 N.E. 89th Street.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended), unless otherwise indicated.

This matter was heard before the Hearing Examiner on August 5, 1981.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Appellant applied for a master use permit to legalize a garage constructed without a permit at 1746 N.E. 89th Street. A side yard variance was requested and was denied by DCLU. Appellant filed a timely appeal of that decision.
2. A garage was built on a 54 by 145 ft. lot 4.5 ft from the southern property line at the rear of a single family residence.
3. Section 24.20.090 requires a side yard setback of at least 5 ft. Variance from that provision would be necessary for the 6 inch encroachment.
4. The garage was sited over a pre-existing concrete parking pad in line with the concrete driveway. The concrete pad was constructed before the current owner purchased the property. The driveway is 2 ft. from the house.
5. The residence on one adjoining property is separated from the subject garage by its own garage. Another adjoining property has its 46 ft. rear yard adjacent to the south property line and garage of the subject property.
6. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, the action proposed in this appeal has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The existing concrete pad which neither the owner nor the appellant constructed is a unique condition of this property which makes the strict application of the code requirement unduly burdensome. The 6 in. variance would be the minimum relief necessary. No special privilege would be conferred by the variance because of the condition of the property and the degree of variance.

2. The variance would not cause any injury to nearby properties both because of its small size and because of the orientation and development of those properties. It would not be materially detrimental to the public welfare.

3. The variance would not conflict with the Single Family Residential Areas Policies.

Decision

The decision of the Director of the Department of Construction and Land Use is reversed and the variance is GRANTED.

Entered this 10th day of August, 1981.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).