

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

VICTORIA K. AND KENNETH D. McKIM

FILE NO. MUP-81-042(V)  
APPLICATION NO. X-81-095

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

#### Introduction

A carport providing less than the minimum required side yard and less than the required distance from the center line of an alley was constructed by the appellants at 5046-42nd Avenue S.W. Appealed is the Department of Construction and Land Use decision to deny the variances.

Appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceeding were: Appellants, Pro Se; the Department of Construction and Land Use by Arthur Ward, Environmental Specialist.

The matter was heard before the Hearing Examiner on September 10, 1981.

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. Appellants applied for variances for a carport constructed without permit on their property at 5046-42nd Avenue S.W., located in the RS 5000 zone. They appealed the decision of the Department of Construction and Land Use (DCLU) to deny the two variances.

2. The subject lot measures 50 ft. by 120 ft. and is developed with a single family residence. A terraced garage measuring 16 ft. by 20 ft. is located near the northwest corner of the property. The rear yard is basically level and abuts a 16 ft. wide paved alley.

3. The subject carport begins approximately 1 ft. from the rear lot line, providing less than the 12 ft. setback required from the center of the rear alley. Seattle Municipal Code Section 24.20.090, Reference 24.62.080. The structure extends to 26 ft. from the rear lot line. The garage is 0 ft. from the side (north) lot line whereas a minimum 5 ft. setback is required. Seattle Municipal Code, 24.20.090. The structure extends to 23.5 ft. from the side lot line. According to appellants there is a 16 in. diameter tree at the interior corner of the southwest corner of the carport which, due to large limbs which branch out parallel to the west and south facades, prevents further southward and westward expansion. DCLU describes the tree as 1 ft. in diameter. The tree is located roughly 19 ft. from the side lot line. The carport

jogs accordingly. There are also two trees in the southeast corner of the lot. A fence, then neighbors' rear yard are located north adjacent to the subject carport.

4. DCLU concluded that unique conditions which would require the subject variances were not present in this particular case. They assessed that a 19 ft. by 20 ft. carport, undisputed as "standard" size, could be constructed which would provide the comparable privilege of two off-street parking spaces and which specifically would not require the variance from the rear yard-center line alley variance. DCLU further determined that most vicinity properties were in compliance with the alley setback requirement.

5. Appellants seek the present dimensioned carport in part because they wish to accommodate their 22.5 ft. long truck as well as their standard size family automobile.

6. The majority of the properties in the block have access to their parking areas from the alley. The vicinity has both structured and open parking.

7. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, the action proposed in this application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

#### Conclusions

1. No issue was taken with respect to the assertion that we adopt that a 19 ft. by 20 ft. carport is of the "standard" dimension.

2. Appellants seek a 23 ft. deep carport in part to accommodate a family truck.

3. For variance authorization pursuant to the Seattle Municipal Code unique property conditions which deprive the applicant of comparable development privileges must be shown. The appellants' desire to accommodate a specific vehicle by way of a carport larger than the standard size is a personal consideration not related to unique property circumstances as per the variance criteria.

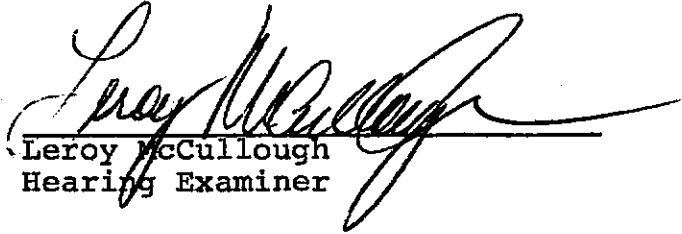
3. Secondly, no factors have been presented showing the necessity for the carport's location 1 ft. from the alley. Under the circumstances authorizing the requested variance relief would amount to a grant of special privilege in excess of the minimum necessary for relief.

4. However, the location of the established 12 to 16 in. tree on the property is a unique condition which prevents the more southerly location of the carport such that a structure of "standard" width could be constructed. The end result is two off-street parking spaces similar to those enjoyed by other residents in the vicinity. This minimum relief necessary does not constitute a grant of special privilege and particularly in view of the north adjacent use will not prove materially detrimental to the vicinity. The authorization of the variance will not adversely affect the Seattle Comprehensive Plan.

Decision

The Director's decision to deny the side yard variance is REVERSED. The decision to deny the rear yard setback variance is AFFIRMED.

Entered this 23rd day of September, 1981.

  
Leroy McCullough  
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).