

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

THOMAS H. ANDERSON

FILE NO. MUP-81-053(V)
APPLICATION NO. X-81-094

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

Introduction

Appellant, Thomas H. Anderson, appeals the denial of a variance component of a master use permit for property at 5044 Beach Drive S.W.

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

This matter was heard before the Hearing Examiner on October 8, 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. The applicant, Warren Ingersoll, applied for a variance from Section 24.08.130 to allow an access easement less than 20 ft. wide and longer than 150 ft. to serve two lots.

2. The property to be served is a lot with approximately 22,488 sq.ft. of area located on the hillside on the east side of Beach Drive S.W. The lot has frontage of 11.09 ft. on the street.

3. The Director of the Department of Construction and Land Use (Director) denied the variance for access to two lots but granted a variance to allow the development of one lot. Appellant filed an appeal of the decision to deny the variance.

4. The proposed access easement to the second lot would be 11.09 ft. wide and 178.23 ft. long. It is lined by a retaining wall on one side and a fence on the other. The slope of the easement driveway is approximately 10% until it reaches a plateau where one house is proposed to be sited.

5. A variance from the required street abutment for one lot was conditionally granted in 1977 but expired.

6. Because of slope and drainage conditions, development of the property will be very expensive. Establishment of two lots would allow the costs to be spread over the two.

7. Of the examples of similar access situations cited by appellant's witness, Kinney, one involves abutment of less than 20 ft. on a street for a single lot (5039-51st S.W.), one appears to be two houses on one lot with a driveway

narrower than 20 ft. to the rear residence (5439 Beach Drive S.W.), and one is a single lot with at least 20 ft. of frontage on a street (5435 Beach Drive S.W.). Two cited by the witness for having access easements less than 20 ft. wide serving two or more lots in the 5700 block were not located on the Kroll map however that location would be too distant for ready comparison.

8. A driver leaving the upper part of the lot would be able to view the length of the driveway before proceeding down it. The driver of a vehicle approaching the driveway on the street would not be able to see a vehicle making its way down the driveway until the turn was made. That situation could result in a vehicle backing from the driveway to the street or up the driveway, neither of which is acceptable.

9. Many lots in the area are as large or larger than the subject lot.

10. A declaration of non-significance for the proposed action has been issued by the Department of Construction and Land Use pursuant to the State Environmental Policy Act (SEPA) and Section 25.04.120 and 25.04.070.

Conclusions

1. The appellant must prove that the criteria listed in Section 24.74.030 are met to receive the requested variance. The necessary showing that the code requirement for access works a hardship on this property preventing it from enjoying rights enjoyed by other properties was not made. Many lots, similar in size, are developed with one residence, which the Director's decision on the other variance request would allow.

2. The potential for detriment from variance for the easement access is great because of the risk from backing vehicles up a steep slope or into the street.


3. The variance would conflict with the Single Family Residential Areas Policies' provision to require a width of 20 ft. for such an easement.

4. In light of the foregoing failures to meet the requirements of the code for variance the Director's decision to deny the variance for easement length and width should be affirmed.

Decision

The decision by the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 23rd day of October, 1981.


M. Margaret Klockars
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). Should an appeal 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.