

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

REVEREND DAVID SOBREPENA FOR
TRINITY TEMPLE

FILE NO. MUP-82-011(CU)
APPLICATION NO. 81285-0386

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

Introduction

Appellant seeks to use a lot at 4266 S. Graham Street for accessory parking.

The appellant exercised his right to appeal pursuant to the Master use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellant, pro se; the Director of the Department of Construction and Land Use (DCLU) by Jeanene Johnson and Cliff Portman.

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 March 3, 1982.

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 located in an area developed and zoned Single Family (RS 5000). The property is a vacant lot found at 4266 S. Graham Street. The 6,825 sq. ft. area lot is bordered by a 12 ft. wide alley to the north, 44th Avenue S. to the east and S. Graham Street on the south.
2. The lots directly to the west and north of the subject site are developed with single family dwellings.
3. The photograph of record shows a slight topographical separation between the subject lot and the adjacent properties.
4. Trinity Temple Church is located directly across 44th Avenue S. from the subject site. The church also faces 44th Avenue.
5. The church building was erected in 1939. It presently has a parking lot directly behind it which provides 30 or more parking spaces. The current code requirement based on the square footage of area in the nave is 19.5 parking spaces.
6. Applicant applied for the subject accessory use, however, because of a described "desperate" need for additional parking space. As presented by the applicant, the additional parking lot will greatly ease and reduce congestion and the parishioners' on-street parking difficulty. In addition, such a parking lot would enhance the safety of children alighting from the automobiles.

The parking lot will be used primarily Sunday mornings and perhaps in the evenings. It would be surfaced and fenced and would add to the beauty of the community, according to the applicant. The applicant projected that if the same building were constructed today it would require more than the currently provided parking.

7. According to the applicant, there is a spring in the middle of the lot which would require fortifying any residential structure that would be constructed thereon.

8. The Director denied the application and the applicant appealed.

Conclusions

1. Section 24.20.060 permits accessory conditional uses per referenced Section 24.16.070. Section 24.16.070(C) permits

Parking areas accessory to permitted uses when not located on the lot of the principal building, under conditions specified in Section 24.64.160.

Section 24.64.160(D) spells out the requirements for accessory parking areas in R zones. Included is the requirement that the use be subject to approval as a conditional use.

2. Section 24.74.010 requires that a conditional use not be materially detrimental to the public welfare or injurious to the property in the zone or vicinity in which the property is located. Further, the authorization of the conditional use should be consistent with the spirit and purpose of the zoning ordinance. And,

In considering applications for conditional uses, the Director shall consider the nature and condition of all adjacent uses and structures.

3. The conditional use should be denied. The uses and structures adjacent to the subject property are single family in nature. Although the applicant testified credibly of the need for additional parking spaces the testimony that the current code requirement is 19.5 spaces is adopted. Therefore, allowing the requested parking lot development in the single family area would subject the vicinity to a change in the development pattern while yielding more than the required parking. Further, the subject lot has only a slight topographical separation from adjacent lots that are in single family residential use. It has not been proved that residential development on the subject lot is a practical impossibility. Based on the above authorizing the requested conditional use would be inconsistent with the purpose of the zoning code which is to separate incompatible uses; and, would operate as a negative precedent to the material detriment of the public welfare.

Decision

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

Entered this 17th day of March, 1982.


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). 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.