

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DONALD E. GOE, ARCHITECT,

FILE NO. MUP-82-027(V)
APPLICATION NO. 82-0067

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

Introduction

Appellant, Donald E. Goe, architect, agent for Alan Morgan, M.D., appealed the decision of the Director of the Department of Construction and Land Use (Director) to deny a lot coverage variance for property at 3877-45th N.E.

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

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 May 19, 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. Appellant applied for a master use permit to allow the construction of an accessory detached garage at 3877-45th Avenue N.E. The Director determined that a variance from the lot coverage limitation would be required. The Director denied the variance. Appellant appealed.
2. The subject property is a through lot with 50 ft. frontages on 45th and 44th Avenues N.E. It is 120 ft. deep and slopes down to the west from a point in the back of the existing single family house.
3. The existing residence, constructed circa 1959, has been remodeled recently by the owners to convert the old carport entry into new living area with separate entry. Replacement off-street parking was a condition of that permit.
4. The owners propose a two car garage with deck above to the rear of the house with driveway access up the slope from 44th N.E.
5. The existing development covers 32.28 percent of the lot. With the proposed garage lot coverage would be 39.616 percent.
6. Section 24.20.100 limits lot coverage to 35 percent.
7. The permitted lot coverage would allow the addition of a one-car carport. Additional off-street parking can be provided on the lot but the owner wants covered parking to protect his vehicles.

8. Most other houses on the block have a one-car garage or carport. Most would be able to add more covered parking without exceeding 35 percent.
9. The garage with deck would make the unused bank usable.
10. The owner has agreed to certain conditions to satisfy a neighbor's concerns regarding privacy and aesthetics.
11. The Single Family Residential Areas Policies restrict lot coverage to 35 percent except for lots smaller than 5,000 sq. ft.
12. The house was sited by the builder at the front of the lot to the front lot line.

Conclusions

1. The appellant must show that there are unique conditions of this property, not created by the owner, because of which the lot coverage restriction deprives the property of rights enjoyed by other properties in the area. Appellant argues that the placement of the house on the front property line and the ability of the other lots to add covered parking are conditions which qualify this property for variance relief. The relationship of the house to the lot line does not appear to be related to an excess lot coverage variance. If the owners had not converted the covered parking space to living space the lot could have accommodated a second covered parking space. Therefore, while the property does not have the right to add a second covered parking space which others have, that condition was created by the owners.
2. Without a unique condition creating undue hardship, a variance to allow excess lot coverage would go beyond the minimum necessary for relief. Special privilege would be conferred on this lot.
3. With conditions agreed upon by the owners and their neighbor the variance allowing the garage would not injure any property.
4. The variance for excess lot coverage on a lot of standard size would conflict with the Single Family Residential Areas Policies.

Decision

The decision of the Director is AFFIRMED.

Entered this 2nd day of June, 1982.


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.