

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MICHAEL BOURDA

FILE NO. MUP-82-057(V)
APPLICATION NO. 82-0250

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

Introduction

Applicant appealed the Department of Construction and Land Use denial of a variance to provide less than the minimum required front yard to construct additions to an existing single family residence at 2602 N.E. 127th Street.

The appellant exercised his right to appeal pursuant to Chapter 23.76, Seattle Municipal Code.

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

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on September 22, 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 the Single Family 7200 zone at 2602 N.E. 127th Street. The reverse corner lot is developed with a single family residence that currently provides an 11.5 ft. front yard setback. The front yard faces N.E. 127th Street.
2. The subject lot is roughly 70.1 ft. wide and 120 ft. deep for a total lot area of approximately 8,419 sq. ft. The lot is flat. A 16 ft. by 24 ft. accessory structure used for a storage shed is located in the rear yard providing a 30 ft. rear yard setback.
3. The applicant proposes to construct additions to the west side of the existing dwelling, the additions to result in an attached garage and in expanded living area. The garage would have left a 5 ft. side yard setback whereas 10 ft. minimum setback is required. Section 23.44.08(D)(3). The addition to the front of the dwelling would continue the front building line so that a proposed front yard setback is 11.5 ft. DCLU in the decision here appealed denied both variance requests. Applicant, however, appealed only from the denial of the front yard variance.
4. The width of the front portion of the existing dwelling is 24 ft. As a result of additions made by appellant, the rear of the dwelling is 30 ft. wide. Consequently, there is a jog in the building line 6 ft. wide and roughly 21 ft. deep. Applicant proposes to fill in this jog to complement a floor plan which would allow increased living room space, a solid window and complement the floor plan by having the living room, dining room and kitchen in a basically uninterrupted foot pattern front to rear.

5. The uncontested required front yard setback is 15 ft. Section 23.44.08(D)(1); Section 23.44.08(D)(4)(c).

6. The DCLU representative testified that applicant was enjoying comparable development without the requested variance relief. Applicant testified that with the addition as proposed his living area would be comparable to those of other vicinity residences, generally.

7. Variance approval would allow the applicant to "square off" the southwest corner of the dwelling. Additionally, considering the support system, construction will be improved by variance approval.

8. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

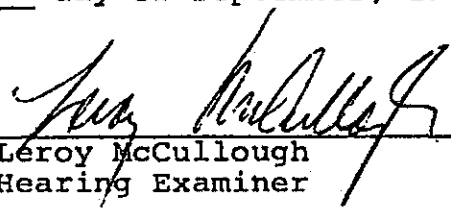
1. The Land Use Code requires that for variance relief to be granted it must be shown that some unique property condition would deprive the applicant of comparable rights and development privileges without variance relief. In addition, it must be shown that the variance would not be materially detrimental to the public welfare nor exceed the minimum necessary for relief. Section 24.74.030, as amended.

2. The benefit to be derived from the variance approval has been noted. However, the record is devoid of a unique property condition such as size, shape, topography or location which would justify variance relief in this instance. The lot is flat and relatively deep and theoretically allows for expansion potential which would not require variance relief. The interior floor plan and the aesthetic desirability of the front facade, while they have been considered, do not constitute real property conditions as that term is contemplated by the Code. Further, the applicant's previous rearward expansion created the inset which the applicant now seeks to fill by variance relief. The unique property condition alleged for the grant of variance relief is not to be created by the owner or applicant. Section 24.74.030. Accordingly, as all of the elements necessary for approval of a variance are not presented the decision of the Director to deny the variance is affirmed.

Decision

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

Entered this 28th day of September, 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, instruction 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.