

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

CAROLYN M. PETERS

FILE NO. MUP-83-053(V)

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

#### Introduction

Appellant, Carolyn M. Peters, appeals the decision of the Director, Department of Construction and Land Use, to deny variances for property at 13314-10th Avenue N.E.

The appellant exercised her right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on October 6, 1983.

Parties to the proceedings were: appellant represented by William G. Peters, and the Director, Department of Construction and Land Use, represented by Rosemary Horwood.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

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. William G. Peters applied for a master use permit to construct an addition to a single family residence at 13314-10th Avenue N.E. Two variances were required. The Director, Department of Construction and Land Use, denied both variances. Mrs. Peters appealed.
2. The subject property is a 60 by 120 ft. lot in a SF 7200 zone. It is developed with a roughly U-shaped house set at the rear of the lot. The house was constructed prior to the area's annexation to the City and is nonconforming as to the rear yard.
3. Sections 23.44.14 B and 23.44.14D 5 require a 25 ft. rear setback. The northern 20 ft. of the house is set 12 ft. from the edge of the undeveloped 20 ft. wide alley right-of-way. The 12 ft. wide carport at the southern end of the house is set 5.25 ft. from the alley. Only the northern portion is nonconforming.
4. The owners propose to extend the 16 ft. wide central portion of the house to line up with the northern wing, to within 12 ft. of the rear property line. The application included an additional 5 ft. overhang for a covered passageway to the carport bringing the structure to within 7 ft. of the rear lot line.

5. In the letter of appeal and at hearing the applicant agreed to eliminate the overhang thereby reducing the rear yard encroachment to that existing.

6. The Director denied the application for the initial proposal suggesting that any addition could be made in front. The Director's representative indicated at hearing that the removal of the 5 ft. extension made the application acceptable.

7. A large oak tree, the dominant natural feature of the lot, would have to be removed for any front addition. An addition in front would also mean a major restructuring of the interior and exterior of the house. The addition in the rear would be simple and energy efficient in that no new exposure would be created.

8. The applicant did not build the house. When the house was built the lot had a sloping bank, later filled, which may account, in part, for its location near the back of the lot.

9. No neighboring property owner or resident opposed the variance application.

#### Conclusions

1. The siting of the house at the rear of the lot, its configuration and the large tree are all unusual conditions not created by the applicant which deprive the property of the right to make a reasonable addition.

2. With the removal of the 5 ft. overhang the variance requested is the minimum necessary for relief. Because of the unusual conditions of the property variance relief would not confer special privilege.

3. No detriment to the public welfare or injury to any other property is reasonably foreseeable as a result of the variance.


4. The strict application of the Code would prevent any reasonable addition to this house causing undue hardship.

5. Since the addition would not extend closer to the lot line than approximately two thirds of the house and special conditions prevent addition elsewhere, the variance would be consistent with the spirit and purpose of the code and policies.

#### Decision

With the deletion of the proposed 5 ft. overhang from the request, the variance is granted.

Entered this 12<sup>th</sup> day of October, 1983.

  
M. Margaret Klockars  
Deputy Hearing Examiner

#### Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should such request 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.