

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JEFF STONEHILL AND ARTHUR NEWMAN

FILE NO. MUP-84-010
APPLICATION NO. 83-620

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

Introduction

Appellants, Jeff Stonehill and Arthur Newman, appeal the conditional grant of variances by the Director, Department of Construction and Land Use, for property at 3216 East Spruce Street.

The appellants exercised their 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 March 7, 1984.

Parties to the proceedings were: appellants, by James Driscoll, attorney at law, and the Director, by Mary Pfender, land use specialist.

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. Appellants applied for a master use permit for a proposed addition to a residence at 3216 East Spruce Street. The addition is partially constructed. The Director determined that variances were required and granted those variances subject to conditions restricting the amount of variance. Appellants appeal these conditions.

2. The subject property is a lot measuring 148 ft. by 75 ft. with frontages on Lake Dell Avenue East and East Spruce Street. The lot is in an SF 5000 zone.

3. The subject property is developed with a two-story, single family house located on the westerly portion of the lot providing a front yard setback of 14 ft., west side yard setback of 7 ft. 8 in., rear yard setback of 11 ft. 1 in. and eastern side yard setback of some 80 ft. at its narrowest.

4. The westerly portion of the lot is fairly level with a sharp break running roughly diagonally across the lot. The easterly portion is a steep hillside.

5. The subject lot is much larger than others in the area. The house covers approximately 14% of the lot. Section 23.44.14.10 permits up to 35% coverage.

6. Appellants propose to construct an addition to the northeast corner of the house replacing the porch and steps with an enclosed room and expanding the house approximately 4 ft. to the north. A deck would be added to the east of the new addition and enclosure.

7. The house has front and rear entries. It has one full bathroom near the rear on the second story. To reach that bathroom someone entering the rear door would have to go through the length of the house to the front, up the stairs and then through the hall to the back.

8. The addition is intended to provide another bathroom with a shower and "transition" space or "mudroom" for storage, etc.

9. The house is similar in design to others in the area, long and narrow with two stories.

10. Adding the proposed space to the side would alter the appearance in a way that appellants believe would detract from the appearance, would come closer to the "cliff" causing potential hazard and would require a new layout for the interior.

11. The adjacent lot to the north is long and narrow with the steep hillside occurring in line with that on the subject site. The proposed addition would be in line with the furthest back portion of the level part of the rear yard of that property. The house on the neighboring lot is 80-90 ft. away from the proposed addition. A garage is approximately 40 ft. away.

12. The Director has determined that Section 23.44.14 B requires at least a 15 ft. rear yard for this property.

13. The rear yard setback, prior to the addition, is 11 ft. 1 in. so is nonconforming. With the addition the rear yard setback would be 6 ft. 11 in. at its narrowest.

14. The Director has determined that a variance from Section 23.44.82 A to allow the expansion of a structure nonconforming as to bulk also would be required because of the existing nonconforming rear yard.

15. The proposed enclosed addition would have inside measurements of around 10.5 ft. by 14 ft.

16. The Director granted the variances subject to conditions that would restrict the addition to the outline of the existing porch.

17. The inside measurements of the addition as permitted by the Director would be approximately 5.5 ft. by 14 ft.

18. Section 1207(c), Uniform Building Code, provides that the minimum width of a habitable room other than a kitchen is to be not less than 7 ft.

19. Section 409, Uniform Building Code, defines habitable space (room) as a

... space in a structure for living, sleeping, eating or cooking area. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

20. It appears from the record that the proposed addition would not be "habitable space."

21. A deck within 18 inches of grade may be located in a required yard. Section 23.44.14.D.11. Appellant Stonehill was unaware of this and indicated that the proposed deck could be lowered to come within this provision avoiding the necessity of variance for the deck.

22. Other houses in the neighborhood have enclosed rear porches.

Conclusions

1. The location of the house on this large lot does present an unusual circumstance which results in the inability to expand the house in a logical manner consistent with the rear yard setback requirement. The subject property is more restricted in its development rights than most in the zone, as can be seen from the small percentage (14%) of lot area covered, unless the code restrictions are varied or it expands in an unnatural manner.

2. If the deck is lowered to 18 in. to avoid the conflict with the yard requirements the variances necessary for the small addition proposed are the minimum necessary and, given the size of the lot and other conditions, such variance approval would not confer special privilege on the property.

3. As the addition is barely visible from any but the adjacent property and adjoins open space on that property there should be not material detriment to the public welfare or injury to other property.


4. Undue and unnecessary hardship would be caused by the strict application of these provisions preventing any expansion of this house.

5. The requested variances would be consistent with the spirit and purpose of the Single Family Residential Areas Policies since it is to maintain the pattern of open spaces between the houses. Here, because the subject site's side yard lies next to the neighboring lot's rear yard the open space will be maintained. Even on the subject lot, the designated rear yard is more in the nature of a side yard, both because of its relationship to its neighbor and because of the 80 ft. "side" yard.

Decision

The variances are granted for the proposed enclosed addition.

Entered this 21st day of March, 1984.


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 23.76, RCW, within 14 days of the date of this decision. Section 23.76.36B.11. 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.