

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ROBERT L. INGALLS

FILE NO. MUP-84-066(V)
APPLICATION NO. 8403350

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

Introduction

Appellant, Robert L. Ingalls, appeals the decision of the Director, Department of Construction and Land Use, to deny a variance to allow two parking spaces in a required front yard at 5155 N.E. 41st Street.

The appellant exercised his 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 September 20, 1984.

Parties to the proceedings were: appellant and the Director represented by Leslie Lloyd, 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. The subject property is a lot at the corner of N.E. 41st Street and N.E. Latimer Place in Laurelhurst. It contains 6,810 sq. ft. of area on which was located a single family house and detached garage at the rear of the house with access from N.E. Latimer Place. The garage has been removed.
2. The area slopes down to the lake to the south and east and views are generally available in those directions.
3. When appellant bought the property earlier this year he checked with the Department of Construction and Land Use and understood from his conversation with a representative of that department that he could construct a garage in front of his house similar to others in the area. He applied for permits to add a deck to the rear of the house which required the removal of the old garage. Later he found that a double garage would not be permitted in the required front yard so he applied for variance.
4. Section 23.44.16.D.3 permits one parking space in the required front yard where certain slope conditions exist.
5. The slope conditions allowing one front yard parking space are present on the front of the subject lot.

6. The Director initially determined that a variance from Section 23.44.16.E.1.C for more than 300 sq. ft. of garage area as well as the variance for more than one parking space was required. After further review it was determined that the proposed garage would cover only 264 sq. ft. of the required front yard so that variance would not be needed.

7. Two car garages in front yards with similar slope conditions prevail in the immediate area. These appear to have been built prior to the 1982 adoption of the current Land Use Code.

8. The site's rear yard is large and relatively flat. The now absent garage blocked a part of the house's southern exposure and the backyard's western exposure. A garage located further to the east would block views.

9. The front yard of the neighboring lot is paved to accommodate the parking of several cars.

10. Lots on the north side of N.E. 41st are south-sloping so that the houses have exposure and views over their front yard garages.

11. The proposed garage would be set 9 ft. back from the property line and 11 ft. from the sidewalk.

12. N.E. 41st Street is busier than N.E. Latimer Place. It slopes down to the east and has a curve approximately 100 ft. from the proposed curb-cut for the proposed garage. Latimer Place also curves a short distance from the site's curb-cut on that street.

13. The garage at the rear of the subject property is (was) closer to the street than other structures on Latimer Place.

Conclusions

1. Analysis of the variance request requires the pretense that the garage has not been removed since that was done by the applicant to add the deck. The first issue then is whether the property has (or had) an unusual condition warranting variance for two parking spaces, rather than one, in the required front yard. In other words, could not the second space have been located in the rear? That placement of the garage is (or was) unusual for the area in that other lots were shown to have their garages at locations where they would not interfere with the view or sunlight. The southwesterly rear yard location, close to the house on this lot, did that. That condition was not created by the applicant.

2. The property does qualify for a garage in the required front yard but only for one car. As double car garages are commonplace in this area the property would be denied similar development if restricted to one space. Moreover, those lots with double car garages also have views and sunlight. Variance to allow the second space would not exceed the minimum necessary for relief. It should be noted that the actual intrusion into the required yard is less than the 300 sq. ft. which is allowed for one parking space in the required yard.

3. One more car using the front garage should not cause material detriment to the public welfare or injure other property. While backing into Latimer Place is probably safer than backing into N.E. 41st, because of the hill and transit route on 41st, Latimer is also narrow and curving. While concerns were voiced about an additional car backing into N.E. 41st with its curve and slope it is noted that cars and buses rounding the curve are going up the grade so will have less difficulty stopping. Moreover, backing into Latimer with its curve also presents potential hazard.

4. The hardship to appellant from the strict application is in providing a second garage at the rear of the lot for a second car or parking it on the street.


5. Though the purpose of the front yard requirement of the Single Family Residential Areas Policies is to preserve the streetscape, in this case it would be altered anyway by the garage for the one car which is permitted. The additional space for the second car would not affect the streetscape. The moving of the garage from the Latimer Place side also has the effect of improving that streetscape by the removal of a structure closer to the street than others on that blockfront.

6. The requirements for variance are met so it should be granted.

Decision

The variance is granted.

Entered this 4th day of October, 1984.


M. Margaret Klockars
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW OF
HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. 2 Am. Jur. 2d., Admin. Law Section 524. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11); Akada v. Park 12-01 Corporation, 37 Wn. App. 221 (1984); JCR 73.

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.