

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

FORREST AND GALE WALD

FILE NO. MUP-86-007(V)
APPLICATION NO. 8506556

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

Introduction

DCLU denied variance approval required for construction of an attached carport at 514 North 137th Street. Applicants submitted this appeal.

The appellants exercised the 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 26, 1986.

Parties to the proceedings were: appellants, pro se and by Robert Hintz; and Jim Barnes, land use specialist, representing the DCLU Director.

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 seek approval of a carport addition to their single family residence at 514 North 137th Street. DCLU denied the front yard variances required and appellants submitted this appeal.

2. The subject property is located on the north side of N. 137th Street in the SF 7200 zone. The abutting portion of N. 137th curves as does the applicant's front lot line. Consequently, the east lot line approximates 153 ft. while the west lot line is 143 ft. The total lot area is 7,928 sq. ft.

3. The lot is developed with a single family structure that is located some 35 ft. from the front lot line. The resulting rear setback is approximately 85 ft. The driveway to the dwelling, located along the east side of the lot, leads to a basement level garage that is now used for shop space. Bordering the east side of the driveway area is a concrete retaining wall. The east side yard setback is roughly 6 ft.

4. On the east side of their residence appellants attached a 24 ft. deep by 16 ft. wide carport with a roof that is approximately 6 ft. from the east property line. The carport extends into the curved, front setback area by approximately 75 sq. ft. It is this area that is in variance.

5. Because of the size of the lot relative to the size of the house, the 35 percent lot coverage limitation is not affected by the addition. Vegetation assists in obscuring the visual impact of the addition, as does the siting of the dwelling, some 4 ft. above street level, and 35 ft. from the front lot line. Several letters supporting the carport were submitted into the record.

6. When parked in the driveway appellants' 18 ft. van extends into the front yard setback. This is a negative consequence, according to the appellant witness because the samples used in the wife's business and transported by the van could be damaged by the weather. Appellants therefore constructed the subject carport to protect the family auto and van from the elements, particularly the southwesterly wind and rain.

7. North 137th is a 60 ft. wide right-of-way. Only a portion is paved. The area in front of appellants' property has no sidewalks, curbs or gutters. The distance between the edge of the travelled portion of the right-of-way and the front of the carport is estimated as 33 ft.

8. Appellants' neighboring houses along the north side of N. 137th Street are generally set back a similar distance from the street and have similar accessways. Proceeding along the easterly bend, however, some structures appear to offer a more reduced setback.

9. The record shows that there have been no front yard parking or setback variances for the vicinity. Appellant witness did present, however, that several properties along N. 137th appeared to have carports or main buildings in the front yard area.

Conclusions

1. The Hearing Examiner has jurisdiction of this matter pursuant to Chapter 23.76, Seattle Municipal Code.

2. Although the DCLU Director's decision is given no deference, the applicant for a variance must demonstrate the presence of unusual property conditions that deprive him or her of comparable development rights and privileges. Seattle Municipal Code Section 23.40.020.

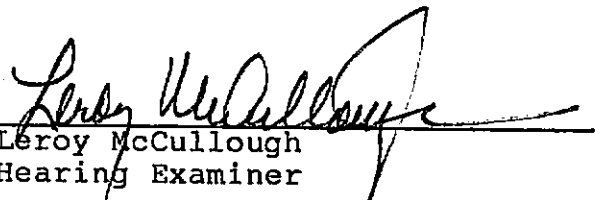
3. The appellants desire to use a 16 ft. van for a family business. When parked in the driveway, the van extends into the required front yard setback. The carport at issue was built to protect the van and the other vehicle from the elements. These considerations are strictly personal to the present occupants of the home and are not property-related. Further, other residences are similarly situated and the record is devoid of any variance approved for vicinity front yard intrusion or parking. Therefore, appellants have no unusual real property condition which deprives them of comparable development privileges.

4. It is acknowledged that the siting of the structure, its surrounding shrubbery and the topography minimize the visual intrusion of the carport.

Decision

Variance relief is DENIED.

Entered this 9th day of April, 1986.


Leroy McCullough
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. Any party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

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, (206) 625-4197.