

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

FRANK AND HEIKE HUHN

FILE NO. MUP-86-014(V)
APPLICATION NO. 8600207

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

Introduction

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 April 22, 1986.

Parties to the proceedings were: appellants pro se, and the Department of Construction and Land Use Director 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 appellants seek approval to demolish a detached one-car garage and construct in its stead a two-car garage accessory to the residence of 7621-44th Avenue S.W. DCLU denied the curb cut, front yard parking and expansion of nonconforming structure variances required and appellants submitted this appeal.

2. The subject property is located in a Single Family 5000 (SF 5000) zone on the west side of 44th Avenue S.W. The subject lot is developed with a c. 60-year old, single family dwelling that rests some 65 ft. from the front lot line. A detached single car garage is near the front lot line. Appellants propose to extend this existing 24 ft. deep garage an additional 12 ft. to the north. The present curb cut for the single family garage is 12 ft. wide. Appellants propose a 24 ft. 2 in. cut for access to the double garage.

3. A 10 ft. wide area, purchased by appellants as a former vacated alley, is connected by curb cut to 44th S.W. Appellants' garage is north adjacent to this area.

4. The subject lot is generally flat between the house and the front lot line. However, the rear portion of the lot declines sharply at an approximate grade of 50 percent.

5. The only access to the subject and neighboring lots is by 44th Avenue. According to the DCLU Analysis and Decision, the lack of alternative access routes "has resulted in a number of garages being placed in the front yard adjacent to the street."

6. On street parking is allowed on 44th Avenue S.W.

7. The south adjacent property is one that has a detached garage near its front lot line and is approximately 20 ft. south of appellants' present one-car garage.

8. The north adjacent property also has a two-car garage near its front lot line. It is the older of the two structures adjoining appellants' lot.

9. If forced to place the garage west of the 20 ft. front setback, appellants presented, a holly tree and other plantings would need to be removed; the garage would be more visually obstrusive to neighbors to the streetscape; and it would block the view from the living room.

10. DCLU's stated position is that since there is approximately 65 ft. between the front lot line and the dwelling, appellants could construct a double garage without variance that would provide at least 20 ft. between the house and the garage. DCLU further noted, and the Hearing Examiner finds, that no variances are of record for front yard garages subsequent to the 1982 Land Use Code.

11. Neighbors' comment letters favor the appellants' proposal.

Conclusions

1. The Hearing Examiner has jurisdiction of these proceedings pursuant to Chapter 23.76, Seattle Municipal Code, and is to give no deference to the DCLU decision. Seattle Municipal Code Section 23.76.22(C)(7).

2. The location of the vintage garage in relation to the existing, abbreviated curb cut, in relation to adjoining double garages, and in relation to the vegetation, present unusual property circumstances which support variance relief. In seeking approval for a double garage, appellants are seeking development privileges similar to those enjoyed by their north and south adjacent neighbors and by other properties fronting 44th Avenue S.W. that have no alternative access. The streetscape character would suffer more damage by the siting of a double garage and an extended driveway within the front yard area than by the siting proposed. The Land Use Policies would not be offended by this unusual circumstance and suggested proposal. Based on the distance between the proposed garage and the north and south adjacent garages, no excessive street edge bulk would be present.

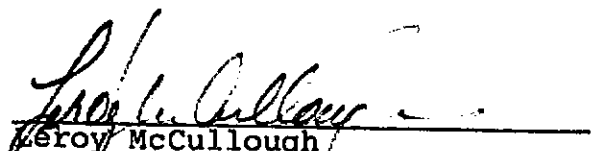
3. The proposed garage does not exceed the minimum necessary for comparable development. Because of the property conditions, variance approval would not be inconsistent with limitations on other properties and would present no "material" detriment to the public welfare or injury to the subject vicinity. Neighbors comments favor the proposal.

4. Based on the foregoing, variance from the literal and strict requirements of the Land Use Code should be authorized, conditioned on restoration of the curb cut to the former alley. Seattle Municipal Code Section 23.40.20(C).

Decision

The variance is approved on the condition that the curb cut to the former alley is restored.

Entered this 6th day of May, 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.