

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JAMES P. MOYNIHAN

FILE NO. MUP-81-008
(X-81-002)

from a determination by the Director
of the Department of Construction and
Land Use on a Master Use Permit
application

Introduction

Appellant, James P. Moynihan, appeals the conditional granting of the variance component of a master use permit application for property at 3274 N.W. Esplanade.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended).

This matter was heard before the Hearing Examiner on July 10, 1981.

After due consideration of the Director's decision, and all evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The applicant applied for a variance from the requirement of Sections 24.08.131(3) and 24.08.200 (11) that a lot abut upon a street with a width of at least 30 ft. The variance was granted by the Department of Construction and Land Use (CLU) subject to conditions including that three on-site parking spaces be provided, the road in front of the lot be hard surfaced, that a soils report be provided and all development be under the supervision of a licensed soils engineer.

2. Appellant filed a timely appeal of that decision. Objections submitted are: 1) lack of consideration of the possibility that the lot should not be developed or that economic considerations should not control; 2) property is within the shoreline and house of greater height than permitted is proposed; 3) not sufficient consideration given to the instability of the slope. Additional objections were raised by interested persons at the hearing, i.e., inadequate setback.

3. Whether or not the development would be within the shoreline, and therefore subject to the Shoreline Master Program, is not relevant to the subject variance decision, nor is the height of the proposed building and its setback.

4. The subject lot at 3274 N.W. Esplanade has been a lot of record for many years, according to Ed Somers, environmental specialist.

5. The subject lot abuts partially upon an 11 ft. wide lane, or street, and partly on City-owned property. A bank rises from one side and the topography falls off on the other side of the street making widening unlikely.

6. No other access is available to the subject lot.

7. The 11 ft. wide portion of Esplanade does not allow for parking. The street widens to 30 ft. a short distance away and parking is permitted on one side there.

8. Emergency vehicles have had difficulty reaching residents because of the narrow street and parked cars.

9. Three developed lots are currently served by the narrow portion of the street.

10. The street dead-ends at appellant's property some 80 ft. beyond the subject property. A turn-around is on private property.

11. The subject property has an extremely steep bank (135 ft. rise in a horizontal distance of 200 ft.) Houses are sited above the property on View Avenue. The immediate area has experienced several serious slides involving loss of homes and property as recently as 1974.

12. Neil H. Twelker, an experienced, licensed civil engineer with expertise in soils, who is professionally familiar with the area surrounding the site testified that by following his recommendations for development of the site the stability of the site would be enhanced and that improvement of the lot would be far better for the area than to leave it in a state of neglect. Great weight is given to his expert opinion.

Conclusions


1. CLU correctly determined that a unique property condition is present which, without relief from the 30 ft. width requirement for the street, would deprive the property of any development rights.

2. While potential for injury to other properties would be present, the record shows that the conditions imposed will assure enhanced stability of the slope and provide off-street parking adequate for most occasions.

Decision

The decision of the Director of the Department of Construction and Land Use to conditionally grant the variance is **AFFIRMED**.

Entered this 24th day of July, 1981.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).