

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

NORMAN HOPE

FILE NO. MUP-81-091(V)
APPLICATION NO. 81287-0390

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

Introduction

The applicant appealed the denial of two variances sought to legalize the construction of a deck and garage addition to an existing single family residence at 3241-60th Avenue S.W.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: the appellant, pro se; the Director of the Department of Construction and Land Use (DCLU) by Melody McCutcheon, environmental specialist.

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

This matter was heard before the Hearing Examiner on January 6, 1982.

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 located in the Single Family Residence High Density (RS 5000) zone at 3241-60th Avenue S.W. The 7,322 sq. ft. area lot is developed with a single family residence, the rear yard of which abuts a 15 ft. alley that in a north-south direction extends the length of the block. Similar to other lots on the block, the subject property's topography is generally level.

2. According to applicant's representation, which we find credible, in August, 1981, the applicant submitted a plot and slab plan to DCLU indicating his intent to establish a two car garage off the rear alley. As stated in the letter of appeal "the cement was poured on advice and consent from the Building Department and thus established the location for garage and deck." The subject garage, currently completed only to roof and siding, is located 8 ft. from the rear lot line. It is connected to the principal dwelling by a patio cover of plywood, spantex and other materials. The garage could stand without the patio cover, but its front wall would need to be torn down. The minimum required rear yard in the zone is 25 ft. (Section 24.20.090, 24.62.150) whereas the applicant is proposing 15.5 ft., including the alley midpoint distance of 7 ft. 6 in. Additionally, variance is sought from the maximum permitted lot coverage of 35 percent, Section 24.20.100; proposed is a coverage of 35.31 percent.

3. No correspondence or testimony from neighbors was received in opposition to the application.

4. Photographs of record show that several properties abutting the subject alley have accessory structures, e.g., garages, located nearer to the alley than the garage proposed by the applicant.

5. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The applicant's testimony was credible that he took precautions prior to establishing the present foundation/location of the subject garage. And, the lot coverage variance appears de minimis.

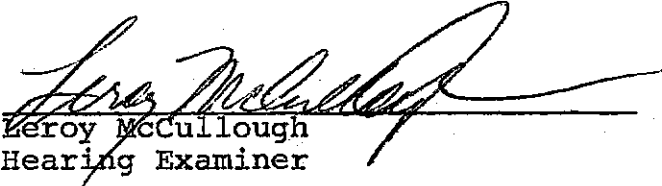
2. However, the provisions of the zoning code require that for variance relief a unique condition of the subject property should be present which without variance relief would deprive the subject property of rights and privileges enjoyed by other properties in the same zone or vicinity. In addition, the variance should not exceed the minimum necessary for relief, nor prove materially detrimental to the public welfare. Section 24.74.030.

3. In view of the proximity of neighboring accessory structures to the subject alley and in view of the absence of complaints from neighbors, it could be suggested that the granting of the requested variance would not be materially detrimental to the public welfare, and that variance relief should issue. However, the record does not reflect that the neighboring accessory structures are connected to the principal dwelling, as is the applicant's garage. Further, no real property conditions of applicant's are presented which would show that without variance relief the applicant would be deprived of rights and privileges enjoyed by other properties. In fact, the (level) topographies are similar. To the extent that the applicant relied on representations by various City agencies in placing the foundation of the garage, a claim against the City is a more appropriate route of redress.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 20th day of January, 1982.


Leroy McCullough
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). Should an appeal 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.