

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

In the Matter of the Appeal of

M. VIVIAN and L. VIRGINIA CLARK

FILE NO. MUP-82-034(V)
APPLICATION NO. 82-0098

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

Introduction

Appellants, M. Vivian and L. Virginia Clark, appeal the decision of the Director of the Department of Construction and Land Use (Director) to grant variances for property at 2432 N.W. North Beach Drive.

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

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 June 7, 1982.

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

Findings of Fact

1. Alan Kimpton applied for a master use permit for an addition to a single family residence at 2432 N.W. North Beach Drive. Two variances were required and granted by the Director. Appellants appealed.
2. The subject property is a lot with 3,796.5 sq. ft. of area in a Single Family Residence High Density (RS 5000) zone. It is developed with a single family residence set 38 feet from the front property line and 6 feet from the rear lot line. The front half of the lot slopes from the street level up to the north at a rate of 21 percent.
3. The applicant proposes to enclose an attached carport and construct a second story addition. The addition would be above an existing wall for part of the distance and an existing foundation for the remainder. The overall height of the house to the roof ridge would be 27 ft. from a point on the east side.
4. The subject house has 897 sq. ft. of floor area, not including deck. The average size of sixteen nearby houses is 1,500 sq. ft. The addition would enlarge the house to 1,473 sq. ft.
5. The applicant recently widened the curving driveway through the front yard by 3 ft.
6. A rock retaining wall supports the front slope.

7. Many properties in the area have views of the Sound and mountains to the west. The owners of the vacant lot adjoining the subject lot on the east side do not believe the addition will affect that property. Any obstruction of views from other properties would be minimal.

8. Appellants own a residence on the north side of the subject property. Their house is set back around 40 ft. from their rear property line which is the common boundary between the subject lot and theirs. The addition would cause partial shading of a part of appellants' rear yard. It would also give them additional building bulk to view, which they believe would reduce their privacy.

9. Section 24.20.090 requires a rear yard of 15.46 ft. for this lot. A 6 ft. rear yard is existing and proposed so a variance is needed. Because the rear yard is non-conforming, a variance is required from Section 24.14.040 which prohibits alteration, repair or extension causing a building to further exceed the bulk provisions of the code.

10. The applicant was advised by his architect that it was not feasible to add to the front of the house. The existing foundation would be used for the addition, making that location the most reasonable.

11. The house, with the proposed addition, would not exceed the lot coverage allowance.

Conclusions

1. The siting of the existing house and the lot's slope are a unique set of conditions which make conforming to the code's rear yard requirement a hardship. The house size is unusually small for the area, so without variance relief the property would be denied development rights enjoyed by other properties in the area. Variance to maintain the existing non-conforming setback and to use the existing foundation would be the minimum necessary for relief.

2. Given the relationship between the size of the house on the subject property and those on other close-by properties and the unique conditions of the property, granting of the requested variances would not confer special privilege.

3. No detriment to the public welfare would accrue from the requested variances. As to injury to specific property, any view blockage is minimal. Evidence of possible injury to appellants' property is too subjective to assign any substantial weight, given that the setback line will be maintained and the great separation between the two residences would reduce any sense of intrusion.

4. The variances would not conflict with the Single Family Areas Policies.

Decision

The Director's decision to grant the variances is AFFIRMED.

Entered this 15th day of June, 1982.


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). 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.