

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

KATHY D. AVERSANO

FILE NO. MUP-82-042(V)
APPLICATION NO. 82-0011

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

Introduction

Appellant, Kathy D. Aversano, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny variances for property at 2327 Boylston Avenue East.

The appellant exercised her 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 July 23, 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. Appellant applied for a master use permit with two variance components to legalize two apartment units on the subject property. The Director denied those variances and appellant appealed.
2. The subject property is a lot with a total area of 4,950 sq. ft. on which is an 8 unit apartment building. Five parking spaces are located on the site. Permits were issued over the years to allow additions to the building to bring it from a duplex up to eight units in 1974. Additional parking was provided on a nearby lot in common ownership pursuant to a covenant.
3. Section 24.30.120 requires a minimum of 800 sq. ft. per unit in the Multiple Residence Low Density (RM 800) zone. The subject lot is large enough for six units so variance is required for the two of the units.
4. Section 24.64.120 requires that one parking space be provided for each dwelling unit. The property has a credit for one so the appellant applied for variance for two spaces.
5. The property on which the two parking spaces was provided is no longer in common ownership. The owner will rent the spaces for \$400 per month which cost is prohibitive.
6. Some of the older buildings in the vicinity provide no on-site parking. Some units have been added more recently on the subject block without adding parking.
7. The area suffers from parking congestion.
8. Many of the appellant's tenants are students who do not have cars. Tenants are willing to park behind other cars or have theirs parked behind.
9. Appellant's building is larger than most in the vicinity.

Conclusions

1. For variance relief the applicant must show that her property is denied rights or privileges enjoyed by other properties in the zone or vicinity because of some unique condition of her property. Though other properties in the area are nonconforming in that they do not provide on-site parking now required by the zoning code, development permitted on the subject site appears to be comparable to or greater than that of the nonconforming properties so the requisite hardship has not been established.

2. Correction or error by the City, if any, in issuing permits by granting variance, is not permitted either by the criteria of Section 24.74.030 or the case law.

3. The variance requested would confer special privilege upon this property.


4. Since the request does not involve the addition of units but a continuation of the existing situation no new detriment would accrue from the granting of the variances. The loss of an opportunity to lessen the demand for on-street parking may be seen as materially detrimental however.

5. An increase in density over that otherwise permitted without an increase in available parking would be contrary to the Multi-Family Policies.

Decision

The decision of the Director to deny the variances is
AFFIRMED.

Entered this 6th day of August, 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.