

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

HAROLD F. VHUGEN AND  
JACKLYN VHUGEN

FILE NO. MUP-84-032 (V)  
APPLICATION NO. 8400645

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

#### Introduction

Appellants, Harold and Jacklyn Vhugen, appeal the decision of the Director, Department of Construction and Land Use, denying a variance to allow less than the minimum required front yard of 20 feet so that a two-car garage can be constructed at 3435 East Superior Street.

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 May 14, 1984.

Parties to the proceedings were: appellants Harold F. and Jacklyn Vhugen. The Director was represented by Nanette Mozeika.

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. Chris Hanson, on behalf of Harold and Jacklyn Vhugen, applied for a variance to allow the demolition of an existing attached one-car garage and the construction of an attached two-car garage at their home located at 3435 East Superior Street.

2. A previous owner sought and in 1974 was granted variances for the front and western side yards to allow construction of the existing attached one-car garage. The variance resulted in a front yard of approximately 10 feet and a westerly side yard of approximately 3 feet.

3. The variance requested in this appeal would further reduce the front yard from approximately 10 feet to approximately 7 feet.

4. Appellants' lot is substantially level, measures 60 feet by 100 feet, is in a SF 5000 zone, and is developed with a single family home.

5. Most of the homes in the neighborhood appear to be single family residences. Some have no covered parking while others have one-car garages or covered parking for two cars.

6. According to DCLU's records, there have been no front yard variances processed in the past five years.

7. A substantial number of letters in support of the variance application were received from appellants' neighbors.

8. The portion of East Superior Street between Power Avenue and Euclid Avenue is steep with a gradient of about 20 percent and the actual roadway is narrow. The right of way, including sidewalks, is 40 feet. These characteristics make parking, entering and exiting vehicles parked on East Superior, entering and exiting driveways and actually driving on the street very difficult.

9. Appellants have suffered property damage and loss by theft as a result of several incidents of vandalism involving one of their two cars.

### Conclusions

1. Appellants have not proven the existence of unusual conditions applicable to their property which would justify approval of their request for another front yard variance. The unusual street conditions are shared by many other homes in the area which also have only a one-car garage.

2. Because there is no unusual property condition, approval of the variance would constitute a special privilege inconsistent with limitations placed on other similarly situated properties in the area.

3. Approval of the variance would not be materially detrimental to the public welfare or injurious to property or improvements in the area. In fact, a two-car garage could relieve street congestion and contribute to neighborhood safety. A two-car garage would certainly reduce the risk of vandalism to and theft of property owned by appellants.

4. The variance granted in 1974 to previous owners of the property relaxed the minimum side and front yard requirements and allowed construction of the one-car garage. Therefore, inasmuch as some covered on site parking is available, literal interpretation and strict application of the land use code would not cause undue and unnecessary hardship.


5. The requested variance would be consistent with the spirit of the code but inconsistent with its purpose. Adherence to the code requirements is required in this case because unusual property conditions do not exist and denial of the requested variance would not cause undue and unnecessary hardship.

6. Since all criteria for variance relief have not been met, the variance must be denied.

Decision

The variance is denied.

Entered this 29th day of May, 1984.

  
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Christopher E. Mathers  
Hearing Examiner Pro-Tempore

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request 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.