

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

In the Matter of the Appeal of

EVELYN AND CHARLES WOOD

FILE NO. MUP-84-047(V)  
APPLICATION NO. 8401307

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

Introduction

Appellants, Evelyn and Charles Wood, appeal the decision of the Director, Department of Construction and Land Use, denying a variance to allow parking in the required front yard, so that additional living space can be constructed over an existing driveway, thereby blocking access to an existing attached garage.

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 August 15, 1984.

Parties to the proceedings were: appellants Evelyn and Charles Wood and the Director represented by Arthur Ward.

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. Evelyn Wood applied for a building permit to add a room to the south side of her home at 7738 10th Avenue N.W. The addition was needed to provide a sleeping room for her husband, Charles Wood, who, as a result of a disability, is unable to climb stairs to the family's second-story bedroom.

2. The building permit could not be approved without granting a variance from the requirements of Chapter 23.14.16 regarding parking in required front yards.

3. The subject site is located in an SF 5000 zone, has 35 ft. frontage on the east side of 10th Avenue N.W. and 127 ft. depth, and is developed with a two-story single family residence with an attached garage accessed along the south lot line from the street. The site is small and narrow, 35 ft. wide, and there is no access via alley from the rear of the lot.

4. Appellants can and do park on the paved driveway in their required front yard without a variance and may continue to do so as long as access to the existing garage and/or acceptable space for required parking is not obstructed.

5. The foundation for the proposed addition was constructed on the driveway over a portion of the acceptable space for required parking following:

- a) verbal assurance from the Department of Construction and Land Use that the permit application would be approved and would be mailed to appellants in a matter of days;
- b) affirmative verbal response to appellants' questions whether it would be okay to begin digging for the foundation; and
- c) inspection and approval by the City of Seattle of appellants' concrete forms.

6. The concrete foundation was inspected and approved by the City of Seattle, even though the permit application had not, in fact, been formally approved.

7. Eight other single family homes in the neighborhood or surrounding Ballard community have parking in required front yards (See Exhibit 3); however, none of the other 24 residences fronting along the 7700 block of 10th Avenue N.W. have required parking in their required front yards.

8. According to the Director, variances to allow required parking in the required front yard were neither applied for nor received by owners of the eight homes depicted in Exhibit 3 but, the City of Seattle has not strictly enforced the Land Use Code against those homeowners.

9. Most, but not all of the letters, petitions and comments received by the Hearing Examiner supported approval of the variance application.

10. Appellants have spent \$2,500 on labor and materials in reliance on verbal assurances, and approvals of the Department of Construction and Land Use and City inspectors; and will incur additional expenses of approximately \$2,000 if required to remove the foundation and restore the property to its former condition.

### Conclusions

1. Appellants have not proven the existence of unusual conditions which justify their request for approval of the variance. While the subject site is quite small and narrow and is not accessible via alley from the rear it does have provisions for legal parking. The only properties shown to have required parking in their front yards are doing so illegally and are subject to enforcement actions.

2. The requested variance would merely allow appellants to continue to park their vehicle in the paved driveway on which they now park and would continue to park if the variance is denied. Therefore, if relief were warranted approval of the variance does not go beyond the minimum necessary to afford relief.

3. The Director does not contend that granting of the variance will be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity and it appears that no material detriment or injury would occur.

4. The literal interpretation and strict application of the provisions or requirements of this Land Use Code would cause undue and unnecessary hardship, because appellants would not be able to construct a sleeping space at the ground level of their home to accommodate the special needs of Mr. Wood; and, because the cost to remove the foundation and restore the property to its previous condition combined with the cost of constructing the foundation would be nearly \$5,000.


5. The variance would conflict with the intent of the Single Family Residential Areas Policies which generally prohibit parking in the front yard.

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

Decision

The variance is denied.

Entered this 29 day of August, 1984.

  
Christopher E. Mathews  
Hearing Examiner Pro Tempore

CONCERNING FURTHER REVIEW OF  
HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. 2 Am. Jur. 2d., Admin. Law Section 524. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11); Akada v. Park 12-01 Corporation, 37 Wn. App. 221 (1984); JCR 73.

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.