

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

LAURENCE and LISA SAVAGE

FILE NO. MUP-85-032(V)
APPLICATION NO. 8501129

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

Introduction

Laurence and Lisa Savage appeal the decision of the Director, Department of Construction and Land Use, to deny their property at 8845 - 42nd Avenue S.W. a variance to allow a garage to extend into the required front yard.

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 July 26, 1985. Less than 20 days notice was provided pursuant to an order shortening time.

Parties to the proceedings were: appellants, pro se, and the Director by Clay Leming, land use specialist.

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. The property at 8845 - 42nd Avenue S.W. was developed with a single family residence and carport when purchased by appellants. Appellants expanded and enclosed the carport without permit. They have applied for, and were denied, a variance necessary to legally establish the garage as configured and located. They appeal.

2. The property is located in an SF 7200 zone. Section 23.44.14(A) requires the subject property to provide a 20 ft. front yard setback.

3. The prior carport measured approximately 22 by 22 ft. and extended to within 18 ft. of the front property line.

4. A 22 ft. wide carport could normally accommodate two cars but the carport on the subject lot contained concrete stairs in a walled stairwell down to the entrance to the house. The stairwell extends 9 ft. 4 in. for a 10 ft. 3 in. width into the carport. A car could be parked in front of the stairwell but would extend out of the carport into the driveway.

5. Appellants enclosed the carport changing it into a garage and extending it 4 ft. further toward the front property line to allow the second parking space to be enclosed.

6. The variance is required for the additional 4 ft., 22 ft. wide intrusion into the required yard.

7. The house on each side of the subject property is set back about 25 1/2 ft.

8. Many other lots in the area, and on the same block, have carports or garages for two cars. Some are set back less than 20 ft.

9. A variance from the required front yard setback was granted for a garage in the same block some 10 years ago.

10. The subject lot is on a sloping, curving street so the relationship of the houses to each other is not apparent.

11. Cars parked on the street have broken free and rolled into people's yards.

12. The street right-of-way is 5 ft. narrower than the standard width. With cars parked on both sides there is only one lane for travel.

13. The parking zone to restrict Fauntleroy ferry parking begins two lots north of the subject lot.

14. A next door neighbor and several nearby neighbors support the application for a variance. Neighbors find the enclosed parking superior aesthetically to the open carport. Mr. Tagge, a neighbor who testified at the hearing, sees no change in the streetscape relationships.

Conclusions

1. A variance may be granted if all the facts and conditions set forth in Section 23.40.20(C) are found to exist. The existence of the structure built without a permit is not one of the conditions and cannot be considered in determining whether a variance is justified.

2. There must be an unusual property condition because of which the strict application of the Code would deprive the property of rights and privileges enjoyed by other properties in the vicinity. Here, the steps which intrude into the parking area are such a condition. Other houses have parking for two cars or, without this feature, have the potential for two car parking. On the subject lot, the space for the second car must extend into the front yard, and it did prior to the enclosure. Without variance, the property would be denied the provision for parking enjoyed by many other nearby properties.

3. The variance may not exceed the minimum necessary and not constitute a grant of special privilege. The 4 ft. variance to allow 16 ft. 6 3/4 in. in front of the stairwell, including the garage front, does not go beyond the minimum necessary for relief where the minimum length for a required parking space is 16 ft. Because of the property condition, not shared with other properties, the variance would not confer special privilege on the property.

4. The evidence shows that the variance would cause no material detriment to the public welfare or injury to any other property. All comments showed benefit to the neighborhood.

5. The strict application of the front yard provisions would cause undue and unnecessary hardship where the prior carport and driveway were designed for the second car space but extending into the front yard. The variance would have the effect of legalizing the parking situation provided when the lot was developed and would allow the enclosure of it to make the appearance more pleasing to the neighbors and to make it more useful to the property owners.

6. The intent of the policy of requiring a standard front yard setback is to "preserve the streetscape character of individual clusters of housing units in City neighborhoods." Section 16.02.07, Seattle Municipal Code. Because of the curving street and differing elevations due to the grade, the character of the

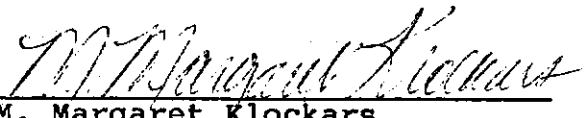
streetscape is not changed by the 4 ft. extension into the front yard.

7. The requirements for variance being satisfied, it should be granted.

Decision

The variance is granted.

Entered this 7th day of August, 1985.


M. Margaret Klockars
Deputy Hearing Examiner

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. 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).

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.