

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

In the Matter of the Appeal of

SAKYA MONASTERY

FILE NO. MUP-86-042(V,CU)
APPLICATION NO. 8505542

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

Introduction

Appellant challenges the decision of the Director, Department of Construction and Land Use, to deny an administrative conditional use to expand a church and a variance from maximum lot coverage for property at 102 N.W. 83rd.

The appellant exercised the 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 27, 1986.

Parties to the proceedings were: appellant, Sakya Monastery, represented by Virginia Johnson and Phillip Lehn, and the Director represented by Arthur Lee, 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 of this appeal.

Findings of Fact

1. Sakya Tegchen Choling Monastery, by Phillip Lehn, applied for an administrative conditional use to expand a church in a single family zone and for a variance to exceed the maximum permitted lot coverage. The Director denied the application and this appeal followed.

2. The subject property is a 7,200 sq. ft. lot in an SF 5000 zone at the corner of N.W. 83rd Street and 1st Avenue N.W. The lot is developed with a two story church building with 7,651 sq. ft. of floor area. The building covers 35% of the lot area.

3. The property is used as a Tibetan Buddhist monastery by appellant. It houses the head lama and four other adherents and provides meeting and meditation or devotional space. The building lacks space for a library which is a necessary component of a Tibetan Buddhist monastery.

4. The applicant had purchased a building in the University District which could not be used legally for the monastery. As a part of a settlement with the City of an action regarding the use, the applicant agreed to acquire other property for the facility. A lengthy search for an appropriate structure resulted in the purchase of the subject property.

5. The applicant proposes to construct a 607 sq. ft. addition to the east side of the existing building to house the monastery's library. A sunken garden is planned outside the library for reading.

6. The Director determined that the expansion of the monastery, as a religious facility, in a single family zone requires an administrative conditional use pursuant to Section 23.44.22A.

7. The proposed addition would increase lot coverage to approximately 41%. The Director determined that a variance from Sections 23.44.10C and 23.44.22C would be necessary since the maximum permitted lot coverage is 35%.

8. There is no space available in the existing structure for a library. The addition is only large enough to accommodate table, chairs and books.

9. The site of the monastery is surrounded by single family residences. The Greenwood commercial district, with NC 2 and NC 3 zoning, begins 1 1/2 blocks to the north and a block to the east. Other institutions located in the single family zone include a public school at N.W. 81st and 3rd N.W. and St. John's Catholic Church and school two blocks south of the subject site.

10. Because of the size and configuration of the building, institutional use is the only reasonable use of the structure since it is located in a single family zone.

11. A variance to allow St. John's Catholic Church to exceed the allowable lot coverage on 6 lots on the south side of N.W. 79th was granted in 1961 by the Board of Adjustment. The proposed structure was a gymnasium and parish hall accessory to the church and school.

12. The Director issued a determination of non-significance pursuant to SEPA for this proposal. Several conditions were imposed pursuant to Section 25.05.660 to mitigate impacts including the requirement that the size of the sunken garden court be reduced and additional landscaping be provided. This condition is intended to reduce the impact of the "institutional character" by reducing the scale of the building.

13. Appellant objects to this condition but did not appeal this component of the master use permit decision.

14. The condition does not appear to be likely to achieve its intent.

15. The design of the addition is intended to reduce the perception of bulk or mass of the building along 1st Avenue N. W.

16. Letters were received from neighbors with concern about affect on the parking situation in the neighborhood.

17. The monastery provides no on-site parking and the Director has determined that no parking need be provided for the library addition.

18. The library is expected to increase traffic generated by the monastery by 3-4 visits per week since most usage will be by persons residing in the facility and by persons who are present to attend other functions.

Conclusions

1. A variance from a provision of the Land Use Code may be granted only if the facts and conditions set out in Section 23.40.020.C are present. The first condition required is that there be a unique condition of the property, not created by the applicant, because of which the lot coverage limitation would deny the property privileges enjoyed by other properties.

2. The development existing when appellant acquired the property presents an unusual condition. The existing development

was a church building utilizing the full lot coverage permitted. The only reasonable use of the building, since it is located in a single family zone, is institutional. Institutional needs vary greatly and few structures suitable for institutions exist so the opportunities to select an appropriate structure are limited. Since the lot coverage was fully utilized the applicant is deprived of the privilege of altering the structure in a way to meet those needs.

3. The second condition necessary for variance is that the request does not go beyond the minimum necessary for relief and such variance would not constitute a special privilege. Section 23.40.020.C.2. Here, the 607 sq. ft. library addition was shown to be as small as could reasonably accommodate table, chairs and books and that no space in the existing building was available. Variance for that lot coverage, then, would not exceed the minimum necessary. Since the property is unusual and another institution within two or three blocks was granted a much more substantial variance, no special privilege would be conferred.

4. The variance cannot be materially detrimental to the public welfare or injurious to other property. Section 23.40.020.C.3. Since the small addition would generate almost no traffic and its design may improve the aesthetics of the building, no detriment or injury is reasonably foreseeable.

5. Literally interpreting and strictly applying the lot coverage provision must cause undue or unnecessary hardship. Section 23.40.020.C.4. In this case it does since the library is a necessary component of a monastery. Here, the applicant purchased this property in an attempt to conform to the City's Land Use Code but cannot enjoy its use if the code is strictly applied.

6. Finally, the variance should be consistent with the spirit and purpose of the code and Land Use Policies. Section 23.40.020.C.5. The structure already existed and was designed for institutional use. The addition should have the effect of improving scale without adding noise, traffic or other problems. No housing stock would be lost. Moreover, the application meets the variance criteria in all other aspects. Therefore, the variance would not conflict with the spirit and purpose of the code or policies.

7. As to the administrative conditional use, the determination is to be based on whether the proposed use meets any specific criteria established for that use and whether the use will be materially detrimental to the public welfare or injurious to other property. Section 23.44.018.C.

8. The criteria specific to institutional uses concern dispersion, loss of residential structures, conversion of existing structures, noise and odors, landscaping, light and glare, bulk and siting, signs, parking and transportation plans. Since the application does not involve the establishment of an institution but a very small addition the criteria regarding dispersion, loss of residential structures, conversion of structures, signs and transportation plans do not apply. Further, the addition would not create noise or odors after construction is completed, no new light or glare is anticipated, landscaping is addressed through a SEPA condition, though the examiner does not find the condition necessary for the conditional use, and any increase in parking demand due to the addition is minimal. Though bulk is being increased, the requirements of the criterion in Section 23.44.22.J are met.

9. The development standards for uses permitted outright in the zone must be met. Section 23.44.018.B. With the variance from the lot coverage limitation this requirement is satisfied.


10. The general requirement that any conditional use not be

detrimental to the public welfare or injurious to other property is also met in that no adverse environmental impacts are anticipated which have not been otherwise mitigated.

Decision

The variance and administrative conditional use for a 607 sq. ft. library addition to the facility are granted.

Entered this 10th day of September, 1986.


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 party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

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, (206) 625-4197.