

## FINDINGS AND DECISION

### BEFORE THE CITY OF SEATTLE HEARING EXAMINER

In the Matter of the Appeal of

LESCHI IMPROVEMENT COUNCIL

FILE NO. MUP-87-041(V)  
APPLICATION NO. 8704990

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

#### Introduction

Appellant, Leschi Improvement Council, appeals the granting of a variance to allow a structure to extend into the required front yard and the granting of a variance to allow parking in the front yard on property addressed as 232 Lake Dell Avenue, in Seattle.

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 September 25, 1987.

Parties to the proceedings were: appellant, Leschi Improvement Council, represented by Rees Toothman; the Director, Department of Construction and Land Use, by Cheryl Waldman; and the property owner, Clarence Caldwell, pro se.

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 owner applied for a master use permit for an existing carport accessory to a single family residence. Two variances were required to allow a structure to extend into the required front yard and to allow parking in the required front yard. The Director granted the two variances and the Leschi Improvement Council appealed.

2. Appellants requested that the variance be granted with conditions to allow for no more than two automobiles to be parked on the front yard and that boats be prohibited in the front yard carport.

3. The subject site is located on the south side of Lake Dell Avenue, which is a narrow winding street that provides access between Lake Washington Blvd. and the upper Madrona neighborhood. The site is irregularly shaped, and slopes down from north to south. It is developed with a single family residence, constructed in 1985. The site is zoned Single Family 5000, is designated as Environmentally Sensitive, as a potential slide area on the Director's environmental maps.

4. Land uses in the vicinity are primarily single family residences. Several homes appear to be located in the required front yard, or have parking within the front yard. Zoning in the vicinity is Single Family 5000.

5. When the applicant purchased the property in 1985, one of the provisions in the purchase agreement was for the builder/-seller to construct a two-car carport. The builder/seller built the carport without applying for a building permit. The applicant had no knowledge pertaining to the builder's failure to

obtain a building permit for the carport.

6. The carport is located as close as 4 ft. from the front property line, in the northwest corner of the site. Access to the carport is from an existing 10 ft. wide curb cut. Presently, a boat occupies part of the carport. No garage was included when the house was built in 1985. The owner and his wife own two vehicles.

7. Only one written comment was received by the Director during the comment period opposing the requested variances due to existing parking problems, and a claim that the carport partially obscures the view for vehicles traveling around the curve on Lake Dell Avenue.

8. The Director's records indicate at least two other variances had been granted in the vicinity, neither since the adoption of the current Land Use Code. One variance, for the residence at 108 Lake Dell Avenue, was to allow an addition to provide less than the required rear yard. The second variance allowed a parking deck in the required front yard at 270 Lake Dell Avenue.

9. The location of the site on a narrow, winding street, and the on-site conditions, including sloping topography and irregular shape, are unusual conditions that were not created by the owner.

10. Several existing residences in the vicinity are located in what appears to be the required front yard, and several have attached or detached garages within this yard.

11. A definite on-street parking problem exists. Lake Dell Avenue is a two-way street, with little on-street parking available. On-street parking is not available for the owner's second vehicle and/or for guest parking.

12. The proposed carport is similar to, or less bulky, than existing accessory parking development, and provides off-street parking for two vehicles. The carport and boat do not block views, or otherwise intrude upon existing development. The carport and boat do not block vehicular traffic view around the corner.

13. The subject site has a 16 ft. drop in the first 60 ft.

### Conclusions

1. All of the variance criteria of Seattle Municipal Code Section 23.40.020 must be met in order for the applicant to be afforded variance relief.

2. The location of the site on an irregularly, sloping topography are conditions not created by the owner and a strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same vicinity. Section 23.40.020(C)(1).

3. The requested variances do not go beyond the minimum necessary to afford relief and do not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity, since other homes have parking in their front yards. Section 23.40.020(C)(2).

4. The granting of the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity, since the carport is similar to existing accessory parking development and does not block views. Section 23.40.020(C)(3).

5. The literal interpretation and strict application of the applicable provisions or requirements of this land use code would cause undue and unnecessary hardship upon the owner, due to the

site's location on a narrow winding street and the development is similar to their neighbors. Section 23.40.020(C)(4).

6. In keeping with the spirit of land use policies there is a provision in the Land Use Code that allows parking in the required front yard on steeply sloping lots, and further allows parking for two vehicles if no parking is allowed on both sides of the street. Section 23.44.16(C). Since the subject site has only a 16 ft. drop in the first 60 ft., the required 20 ft. drop has not been met in this instance to allow for a parking area on a down hill front yard. Section 23.44.016(C)(4)(b). However, the spirit and purpose of the land use policies are being met here by granting the variance in that the subject site has not only a sloping front yard, but also a winding one. Since no available on-street parking exists for the owner's two vehicles and for guest vehicles, and a parking problem exist on this street for the entire neighborhood, the granting of the variances would help alleviate an existing parking problem on the street.


7. The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted land use policies. Section 23.40.020(C)(5).

8. The requested conditions are unnecessary. Since a serious on-street parking problem exists, allowing for off-street parking on the front yard carport is appropriate. From the evidence, the boat in the carport does not block views or vehicular traffic view, and the variance would not be a detriment to the public welfare or injurious to the property or improvements in the vicinity. To the degree that the Land Use Code imposes restrictions to front yard accessory parking, appellants are encouraged to make appropriate complaints to the Director if violations occur.

#### Decision

The Director's granting of the two variances is AFFIRMED.

Entered this 12<sup>th</sup> day of October 1987.

  
Al Velarde, Pro Tempore  
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) 684-0521.