

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

In the matter of the Appeal of

DENNIS BRATIS

FILE NO. MUP-85-036(V)
APPLICATION NO. 8502193

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

Introduction

Applicant contests Department of Construction and Land Use (DCLU) denial of variance relief required to construct a two-car garage addition to 9217 Fauntleroy Way S.W.

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 14, 1985.

Parties to the proceedings were: applicant-appellant by Timothy A. Law, attorney-at-law, and the DCLU Director by Malli Anderson. Flora Bratis appeared as witness for appellant.

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 subject property is located between east adjacent Fauntleroy Way and the Puget Sound waterfront without alley or other rear access. The site, zoned Single Family (SF) 9600, is also located within the Urban Residential Shoreline environment and approximately one block south of the Fauntleroy Ferry Landing. The site's proximity to the Landing is responsible for much parking congestion in the vicinity. The subject property address is 9217 Fauntleroy Way S.W.

2. The 50 by 140 ft. lot is generally level at Fauntleroy Way S.W. but slopes down to the waterfront.

3. The site, developed with a single family residence, was purchased by applicants in 1978. In 1985, applicants applied for and received a permit to add a double garage to the dwelling. Upon subsequent DCLU inspection applicant was advised that variance relief would be necessary because the plot plan erroneously showed a 12 ft. public right-of-way as private front yard space.

4. Applicant still wishes to add a 24 ft. by 24 ft. double garage to the front of the residence. DCLU approved the required variance relief for a single garage only. Applicant then submitted this appeal.

5. The proposed garage would be 25.5 ft. from the Fauntleroy Street curb and 13 ft. in from the sidewalk.

6. Many vicinity residences have attached two-car garages that are located in the front yard area. According to DCLU there are 54 other residences on the same side of Fauntleroy Way S.W. as the subject property that have attached two car garages located in

the required front yard." Some were approved by variance subsequent to the 1982 adoption of the Land Use Code. There are seven other garages and a two car paved parking area located in required front yards on the same block as the subject property.

7. In January 1984, DCLU granted a variance which permitted a front yard double garage at south adjacent 9223 Fauntleroy Way S.W. that is 2 ft. from the front property line. DCLU also approved curb cut, nonconforming expansion and related variances for front yard parking for 9237 Fauntleroy Way S.W. in June 1984. In July of 1982, DCLU denied a variance requested for front yard parking at 9201 Fauntleroy Way S.W. However, the variance for the 22 ft. by 24 ft. garage was approved in September 1982 after appeal to the Hearing Examiner. MUP-82-047(V).

8. No neighbors oppose the applicants' request for variance relief. Strong concern was expressed, however, that there should be and should have been strict adherence to proper notice, procedures.

9. With regard to the State Environmental Policy Act of 1971 (SEPA) and Chapter 25.05, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC Chapter 197-11.

Conclusions

1. DCLU limited the variance relief to that for a single car garage because, in DCLU's view, parking in the required front yard for more than one vehicle would exceed the minimum necessary for relief, and would serve as a City-wide precedent for two-car garages, particularly since the Single Family Policies and code provisions suggest that front yard parking be limited and suggest that only one parking space per residence is required.

2. Seattle Municipal Code Section 23.44.14(A) generally requires a minimum front yard setback of 20 ft. Section 23.44.16(d)(2) provides that absent specific exception parking shall not be located in the required front yard.

3. As noted by DCLU unusual property conditions are presented in this case which sustain variance relief from the literal application of code provisions. Beyond this, the record shows that variance relief for a two car garage is appropriate in order for applicants to enjoy comparable, two car car garage development privileges. At least three variances have been granted since 1982 for vicinity properties to have parking in the required front yard. Among those is a 1984 grant for the south adjacent property's double garage.

4. The vicinity pattern, pre- and post 1982, shows a substantial number and variety of front yard parking accommodations, including double garages in required front setback areas. This establishes along Fauntleroy a fixed streetscape which will not be unduly impacted by applicants' proposed addition. Even though the resulting structure will be 1 ft. from the property's front lot line, it will be some 28.5 ft. from the Fauntleroy curb.

5. The proposed double garage would benefit the public welfare by providing one additional off-street parking space in an area congested with ferry and other traffic.

Decision

Applicants' request for variance to construct up to a 24 ft. by 24 ft. garage is approved.

Entered this 23rd day of August, 1985.


Leroy McCullough
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.