

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

In the Matter of the Appeal of

DWOSKIN ASSOCIATES ARCHITECTS

FILE NO. MUP-84-026(V)  
APPLICATION NO. 8301923

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

Introduction

Appellant, Dwoskin Associates Architects, appeals the decision of the Director, Department of Construction and Land Use, to deny a curb cut variance for property at 4610 N.E. 89th Street.

The appellant exercised its 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 April 18, 1984.

Parties to the proceedings were: appellant by Stephen Dwoskin, and the Director by Ed Somers, 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. Stephen Dwoskin applied for a master use permit proposing to construct a single family residence at 4610 N.E. 89th. The Director determined that a curb cut and another variance would be required for appellant's proposal and denied the curb cut variance. Appellant appealed that decision.

2. The subject lot is in the Inverness Park subdivision and is zoned SF 7200. Construction has begun on one of the approximately 70 lots.

3. The subject lot has 75 ft. of frontage on N.E. 89th Street. The street forms a loop providing access and egress for the interior of the subdivision. At points the street is very steep but was not shown to be at the subject lot.

4. The lot's 37% slope down to the north begins at the lot line.

5. The street measures 25 ft. from curb to curb. The sidewalk is located immediately adjacent to the curb. The distance from the curb to the lot line is approximately 12 ft.

6. The applicant proposes a 16 ft. curb cut for the driveway to the house. Because of the steep slope the driveway would be supported by concrete bulkheads.

7. Section 23.54.30. E(1)(b) provides that curb cuts for lots in residential zones shall not exceed a maximum of 10 ft. with certain exceptions which do not apply in this case.

8. Because the driveway is elevated above the slope, the consequences of a vehicle turning short or wide of the driveway could be severe.

9. The Code restriction goes only to the curb cut and does not apply to the width of a paved driveway on the lot.

10. According to appellant's exhibits, the standard turning radius for standard cars would require that a 25 ft. wide street be unobstructed across the street from a 10 ft. curb cut. A 20 ft. wide curb cut allows the turn from the car's lane of travel.

11. In the adjacent Inverness subdivision, which was developed before the Code restricted the width, most curb cuts are wider than 10 ft.

12. The slopes in the area are identified as unstable. This is recognized in the condition imposed on grading permits that vegetation be established immediately after excavation.

#### Conclusions

1. For variance relief the applicant must show that the property has an unusual condition because of which the application of the code provision would operate to deny that property rights and privileges enjoyed by other properties in the vicinity. Such a condition has not been shown. The street width was not shown to be unusual and the lot's topography, though severe, is not the cause of any denial of comparable rights or privileges if the restriction is applied to this property. No other unusual condition was shown to be attached to this property.

2. Since no relief has been shown to be warranted because of an unusual property condition of this lot, the variance would go beyond the minimum necessary and constitute special privilege or establish a precedent for the entire subdivision.

3. The requested variance would not be materially detrimental to the public welfare nor would it be injurious to other property.

4. The Single Family Residential Areas Policies provide that curb cuts are not to exceed the width of one car. The intent is to reduce the impact created on the streetscape. It must be assumed that the Council was aware of the usual width of City streets when the policy and code requirements were adopted. The variance, unless it is based on unusual conditions, would not be consonant with the policy or code requirement.

Decision

The variance is denied.

Entered this 2nd day of May, 1984.

*M. Margaret Klockars*  
M. Margaret Klockars  
Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14th days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.