

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

C. W. CASSINELLI

FILE NO. MUP-81-013

APPLICATION NO. X-81-066

from a decision of the Director of
the Department of Construction and
Land Use on a Master Use Permit
Application

Introduction

Appellant, C. W. Cassinelli, appeals the denial of the variance component of a master use permit application for property at 9006-35th N.E.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended).

This matter was heard before the Hearing Examiner on July 20, 1981.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Appellant applied for a side yard variance as a component of a Master Use Permit to legally establish a carport on the property at 9006-35th N.E. The Director of the Department of Construction and Land Use denied the variance. Appellant filed an appeal of that decision.

2. The subject property is a lot measuring 51 by 120 ft. in a Single Family Residence High Density (RS 5000) zone. It is developed with a single family house located on the lot so that two 11 ft. side yards are provided. The lot slopes down to a 3 ft. high retaining wall approximately 13 ft. behind the house and a second 4 ft. high retaining wall farther to the rear.

3. Appellant has constructed a 10 by 30 ft. carport on the north side of the house leaving a 1 ft. side yard setback. Sections 24.20.090 and 24.62.090 require a side yard setback of 5 ft. except for certain architectural features. The structure, as constructed, would require variance from these sections.

4. The Director concluded that while the limited possible locations for a carport may constitute a unique condition, a driveway to a carport in the back yard could have been constructed. Therefore, granting the variance would also confer special privilege. The final conclusion was that the variance would be contrary to the Single Family Areas Policies.

5. A carport or garage could not be located in any reasonable way above the first retaining wall. Putting a driveway through the retaining walls to reach the rear of the lot would be prohibitively expensive.

6. Adjacent lots are oriented so that the house on the subject property alone faces 35th Avenue N.E. Rear yards then abut the sides of the subject lot leaving greater open space than is usually present on each side of the house.


Conclusions

1. The location of the house and development of the lot with its retaining walls constitute a unique situation requiring variance relief to avoid undue hardship.
2. With a unique condition no special privilege would result from variance relief.
3. Because of the orientation of the adjoining lots, a reduced side yard would not cause injury to other properties nor would it be materially detrimental to the public welfare.
4. While the lot would not provide the setback suggested by the Single Family Residential Areas Policies, that orientation which assures open space, avoids conflict with the intent and purpose of those policies.

Decision

The determination of the Director is reversed and the variance is GRANTED.

Entered this 31st day of July, 1981.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).