

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

In the Matter of the Appeals of

PIERSON HOMES, INC.,  
GLADYS GLADER AND  
JOHN D. LAMBERT, SR.

FILE NOS. MUP-84-048  
MUP-84-050 and  
MUP-84-051  
APPLICATION NO. 8401992

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

Introduction

Three appeals of the decision of the Director, Department of Construction and Land Use to grant two variances and deny two variances for property at 3314 N.W. 67th were filed. Pierson Homes, Inc., appealed the denials for the applicants, Mr. and Mrs. Nils Solsvik, and Gladys Glader and John D. Lambert, Sr., appealed the granting of the variances.

The appellants exercised their 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 13, 1984. The record remained open until August 21 for a clarification by the applicant and DCLU as to the alternative of placing the garage in the rear yard.

Parties to the proceedings were: appellants Pierson Homes, Inc., by Ken Pierson, Gladys K. Glader by Alan Peizer, attorney at law, and John D. Lambert, Sr.; the Director by Amy Luersen, 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. Mr. and Mrs. Nils Solsvik applied for a master use permit to allow the construction of a garage addition to their single family house at 3314 N.W. 67th Street. As proposed the addition would require four variances. The Director granted variances from the minimum required front yard and the prohibition against access through the required front yard where an alley exists and he denied variances to exceed maximum area and height in a required front yard. Two neighbors appealed the decisions to grant variances.

2. The Solsvik's lot is 4,750 sq. ft. in area in an SF 5000 zone. It is developed with a two-story house with garage in the basement. The lot slopes up approximately 13 ft. from street level to the front of the house. The remainder of the lot is fairly level. The lot abuts a 10 ft. wide alley along its west side. A rockery slopes up from the street with a concrete retaining wall separating the rockery from the driveway. Stairs lead from the sidewalk to the second floor entrance and living area.

3. The Solsviks propose to add a new garage on the front of the house. The garage would extend out to the front property line and be 25 ft. 8 in. wide for an area of between 490 and 563 sq. ft. The height of the flat roof would be 13 ft. 1 in.
4. Section 23.44.14.A requires a 20 ft. front yard setback. The existing house provides more than 20 ft. Section 23.44.16.E(2) limits to 12 ft. the height of a flat roofed garage in a required front yard.
5. The existing basement garage is now used by the owners. Because of health problems, however, the owners anticipate possible need for wheelchair access. If their garage plans are approved they would eventually remodel the house to locate the main living area on the first floor, or basement, level.
6. Some neighbors question the motivation of the owners. They offer some evidence that the owners wish to create a two car garage.
7. The garage width proposed would provide 6.5 ft. for the width of one automobile, 6.5 ft. on each side for wheelchair access, 5 ft. for an access ramp, and 11 inches to align the garage with the west wall of the house.
8. The 13 ft. 1 in. height would make the roof of the garage even with the front porch. The front porch appears, from Exhibit 8, to be 4 ft. 8 in. wide. The extension would allow for easier access by emergency personnel. The level extension would also allow use of the rooftop as a view deck.
9. The house is set 25 ft. 11 in. from the rear lot line. The side of the rear yard abuts upon the alley. Mr. Pierson was advised by a member of DCLU that a garage in the rear yard could require more variances than one in the front because of the lot coverage limits. According to calculations done by Amy Luersen at the examiner's request the Land Use Code would allow a detached garage with its entrance facing the alley of up to 399 sq. ft. in area or an attached garage with its entrance facing the alley of up to 497 sq. ft.
10. The alley rises fairly steeply at its entrance but is relatively level adjacent to the rear of the subject lot. The rear yard is approximately two feet higher than the alley.
11. The alley provides access to several garages.
12. Most lots fronting on N.W. 67th in the block do not abut an alley.
13. Exhibit 9 shows that a small amount of water view from a neighbor's house would be lost if the garage was constructed as proposed. The greater height requested would constitute a part of that loss. A garage of 300 sq. ft. would also cause the loss of some water view.
14. Due to the slope of the front yard, the Solsviks could construct a garage covering 300 sq. ft. without variance.
15. Exhibit 6 shows state standards for handicapped parking and access. Ms. Luersen and Mr. Pierson interpret the standards differently. Ms. Luersen's position is that a garage 13.5 ft. wide is adequate for handicapped parking but requires the person to choose only one side for exit. Mr. Pierson maintains that an

additional 11.5 ft. is necessary to provide a level landing in the 6.5 ft. width and a gradual slope, no more than 1:12, for the ramp.

16. The porch can be widened about 2 ft. without variance, according to Ms. Luersen, to provide better access for emergency personnel.

17. Exhibit 7 shows many garages larger than 300 sq. ft., some extending into front yards, in the general area. One such garage is on the blockfront facing the subject property. None was shown to have been constructed under a variance.

#### Conclusions

1. Any hardship in this case is personal rather than property-related as required by Section 23.40.20.C(1) for variance. The lot now has legal, usable enclosed parking so the lot's physical characteristics and their relationship to the Land Use Code do not deprive the property of enclosed parking. The lot also has space in its rear yard for new or additional parking. Appellants did not show that handicapped access could not be provided from the rear.

2. Since the property does provide parking and additional parking with handicapped access can be developed the variances requested go beyond the minimum necessary for relief. The variances would not necessarily confer special privileges since there are garages in front yards exceeding 300 sq. ft. in the general area.

3. The garage at the location would cause some view loss to a neighboring property which constitutes material injury. However, except for the additional blockage from the extra height requested, the permitted 300 sq. ft. structure would probably cause similar blockage.

4. Because appellants have two legal options, i.e., a 300 sq. ft. garage in the front yard or a garage in the rear yard, the strict application of the code would not cause undue hardship.

5. The Single Family Residential Areas Policies generally prohibit parking in front yards with the intent of maintaining the streetscape free of parking structures. While an exception from the prohibition is created for slope conditions, the intent would be violated by a larger than permitted structure or any structure if parking can be provided off an alley.

#### Decision

Since the conditions for the granting of the variances are not satisfied the variances are denied.

Entered this 31st day of August, 1984.

  
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. 2 Am. Jur. 2d., Admin. Law Section 524. 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); Akada v. Park 12-01 Corporation, 37 Wn. App. 221 (1984); JCR 73.

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.