

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JOHN E. SPERRY

FILE NO. MUP-83-058(V)
APPLICATION NO. 83-401

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

Introduction

Appellant, John Sperry, appeals the decision of the Director, Department of Construction and Land Use, to deny variances for his property at 1107 Sunset Avenue S.W.

The appellant exercised his 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 October 14, 1983.

Parties to the proceedings were: appellant and the Director, Department of Construction and Land Use, represented by Jim Barnes.

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. Sperry applied for a master use permit to construct an addition to an existing garage at 1107 Sunset Avenue S.W. The Director initially determined that variances would be required to provide less than the minimum required front and side yards and to allow the expansion of a structure already nonconforming. The variances were denied. After the decision was issued it was determined that, due to a misunderstanding about the extent of the lot, the side yard variance was not necessary. Mr. Sperry appealed the decision as to the denial of needed variances.

2. The subject lot is located at the dead-end of Sunset Avenue S.W. overlooking the Hamilton Viewpoint in West Seattle. The lot includes a level part at one elevation and a sharply sloping portion down to California Avenue S.W. The upper portion, where a single family residence and detached garage is located, is in the SF 5000 zone and the sloping portion is in the SF 7200 zone.

3. The westerly 30 ft. of Sunset Avenue S.W. was vacated in 1919 and is part of the subject property. A condition of the vacation was that no building higher than 10 ft. above street level be constructed in the vacated area. A stairway down to California Avenue S.W. is located in the remaining street right-of-way.

4. The existing one car garage is located in the vacated right-of-way and is lower than 10 ft. A concrete parking pad and retaining wall next to the garage was added pursuant to a building permit issued in 1969.

5. Appellant proposes to construct an addition over the concrete pad to provide a two car garage. The addition would also be under 10 ft. in height. The existing house was not constructed by appellant.

6. Section 23.44.14 A requires a 20 ft. front yard setback which may be reduced slightly because of a lesser setback on the lot to the south. The existing garage extends into that setback. The proposed addition would go to within one foot of the property line so a front yard variance is required. Moreover, Section 23.44.82 C prohibits expansion of a structure already nonconforming as to development standards if the nonconformity would be increased. A variance has been required from that provision.

7. Of the twelve properties fronting on Sunset Avenue S.W. in the 1100 block, six have two car garages and two more can park two cars in tandem in the garage, three have one car garages or carport and one has no provision for enclosed or covered parking. Several appear to have nonconforming yards.

8. An addition would be difficult to construct between the garage and house because of the entrance to the house and a rockery wall. The western, rear yard, is not accessible, the southern side yard is only 6 ft. wide and the north is made up of the steeply sloping portion.

9. Parking in the street at this location would force cars entering the street to back the whole way out as there is not sufficient width to turn around. Without variance, continued use of the parking pad would violate the zoning code, according to the Director's representative.

10. It appears from the photographs that the garage would be visible from only a few residences and would not materially intrude on any views, except from the street where it meets the subject property.

Conclusions

1. The topography of the lot and the siting of the house are such that it is not possible to provide an enclosed space for a second car in a conforming manner. Since half the lots in the block have standard two car garages and additional ones have an enclosed space, though not standard, the subject property would be deprived of the opportunity enjoyed by the majority of the homes on the block.

2. The variances requested are the minimum needed to provide space for an enclosed parking space and would not constitute special privilege.

3. The public welfare is benefited by provision of adequate off-street parking on this dead-end street. The minimal intrusion on the view from the street is offset by the benefit. No property would be injured.

4. The strict application of the Code in this case would cause undue hardship.

5. While front yard parking is normally to be restricted to one space, the street situation, topographical condition of the property and enjoyment of provision for second cars on other properties in the area suggest that the requested variances would not conflict with the purpose of the codes and policies.

Decision

The variances are granted.

Entered this 27th day of October, 1983

M. Margaret Klockars
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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 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). 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.