

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

THEODORE J. LEACH

FILE NO. MUP-81-087(V)
APPLICATION NO. 81278-0375

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

Introduction

Theodore J. Leach, appellant, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny a rear yard variance for property at 1029A N.E. 120th Street.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

No correspondence or testimony was received in opposition to the application.

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

This matter was heard before the Hearing Examiner on December 23, 1981.

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 appellant applied for a master use permit to add to a single family residence at 1029A N.E. 120th street. The Director determined that a variance from the rear yard requirement would be required. The variance was denied. Appellant appealed.

2. The subject property is a lot in a Single Family Residence Medium Density (RS 7200) zone measuring approximately 80 ft. by 156 ft. A two story single family residence with attached garage is set over 85 ft. back from the front property line.

3. Appellant proposes to construct a one-story addition behind the garage to within 12 ft. of the rear property line. Section 24.18.090 requires a 30 ft. rear yard setback.

4. The existing structure was located far back from the front property line and others were similarly located because of a water condition. The eastern portion of the property is an old creek bed which has been filled but the water table is near the surface. The site's front yard has been tiled to deal with the water. Adjacent properties have worked in concert to solve the drainage problem which seems to be resolved at this time.

5. While the eastern setback is similar for each house, the orientation of each is different so that the house adjacent to the north faces north instead of east.

6. Adding to the house on the east (front) side would change that streetscape, neighbors fear could result in new drainage problems, and special construction problems would be encountered.

7. The subject house is one of the smaller houses, according to neighbors.

8. Constructing an addition in the side yard would bring the structure much closer to the adjacent residence because of the orientation and would conflict with the underground telephone lines and electricity supply.

9. The lot to the rear of the subject property is much higher than the subject lot assuring it adequate light and air wherever an addition to the subject house is made.

Conclusions

1. The property does have a unique condition in the form of the front yard water/drainage situation. Since the house is smaller than most the addition is necessary to achieve comparable development rights. The rear yard is the only reasonable place to make the addition because of the front yard conditions. Therefore, the variance requested is the minimum necessary for relief.

2. Variance to allow an addition which will make the house similar in size to others will not confer special privilege.


3. The variance will not result in injury to other properties nor detriment to the public welfare. Because of the varying orientations of the houses and the elevation of the property to the rear open space will not be unduly infringed upon. Instead, the setback pattern will be maintained and further drainage difficulty will be avoided.

4. The Single Family Residential Areas Policies provide for maintainance of both the streetscape and rear yards of at least 25 ft. Both cannot be complied with in this case. Because of the factors mentioned above, maintaining the existing pattern of setbacks in front is deemed more important.

Decision

The decision of the Director of the Department of Construction and Land Use is REVERSED and the variance is GRANTED.

Entered this 6th day of January, 1982.


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). Should an appeal 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.