

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the matter of the Appeal of

CHAS B. CHISOM

FILE NO. MUP-81-088(V)
APPLICATION NO. 81240-295

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

Introduction

The applicant is proposing to construct a two car garage which would provide less than the minimum required front yard at 1905 Sunset Avenue S.W. The applicant appealed the decision by the Director of the Department of Construction and Land Use to impose conditions on the approval of the requested variance.

Parties to the proceedings were: applicant/appellant by Jerry McNaul, Culp, Dwyer, Gutterson and Grader; the Director of the Department of Construction and Land Use (DCLU) by Melody McCutcheon, environmental specialist.

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 January 14, 1982.

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 subject property is located in the Single Family Residence High Density (RS 5000) zone at 1905 Sunset Avenue S.W. The 14,168 sq. ft. area lot is developed with a two story single family dwelling. An attached garage is located at the end of the steeply sloping driveway, at the south end of the structure.
2. Because of the narrow width and the steep slope affecting the existing garage access, the applicant proposes to construct a detached two car garage located 23 ft. from the front property line. This new addition would, according to the applicant's proposal, be a two car garage of 618 sq. ft. with a maximum height of approximately 17 ft. from the street level. Roughly 9.5 ft. of this height would be assumed by the proposed roof of the garage. The proposed garage would be equal in height to the existing principal structure, and 5 ft. from the side lot line.
3. Noting that the property slopes steeply from the front on Sunset Avenue S.W. and, among other items, that the average setback for 13 lots on the subject block was 19.4 ft., DCLU granted variance approval on the condition that the proposed garage be limited to one story with a pitched roof not to exceed 12 ft. Applicant appealed, urging that the 12 ft. vertical limitation would result in a roof pitch which would not accommodate the proposed shingle covering. This in turn would not allow the proposed construction to be as compatible with the architecture of the existing residence. It was further alleged that view blockage would be minimized by the garage as proposed. By contrast, the appellant argued, setting the structure beyond the required front setback would enable that structure to rise to a 35 ft. level, which would increase the blockage of views.

4. Opposition to the proposal was in the nature of letters and testimony. The neighbor from across the street expressed concern with the impact of the proposal on his western view of the Olympics and Puget Sound. As well, the property owner at 1914-40th S.W. opined that the garage would completely block her view and consequently depreciate the value of her property.

5. DCLU urged that the 17 ft. height requested would exceed the minimum necessary and would constitute a blockage of views. DCLU added, however, that the structure could be two stories on the western side in consonance with the declining slope. In response to suggestions made in hearing and in at least one letter of support, DCLU urged that the applicable analysis is under the currently existing zoning provisions; and not the "new single-family building" codes, under which it is suggested that no variance would be needed. Based on the photographs and other evidence of record, the finding is adopted that the declivity that would result by placement of the garage 13 ft. from the front yard setback is less than that of the existing driveway entry.

6. The majority of the houses on the side of the street of the subject property have garages that are more at level with the street than is currently enjoyed by the applicant.

7. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The variance criteria are delineated in Section 24.74.030. Variance relief may issue if it will not be materially detrimental to the public welfare or injurious to vicinity property or improvements. In addition to the other restrictions, the contemplated grant of variance relief may not exceed the minimum necessary for relief.

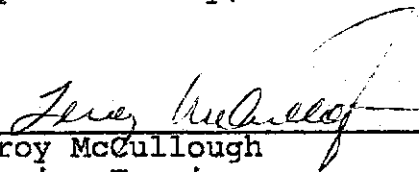
2. The topography of the lot as it affects the existing attached garage and access thereto is a unique property condition which distinguishes the subject property from the development-access privileges of other vicinity properties. Accordingly, some variance relief is appropriate.

3. However, as proposed by the applicant, the two car structure would be located 23 ft. from the front lot line, 5 ft. from the side lot line, and would have a height and roof structure the same as the dwelling. Roughly 9½ ft. of that height will be attributable to the roof of the proposed garage. The proposed construction would unduly impact the western views and would also more than compensate for the unique property condition identified, i.e., would exceed the minimum necessary for relief. The comparative site blockage of the structure 23 ft. from the front lot line as opposed to 30 ft. from the front lot line is of interest. The proposal at issue, however, is for a 23 ft. setback. The condition proposed by DCLU on the height of the garage is a reasonable one and the decision is accordingly affirmed.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 29th day of January, 1982.



Leroy McCullough
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.