

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

RAINIER BANK, agent for  
LAKESHORE INVESTMENT CORPORATION and  
SUCCESSOR TRUSTEE

FILE NO. MUP-84-033(V)  
APPLICATION NO. 8400830

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

#### Introduction

Appellant, Rainier Bank as agent for Lakeshore Investment Corporation and Successor Trustee, appeals the decision of the Director, Department of Construction and Land Use, to deny front and side yard variances for property at 3400 California Avenue S.W.

The appellant exercised its 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 May 31, 1984.

Parties to the proceedings were: appellant represented by Kenneth J. Walter, CPM, senior real estate officer, and the Director represented by Art Ward, associate 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. Appellant is constructing a medical office and retail building with accessory parking on property at 3400 California Avenue S.W., extending south of S.W. Hinds Street. A master use permit was issued for a two story and basement structure on the northerly half of the property. Then a second master use permit was issued to allow another level of parking and open parking on the southerly half of the property.

2. The property is in a Neighborhood Business (BN) zone which extends along both sides of California Avenue S.W. The zone contains a mixture of small scale businesses and residential uses.

3. The existing code allows the building to be built to the rear lot line. Because of the bank at the rear of the lot, the structure must be set back from the line unless extremely expensive construction methods are used. The rear wall of the parking structure is set back 5.5 ft. The wall of the office structure above is set back some 12 ft.

4. Sections 24.40.100A and 24.40.100B require at least a 10 ft. front yard setback and 10 ft. side street side yard setback for non-residential buildings in the BN zone.

5. Appellant requests variance from the minimum front and side street side yard requirements to allow the building to extend to those property lines. The additional space would be at the main floor level and would allow for a better configuration for the retail space and additional entryway to the upstairs. The resulting design would be less box-like and, therefore, more interesting.

6. Approximately 84 parking spaces are to be provided on-site and seven more off-site to fulfill the parking requirement.

7. Appellant described a critical need for a new medical facility in the northern part of West Seattle. The group of physicians who will staff the medical center are now in temporary facilities and must move so appellant is unable to await adoption of new code provisions.

8. The proposed retail space is intended to be occupied by two retail outlets, one a pharmacy. The depth of the space available, without the variance, is substandard.

9. Kenneth Olsen, a West Seattle pharmacist, testified that bringing the windows close to the street, making the interior more visible to passers-by, would reduce the chance of hold-ups.

10. Many of the structures along California Avenue in the vicinity do not provide the 10 ft. street yard setback currently required. A grocery store with living space above directly across Hinds Street from the subject site is one example. Except for two instances where variances were granted the structures pre-date the current zoning code.

11. The California Avenue S.W. right-of-way is 80 ft. wide. The Hinds Street right-of-way is 60 ft. wide. Sidewalks adjacent to the site are 6 ft. wide which is a standard width.

12. It would not be feasible to add to the front and side of the building later when the code provisions change.

### Conclusions

1. The property does suffer from a limitation on its development potential because of the bank behind. Where the owners are entitled to use the property to its rear line a 5.5 ft. setback has been required because of the topography. Moreover, there is ample evidence of other properties' utilization of the front setback area, both those grandfathered and pursuant to variance, so that this property would be denied comparable rights if some offset to the rear setback were not permitted.

2. The use of the full 10 ft., though probably most aesthetically pleasing, has not been shown to be justified since the disability suffered from, i.e., the topography, is only 5.5 ft. Moreover, expanding both to the front and to the side has not been shown to be warranted by the property condition. A variance to allow a 4.5 ft. front yard setback is then the minimum necessary for relief.

3. A continuation of the setback pattern existing on the street and at this location would not be injurious to any other property or be detrimental to the public welfare.

4. Appellant has shown that there are hardships involved due to the topography, heavy parking requirement, and the need for the facility too soon to await more favorable standards.


5. Land use policies for neighborhood commercial areas have not yet been adopted but it appears the proposed development, and the full variances requested, would be consistent with those policies. The existing comprehensive plan does not provide any specifics for yards in business zones. Variance from the code

provisions is permissible where warranted by the facts.

Decision

A variance from the front yard requirement for a 4.5 ft. setback is granted. A side street side yard variance is denied.

Entered this 14th day of June, 1984.

  
M. Margaret Klockars  
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. Seattle Municipal Code Section 23.76.36(B)(11). 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.