

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

GEORGE J. GOSSELIN

FILE NO. MUP 85-066(V)  
APPLICATION NO. 8504121

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

#### Introduction

Appellant, George J. Gosselin, appeals the decision of the Director, DCLU, to condition the approvals of variances to allow a garage in a required side yard by limiting the garage to 300 sq. ft.

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 November 6, 1985.

Parties to the proceedings were: Appellant, George J. Gosselin, and the Department of Construction and Land Use Director, represented by Arthur Ward, 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 applied for a Master Use Permit to add a two car garage with deck to the single family house at 103 Crockett St. A series of variances were required by the Director who granted them but limited the size of the garage to 300 sq. ft. Appellant filed this appeal.

2. The subject lot is located at the corner of Crockett St. and 1st Ave. N. It contains 3,600 sq. ft. of lot area. A large, two-story plus basement house provides a 2 ft. front yard (on 1st N.), 16.5 ft. rear yard, 9 ft. street side yard (on Crockett) and 2.5 ft. south side yard. The exact lot coverage of existing development does not appear in the record.

3. The proposed garage would be located on the north, Crockett, side of the house and measure 19 ft. wide by 23 ft. deep. The garage would extend 17 ft. north of the house's north facade 2 ft. into the street right-of-way and 3 ft. from the sidewalk.

4. The concrete retaining wall which supports the 4.5 ft. high embankment is located very close to the sidewalk. Most properties on the block have embankments along the street right-of-way.

5. The Director has determined the following variances are needed for the proposed garage: 1) from Section 23.44.14C to allow structure in the required side yard; 2) from Section 23.44.16D.1.b to allow parking in a required side yard abutting a street; and 3) from Section 23.44.10C to exceed the maximum permitted lot coverage. A 10 ft. setback from Crockett is required and none would be provided. The maximum lot coverage allowed on this lot is 1,750 sq. ft. and 1,795 sq. ft. is proposed.

6. In the square block bounded by 1st and Warren Avenues N. and Newton and Crockett Streets, there are 16 single family residences, including the subject property. Mr. Ward reports that 1 house has a two-car garage, 12 have a space for one car in a required yard and 3 have no provisions for parking. Exhibit No. 1. Exhibit No. 2 shows what appears to be a second two-car garage at 2012 1st N.

7. Across Crockett St. is a retirement home. A supermarket is located to the northwest of the subject site in a BC zone. Across 1st Ave. N. to the southwest is located the Queen Anne Baptist Church.

8. Appellant's main reason for desiring a garage is to gain security for his household's vehicles which have suffered two break-ins in just over one year. He feels the cost of excavation cannot be justified by increase in value for a one car garage.

9. The Queen Anne Baptist Church supports appellant's plan to construct a garage. Other neighbors submitted written comments indicating no objection to the variance or garage.

#### Conclusions

1. Variances may be granted if the facts and conditions set forth in Section 23.40.20C are shown by the applicant to be present. First, there must be a showing of an unusual condition because of which the strict application of code provisions would deprive the property of rights and privileges enjoyed by the other properties in the vicinity. Here, the smallness of the lot and the size and location of the existing structure prevents the property from having on-site parking which the great majority of properties on the block has.

2. The requested variances must be shown to be the minimum necessary for relief and not to constitute a grant of special privilege to this property inconsistent with the limitations on other properties in the vicinity. The record shows that only one or two properties have parking for two cars and that most have parking for one. To have comparable privileges, the subject site should also have a minimum of one parking space. To grant variances to allow two spaces would be to confer special privilege.

3. The variances must not cause material detriment to the public welfare or injure other properties. There is no indication in this case of any harm from the proposal. In fact, the comments indicate support from neighbors.

4. The strict application of the required setbacks would cause undue hardship since no parking could be provided on-site where most properties make some provision for parking.

5. The Land Use Policies do not specifically address parking in a side yard. The Director's representative suggested that the variances' consistency with the spirit and purpose of the policies be assessed by considering the policies relating to parking in front yards. This appears to be appropriate since the side yard is on a street and the policies are concerned with streetscape. The variance would not have any effect on the streetscape of Crockett since retaining walls, rockeries, and garages already line the sidewalk. The policies and code do attempt to limit parking in required front yards to only one space, however, where any is permitted at all by slope conditions. Therefore, parking for two would be inconsistent with the policy intent, where not required to give the property comparable rights and privileges.

6. All facts and conditions are present to warrant the granting of the variances for a garage to provide parking for one car, 300 sq. ft., but variances for a garage for two cars would exceed the minimum necessary for relief since most other properties provide parking for only one car.

Decision

The variances should be granted subject to the condition that the area of the garage not exceed 300 sq. ft.

Entered this 20th day of November, 1985.

M. Margaret Klockars  
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. 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).

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.