

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

WARREN BAKKEN AND JOHN ALYWARD

FILE NO. MUP-81-060(V)
APPLICATION NO. X-81-040

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

Introduction

Appellants, Warren Bakken and John Alyward, appeal the decision of the Director of the Department of Construction and Land Use (Director) to deny a variance for property at 1200-1206 N.E. 42nd.

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

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 October 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. Appellants own the subject property which is a lot with 40 ft. of frontage on 12th Avenue N.E. and 103 ft. on N.E. 42nd Street. The lot is developed with a duplex at 1200-1202 N.E. 42nd and a single family residence at 1206 N.E. 42nd.

2. The space between the two structures is paved and provides spaces for four cars to park against and perpendicular to the rear property line, three spaces the subject of the variance, in front of those up to and perpendicular to the front property line. One garage is provided in the duplex.

3. Appellants also own a six-unit structure, a four-unit structure and a cottage all north of the subject lot. The rear yards and part of one front yard and a side yard are paved for parking. Three spaces are behind the single family house on the subject lot and are accessible from the alley.

4. The subject lot and the others described above are located in a Multiple Residence High Density (RMH 350) zone. The zone requires a front yard of at least 10 ft. and for a side yard abutting on a street, 10 ft. Sections 24.32.120 and 24.62.120.

5. Section 24.64.040 prohibits the location of a parking space in a required front or side yard abutting on a street. Appellants applied for a variance from this prohibition.

6. The Director denied the variance for failure to meet the criteria for variance set forth in Section 24.74.030.

7. The subject property is required to provide three parking spaces for the three dwelling units. Section 24.64.120.

8. Appellants offer the parking spaces for rent by the month to the public if their tenants do not choose to rent them.

9. Principal use parking (parking for other than residents and guests) not permitted in the RMH 350 zone. Section 24.32.140.

10. Parking in this area, the University District, is in great demand and short supply.

11. Many cases of parking spaces established in a required yard or parking in a driveway too close to the front property line exist in the area. Three pictures in Exhibit 1 depict parking lots in a zone which has different regulations regarding parking.

12. Appellants obtained a permit for the 30 ft. wide curb cut when they paved the area and created the parking in 1979.

13. Vehicles using the four spaces in the rear may have to back across the sidewalk when leaving the lot although the plot plan appears to allow some access from the alley. The three spaces in front would require backing across the sidewalk.

14. Appellants object to selective enforcement of the front yard parking prohibition. The enforcement action taken by the Director was triggered by a complaint.

15. The Engineering Department objects to the variance because cars backing over the sidewalk create an unsafe condition.

16. The Multi-Family Policies prohibit parking in front of buildings except in certain situations where it must be screened or landscaped.

Conclusions

1. Neither a general need for parking in an area nor lack of enforcement constitute unique property conditions required by the code for variance relief.

2. Further, since the parking required for the three units on the subject lot can be and is provided without variance, variance for extra parking would go beyond the minimum necessary for relief.

3. Because of the frequency of violation of the code's restrictions on parking, permitting the requested parking would not confer special privilege except for protection from future code enforcement action. Variance may not be granted though unless all criteria are met which is not true in this case.

4. Three additional cars backing across the sidewalk would be materially detrimental to the public welfare offset, in part, by the provision of space for three cars in this congested area.

5. The parking allowed by the variance would not conform to the Multi-Family Policies.

Decision

The decision of the Director is AFFIRMED.

Entered this 3rd day of November,
1981.

M. Margaret Klockars
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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.