

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

In the Matter of the Appeal of

HOWARD AND AUDREY MENDENHALL

FILE NO. MUP-83-004(V)  
APPLICATION NO. 82-0516

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

Introduction

The project applicants proposed to construct storage addition to the rear of an existing single family residence at 7755 Lakemont Drive N.E.

The applicants exercised their right to appeal pursuant to Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

Parties to the proceedings were: Howard and Audrey Mendenhall, applicants, by Bob Essig; and the Director of the Department of Construction and Land Use by Nanette Mozeika.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on February 28, 1983.

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 a single family zone (SF 7200) at 7755 Lakemont Drive N.E.

2. The lot measures approximately 124 ft. by 70 ft. for an approximate square footage of 8,679. The lot is developed with a one level single family residence which covers approximately 3,031.75 sq. ft. or 34.9 percent of the lot. The residence is "L" shaped and is located in the Sand Point Country Club neighborhood. The elevation of the west property line at the rear is approximately 20 ft. higher than the east property line at the front of the residence.

3. The proposed addition to provide storage space, 20 ft. by 6.5 ft., would exceed the allowed 35 percent of lot coverage per Section 23.44.10.C, Seattle Municipal Code, by 1.5 percent; and would provide less than the required 25 ft. of the rear yard per Section 23.44.14.B, Seattle Municipal Code by 1.4 ft.

4. The applicants state that the "L" shaped construction of the house without a basement provides less than the desired amount of storage area for the family compared to other homes in the area. The applicants' architect differed in opinion from the Department in regards to downward and upward expansion to provide the desired storage space. Upward modification was stated by the architect and found credible by the Hearing Examiner to likely involve extensive structural modifications to the family residence and would not achieve the result desired by the applicants.

5. The project architect indicates the addition would be unnoticed by the neighbors and in particular, the neighbor directly to the rear of the addition because of the elevation and shrubbery at the west property line.

6. The project architect indicates that the original design of the residence exceeds side yard and west rear yard setback requirements and that a discounting of the generous overhangs would result in a true "foot print" well within the coverage limitations.

7. Applicant's themselves indicate numerous additions and modifications to other residences in the area during the past years.

8. The Department representative indicated that this instant proceeding, however, is the first application in the area for variance relief.

#### Conclusions

1. The requirements for variance relief are: an unusual property condition, not created by applicant, which without variance relief would deprive the applicant of rights and privileges enjoyed by other properties in the vicinity; the relief should not exceed the minimum necessary nor constitute a special privilege; and the relief should not prove materially detrimental to the public welfare nor inconsistent with the spirit and purpose of the Land Use Code or the Comprehensive Plan.

2. Applicants presently are not enjoying the full extent and use of their property due to the comparative narrow width of their lot, the east-west elevation of the lot, the "L" shaped construction of the residence, the extensive overhangs on the house and the placement of the house on the lot. These unique conditions were not created by the applicants and without the grants of variance relief, the applicants would be denied the enjoyment and benefit of comparable development in the area.

3. The requested grants of variance relief do not exceed the minimum necessary for relief. The proposed addition is a practical resolution to applicants' needs. Upward modification as suggested by the Department is clearly seen not to be a practical resolution for applicants because of the structural modifications to be needed.

4. The addition will not be a material detriment to the public welfare nor establish a precedent for variance relief in the area. The addition will not change the roof line and the entire rear of the residence is shielded by the higher elevation and shrubbery at the west property line. The addition will project into the rear yard setback approximately 2 ft. 6 in. but is alleged by applicants and found credible by the Examiner, to not affect privacy or noise level in the adjacent yards.

5. The proposal will not violate the spirit and purpose of the Land Use Code or Policies.

#### Decision

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

Entered this 10th day of March, 1983.

Roger H. Shimizu  
Roger H. Shimizu  
Hearing Examiner Pro Tempore

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.