

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JANE GONEDRIDGE

FILE NO. MUP-82-010(V)

APPLICATION NO. 81342-0480

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

Introduction

The project applicant proposes to construct a third floor addition and deck to an existing single family residence located at 370 Highland Drive.

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

Parties to the proceedings were: appellant, pro se, and by Mr. Gonedridge; project applicant by G. Richard Hill, Foster, Pepper and Riviera; the Director of the Department of Construction and Land Use (DCLU) by Leslie Durkee.

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 February 25, 1982.

After due consideration of the evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, 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 Residence High Density (RS 5000) zone at 370 Highland Drive in the Queen Anne area of Seattle.

2. The lot measures 42 ft. east and west and is 167 ft. deep north and south for an approximate square footage of 7,025. The lot is developed with a single family dwelling 34 ft. in width. The house provides a steeply sloping front setback of 68 ft.; a west side yard of 5 ft. 11 in.; and the rear (north) setback to the dwelling is approximately 66 ft. However, the east side yard setback is nonconforming at approximately 2.5 ft. Due to the steep rise of the lot from Highland Drive north, the visibility of the subject dwelling from Highland Drive is extremely limited.

3. Generally, the dwellings to the east of the subject property and also located on the north side of Highland Avenue provide less of a front yard setback than does the applicant's dwelling. Due to the declining eastern topography, the majority of these dwellings have the amenities of views to the east as well as views to the south. Some properties in the vicinity have 180 degree views. The project applicant's major view is to the south. From the eastern window of the subject dwelling the view is of the roof of the east adjacent dwelling. Accordingly, project applicant sought and DCLU approved variances to allow for "the expansion of a building nonconforming as to bulk" and to provide less than the 5 ft. minimum required side yard. Sections 24.14.040; 24.20.090.

4. Applicant requested the zoning variances in order to build a partial third story addition which would provide the applicant easterly views above the roof of the east adjacent dwelling. The proposal is to continue the existing nonconforming east exterior wall. The exception would be for the windows which would not be installed within 3 ft. of the side lot line in compliance with the Building Code prohibitions against opening in walls closer than 3 ft. to a lot line. The applicant's architect testified that the foundation is capable of supporting such an addition and further that the requested setback was needed in order to align the wall of the addition with those of the existing structure. This would enhance the support of the addition, he continued, which includes a deck which will not project into the nonconforming side yard. The addition will add approximately 4 ft. to the height above the ridge of the existing roof so that the total height above the average existing finished grade will be 32 ft. 8½ in., according to the project architect.

5. Appellant filed an appeal from the grant of the variances asserting, in essence, that the project would negatively affect the character of the neighborhood and would obstruct several views, including hers. Appellant protested that the proposal would block approximately 25 percent, or a significant view from appellant's second story. A question was also raised whether the foundation could support the addition.

6. Appellant resides at 406 Comstock Place which is north of the subject property. The view south, therefore, is across the Kracke Memorial Park to, among other items, the Seattle Space Needle. The applicant's dwelling presents as to the right of the Space Needle from this view. See Applicant's Exhibit 4.

7. A witness who resides at 425 Comstock Place urged that the variance be denied because of the subject dwelling's "excessive bulk"; precedent; and because of the "severe" impact on his views, 20 percent. The witness took some issue with Applicant's Exhibit 6 which photograph board showed that the witness' view of the Space Needle would be impaired but that a panoramic view remains. The witness was of the opinion that the present view of the Space Needle was greater than depicted.

8. The vicinity is marked by a variety of residential architectural styles, partly attributed to the topography, including Victorian, Dutch Colonial and Shingle. Neighborhood houses have both sloped and flat roofs.

9. Photographs submitted by the appellant were presented to show that applicant's current roof line corresponds to those of neighboring houses. Comment letters were received in favor and in opposition to the project. One letter of approval was sent by the east adjacent neighbor.

Conclusions

1. The requirements for a variance are delineated in Section 24.74.030. Required is a unique property condition, not created by the applicant, which without variance relief would deprive the project applicant of rights and privileges enjoyed by others in the same vicinity. The variance relief should not exceed the minimum necessary; constitute a grant of special, inconsistent privilege; prove materially detrimental to the public welfare; nor adversely affect the Comprehensive Plan.

2. Presently applicant is without the amenity of an eastern view due to the development on the applicant's lot and to the development on the east adjacent lot. The applicant's lot is relatively narrow. These unique property conditions were not created by the applicant.

3. The requested grant of variance relief does not exceed the minimum necessary for relief. The proposed location for the addition is in practical response to the physical support needs of the project. The addition adds approximately 4 ft. to the height of the building. Resulting height, however, will be less than the 35 ft. maximum of the Seattle Zoning Code and will allow a visual overview of the east adjacent dwelling.

4. The proposal will add some visible deviation to the roofline composites of the immediate vicinity. However, the vicinity presently has a variety of rooflines, including flat roofs. Further, some views will be affected, particularly of the Space Needle; however, this does not rise to the level of "material" detriment to the public welfare. Finally, the proposal will not violate the spirit and purpose of the Single Family Residential Areas Policies. Resolution 25968. The Policies allow the continuation of existing nonconforming walls under certain circumstances, such as where the side wall provides a minimum 3 ft. distance. Proposed is 2.5 ft.

Decision

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

Entered this 11th day of March, 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.