

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MARK PAUL JAEGER

FILE NO. MUP-85-050(V)
APPLICATION NO. 8402994

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

Introduction

Appellant, Mark Paul Jaeger, appeals the decision of the Director, Department of Construction and Land Use (DCLU), denying the following variances:

1. to allow a portion of the principal structure to extend into the required front yard (Section 23.44.14(A). Required: 10 ft., Proposed 0 ft.;
2. to allow a portion of the principal structure to extend into the required side yard. (Section 23.44.14(C). Required: 5 ft., Proposed 2 ft. 2 in., and;
3. to allow parking in the required front yard. (Section 23.44.16(D).

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

The matter was heard before the Hearing Examiner on September 24, 1985.

Parties to the proceedings were: appellant, pro se and the DCLU Director by Ed Somers, 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. Mark Paul Jaeger applied for a variance to allow construction of a future garage addition to his existing single family residence located at 12342 Riviera Place N.E., in Seattle, Washington.
2. The variance requested in the proopsal would reduce the required 10 ft. front yard to 0 ft. The variance requested in the proposal would reduce the required 5 ft. side yard to 2 ft. 2 in.
3. The proposed addition would not block views or have any direct physical impact on other properties in the vicinity.
4. The appellant's lot is in an environmentally sensitive area. It is located in an Urban Residential (UR) and Conservancy Management (CM) shoreline environment. The lot has approximately 35 ft. of waterfront and is situated about 20 ft. east of the Burke-Gilman Trail.

5. Appellant's lot measures about 8,806 sq. ft., but about 61 percent of the lot is under water. The portion of the lot that is above water measures about 3,265 sq. ft. The lot slopes from its west boundary toward Lake Washington. The subject property is in a Single Family 5000 (SF 5000) zone and is developed with a single family residence zone.

6. Appellant's single family residence is served by an existing single car garage. Appellant proposes to remodel the garage by adding a 12 ft. by 22 ft. addition and removing the west 3.5 ft. and north 1 ft. of the existing garage.

7. Development in the vicinity consists primarily of single family dwelling units on small waterfront lots. Several residences have single car garages and small front yards similar to the subject site. Some residences have double car garages or parking areas as is proposed here, and some have no garage at all.

8. There have been no variances granted to property owners from 12306 through 12506 Riviera Place N.E. Garages that are constructed in front yards in that area were built before the area was incorporated into the City in 1957.

9. The Burke-Gilman Trail runs the full length of Riviera Place N.E. Users of this linear public park have increased the demand for parking in the area. Existing public parking is limited and insufficient for users of the Burke-Gilman Trail, residents of the area and their guest. Therefore, the proposed action would relieve some of the parking problems in the area.

10. Two letters were received in support of the variance application. The authors believe the proposed addition would add to the neighborhood aesthetically and would alleviate parking problems.

11. After receiving notice that the DCLU denied his request for vaiances appellant modified his original plans. By letter dated August 16, 1985, the Director advised appellant that she would support the redesign at the appeal hearing on the original plan. The Hearing Examiner does not have jurisdiction to consider appellant's modified and redesigned plan at this hearing.

Conclusions

1. Appellant has proven the existence of unusual conditions applicable to his property, which were not created by him. The property is bordered on the east by Lake Washington and slopes from its western boundary which limits his option for additional parking on the site. The Burke-Gilman Trail was constructed adjacent to appellant's property without additional parking for those non-residents of the area who use it daily. However, other residents in the area are similarly disadvantaged. The strict application of this Land Use Code would not deprive appellant of his property rights and privileges enjoyed by others in the same zone or vicinity.

2. The requested variances go beyond the minimum necessary to afford relief and would constitute a grant of special privilege to appellant. The Land Use Code generally does not allow parking spaces to be located in the required front and side yard setbacks. The subject property already has a 231 sq. ft. garage located in the front yard setback. The Code requires only one off-street parking space for a single family residence. The addition of a second non-required parking space to be located in the required front and side yard setbacks would go beyond the minimum necessary to afford relief. This would be a grant of special privilege inconsistent with the limitations placed upon other properties in the vicinity and zone.

3. The granting of the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity.

4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would not cause undue and unnecessary hardship. After the Director, DCLU, denied appellant's request for variances, appellant submitted a revised plan. A Director's representative responded to the revised plan by concluding that the Department of Construction and Land Use would support the modification and redesign.

5. The requested variance is inconsistent with the spirit and purpose of the Land Use Code provisions which encourage minimum front and side yard setbacks and discourage parking in the required yard areas.

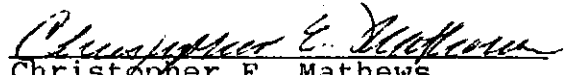
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6. Since all criteria for variance relief are not met, the variance must be denied.

Decision

The variance is denied.

Entered this 8th day of October, 1985.


Christopher E. Mathews
Hearing Examiner Pro Tempore

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City, 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 must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within fourteen days of the date of this decision. 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 appellant is successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.