

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

R.A. SIEVERS

FILE NO. MUP-81-103(V)  
APPLICATION NO. 81270-0356

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

#### Introduction

The applicant appeals the denial of variances requested in order to construct an addition to a single family residence located at 8406 Island Drive South.

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; the Director of the Department of Construction and Land Use (DCLU) by Diane Althaus.

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 11, 1982.

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 the Single Family Residence High Density zone (RS 5000) at 8406 Island Drive S.

2. The 10,545 sq. ft. area lot extends to the Lake Washington shoreline and rises 15 ft. above the shore at street grade.

3. The lot is developed with a c. 1927 Tudor style single family dwelling and a carport that was attached to the dwelling in the 1950's. The carport provides a (north)west side yard of 5 ft. A slightly greater setback is provided by the dwelling itself until it extends to 3 ft. of that side yard towards the rear. Approximately one third of the dwelling therefore provides the 3 ft. west side yard setback. Additionally, the lot is developed with a beach house located in the steeply sloping rear third of the property.

4. Applicant proposes to add a 12 ft. by 9 ft. addition to the rear northwest corner of the dwelling which would maintain the 3 ft. side yard setback. Applicant accordingly sought variance relief, subsequently denied by DCLU, to provide less than the minimum 5 ft. required, Section 24.20.090; and to allow for the expansion of a building nonconforming as to bulk, since there are two principal uses on the lot. Section 24.14.060.

5. The proposed addition would double as a passive solar collector-living area extension. The floors would be designed to collect the heat. The addition would be connected to the principal dwelling to transfer the heat. According to applicant, the proposal is the only way that the dwelling could be extended to facilitate the passive solar heating project. The site of the extension could not be more easterly located due to a window well immediately east adjacent, 12 ft. from the side lot line. Further, large trees on the easterly border serve to shade the applicant's rear yard such that any more easterly location would subject the addition to shading and blockage of the eastern sun exposure.

6. Comment letters were generally apprehensive regarding current density level. Applicant testified, however, that neighbors were favorably disposed and generally excited about the project.

7. A variance allowing an existing garage to be converted to residential use without required rear and side yards was conditionally granted for property located at 8607-9 Island Drive S.

8. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

#### Conclusions

1. The lot topography, the location of the dwelling and the dwelling's relationship to the surrounding vegetation - hence solar access - are unique property conditions not created by the applicant that could support variance relief. Section 24.74.030. The siting proposed in the subject application appears as the most practical response to these conditions.

2. Although no similar variances or projects were reported for the immediate vicinity the unique posture of the dwelling and proposed addition as well as the limited degree of variance relief sought would not present the applicant any special privilege.

3. The proposed extension, away from Island Drive S. and towards the sloping rear of the lot will not exacerbate any visual density concerns.

4. No material detriment is perceived by the addition of the proposed unit to the rear of the dwelling, notwithstanding the existence of a beach house on the rear third of the steeply sloping property.

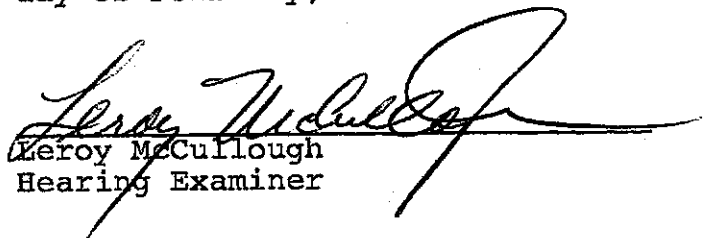
5. The Single Family Policies (Resolution 25968) provide an exception to the minimum 5 ft. setback when 60 percent or more of a single family residence's wall extends into the required yard setback. In this instance approximately one third of the dwelling is located within the 5 ft. setback. However, considering the topographical characteristic of the property and the zoning exceptions to the land use code that will remain as part of the administrative process, the spirit and purpose of the Comprehensive Plan will not be adversely affected by the requested variance relief.

6. A question is presented whether the 12 ft. by 9 ft. addition is the minimum necessary to effectuate the relief for passive solar heating requested. The variance is accordingly granted on the condition that the dimensions of the addition be approved by DCLU.

Decision

The application for variance relief is conditionally  
GRANTED.

Entered this 25th day of February, 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.