

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MICHAEL HILL

FILE NO. MUP-86-077(V)
APPLICATION NO. 8603363

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

Introduction

Appellant Michael Hill, challenges the decision of the Director, Department of Construction and Land Use, to conditionally grant a variance for property at 4122 - 42nd N.E.

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

This matter was heard before the Hearing Examiner on November 17, 1986.

Parties to the proceedings were: appellant Michael Hill, pro se, and the Director by Jay Laughlin, land use specialist.

For the purpose 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. An application was made for a master use permit for the construction of a detached, two-car garage at 4122 - 42nd Avenue N.E. A variance from Section 23.44.14.D.6. would be necessary to allow the garage to be closer than 12 ft. from the centerline of the alley. The variance was granted for a single car garage. The applicant appeals.

2. The subject property is a 40 ft. by 120 ft. lot sloping down from the alley to the street. The elevation changes some 35 ft. in that distance. A single family residence is located 27 ft. above the street with a small, single car garage terraced into the bank at the street.

3. Applicant proposes to add a two-car garage off the alley. The location is dictated by extensive retaining walls.

4. The proposed garage would be 13 ft. from the rear of the house and some 8.5 ft. higher.

5. On the eastern blockface of 42nd N.E. between N.E. 41st and N.E. 45th four houses provide parking for three cars, eight houses have parking for two cars, six have one car garages or carports and one has no parking. The four with parking for three cars have a single-car garage at the street and double car garage or carport off the alley. Twelve of the 20 lots have at least parking for two cars. Only 20 percent have parking for three cars.

6. One other variance has been granted in the area, next door to the subject property. In that case there was an existing one car garage at the street; a variance was requested for a two-car carport; and the variance was granted for a 12 ft. by 20 ft. carport, which size would accommodate one car.

7. The alley is 15 ft. wide.
8. The garage would be set back one foot from the property line on the alley with the eave line at the property line.
9. The minimum size for a garage meeting barrier free standards would be 13 ft. by 20 ft.
10. It appears unlikely that barrier free access could be attained for this house because of the topography of the lot and the house's location on the lot.
11. The proposed garage would not obstruct views from neighboring houses.

Conclusions

1. Variance from Land Use Code requirements may be granted if all facts or conditions listed in Section 23.40.020.C are found to be present. The first condition is met in that the slope of the lot and existing retaining walls prevent the property from meeting the setback requirement and enjoying a second garage which the majority of lots on the blockface have.
2. The second condition, that the variance requested does not exceed the minimum necessary for relief, Section 23.40.020.C.2, presents the only question about the variance. The variance is requested for a 19 ft. width. The Director has determined that only a 12 ft. width is necessary to enjoy development comparable to properties on the block and avoid special privilege. Since space for two cars would be comparable to or greater than the parking provision of four-fifths of the lots on the block, that would be the minimum necessary for relief. Variance to allow parking for three cars, when a similar request was denied the abutting property, would confer special privilege on the subject property. Variance for a garage to accommodate one car would be the minimum necessary. While barrier free access may not be realistic for this property, the only possibility would be from the alley. Therefore, sufficient width for handicapped parking would be appropriate.
3. The variance would not cause detriment to the public welfare or injure other property, satisfying Section 23.40.020.-C.3.
4. Without variance from the alley setback requirement, undue and unnecessary hardship would be caused.
5. Variance to allow a garage width for one car would not violate the spirit and purpose of the Single Family Residential Areas Policies or the Land Use Code.

Decision

The variance is granted for a garage no wider than 13 ft.

Entered this 2nd day of December, 1986.


M. Margaret Klockars
Deputy Hearing Examiner

Concerning Further Review of
Hearing Examiner Final Decisions on Master Use Permits

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104, (206) 625-4197.