

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

In the Matter of the Appeal of

STEPHEN CRARY

FILE NO. MUP-82-047(V)
APPLICATION NO. 82-0255

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

Introduction

Appellant, Stephen Crary, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny a front yard variance for property at 9201 Fauntleroy Way S.W.

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

Parties to the proceedings were: appellant, represented by Robert A. Medved, Graham and Dunn, and the Director, represented by Anne Marlowe, environmental specialist.

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 August 24, 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. Appellant applied for a master use permit to construct a two car garage at 9201 Fauntleroy Way S.W. The Director denied a variance to permit the garage within the required front yard. This appeal followed.

2. The subject property is a large, waterfront lot located just south of the Fauntleroy ferry dock. The lot is developed with a single family house but has no covered parking. A prior owner converted the double garage to living space in 1966 under a permit.

3. A garage cannot be located in the rear of the house, on the waterfront side, because of a steep embankment and lack of access to the rear yard. The house is within 4 ft. 5 in. and 5 ft. 5 in. of the side lot lines. The lot is 50 ft. wide.

4. Appellant proposes a two-car, 22 by 24 ft. garage at the front of the house set back 12.75 ft. from the front property line.

5. Sections 23.44.08D(1) and 23.86.10B(1)(e) require a minimum setback of 20 ft. for the front yard.

6. The northern portion of the subject lot is in line with the southern half of S.W. Wildwood Place which is the continuation of the arterial along Fauntleroy and carries traffic to and from the ferry terminal. Driveway access on the northern portion of the lot would be less desirable than further south because of the potential hazard from conflict with the heavily travelled roadway.

7. The area has experienced numerous instances of vandalized, prowled or burglarized cars.

8. Houses on the west side of Fauntleroy are oriented toward the west or Sound. Residents consider the west side their "front" yard.

9. Parking is congested in the area because of the ferry dock. Parking restrictions help after 2:00 a.m.

10. The resident owners of the property adjoining the south side of the subject property support appellant's request because the garage may provide a noise barrier between their residence and the bus stop and uphill grade on S.W. Wildwood Place.

11. A tree with an enormous trunk is located on both the subject property and the lot adjoining on its north side. The root structure of the tree spreads out onto both properties. Overcoving of the earth close to the tree could endanger the tree.

12. Garages or carports in front yards are common in the vicinity. By appellant's count 11 of 19 properties in the block north of the ferry have parking structures within 8-10 ft. of the sidewalk. Four garages in the block south of the ferry are closer than 20 ft.

13. Few single car garages are now being constructed. New two car garages are more common. Several of the lots in the block with the subject property have two car garages.

14. The entry to the house is located at the center front. The kitchen is located at the northeast corner. Locating a garage at the center or northern portion would require a major remodeling of the layout and circulation of the house.

15. A 22 ft. length for a garage is considered the minimum size by the architect.

Conclusions

1. Several unique conditions create a situation where the code requirement for front yard would deny this property comparable and reasonable development rights. Those conditions consist of the structure's location on the lot, the lot's topography, the layout of the house, the tree and the lot's relationship to the Fauntleroy-Wildwood intersection. Together those conditions limit the possible location for a garage to that proposed.

2. Appellant has proved that the variance requested is the minimum necessary for comparable and reasonable development. Special privilege will not be conferred.

3. The variance would not be materially detrimental to the public welfare nor would it injure properties. It may, in fact, be of benefit if it provides the anticipated sound barrier for the adjoining property.

4. The variance would not be inconsistent with the Single Family Residential Areas Policies since the intent is to have houses sited to preserve the streetscape character of the neighborhood. Because of the many intrusions of covered parking into the front yards this variance would not alter that character.

Decision

The decision of the Director is reversed and the variance is GRANTED.

Entered this 1st day of September, 1982.

M. Margaret Klockars
M. Margaret Klockars
Deputy 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.