



FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF MERCER ISLAND

In the Matter of the Application of
John Gregory/Dennis Alkire
for lot area variances

Decision: The application is DENIED.

INTRODUCTION

The applicant, John Gregory/Dennis Alkire, filed an application for variances with regard to property located at 2704 and 2708 - 63rd Avenue S.E. The applicant proposes to divide a parcel into two lots without providing the minimum required lot area.

The Department of Community Development recommends that the application be denied.

This matter was heard before the Hearing Examiner on May 26, 1978.

After due consideration of the evidence presented by the applicant, all 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 findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The applicant proposes to divide a parcel into two lots with resulting lot sizes of 5,544 square feet for the northerly lot and 6,000 square feet for the southerly lot. This proposal is in variance with Section 4.04, Mercer Island Zoning Code, in that a minimum area of 8,400 square feet is required for each lot due to the fact that the property is zoned R-8.4. Consequently, the applicant requests variance relief from the aforementioned provision and has the burden of establishing that the application satisfies the requirements of Section 18.02, Mercer Island Zoning Code.
2. The subject property contains an area of 11,544 square feet and has no topographical characteristics which are relevant to the proposed lot size variances. Each of the lots is developed with a single-family residence which has existed on the site since prior to 1960. The subject property is situated on the southeast corner of the intersection of 63rd Avenue S.E. and S.E. 27th Street.
3. Although the area surrounding the subject property is zoned R-8.4, the area is characterized by the existence of numerous substandard lots with regard to size. Several lots are actually smaller than the proposed northerly lot, but a vast majority exceed the size of either of the proposed lots. The average lot in the area is approximately 6,800 square feet so that both of the proposed lots would be out of character with the average lot for this area.

4. Similar variance requests in the area have been previously approved, but no variance has been granted which allowed a lot of less than 6,000 square feet. In the past 10 years all similar variance approvals in the vicinity have been for lots exceeding 7,500 square feet. The most recent request included a lot having less than 7,500 square feet in area and was consequently denied.
5. The applicant intends to remove the existing deteriorating residence on the northerly lot and replace it with a newly constructed residence that would be more in character with other residences in the vicinity. The proposal does not include any alteration of the existing structure on the southerly lot.
6. Denial of the requested variances would permit the continuation of the status quo in that the two residences would be permitted to continue in existence. However, the proposed removal of the northerly residence and construction of a new home would not be permitted since there would not be two legal lots to support the two residences.
7. The requested variances and proposed redevelopment of the northerly lot is inconsistent with the density limitations of the Mercer Island Comprehensive Plan. The Comprehensive Plan restricts density to two to four families per acre.

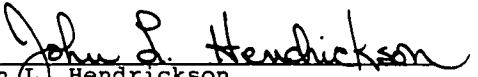
CONCLUSIONS

1. The applicant has not presented any evidence of special circumstances or conditions relating to the physical properties of the subject site. The fact that the entire parcel is somewhat larger than the 8,400 square foot minimum limitation of this zoning classification, or the fact that each of the proposed lots is unusually small in size, are not pertinent special circumstances. The total area of the parcel does not significantly exceed the minimum 8,400 square foot limitation and is not close to being of a sufficient area to be divided into two conforming lots.
2. The historical aspects of the development of this parcel and the fact that it was for a period under single ownership is a unique situation, but is not a special circumstance pertaining to the subject property as contemplated in the variance criteria of the Mercer Island Zoning Code. Consequently, while the situation is unusual the relevant characteristics of the site itself are not unusual and, therefore, the proposal does not merit approval.
3. The intended removal of the northerly residence and its replacement by a newly constructed residence would be an improvement that would be potentially beneficial to the surrounding area. However, such action would add vitality to the nonconforming situation and would cause a continuation of a density that is in nonconformance with current standards. Consequently, the approval of the requested variances would be detrimental to the public welfare and would adversely affect other property in the vicinity.
4. Approval of the requested variances would be out of character with the surrounding lot sizes and would be inconsistent with the density limitations of the Comprehensive Plan. Variance approval in this instance would further be inconsistent with established precedent in the immediate vicinity.
5. With regard to the State Environmental Policy Act of 1971 (SEPA), the action proposed in this application is categorically exempt pursuant to the provisions of WAC 197-10-170.

DECISION

The application is DENIED.

Entered this 13th day of June, 1978, pursuant to the authority granted under Resolution 742.


John L. Hendrickson
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 6, Resolution 742, any person who is aggrieved by the decision of the Hearing Examiner may submit a written appeal to the City Council by filing the appeal with the City Clerk within ten (10) calendar days of the date of the Examiner's written decision. Appeals should be addressed to: City Clerk, 3505 - 88th Avenue S.E., Mercer Island, Washington 98040.

CITY OF MERCER ISLAND
HEARING EXAMINER

May 26, 1978
1:30 P.M.

Municipal Building
Mercer Island, Washington

APPLICATION: Lot Size Variance
John Gregory/Dennis Alkire

PRESIDING: John Hendrickson
Hearing Examiner

STAFF: Jerry Bacon, Department of Community Development
Inez Potwin, Department of Community Development

TAPE #1
SIDE #1
TAPE COUNT

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1. CALL TO ORDER

The May 12, 1978, hearing was called to order by the Hearing Examiner, John Hendrickson, at 1:30 p.m.

2. INTRODUCTION BY HEARING EXAMINER

A description of the hearing sequence and the procedures to be followed were explained by the Examiner.

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3. PUBLIC HEARING - This was the only item on the agenda and was called to order at 1:35 p.m.

- A. LOT SIZE VARIANCE: John Gregory/Dennis Alkire, 2704 and 2708 - 63rd Avenue S.E., requests two variances of 2,400 square feet and 3,075 square feet, respectively, to create two lots in an R-8.4 zone.

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All parties wishing to testify on this matter were affirmed by the Examiner.

23

Jerry Bacon, Department of Community Development, submitted the file which contains the application, staff report, a site plan, and correspondence from people concerned about the application. The file was entered as Exhibit No. 1.

26

Mr. Bacon summarized the staff report. The staff recommends denial of this variance request on the basis that it would conflict with the Mercer Island Comprehensive Plan. He stated that no lot smaller in size than 6,000 square feet has

been approved by the variance procedure.

- 75 Dennis Alkire, 926 - 12th Avenue East, Seattle 98102, stated that he is one of the applicants. Mr. Alkire stated that he believes that there are special circumstances concerning the physical conditions of the property because there are two pre-existing nonconforming lots which are consistent with the lot sizes in the neighborhood and were built prior to 1960. He also does not believe that approval of the variance would be in conflict with the Comprehensive Plan. Mr. Alkire further stated that approval of the variance would allow for two lots to continue as single-family lots with improvements to the property. He submitted a summary of his comments and documentation dated May 26, 1978, which was entered as Exhibit No. 2.
- 106 John Gregory, 6437 Sand Point Way, Seattle, Wa. 98102, one of the applicants, stated that he sold the subject property at 2704 - 63rd Avenue S.E. to Mr. Alkire in 1976. He feels the variance should be approved as it will be an improvement to the property. He submitted pictures of the property which were entered as Exhibit No. 3 A - D.
- 125 Omer Mithun, Mithun and Associates, 2000 - 112th Avenue N.E., Bellevue 98004, spoke in support of the variance request. He feels that the application meets all of the requirements for the granting of a variance and that construction of a new house on that lot would be an improvement to the neighborhood.
- 165 Discussion followed on the special circumstances for granting of this variance. Mr. Mithun believes that the small size of the lot is a special circumstance.
- 173 Bill Bastida, 4215 W. Mercer Way, Mercer Island 98040, stated that he feels the application should be approved because it will improve the neighborhood.
- 188 Mr. Bacon stated that the sale of the land from Mr. Gregory to Mr. Alkire may be illegal and that the City could take action to void the 1976 sale. He also stated that the Comprehensive Plan does not support the application.
- 204 Inez Potwin, Department of Community Development, stated that they have received several phone calls concerning the variance request and that they were agreeable to its approval.

214 Mr. Gregory made rebuttal comments concerning the alleged
illegal sale of his property to Mr. Alkire.

There was no one else present to speak on this matter.

259 The hearing on this application was concluded at 2:20 p.m.,
May 26, 1978.

Note: This hearing was recorded on the Department of Community
Development's recorder so that the tape count pertains to this
recorder only.

Dennis James Alkire
926 13th Avenue East
Seattle, Wash. 98102
329-2605

cc c.D.

June 20, 1978

- Mr. Jack Bunnell
City Clerk
City of Mercer Island
- 3505 88th Avenue Southeast
Mercer Island, Washington 98040

RE: Appeal to the City Council for Gregory/Alkire lot size
variance, denied by the Hearing Examiner for the City
of Mercer Island on 13th of June, 1978.

Dear Mr. Bunnell:

Aggrieved by the decision of the Hearing Examiner, the applicants
respectfully submit this written appeal to the City Council.

The subject property is in East Seattle, 2704 & 2708 63rd Avenue
Southeast. The north lot has had a house on it for over fifty years,
and the south lot has a house on it which was built in 1958. These
two lots were "grandfathered" into the city, (as separate legal non-
conforming lots.) when it was incorporated in 1960.

Variance denial is based on ownership; that under single ownership
two lots ceased to exist. The applicants believe that the historical
and current use of this property as two separate lots each with a
house on it is the essential fact, and should be allowed to continue
under separate ownership.

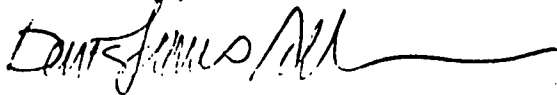
The applicants do not feel that "continuation of the status quo" as
permitted by the Hearing Examiner (Findings of Fact, No. 6), is in the
best interests of the applicants or of the community. The "status quo"
would not allow replacement of an old dwelling with a new home. The
Hearing Examiner notes that the new home would be "...beneficial to
the surrounding area", but that density standards should be more impor-
tant than the fact of two homes on two lots. The Hearing Examiner
states incorrectly in Findings of Fact, No. 7, that the Comprehensive
Plan states density in this area is two or four families per acre. The
correct density in R-8 4 Zone is four or more families per acre.

The applicants have the support of many in the community, and will sub-
mit a petition of support to the City Council.

This appeal is signed by Mr. Alkire. Mr. Gregory is on holiday; he
supports this appeal and the City Clerk will receive a letter from him
prior to the Council meeting stating his concurrence.

We request that this appeal be heard as soon as possible.

Sincerely,



Mr. Denis James Alkire

30 Furze Platt Road
Maidenhead, Berks.
England.

June 28, 1978

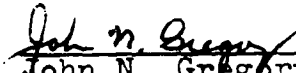
Mr. Jack Bunnell
City Clerk for City of Mercer Island
3505 - 88th Avenue S.E.
Mercer Island, Wa. 98040

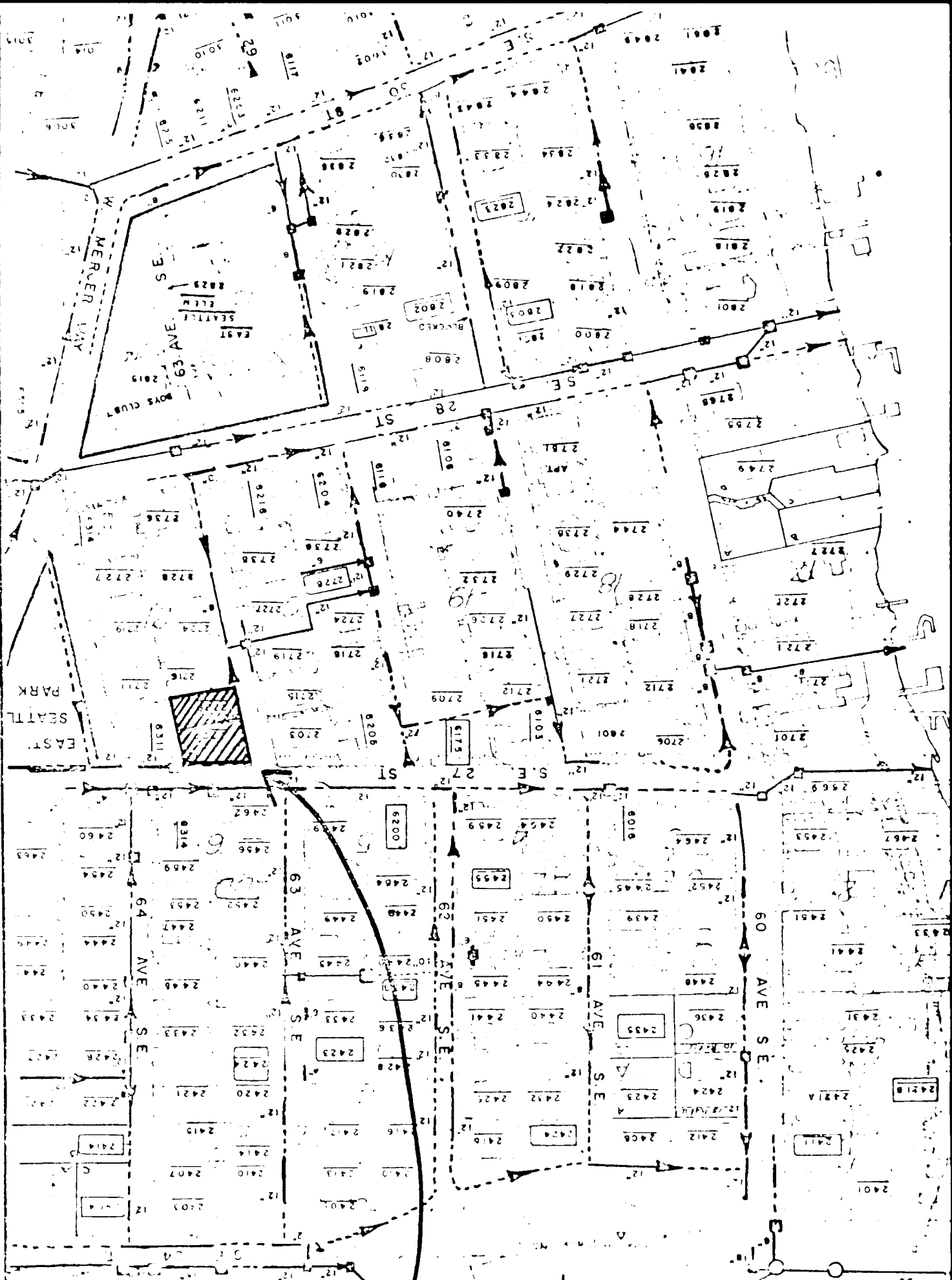
Dear Mr. Bunnell:

I am writing to let you know I will be unable to be present at the City Council hearing regarding our appeal of our recent zoning variance to be held on Monday, July 10, 1978.

I have written to Mr. Dennis Alkire and asked him to represent us both. Also others will be present including our attorney who will represent us both.

Yours very truly,


John N. Gregory



GREGORY-KIRK

Survey for *Deanna Akate*

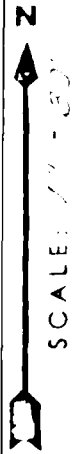
Address *900 - 108th Ave. E., Seattle, Washington 98108*

Legal Description:

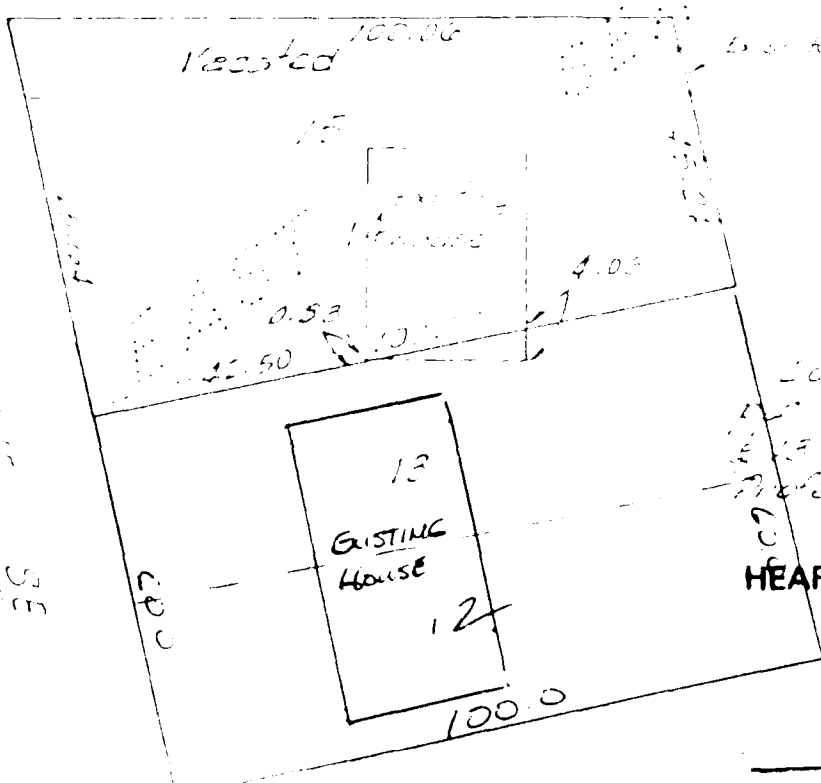
Lots 14 & 15, and a portion of unrecorded street adjoining, Block 21, East Seattle, according to plat recorded in Volume 3 of Plats, page 20, records of King County, Washington

Area - 5544.37^{sq} ft or .127 Ac.

NOTE: Boundary as shown computed from Record of Survey Receipting No. 770909401.



SE ST ST



NOTE: Location of road in survey of lot 14 by Edith M. Jon. - Professional Land Survey

RECEIVED HEARING EXAMINER

APR 2 1978

Field
Office <i>JL</i>
Checked
Property Corners
Date <i>April 21, 1978</i>

TRIAD ASSOCIATES
 846-108th Ave. NE Bellevue, Wa. 454-0711

Revised 6/1/78 - today change

EXHIBIT #2
Hearing Examiner

Submitted to the
HEARING EXAMINER
for the City of Mercer Island

By the Applicants for Variance
John Gregory / Dennis Alkire

May 26, 1978

The location of the subject property is 2704 - 63rd Avenue Southeast, Mercer Island (Alkire), and 2708 - 63rd Avenue Southeast, Mercer Island (Gregory).

The property is an area originally comprised of two legal lots platted by King County. Each lot has a dwelling on it which has existed since before 1960. Each lot has had separate ownership until 1964 when Mr. Gregory bought the north lot. He has owned the south lot since 1958. Mr. Gregory sold the north lot to the Alkires in 1976 (1), and they occupied the house after the purchase.

The Alkires plan to replace the dwelling on their property with a new home for the family. Before beginning, and during the preparation of the plans and specifications, Mr. Alkire spoke with city officials several times. No question of past ownership of the lot was raised.

On April 13, 1978 when Mr. Alkire went to the City offices to apply for a permit (2) which was issued, the subject of past ownership by an adjacent property owner was brought up by a member of the planning staff. The next week, Mr. Gregory and Mr. Alkire met with a member of the planning staff. It was decided that a variance would be required. At this point in time, plans and specifications are complete, a contract has been signed for construction, and financing arranged. (3).

1. See attached Exhibit No. 1 - Copy of Warranty Fulfillment Deed
2. City of Mercer Island Building-Use Permit No. D-007-78, issued April 13, 1978.
3. See attached Exhibit No. 2 - Copy of Loan Commitment

The applicants for the variance, Mr. Alkire and Mr. Gregory, present the required showing for Variance (1)

The variance requested may be granted, as all of the following circumstances shall be found to apply:

- (a) The special circumstances* pertaining to the physical condition of the subject property are, that is comprised of two pre-existing (legal non-conforming) lots,(2) consistent in size with other lots in the neighborhood, (3) and that each lot has a dwelling on it, which came into existence before September, 1960.
- (b) Variance approval would not be detrimental to the public welfare nor injurious to property in the vicinity.
- (c) Variance approval would not alter neighborhood character nor impair use of adjacent property.
- (d) Variance approval does not conflict with the general purposes and objectives of the Comprehensive Plan.** Approval allows continuation of the historical and current pattern of land use of the property as two separate single-family lots. Single-family is the most appropriate use. As part of the original King County plat, these lots are consistent in size with the neighborhood and with the Comprehensive Plan which allows four or more families per acre in an R. 8.4 Zone.(4) Because each lot presently has a dwelling on it, density is not increased. All other elements of the plan remain unchanged.

1. Mercer Island Zoning Code, 18.02 (a) (b) (c) (d) p.48
* 18.02 (a) states that size is a special circumstance.
2. Mercer Island Zoning Code, 16.03, (1) p.44 (copy attached)
3. See Exhibit No. 3 - Attached copy of vicinity map. Also see staff summary, items 6 and 7.

** The Plan states that "-----it will be the policy to protect and encourage the development of several types of residential areas in varying population densities."

4. Mercer Island Comprehensive Plan map. (copy attached)

On the basis of the preceeding, the applicants request that the variance be granted.

Granting the variance confirms that the two properties are separate legal lots. It assures the ongoing uses of the two lots, each with a home and a family, with no change in density. Each lot will continue to exist as a separate titled property, with no change in any lot line or legal description. Variance approval will allow in the improvement of property by permitting the replacement of an old house with a new home, which will benefit the neighborhood and the city.

This document is respectfully submitted to the Hearing Examiner for the City of Mercer Island.

Prepared and signed by the applicants:

John Gregory
Mr. John Gregory

May 26 1978
Date

Dennis Alkire
Mr. Dennis Alkire

CITY OF MERCER ISLAND
HEARING EXAMINER

STAFF REPORT

APPLICANT: JOHN GREGORY/DENNIS ALKIRE

LOCATION: 2704 - 63RD AVENUE S. E.

ZONING: R-8.4 (8,400 SQ. FT. MINIMUM LOT SIZE)

APPLICABLE SECTION OF CODES: ZONING CODE (ORDINANCE NO. 15), SECTIONS 4.04, 16.03(1), AND 18.02

HEARING DATE: MAY 26, 1978

EXHIBITS: STAFF REPORT, VICINITY MAP, PLOT PLAN, ORIGINAL SECTION 18.02 OF ZONING CODE IN EFFECT PRIOR TO JANUARY, 1974

RESPONSIBLE STAFF: GLENN CARR, CODE OFFICIAL
INEZ POTWIN, PLANNING TECHNICIAN

REQUEST: REQUEST TWO VARIANCES OF 2,400 SQ. FT. AND 2,856 SQ. FT., RESPECTIVELY, TO CREATE TWO LOTS IN AN R-8.4 ZONE.

STAFF SUMMARY:

1. Subject property is an 11,544 sq. ft. lot on which two dwellings have existed since 1958. It is comprised of Lots 12, 13, 14, and 15, Block 21, East Seattle Addition. The request is to create one 5,544 sq. ft. lot (Lots 14 and 15, and portion of vacated street) and one 6,000 sq. ft. lot (Lots 12 and 13).
2. The proposed northerly lot of 5,544 sq. ft. contains an existing cottage constructed prior to 1925. This cottage has been used as a rental property in recent years but now is in a dilapidated condition and unoccupied.
3. The proposed, 6,000 sq. ft. southerly lot contains an occupied rental dwelling constructed in 1958 by the present owner for rental purposes.
4. Mr. Gregory sold the proposed northerly lot to Mr. Alkire in January, 1978. The principals state they did not know the Zoning Code requirements at that time and were unaware of the illegality of the sale.
5. Mr. Alkire has planned to demolish the existing dilapidated cottage on the northerly proposed lot this summer and replace it with a new dwelling for himself and his family.
6. The applicants state that the proposed lot division, while it would not conform to existing lot size requirements, would conform to the existing neighborhood. Of 91 lots in a 5-1/2 block area surrounding the subject property, 63 (or 75 percent) are smaller than the 8,400 sq. ft. minimum lot

HEARING EXAMINER STAFF REPORT
GREGORY/ALKIRE
MAY 26, 1978 (PAGE TWO)

size required in this residential zone, with 23 (25 percent) being 8,400 sq. ft. or larger. Lot sizes in this 5-1/2 block area range from 2,800 sq. ft. to 15,000 sq. ft., with the average of the 91 lots being 6,815 sq. ft. A total of 33 lots are 6,000 sq. ft. in size (a carryover of King County Zone R-6 which existed prior to city incorporation and adoption of the Mercer Island Zoning Code in 1960, at which time this area was zoned R-8.4).

Of the 91 lots in this 5-1/2 block area, 11 lots are smaller than the proposed 5,325 sq. ft. northerly lot. The sizes of these non-conforming lots are as follows: 4,500 sq. ft. (1); 3,400 sq. ft. (3); 3,000 sq. ft. (6); 2,800 sq. ft. (1). Of the 91 lots under discussion, 79 are larger than the proposed 5,325 sq. ft. lot.

7. In Block 21, East Seattle, the block in which the subject property is located, approximate lot areas are as follows: 12,000 sq. ft. (1); 9,000 sq. ft. (2); 8,000 sq. ft. (3); 6,000 sq. ft. (5); 3,400 sq. ft. (1).

In Block 20, East Seattle, the block to the west of the subject property, between S. E. 27th Street and S. E. 28th Street, and between 62nd Avenue S. E. and 63rd Avenue S. E., approximate lot sizes are as follows: 11,000 sq. ft. (1); 9,000 sq. ft. (6); 6,000 sq. ft. (3); 4,800 sq. ft. (1); 4,200 sq. ft. (1); 3,000 sq. ft. (2).

In the block to the north of subject property, between S. E. 24th Street and S. E. 27th Street and between 63rd Avenue S. E. and 64th Avenue S. E., approximate lot sizes are as follows: 12,000 sq. ft. (1); 7,500 sq. ft. (2); 6,600 sq. ft. (3); 6,000 sq. ft. (14); 3,400 sq. ft. (1); 3,000 sq. ft. (1).

8. A. Since 1960, the City of Mercer Island has approved five and denied one lot-size variance requests in the vicinity of the subject request. These were as follows:
 1. January, 1962: Bert Robinson, 2469 63rd Avenue S. E. Created three building sites of 6,150 sq. ft., 6,150 sq. ft., and 8,200 sq. ft., respectively. Approved.
 2. March, 1964: Virginia Younger, east side of 63rd Avenue S., E., approximately 240 feet south of S. E. 24th Street. Created two building sites of 6,000 sq. ft. and 12,000 sq. ft., respectively. Approved.
 3. December, 1968: H. Norman Hyatt, south end of S. E. 24th Street, between 61st Avenue S. E. and 62nd Avenue S. E. Created two 6,000 sq. ft. building lots. Approved.
 4. November, 1975: William Kelso, Lots 1-5, Block 18, East Seattle (next to multiple family dwellings). Created two 7,500 sq. ft. lots. Approved.

HEARING EXAMINER STAFF REPORT
GREGORY/ALKIRE
MAY 26, 1978 (PAGE THREE)

5. March, 1976: Donovan Williams, Lots 20, 21, 22, 23, and 24, Block 15, East Seattle.
Created two 7,500 sq. ft. lots. Approved.
 6. April, 1977: Gary McCormick, West Mercer Way between S. E. 28th Street and S. E. 30th Street.
Proposed creating two lots, 7,500 sq. ft. and 7,125 sq. ft., respectively. Denied.
- B. The first three lot-size variance requests described above were approved prior to January, 1974, the date of adoption of Ordinance No. 346 which sets forth the current required showings for variance approval as listed in Section 18.02 of the Zoning Code (Ordinance No. 15). These three earlier variances were approved on a different set of criteria from those now existing. (See attached copy of Section 18.02 of the Zoning Code which was in effect prior to January, 1974.)
- C. The two latter approved lot-size variances listed above created four 7,500 sq. ft. lots, two of them adjacent to a multi-family zone (an apartment and a duplex).
9. No lot smaller in size than 6,000 sq. ft. has ever been created by means of the variance process since the City of Mercer Island Zoning Code was adopted in 1960.

STAFF RECOMMENDATION:

1. Special circumstances:

There are no special circumstances pertaining to the physical conditions of subject lot.

2. Not materially detrimental to public welfare or injurious to property in vicinity:

Variance approval would not be detrimental to the public welfare or injurious to property in the vicinity.

3. Not alter character of the neighborhood nor impair use of adjacent property:

Variance approval would not alter neighborhood character nor impair use of adjacent property.

4. Not conflict with general purposes and objectives of the Comprehensive Plan:

Staff believes that approval of this request to create one 5,544 sq. ft., and one 6,000 sq. ft., lot would conflict with the general purposes and objectives of the Mercer Island Comprehensive Plan. The intent of the upzoning of the

HEARING EXAMINER STAFF REPORT
GREGORY/ALKIRE
MAY 26, 1978 (PAGE FOUR)

area from the pre-1960 King County R-6 zoning to Mercer Island R-8.4 zoning was that the smaller size properties would eventually exhaust their life span, being replaced in the future as dwellings deteriorated by lots of sizes more in line with the Plan's density provisions. In effect, this is what has occurred in the subject proposed 5,544 sq. ft. lot, where a cottage built prior to 1925 is now in a dilapidated and unusable condition. Thus, inasmuch as the cottage has surpassed its apparent natural life span, and is suitable only for demolition, the creation of two lots on this property would increase the density of the area in view of the provisions of the Comprehensive Plan.

On the basis of the above, staff recommends denial of this variance application.

Excerpt from Mercer Island Zoning Code
Ordinance No. 15 which was in effect
until January 17, 1974.

SECTION 18. VARIANCES.
18.01 AUTHORITY TO GRANT VARIANCE:

The City Council, on the recommendation of the Planning Commission, shall have the authority to grant a variance from the provisions of this Ordinance when the conditions set forth in sub-section 18.02 herein have been found to exist.

18.02 REQUIRED SHOWING FOR VARIANCE.

Before any variance may be granted, it shall be shown:

- (a) That there are special circumstances applicable to the particular lot or tract, such as shape, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone;
- (b) That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by or available to other property in the same vicinity and zone but which because of special circumstances is denied to the particular lot or tract;
- (c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity of the particular lot or tract;
- (d) That the granting of such variance will not adversely affect the comprehensive plan.

VARIANCE: The means by which an adjustment is made in the case of a particular lot or tract to require only substantial compliance with provisions of the zoning regulations pertaining to building height limits, building site area requirements, yard requirements, fence height requirements, or parking requirements, or other similar requirements.

RECEIVED
HEARING EXAMINER

JUN 12 1978

P.O. Box 319 Mercer Island, WA 98040

area code (206) 232-5032

June 11, 1978

Mr. John L. Hendrickson
Office of the Hearing Examiner
P. O. Box 1768
Bellevue, WA 98009

REFERENCE: Gregory/Alkire
Variance Application

Dear Mr. Hendrickson:

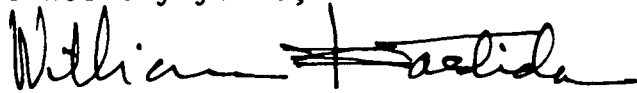
I appreciate the additional information on the above mentioned variance application.

I would like to point out a very important fact which should be of prime consideration in the final decision on this variance. The lot in question was not subdivided to create a new building site; it has always been a separate piece of real estate, bought once by Mr. Gregory and subsequently sold to Mr. Alkire.

I must explain that even though I know Mr. Alkire, I have not been requested to act on his behalf. My response is only that of a concerned citizen, first for fairness and second for the aesthetical upgrading to a neighborhood which warrants it.

I respectfully request your serious consideration to the above items before your final decision is reached.

Sincerely yours,



William Bastida, Architect



CITY OF MERCER ISLAND, WASHINGTON

DEPARTMENT OF COMMUNITY DEVELOPMENT

PUBLIC HEARING NOTICE

An application for a Zoning Variance has been filed with the City of Mercer Island Hearing Examiner. As an owner of property in the vicinity of the requested Variance, you are being notified of a Public Hearing on this application, to be held at the Public Safety Building Conference Room, 3505 88th Avenue S.E., at 1:30 p.m., Friday, May 26, 1978.

John Gregory/Dennis Alkire
2704 - 63rd Avenue S.E.
Request two variances of 2,400 square feet and 3,075 square feet, respectively, to create two lots in an R-8.4 zone.

Should you wish to comment on this application, or be informed of the final action taken, please contact this office in writing within thirty days of the date of this letter.

If you have any other questions concerning this matter prior to the Hearing, please contact Miss Inez Potwin, Department of Community Development, 232-6400.

It's OK with me - they are nice people & will do a good job - just hope it doesn't get too high (tall)

*Flora Steinhilber
6311 SE 27 (next door)
Mercer Island*



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CITY OF MERCER ISLAND, WASHINGTON

May 11, 1978

DEPARTMENT OF COMMUNITY DEVELOPMENT

PUBLIC HEARING NOTICE

An application for a Zoning Variance has been filed with the City of Mercer Island Hearing Examiner. As an owner of property in the vicinity of the requested Variance, you are being notified of a Public Hearing on this application, to be held at the Public Safety Building Conference Room, 3505 88th Avenue S.E., at 1:30 p.m., Friday, May 26, 1978.

John Gregory/Dennis Alkire
2704 - 63rd Avenue S.E.
Request two variances of 2,400 square feet and
3,075 square feet, respectively, to create two
lots in an R-8.4 zone.

Should you wish to comment on this application, or be informed of the final action taken, please contact this office in writing within thirty days of the date of this letter.

If you have any other questions concerning this matter prior to the Hearing, please contact Miss Inez Potwin, Department of Community Development, 232-6400.

Gentlemen:

5/15/78

In response to the second paragraph above it will be appreciated if you will please inform me of the action taken in this situation.

My opinion, if needed, is that the property involved is very inadequate for the construction of another dwelling and further, I frankly feel the present dwelling should be removed entirely and and the lot should become part of the newer dwelling adjacent on the south of the old brown house. In other words, we personally are not in favor of the Variance.

Thank you,

T. M. Motter
2447 64th Avenue S. E.,
M. I. 98040

May 19, 1978

Miss Inez Potwin
Department of Community Development
City of Mercer Island
3505 88th. Ave. S.E.
Mercer Island, Washington 98040

Re: Gregory/Alkire Variances

Dear Ms. Potwin:

I wish to submit the following comments concerning the proposed variances:

First, I was not informed of this variance by the City. A neighbor was good enough to forward a copy of the notice to my current address. I am the owner of the property located at 2452 63rd. Ave. S.E., three (3) lots north of the proposed variances. I believe that notice should be sent to the legal owner and not just the occupant on matters of this type.

The east Seattle neighborhood is unique in its variety of lot sizes, income levels, and age groups. As such, it is a wonderfully diverse and pleasant area on Mercer Island in which to live and it is for this reason that we have retained our property there. It is my opinion, however, that the variances requested would work against the diversity of the neighborhood and as such, are detrimental to my property.

Speaking to the four (4) elements which must be present before granting the variance, I would note the following:

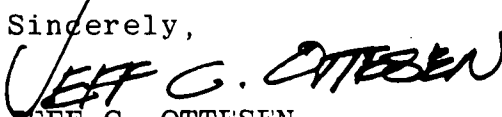
- a) Special Circumstances - There are no special nor unique circumstances which distinguish these lots from others in the neighborhood. While other lots this size are built upon, using this fact for the basis of the variance would lead to the conclusion that all owners should be allowed to create 3,000 square foot lots as a few of this size exist.
- b) Absence of Detriment - The variance, if granted, would increase the population density of the neighborhood and in turn, induce other lot owners to try for the same variance. The net result is the reduction of property values and livability.
- c) Character of the Neighborhood - The variance would alter the character of the neighborhood. The many small lots in the area are generally occupied by small houses. Recent construction, however, has generally been large houses which fill the building envelope. As such, the charm, openness and greenery of the neighborhood is replaced with large, overwhelming structures.

- d) Conflict with the Comprehensive Plan - One of the purposes of the Comprehensive Plan is to establish density restrictions. Past action to the Plan in the East Seattle area has moved toward decreasing the density allowed in the area. Approval of the variance would allow two (2) lots to remain, which are 71% and 63%, respectively, of the allowed minimum zone. These figures are even more profound when you consider that the R-8.4 zone is the most dense single family zone on Mercer Island. Thus, granting the variance would be in direct conflict with the Comprehensive Plan.

In conclusion, I submit that the four (4) elements which must be found in order to grant the variance are, in fact, not present. Further, while this request is technically a variance, it is a substantially larger reduction of allowed lot size, than the difference between R-15 and R-12, (80%), R-12 and R-9.6, (80%), or R-9.6 and R-8.4, (87%). As such, it can be viewed as a defacto rezoning and a spot request at that.

Please advise me of the action of the hearing examiner and if a decision is in favor of the applicants, of the appeal procedures, also.

Sincerely,


JEFF C. OTTESEN
General Delivery
Soldotna, Ak. 99669

May 16, 1978

Department of Community Development
3505 88th Avenue S.E.
Mercer Island, WA 98040

Attn: Miss Inez Potwin

Dear Miss Potwin:

Re: Request for Zoning Variance
John Gregory/Dennis Alkire
2704 63rd Avenue S.E.

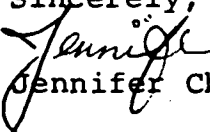
Having received your notification that the above listed owners have requested a zoning variance, I wish to register several questions and concerns that I feel. I will try to attend the meeting on May 26, but in any case, I wish to be advised the outcome of the application.

I am questioning the need and purpose of subdivision of that property. It would appear that the dwelling located at the above address has been used as rental income property for several years, and I would suspect that Gregory and Alkire plan to build a second dwelling for this same purpose.

My property is located directly across 27th from the Gregory/Alkire property. Since I have owned my property, I have watched a succession of renters move in and out of that dwelling on a frequent basis. There appeared to be no year long lease, as some stayed for only a few months at a time. The renters appeared to be of a low quality, low income variety, with old shoddy cars and dirty unkempt appearances. If the price of the rental property attracted this level of renters, they are not the quality of neighbors that I would want to encourage.

And perhaps more importantly--is the parking problem. The parking for many houses in our area is on-the-street. We already have a congestion problem, and with the addition of a second dwelling at that location, I think we may have an impossible situation.

I am not opposed to rental homes when the renters are encouraged to be semi-permanent residents. The opposition comes to transient types and the lack of neighborhood concern and consistency that usually comes with them. I think the City should give considerable thought to this application-- I am concerned that it may be of little benefit to the neighborhood as a whole.

Sincerely,

Jennifer Chaney

6314 S.E. 27th
Mercer Island, WA 98040



MAJOR DISTRIBUTORS

P O BOX C88579
TUKWILA, WASHINGTON 98188

18292 ANDOVER PARK WEST
PHONE 206 / 575-0081

(2)

May 24, 1978

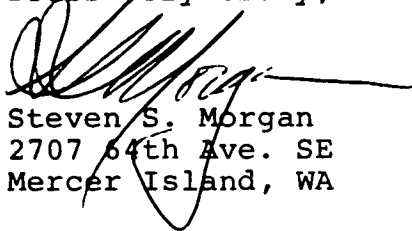
TO: Dept. of Community Development
RE: Variances requested for 2704 63rd Ave. SE

I wish to go on record in favor of granting the request of John Gregory and Dennis Alkire to create two smaller lots.

The old cottage at this address has certainly seen better days. It's replacement with a new home, as Mr. Alkire proposes, would certainly add to the desirability of our neighborhood.

Please inform me of the final action taken on this request.

Yours very truly,



Steven S. Morgan
2707 64th Ave. SE
Mercer Island, WA

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May 25, 1978

City of Menor Island

att: Dept. of Community Development

Re: Public Hearing Notice

John Gregory / Dennis Alkire
Request for 2 variances
2704 63rd Ave SE

Gentlemen:

We have the pleasure of living on one of the prettiest corners in East Seattle. The above referred to property is across the street from us. We ask that you grant the variances requested so that a new home may be built. There is now a small run down shack on the property, which was built in 1905 and is a detriment to the neighborhood. We are very much in favor of having a new home across from us, which will enhance the value of other homes in the

Dear

Your earnest consideration and
gratifying of this request will be
greatly appreciated

Sincerely,

Mr & Mrs Geo Raymond
2402 63rd S.E.
Merens Island, W.V.

CITY OF MERCER ISLAND

MEMORANDUM

July 6, 1978

To: Marguerite Sutherland, Mayor Pro tem
From: Ronald Dickinson, City Attorney
Re: Appeals to City Council from Decision of the Zoning
Variance Hearing Examiner

1. At the council meeting on 7/10/78 there are two appeals scheduled for public hearings. These appeals are from decisions of the zoning variance hearing examiner. The procedure for conduct of appeals is governed by the provisions of city resolution No. 742 which was passed by the City Council on 1/23/78. (copy encl

2. The following is a suggested format for the conduct of the public hearings:

Agenda Bill No. _____ concerns the appeal of _____ from a decision of the City of Mercer Island Zoning Variance Hearing Examiner in the case of the application of _____ for a variance from the provisions of _____.

The proceedings which are before the City Council tonight will be conducted in the following manner:

- (1) The city staff will make a presentation to the council and public concerning the application for variance and the decision of the hearing examiner.
- (2) Individual council members may seek clarification from staff concerning matters associated with the appeal and the decision of the hearing examiner.
- (3) The public hearing will be opened and testimony will be received from the public. The council members have had the opportunity to review the entire record of proceedings before the hearing examiner including the written decision, findings, conclusions and notice of appeal.
- (4) Pursuant to the provisions of Resolution No. 742 the consideration of the City Council shall be based solely upon the record of proceedings before the hearing examiner, unless there is introduced additional information which was not available to the hearing examiner prior to his decision.

- (5) The testimony which will be received from the public will be confined to matters which were not introduced before the hearing examiner and which are relevant to the issue before the City Council. The Mayor will recognize members of the public who desire to testify and will ask that all those testifying begin by stating their name and address for the record. The Mayor reserves authority to determine the relevancy of matters raised by members of the public. Repetitious testimony is not encouraged and will not be permitted.
- (6) After conclusion of the public hearing the matter will be placed in the hands of the City Council for deliberation and conclusion.
- (7) The council may affirm, modify, or disaffirm the decision of the hearing examiner. The council does have the authority to remand the proceedings to the hearing examiner for re-consideration in such situations as the council may deem appropriate.

3. The above format for conduct of public hearings has been utilized in the past and has been effective. The only change involves the limitation upon public testimony. Under the hearing examiner procedure it is intended that factual decisions be made by the hearing examiner based upon testimony received at the public hearing before the hearing examiner.

Under the enabling resolution No. 742 the council has reserved the right to consider the matter on appeal. The appeal, however, is not a "trial de novo", that is, it is not a rehearing of the facts which were considered by the hearing examiner. The hearing before the City Council is in the nature of an appellate review. The review is for a determination as to whether there are additional matters to be considered which were not available to the hearing examiner, and whether the decision of the hearing examiner (based upon a review of the record) was arbitrary and capricious.

If the council finds, after review of the entire record and a review of any additional matters not available to the hearing examiner, that the decision of the hearing examiner was not arbitrary or capricious then the council should affirm the hearing examiner. If the council finds that the matters which were newly presented and were not available to the hearing examiner might cause a different decision to be rendered then the council has the authority in themselves to reverse the decision of the hearing examiner, to modify the hearing examiner, or to remand the matter to the hearing examiner for reconsideration.

RCD/rh
cc: City Manager
Dir. Community Development


Ronald C. Dickinson

A RESOLUTION OF THE CITY OF MERCER ISLAND APPOINTING A HEARING EXAMINER TO HEAR APPLICATIONS FOR VARIANCES FROM THE PROVISIONS OF THE CITY OF MERCER ISLAND ZONING CODE ORDINANCE NO. 15, AS AMENDED, AND THE TOWN OF MERCER ISLAND ZONING CODE ORDINANCE NO. 199, AS AMENDED, CREATING THE POSITION OF HEARING EXAMINER, DEFINING THE POWERS AND DUTIES OF A HEARING EXAMINER, PROVIDING FOR APPEAL TO THE CITY COUNCIL FROM DECISIONS OF THE HEARING EXAMINER AND SUBSTITUTING THE FUNCTION OF HEARING EXAMINER FOR THAT OF THE PLANNING COMMISSION IN HEARING VARIANCE APPLICATIONS FROM THE PROVISIONS OF THE CITY AND TOWN ZONING CODES.

WHEREAS, the City of Mercer Island has changed its classification from that of a second class city to a noncharter code city; and

WHEREAS, the provisions of Chapter 35A.63 RCW require the establishment of a Board of Adjustment or, in the alternative a Hearing Examiner, to assume the powers and duties of the Planning Commission with regard to applications for variances from the provisions of the City and Town Zoning Codes; and

WHEREAS, it is in the best interests of the citizens of the City of Mercer Island that a Hearing Examiner system be established under which a Hearing Examiner will hear applications for a variance from the provisions of the Mercer Island Zoning Code and The Town of Mercer Island Zoning Code with a right of appeal of said decisions to the City Council; now, therefore,

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MERCER ISLAND AS FOLLOWS:

1. Under the provisions of RCW 35A.63.170 a Hearing Examiner system on an interim basis is hereby created under which a Hearing Examiner may hear and decide applications for variances from the provisions of the Mercer Island Zoning Code Ordinance No. 15, as amended, and Town of Mercer Island Zoning Code Ordinance No. 199, as amended; and
2. The office of Zoning Variance Hearing Examiner is hereby created. The City Manager shall appoint the Hearing Examiner on an interim basis who shall serve at the pleasure of the City Manager; and
3. The Hearing Examiner shall receive and examine available information, conduct a public hearing, prepare a record thereof, and enter findings of facts and conclusions based upon those facts, which conclusions shall represent the final action on the application for variance from the provisions of the Zoning Codes unless appealed to the City Council as hereinbelow specified; and
4. Before rendering a decision or recommendation on any application for a variance, the examiner shall hold at least one public hearing

thereon. Notice of the time and place of the public hearing on the variance application shall be given at least tne (10) days prior to such hearing. The examiner shall have the power to prescribe rules and regulations for the conduct of hearings, to administer oaths and to preserve order; and

5. When the examiner renders a decision, the examiner shall make and enter written findings from the record and conclusions therefrom which support such decision. Within fourteen (14) calendar days of the conclusion of the hearing, the examiner shall render a written decision, including findings and conclusions, and shall transmit a copy of such decision by regular mail, postage prepaid, to the applicant and other parties of record in the case requesting same; and

6. Any party to the proceeding who is aggrieved by the examiner's decision may submit an appeal in writing to the City Council, by filing same with the City Clerk, within ten (10) calendar days from the date of the examiner's written decision, requesting a review of same. Thereupon the examiner shall cause to be forwarded to the members of the City Council all of the pertinent documents, including his written decision, findings, conclusions and notice of appeal; and

7. After examination of such records, the Council may affirm, modify or disaffirm the decision of the Hearing Examiner. The Council consideration shall be based solely upon the record of the proceedings before the Hearing Examiner, unless there is introduced additional information which was not available to the Hearing Examiner. The cost of transcription of the hearing record shall be borne by the appellant unless otherwise determined by the City Council. Notice of the filing of an appeal shall be made to all parties of record to the hearing, and said letter shall give the time and date when the Council will consider such appeal. In addition, Council may remand the proceedings to the Hearing Examiner for reconsideration in such situations as the Council may deem appropriate; and

8. It is intended that the Zoning Variance Hearing Examiner be substituted for the Planning Commission to hear applications for variances from the City of Mercer Island Zoning Code Ordinance No. 15 as amended and the Town of Mercer Island Zoning Code Ordinance No. 199, as amended. The Hearing Examiner in rendering a decision on a variance shall be bound to adhere to the required showing for variance provisions found in Section 18.02 of the City of Mercer Island Zoning Code and Section 15.02 of the Town of Mercer Island Zoning Code.

ADOPTED this 23rd day of JANUARY 1978.


BEN J. WERNER

MAYOR

ATTEST:


JACK W. BUNNELL
CITY CLERK

9/30

Mail Hearing Exam.
Division, Mr. William J. Gregory
to:

Mr. William J. Gregory
30 FURZE PLATT ROAD
Maidenhead, England

Dear Mr. Gregory:

We are sorry to advise
that the Hearing
Examiner has denied your
variance request.

Respectfully,

J. J.

sent - 6/14/78