

6-13-78 ✓

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

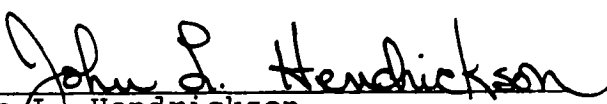
1. The applicant has not presented any evidence of special circumstances or conditions relating to the physical properties of the subject site. The fact that the entire parcel is somewhat larger than the 8,400 square foot minimum limitation of this zoning classification, or the fact that each of the 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.

THE CITY OF MERCER ISLAND

THE CITY COUNCIL

MINUTES

10 July, 1978

+++++

Mayor Pro-Tem Sutherland presiding, the meeting was called to order at 7:45 P.M. in the Conference Room of the School Administration Building, 4160-86th Ave. S.E. Mercer Island, Wn.,

CALL TO ORDER:

ROLL CALL: Present: Councilmen Bland, Horn, Rasmussen, Stewart, Davis, Sutherland.
Absent: Mayor Werner.

MINUTES OF PREVIOUS MEETING: It was moved by Rasmussen, seconded by Davis, to approve the minutes of the meeting of June 26, 1978 as corrected on Page 3, Paragraph 17, to read as follows: "not to include laws" etc.,

The question being called for,

Motion carried. Voice vote, all ayes.

CONSENT CALENDAR: It was moved by Horn, seconded by Rasmussen, to approve the Consent Calendar containing the following items:

- (1) AB 626 371 CRISIS INTERVENTION - YOUTH SERVICES.
- (2) AB 624 ROGERS PROPERTY DONATION

The question being called for,

Motion carried. Voice vote, all ayes.

PUBLIC HEARINGS:

AB 621
VARIANCE APPEAL - ALKIRE
2704 63rd Ave. SE

The Director of Community Development presented background information relative to the variance request of Dennis Alkire. He reported on all aspects of the decision of the Hearing Examiner which denied the request. The matter comes before the Council in the form of an appeal and which Council can uphold by disaffirming the Hearing Examiner decision, or approving the decision which denies the appeal. Following his remarks, the Mayor Pro-Tem declared this was the time and place for the Public Hearing on this matter, and declared the Public Hearing open. Those speaking for the variance request, were Dennis Alkire, Gerald Tuttle, attorney representing Mr. Gregory, Ida Alkire, Marty Hilton, Jill Burton Dascher, and Lorna Raymond, the realtor involved in the sale of the property. There being no others wishing to speak to the matter, the Public Hearing was closed.

(continued)

It was moved by Rasmussen, seconded by Davis, that there are special circumstances that were not considered by the Hearing Examiner, and contrary to Mrs. Dascher's comments, the Council is concerned with the Community, and granting a variance will not be detrimental and will not affect the character of the neighborhood, or conflict with the Comprehensive Plan because the two residences were already there.
The question being called for,

Motion carried. Voice vote, all ayes.

It being the sense of the City Council that the decision of the Hearing Examiner should be disaffirmed, and the variance issued, but that the Findings and Conclusions of the Council be fully memorialized in support of that decision, the City Attorney was asked to prepare a Finding of Facts and Conclusions, and an order in support thereof for subsequent action by the City Council.

AB 622
APPEAL
ERICKSON VARIANCE
4879 Forest Avenue SE

The Associate Planner presented information relative to this variance request and the appeal of the Hearing Examiner's decision. The Mayor Pro-Tem declared the Public Hearing open. Speaking to the matter was Phil Carter, Attorney representing Mr. Luster. He was followed by Richard Seaborn, Legal Agent for Mr. Erickson, John Luster and Mr. Erickson, who simply made comments. The Mayor Pro-Tem declared the Public Hearing closed.

It was moved by Davis, seconded by Bland, to affirm the action of the Hearing Examiner, thus denying the appeal.

The question being called for,

Motion carried. Voice vote, 5 - 1. Sutherland voted in the minority.

B 620
FIRST HILL L.I.D. #13
ORDINANCE NO. 454

The Director of Utilities reported that there appeared to be some difficulty concerning the Resolution and the Ordinance, and that action should be postponed until the next meeting. The Mayor Pro-Tem declared the Public Hearing open. Speaking to the matter, were Jane Rogers, who submitted a letter with questions, and L. J. Hendrickson. The Public Hearing was closed. It was moved by Horn, seconded by Rasmussen, that Council accept the recommendation of the Systems Engineer and the Utilities Director and arrange that the Ordinance to establish L.I.D. #13 be submitted at a subsequent meeting.

(continued)

The question being called for,
City Council Minutes

Mr. Robert G. Nash
4837 Forest Avenue
Mercer Island, Wa. 98040

Mr. Donald Yates
4827 Forest Ave. S.E.
Mercer Island, Wa. 98040

Mr. Edward E. Maloof
4835 Forest Avenue S.E.
Mercer Island, Wa. 98040

Mr. Jerry Bacon
Dept. of Community Development
City of Mercer Island
3505 - 88th Avenue S.E.
Mercer Island, Wa. 98040