



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
Diane M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3004307  
**Applicant Name:** Sharon Davidoff  
**Address of Proposal:** 809 26<sup>th</sup> Avenue East

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a three-story single family residence with basement garage in an environmentally critical area.

The following approvals are required:

**Variance** - to allow a portion of a principal structure in required front yard.  
(SMC 23.44.014A)

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS

DNS with conditions

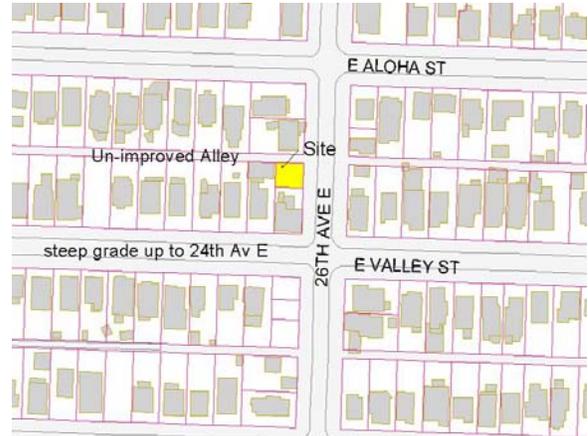
DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction

**BACKGROUND DATA**

Site Description

The 1400 square foot subject site is located along 26<sup>th</sup> Avenue E. between East Valley Street and East Aloha Street at 809 26<sup>th</sup> Avenue East. The site and surrounding properties are zoned Single Family 5000 and predominately developed with single family homes.

The site topography rises about 20 feet from the sidewalk to the rear property line. The site is designated within a potential slide area. A steep slope limited exemption was granted on March 27, 2006 in that the steep slope was determined to be less than 20 feet in height and not part of a larger slope system. The site area is highly vegetated and includes a 6 and 8 inch diameter cedar trees.



An un-improved alley right of way abuts the site on the north. In the site vicinity, 26<sup>th</sup> Avenue East is a residential street that is fully improved with sidewalk, curb and gutter. There is an existing 12 inch diameter tree in the planting strip abutting the site.

### Related Actions

Previous owners of the site requested a variance to construct a single family home at the site in 1980 (File No. X-79-504). The application included variance requests to allow less than the minimum required front yard, to allow greater than permitted lot coverage and to allow the eaves to encroach into the side lot line more than permitted. The front yard and lot coverage variances were granted and the eave variance was denied on March 21, 1980 by the Hearing Examiner.

In 1985, the department responded to an inquiry regarding the legal status of the subject site. The letter in response, dated July 30, 1985 and signed on behalf of the interim Director of the Department of Construction and Land Use indicates that the subject site is a legal building site.

### Proposed Action

The applicant has requested a variance to allow for a single family residence 5 feet from the front lot line with 2 feet additional encroachment for a bay window at 26<sup>th</sup> Avenue E. in lieu of 15 feet required. Including the bay window, the home would encroach into the front yard by 12 feet; therefore the setback would be only 3 feet at the bay window wall.

### Public Comment

One public comment letter was received during the public comment period which ended on May 17, 2006. The letter stated opposition to the variance request and raised issues about lot size, parking, steep slopes and the side and rear setbacks.

### **ANALYSIS - VARIANCE**

Variances from the provisions or requirements of this Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

*1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The subject site has an area of 1400 square feet whereas lots in the area are generally around 4000 square feet in area. The small size of the property is a unique property condition and application of the Land Use Code deprives the property of rights and privileges enjoyed by other properties in the same zone and vicinity.

The site topography ascends from the street about 20 feet in a distance of 40 feet which results in generally 50% slopes. The topography of the site contributes towards the hardship to some extent in that the amount of grading required would increase if the home was sited farther upslope from the street. This topographic condition is not unique to this neighborhood but the size of the lot exacerbates the complexities of building on a slope. Allowing the footprint of the home to be shifted closer to the street thereby impacting the slope less is generally a good construction principal.

*2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

Granting of this variance would not constitute a grant of special privilege since many other properties in the vicinity enjoy non-conforming yards of similar magnitude. This is discussed in more detail under criterion 4.

*3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

No material detriment or injury to property or improvements in the zone or vicinity is likely to occur by granting the requested variance for a 12 foot reduction in the front yard.

*4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and*

The Land Use Code regulations are generally intended for single family lots that are 5000 square feet in area. While there are exceptions for substandard lots, the code provisions are not intended to provide relief for lots of this extremely small size.

If the variance was denied the building footprint would be reduced to a depth of 15 feet and a width of 30 feet for a total footprint of 450 square feet. This depth and width presents design challenges and practical difficulties in that the maximum interior depth of the home would be approximately 14 feet. A three story home would result in a 1350 square foot home which is undersized for new homes in Seattle, and likely small as compared to the existing homes in the

area. Granting the variance will result in a home with 1960 square feet of living space as depicted on plans submitted to DPD. Limiting the size of the proposed house any further by denying the variance would cause undue hardship since the typical single family home built today is larger than 1350 square feet.

The neighborhood can be characterized as a mixture of older homes, many remodeled and expanded to take advantage of the territorial views and some newer homes built in the last 10 years. The older homes often have non-conforming yards in that the standards were more permissive when this neighborhood was originally developed.

The abutting building to the south, a former grocery store, is built up to the property lines, and perhaps into the 26<sup>th</sup> Avenue East and East Valley Street right of way. Strict application of the code prohibits use of this structure when calculating the front yard for the subject site because the front yard is considered to be on E. Valley Street and not along 26<sup>th</sup> Avenue E. This means those 20 feet, instead of zero is used when calculating the average front yard for the subject site. The principal structure to the north across the alley is setback 10 feet from the 26<sup>th</sup> Avenue property line so the front yard for the subject site is the average of 10 feet and 20 feet resulting in a requirement for a 15 foot front yard. If the building to the south was used for calculating the average front yard then the variance request would be moot in that the required setback would be 5 feet and an exception to allow bay windows to further encroach could be utilized. A reasonable argument can be made that when traveling along 26<sup>th</sup> Avenue East the perception of setbacks is not recognized on the basis of whether it's a front or side setback ,but simply as a setback. Based on this assumption, the following table describes the building setbacks found along the block between East Aloha and East Valley Streets along 26<sup>th</sup> Avenue E.;

Site Address	Setback from 26 <sup>th</sup> Avenue East <sup>1</sup>
801 26 <sup>th</sup> Avenue East	0 feet
811 26 <sup>th</sup> Avenue East	10 feet
2449 East Aloha Street	28 feet
2601 East Aloha Street	9 feet
814 26 <sup>th</sup> Avenue East	2 feet
2600 East Valley Street	4 feet

<sup>1</sup>The distances are estimates based on DPD GIS mapping. The setback described is not necessarily considered a front yard since the corner lots have frontage on Aloha and Valley.

The table illustrates that there is no established yard pattern in this block for the street setbacks or the interior setbacks. For instance the home at 2449 East Aloha Street provides a generous setback from the streets; although it is non-conforming with respect to its interior setbacks.

*5. The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations in the area.*

The spirit and purpose of the Land Use Code regulations for the Single Family zone is to encourage single family residences and to preserve the character of single family residential areas. The development standards such as yards are intended to allow maximum flexibility in

the use and enjoyment of single family homes while protecting privacy, health, safety, and general welfare of its citizens. The granting of this variance will not compromise the health and safety, or compromise the general welfare of neighboring properties or protection of privacy.

**DECISION**

A variance to allow a principal structure to encroach into the front yard but not closer than 5 feet (3 feet at the bay window) is approved based upon the plans submitted. Revisions to the approved plans or new designs are acceptable, at the discretion of DPD, if the design of the structure does not substantially change the setbacks, footprint and/or square footage approved under this application.

**CONDITIONS**

None.

Signature: \_\_\_\_\_ (signature on file) \_\_\_\_\_ Date: September 18, 2006  
Jess Harris, AICP  
Department of Planning and Development

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