



City of Seattle

Gregory J. Nickels, Mayor

**Department of Planning and Development**

D. M. Sugimura, Director

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

**Application Number:** 3005953  
**Applicant Name:** Donald Peach  
**Address of Proposal:** 518 North 92<sup>nd</sup> Street

**SUMMARY OF PROPOSED ACTIONS**

Land Use Application for construction of a detached garage, accessory to a single family home.

The following approvals are required:

**Variance** – to allow a detached garage to exceed allowed height in a required rear yard, SMC [23.44.016 D2](#).

**Variance** – to allow a detached accessory structure to exceed coverage allowed in a required rear yard, SMC [23.44.014 D6b](#).

**Variance** – to allow a driveway that exceeds maximum curvature, SMC [23.54.030 D4 & D3](#).

**SEPA DETERMINATIONS:**  Exempt  DNS  MDNS  EIS

DNS with conditions

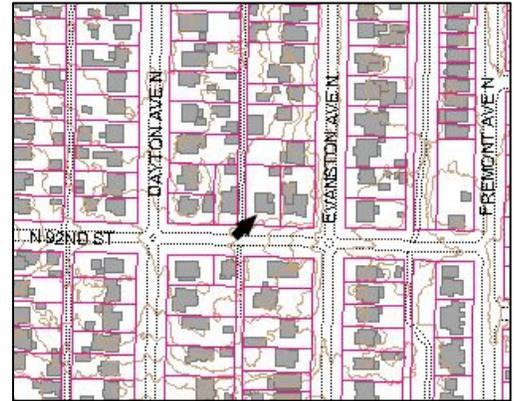
DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

## **BACKGROUND DATA**

### **Site and Vicinity Description**

The site is located on the north side of N 92<sup>nd</sup> St, between Dayton and Evanston Avenues N in Seattle's Greenwood Neighborhood. All are paved residential streets without curbs or sidewalks. A 16'-wide gravel alley runs along the site's west side.

The area is zoned Single Family with a minimum lot size of 5000 sq. ft. (SF 5000), and development in the vicinity consists almost entirely of single family homes (see Figure 1). The block's original platting pattern consists of 60'-wide lots facing east and west, though properties on the block's south side now orient toward N 92<sup>nd</sup> St.



**Figure 1.** Project vicinity

The subject site is a 68'-wide lot, 120' deep. The existing residence is 1½ stories, approximately 1,070 sq. ft., including an attached garage. The principal structure apparently conforms to all development standards.

### **Proposal**

The project involves retroactive permitting of an existing detached garage with attic storage space and a storage shed, located in the required rear yard. The detached garage measures 605 sq. ft. The storage shed measures 320 sq. ft. Both are about 2.5' from the rear (north) lot line, not including any eave projections.



**Figure 2.** Aerial photo (1999)

The original proposal required five variances. The applicant updated plans to avoid two variances that would otherwise have been necessary (maximum size of accessory structure and fence height).

### **Public Comment**

DPD published public notice of the proposed development on November 2, 2006, and the associated public comment period ended on November 17. DPD received six comments from neighbors. Four supported the project or had no comment. Two neighbors raised concerns related to building without permits, height, access, and rear yard coverage.

## **ANALYSIS - VARIANCE**

Variances may be authorized only when all of the variance criteria set forth at SMC Section [23.40.020](#) and quoted below are met.

- 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;**

The site is approximately 8,160 sq. ft., more than 60% larger than the zone's minimum lot size. Within the block bounded by Dayton and Evanston Avenues N, N 92<sup>nd</sup> and 95<sup>th</sup> Streets, the site is the median and is larger than the average lot size.

The site is regularly shaped and offers vehicular access from the alley and from the street: a cumulative frontage of 168'.

The existing single family home is located toward the front of the site, with west and east side setbacks of about 18' and 13', respectively. There are about 57' between the rear line and the rear wall of the existing principal structure.

The site is essentially flat, with only a relatively minor topographic shift from the alley down to the lot, about 2', apparently most pronounced at its north end. Some of the site's western edge is defined by a row of trees.

Prior to construction of the detached garage, the owner/applicant constructed a concrete pad, presumably the same footprint as the 600 sq. ft. garage.

Rights and privileges enjoyed by other properties in the same zone or vicinity include:

- onsite parking, particularly for parking otherwise required by Code,
- accommodation of uses typically accessory to single family homes, such as storage of personal items, a personal workshop, or a recreational space.

The application refers to unusual conditions in the vicinity, such as existing structures that encroach into setbacks. It states that this property is located parallel to the alleyway, and that a fence located on an adjacent property limits the applicant's ability to enter their garage from the alleyway.

The criterion refers to unusual conditions *applicable to the subject property*: yard or setback nonconformities on nearby lots do not apply. The lot's orientation appears to further facilitate access from the alley, rather than deprive such access. Assuming that all access and maneuvering would happen in the right of way or within the subject site, a fence located on a neighbor's property should have no bearing on access to the site.

DPD identifies no specific unusual condition. The pre-existing concrete pad is a condition created by the owner/applicant. The property is relatively large, with undeveloped area that does not appear to be otherwise compromised by topography, substantial vegetation, existing structures, or lack of access. As such, various Code-compliant alternatives appear to allow the applicant to enjoy rights and privileges enjoyed by other properties in the zone or vicinity.

None of the variance requests appear to meet the first criterion.

**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;**

Rights and privileges associated with the proposed development include on-site parking for a recreational vehicle (RV) and attic storage space.

The Land Use Code allows such parking and storage to occur on-site. When located in detached garages in required yards, structure height is limited to 12' as measured on the façade containing the vehicle entrance (SMC [23.44.016 D2](#)), with an additional allowance of 3' for a pitched roof. Such height should accommodate the RV's 11' clearance, as described by the applicant.

There are Code-compliant alternatives that appear to afford the same rights and privileges enjoyed by other property owners, suggesting that relief is not necessary and that the requested variances would exceed the minimum necessary. Code-compliant alternatives include:

- a garage located outside of required yards, within the height limit for the zone (30' + 5' for a pitched roof),
- a garage located further to the south and partially within the required rear yard (where the site's grade more closely approximates the alley grade), and covering no more than 40% of the rear yard,
- a garage with an alternative access, potentially via the existing (nonconforming) driveway and along the east property line,
- a narrower garage located entirely in the required rear yard, within its height limit, with conforming driveway slope,
- demolition or relocation of the 320 sq. ft. storage shed and modification of the garage's slab and roof structure.

On two occasions, the assigned DPD land use planner discussed with the applicant Code-compliant alternatives. The applicant identified the proposed design as the only acceptable alternative.

The applicant provided narrative and photographic evidence of accessory structures located in required rear yards, stating that such structures are similar in size and scale to the proposal. This appears to address the question of special privilege. DPD was unable to verify whether the identified neighborhood developments exceed height or rear yard coverage.

DPD considers this 18'-high garage with attic storage, located in a rear yard, to be a relatively uncommon feature in single family zones. Considered with the 320 sq. ft. storage shed, it presents a larger building mass than would otherwise be allowed in the required rear yard. DPD therefore concludes that the requested height and coverage variances would constitute a grant of special privilege.

None of the variance requests appear to meet the second criterion.

**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;**

DPD does not consider the proposed development to have any adverse effects on public welfare. The applicant notes that other structures and vegetation screen the development from the right of way. The application identifies several positive effects of the design as proposed.

Development allowed in single family yards tends to be lower and more constrained than development allowed within the principal building area at the center of the site, presumably in deference to neighboring lots and adjacent rights of way.

The proposal constitutes a larger building mass in a required rear yard, generally higher and wider than otherwise allowed. Nearby properties most likely to be affected would be immediately to the north and to the west across the alley. DPD received no comments from these immediate neighbors. The increased building mass might affect light and air available to nearby neighbors, particularly those located to the north and northwest of the subject site.

The height and coverage variances do not clearly meet the third criterion.

**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;**

In this case, the literal interpretation and strict application of the Land Use Code would cause the applicant to modify or demolish portions of the existing structures within a range of options described above.

DPD does not identify a hardship. Parking and storage are possible on this site within the provisions of the Land Use Code.

Measures to achieve a Code-compliant alternative would likely involve practical difficulties, though largely the result of building without a permit. Considering the proposal as if it were still unbuilt, DPD identifies no practical difficulties for any of the requested variances.

The requested height, driveway slope, and coverage variances do not meet the fourth criterion.

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

The spirit and purpose of the Land Use Code recognizes flexibility as one of the important goals to allow the residents in single family zones full use and enjoyment of their homes, while also minimizing potentially adverse effects such enjoyment might have on neighboring properties. The rights and privileges associated with the proposed garage and storage structures are possible on this site and within the provisions of the Code. Current neighbors have communicated some frustration, and current and future neighbors may be adversely affected by the structures as currently built.

The requested height and coverage variances do not clearly meet the fifth criterion.

**DECISION – VARIANCES**

DPD **DENIES** the requested variance to allow a detached garage to exceed allowed height in a required rear yard, SMC [23.44.016 D2](#).

DPD **DENIES** the requested variance to allow a detached accessory structure to exceed coverage allowed in a required rear yard, SMC [23.44.014 D6b](#).

DPD **DENIES** the requested variance to allow a driveway that exceeds maximum curvature, SMC [23.54.030 D4 & D3](#).

Signature: \_\_\_\_\_ (signature on file)  
Scott A. Ringgold, Land Use Planner  
Department of Planning and Development

Date: July 30, 2007