



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:** 3006129  
**Applicant Name:** Elaine Greggs  
**Address of Proposal:** 1215 Warren Avenue North

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a second (2<sup>nd</sup>) story addition to an existing single family residence (SFR) in the rear yard and the construction of an exterior staircase in an Environmentally Critical Area (ECA).

The following approvals are required:

**Rear Yard Variance** – to allow the construction of a second story addition to an existing residence which is already nonconforming as to its rear yard on the west side. The subject property has an existing ten-foot (10’) nonconforming rear yard, whereby twenty feet (20’) is required pursuant to the Seattle Municipal Code (SMC) 23.33.014.D.1.3b.

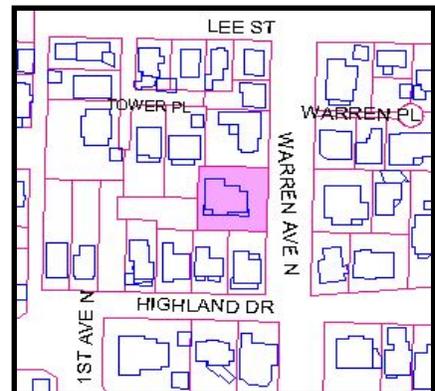
**Environmentally Critical Areas Variance** – to reduce ECA buffer to 7.5 feet, whereby 15 feet is required pursuant to the Regulations for Environmentally Critical Areas (ECA) SMC 25.09.180.C.1.

**SEPA DETERMINATION:**  Exempt  DNS  DNS with conditions  
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**BACKGROUND DATA**

Site Location and Zoning Designation

The subject property is approximately 100 feet (100’) wide by 101 feet (101’) deep, oriented with the front property line adjacent to Warren Avenue North. Zoning overlaying the lot is single-family residential with a minimum lot size of 5,000 square feet (SF 5000). Properties to the north, south, east, and



west are also zoned SF 5000. The property has approximately 100 feet (100') of frontage to the east with Warren Avenue North and approximately 101 feet (101') of frontage to the south with a vehicular-access alley which is platted as part of the lots immediately adjacent to the south of the subject property. Warren Avenue North is developed with curbs, gutters, and sidewalks on both sides of the street at this location.

City of Seattle data identifies that a small portion of the subject property west of the existing structure is a mapped Steep Slope area. This identified area is subject to the regulations for Environmentally Critical Areas (ECAs).

### Location of the Existing Structure

The subject property is developed with an existing single-family residence (SFR) with two off-street parking spaces, which take direct access from Warren Avenue North. The exterior walls of this existing residential structure are located approximately 27 feet (27') from the east property line, 10 feet (10') from the west property line, 24 feet (24') from the north property line, and 30 feet (30') from the south property line.

### Description of Proposal

The applicant proposes to add a second-story (1,792 sq. ft.) to an existing SFR which is already nonconforming as to the structure's required rear yard on the west side. The subject site has a 10-foot (10') nonconforming rear yard where a 20-foot (20') rear yard is required, pursuant to SMC 23.44.014; however, the proposed second-floor addition will align with the existing main floor and will not create additional encroachment to the rear yard.

One of the owners of the subject property is disabled with trauma-induced epilepsy and movement between the existing main floor and the proposed second floor will be accomplished by an elevator, to be installed as part of this remodel. SMC 22.206.130 details limitations and regulations for egress and fire safety standards associated with housing units and provides that a ground level, exterior stairway, or enclosed stairway is required for adequate code-compliance. The applicant is also proposing an exterior open stair case on the north side of the house, which will comprise four posts at the intermediate landing, each with a footing of 18"x18"x12" deep. The proposed stairway would be located in the ECA steep slope buffer area pursuant to existing site conditions; however, the applicant has applied for a reduced buffer of 7.5 feet (7.5'), which would provide the intermediate landing just east of the reduced steep slope buffer.

### Applicable Development Standards

Given the location of the existing residential structure and the application of the yard standards of SMC 23.44.014, the east property line is the front lot line, the west property line is the rear lot line, and the north and south property lines are the side lot lines. The front yard is generally required to be twenty feet (20') from the front lot line or the front yard average for the single family structures to each side (whichever is less), the rear yard is required to be twenty percent (20%) of the lot depth, and the side yards are generally required to be five feet (5'). The actual existing distances as shown on the applicant's submitted plans indicate that the existing residential structure is nonconforming to the required rear yard standard pursuant to SMC 23.44.014. **Table 1** below, outlines the required yards and maximum lot coverage (their conformities or non-conformities) for this proposal.

TABLE 1				
Analysis of Required Yards and Lot Coverage				
Front Yard (east)	Rear Yard (west)	Side Yard (north)	Side Yard (south)	Lot Coverage
<p><b>Requirement</b> is 20' from the front lot line pursuant to SMC 23.44.014A or average of neighboring yard (to the north) and 20'</p>	<p><b>Requirement</b> is 20% of approx. 101' (lot depth), or 20' (whichever is less) pursuant to SMC 23.44.014B &amp; 23.86.010C</p>	<p><b>Requirement</b> is 5' pursuant to SMC 23.44.014C</p>	<p><b>Requirement</b> is 5' pursuant to SMC 23.44.014C</p>	<p><b>Permitted</b> maximum lot coverage shall not exceed 35% of the lot area or 1,750 sq. ft., whichever is greater pursuant to SMC 23.44.010C and D.</p>
<p><b>Existing</b> is approximately 27' for the eastern façade of the residential structure.</p> <p>No changes <b>Proposed</b></p>	<p><b>Existing</b> is approximately 10' for the western façade.</p> <p><b>Variance Requested</b> – Request to add a second story to an existing residence with an existing non-conforming rear yard. Addition will align with existing main floor.</p>	<p><b>Existing</b> is 24' for the northern façade of the residential structure (permitted pursuant to SMC 23.44.014C.)</p> <p>No changes <b>Proposed</b></p>	<p><b>Existing</b> is 30' for the southern façade of existing residential structure (permitted pursuant to SMC 23.44.014C).</p> <p>No changes <b>Proposed</b></p>	<p><b>Existing</b> lot coverage plus proposed addition is 2,915 sq. ft., or 28.9%.</p> <p>No changes <b>Proposed</b></p>

As illustrated above in Table 1, the proposed second story addition to the existing SFR aligns with the existing main floor, which has a nonconforming rear yard of 10 feet (10') where 20 feet (20') is required pursuant to SMC 23.44.014.

Pursuant to SMC 25.09.180, the proposal is required to comply with ECA requirements, the proposal is required to comply with ECA requirements for steep slope areas.

Environmentally Critical Areas Regulations

General requirements and standards for development on parcels containing ECA's and/or their buffers are described in SMC 25.09.060 of the ECA ordinance. This section includes details regarding the recordation of approval conditions, recordation of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures. This proposal must also comply with the specific requirements for development in areas with steep slopes (Section 25.09.180). All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

Public Comments

During the extended public comment period which ended August 15, 2007, the City received eleven letters both supporting and opposing the proposal. These comment letters are available for review in the Master User Permit file at DPD's Public Resource Center.

## **ANALYSIS – ENVIRONMENTALLY CRITICAL AREAS VARIANCE**

Pursuant to SMC 25.09.180.E, the Director may reduce the steep slope area buffer and authorize limited development in the steep slope area and buffer only when all of the facts and conditions stated in the numbered paragraphs below area found to exist:

### ***SMC 25.09.180***

#### ***E. Steep Slope Area Variance***

***1. The Director may reduce the steep slope buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the extent allowed in subsection E2 only when the applicant qualifies for a variance by demonstrating that:***

***a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and***

Property records indicate that the subject property was platted to create a legal subject property and subdivision controls were implemented prior to October 31, 1992.

***b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280.B., except that reducing the front or rear yard or yards will not both mitigate the hardship and maintain the full steep slope area buffer.***

Topography in the vicinity of the subject property generally slopes down moderately from the north to south. Locally, the area north of the existing structure has a total topographic relief of approximately 8 feet (8') while the area south of the existing structure is predominantly level. Topographic elevations provided on the submitted plan set identify that the elevation along the northern property line is about 440 feet (440') and the elevation along the southern property line is approximately 422 feet (422'). As noted, the stairway landing with associated footings that is a portion of the remodel will be constructed immediately north of the residence near the northwest corner of the existing house. This exterior stairway is proposed to be located, at its closest, approximately 7 ½ feet (7 ½') from the base of the existing slope.

This proposal has located this required exterior staircase in this location for several reasons. Given the steep slope of the lot, the southern side yard is located approximately 16 feet (16') below the level of the existing main floor. New living space located in this area would create difficult internal circulation. Providing accessibility and practical circulation throughout the living areas is a primary focus of this design given the mobility constraints of the disabled property owner. Level changes are hazardous to this individual and are discouraged with the proposed design. The exterior stairway is proposed for a location which would only serve as an emergency egress and not as a functional and integral component to internal circulation of the home.

The applicant has provided a geotechnical soils report, which has been reviewed by DPD staff. Mark Dodd, P.E. with Ground Engineering, Inc. conducted a site visit and provided that, anticipating that the new exterior stairway footings will be founded a maximum of three feet (3') below the existing grades, no impacts on the stability of the existing slope is anticipated due to the proposed construction.

The main entry to the home is located at the center of the north façade. The upper driveway in the northeast portion of the property is level with the main entry and serves as an access to the property for both pedestrians and vehicles. The level yard in this location also provides the only patio and gardening space which is accessible and functional for the disabled property owner. Locating the exterior stairway in this portion of the property would not only present a visual impact for adjacent property owners, but would also impact the amount of usable open space on the property. Additionally, the exterior staircase would not continue the residential flow between floors which is currently provided by an interior staircase. While the intent of locating the proposed staircase outside is to discourage its use by the disabled owner, an interior staircase could be gated or restricted only for emergency use, thus achieving the same purpose. Impacting an on-site ECA for the purpose as stated cannot be justified when ample space within the house allows for the construction of an interior staircase.

- 2. If any buffer reduction or development in the critical area is authorized by a variance under subsection E1, it shall be the minimum to afford relief from the hardship and shall be in the following sequence of priority:***
- a. reduce the yards and yards, to the extent reducing the yards or yards is not injurious to safety;***
  - b. reduce the steep slope area buffer;***
  - c. allow an intrusion into not more than thirty percent (30%) of the steep slope area.***

The steep slope buffer occupies a small portion of the subject property and a portion of the existing house at the northwest corner of the site is currently within this same buffer. The proposed exterior stairway would be located within the existing 15-foot (15') steep slope buffer. The applicant has requested a variance to SMC 25.09.180.C to allow for a steep slope buffer reduction of 7.5 feet (7.5'). As noted, property constraints and the location of existing features provide that the proposed location of the stairway is the most practical, with respect to functionality, accessibility, and impact minimization. The open stairs will not be located in any required yard and the proposed location is 15 feet 10 inches (15'10") from the north property line and 58 feet 10 inches (58'10") from the east property line. The visual impact of the proposed stairs is minimized since the stairway will not be enclosed. The proposal also minimizes ground disturbance, with the foot pads located outside the existing steep slope buffer area. The geotechnical engineering report provided with the application provides that no impacts on the stability of the existing slope are anticipated due to the proposal. Although the staircase would not facilitate ground disturbance within the steep slope or the associated buffer, the variance request must still be analyzed since a portion of the impervious staircase extends over the aforementioned buffer.

The relief afforded by granting this variance request would, however, extend beyond the minimum necessary to afford the properties relief from a limiting development standard. The staircase should be located on the interior of the house, both to prevent visual impacts to adjacent property owners and to prevent any unnecessary impact to the on-site steep slope and associated buffer.

***3. The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this chapter and mitigate the reduction or loss of the yard, yard, or steep slope area or buffer.***

Conditions imposed as a means of compliance with the ECA ordinance are non-appealable. General requirements and standards are described in section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures. The proposal must also comply with the specific requirements for development in areas with steep slopes, pursuant to section 25.09.180 of the ECA ordinance. All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

**DECISION – ENVIRONMENTALLY CRITICAL AREAS VARIANCE**

ECA variance to reduce ECA steep slope buffer from 15 feet (15'), pursuant to section 25.09.180.C of the ECA ordinance to 7.5 feet (7.5') is **DENIED**.

**ANALYSIS – REAR YARD VARIANCE**

Pursuant to SMC 23.40.020.C, variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below (in the numbered paragraphs) are found to exist. Analysis for the variance requested follows each statement of required facts and conditions.

- 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;*

Due to the steep topography of the site and the location of the existing structure and wide side yards, the owners are faced with unique conditions impacting the proposed addition of a second-story to the existing structure. With the steep slope of the lot, the southern side yard is located 16 feet (16') below the level of the main existing floor. The addition of living space in this location would create difficult internal circulation, an issue of particular relevance to this proposal. As noted previously, one of the property owners is disabled with trauma-induced epilepsy and level changes are hazardous and challenging to this individual.

The main entrance to the existing structure is located in the center of the north façade. The upper driveway extends within the northeast portion of the property and is level with the main entrance, serving as the accessible means of pedestrian and vehicular entrance to the property. The addition of living space in this location would significantly alter accessibility to the existing structure and the main entrance. Also of note, the level yard space in this location provides the most appropriate patio area and gardening space that is accessible to the disabled property owner.

The floor system between the existing main floor and the basement is unusual for an SFR in that it is cast-in-place concrete rather than wood-framed, with no existing interior bearing walls. Jack Shapton, P.E., a licensed structural engineer, completed a full analysis for supporting an upper

story to stabilize it against lateral forces. His conclusion provided that a second floor addition must align with the existing perimeter walls of the existing main floor in order to meet requirements for lateral engineering. The existing framing system (cast-in-place concrete with steel columns) does not lend itself to the incorporation of transfer girders that would be required if offsets were to be incorporated in the design. The design dead load of this structure is 8-times heavier than that which would be expected for typical wood-framed construction. Accordingly, the seismic mass of the structure, as noted by the structural engineer, is 8-times greater. Likewise, the structural significance of any discontinuities in the lateral load resistance path would follow the incorporation of any offsets. The structural engineer's assessment insists that the proposed second-story addition must align with the existing structure.

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;*

As noted in Table 1 provided in this decision, the existing structure is code compliant with respect to front and side yards; however, the rear yard for the existing structure is 10 feet (10') and not the 20 feet (20') as required in SMC 23.44.014B & 23.86.010C. The requested variance provides the same yard yards as those of the existing structure, and the proposed second-story addition will not pose any additional encroachments into any of the four existing yards. The proposed second-story addition is within the height limit and lot coverage permitted in the SF 5000 zone in which the subject property is locate, pursuant to 23.44.010.C and 23.44.012 respectively. Substantial yards would be unchanged and would continue to provide openness, light, and views to and for the adjacent properties. The strict application of the Land Use Code with respect to the rear yard in this instance would result in the inability to stabilize a second-story addition. The proposal 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 in which the subject property is located.

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;*

The proposed second-story addition is within the height limit and lot coverage permitted in the SF 5000 zone in which the subject property is locate, pursuant to 23.44.010.C and 23.44.012 respectively. Substantial yards would be unchanged and would continue to provide openness, light, and views to and for the adjacent properties.

Portions of the rear yard and land extending several hundred feet to the west of the subject property cannot be developed due to mapped and identified ECA with steep slopes greater than 40 percent (40%). The existing 10-foot (10') rear yard is essentially an extension of this ECA and presents no detriment to adjacent properties in the vicinity.

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;*

Accessibility in a safe environment is an imperative element to the existing structure and proposed second-story addition, especially considering the disabilities of the property owner. Realigning the location of the proposed second-floor addition would not only minimize the property's accessible and usable open space, but would also limit the property's accessibility and internal circulation. Level changes which would accompany locating the second-floor in a manner other than that proposed could potentially prove hazardous to the property owner. Locating the second-story addition as proposed will also allow the installation of an elevator in a location and fashion that will maximize the internal circulation of the improved structure for the property owner.

Additionally, literal interpretation and strict application of the Land Use Code in this instance would result in an inability to stabilize a second-story addition. As noted by the structural engineer who independently analyzed this proposal, the second-story addition needs to align with the existing main story perimeter, given the special and unique design limitations imposed by the cast-in-place concrete floor between main floor and basement. Denying the means to build an otherwise conforming and code-compliant second-floor addition would create an undue hardship for the applicant which is not shared by other properties in the vicinity.

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 identifies flexibility as an important directive to allow the residents of single-family residential areas maximum use and enjoyment of their homes. The Code elaborates by providing the types of uses and activities associated with single-family residential areas shall be regulated primarily by performance standards and City ordinances protecting privacy, health, safety, and the general welfare of the citizens.

Variances from the provisions or requirements of this Code may be sought when strict adherence and literal interpretation of the Code prevent a landowner from utilizing their properties in a manner consistent with the spirit and purpose of the Code. The request, as proposed, will not compromise these goals and will not create additional impacts from those which currently exist.

### **DECISION – VARIANCE**

The Land Use Code provides that variances from the provisions and requirements may be authorized, in part, to provide the applicant with consistent privileges and rights enjoyed by property owners in the vicinity.

The proposed variance to allow a second-story addition to an existing residence which is already nonconforming to its required rear yard on the west side is **GRANTED**.

Signature: \_\_\_\_\_ (signature on file) Date: November 15, 2007  
Mike Reid, Land Use Planner  
Department of Planning and Development

MR:lc