



City of Seattle

Department of Planning & Development

Diane Sugimura, Director

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

Application Numbers: 3014340
Applicant Name: Kevin Richards for Alex Yan
Address of Proposal: 628 11th Avenue East

SUMMARY OF PROPOSED ACTIONS

Land Use Application to allow a 451 sq. ft. addition of an attached garage in the required front and side setbacks in an environmentally critical area (steep slope).

The following approvals are required:

- 1) **Variance** – to allow a garage in the required front setback (5’ minimum, 7’ average required; 0’ proposed) SMC 23.45.518
- 2) **Variance** – to allow a garage in the required side setback (5’ minimum for facades greater than 40 ft. in length; 0’ proposed) SMC 23.45.518
- 3) **Variance** - to allow a combined façade length greater than 65% lot length (65% (47’9”) allowed; 72% (53’ proposed) SMC 23.44.527B
- 4) **Variance** – to allow a garage greater than 4 ft. above grade to be located closer to the street than the 1st floor of the principal structure. (no closer to the street than the 1st floor of the principal structure is allowed; 12’8” closer to the street is proposed) SMC 23.45.536B
- 5) **Variance** – to allow a deck on top of a garage that is greater than 4 ft. above grade (no deck allowed; deck proposed) SMC 23.45.536B
- 6) **Variance** – to allow a railing on top of a garage that is greater than 4 ft. above grade (no railing allowed, 3’ railing proposed) SMC 23.45.536B
- 7) **Variance** – to allow a vertical trellis on top of a garage that is greater than 4 ft. above grade (no vertical trellis allowed; 5’ 6” vertical trellis proposed,) SMC 23.45.536B
- 8) **Variance** – to allow a horizontal trellis on top of a garage that is greater than 4 ft. above grade (no horizontal trellis allowed; 118 sq. ft. horizontal trellis proposed,) SMC 23.45.536B

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

Site and Vicinity Description

The proposal site is on 11th Avenue E between E Roy Street and E Mercer Street in the Capitol Hill neighborhood of Seattle. The 4,334 sq. ft. proposal site is developed with a single family residence. The proposal site is zoned Lowrise 3 (LR3) and is, therefore, subject to Lowrise development standards. LR3 zoning continues to the north, west, south and east of the proposal site. Directly across 11th Avenue E from the site is Lowell Elementary School. Volunteer Park is located two blocks to the north.

The topography of the subject property is sloped from east to west with an average change in elevation of ten (10) feet. It is a mapped Environmentally Critical Area (ECA - Steep Slope). However, single family residences with development coverage of less than 9,000 sq. ft. are exempt from SEPA review. In addition, based on the survey submitted with application it was determined by the City's Geotechnical Engineer that the slope in question is not consistent with the definition of steep slope and is, therefore, exempt from ECA and SEPA review. ("Based on Geocortex and Google Street View, no ECA Steep Slope Critical Areas exists on this property. No ECA review is required.").

Proposal

The applicant proposes to construct a single car garage in the front and side setbacks of the site. The proposal also includes utilizing the roof of the proposed garage as a deck with added parapet and railing at the 11th Avenue E side. In addition, there is a 6-ft. vertical trellis proposed with an additional 118 sq. ft. horizontal trellis attached to it. A total of eight variances are required for the proposal.

Public Comment

DPD received several comment letters during the public comment period, which ended on August 14, 2013. All comments were favorable to the proposal.

ANALYSIS – VARIANCE NO. 1-4

Because of the nature of the proposal and the applicable Lowrise development regulations, the following four variances that apply solely to the garage structure must be analyzed together (i.e., to grant or deny one would require granting or denying all):

- 1) **Variance** – to allow a garage in the required front setback (5' minimum, 7' average required; 0' proposed) SMC 23.45.518
- 2) **Variance** – to allow a garage in the required side setback (5' minimum for facades greater than 40 ft. in length; 0' proposed) SMC 23.45.518
- 3) **Variance** - to allow a combined façade length greater than 65% lot length (65% (47'9") allowed; 72% (53' proposed) SMC 23.45.527B
- 4) **Variance** – to allow a garage greater than 4 ft. above grade to be located closer to the street than the 1st floor of the principal structure. (no closer to the street than the 1st floor of the principal structure is allowed; 12'8" closer to the street is proposed) SMC 23.45.536B

As provided in SMC23.40.020, variances from the provisions or requirements of the Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below 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;*

The subject property is a single family residence located in a multi-family zone (LR3) and is subject to the development regulations for townhouse developments. In order to construct a garage in front of the residence variances are required for a structure to be located in the front and side setbacks, and for façade length and location of the structure closer to the street than the principal structure.

The existing single family residence was constructed in 1906 according to King County records. The existing side setbacks are seven (7) feet on the north and six (6) feet on the south. The location of the house on the lot prohibits construction of a driveway to the rear setback or the siting of parking in either side setback.

The proposal site is located directly across the street from a large elementary school where on-site parking is limited. During the day, when school is in session and especially during events at the school, parking is at a premium in the neighborhood. Other attractions, such as Volunteer Park to the north and the Safer-Baillie Manson (used for weddings) further limit the parking availability at other times. The subject site is not served by an alley.

The property directly to the south has a single car garage similar in size and location to the proposed garage. It is also located in the front and side setbacks of the site, and dates to 1930 according to King County records.

Consequently, due to limited parking opportunities in the vicinity and the location of the existing single family residence on the lot, strict application of the Land Use Code would preclude the construction of a garage, thus depriving the property of rights and privileges enjoyed by other properties located in the same zone and vicinity.

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*

The proposal is for a single car garage which is a normal appurtenance for single family residences in the zone and vicinity and is, therefore, not a grant of special privilege. Because of the age of the structures many residences were constructed without garages. Over the years, many properties which have no alley access have added garages in the required front setbacks.

Thus, the requested variances to build a single car garage do not go beyond the minimum necessary to afford relief. The requested variances allow a reasonable development envelope the size of which does not constitute a grant of special privilege.

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*

The proposal site is located in a neighborhood where parking is limited because of its proximity to various public facilities (school, park, etc.). The property to the south has a garage in a size and location very similar to the one proposed except that it encroaches into the public right-of-way. Because considerable variation exists in street setback patterns and because, as proposed, the garage will not encroach unreasonably into the required front and side setbacks, granting the proposed variances will not be injurious to properties in the vicinity or materially detrimental to the public welfare nor will it limit future use of the public right-of-way or inhibit improvements to the right-of-way in the same zone and vicinity.

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

As indicated in criterion #1, required setbacks and location of the residential structure on site effectively preclude the construction of even a single car garage which is a usual and normal appurtenance to a single family residence. Thus, strict application of applicable provisions of the Land Use Code would deprive the applicant of an improvement to the site enjoyed by others and cause undue and unnecessary hardship.

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

Off-street parking is a normal appurtenance to single family residences in the city and, indeed, is a requirement of any new construction of most single family homes. Because of the age, location of the residence on the subject site, off-street parking has never been provided for this property. There exist in the same neighborhood many examples of garages in the front setbacks and in front yards in close-by Single Family zones, as well.

Consequently, granting the variances 1 through 4, described above, will be consistent with the spirit and purpose of the Land Use Code.

ANALYSIS – VARIANCE

Because of the nature of the proposal the following two variances should be analyzed together because to grant or deny the first would make it necessary to grant or deny the second.

- 5) **Variance** – to allow a garage greater than 4 ft. above grade to be located closer to the street than the 1st floor of the principal structure. (no closer to the street than the 1st floor of the principal structure is allowed; 12’8” closer to the street is proposed) SMC 23.45.536B
- 6) **Variance** – to allow a deck on top of a garage that is greater than 4 ft. above grade (no deck allowed; deck proposed) SMC 23.45.536B

Variations 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 subject property is a single family residence located in a multi-family zone (LR3) and is subject to the development regulations for that zone. Specifically, in order to construct a garage in front of the residence variances are required for not only front and side setbacks, but for façade length and location of the structure close to the street than the principal structure.

The proposed design of the garage structure includes a flat roof and is located adjacent to the neighbor garage of similar design. The applicants propose to use this flat roof area as a deck and to construct an additional parapet and railing for safety purposes. The Land Use code does not permit decks to be located on top of garages that are greater than four feet above grade in a multifamily zone or to have the added parapet and railing.

The applicant has documented 19 cases in the vicinity where there is a single car garage at the front property line that is also being used as a deck and many have parapets, railings and planters as enhancements. Seven of these are located on the block just east of the proposed project. Given the proximity of the proposed flat roof to the front yard, a minimal safety railing is a practical necessity. Therefore, strict application of the Land Use Code would preclude the use of the garage rooftop as a deck with added parapet and railings, thus depriving the property of rights and privileges enjoyed by other properties located in the same zone and vicinity.

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*

The proposal is for a single car garage which is the normal requirement for single family residences and is, therefore, not a grant of special privilege. Because of the age of the residential structures many residences were constructed without garages. Over the years, many properties which have no alley access have added garages in the required front setbacks. As these garages are mainly structures with flat roofs, they are typically used by the residents as deck area. Many have added parapets and railings for added safety. It is likely that, given the location of the proposed garage relative to the front yard, the garage roof will be accessed. It is prudent to allow a minimal railing for safety purposes.

The requested variances allow a reasonable use of the garage roof, similar to others in the area, which does not constitute a grant of special privilege.

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*

The proposed use of the garage rooftop as deck is a common occurrence in the neighborhood where the property is located. Therefore, granting the proposed variances will not be injurious to properties in the vicinity or materially detrimental to the public welfare nor will it limit future use of the public right-of-way or inhibit improvements to the right-of-way in the same zone and vicinity.

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

As indicated in criterion #1, required setbacks for the site and the location of the existing residence on the lot effectively preclude the construction of even a single car garage which is a usual and normal appurtenance to a single family residence. Thus, strict application of applicable provisions of the Land Use Code would deprive the applicant of an improvement to the site enjoyed by others and cause undue and unnecessary hardship. A deck on top of the flat roof of the proposed garage is a reasonable use of the garage roof top and is common in the area.

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

There exist in the same neighborhood many examples of garages, appurtenant to single family residences, in the front setbacks and in front yards in close-by Single Family zones, that are also used as rooftop decks. Many include parapets, railings and planters as enhancements and for added safety.

Consequently, granting the variances 5 and 6, described above and shown on the MUP plans dated November 4, 2013 will be consistent with the spirit and purpose of the Land Use Code.

ANALYSIS – VARIANCE

- 7) **Variance** – to allow a vertical trellis on top of a garage that is greater than 4 ft. above grade (no vertical trellis allowed; 5’ 6” vertical trellis proposed,) SMC 23.45.536B
- 8) **Variance** – to allow a horizontal trellis on top of a garage that is greater than 4 ft. above grade (no horizontal trellis allowed; 118 sq. ft. horizontal trellis proposed,) SMC 23.45.536B

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 applicant proposes to construct a trellis on top of the south edge of the proposed garage that is 16 feet long and approximately 5.5 feet high for a total height of 16.25 feet above the sidewalk. It would lie approximately on the property line adjacent to the existing garage to the south. Additionally, there is proposed a horizontal trellis that is 16 feet long and 7 feet deep (118 sq. ft.) to be connected to the vertical trellis. There are no unusual conditions of the subject property where strict application of the code would deprive the property of rights and privileges enjoyed by other properties in the area. Of the examples documented by the applicant of similar garages in the area none have either vertical or horizontal fences or trellises of the size and scope proposed. Though many are used as decks, enhancements are generally limited to railings and/or planters. Therefore, this criterion is not met for variances 7 and 8.

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*

The proposal for a vertical trellis with attached horizontal trellis appears to go beyond the minimum necessary to safely allow use of the garage roof as a rooftop deck. The addition of parapet, railings and planters is sufficient to provide the same type of outdoor experience enjoyed by others in the neighborhood with similar garages.

The requested variances would constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity where the subject property is located. Therefore, this criterion is not met for variances 7 and 8.

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*

The proposed vertical and horizontal structure would result in a large structure located in the front and side setbacks of the subject property whose height, bulk and scale would be incompatible with the existing streetscape. Only one other property has a similar structure but it is more in keeping with the definition of trellis and is small and very open. The proposed structure more closely resembles a fence with a roof attached and would add considerable height and bulk in the pedestrian realm and when viewed from neighboring properties. .

Therefore, granting the proposed variances would be materially detrimental to the public welfare by siting a large structure in required setbacks so close to the pedestrian realm. Therefore, this criterion is not met for variances 7 and 8.

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

The literal interpretation and strict application of applicable provisions of the Land Use Code would not deprive the applicant of an improvement to the site enjoyed by others or cause undue and unnecessary hardship. A deck on top of the flat roof of the proposed garage is a reasonable use of the garage roof top and is common in the area. However, a large vertical trellis with attached horizontal trellis is not a common usage anywhere in the surrounding neighborhood. In addition, the subject site has a sizable patio and outdoor amenity area at the rear of the site that affords the privacy that the applicant desires. Therefore, this criterion is not met for variances 7 and 8.

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

There exist in the same neighborhood many examples of garages in the front setbacks and in front yards in close-by Single Family zones, as well, that are used as rooftop decks. Many include parapets, railings and planters as enhancements and for added safety. However, none have large privacy structures similar to that proposed. Given the height, bulk, and scale of the proposed trellises and the apparent intrusion of such a structure into the public pedestrian realm, granting the variances would not be consistent with the spirit and purpose of the Land Use Code. Therefore, this criterion is not met for variances 7 and 8.

DECISION - VARIANCE

DPD **GRANTS** the requested variance to allow a garage in the required front setback (5' minimum, 7' average required; 0' proposed) SMC 23.45.518.

DPD **GRANTS** the requested variance to allow a garage in the required side setback (5' minimum for facades greater than 40 ft. in length; 0' proposed) SMC 23.45.518

DPD **GRANTS** the requested variance to allow a combined façade length greater than 65% lot length (65% (47'9") allowed; 72% (53' proposed) SMC 23.45.527B.

DPD **GRANTS** the requested variance to allow a garage greater than 4 ft. above grade to be located closer to the street than the 1st floor of the principal structure. (no closer to the street than the 1st floor of the principal structure is allowed; 12'8" closer to the street is proposed) SMC 23.45.536B.

DPD **GRANTS** the requested variance to allow a deck on top of a garage that is greater than 4 ft. above grade (no deck allowed; deck proposed) SMC 23.45.536B.

DPD **GRANTS** the requested variance to allow a railing on top of a garage that is greater than 4 ft. above grade (no railing allowed, 3' railing proposed) SMC 23.45.536B.

DPD **DENIES** the requested variance to allow a vertical trellis on top of a garage that is greater than 4 ft. above grade (no vertical trellis allowed; 5' 6" vertical trellis proposed,) SMC 23.45.536B

DPD **DENIES** the requested variance to allow a horizontal trellis on top of a garage that is greater than 4 ft. above grade (no horizontal trellis allowed; 118 sq. ft. horizontal trellis proposed,) SMC 23.45.536B

Signature: (signature on file) Date: February 6, 2014
Marti Stave, Senior Land Use Planner
Department of Planning & Development