City of Seattle
Edward B. Murray, 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: 3019259

Applicant Name: John Cashman

Address of Proposal: 1834 38th Ave E

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a new Single Family Residence. Parking for two vehicles to be provided.

The following approval is required:

Variance to allow a principal structure to extend into the required side yard of a reverse corner lot. (SMC 23.44.014.C)

SEPA DETERMINATION: [X] Exempt [ ] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

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

BACKGROUND INFORMATION

Site Location & Description: The subject site is a corner lot at the intersection of 38th Ave E and E Howe Street. The total lot area is approximately 4,275 square feet, measuring 35.6 feet along 38th Ave E and 120 feet along E Howe Street. The lot is zoned Single Family 5000. A north-south alley abuts the site to the east.

The subject site is currently vacant. A single-family residence and detached garage are located on the lot south of the site. To the east of the site is a single-family home located approximately 3 feet from the side lot line along the alley.

The immediate vicinity is zoned SF 5000. The area is developed primarily with two-story single family residences in a mix of styles and ages. While most of the lots in the vicinity have a depth of 120 feet, the majority are at least 40 feet wide. The lots in the immediate vicinity are largely platted in an east-west orientation, with the smaller dimension fronting the north-south streets. However, the pattern of development of the reverse corner lots in the vicinity has little consistency regarding the orientation of the structures to the streets or avenues. The streetscape along E Howe Street is lushly planted and contains mature trees which obscure many of the structures from view.

The site contains a 34.5" Deodar Cedar and a 15" Sitka Spruce, both of which meet the threshold for designation as Exceptional Trees per DR 16-2008 (*Tree Inventory*, Project No. TS-4719, 19 March 2015, Tree Solutions Inc.). The Cedar is located at the northwest corner of the site, and the Sitka Spruce is located just outside the property boundary, near the northeast corner of the lot.

Proposal Description: The applicant proposes to construct a 4,390 square foot, two story single-family residences with alley access to parking. Both Exceptional Trees are to remain.

The proposed structure would extend a maximum of 5 feet into the street facing side yard at E. Howe St. The variance is required because the proposal would not meet the requirements of SMC 23.44.014.C.1.

Applicable Development Standards:

Code Section	Standard	Request
SMC 23.44.014.C.1	In the case of a reversed corner lot, the key lot of which is in a single-family zone, the width of the side yard on the street side of the reversed corner lot shall not be less than 10 feet	Allow a principal structure to extend 5' into the required side yard.

Public Comment: The public comment period ended on January 18, 2015. DPD received 3 comment letters in support of the variance under the condition that the trees on site are preserved, and felt that a more compatible aesthetic and building proportions would result from the granting of the variance.

ANALYSIS – 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 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;*

The combination of the lot being smaller in size than required by zoning, the specific dimensions of the lot, the classification as a reversed corner lot, and the location of existing Exceptional Trees has resulted in unusual conditions not created by the applicant or owner.

The lot size of 4,275 square feet is smaller than reverse corner lots in the immediate vicinity. In addition, these lots have a depth of 120 feet that extends from the avenues to alley and a width of 70 feet, whereas the subject lot has a width of only 35 feet. Many of the houses on reverse corner lots in the vicinity were built prior the establishment of current zoning codes and development standards, and are currently nonconforming with respect to side yards adjacent to E Howe Street. The applicant has demonstrated that structures built on reverse corner lots in the vicinity have street facing side yards less than 10 feet, and as little as 5 feet. Thus, the subject site is more constrained in its building envelope and the ability to achieve the maximum allowed lot coverage, compared with nearby properties in the same zone and vicinity. The strict application of the code would require a 10 foot yard adjacent to E Howe Street, while structures built on larger lots on reverse corner lots in the vicinity enjoy reduced street facing side yards.

In addition, the site contains two Exceptional Trees, which the owner wishes to retain.

If the maximum lot coverage permitted on site cannot be achieved without extending into the tree protection area, or avoiding development in the tree protection area would result in a portion of the house being less than fifteen feet in width, Exceptional trees may be removed under SMC 25.11.060.A. As the 35 foot width of the lot and 10 foot side yard have already limited the building envelope, the maximum lot coverage could not be achieved without extending into the tree protection area, and could result in portions of the house being less than 15 feet wide. Thus, strict application of the Land Use Code would allow for removal of the Exceptional trees.

SMC 25.11.060.A provides limited extension into front or rear yards is permitted to preserve tree protection areas for Exceptional trees. The Land Use Code would allow for extension into the rear yard; extension into the front yard is limited due to the location of the Exceptional Cedar Tree and the width of the lot. The applicant provided possible development scenarios, demonstrating that extension into the rear yard is not practical due to the impact to alley sightlines and the close proximity of the adjacent residential structure to the east. Because of the constrained site dimensions and size, there is little flexibility shifting the structure footprint to both preserve the trees and achieve the maximum lot coverage permitted.

The lot size and configuration as described above is a situation not created by the applicant or the current owner. The strict application of the Land Use Code would deprive the owner of other rights and privileges enjoyed by neighboring property owners if relief is not granted.

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;*

The variance would provide the ability to shift the buildable area of the site from the rear yard to the side yard, and would only provide a small increase of buildable area within the allowed lot coverage. Granting the variance would allow for a lot coverage closer to the maximum allowed while retaining both trees.

As noted above, many of the structures built on reverse corner lots in the vicinity have street facing side yards less than 10 feet, and as little as 5 feet. A five foot yard would result in a distance of 22'-10" from the structure to the right of way, which the applicant has demonstrated is consistent with the other similar properties in the vicinity. Thus, a reduced side yard of 5 feet 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;*

As noted above, there are several examples of single family residence on the block face that do not meet side yard requirements. A five foot yard would result in a distance of 22'-10" to the right of way, and would not impact vehicular or pedestrian traffic or sightlines. The setback would be similar to existing development along E Howe Street, and to other reversed corner lots found in the vicinity. As noted above, the orientation of houses along E Howe Street varies from "facing" the north-south avenues and E Howe Street, so the proposal would not create any significant changes in the existing character in the vicinity. In addition, the variance would allow for the preservation of the existing trees, which would further contribute to a consistent appearance along the street. The granting of the variances for the proposed addition is not anticipated to materially detrimental to the public welfare or injurious to the property or improvements in the zone or 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;*

The strict application of the applicable provisions of the Land Use Code would require a 10 foot street facing side yard. Due to the smaller lot size than required by the zone and typical for this block face, the reversed corner lot condition, and the presence and location of Exceptional Trees, this requirement would cause undue hardship or practical difficulties as it would result in the removal of the Exceptional trees or restrict the potential development of an already undersized lot in a single family zone.

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

The Land Use Code provides for a variance process for relief from unusual conditions and situations that the rules of the Code could not anticipate. At the same time, the spirit and intent of the Land Use Code and Land Use regulations is to provide development compatible with environmental constraints, land development patterns, and existing neighborhood character.

The request for a variance is due to the small lot size and unusual site conditions. This variance application seeks to provide flexibility for a minor modification to add building area in a situation constrained by platting actions, existing Exceptional Trees, and conditions not created by the current owner or applicant. The proposal is in character with surrounding development, and seeks to preserve and enhance the physical and aesthetic character of the development by retaining existing trees. The variance will allow for the retention of existing Exceptional Trees and a streetscape that is consistent with the development pattern in the vicinity.

The proposed variances are consistent with the spirit and purpose of the Land Use Code and adopted Land Use Comprehensive Policies as applicable.

DECISION – VARIANCE

Based on the plans, and the above findings, and analysis of all the facts and conditions stated in the numbered criteria of SMC 23.40.020, the variance request is **GRANTED.**

CONDITIONS – VARIANCE

None.

Katy Haima, Land Use Planner
Department of Planning and Development

Date: November 2, 2015

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered "approved for issuance". (If your decision is appealed, your permit will be considered "approved for issuance" on the fourth day following the City Hearing Examiner's decision.) Projects requiring a Council land use action shall be considered "approved for issuance" following the Council's decision.

The "approved for issuance" date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by DPD within that three years or it will expire and be cancelled (SMC 23-76-028). (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.