



**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:** 3019539  
**Applicant Name:** Linda Hoedemaker  
**Address of Proposal:** 1226 41<sup>st</sup> Ave E

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a two-story addition plus basement addition, totaling 358 sq. ft., to existing single family dwelling unit.

The following approval is required:

**Variance** to allow an addition of principal structure to extend into the required front yard (SMC 23.44.014A.1)

**Variance** to allow expansion of a non-conforming structure. (SMC 23.42.112A)

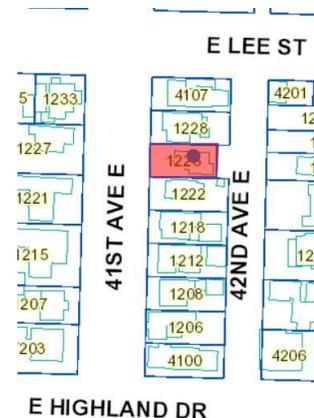
**SEPA DETERMINATION**

- Exempt       DNS       DNS with conditions
- DNS involving non-exempt grading or demolition or involving another agency with jurisdictions

**BACKGROUND INFORMATION**

**Site Location & Description:** The site is an interior through lot located between 41<sup>st</sup> Ave E and 42<sup>nd</sup> Ave E, south of E Lee St. The lot is 3,200 square feet.

The parcels on this block face were originally platted at a depth of 80 feet. Vacation Ordinance 88676, passed on October 19, 1959, vacated a portion of 42<sup>nd</sup> Ave N. This vacation increased the depth of lots on the



block face, with the exception of the subject lot, by 15 feet. This 15 foot portion adjacent to the site remained in the right of way.

As a result, the lots on this block face, with the exception of the subject site, are approximately 3,800 SF. The subject lot is 40 feet by 80 feet, whereas lots on the same block face are approximately 40 by 95 feet.

The zoning in the immediate vicinity is SF 7200, and the lots on the subject block face are below the required lot size.

All of the lots on the block face are through lots. The applicant has demonstrated that other development on the block face is non-conforming to current development standards regarding front setbacks.

The typical pattern of development on the block includes portions of structures within the required front yards. The majority of houses on the block face are oriented towards 41<sup>st</sup> Ave E and take vehicular access from 42<sup>nd</sup> Ave E. In addition, many of the sites have garages within the required yard adjacent to 42<sup>nd</sup> Ave E. This configuration results in 42<sup>nd</sup> Ave E having the character of an alley for houses on the west side of the street.

**Location of Existing Structures:**

The site is currently developed with one two-story single family residence, built in 1918. The structure is oriented towards 41<sup>st</sup> Ave E, with a larger than required front yard along 41<sup>st</sup> Ave E. Vehicular access to an attached garage is taken from 42<sup>nd</sup> Ave E.

The structure is currently nonconforming as it encroaches into the required 20 foot yard adjacent to 42<sup>nd</sup> Ave. E. The applicant noted that the 15 foot by 40 foot area of the right-of-way adjacent to the site to the east was paved and fenced in by a previous owner, and has been in use as a private backyard. The current owner received an SDOT Annual permit in May 2014 (#238699) to continue this use.

**Proposal Description:**

The applicant proposes to add 99 SF to the structure footprint on the northeast corner of the existing house, in the required front yard. The addition would consist of 99 SF at the basement level, 99 SF at the ground floor to enlarge the existing kitchen, and 160 SF on the second level to enlarge the master bedroom, for a total of 358 SF.

The proposed addition would extend an additional 3.94 feet into the front yard near the east property line, for a total of 15 feet. The variances are required because the proposal would not meet the requirements of SMC.42.112, Nonconformity to Development Standards.

**Applicable Development Standards:**

| <b>Code Section</b> | <b>Standard</b>   | <b>Request</b>  |
|---------------------|---|---|
| SMC 23.44.014A.1    | The front yard shall be either the average of the front yards of the single family structures on either side or 20 feet, whichever is less.<br><br>A 20 foot yard is required | Allow a principal structure to extend 15' into the required front yard, to a distance of 5' from the property line. |

|                |   |  |
|----------------|---|--|
| SMC 23.42.112A | A structure nonconforming to development standards may be maintained, renovated, repaired or structurally altered but shall be prohibited from expanding or extending in a manner that increases the extent of the nonconformity. | Allow the expansion of a nonconforming structure into a required front yard in a single family zone. |
|----------------|---|--|

**Environmental Critical Area Regulations:** None.

**Public Comment:** The public comment period ended on April 1, 2015. DPD received no comment letters.

### **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;*

There are several unusual conditions applicable to the subject property. These conditions include the location of the existing single-family structure relative to the front property line, the two street frontages, the lack of an alley, the smaller lot size than required by zoning and compared to nearby properties, and the 15 by 40 foot portion of 42<sup>nd</sup> Ave E adjacent to the site.

The house was built in 1918, prior to establishment of current zoning codes and development standards, and is currently nonconforming with respect to the front yard adjacent to 42<sup>nd</sup> Ave E. As noted above, the neighboring properties are fully developed lots with similar siting conditions relative to front and side property lines, many of which are also nonconforming to current development standards. Opportunity to construct an addition to the “rear” of the house near the west property line is constrained due to the existing location of the structure.

The subject property is a through block, as are all lots on the block face. The required yards for this lot that would apply to the expansion of the existing structure would be 20’ from 41<sup>st</sup> Ave E and 20’ from 42<sup>nd</sup> Ave E. If the east property line were adjacent to an alley, more lenient rear yard requirements would apply and a variance may not be required for the proposed addition.

As noted above, a 15 foot wide portion of 42<sup>nd</sup> Ave E was not vacated as it was with all other properties on the block. Thus, the depth of the development site is 15 feet less than the standard lot size of the block face; it is the only lot on the block face with this condition.

Due to the unusual conditions applicable to the subject property, which were not created by the applicant or owner, the strict application of the Land Use Code under these conditions would prevent the enjoyment of normal land use privileges allowed 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;*

The plans indicate that the proposed variance for building an addition is minor. The applicant proposes to enlarge the basement by 99 square feet, the kitchen by 99 square feet on the main level, and the master bedroom by 160 square feet on the second story.

The applicant has proposed a front yard of 5 feet, which would align with the code required 20' front yards on the adjacent parcels. This proposal would allow for a development that is consistent with the typical pattern of development on the block front, and the applicant has demonstrated that the proposal is comparable to the established scale of development on the block.

The existing residence is approximately 1,350 square feet in size including the one car garage. The proposed addition would be 358 square feet in size, for a total of 1,708 square feet. The applicant has demonstrated that residence with the proposed addition is of a comparable size to houses on the block, and is within the allowed lot coverage for the zone.

To allow the proposal does not go beyond the minimum necessary to afford relief or constitute a grant of special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the 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;*

As noted above, the pattern of development is common in the vicinity. There are several examples of single family residence on the block face that do not meet front yard requirements, including the adjacent residence north and south of the subject property. 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;*

If the site were adjacent to an alley instead of a second street frontage, the owner of the subject lot would be able to meet front yard requirements without seeking a variance.

Due to the smaller lot size than required by the zone and typical for this block face, the existing location of the single-family structure relative to the front property line, the through block condition, the strict application of the applicable provisions of the Land Use Code for the building addition would cause undue hardship or practical difficulties, and restrict improvements to an existing single family home.

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 existing structure location, platting patterns, public right of way locations, and conditions not created by the current owner or applicant.

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 variances for a reduced front yard and expansion of a nonconforming structure are **GRANTED**.

### **CONDITIONS – VARIANCE**

None.

Signature: retagonzales-currenubby for \_\_\_\_\_ Date: August 17, 2015  
Katy Haima, Land Use Planner  
Department of Planning and Development

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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](mailto:prc@seattle.gov) or to our message line at 206-684-8467.