



through permit record research and that is a nonconforming deck with arbors above a detached garage.

The site is currently developed with a modest one-story single-family residence (built in 1949) with an open basement along the east façade. An accessory detached garage structure is located at the development site’s southeast corner, abutting the alley and Southwest Dakota Street right-of-way. Access to parking within the garage is taken off the Southwest Dakota Street right-of-way. Atop the garage’s flat roof is a deck with railings, arbors and lawn furniture. The site is richly landscaped with trees, shrubbery, and assorted flower and vegetable gardens. The site slopes downward from west to east approximately 20 feet from the 39<sup>th</sup> Avenue Southwest street frontage. The existing single family house is situated approximately 9.7 feet from the front property line abutting 39<sup>th</sup> Avenue Southwest. The roadway surface is approximately 37 feet from the front property line that features a deep planting strip on either side of the six foot wide sidewalk. The sidewalk is set 19 ft. into the right of way from the subject lot’s property line. From a streetscape perspective the subject lot’s front yard appears deeper than the actual amount of 9.7 feet. 39<sup>th</sup> Avenue Southwest is a quiet residential street that is 100 feet wide, well above the standard width found within SF 5000 zones.

The immediate vicinity is zoned for Single Family residential development (SF 5000) and Multifamily Lowrise One and Three zones (L-1 & L-3) with a minimum density limit of one unit per 1,800 square feet, and a minimum density limit of one unit per 800 square feet of lot area, respectively. One distinguishable characteristic found near the development site is located within the 39<sup>th</sup> Avenue Southwest right-of-way. One block south of the subject lot site is a landscape berm running down the center of the 39<sup>th</sup> Avenue Southwest for two blocks. This right-of-way feature creates a boulevard-like look that enhances the neighborhood. Neighborhood Commercial Two with a sixty-five foot height limit (NC-65) supports a mix of commercial and residential uses to the southwest. A number of commercial uses that can be found in this West Seattle community that include retail, a gas station, and restaurants.

Proposal Description

The applicant has proposed to add a second story addition above an existing structure’s footprint along a portion of the front façade inside the required front yard setback area. The single family structure is currently a nonconforming structure with regards to being sited on a lot within the front yard setback area. The required front yard at the development site is approximately 14 feet 11 inches. The existing structure is located approximately 9.70 feet from the front property line. The basement and ground floor levels of the residential structure will be remodeled to accommodate spatial reconfiguration of the home’s interior. The second story addition is proposed above the ground floor’s footprint with an addition of an 80 square foot deck along the rear façade with direct access to the master bedroom. Also, the detached garage structure would be rebuilt to remove the nonconforming deck. Additionally, an Accessory Dwelling Unit in the basement level will be established during the related construction permit phase.

Public Comment

Date of Notice of Application: November 11, 2004  
Date End of Comment Period: November 24, 2004\*  
# Letters 0  
Issues: No comment letters were received for this project.

### **ANALYSIS - VARIANCES**

As provided in SMC 23.40.020, variances from the provisions or requirements set forth in the Seattle Municipal Code shall be authorized only when all of the following facts and conditions 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 development site is located on platted Lots 24 and 25, Block 8, within the Boston Company's Plat of West Seattle, in a single family zone. The development site comprises a land area of approximately 5,750 square feet, well above the standardized 5,000 square foot required land area for this residential neighborhood. Platted Lots 24 and 25 was integrated into one parcel back in 1926 by then owners, William and Elma Hall. Since that time, the property has remained unchanged with the succession of each new owner of single family residence. Abutting the development site to the west is 39<sup>th</sup> Avenue Southwest, a 100 foot wide right-of-way. The existing 25 foot roadway is positioned along center line of the right-of-way. The existing house is sited approximately 47 feet from the roadway's edge. Within the vicinity, the neighboring properties are mostly fully developed platted lots with similar sized land areas and siting conditions relative to front property line. The existing house and detached garage was constructed in 1949, sometime after the Hall's acquired the property, at a time when there was a 10 foot required front yard setback regulating placement of residential structures on private property within the city limits of Seattle. The development site, as measured against today's zoning standards, is considered nonconforming for front yards using the front yard averaging technique. As measured against neighboring parcels the development site would be in scale within the surrounding area. On average, the houses are set back less than ten feet from the front property line along the block front. This is also true for the block front just south of the subject lot. The typical patten of development on the block front has residential structures setback around ten feet from the front property line. This is not a very common occurrence within the City of Seattle.

As mentioned earlier, the lot is rectangular in shape, comprising an area of approximately 5,750 square feet. The minimum required front yard at the development site in this single family zone is approximately 14 feet 11 inches, based on an averaging front yard technique that includes the neighboring property (9 feet 10 inches) to the north and defaulting to 20 feet for corner lots abutting a right-of-way. The existing one-story residential structure with basement occupies an area of approximately 1,252 square feet and is sited towards the parcel's west property line. The existing single family residential front facade is located approximately 9.7 feet from the front property line, 71.6 feet from the rear, 8.4 feet from the south (side yard abutting Southwest Dakota Street), and five feet from the north (side yard) property boundary lines. The single family structure is projecting (5.2') into the required front yard and thus creating a nonconforming condition by today's standards.

Most other properties in the vicinity substantially share similar siting conditions related to location of front façade and to the front property line. All (interior) properties on the block front excluding corner lots benefit from current zoning practice that allow front yard averaging against adjacent single family structures. However, when employing the front yard averaging technique

on corner lot properties, they face the added burden of increase front yard depth based on the default 20 feet when abutting upon a right-of-way, when calculating front yard averaging. This otherwise usual condition of front yard averaging maintains the integrity of uniformity when neighboring properties are sited at the required standard depth of 20 feet in the City of Seattle. This is not the case on this block front nor is it typical for the properties fronting 39<sup>th</sup> Avenue Southwest in this neighborhood. The vast majority of residential development sites have structures along the same horizontal plane as the subject property which is substantially less than 14 feet 11 inch from the front property boundary line within the vicinity. This common condition has been well established on these lots fronting 39<sup>th</sup> Avenue Southwest, especially on the east side. The historic placement of residential structures which has created these non-conforming conditions under the current code related to depth of yards establishes a presence that cannot be ignored along the streetscape. The proposed second story expansion will enable the current owner additional habitable space similar to that enjoyed by most properties on the same block and adjacent block to the south. This variance would not constitute granting of a special privilege that is not enjoyed by others in the 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 owner of the subject lot is proposing to add a second story addition above the existing footprint that is partially located within the required front yard. As discussed previously, the location of the house is approximately 9.7 feet from the front property line. The owner would be deprived of a second-story level that is on the same plane as the lower level and additional habitable space if the upper floor were setback approximately 5.215 feet from the front property line. The owner is requesting to take advantage of the existing footprint in the front yard to create a façade that is consistent with other single family residential structures in the vicinity. Most of the neighboring properties enjoy the benefits and privileges of nicely crafted homes with subtle architectural features on similar sized lots. Other existing residential structures on similar sized lots in the area enjoy moderate size houses with non-conforming yards. The proposed addition will not increase its structural footprint into the required front yard. Along the west façade the second story addition will take on the appearance of a roof feature to lessen the addition mass. The owner explored stepping the second story addition back along the front façade and expanding the structure's rear. That option proved impractical due to structural challenges that were out of scale for the proposed development. The owner's proposed vertical expansion falls well within the long established neighborhood architectural vernacular. To allow this variance would not represent a grant of special privilege because it would not be out of scale with other existing single family residences in the vicinity.

Therefore, the requested variance would not go beyond the minimum necessary to afford relief and would 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.*

Granting the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone and vicinity. The proposed second story addition above the existing first floor footprint partially extending in to the front yard setback area, would result in marginal impacts in the 39<sup>th</sup> Avenue Southwest right-of-way and to a lesser degree upon the

surrounding vicinity. The bulk and scale of the proposed remodel and expansion would be in keeping with development along the street frontage and would not create additional negative visual impacts upon the surrounding properties. The adjacent property to the north will be impacted only to the extent of the increased height, not because of front yard setbacks. The property (addressed 4054 39<sup>th</sup> Avenue Southwest) is approximately sited at the same distance from its front boundary line as the subject site. The other properties across the rights-of-way (alley, 39<sup>th</sup> Avenue Southwest, and Southwest Dakota Street) are anticipated to be minimally impacted due to horizontal distance and topographic conditions in the area. The second story addition does not pose a significant presence upon neighboring properties. By granting the requested variance the owner would be able to fully utilize increased living space for modern lifestyles with marginal impacts on neighboring properties.

Therefore, granting this variance would 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.

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 literal interpretation and strict application of the Land Use Code would require that the second story addition set back an additional 5.215 feet from the front property boundary line. Few options are available and feasible to the owner to remodel and add a second story addition at the development site.

With a lot that is within the standard sized range with an existing structure situated well within the required front yard when taking advantage of front yard averaging, to literally apply the Land Use Code would achieve a structure that for all practical purposes would be superficially lacking in appearance and create unwieldy structural challenges for a house built in 1949. Stepping the upper level an additional 5.2157 feet from the lower wall above window and door openings is somewhat workable but creates structural design challenges that does not lend well to functionality. Setting the upper level addition directly above the lower wall ensures structural integrity of a building erected in 1949. It would cause the owners practical difficulties to deprive them of the expansion proposal as designed.

Therefore, the literal interpretation of the requirements of the Land Use Code would result in undue hardship or practical difficulties for the applicant.

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

Single family zones are the heart of our City, where human interactions on residential blocks are enhanced by attractive and active streetscapes that are impacted by the bulk and scale of the housing stock. The spirit and purpose of the Land Use Code provides for preservation and maintenance of the physical characteristics of single-family neighborhoods. This well entrenched residential neighborhood with its architectural mix of structures and number of mature trees creates a sense of calm and intimacy. It is the responsibility of the City to preserve and protect areas which are currently in predominantly single-family residential use. The existing single family residence with detached garage is in keeping with what would typical of the residential uses in single family zones and the surrounding area.

The establishment of a single family use at the subject site occurred in 1949 on two fully platted Lots (24 & 25). During the 1940's a majority of residential structures were built along 39<sup>th</sup> Avenue Southwest at a time when the code required a 10 foot front yard setback (1923 and 1947 Zoning Codes). Quite a few of the structures were sited within the 10 foot setback front yard area. In recognizing the importance of protecting life, health, and safety of its residential population the city enacted the Land Use Code. It is further accepted that the city encourages home ownership and use of private property with proscriptions in an ever changing world. The single family section within the Land Use Code contemplates expansion of non-conforming structures but sets limitations of applicability that do not contemplate situations where a confluence of a predominance of shallow front yards and corner lots are found on block fronts.

Seattle's Comprehensive Plan allows for the development of detached single family dwellings in single family areas that are compatible with the existing pattern of development and the character of each single family neighborhood (Policy L80). One stated goal is to, "Preserve and protect areas, which are currently in predominantly single-family residential use and are large enough to maintain the sense of low-density residential environment, as single-family neighborhoods." (LG40). As was previously noted, the prevailing patterns of shallow front yards are commonplace on the block front. Other surrounding properties enjoy larger residential footprints with accessory parking throughout neighboring properties and other single family zones. The proposed bulk and scale of the expansion would be in keeping with the pattern of lots in the immediate area and meets the bulk and siting provisions in single family zones. The granting of the variance will not adversely affect the physical characteristics or use of the surrounding neighborhood, with the remodel and expansion of a single family residence to the subject development site.

Therefore, granting the requested variance would be consistent with the spirit and purpose of Land Use Code regulations for the area.

### **DECISION - VARIANCE**

The proposed variance to remodel and expand an existing nonconforming residential structure that includes porch and garage expansion, at 4060 Avenue Southwest is **Conditional Granted**.

### **CONDITIONS - VARIANCE**

#### **Prior to Final Inspection:**

1. Rooftop deck above the accessory garage structure must be removed.

Signature: (signature on file) Date: April 25, 2005  
Bradley Wilburn, Land Use Planner  
Department of Planning and Development  
Land Use Services