



MEDINA, WASHINGTON

HEARING EXAMINER

A Remote Public Hearing

Wednesday, January 29, 2025 – 11:00 AM

AGENDA

Virtual Meeting Participation

The scheduled hearing will be held using remote meeting technology. Please either login or call in a few minutes prior to the start of the meeting to participate. Written comments may still be submitted before the hearing by emailing Jonathan Kesler, AICP, Planning Manager, at jkesler@medina-wa.gov. Written comments are given the same weight as verbal public testimony.

Join Zoom Meeting
<https://medina-wa.zoom.us/j/87193285788?pwd=KhSfQyKPFbfBJbLK7XprA96NbfZZt8.1>

Meeting ID: 871 9328 5788

Passcode: 743776

One tap mobile

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Public Hearings:

NOTE: The Hearing Examiner has the discretion to limit testimony to relevant non-repetitive comments and to set time limits to ensure an equal opportunity is available for all people to testify.

PRE-DECISION HEARING:

File No.: P-24-057 Non-Administrative Variance

Applicant or Agent: Mark Nelson, Agent, for Benjamin Herr & Michelle Wu, property owners

Proposal: A Non-Administrative Variance to reduce the rear yard setback by 18 feet, from 28 feet to 10 feet, to build a new residence. The existing house and accessory structures will be demolished.

Location: 543 Overlake Dr. E, Medina, WA 98039; Parcel # 383550-2325

Legal Info: KENWOOD PARK ADD LESS RD.

Prepared by: Thomas Carter, Assoc. Planner, LDC, Inc.; Planning Consultant for the City of Medina

PART 1 – GENERAL INFORMATION

ZONING: R-16, Residential

COMPREHENSIVE PLAN DESIGNATION: Residential

SHORELINE ENVIRONMENT DESIGNATION: N/A

CRITICAL AREAS: Steep slopes; erosion hazard area.

ENVIRONMENTAL (SEPA) REVIEW: The proposal is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(1)(b), Minor New Construction. *The following types of construction shall be exempt; the construction of location of four attached or detached single-family residential units.*

EXHIBITS:

1. Staff Report
2. Revised Non-Administrative Variance, received November 7, 2024
3. Approval Criteria Response, received November 7, 2024
4. Owner’s Declaration of Agency, received October 07, 2024
5. Statutory Warranty Deed, received October 07, 2024
6. Site Plan, received October 07, 2024
7. Building Plans, received October 07, 2024
8. Mailing Labels, received October 07, 2024

PART 2 – SITE CHARACTERISTICS

EXISTING CONDITIONS: The subject property is developed with a single residence and a nonconforming garage/guestroom.

SURROUNDING ZONING:

Direction	Zoning	Present Use
North	R-16 District	Residential
South	R-16 District	Residential
East	R-20 District	Residential
West	R-16 District	Residential

ACCESS: Ingress and egress are from Overlake Dr E.

PART 3 – COMPREHENSIVE PLAN

The following comprehensive plan goals and policies apply to the proposed project:

NE-P2 The City should preserve and enhance where possible the functions and values of Medina’s critical areas and natural resources in a manner consistent with best available science, and preserve and restore its native vegetation, native biodiversity, and

tree canopy, especially where it protects habitat and contributes to overall ecological function. Natural resources in Medina include forests, wetlands, estuaries, and urban tree canopy, all of which are valuable and should be protected.

PART 4 – AGENCY REVIEW/PUBLIC COMMENT

NOTICES (Exhibit 11):

Application received:	September 30, 2024
Determination of Completeness:	October 21, 2024
Notice of Application:	October 24, 2024
Notice of Hearing:	January 10, 2025

The application was received on September 30, 2024, and was determined complete on October 21, 2024, pursuant to MMC 16.80.100. A Notice of Application was issued on October 24, 2024, with a mailing to property owners pursuant to MMC 16.80.140(B)(2); posting on-site; and posting at other public notices locations (City Hall, Medina Post Office, Park Board, and City of Medina website). A 14-day comment period was used pursuant to MMC 16.80.110(B)(7). A Notice of Hearing was issued on January 10, 2025, consistent with MMC 16.80.120. The notice was mailed to property owners pursuant to MMC 16.80.140(B)(2), published in *The Seattle Times* newspaper, and posted on the site and other public notice locations (City Hall, Medina Post Office, the Posting Board in Medina Park and the City of Medina website).

GENERAL PUBLIC COMMENTS: As of the date of the staff report, the City has not received any public comment regarding the proposed project.

AGENCY COMMENTS: No agency comments were received.

PART 4 – STAFF ANALYSIS

GENERAL:

1. Michelle Wu and Benjamin Herr are the owners and taxpayers of record of the property identified as 543 Overlake Dr E., tax parcel no. 383550-2325, according to the Statutory Warranty Deed (Exhibit 4). The property owner has an agent, Mark Nelson, AIA, acting on behalf of the owner (Exhibit 3).
2. The property is zoned R-16 (Residential) and is approximately 13,826 square feet (0.32 acres) in size. The lot is generally rectangularly shaped with maximum overall dimensions of approximately 207 feet at its greatest length and approximately 97.15 feet at its greatest width. The lot is developed with a single dwelling, detached garage/guestroom and related site improvements, including a driveway and landscaping.
3. The applicant applied for a Non-Administrative Variance to obtain relief from the required rear yard setback as outlined in MMC 16.22.030.A. The applicant seeks to reduce the rear yard setback by 18 feet, from the required width of 28 feet to 10 feet.

ENVIRONMENTAL (SEPA) REVIEW:

4. The proposal is exempt from environmental (SEPA) review under WAC 197-11-800(1)(b), *Minor New Construction*. The following types of construction shall be exempt: The construction or location of four attached or detached residential units.

ANALYSIS OF THE NON-ADMINISTRATIVE VARIANCE:

5. The Medina Municipal Code (MMC) 16.72.030(D) requires a Non-Administrative Variance for circumstances where relief from a dimensional standard is sought subject to the limitation outlined in MMC 16.72.030.E.1, which states Non-Administrative Variances may be granted where the application of a dimensional standard would result in unusual or unreasonable hardship due to physical characteristics of the site. The Herr/Wu project seeks a Variance to reduce the rear yard setback from 28 feet to 10 feet. The site currently features an existing single residence and a detached garage, both of which will be demolished. The applicant claims that the proposed Variance is necessary to permit the construction of a new residence in order to accommodate the proposed 3,955-square-foot new residence.
6. MMC 16.22.030 establishes the minimum distance required for any part of any building or structure to be set back from the pertinent property line. The minimum setback requirements are applied to each lot by the square footage of the lot area and the corresponding setback standards in Table 16.22.030 – Minimum Building/ Structure Setbacks. The property is approximately 13,934 square feet. Properties between 13,000 square feet to 15,000 square feet are subject to a minimum front and rear setback of 28 feet and a minimum side yard setback of 10 feet.
7. Pursuant to MMC 16.72.030.F, a Non-Administrative Variance may only be approved if the following criteria are met:
 - a. ***The Variance does not constitute a granting of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the subject property is located.***

APPLICANTS RESPONSE: See the applicant's response in the Approval Criteria Document (Exhibit #3).

STAFF RESPONSE: The property is located within the R-16 zone, Residential district, and currently contains a single dwelling unit and a detached garage/guestroom. The proposed Variance would reduce the rear yard setback from 28 feet to 10 feet. Granting the Variance would not alter the property's use, nor would it be inconsistent with the uses allowed in the R-16 zone. Therefore, the proposal aligns with the use limitations of other properties in the vicinity and zone.

- b. ***The Variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.***

APPLICANTS RESPONSE: See the applicant's response in the Approval Criteria Document (Exhibit #3).

STAFF RESPONSE: The applicant notes that the size, shape, topography, and location of the property make it challenging to apply the existing rear yard setback dimensional standard without preventing the owners from building a home comparable to adjacent properties. The eastern portion of the site contains a 38% steep slope, and the parcel has a roughly rectangular shape. Staff can understand that these factors limit the usable space available for constructing a single residence and prevent the applicant from utilizing the full structural and impervious surface area allotted to the site. However, the property *can* be developed (and is currently developed) with a single residence, while meeting the performance standards in the code, including required setbacks, therefore, the Variance is not strictly "necessary" for redevelopment of the property.

- c. The Variance is necessary to relieve a material hardship that cannot be relieved by any other means such that the material hardship must relate to the land itself and not to problems personal to the applicant.***

APPLICANTS RESPONSE: See the applicant's response in the Approval Criteria Document (Exhibit #3).

STAFF RESPONSE: As stated above, the applicant mentions that due to the site's limitations in size, topography, shape, and location, the proposed house location is not optimal. Reducing the rear setback would allow the applicant to construct a new single-family dwelling positioned away from the steep slopes, while providing more usable space similar to that of a rectangular lot.

- d. The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.***

APPLICANTS RESPONSE: See the applicant's response in the Approval Criteria Document (Exhibit #3).

STAFF RESPONSE: The applicant mentions that granting the Variance would create more equitable buildable area for this homeowner that is comparable to other Medina homeowners. The Variance would allow the applicant to position the proposed new home away from the steep slope, preserve existing trees, and construct a home comparable in size to adjacent properties. The granting of this Variance would not be detrimental to the public welfare or injurious to the property or improvements in the vicinity of the zone in which the subject property is situated.

- e. The Variance is the minimum necessary to provide reasonable relief.***

APPLICANTS RESPONSE: See the applicant's response in the Approval Criteria Document (Exhibit #3).

STAFF RESPONSE: The proposed Variance is considered the minimum necessary to provide reasonable relief. The applicant's response demonstrates that the intent of the Variance is to address constraints posed by the site's size, topography, and location. Reducing the rear yard setback from 28 feet to 10 feet would provide the owner with enough building area to construct a new home similar in size to others in the area, while also positioning the structure away from the steep slope on-site. So, while not strictly "necessary" under section 7(b) above, this Variance would allow the applicant to build a home that meets the permitted structural and impervious coverage requirements.

PART 5 – CONCLUSIONS

1. Pursuant to MMC 16.72.100(C) and MMC 16.80.060(C), the Hearing Examiner has the authority to hold a public hearing and make decisions on applications. The purpose of this Non-Administrative Variance is to reduce the rear yard setback from 28 feet to 10 feet.
2. Proper notice for this public hearing has been provided. Notices were posted on the property and mailed to surrounding property owners within 300 feet and published in the Seattle Times newspaper on January 10, 2025, more than 15 days prior to the date of the hearing (Exhibit 11).
3. Pursuant to MMC 16.72.100(F), a Non-Administrative Variance may only be approved if the following criteria are met:
 - a. *The Variance does not constitute a granting of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the subject property is located.*

CONCLUSION: See Staff Analysis in Part 5, 7.a.

- b. *The Variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.*

CONCLUSION: See Staff Analysis in Part 5, 7.b.

- c. *The Variance is necessary to relieve a material hardship that cannot be relieved by any other means such that the material hardship must relate to the land itself and not to problems personal to the applicant.*

CONCLUSION: See Staff Analysis in Part 5, 7.c.

- d. *The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.*

CONCLUSION: See Staff Analysis in Part 5, 7.d.

- e. *The Variance is the minimum necessary to provide reasonable relief.*

CONCLUSION: See Staff Analysis in Part 5, 7.e.

PART 6 – STAFF RECOMMENDATION

Staff recommends the Hearing Examiner **deny** the Non-Administrative Variance (File No. P-24-057), as the project has not demonstrated consistency with the Medina Municipal Code, Non-Administrative Variance Criteria of Approval. The property could be redeveloped with a new home that meets the rear setback by reducing the size of the proposed new dwelling.

However, if the Hearing Examiner decides to **approve** this Non-Administrative Variance, then the following **conditions** shall be included:

1. Pertinent construction permits shall be obtained before starting construction activity.
2. All other zoning and development regulations applicable to the project shall be followed and confirmed during the building permit review.
3. An approved non-administrative Variance shall expire if within one year of the date the decision of the non-administrative Variance becomes final, unless a complete building permit application is submitted. A six-month extension may be granted pursuant to MMC 16.72.030(H)(3), if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.
4. The existing home and outbuildings shall be demolished before redevelopment.

Date: January 6, 2025



Thomas Carter, Associate Planner, LDC, Inc.
on behalf of the City of Medina