



**Photo taken from lower level of
10223 112th Ave. NE facing
west towards subject property**



**Photo taken from main level
deck of 10223 112th Ave. NE
facing west towards subject
property**



Photo taken from 10219 112th
Ave. NE facing northwest
towards subject property

**ENCLOSURE 1
DIRECTOR'S DECISION**













Intent to Appeal regarding CHOI Height Variance – Case No. VAR16-00891

January 19th 2017
To: City of Kirkland
Hearing Examiners

This letter is written as an intention to appeal the decision that was made by City of Kirkland regarding the Variance Case No. VAR16-00891.

First of all, I would like the audience to understand that I am not an expert that typically handles in this type of circumstances. In fact, I am normal hard working Kirkland resident and I have no professional experiences in handling city's code requirements, variance application or appeal process. With this being said, I am the one who prepared the variance application by investing great deal of time, money and effort. Similarly, I have carefully consolidated a list of reasons why I firmly believe my request to maintain the property as-is should be carefully reviewed and granted.

Note: This variance issue is extremely complex therefore I highly recommend the hearing examiners to review the original variance applications report as well as the "Additional criteria #2" before reviewing the appeal letter.

Supporting arguments:

1. Reasons for construction

The original structure was heavily damaged due to fire in Aug 2013 and required major restructuring. Because of this need, building permit application was submitted on February 13th 2014 and this plan was approved by the planning department on June 3rd 2014. As you will notice in the variance application, the new house design was intended to maintain a similar design pattern that existed previously.

2. City of Kirkland's Permit approval process

The way I understand City of Kirkland's permit process is as follows:

A. Initial stage

This is a stage in which the City accepts my application for a building permit and starts the initial review of the building plans. The cost quoted by the City was \$1118.42 which was paid in full on Feb 2014 and the review started.

B. Review stage

During this stage, plan that was submitted undergoes major/minor revisions to ensure that the plan satisfies City's codes and building requirements.

**ENCLOSURE 2
APPEAL LETTER**

By codes and requirement, I assume that the plan should not cause any detrimental issues to the neighbors and that the plan does not constitute a grant of special privilege. During this stage, I clearly remember my architect (Ki Nam) having to submit several versions to the planning department for review because the 2 initial versions were rejected due to truss height and slope issues. For details, please review the revision history with City's Planning department.

C. Approval stage

After careful review of the plan, this is a stage when the plan is finally ready to be approved so that construction can begin. The permit approval fee quoted was \$5526.14 which was paid in full on June 3rd 2014.

Now, I must state that the plan should have been **rejected at this stage**. If the plan was rejected at this stage, then the variance application and appeal process would not have been necessary and the construction should not have caused any concerns for the neighbors. For details, please see Section 3.

3. **Error in the plan which was approved**

City of Kirkland made the mistake of approving a plan that should NOT have been approved.

On Page5 of City's advisory report, it states the following:

*"Additional research revealed another error related to building height in the approved plan set issued with the building permit. The approved building elevation drawings on Sheet A4 show the proposed ridge height as measured from the originally calculated ABE of 293.76feet (see Attachment 7). The proposed structure was shown at exactly 25 feet above this ABE. However, the ABE was depicted incorrectly on the building façade relative to the finished floor garage elevation of 290.22" (see attachment 6). In other words, the ABE was shown approximately 5' higher on the building elevation drawings than it should have been. While the depiction of the ABE was incorrect on the building elevation drawings relative to the finished floor garage elevation, the labeled elevation numbers were consistent with the calculated ABE and maximum height allowed. **The City DID NOT find this error prior to issuance of the building permit.**"*

While it would have been ideal for the Planning department to identify this error during planning stage, this was an honest mistake. I understand mistakes happen! It's just unfortunate that no one noticed this error and thus, the construction started.

**ENCLOSURE 2
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4. Potential re-design of the structure

As I indicated in my original variance report, if the Planning department rejected the plan and required us to lower the property by 4.35 feet, then we would have considered the following options:

A. Redesign of the structure. No homeowner would have accepted a plan that maintains the truss height (5x12 slope) and sacrifice 4.35 feet of height via height of the garage, 1st and 2nd floor. For example, the current garage level height is measured at 7 feet 6 inches and the current 1st and 2nd floors have a height of 9 feet each. If I needed to lower the overall structure by 4.35 feet then my 1st and 2nd floor height would need to be lower than 7 feet. This would simply be an unacceptable design and would require redesign.

B. Considered implementing a flat style roof to reduce the overall height of the property by 4.35 feet and satisfy City's code requirements.

But the plan was approved "as-is" and the construction began.

5. Inspection Stages

There were multiple inspection phases during the constructions including foundation, framing, insulation, truss/roof, plumbing, electrical, HVAC and etc. All of the inspections during the construction passed and none of the inspectors mentioned potential height issue during inspection and therefore the construction was completed in Dec 2015. However, it was during the final inspection stage that the City requested final elevation survey and this is when the height became an issue. I feel that there is an opportunity for the City to revisit the inspection process to avoid such circumstances in the future.

6. Unintentional outcome

The City thoroughly reviewed my variance application and because I was able to find the root cause of the issue and more importantly, because the City also agreed that the outcome was unintentional, City of Kirkland was planning to approve my original variance application on April 12th 2016

On Tue, Apr 12, 2016 at 9:56 AM, Allison Zike <A.Zike@kirklandwa.gov> wrote:

Sam,

I spoke with a supervisor regarding your application, and we believe the packet you have put together is sufficient for a variance application. Please apply for that variance via www.mybuildingpermit.com using the below selections by end of business this Friday, April 15th. You can submit the latest version of your information packet.

Jurisdiction	Application Type	Project Type	Activity Type	Scope of Work
Kirkland	Land Use	Any Project Type	Deviations, Modifications, Variances, or Waivers	Variance - Process I

**ENCLOSURE 2
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I sincerely hope the neighbors understand that our party did NOT intentionally built the structure while ignoring the City's requirement.

7. Continuous effort to collaborate with the City

Due to the public comments filed by the neighbors, the City requested that I provide additional data to support that the OLD vs NEW structures are same in height.

On Thu, Sep 1, 2016 at 8:05 AM, Allison Zike <AZike@kirklandwa.gov> wrote:

Sam,

Thank you for your patience as we continue to work our way through your application. We feel like there is a possibility we could recommend approval of this variance, if the old house and new house height are the same.

In addition, I was asked to provide additional data including Mr. Jon Regala's recommendation to provide 2D mapping of OLD vs NEW. For details, please see Section 12.

From the documentation you have already submitted, and our conversations, I think you have a thorough understanding of the issues at hand. While the statements made in Mr. MacVeigh's report may help shed new light onto your application, each claim would need to be supported with data. I'll remind you of Jon's suggestion to explain any methodology used to provide additional data. As always, contact me with any questions.

From March 2016, up until now, I have been trying my best to collaborate with the City and to provide requested data in hopes of getting my variance application approved. I have contemplated about engaging the neighbors to openly discuss the variance but from the emails that I have received (see above), I sensed that the City and I were making good progress to be able to resolve the issue. Once again, I hope that the neighbors don't assume that I was completely ignoring their interest during this process. I was adhering to City's recommendation as my first priority.

8. The structure matches the approved plans.

We know that there was an error with ABE on the approved plan and that this was NOT found prior to building permit issuance. However, after the plan was approved, the contractor began on the construction and the structure matches the approved plans. This proves that the structure was NOT built higher than allowed by the City with any type of intention (aside from the 2 inches of additional height caused by floor joist). The reason why we are dealing with this situation stems from an "honest" mistake, not by ill-intention. I would like to once again quote City's report:

"In July 2016, a City building inspector visited the site to measure the as-built floor to ceiling heights of the structure. Field measurements showed that the floor to

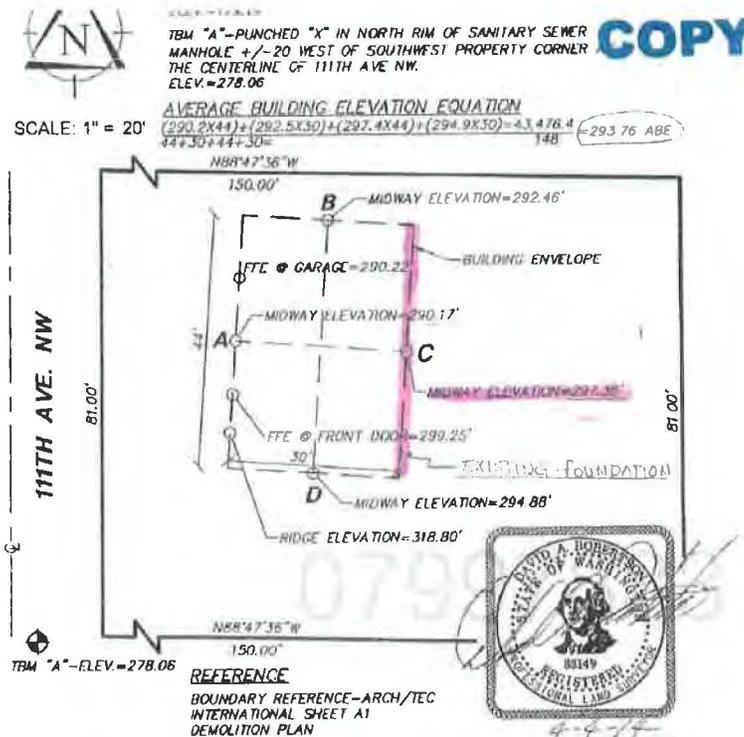
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ceiling heights matched the approved plans, but the floor joist between the lower and main floors, and between the main and upper floors were each 2 inches taller than shown in the approved plan set. The approved measurements and field measurements are shown in Attachment 7, Sheet A5."

9. Old structure

While no plans or records survive, using professional Civil engineer's scale measurement as recommended by City of Kirkland, we now know that the OLD structure has a total height of 31.3 feet (or 375.6 inches) and this is confirmed in the City's advisory report. Given that the garage level FFE was surveyed at an elevation of 290.22 feet, the original construction's ridge elevation is 321.52 feet.

While calculated ABE and Maximum allowed (ABE + 25 ft) are unknown, we DO KNOW that the OLD property built in 1986 existed on an existing foundation.



From existing foundation ABE calculation, we know that ABE is 293.76ft and since 25 feet is the maximum allowed height from ABE, the roof peak could not be higher than 318.76 feet.

321.52 feet is 2.76 feet higher than 318.76 feet therefore we can assume that the OLD property was built 2.76 feet higher than allowed. In another words, the 2.76 feet of additional height that existed prior to fire damage on Aug 2013 is higher than the 2.52 feet that is under discussion today.