

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

PAMFILO S. TURLA

FILE NO. S-80-022

from a determination of the
Superintendent of Buildings

The appeal is DENIED and the Findings and Decision
of the Superintendent of Buildings are AFFIRMED.

Introduction

The appellant, Pamfilo S. Turla, filed an appeal from an interpretation of the Superintendent of Buildings for property at 2526 South Brandon Street.

The appellant exercised his right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).

Parties to the proceeding were: Mr. Turla, appellant, assisted by Don Parezanin; and Joyce Kling, Zoning Administrator, representing the Superintendent of Buildings.

This matter was heard before the Hearing Examiner on April 23, 1980.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject property is Lot 9 of the Parezanin Addition located at 2526 Brandon Street. The lot has a depth of approximately 84 ft. at its deepest point.

2. Appellant contracted with Don Parezanin, from whom he purchased the lot, to construct a single family residence on the property. Mr. Parezanin presented a drawing of the lot and proposed structure to the Building Department and received informal approval. Appellant sold his home and obtained financing for the construction.

3. The plans proposed had provision for a rear yard of 17 ft.

4. Section 8.53 requires a 25 ft. rear yard except as modified by Section 22.4.

5. Section 22.4 provides:

In any zone where a rear yard would be required, the rear yard for a lot having a depth of less than one-hundred five (105) feet may be reduced to not less than twenty (20) percent of such depth, but in no case to less than ten (10) feet, provided that such lot was a lot of record held under separate ownership from adjoining property in the rear on the effective date of this Ordinance and provided further, that the building on such lot does not exceed thirty-five (35) feet in height.

6. The subject lot was created in 1979 by a plat filed by Mr. Parezanin.

7. The effective date of the Zoning Ordinance (86300) was July 24, 1957.

8. The Superintendent determined that Section 22.48(a) does not apply to the subject property because the lot was not in existence in 1957.

9. At the time of informal approval of the plot plan, the Building Department staff person was not aware the lot was a part of a new plat.

Conclusions

1. The interpretation by the Superintendent of Buildings is to be considered prima facie correct. Section 25.44. The burden is on the appellant, therefore, to prove by a preponderance of the evidence that the determination is in error.

2. While an unfortunate misunderstanding and hardship were shown, no evidence was offered which would show that the Superintendent erred in his interpretation of the ordinance or its application to the subject property. Therefore, the decision must stand.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are AFFIRMED.

Entered this 5th day of May 1980.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).