

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Application of

PETER WOMBLE

FILE NO. S-81-007

from a determination of the Director,  
Department of Construction and Land Use

The decision of the Director of the Department of  
Construction and Land Use is AFFIRMED.

#### Introduction

Appellant, Peter Womble, filed an appeal from a written interpretation of the Director of Construction and Land Use (CLU) relating to the computation method for the required front yard for property located at 7534-21st Avenue N.E.

The appellant exercised his right to appeal pursuant to Section 25.40 of the Zoning Ordinance Title 24 (86300, as amended).

Parties to the proceeding were: Peter Womble, pro se; Construction and Land Use by LeAnne Collings.

This matter was heard before the Hearing Examiner on April 8, 1981.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance, Title 24, (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 located in the Single Family Residence High Density (RS 5000) Zone at 7534-21st Avenue N.E. The subject property was subdivided from a larger parcel by application number SP-79-45. Parcel A, which bears the address of 7534-21st Avenue N.E., is located in the northwest section of the previously undivided parcel. The Director's Exhibit A, a lot configuration sketch, was based on the short plat proposal but is different from the configuration presently described by the appellant. In contrast to the Director's description, Parcel B has 20 ft. of frontage along 21st Avenue N.E.; proceeding easterly, Parcel B widens to create an "L" shaped configuration. Parcel A, on which the appellant proposes to construct a dwelling, remains as an inset bordered by the north property line. See Appellants' Exhibit #2. The Parcel B address is 7532-21st Avenue N.E.

2. The north adjacent property, addressed 7540-21st Avenue N.E., has a front yard of 25 ft. The property south adjacent to 7532, Parcel B, is addressed 7528-21st Avenue N.E., and has a front yard setback of 24 ft. The designated, yet narrow front yard for Parcel B (7532 address) is 94 ft.

3. The dwelling at 7540-21st N.E. is located to 5 ft. of its south property line. The appellant accordingly desires to construct the Parcel A residence roughly 15 ft. from that common lot line. In view of what is described as Parcel A's relatively shallow depth, i.e., 84 ft., the applicant is proposing to design a dwelling to maximize the east-west dimension, providing a rear yard setback of 25 ft., and maximize the northern side yard. The applicant thus proposes a greater east-west dimension of the proposed dwelling which would in turn decrease its front yard setback.

4. The Director concluded that as the minimum required front yard in the RS 5000 zone is 20 ft. and since more than 50 percent of the lots on the block front containing the subject property are developed with residences having a front yard greater than 20 ft., the front yard required for 7534-21st Avenue N.E. is to be derived from averaging the front yards of the first improved lots on the north (25 ft.) and the south 94 ft. (reduced for computation purposes to 30 ft). The appellant disagreed with the Director's interpretation, stating in part that his request for a front yard setback resulting from the average of the 7528 and 7540 properties would be consistent visually and otherwise with the purpose and spirit of the ordinance.

#### Conclusions

1. Municipal Code 24.62.100(a), Section 22.43(a), provides that:

...in any RS Zone when, on lawfully improved lots comprising fifty percent or more of the total frontage in any one block front, the distance from the front lot lines to the principal buildings is more than the depth of the depth of the basic front yard, then the required depth of the front yard for any unimproved lot in that block front shall be the average of the distance between the principal buildings and the front lot lines of the first improved lots on either side, provided that the greater depth used in computing such average shall not exceed thirty feet.

More than 50 percent of the lots in the block containing the subject property are developed with residences which provide more than the basic (20 ft.) front yard. Municipal Code 24.20.090.

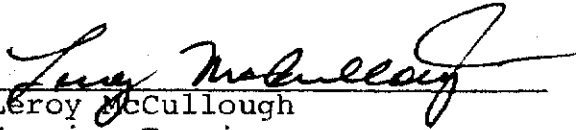
2. The Parcel B dwelling, address 7532-21st Avenue N.E., is located on a lot as defined by the ordinance. Municipal Code 24.08.130 (Ordinance Section 3.13). Thus, although visually separated from the majority of front yards fronting 21st Avenue N.E., the first improved lots, as defined by the ordinance, on either side of the subject property have front yards of 94 ft. and 25 ft.

3. The applicants suggest that visual uniformity would be best observed by averaging the front yards in the view line of 21st Avenue N.E. However, such an interpretation would be in direct conflict with the ordinance and would, in effect, amend the referenced zoning code provisions by an administrative as opposed to a proper legislative action. The other arguments presented by the appellant are more properly considered in a variance process.

Decision

The decision of the Director of Construction and Land Use is AFFIRMED.

Entered this 14th day of April, 1981.

  
Leroy McCullough  
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 further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).