

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

RAY J. NICOLI

FILE NO. MUP-81-022  
APPLICATION NO. X-81-093

from a decision of the Director of  
the Department of Construction and  
Land Use (DCLU) on a Master Use  
Permit application

#### Introduction

Appellant seeks variance relief to permit a triplex on a lot of less than the minimum required lot area and to permit required parking in the front yard of a building at 1530 N.W. 62nd.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

The matter was heard before the Hearing Examiner on July 23, 1981.

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

#### Findings of Fact

1. The subject property is located in a Duplex Residence High Density (RD 5000) zone at 1530 N.W. 62nd in the Ballard area of Seattle.

2. The 50 by 100 ft. lot is developed with a building constructed in 1962 as a triplex although building permit authorization was for a duplex. Two off-street parking garages are provided and a third parking area is provided by a concrete space in the front yard. The building has been in use as a triplex since 1962 and is currently occupied by three families. Appellant inherited the property from the original purchaser of the property unaware of its status as an unauthorized triplex.

3. Variance relief is requested to permit a triplex on a lot less than the 6,500 sq. ft. required lot area, Section 24.26.010, Seattle Municipal Code, and to permit required off-street parking in the required front yard. Section 24.64.040, Seattle Municipal Code. The appellant appeals from the DCLU denial of the variances.

4. The subject vicinity is developed with a mixture of duplexes, single family homes and one legal triplex. The duplexes in the area have off-street parking, the majority of the single family houses do not.

5. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, the action proposed in this appeal was considered by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

6. Letters were received in favor and in opposition of the variances.

### Conclusions

1. In X-79-231 (1979) an applicant sought legalization of a third unit in a building erected in 1962 as a duplex on a 3,500 sq. ft. RD 5000 zoned lot at 514 N.W. 60th Street. Noting the absence of deliberate intent, the Seattle Housing shortage and the absence of significance adverse impacts on the surrounding properties, the Hearing Examiner approved the variance.

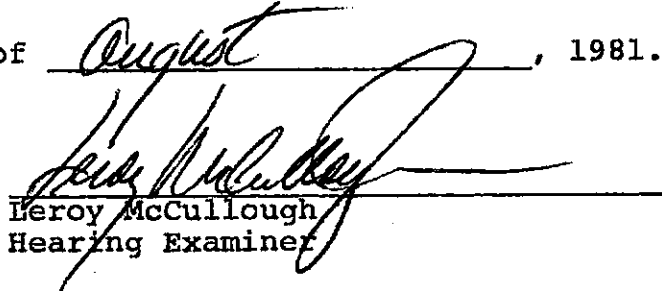
2. In X-80-372 (1980) the Board of Adjustment ruled that a 4,000 sq. ft. lot in an RD 5000 zone could be developed with a duplex, observing that the area was zoned for duplexes, that it was a high density neighborhood, and that it would be a hardship to the appellant if required to develop the property with a single family dwelling.

3. Appellant is seeking legalization of the unit. No "development" is proposed; the property has been in unrefuted triplex use since 1962. Here, as in X-79-231, no deliberate intent, nor noticeable adverse impact to the community has been proved. The unique circumstances of this case were not created by the appellant. Under these facts no precedential detriment nor conflict with the spirit of the Comprehensive Plan is foreseen as a result of approving this variance. Maintaining three habitable units with off-street parking does not exceed the minimum necessary for relief and would allow the applicant rights and privileges enjoyed by at least one other vicinity multifamily structure. Denial of the variance would cause the conversion and the loss of at least one habitable housing unit which, under the circumstances, would amount to an undue and unnecessary hardship.

### Decision

The decision of the Director of Construction and Land Use is reversed and the variance relief is GRANTED.

Entered this 6th day of August, 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).