

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JOHN D. PAQUET

FILE NO. MUP-81-029(V)
APPLICATION NO. 81121-0007

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

Introduction

Appellant, John D. Paquet, appeals the denial of two variances in his master use permit application to legalize a second dwelling unit at 3420 Densmore Avenue North.

This matter was heard before the Hearing Examiner on August 12, 1981.

For purposes of this appeal, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended), unless otherwise indicated.

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. Appellant applied for a master use permit to legalize a second dwelling unit at 3420 Densmore Avenue North. The Director of the Department of Construction and Land Use (DCLU) determined that variances would be needed from Section 24.26.080 to allow a duplex unit on a lot with less than the minimum required lot area of 5,000 sq. ft. and from Section 24.64.120 to waive one required parking space. DCLU denied those variances. Appellant filed a timely appeal.

2. The subject property is a lot with 30 ft. of frontage on Densmore Avenue N. and 3,420 sq. ft. of area. It is located in a Duplex Residence High Density (RD 5000) zone in the Wallingford neighborhood.

A Multiple Residence Low Density (RM 800) zone lies to the east beginning at the subject property's rear lot line. A Manufacturing (M) zone begins three lots to the south. Buildings with four and ten units are located in the RM 800 zoned portion of the block containing the subject property.

3. The RD 5000 zone in the subject and facing block is developed with single family residences. Most have a one car garage built in to the structure. According to appellant, most are rental properties. None has been granted area or parking variance.

According to the appellant only his property and two others have both a garage and a driveway available for parking.

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

Conclusions

1. Section 24.74.030 requires proof of a unique condition because of which application of the code provisions would deny the property development rights enjoyed by others. The appellant has not shown his property to be unique in any way from those in the zone which would justify the area variance.

2. Without the showing of a unique condition any variance would go beyond the minimum necessary for relief and would confer special privilege.

3. The variances for lot area and parking would be materially detrimental if granted to this lot which is indistinguishable from others since then others could expect to receive the same approvals. The precedent would lead to a density greater than planned and increased parking congestion.

Decision

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

Entered this 28th day of August, 1981.

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 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).