

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

A.M. HYDE

FILE NO. MUP-81-030(V)  
APPLICATION NO. X-81-048

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

#### Introduction

The applicant/appellant seeks to subdivide an existing parcel into two lots providing less than the minimum required lot area at 12514-7th Avenue N.W.

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

Parties to the proceedings were: the appellant, pro se; the Department of Construction and Land Use (DCLU) by Ed Somers.

This matter was heard before the Hearing Examiner on August 19, 1981, and the record closed August 21, 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 Single Family Residence Medium Density (RS 7200) Zone at 12514-7th Avenue N.W. The 10,000 sq. ft. area lot has 125 ft. of frontage on 7th Avenue N.W., to the property's west, and is 80 ft. deep. From 7th Avenue the property rises to the rear approximately 8 ft.
2. The subject lot is developed with a two story single family residence located 12 ft. from the northern lot line.
3. By way of an east-west property line, the appellant proposes to divide the subject parcel into two lots. The northernmost lot, in which the residence is located would have a lot area of 5,200 sq. ft.; the southernmost lot would have a lot area of 4,800 sq. ft. An older detached garage is located near the front lot line of the proposed smaller lot.
4. The appellant has resided at the subject property for approximately 19 years. He now seeks variance relief in order to build a new, smaller home on the second lot. The personal benefits would be several, e.g. construction of a small home in a familiar neighborhood; and a functional use of the proposed second parcel, presently being used for refuse. In addition, the appellant urged that favorable consideration should be given to the fact that the proposed lot widths-street frontages are 65 and 60 ft., which would not adversely affect the neighborhood quality.
5. DCLU denied the variance request. They determined that the two smallest lots in the area were those located immediately south of the subject property at 5,000 sq. ft. DCLU further assessed that of the twenty-two lots in the block bounded by 7th Avenue to the west and 6th Avenue to the east, twelve were larger than 7,200 sq. ft. and none was smaller than 5,000 sq. ft. The lots south adjacent to the subject property were platted before annexation by the City of Seattle and no variances were approved for these lot areas.

6. On the basis of block frontage on 7th Avenue N.W., appellant approximated that 12 of these lots failed to meet the 7,200 sq. ft. minimum area requirement. By appellant's exhibit, the smallest of the lot areas fronting on 7th Avenue N.W. between N.W. 125th and N.W. 127th Streets is 5,200 sq. ft. Appellant's supplement to the record was in agreement with the DCLU figures.

7. Appellant asserted that lots directly across the street were developed within recent years, suggesting that a variance for the less than 7,200 sq. ft. area lots must have been approved. Per stipulation of record the DCLU representative reviewed post-hearing the status of those lots and submitted that these lots, fronting on the west side of 7th Avenue N.W., had lot areas of 7,220 sq. ft. and 7,560 sq. ft. DCLU records show no lot area variances for these lots.

8. Letters were received stating no objection to the variance. Letters in objection were also received and are a part of the record.

9. The average lot area for the appellant's block is 7,223 sq. ft.

10. Variances were approved for the division of a 15,539 sq. ft. area lot at 12256-6th Avenue N.W. and for a 13,733 sq. ft. area lot at 12538-46 7th Avenue N.W. Neither variance resulted in lots of less than 5,000 sq. ft.

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

#### Conclusion

1. Where unique conditions would deprive a property of rights and privileges enjoyed by other properties in the same zone or vicinity, relief by variance is proper if the variance is not an inconsistent grant of special privilege. In addition, the variance should not be materially detrimental to the public welfare nor adversely affect the Seattle Comprehensive Plan. Section 24.74.030, Seattle Municipal Code.

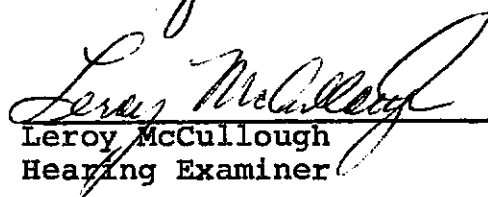
2. The appellant is proposing lot areas of 4,800 and 5,200 sq. ft. in an area where 7,200 sq. ft. is the minimum lot area. Presently, the smallest lot on the subject block front or in the block is 5,000 sq. ft. This lot area pre-dated annexation by the City of Seattle. No variances have been approved for the vicinity for lots of 5,000 sq. ft.

3. The proposed 4,800 sq. ft. area lot would be the smallest in the block front or the block notwithstanding its proposed 60 ft. width and street frontage. Therefore, approval of the variance would not only represent a substantial deviation from the 7,200 sq. ft. minimum requirement, but would also constitute a grant of special privilege to the appellant which other block and block front properties do not enjoy.

#### Decision

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

Entered this 27th 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).