

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

LARRY BAUMAN

FILE NO. MUP-82-032(V)
APPLICATION NO. 82-0084

from a decision of the Director of
the Department of Construction and
Land Use on a master use permit
application

Introduction

Appellant filed an appeal from the Director's decision to deny a requested variance to provide less than the minimum required front yard at 3728 Densmore Avenue North.

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: appellant, pro se; the Director of the Department of Construction and Land Use (DCLU) by Jeannene Johnson.

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

This matter was heard before the Hearing Examiner on May 26, 1982.

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 the Duplex Residence High Density (RD 5000) zone at 3728 Densmore Avenue N. The 6,840 sq. ft. area lot, developed with a single family home and a detached garage, is the exception in that other lots in the block are substandard, typically 114 by 30 ft.

2. The property south adjacent to the subject property has a 3 ft. north side yard setback and a front yard setback to the porch of 14 ft. The north adjacent property has a front yard setback of 22 ft. Although the block is zoned for duplexes the existing homes are single family.

3. Applicant constructed a 168 sq. ft. area deck, 4 ft. 11 in. above grade in order to replace an unsafe front porch and also to increase the livability of the dwelling. The deck leaves a front yard setback of 15.66 ft. while the required setback is 20 ft. Applicant accordingly applied for a variance and appealed the DCLU denial of same.

4. Applicant indicates that the deck is needed to offset the lake view obstruction caused by the south adjacent property.

5. The vicinity has no other front yard decks nor reported front yard variances.

6. The applicant's front yard is basically level but has a slight slope. The applicant's rear yard of 35 ft. setback has no features precluding or restricting its use.

7. Letters from neighbors generally approved of the completed project. At least one comment was that the deck was attractive and well-maintained.

8. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The approval of the neighbors would suggest that the public welfare would not be injured by approval of the subject project. However, all of the criteria of Section 24.74.030, Seattle Municipal Code, must be met in order for variance relief to issue.

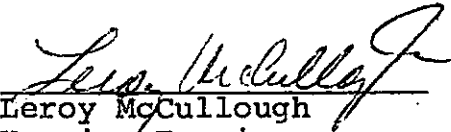
2. A contemplated grant of variance should not confer special, inconsistent privilege to the applicant. Section 24.74.030. This criterion would be violated by approval of the requested variance in that no other block property enjoys the benefit of a front yard deck or a front yard variance. The front and rear yards of the subject property are functional such that the deck is not required for comparable enjoyment of private outdoor space. Accordingly, the decision of the Director is affirmed.

3. Applicant's lot is larger than other block lots, and greater (front yard) development for the applicant's lot would be inappropriate. Further, the precedent established by the approval could adversely affect the public welfare. Lastly, no evidence or photograph of record supports a conclusions that other properties, particularly the north adjacent property with a 22 ft. front yard setback, have a lake view that the subject property does not enjoy.

Decision

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

Entered this 27th day of May, 1982.


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). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.