

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MIKE AND DONELYN GAMBLE

FILE NO. MUP-83-011(V)
APPLICATION NO. 83-005

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

Introduction

Applicants appealed from a decision of the Director of the Department of Construction and Land Use (Director) which denied variance relief for property at 143 N. 75th Street.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

Parties to the proceedings were: appellants by Paul Brooks, pro se; and the Director by Cliff Portman.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on March 31, 1983.

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 consists of a 30 ft. wide by 100 ft. deep vacant lot addressed 143 N. 75th Street. The lot is found on the south side of N. 75th Street.
2. The site is zoned Single Family (SF) 5000.
3. Applicant proposes to develop on-site a two story single family residence solar designed for "maximum energy efficiency". The initial plan called for a 3 ft. east side yard, necessitating a variance from the 5 ft. side yard minimum setback required in Section 23.44.14.C.
4. Thirty foot wide lots are common to the vicinity.
5. It is not unusual for vicinity residences to provide less than a 5 ft. side yard setback. The east adjacent building provides a 2 ft. 2 in. west side yard setback. It has a kitchen window generally to its rear and on its west side, with a view to applicant's lot.
6. Applicant agrees that a house could be built on-site without a variance. However, the resulting structure would be longer and narrower; and hence less aesthetically pleasing and energy efficient; i.e., have a decreased southern sun exposure. In addition, the longer structure would provide more of a blank wall view from the east adjacent dwelling kitchen window, while the shorter dwelling would permit a view of a glass solar greenhouse to be located at the south end of the proposed dwelling.

7. As an alternative, applicant would agree to a 4 ft. east side yard and reduce the west side yard. Under both of the applicant's proposals a 20 ft. front and 40 ft. rear yard setback would result. Without variance relief, applicant's plans call for a 28 ft. rear yard.

8. Applicant did not contest the Director's finding that the useable square footage of the house was comparable to neighboring houses; and the same is adopted.

Conclusions

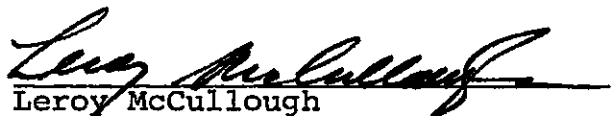
1. The criteria for variance relief appear at Seattle Municipal Code Section 23.40.20. All must be met for variance relief to issue. One requirement is for an unusual property condition applicable to the subject property which, without variance relief, would deprive the property of comparable development rights and privileges.

2. In this case, the lot configuration and size are not unusual. Based thereon the applicant is requesting relief to implement a solar design. Variance notwithstanding, the square footage of the proposed dwelling is comparable to that of vicinity dwellings. It is therefore concluded that (1) no unusual property condition has been shown and (2) comparable development is available without the variance relief. It is noted that several existing dwellings provide less of a side yard setback than is currently required by the Land Use Code.

Decision

The decision of the Director to deny the variance relief is AFFIRMED.

Entered this 7th day of April, 1983.


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.