

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

In the Matter of the Appeal of

DAVUTH HUOTH

FILE NO. MUP-84-025(V)
APPLICATION NO. 83-661

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

Introduction

Appellant, Davuth Huoth, appeals the decision of the Director, Department of Construction and Land Use, to deny variances for property at 4803-48th Avenue S.

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

This matter was heard before the Hearing Examiner on April 17, 1984.

Parties to the proceedings were: appellant represented by Vicky Mar, co-owner, and the Director represented by Ed Somers, land use specialist.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

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. Appellant applied for a master use permit for the future division of property at 4803-48th Avenue S. The Director determined that lot area and rear yard variances would be required. Both were denied and appellant filed this appeal. At hearing appellant challenged only the denial of the lot area variance.

2. The subject property is a lot (Lot 12, Block 67, Maynard's Lake Washington Addition) with 7,200 sq. ft. of area at the corner of the intersection of 48th South and South Angeline Street. The site, and the surrounding area, is zoned SF 5000. The subject lot is developed with a single family house attached to a carport and workshop.

3. The applicant proposes to divide the lot into two 3,600 sq. ft. lots and build and occupy a residence on the second lot to accommodate a relative in the existing house.

4. Section 23.44.10A requires minimum lot area of 5,000 sq. ft. in this zone.

5. In the square block in which the subject site is located there are two lots of 3,600 sq. ft., three of 4,800 sq. ft. and nine of 7,200 sq. ft. Across South Angeline there are two residences on 3,600 sq. ft. lots however, the remainder of that block is made up of 7,200 sq. ft. lots. Across 48th Avenue South to the east are 7,200 sq. ft. and 5,000 sq. ft. lots and

across 47th Avenue South to the west the lots are mostly 7,200 sq. ft. There are at least two other examples of 3,600 sq. ft. lots within two blocks. It is clear that the predominant pattern is 7,200 sq. ft. lots.

6. Two houses were constructed recently on each of two platted lots measuring 60 ft. by 60 ft. at the corner of South Ferdinand and 50th Avenue South. That was permitted under an exception for substandard lots that were established as separate building sites prior to 1957. Section 23.44.10.B(1).

7. Neighboring properties are bothered by runoff from the slopes and are concerned that the clearing of the proposed lot for development could exacerbate that problem and undermine the slope stability.

8. Retaining walls have been designed to handle the slope and runoff would be required to be controlled.

9. Angeline Street, is narrow and if cars are parked it is difficult to pass.

Conclusions

1. The subject property's size is not unusual in this case but is the size that predominates. Therefore, the property is not deprived of rights and privileges enjoyed by most others in the area.

2. Granting the variance would go beyond the minimum necessary for relief where no relief is justified and would confer special privilege or would set a precedent for the other 7,200 sq. ft. lots.

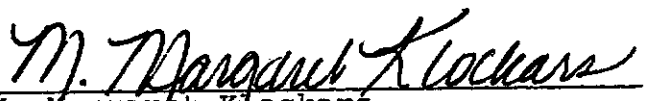
3. No material detriment to the public welfare is foreseen were this variance granted but could result in a density not contemplated by the City Council if this were to serve as precedent for others. Other properties should not suffer injury were the variance granted.

4. The variance to create lots substantially below the minimum required, and one half the prevailing lot size, would be inconsistent with the spirit and purpose of the Land Use Code and policies.

Decision

The variance is denied.

Entered this 25th day of April, 1984.


M. Margaret Klockars
Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14th days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request 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.