

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

In the Matter of the Appeal of

FRANCES LILLQUIST

FILE NO. S-76-029

from a ruling of the Superintendent  
of Buildings

The appeal is DENIED and the Decision of the  
Superintendent of Buildings is affirmed.

Introduction

The appellant, Frances Lillquist, filed an appeal from a decision of the Superintendent of Buildings to deny a use permit for the reconstruction of a nonconforming duplex at 6319 30th Avenue N.W.

The appellant exercised the right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

This matter was heard before the Hearing Examiner on December 22, 1976.

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. On November 23, 1976, the Superintendent of Buildings (hereinafter Superintendent) published notice of a decision to deny an application of the appellant for a use permit to reconstruct a nonconforming duplex on property located at 6319 30th Avenue N.W. The appellant filed an appeal with the Hearing Examiner on December 7, 1976.
2. The subject property is located in an RS 5000 zone which permits the establishment of single-family residences. The construction of a duplex in this zone is strictly prohibited.
3. The subject property was formerly developed with a duplex structure, the construction of which pre-dated the effective date of the Seattle Zoning Code. Consequently, the duplex structure was a legal nonconforming use and could continue in existence notwithstanding the RS 5000 zoning for this area.
4. A fire occurred in the duplex on October 1, 1975, resulting in substantial damage to the structure. At the time of the fire, the assessed value of the structure was \$11,600. A bid for the repair of the damage amounted to the figure of \$14,446. Fire damage occurred to the rear and one side of the structure, but the front and other side suffered relatively little damage.
5. Subsequent to a conversation with a housing code inspector for the city, the appellant decided to demolish the structure and rebuild it. A housing code inspector has no jurisdiction nor necessarily any expertise in zoning matters. The subject property is consequently vacant with only the foundation of the former structure remaining.

6. The former duplex on the subject property was deficient in several areas, in that it did not fully comply with building code requirements. In addition, the remaining foundation is substandard and would have to be brought up to code if it were to be used as the basis for any further construction.

7. Pursuant to Section 26.10.060(a), Seattle Code, the restoration of a nonconforming building that is destroyed by fire is permitted. The Superintendent would have permitted the restoration of the duplex to its pre-fire state, prior to demolition by the appellant.

#### Conclusions

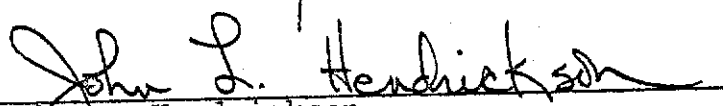
1. The policy of phasing out nonconforming uses and buildings is readily apparent in the Seattle zoning code. Therefore, the reconstruction of a nonconforming duplex that is on property located in an RS 5000 zone is strictly prohibited unless it was destroyed by fire. The Superintendent was not in error in this instance in upholding this policy and would have, in fact, contravened it had a permit been issued for the reestablishment of a duplex on this property.

2. The zoning code clearly permits the restoration of a building which is destroyed by fire and would permit repairs necessary to bring the building back to its pre-fire condition. However, the code does not permit the reconstruction of a building which is voluntarily demolished by the property owner. In this instance, the duplex in question suffered substantial damage but it was not destroyed and could have been repaired, although the repair costs could have exceeded the assessed value of the structure. Consequently, through the demolition of the structure the appellant lost all rights to a nonconforming duplex and any future construction on this property must be in conformance with the zoning code as it now exists.

#### Decision

The appeal is DENIED and the Decision of the Superintendent of Buildings is affirmed.

Entered this 4<sup>th</sup> day of January, 1977.

  
John L. Hendrickson  
Deputy Hearing Examiner