

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

In the Matter of the Appeal of

RODNEY T. QUIN, et al.

FILE NO. S-77-002

from a ruling of the Superintendent  
of Buildings

This matter is remanded to the Superintendent.

Introduction

The appellants, Rodney T. Quin, et al., filed an appeal from a decision of the Superintendent of Buildings, hereinafter Superintendent, to issue a use permit for property at 11920 Exeter Avenue N.E.

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

Parties to the proceeding were William Robinson, representing the appellants, Dennis Helmick, representing the permittee, and Joyce Kling, representing the Superintendent.

This matter was heard before the Hearing Examiner on January 25, 1977.

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 24, 1976, an application was filed for a building/use permit for the construction of a single-family residence. The street address is 11920 Exeter Avenue N.E. and the legal description is: Lot 13, Block 15 of University Lake Shore Addition. The property is zoned Single Family Residence Medium Density (RS 7200).

2. On January 5, 1977, the appellants, filed a timely appeal. On January 17, 1977, a letter clarifying the appeal statement was filed. The Superintendent filed a response on January 21, 1977.

3. At the hearing the appellants' attorney stated that the only issues were as follows: first, the size of the subject lot as it relates to lot coverage; second, compliance with the front and the rear yard requirements of the zoning code. For purposes of the appeal only the foregoing issues will be considered.

4. The plan submitted by the permit applicant shows that the lot area as 5,804.65 square feet. Pursuant to Section 26.14.100, Seattle Code, the permitted lot coverage is 35% or 2,031.62 square feet. In this case, the applicant proposes a coverage of 2,034.5 square feet, which is in excess of the permitted lot coverage.

5. A 30 foot rear yard is required by Section 26.14.090, Seattle Code. However, since the lot has a depth of less than 105 feet the exception contained in Section 26.44.130, Seattle Code, is applicable. The required rear yard is 19.4 feet and 22 feet 6 inches is provided.

6. The applicant's plot plan shows a front yard of 10 feet. An agent for the Building Department previously interpreted Section 26.44.090, Seattle Code, to mean that 10 feet is the required front yard. However, a code interpretation of the Superintendent (48-76) interpreting Section 26.44.090, Seattle Code, results in a different conclusion. The Superintendent is bound by his own written interpretation. Therefore, the required front yard is 20 feet and not 10 feet.

7. The appellants have alleged that certain legal issues are unresolved as to the dimensions of the subject lot and that if certain claims of adverse possession are proven that the lot will consequently be smaller than shown on the permittee's plot plan. Section 26.04.020, Seattle Code, requires a use permit to be accompanied by plans based on a recorded plat or survey. In this case the plans were based on a recorded plat.

#### Conclusions

1. This case is remanded to the Superintendent. The record clearly indicates that the applicant's plot plan does not conform to the zoning code with regard to two points. The building exceeds the permitted lot coverage and the required front yard is not provided.

2. A new plot plan must be submitted by the applicant. The new plot plan must clearly show that the lot coverage does not exceed 35% and that a 20 foot front yard is provided. The applicant must comply with all zoning code requirements but is not precluded from seeking variance relief.

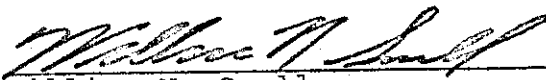
3. The burden is upon the permittee to correctly mark the lot dimensions on the plot plan. Neither the Superintendent nor the Hearing Examiner has the authority to resolve boundary or adverse possession disputes. In this case there is no substantial evidence in the record to indicate that the permittee's plot plan is incorrect or misleading and therefore for purposes of compliance with the zoning code the Superintendent must rely on the dimensions shown on the plot plan. Any party claiming adverse possession should seek relief in the courts. The Superintendent would be bound by the lot lines as determined by the courts.

4. Provided that the permittee submits a new plot plan and the Superintendent determines that it is in conformance with the zoning code, with specific reference to the issues raised in this decision, a use permit may be issued. In the event an administrative review by the Hearing Examiner would be requested with regard to the second use permit, the only issue that could be raised is whether or not the Superintendent has complied with this decision.

#### Decision

For each of the above reasons, this matter is remanded to the Superintendent.

Entered this 3rd day of February, 1977.

  
William N. Snell  
Hearing Examiner