

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

In the Matter of the Appeal of

SUMMIT NEIGHBORHOOD IMPROVEMENT
ASSOCIATION, et al.

FILE NO. S-77-014

from a ruling of the Superintendent
of Buildings

Introduction

The appellants, the Summit Neighborhood Improvement Association and the Capitol Hill Community Council, filed an appeal from an advance ruling of the Superintendent dated August 3, 1977 to issue a use permit for property at 511 E. Roy Street.

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

Parties to the proceeding were: the Summit Neighborhood Improvement Association represented by Ms. Gleason, the Capitol Hill Community Council represented by Mr. Heller, the Superintendent represented by Joyce Kling, and the permittee represented by Mr. Watkins and Mr. Linden.

This matter was heard before the Hearing Examiner on September 7 and 19, 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. The permittee proposes to construct a multiple residential dwelling (Arcadian Court) at 511 E. Roy Street. The project is located in both the Neighborhood Business (BN) and Multiple Residence High Density (RMH 350) zones.

2. The permittee's representative, Joseph W. Lineberry, requested an advance ruling on the issuance of a use permit. In an advance ruling dated August 3, 1977 the Superintendent stated that a use permit would issue subject to qualifications contained in the ruling.

3. The appellants filed a timely appeal on August 17, 1977.

4. The first issue raised by the appellants is the correct method of calculating the height of the building. The appellants allege that the height above average grade should be calculated for the entire building and not separately for the portion of the building located in each of the two zones. If the height of the building is calculated as alleged by the appellants, then a height variance would be required.

5. Section 5.1 of Ordinance 86300, as amended, provides: "Bulk regulations of one zone shall not be applied to another zone unless such application is specifically provided for in the bulk regulations of the latter zone."

6. The second issue raised by the appellants is whether or not the required yards are provided. The permittee's original plans showed various projections into the yards including such items as balconies, eaves, chimneys, areas between chimneys, and belt courses. Section 22.42(a), Ordinance 86300, as amended (26.44.070) permits certain projections into the required yards as follows:

Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and the like may project not more than one and one-half (1-1/2) feet into any required yard; and cornices, eaves, sun shades, gutters may project into a required side yard a distance of not to exceed thirty (30) percent of the required side yard and in no case more than three (3) feet; provided that in no case shall such features be closer than three (3) feet to any side lot line.

7. The Superintendent determined at the September 6, 1977 hearing that certain of the proposed projections would not qualify as architectural features under Section 22.42(a), Ordinance 86300, as amended. The permittee agreed to submit revised plans and a continued hearing was held on September 19, 1977 to review the revised plans, dated September 14, 1977.

Conclusions

1. The Superintendent's determination that the building height must be determined separately for that portion of the building located in the BN and RMH 350 zones is supported by specific language in the zoning code. Section 5.1, Ordinance 86300, as amended, clearly provides that the bulk (height) provision of one zone shall not apply to another zone unless specifically so provided. In this case no specific applicable provision has been cited with regard to the application of the bulk provision of one zone to the other. Although only one building is involved, it is located within two zones. In order to protect the property owners and residents of each of the zones, the bulk provisions of one zone cannot apply to another zone unless so specified.

2. The September 14, 1977 plans as revised by the permittee do not require any yard variances since the projections that do not comply with Section 22.42(a), Ordinance 86300, as amended, have been eliminated. Certain architectural features such as the chimneys, eaves, belt courses, and balconies do project into the yards but these projections are permitted pursuant to Section 22.42(a), Ordinance 86300, as amended. Prior to the issuance of a use permit, the permittee must provide detailed revisions to the drawings submitted to the Superintendent showing the elimination of the prohibited projections into the applicable yards.

Decision

The decision of the Superintendent with regard to the determination of the height of the building is affirmed. Prior to the issuance of a use permit, the permittee must submit detailed revisions to the drawings that demonstrate conformity with Section 22.42(a), Ordinance 86300, as amended, and the revised preliminary drawings, dated September 14, 1977.

Entered this 3rd day of October, 1977.



William N. Snell
Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.