

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

In the Matter of the Application of

LAVONA JOHNSON, et al.

FILE NO. S-77-015

from a ruling of the Superintendent  
of Buildings

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

Introduction

The appellant, Lavona Johnson, et al., filed an appeal from a decision by the Superintendent of Buildings, hereinafter Superintendent, to issue a use permit for property at 828-30 16th Avenue.

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

This matter was heard before the Hearing Examiner on September 12, 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, Donald Balentine, proposes to construct a three-unit apartment building at 828-30 16th Avenue. The property is zoned Multiple Residence Low Density (RM 800).

2. Notice of the issuance of a use permit for the subject development was published in the Daily Journal of Commerce on August 11, 1977. Lavona Johnson and other residents of the area filed a timely appeal on August 19, 1977.

3. The first issue raised by the appellants is that the building, which is shown on the plans as 60 feet in length, must provide side yards of 7 and 9 feet. The plans show a 6 foot north side yard and an 8 foot south side yard.

4. The general yard requirements for a two story RM 800 structure are contained in Section 12.53, Ordinance 86300, as amended, (26.24.120), which provides:

<u>Height of Building</u>	<u>Least Side Yard</u>	<u>Sum of Side Yards</u>
1-story	5 feet	10 feet
2-story	6 feet	14 feet

The provisions of this section govern except as modified by Section 22.45(b), Ordinance 86300, as amended (26.44.100).

5. Although the total length of the proposed building is 60 feet, only a 50 foot portion is two stories high with the remaining 10 feet one story in height. Section 22.45(b), Ordinance 86300, as amended (26.44.100) provides that the side yard for a one-story structure must equal 10% of the side wall length and for a two-story building a formula is established to increase the side yard 6 inches for each 5 feet beyond 50 feet.

6. The appellants also alleged that the building was not 60 feet in length as shown on the plans but 60 feet 11 5/8 inches. At the close of the hearing the Superintendent's representative was requested to take measurements at the site to confirm the actual dimensions. A concrete foundation has been poured on the site. A report prepared by the Superintendent, dated September 14, 1977 was submitted to the Hearing Examiner and copies mailed to all parties with an opportunity to respond. In a reply dated September 20, 1977 Lavona Johnson still disagreed with the measurements as calculated by the Superintendent. In order to provide further clarification the Hearing Examiner requested the Superintendent to submit a written description as to how the measurements were made, a copy of which is enclosed.

#### Conclusions

1. The Superintendent has correctly determined the width of the side yards as being 6 and 8 feet, which conforms with the requirements of Section 12.53, Ordinance 86300, as amended. Although the foregoing section is modified by Section 22.45(b), Ordinance 86300, as amended, the least side yard under this section is no greater than that required by Section 12.53. Under Section 22.45(b) ten percent of 60 feet is 6 feet or the same least side yard as required by Section 12.53. Section 22.45(b) does not apply to the two-story portion of the structure since it does not exceed 50 feet in length.

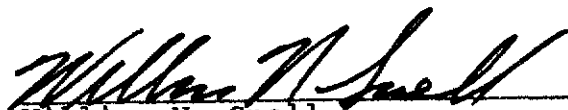
2. After reviewing the record and the information supplied by the Superintendent on September 14, 1977, it is concluded that the building does not exceed 60 feet in length. The correct method of measurement must be based on an understanding of the survey map. The knowledge and expertise of Mr. Herd as a building inspector in making a correct reading based on the survey map is relied upon in reaching this conclusion. The information contained in the September 23, 1977 letter of the Superintendent is not a basis for any finding of fact but is included in the record for the purpose of providing additional information to the appellants on the method of measurement.

3. The issues raised by the appellant with regard to fire exits are not matters subject to review by the Hearing Examiner.

#### Decision

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

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.