

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

PETE GANDINI

File No. S-78-026

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, Pete Gandini, filed an appeal from the issuance of an advance ruling relating to the expansion of a service station at 4000 East Madison Street.

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

Parties to the proceeding were: the appellant, represented by James Braman, Jr. and the Superintendent, represented by Joyce Kling.

This matter was heard before the Hearing Examiner on October 16, 1978.

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 subject property consists of a service station located at 4000 East Madison Street. The site contains 12,800 square feet which is used as follows: 2,600 square feet for the service station building and canopy, 3,000 square feet for the outdoor servicing of automobiles, 1,000 square feet for marked parking spaces, 3,000 square feet for driveways, 1,000 square feet short-term parking, and 1,600 square feet for storage and access. The property is located in a Community Business (BC) zone.

2. The appellant proposes to construct an addition to the existing service station building that would contain 2,660 square feet.

3. Section 5.35 of the zoning ordinance provides: "Existing automobile service stations may be extended, expanded or structurally altered in the BN and more intensive zones without obtaining conditional use authorization from the Hearing Examiner or Board, where the estimated cost of such improvements within any 12 month period does not exceed 25 percent of the true and fair market value of such automobile service station as computed from the assessed value of the existing use."

4. Section 3.22 of the zoning ordinance defines "use" as follows:

"The purpose for which land or a building is designed, arranged or intended, or for which it is occupied or maintained, let or leased."

5. The 1978 real estate tax statement for the property reflects a land value of \$87,200, a building and improvement value of \$37,800 for a total assessed value of \$125,000.

6. The appellant has obtained a firm bid of \$34,000 for construction of the proposed improvement.

7. James D. Braman, Jr., representing the appellant, requested an advance ruling as to whether the proposed expansion could take place without requiring a conditional use hearing pursuant to Section 5.35.

8. The Superintendent issued a ruling dated September 26, 1978 in which he found that the proposed expansion would require a conditional use pursuant to Section 5.35 since the improvements equal more than 25 percent of the assessed value of the building and improvements. The advance ruling also dealt with the classification of the service station with regard to the type of repair but no such ruling was requested and is not binding as an advance ruling on the appellant.

9. A timely appeal was filed on September 29, 1978 by the appellant.

#### Conclusions

1. The basic issue to be decided is whether or not the valuation base includes the land and improvements or only the improvements. The proposed addition clearly does exceed 25 percent of the value of the improvements but not of both the land and improvements.

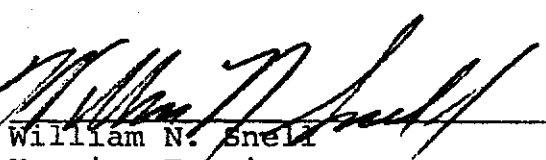
2. Section 5.35 states that any computation must be based on the fair market value of the automobile service station based on the assessed value. The building or improvements on the property are the only items to be included in the computation of the 25 percent value. The ordinance language is clear that the valuation is to be based on the improvements. The interpretation proposed by the appellant would be contrary to the general interest of the section since land values can be high in business zones and the value of the improvements fairly modest in relationship since service stations do not normally require large structures. The values of land and improvements in this case support this analysis.

3. It is clear that the intent of Section 5.35 is to provide an easy administrative tool for exempting minor improvements to existing small station buildings without requiring a formal review process. However, any substantial change does require a public review and hearing. In this case the appellant is not necessarily prohibited from proceeding with his improvement, only that a public review is required.

#### Decision

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

Entered this 30th day of October 1978.

  
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.