

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MR. AND MRS. DAVE DELLPLAIN

FILE NO. S-79-033

from a determination of the
Superintendent of Buildings

The appeal is GRANTED and the Findings and Decision of
the Superintendent of Buildings are reversed.

Introduction

The appellants, Mr. and Mrs. Dave Dellplain, filed an appeal from the denial by the Superintendent of Buildings (Superintendent) of a use permit for property at 10273 Maplewood Place South.

The appellants exercised their right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).

Parties to the proceeding were: the appellants, represented by Paul Culotta, and the Superintendent, represented by Joyce Kling.

This matter was heard before the Hearing Examiner on November 15, 1979.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

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 appellants propose to construct a single family residence on a waterfront lot at 10273 Maplewood Place South. The property is zoned for Single Family Residence Low Density (RS 9600) and is within the Urban Residential Shoreline Environment under the Seattle Shoreline Master Program.

2. The appellants' property is small in size containing about 4,400 sq. ft. in land area with the remaining area being tidelines to bring the total to within the minimum 9,600 sq. ft. required. A private covenant limits the height of any building to 13 ft.

3. The appellants' property is vacant. The parcel to the north along the shoreline is developed with a single family residence. The two parcels to the south along the shoreline are vacant. To the northeast and to the rear of the appellants' parcel is a single family residence that is not a waterfront lot.

4. The project plans submitted to the Superintendent showed the enclosed structure located about 4 ft. from the front edge of the bulkhead. The plans were revised (Appellants' Exhibit 1) to move the structure 6 ft. from the front edge of the bulkhead. The Superintendent stipulated that the revised plans are the ones at issue in this matter.

5. The residence to the north is constructed so that the enclosed portion of the building is setback 11 ft. 6 in.

from the bulkhead. Extending forward from the front wall are two vertical foundation walls that are 6 ft. 11 in. in height and are bases upon which the support beams for the upper deck are set. The upper deck has a roof and closed wood railing. The vertical foundation walls are setback 5 ft. 6 in. from the bulkhead. The Superintendent claims that the setback for the Dellplain residence must be 11 ft. 6 in.

6. Section 21A.35(c) provides as follows:

Residential structures shall not be located closer to the shoreline than adjacent structures. If there is no other structure within 100 ft., residential structures shall be located at least 25 ft. back from the line of higher regulated lake level of Lake Washington, Lake Union and connecting fresh waters, or the line of ordinary high tide.

Conclusions

1. In establishing the setback from the shoreline, the property directly to the north is to be used in determining the setback for any structure on the Dellplain property. The Shoreline Master Program does not contain a definition of the term "adjacent". However, the plain meaning of the language in Section 21A.35(c) indicates that "adjacent" refers to other structures along the shoreline or on either side of a proposed development. The Superintendent's interpretation has the effect of preventing any development of the site. It is clear that the purpose of Section 21A.35(c) is to prevent crowding and view blockage along the shoreline but not to prevent development, if by happenstance a development pattern similar to the one in this case exists.

2. The next issue is how far the Dellplain residence must be setback using the residence to the north as a reference point. The vertical foundation walls clearly appear to be a part of the structure due to their very substantial nature and height. Such an interpretation conforms to the Zoning Code definition of "structure" contained in Section 3.20S. Therefore, the Dellplain residence must be setback a minimum of 5 ft. 6 in. from the bulkhead or as the plans show 6 ft.

Decision

The appeal is GRANTED and the Findings and Decision of the Superintendent of Buildings are reversed.

Entered this 27th day of November 1979.


William N. Snell
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).