

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

PATRICIA D. PETERS

FILE NO. S-81-026

from a determination of the Director
of the Department of Construction
and Land use

Introduction

Appellant, Patricia D. Peters, appeals the interpretation of the Director of the Department of Construction and Land Use regarding her property at 10804-31st Avenue S.W.

The appellant exercised her right to appeal pursuant to the Seattle Municipal Code, Section 24.10.030, as amended.

This matter was heard before the Hearing Examiner on September 24, 1981.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24, as amended, unless otherwise indicated.

After due consideration of the evidence elicited during the public hearing, the following findings of fact shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The property, subject of the interpretation, is a lot in a Single Family Residence Medium Density (RS 7200) zone.
2. Appellant requested an interpretation of the zoning chapter of the Seattle Municipal Code as it applies to the subject property. The Director of the Department of Construction and Land Use determined that only one dwelling unit had been established and a second unit cannot now be approved.
3. The development consists of a single family residence, a garage built in 1959, some time after the residence, and then a second floor addition to the garage built in 1964 with a bedroom, three-quarters bathroom, recreation room and deck attached to the house.
4. The house is occupied as a Single family residence by appellant and a friend, who uses the bedroom over the garage.
5. The recreation room over the garage has a stove and refrigerator used as an auxillary food preparation unit by appellant and termed a "food preparation area" by the Director.
6. The exterior doors of the house are lockable. The interior doors are not.
7. The rooms over the garage are spatially separated from the main structure and could easily be converted into a separate dwelling unit.

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7. The rooms over the garage are spatially separated from the main structure and could easily be converted into a separate dwelling unit.

Conclusions

1. Appellant contends that since the structure is legal and her use of the structure is legal no illegal unit or use currently exists.

2. According to Section 24.08.220

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

3. Because of the design of the building, which would easily allow the separation of the rooms over the garage, and the presence of the stove, the Director based his conclusion of "use" on the first clause of the definition - the purpose for which the building is "designed, arranged or intended".

4. Appellant relies on the second clause which refers to the actual use.

5. Section 24.18.010 refers 24.16.010 which states:

The following uses are permitted:

A. Single-family dwellings.

6. Section 24.08.050"D"9. provides:

"Dwelling, single family" means a detached building containing one dwelling unit.

7. Section 24.08.050"D"11. provides:

"Dwelling unit" means a room or rooms located within a building, designed, arranged, occupied or intended to be occupied by not more than one family and permitted roomers or boarders, as living accommodations independent from any other family. The existence of a food preparation area within such room or rooms shall be evidence of the existence of a dwelling unit.

8. Under the terms of the preceding code provisions a single family dwelling may be designed for the use of more than one family but still be permitted as long as it is occupied by but one family. The occupation by one family in this case is uncontroverted, therefore, the use is permitted.

Decision

The determination by the Director of the Department of Construction and Land Use is REVERSED.

Entered this 8th day of October, 1981.

M. Margaret Klockars
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Deputy 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 further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.