

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

LAURICE J. ERICKSON

FILE NO. MUP-81-68(V)
APPLICATION NO. 81126-0020

from a decision of the Director
of the Department of Construction
and Land Use on a master use
permit application

Application for the variance to provide less
than the minimum required side yard is GRANTED;
application for the variance to allow required
parking in the street side yard setback is DENIED.

Introduction

The applicant, Laurice J. Erickson, filed an application for variances to allow the construction of a twelve unit apartment building at 2626 East Madison Street and to allow required parking in the street side yard setback.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

The Director's report, submitted by the Department of Construction and Land Use (DCLU) recommended that the variances be denied.

This matter was before the Hearing Examiner on November 2, 1981.

After due consideration of the evidence elicited by the applicant, the information provided by the Director's report, and all 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 is a vacant site located in the RM 800 zone at 2626 E. Madison Street. The subject site is irregularly shaped in response to the diagonally running street grid on E. Madison. To the north of the subject site is an RS 5000 zone. The surrounding area is developed with a mixture of apartment buildings, single family residences and duplexes. Immediately across the street of the subject site is a large townhouse complex.

2. The applicant proposes to construct a 12 unit apartment building on the vacant site. The required side yard is 18 ft. The applicant proposes to leave a side yard of 8 ft. The applicant indicated in the applicant's letter of September 30, 1981, that no variance is needed for allowance of the parking in the street sideyard setback on each side of the property.

3. The proposed project is to provide "affordable housing" in the subject area. The written testimony of the applicant indicates that compliance with the required side yard setback would reduce the development area of the property by 1,080 sq. ft.

4. Evidence from witnesses and letters both in opposition and support of the application were received into evidence.

5. With regard to the action proposed in this application, a declaration of non-significance (DNS) has been prepared by the responsible official pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, and is part of the record.

Conclusions

1. Because of the unique shape and condition of the subject site, the applicant is prohibited from reasonably developing her property. Granting of the proposed variance for the side yard setback does not go beyond the minimum necessary to afford relief and therefore does not grant a special privilege to the applicant.

2. The granting of this variance will not be materially detrimental to the surrounding property or the public welfare. To the contrary, the building of affordable housing in the proposed area will be a benefit to the neighborhood in particular and the public welfare in general.

3. To require the applicant to construct a smaller or differently shaped building would represent an undue hardship and prevent applicant from realizing the full and reasonable benefit of the subject site.

Decision

For each of the reasons stated above, the side yard setback is GRANTED; the variance application for parking in the street side yard setback is DENIED.

Entered this 13th day of November, 1981.

Phillip Aaron by me
Phillip Aaron
Hearing Examiner Pro Tempore

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.