

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

November 2, 1983

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OFFICE OF HEARING EXAMINER

M. Margaret Klockars  
Deputy Hearing Examiner  
Office of the Hearing Examiner  
The City of Seattle

Re: Henry W. Mann v. The City of Seattle  
King County Cause No. 82-2-01771-0  
In the Matter of the Appeal of Henry W. and  
Carole J. Mann; Hearing Examiner File No. MUP-81-096(V)

Dear Ms. Klockars:

Please be advised that the Honorable Jack A. Richey, Court Commissioner, entered an Order of Dismissal for Want of Prosecution in the above-entitled case on October 24, 1983. Accordingly, we are closing our file pertaining to this matter.

Very truly yours,

DOUGLAS N. JEWETT  
City Attorney

By *Elizabeth A. Edmonds*  
ELIZABETH A. EDMONDS  
Assistant

EAE:mc

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

HENRY W. AND CAROLE J. MANN

FILE NO. MUP-81-096(V)  
APPLICATION NO. X-81-001A

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

#### Introduction

Henry and Carole Mann, appellants, appeal the decision of the Director of the Department of Construction and Land Use to deny a lot coverage variance for property at 9232-20th S.W.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

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

This matter was heard before the Hearing Examiner on January 11, 1982.

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

#### Findings of Fact

1. Appellants applied for a permit to construct a roof over a patio at 9232-20th Avenue S.W. The roof had been constructed when application was made. It was determined by the Department of Construction and Land Use that a side yard variance was required. The Director denied the variance but was reversed and the variance granted on appeal.

When appellants attempted to obtain the permit, the Director's staff discovered that an additional variance for lot coverage should have been cited. Appellants applied for that variance, were denied and have appealed.

2. The subject property is a lot with 40 ft. of frontage on the east side of 20th Avenue S.W. and has a depth of 128 ft. It is developed with a single family house to which has been added a roof over the patio and yard on the south side.

3. The lot coverage, with the added roof, totals 47.82 percent. Section 24.20.100 permits up to 35 percent coverage. The house, as built, apparently slightly exceeds 35 percent lot coverage. The 54 ft. 11 in. by 12 ft. roof adds over 12 percent lot coverage. There is some question whether the eaves are included in the dimensions twice but at most that would reduce the coverage by 2 percent.

4. The record does not reflect any variances to allow excess lot coverage having been granted in that area.


### Conclusions

1. The condition relied upon for side yard variance in the earlier decision (MUP-81-002) was the placement of the house on the lot and the lot's topography. These are not conditions which create hardship with regard to maximum lot coverage. No such condition was shown. While appellants will suffer personal hardship from the Code's provisions limiting lot coverage to 35 percent, the examiner is required to base a variance decision on a showing of a property condition which creates hardship by the denial of property rights comparable to those other have.
2. Any lot coverage variance in this case would confer special privilege and go beyond the minimum necessary for relief.
3. The lot coverage variance would not cause material detriment nor would it cause injury to other properties.
4. The variance would conflict with the Single Family Residential Areas Policies which maintain the lot coverage limitation except for lots of substandard size.

### Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 25<sup>th</sup> day of January, 1982.

  
M. Margaret Klockars  
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.