

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

OSCAR AND PAULA FRIAL

FILE NO. MUP-82-065(V)
APPLICATION NO. 82-0306

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

Introduction

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

Parties to the proceedings were: appellants, pro se; applicant by Glen Snyder; and the Director of the Department of Construction and Land Use (DCLU) by Leslie Durkee.

For purposes of this decision all section number refer to the Seattle Municipal Code, Title 23, unless otherwise indicated.

This matter was heard before the Hearing Examiner on October 13, 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. The subject property is located in the Single Family (SF) 5000 zone and is addressed 1418 East Lynn Street.

2. Applicant proposes to divide the existing large parcel into three lots of 11,963, 5,800, and 3,875 square feet. For ease of reference, the proposed 11,963 sq. ft. area lot will be referred to as Lot A; the 5,800 sq. ft. lot as Lot B; and the subject 3,875 sq. ft. area lot as Lot C. Lot C is the northernmost projection. Lot B is the easternmost area. Lot A, containing the 1418 East Lynn Street residence, is an area adjacent and south of B.

3. The north, northeast border of Lot C abuts Boyer Avenue East for approximately 70 feet. At the eastern edge of this lot is an 11.5 foot wide curb cut and driveway, roughly 52.71 feet deep. Unimproved 15th Avenue East is adjacent to the east lot line.

4. The block in which Lots A, B and C are located is oddly shaped; 14th Avenue East is the curving western border. East Lynn Street is south; unimproved 15th Avenue East is east; and Boyer Avenue is to the north. Boyer Avenue and 14th Avenue form a triangle at the northwest corner of the block.

5. Topographically, the immediate area is marked by extreme slopes. Irregular streets and platting have resulted. As reported by applicant and adopted herein as a finding, 18 of the 25 lots in "close vicinity," as defined by the applicant, are under 5,000 sq. ft. in area.

6. In assessing what dimension constituted 80 percent of "the mean lot area of the lots on the same block space within which the lot will be located...", Section 23.44.08 (B), DCLU computations included the lot areas of 2359 Boyer Avenue East, 2330 14th Avenue East and 2340 14th Avenue East. These lots were selected in recognition of the Land Use Code definition of block face and in recognition of the unusual block configuration. No challenge was taken to the methodology employed. The conclusion therefrom showed the "average" to be 5,693 sq. ft. Because Lot C is proposed at 3,875 sq. ft., less than the 5,693 sq. ft. or the 5,000 sq. ft. area minimum, variance relief was requested.

7. DCLU approved the variance and appellants, neighbors residing at 1414 East Lynn Street, appealed. In appellants' view, the large lot could be divided in such a way that all three of the resulting lots could exceed the 5,000 sq. ft. area minimum. Further, appellants' contend that approval of the subject and other small, non-regulation lots serves to contribute to the suburban exodus of persons who wish the basic amenity of space. Finally, the applicants contended that construction as proposed, based on their assessment of the plans, would violate bulk regulations and also block appellants' views to Portage Bay. Other negative comments from neighbors concerned the increased density and traffic expected to result from the construction. One comment letter, however, urged approval as an incentive for the upgrade or renovation of existing homes.

8. The appellants' home is at a higher elevation than, and is approximately 140 feet south of the proposed Lot C construction site.

9. Applicant's proposed dwelling is a two story structure with a double garage. The two story portion will be approximately 19 feet wide. Applicant intends to satisfy all setback requirements. Proposed lot coverage is 29 percent. Access will be via Boyer Avenue East.

10. Lot C was functionally segregated in the 1970's by the previous owner.

11. As suggested by the appellants, the lot size variance could be obviated by a change in the lot line configuration, as for example, by extending the south lot line. This alternative, however, would result in an irregular, jagged lot line pattern.

Conclusions

1. The variance criteria appear in Section 24.74.030, as amended. Considering same, the Director's decision is affirmed.

2. The topography of the area has resulted in oddly plotted lots of varying dimensions, many less than 5,000 sq. ft. in area.

3. Lot C was functionally separated not by applicant, but by the previous owner. The property related hardship was not created by this applicant.

4. While it is true that a redesign of the lot configuration could eliminate the need for variance relief, the result would be an irregular, jagged lot line. This would in no way diminish concerns with density or circulation, but would in view of the facts of this case, merely constitute a cosmetic change and an undue and unnecessary hardship to the applicant.

5. The relief requested is the minimum necessary and confers no special privilege to the applicant. While some increase in population density will ensue, along with some loss of appellants' views of Portage Bay, the "detriment" is not of a "material" degree. As the Land Use Code provisions are designed to "achieve an efficient use of the land without major disruption of the natural environment...", Section 23.02.20, the proposal is consistent with the spirit and purpose of that Code.

Decision

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

Entered this 27th day of October, 1982.


Leroy McCullough
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, instruction 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.