

FINDINGS AND DECISION  
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DENNIS H. RUSCH

FILE NO. MUP-82-079(V)  
APPLICATION 82-0431

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

Introduction

Appellant, Dennis H. Rusch, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny a variance for property at 9250-36th Avenue S.W.

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

Parties to the proceedings were: appellant and the Director by Diane Althaus.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on December 7, 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. Appellant applied for a master use permit to construct a roof addition to a single family residence at 9250-36th Avenue S.W. Based upon the site plan provided by appellant it was determined that two variances would be required. The Director denied the variances.
2. After the decision appellant provided more precise dimensions and the Director determined that only one variance, to exceed the permitted lot coverage, would be required.
3. Section 23.44.10C permits up to 35 percent coverage or 1,750 sq. ft., whichever is greater.
4. Current coverage of the subject lot is 35 percent. Appellant has reduced the size of his proposed addition and has asked approval of coverage of 38.6 percent.
5. The subject lot area is slightly less than 6,000 sq. ft. and is in a SF 5000 zone. It is similar in size and shape to the other lots on the blockfront.
6. Appellant wishes to construct (and has partially constructed) a roof extension of 216 sq. ft. at the rear of the house to shelter a basement entrance stairwell, sliding glass door, and two windows.
7. The rear of the lot abuts upon an alley which separates the SF5000 zone from a Multifamily residence zone. That zone contains single family residences, apartment buildings, professional offices, small shops, etc.

8. Most houses in the area do not have basements with entrances needing protection from the elements. The house next to the south does have a basement and a covering over an outside stairway.

9. The residences in the RM zone along 35th look down into the windows on the subject property so the roof extension could afford some privacy.

#### Conclusions

1. The only unusual condition of this property is the uncovered outside stairway, however, this condition may not be used to justify a variance since it is one created by appellant, himself.

2. Variance for 216 sq. ft. lot coverage would exceed the minimum necessary if the condition needing relief is the uncovered stairway which is considerably smaller. Since the property is now at the maximum coverage allowed and no other properties have received variances, variance would constitute a grant of special privilege.

3. No other property would suffer injury nor would there be material detriment to the public welfare from the requested variance.

4. The variance would not be consistent with the spirit and purpose of the Land Use Code which is to limit lot coverage unless special conditions require deviation from the maximum.

#### Decision

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

Entered this 21st day of December, 1982,

M. Margaret Klockars  
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.