

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

PATRICIA HUNTER

FILE NO. MUP-83-012
APPLICATION NO. 83-002

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

Introduction

Appellant, Patricia Hunter, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny variances to legalize a deck for property at 6622-39th S.W.

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

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 March 31, 1983.

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, in attempting to repair an existing deck, discovered problems in the old deck which called for some replacement. In constructing the replacement she extended the deck an additional 1.2 ft. toward the front property line.

2. The house, at 6627-39th S.W. in an SF 5000 zone, had a deck extending to approximately 7.2 ft. from the front property line. The renovated deck is 6 ft. from the front property line.

3. Section 23.44.14A and 23.44.82C establish a required 20 ft. front yard setback. The old deck encroached upon the required yard and so was nonconforming. The addition requires variances from these sections and Section 23.44.82, to allow the expansion of a structure nonconforming as to development standards.

4. The deck stands some 8 ft. above the grade of the lot at the top of a rockery supporting a 5 to 7 ft. bank.

5. The subject lot, in terms of topography, with its 25 percent grade for the first 60 ft., is not dissimilar from lots to the south of it. Some reach a plateau earlier than the subject lot, however, providing some usable outdoor space. Other houses are set farther back than the subject house, without deck. The subject lot has ample rear yard.

6. The deck does not obscure any view and is not objected to by the neighbors.

Conclusions

1. Because the amount of effort and cost involved in bringing the structure into conformance with the Code greatly outweigh the actual benefit, the record was thoroughly searched for an unusual condition of the property depriving it of development rights enjoyed by other properties in the vicinity which would allow the granting of the variance. No such condition could be found. Since the burden is on the appellant/applicant to make that showing, failure to do so means the variance cannot be granted.

2. Moreover, the absence of the unusual condition means that the amount of variance requested goes beyond the minimum necessary for relief.

3. It appears that no material detriment would result from the variance.


4. The variance would address the hardship to the appellant which would come from removing the extra deck space. The hardship was self-created, however inadvertent.

5. As not all the required conditions for variance have been shown the application and appeal must be denied.

Decision

The variance is DENIED.

Entered this 14th day of April, 1983.


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.