

File
Shelton

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JAMES CRAIG STARKS

FILE NO. MUP-83-068(V)
APPLICATION NO. 83-436

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

Introduction

Appellant, James Craig Starks, appeals the decision of the Director of the Department of Construction and Land Use, to deny variances for the property located at 2312 Magnolia Boulevard West.

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

The matter was heard before the Hearing Examiner on November 14, 1983. Due to his hospitalization, the Hearing Examiner Pro Tempore Phillip Aaron requested and was granted an extension of the time for issuance of a decision to December 13, 1983.

Parties to the proceedings were: appellant; and the Director, Department of Construction and Land Use, represented by Amy Luersen.

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

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 a lot with an existing two-story residence and a two car garage located at 2312 Magnolia Boulevard West. The lot is 45 ft. by 110 ft. (4,950 sq. ft.) and the existing residence and garage covers approximately 38.8% of the lot. The subject site is in an SF 5000 zone.
2. The applicant proposes to construct a second floor deck addition to the existing single family residence located on the subject site. The Director denied the variances and the applicant appealed. Variances are requested to exceed the maximum permitted lot coverage to 42.4%, 35% is allowed; and to expand a building already nonconforming as to lot coverage.
3. The surrounding homes are on lots that are larger than the subject site. The lot sizes in the block front range from the applicant's 4,950 sq. ft. to 10,640 sq. ft. The other homes in the area are generally below the allowable lot coverage.
4. The subject property, while smaller than others in the area, has an extended front yard, a result of the home's location to the rear of the lot.
5. The proposed deck would extend into the existing space to the front of the property.

6. It appears from the testimony that the proposed deck would not extend beyond other decks adjacent to applicant's property and would have no detrimental effect on the surrounding area.

7. The Hearing Examiner finds as reported by appellant that six homes in the same block and seven in the adjacent block have decks or covered porches and that all, including appellant's, have large windows with a southerly exposure.

Conclusions

1. The subject property is the smallest site in the surrounding area. Because of its size it is not possible to build a deck in a conforming manner. Surrounding property owners enjoy decks as well as a southern exposure.

2. The variances requested are the minimum necessary to provide for the proposed deck and do not constitute a special privilege.

3. The strict application of the Code would deprive the applicant of the use of his property in a manner consistent with the surrounding development and would cause undue hardship.

4. The requested variances would conform to the spirit and purpose of the Land Use Code and Policies.

Decision

The variances are granted.

Entered this 13th day of December, 1983.

Phillip Aaron
Phillip Aaron
Hearing Examiner Pro Tempore

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should such request 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.