

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

AMIL A. LARMAN

FILE NO. MUP-84-043(V)
APPLICATION NO. 8401754

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

Introduction

Appellant, Amil A. Larman, appeals the decision of the Director, Department of Construction and Land Use, to deny a lot coverage variance for property at 2235 W. Halladay Street.

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

This matter was heard before the Hearing Examiner on August 1, 1984.

Parties to the proceedings were: appellant by his agent, George J. Xenos, Property Development Associates; the Director by Leslie Lloyd, land use specialist.

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. Appellant applied for a master use permit to construct a cover over an existing swimming pool at 2235 W. Halladay Street. A variance from the maximum permitted lot coverage was denied by the Director. Appellant filed this appeal.

2. The subject property is a 5000 sq. ft. lot developed with a single family residence and 13 ft. by 19 ft. swimming pool. Existing lot coverage is 32.24%.

3. Appellant proposes to cover the pool by erecting transparent wall panels and extending a roof from an existing second story deck. The lot coverage, after alteration of the plans, would be 39%.

4. Section 23.44.10.C permits up to 35% of lot coverage.

5. The lot has had a bubble-type cover in the past which does not affect lot coverage. That cover lasted only about two years because of the wind action in this area.

6. The alley at the rear of the lot is approximately 12 ft. below the decking around the pool. The proposed wall would rise 7 ft. 8 in. above the decking according to Exhibit 4.

7. Trees and bushes obscure the view of the pool from neighboring properties.

8. There was no evidence adduced that other properties had covered pools.

9. A cover is necessary for year round use of a pool in Seattle.

Conclusions

1. While the subject property is in a location that experiences winds, that condition was not shown to be unusual. Moreover even if the winds are unusually severe, the record does not show that other lots exceed lot coverage or enjoy covered pools. Without a showing that the property has an unusual condition because of which the lot coverage limitation deprives it of development rights or privileges enjoyed by others, the variance cannot be granted.

2. Granting the variance without a finding of an unusual property condition and denial of comparable rights would be to confer special privilege.

3. The extra lot coverage would not be detrimental to the public welfare in this case nor would it injure any other property in the area.


4. There is some hardship involved where an improvement on the property cannot be fully utilized, as here, because of lack of protection from the weather.

5. The Single Family Residential Areas Policies Implementation Guidelines and the Land Use Code agree on the lot coverage limitation for a standard lot. Unless the other variance criteria are met, exceeding that limitation would conflict with the code and policies.

Decision

The Director's decision to deny the variance is affirmed.

Entered this 14th day of August, 1984.


M. Margaret Klockars
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW OF HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. 2 Am. Jur. 2d., Admin. Law Section 524. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11); Akada v. Park 12-01 Corporation, 37 Wn. App. 221 (1984); JCR 73.

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.