

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

In the Matter of the Appeal of

LAWRENCE E. HARD

FILE NO. S-79-031

from a determination of the
Superintendent of Buildings

The appeal is DENIED and the Findings and Decision
of the Superintendent of Buildings are affirmed.

Introduction

The appellant, Lawrence E. Hard, filed an appeal from a written interpretation from the Superintendent of Buildings (Superintendent) relating to property at 3801 East Prospect Street.

The appellant exercised his right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).

This matter was heard before the Hearing Examiner on October 25, 1979.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The appellant, Lawrence E. Hard, an attorney, represents the owner of a single family residence at 3801 East Prospect Street. The property is zoned Single Family Residence Medium Density (RS 7200).

2. Developed on the property is a single family residence with an 8.5 ft. setback from East Prospect Street and a 20 ft. setback from vacated 38th Avenue East. On August 15, 1979, a variance was granted for an addition to the existing residence. The variance permitted a reduction in the setback from East Prospect Street from 8.5 ft. to 5 ft. The variance was based on the determination by the Superintendent that the front yard abutted on East Prospect Street. Under Section 7.53 a 20 ft. front yard is required.

3. The property abuts East Prospect Street on the north and 38th Avenue East on the west, which was vacated on November 30, 1903. The vacation of the street did guarantee access to other residences served by the corridor.

4. The appellant requested an interpretation of the Superintendent as to the correct designation of a front yard for property abutting on both a public street and a vacated street that is used as a private drive. The Superintendent entered a written interpretation on September 18, 1979 and a timely appeal was filed on October 3, 1979. The superintendent in his written decision held that the front yard of the property that abuts both on a public street and a private drive must be the yard that abuts on the public street.

5. The Zoning Code contains the following definitions:

Street - (Section 3.20) A public way thirty (30) feet or more in width permanently open to public use including an avenue, place, drive, boulevard, parkway, highway and any similar way, except an alley.

Corner lot - (Section 3.13) A lot situated at the intersection of two streets, or bounded on two or more adjacent sides by street lot lines, provided that the angle of intersection of such street lot lines does not exceed one hundred thirty-five (135) degrees.

Interior lot - (Section 3.13) A lot other than a corner lot.

Conclusions


1. The record clearly shows that the lot is not situated at the intersection of two streets or bounded on two or more sides by street lot lines. The lot is bounded on only one side by a street and the plain meaning of the ordinance argues against any interpretation that would qualify the lot as a corner lot. The prior owners of the property, who favored vacation of the street, determined the future status of the lot as an interior lot.

2. The orientation of the existing residence and the utilization of 38th Avenue East for access does not change the fact that under the Zoning Code definitions 38th Avenue East is no longer a street.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are affirmed.

Entered this 2nd day of November, 1979.


William N. Snell
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 appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).