

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

KENNETH M. BARTLETT,
KENNETH M. BARTLETT RESIDENTIAL DESIGN

FILE NO. S-80-033

from a determination of the
Director of Construction and
Land Use

The appeal is DENIED and the Decision of the
Director of Construction and Land Use is AFFIRMED.

Introduction

The appellant, Kenneth M. Bartlett, agent for owners David E. and Mary M. Rogge, appealed from the denial of a use permit by the Director of Construction and Land Use for property at 6325 Beach Drive S.W.

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

Parties to the proceeding were: Appellant and Joyce C. Kling, Manager, Support Services Section, Department of Construction and Land Use for the Director.

This matter was heard before the Hearing Examiner on July 17, 1980.

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 subject property is a lot zoned Single Family Residence High Density (RS 5000), developed with two residences, located in the shoreline district.

2. In 1979, the Building Department determined that variances were necessary to expand a nonconforming use (two dwelling units on one lot) and for the height of a proposed garage. Variance application was made and granted.

3. In June, 1980, an application for a building and use permit was made. The Department of Construction and Land Use determined that the plans did not conform to the Zoning Ordinance and that a shorelines variance for setback from the shoreline and a variance for one side yard would be required.

4. Appellant appealed on July 8, 1980, from that ruling published June 24, 1980. Appellant contends that the City departments should have determined that the proposal needed the variances in 1979 on the initial review and questions the application of the interpretation embodied in Superintendent's Ruling 14-79 to existing development.

Conclusions

1. Although the departments erred in failing to cite the proposal's noncompliance with ordinance requirements in the 1979 review of the plans, relief in the form of waiver of those requirements cannot be granted except through the variance procedure.

2. While Section 21A.35(c) and Superintendent's Ruling 14-79 both speak of "residential structures" not being permitted closer to the shoreline than adjacent structures, Section 5.1 provides that "...no building or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the zone...." The setback requirement, therefore, applies to the proposed additions to an existing structure.

Decision

The appeal is DENIED and the Decision of the Director of Construction and Land Use is AFFIRMED.

Entered this 28th day of July 1980.

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 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).