

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DEANNA JO BILLINGTON

FILE NO. S-81-030

from a determination of the Director
of the Department of Construction
and Land Use

Introduction

Deanna Jo Billington and Paul Billington, appellants, appeal an interpretation of the zoning chapter of the Seattle Municipal Code by the Director of the Department of Construction and Land Use for property at 6750 Jones Avenue N.W.

The appellants exercised their right to appeal pursuant to the Seattle Municipal Code, Section 24.10.030, as amended.

This matter was heard before the Hearing Examiner on October 9, 1981.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24, as amended, unless otherwise indicated.

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 parties stipulated to the following facts:
 - a. The subject property is located at 6750 Jones Avenue N.W. The legal description is Lots 8 and 9, Block 131, Salmon Bay Park.
 - b. The property is zoned RS 5000 (Single Family Residential High Density).
 - c. Duplexes are not permitted in the RS 5000 zone.
 - d. According to Department records, the building was converted to a duplex in 1941. At that time, the property was zoned First Residence District. Duplexes were not permitted in that zone.
 - e. According to Department records, the most recent permit for the property was issued in 1971. The permit "to alter existing dwelling" shows the use of the building as a single family residence.
 - f. Mr. Billington submitted statements from two neighbors that the building has been used as a duplex since 1970 and records from City Light showing two meters at the address from 1941 through 1975 and two accounts at the address from 1972 to the present.
2. The house is designed with two separate entries and front hallways, two kitchens, two garages, two water heaters and two electric meters.

3. The value assigned to the alteration for which the 1971 permit was issued was \$500, an amount too small to have allowed any alteration sufficient to convert the use from duplex to single family.

4. The 1971 permit reference to "one family dwelling" by the applicant was erroneous and various explanations are available, all speculative.

5. The Polk Directory showed two addresses for the property until 1964 but not since that time. Little weight can be assigned to the absence of entries since the units both have been occupied since at least 1970 and that occupancy is not shown.

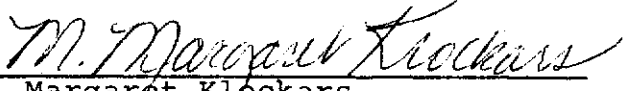
Conclusion

1. Since the duplex use was established by permit in 1941 and has not been converted or abandoned its nonconforming status remains.

Decision

The interpretation of the Director of the Department of Construction and Land Use is REVERSED.

Entered this 21st day of October, 1981.


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.