

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

In the Matter of the Appeal of

ERIC CARLSON

FILE NO. S-81-031

from an interpretation of the Director
Construction and Land Use

Introduction

The applicant, Eric Carlson, requested an interpretation of the Shoreline Master Program as it relates to his proposed development plan for the property legally described as follows:

That portion of Lots 5 and 6, Block 29
Lake Washington Shorelands lying easterly
of the following described lines:

Beginning at a point on the south line of
said Lot 6, Block 29 which is 156.78 feet
of the southwest corner of Lot 6, Block 13
Replat of John J. McGilvra's Second Addition
to the City of Seattle, according to Plat
recorded in Volume 13, of plats, page 34,
records of King County, Washington, thence
northeasterly to a point on the north line
of Lot 5, Block 29 which is 184.48 feet east
of the northwest corner of Lot 5, Block 13,
said replat of John J. McGilvra's Second
Addition.

The applicant appeals from the Director's interpretation and raises two issues:

A structure on a upland lot should not
dictate the location of a structure on a
water front lot and that East Prospect
Street should not dictate which yards are
considered front yard.

The hearing was heard before the Hearing Examiner on December 16, 1981, and a conference among the Department of Construction and Land Use representative, the applicant and the Hearing Examiner was held on January 18, 1982. The record was left open for both parties to submit any additional evidence bearing on the issue of the required 100 ft. setback.

On February 10, 1982, the applicant submitted additional testimony by letter dated February 5, 1982.

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 shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject property is located to the north of East Prospect Street extending into Lake Washington by approximately 145 ft. It is located in an RS 7200 zone and it is of an irregular rectangular shape.

2. The applicant proposes two alternative development plans both of which are set forth in Exhibits 3 and 4. Under each plan the applicant proposes to develop a new structure to the east of an existing structure. Under Plan A (Exhibit 3) the applicant proposes to build a new structure on A-1. This new structure would be located to the east of the existing structure R-1. Under alternative B, the applicant again proposes to develop a new structure to the east of R-1 on the lot designated B-1.

3. The issue raised by the applicant's proposed development plans is whether or not the proposed development is adjacent to the existing structure.

4. By testimony on December 16, 1981, the applicant Eric Carlson, conceded the Director's Interpretation as it related to the issue of front yard.

5. By letter dated February 5, 1982, and which is made a part of the record hereof, the applicant states:

"I am writing to provide additional information on the subject appeal. Regarding the map, identified Exhibit 4 in the appeal, it is my contention that the existing residence, R-1, would be located behind and not adjacent to a structure located on lot B-1. This condition would therefore make the imposition of the 100 ft. setback, prescribed by the Seattle Shoreline Master Program not applicable."

6. The letter of February 5, 1982, did not alter the proposed development plans as illustrated in Department Exhibits 3 and 4.

Conclusions

1. Section 24.60.395(C) states:

Residential structures shall not be located closer to the shoreline than adjacent structures. If there is no other structure within one hundred feet, residential structures shall be located at least twenty-five feet back from the line of higher regulated lake level of Lake Washington, Lake Union and connecting fresh waters, or the line or ordinary high tide.

2. An adjacent structure is defined as:

The principal building(s) together with existing or authorized view decks, balconies, porches and/or parts, when located within the Shoreline District and one hundred feet as measured in an arc from the point of any principal building(s) closest to the proposed residential structure. The adjacent structure on a given lot for purposes of determining setback shall be the principal structure closest to the shoreline. Superintendent's Ruling 14-79.

3. The method of determining the residential setback when the shoreline is regular is as follows:

The residential setback line for new principal buildings and/or parts shall be determined by subtending a line between the nearest shoreside corner of the existing principal buildings located on either side of the lot, provided, however, that when such building faces are irregular the line shall be subtended from the corners located closest to the shoreline. Superintendent's Ruling 14-79.

4. In each of the alternative development plans the residential structure denoted as R-1 clearly falls within the bounds of the definition of an "adjacent structure". The fact that the proposed development under each alternative would be located in front of R-1 is irrevelent, since the property is located "within the Shoreline District and one hundred feet as measured in the arc from the point of any principal building closest to the proposed residential structure".

5. The letter submitted by the applicant does not modify the Exhibits (3 and 4), but rather makes an attempt to interpret them.

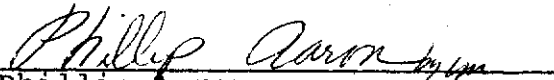
6. While the property is somewhat unique, the applicant is not precluded from developing the site with the restrictions imposed. However, the proper course open to the applicant is through the variance procedure in regards to the 100 ft. setback.

7. The Director's report, and all the evidence submitted at the hearing and subsequent conferences clearly illustrates that the proposed development is located adjacent to the existing structure and for that reason the applicant is required to comply with the 100 ft. setback.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 25th day of March, 1982.


Phillip Aaron
Hearing Examiner Pro Tempore

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.