

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

In the Matter of the Appeal of

OCCIDENTAL ROOFING COMPANY

FILE NO. S-82-005

from an interpretation of the Director
Department of Construction and Land Use

Introduction

Appellant, Occidental Roofing Company, Inc., appeals an interpretation by the Director of the Department of Construction and Land Use (Director) regarding property at 5502-15th Avenue South.

Parties to the proceedings were: appellant represented by R.J. Hale, General Manager, and the Director, represented by Judy Talman.

This matter was heard before the Hearing Examiner on June 23, 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 findings of fact shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Appellant's agent requested an interpretation of the zoning chapter of the Seattle Municipal Code regarding whether outside storage associated with a cold tar roofing business can be permitted in a Neighborhood Business (BN) zone. The Director decided that such storage is not permitted in the BN zone. This appeal followed.

2. The Occidental Roofing Co., Inc., has a building housing its office on the site at 5502-15th Avenue South. In an outdoor, fenced area the company's flatbed and tanker trucks are parked over-night and other times when not in use.

3. The subject site is zoned BN.

4. Section 24.40.010A subjects all uses permitted in the BN zone to the condition that:

All business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building, except for off-street automobile parking and off-street loading, commercial moorage, automobile service stations and outside storage of radiator fluids, motor oils and similar merchandise, provided that such storage shall include only those quantities used in a day's operation...

5. "Automobile" is defined as:

a usu. four-wheeled automotive vehicle designed for passenger transportation... Webster's New Collegiate Dictionary, 1977.

Conclusions


1. Appellant urges that the parking of the two trucks overnight, and at other times when not in use, is not "storage" as contemplated by Section 24.40.010A which requires enclosure in a building. The exception for off-street parking applies only to "automobiles". Since that term is not defined in the code the common and ordinary meaning is to be used. Wiggers v. Skagit County, 23 Wn.App. 207 (1979). The exception, then, is for vehicles designed for passenger transportation, which the tanker and flatbed are not. Their parking or storage must be within an enclosed building in the BN zone.

2. Appellant's contentions with regard to the effect of the business on the area cannot be considered in the interpretation of the code.

Decision

The decision of the Director is AFFIRMED.

Entered this 25th day of June, 1982.


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.