

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JOHN BAUMANN

FILE NO. MUP-81-050(V)
APPLICATION NO. 81141-0064

from a decision of the Director
of the Department of Construction
and Land Use on a master use
permit application

Introduction

Appellant, John Baumann, appealed the decision of the Director of the Department of Construction and Land Use to deny variance components of a master use permit application for property at 13770-30th Avenue N.E.

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

This matter was heard before the Hearing Examiner on September 29, 1981.

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 lot is located at the southeast corner of the intersection of N.E. 140th Street with 30th Avenue N.E. It measures 90 by 150 ft. and is developed with a single family residence sited on the western half of the parcel.

2. The lot is zoned Single Family Residence Medium Density (RS 7200) and adjoins a Multiple Residence Low Density (RM 800) zone. Lots in the two blockfronts facing 30th Avenue N.E. between N.E. 137th and N.E. 140th vary greatly in size ranging from approximately 7,700 to 18,000 sq. ft. and perhaps larger. The zone contains many subsized lots although the majority appear to be larger than 7,200 sq. ft.

3. The appellant desires to short plat the subject property to create two lots one with 7,200 sq. ft. and one with 6,300 sq. ft. Section 24.18.080 requires at least 7,200 sq. ft. The existing house would be located on the larger lot but would provide a 21.4 ft. rear yard where Section 24.18.090 requires a minimum of 30 ft. He applied for variances from those provisions, the Director denied the variances and the applicant filed a timely appeal.

4. A search of the records showed only one variance for lot size was granted in the vicinity since 1957. That involved a through lot and was granted for two 7,026 sq. ft. lots.

Conclusions

1. If the appellant were suffering undue hardship by virtue of the size of the property because of which size the Code's requirement denied the property development rights enjoyed by other properties then a yard variance for the existing house would be appropriate. Appellant has not proven, however, that he is denied comparable development rights. Many of the lots in the immediate vicinity are well over the minimum size. While the subject property is over the average, the size proposed would be markedly smaller than the average size for the two facing blockfronts.

2. While one variance in the immediate vicinity has been granted, granting variance for lots of this size would confer special privilege. The relief requested would go beyond the minimum necessary since undue hardship was not proved.


3. No material injury to other properties is reasonably likely from the granting of the variance, however, the variance could set a precedent leading to greater density than contemplated by the City Council in establishing the zone.

4. The variance would not conflict with the Single Family Residential Areas Policies.

Decision

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

Entered this 13th 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.