

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

In the Matter of the Appeal of

BARBARA O'STEEN

FILE NO. MUP-81-070(V)
APPLICATION NO. 81180-0150

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

Introduction

Barbara O'Steen, appellant, appeals the decision of the Director of the Department of Construction and Land Use to deny a variance for property at 906-11th Avenue East.

The appellant exercised her right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on November 18, 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. Appellant made a master use permit application to construct an addition to her single family residence. The addition was to be a solarium or solar greenhouse on the south side of the residence. The subject lot measures 50 by 100 ft. and abuts upon 11th Avenue on its west side and an alley on its east side.

2. Section 24.20.100 establishes the maximum lot coverage of 35% in a Single Family Residence High Density (RS 5000). The proposed addition would increase the lot coverage on the subject lot which is in an RS 5000 zone to 37.4%. The Director denied the variance from that section which would be required to build the proposed addition.

3. The lots in the area are regularly platted at 50 by 100 ft. Some residences nearby are very large but the house on the subject lot is fairly typical of development in the area. The lots on the east side of 11th Avenue East are sloping down to 11th Avenue East and southward.

4. Properties facing on the west side of 11th Avenue East are within a Multiple Residence Low Density (RM 800) zone. The bulk requirements and restrictions are different in that zone. The properties to the east side of the block in which the subject property lies, facing on 12th Avenue East, are single family and multi-family mixed but are elevated above the block front in which the subject property lies.

5. No variances for lot coverage have been granted in the RS 5000 zone in the immediate vicinity. One lot coverage variance has been granted on the west side of 11th Avenue East which is a different zone. No other properties in the immediate area have solar collectors.

6. The subject residence was constructed 52 years ago. It has a garage and a 12 by 16 ft. sundeck constructed after the appellant came into ownership of the property.

7. Appellant presented letters of neighbors supporting her application. One neighbor voiced opposition to the variance.

8. The Single Family Residential Areas Policies maintain the 35% lot coverage maximum for a standard sized lot.

9. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 19710170.

Conclusions

1. Appellant has not shown that her property suffers from a unique condition which prevents it from achieving reasonable and comparable development. Without that showing any variance would be a grant of special privilege and would go beyond the minimum necessary for relief.


2. The record does not reflect that the variance would allow construction that would cause material injury to the adjacent properties however exceeding the bulk limitations without the requisite showing of hardship would be detrimental to the public welfare through the increase of bulk beyond that contemplated by the ordinance.

3. While the Single Family Area Residential Policies are to be implemented through code provisions and variance can be granted from those provisions, when the code's criteria for variance are not met the variance would be contrary to those policies and, therefore, the Comprehensive Plan.

Decision

The Director's decision to deny the application is AFFIRMED.

Entered this 1st day of December, 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.