

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

In the Matter of the Appeal of

JOSEPH OWENS.

FILE NO. MUP-83-001(V)
APPLICATION NO. 82-0514

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

Introduction

Appellant, Joseph Owens, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny variances from the minimum lot size requirement for property at 11018-28th Avenue N.E.

The appellant exercised his 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 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on February 8, 1983.

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 applied for variance from Section 23.44.10A, which establishes the minimum required lot size, to allow for future subdivision of the property at 11018-28th Avenue N.E. The variance was denied by the Director.
2. The subject property is a 80 by 165 ft. lot with area of 13,200 sq. ft. Appellant proposes to divide it into two lots with sizes of 6,500 and 6,700 sq. ft.
3. The subject lot is in an SF 7200 zone. The zone contains many lots about 6,000 sq. ft. in size and many in excess of 14,000 sq. ft.
4. The block on which the subject lot is located contains 17 lots, eight of which are larger than the subject lot's 13,200 sq. ft. and only two smaller than 7,200 sq. ft.
5. Section 23.44.104 requires a minimum lot size of 7,200 sq. ft. unless certain other circumstances are present. Under this section, no variance would be required if the area of the proposed lots were to be at least 80 percent of the mean lot area of the lots on the same block face. The lots would not meet this test.
6. According to the Director's findings, only one lot in the subject block is large enough to subdivide without variance.
7. At least six other lots on the block are similar to the subject lot in terms of size.

8. The subject lot easily could provide access to a second lot because the existing house is situated so as to provide a very wide side yard.

9. The lot at 11026-28th N.E., next to the subject property, has a second dwelling unit in a small cottage which was established prior to the City's acquisition of the area.

10. No evidence of any lot size variances granted in the area was offered.

Conclusions

1. The location of the house on the lot leaving a wide side yard which could be used for access to the rear of the lot is unusual for this block. The size of the lot is not unusual. The wide side yard in no way deprives the property of rights and privileges enjoyed by most other properties in the block, however.


2. If relief were warranted the amount of variance requested would be the minimum necessary. Since there is no property condition to justify the variance, granting the variance would confer special privilege.

3. The variance to permit the division of the subject lot, since the property does not present unusual hardship, would serve as a precedent for the other six lots in the block. The zoning designation shows the Council's intention to enforce the maximum density of one dwelling unit for each 7,200 sq. ft. This variance and any that would follow would violate that intent and result in a de facto rezone.

Decision

The variance is DENIED.

Entered this 22nd day of February, 1983.


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.