

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

In the Matter of the Appeal of

WILLIE MAE GRAY

FILE NO. MUP-83-028(V)  
APPLICATION NO. 83-122

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

Introduction

Appellant, Willie Mae Gray, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny her application for variances for property at 4027-43rd Avenue South.

The appellant exercised her right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on June 6, 1983.

Parties to the proceedings were: appellant and the Director, represented by Jim Barnes, environmental specialist. Other interested persons testified.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code 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. Appellant applied for a master use permit to add a deck to her residence at 4027-43rd Avenue South. The Director determined that two variances would be required and denied those variances. Appellant filed her appeal.

2. The house is located on a 7,200 sq. ft. lot on the west side of 43rd Avenue South. The lot slopes up from the street and has a steep grade behind the house. The house is excavated into the slope.

3. The houses on the 43rd Avenue South have views of Lake Washington over the Genesee Playfield and Stan Sayres pits. The houses on the east side of 42nd Avenue South are at a higher elevation and have views over the houses on 43rd.

4. The majority of the houses in the block which front on 42nd have view decks. On 43rd the house on the third lot north of the subject property has a view deck. The house next to the subject house has a large front porch which is used as a deck. One lot is undeveloped and any development plan is likely to include a deck.

5. The subject house has an irregular front setback 24.5 ft. and 21.5 ft. from the street. On the south side the edge of the second story porch is set back 3.5 ft. from the property line. The setback to the wall is 8 ft.

6. Required setbacks for the SF 7200 zone in which the property lies are 20 ft. for the front, Section 23.44.14A, and 5 ft. for the side, Section 23.44.14C and D(11).

7. The proposed deck would be 6.5 ft. wide and extend across the south half of the front of the house at the second or main level. The deck would connect to the existing porch along the south side of the house.

8. Variances would be needed for the resulting 18 ft. front yard and 3.5 ft. side yard.

9. The lake is not visible from the front of the subject house at grade.

10. A deck 4.5 ft. wide, the widest permitted without variance, would not allow reasonable use and enjoyment.

#### Conclusions

1. The topography of the lot is such that the lake view is not available from the ground. Other houses enjoy the view from view decks but because of the placement of the subject house that means is not available to residents of the subject property. The established substandard side yard creates the situation requiring variance there.

2. The amount of variance is the minimum necessary for a view deck which affords reasonable use. The tie-in with the side yard is necessary for access and the variance requested is the minimum necessary. Most other properties have decks, conforming or not, so the variance would not confer special privilege.

3. No other property would be harmed nor would there be material detriment to the public welfare from the 2 ft. variance.

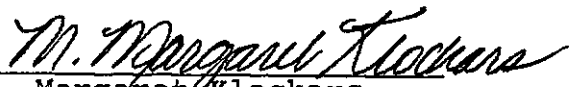
4. The strict application of the Code would create hardship by denying appellant enjoyment of one of the amenities of her property.

5. The intent of the front yard setback provisions is to preserve the streetscape character. The small deviation from the required setback here will not affect the character of the streetscape of 43rd Avenue South.

#### Decision

The requested variances are GRANTED.

Entered this 20th day of June, 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.