

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ROWAN NORTHWESTERN DECORATORS, INC.

FILE NO. S-81-011

from a determination of the Director,
Department of Construction and Land Use

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

Introduction

Rowan Northwestern Decorators, Inc. filed an appeal from a written interpretation by the Director of the Department of Construction and Land Use (hereinafter Director) No. 177 denying permission to enclose an existing covered deck with solar insulated glass.

The subject property is located at 1825 Westlake Avenue N. in Seattle.

The appellants exercised their rights to an appeal pursuant to 24.10.030 (Section 25.40 of the Seattle Zoning Ordinance (86300, as amended)).

This matter was heard before the Hearing Examiner on April 15, 1981.

Parties to the proceedings were: Appellants represented by counsel Diane Kenny of Roberts, Shefelman, Lawrence, Gay and Moch; the Director represented by Leigh Ann Collings. Testifying on behalf of the appellants was Brian Brand of Baylis Architects.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The Director's decision denying permission to enclose a deck at 1825 Westlake Avenue N. was published on March 19, 1981.
2. Appellants filed their Notice of Appeal of that decision on April 1, 1981.
3. The east 100 ft. of the subject property is zoned "M" (Manufacturing), the remaining portion of the tract is Zoned RM 800 (Multiple Residence Low Density).
4. The subject property is located within the US/LU (Urban Stable/Lake Union) shoreline environment.
5. The subject property was constructed in 1955 and consists of concrete structure and brick walls.
6. The prior owner of the subject property, Vernell's Fine Candies, Inc., used the building for manufacturing, warehousing and maintaining offices.
7. Appellant began occupancy of the building in August, 1980.

8. Appellant company is a small interior decorator business organizing exhibits and convention displays such as the Auto Show and the Boat Show.

9. Appellant uses the building primarily as a storage-warehouse for equipment to be used in setting up exhibits and conventions. Some manufacturing of walls and equipment to be used in the shows occurs on the premises. Part of the building is used for offices.

10. Adjacent to the offices located on the second floor is a covered deck. Sliding glass doors provide access to the deck from the offices. There are no stairs or other access to the ground level from the deck.

11. The original building was designed in such a way so that the roof and each side of the second story deck extended from the building. Concrete walls, floor and a roof enclose the deck. The deck is partially enclosed with a lattice work topped by a metal railing.

12. The deck area adjacent to the offices have always been used by the corporate officers and is used in good weather for business entertainment purposes.

13. Appellant complained that the deck and its window wall system is noisy and leaks wind. Dirt and water rapidly accumulate which renders the concrete floor slippery.

14. Appellant desires to remove the metal railing, present a glass window wall system and install solar insulated glass on a new support system where the metal railing presently exists.

15. Appellant contends that the new glass system will help the acoustics and provide thermal efficiency to the building.

16. Appellant will not increase their operation in any way nor hire additional employees if the proposed building permit is granted.

17. The proposed window wall system will not affect the bearing walls, beams, columns, or any other supporting members of the building. No structural changes of the roof will be made.

18. At the hearing, the Director contended that enclosure of the deck constitutes extension or expansion of the building. The Director does not contend that the proposed enclosure would constitute a structural alteration.

Conclusions

1. Appellant urges application of Keller v. Bellingham, 92 Wn.2d 726 (1979). The Keller case is not controlling due to the distinguishable facts of this appeal with the facts in Keller.

2. The Director urges application of a prior ruling by a Seattle Hearing Examiner in the appeal of Wallingford Community Council (S-78-025). That appeal is distinguishable from the facts of this case. In the Wallingford appeal a new roof and new sidings were proposed which are not proposed by appellant in this appeal.

3. Section 24.10.070 of the Seattle Municipal Code provides that the determination made by the Director is to be regarded as prima facie correct.

4. To overcome that presumption appellant must prove by a fair preponderance of credible evidence that the decision is incorrect. Allison v. Department of Labor and Industries, 66 Wn.2d 263 (1965).

5. Appellant's nonconforming use of the building is permissible pursuant to Section 24.14.030 of the Seattle Municipal Code.

6. The sole issue of this appeal is whether the proposed enclosure of the deck constitutes "extension" or "expansion" of the building, pursuant to Section 24.14.060(A) of the Seattle Municipal Code.

7. Section 24.14.060(A) of the Seattle Municipal Code, in relevant part states, "...no such building or part shall be extended, expanded...."

8. Since the terms "extended" and "expanded" are not defined in the Seattle Municipal Code and the Zoning Ordinance, they will be given their ordinary meaning. Tacoma Telco Fed. Credit Union v. Edwards, 94 Wn.2d 666, 669 (1980).

9. The Oxford Universal Dictionary (3rd Ed., 1955) defines "extended" in part as, "enlarged in area...." The definition of "expanded" in part is, "to increase in bulk...."

10. Websters New World Dictionary (2nd Ed., 1978) defines "extend" to include enlargement of area and to give added bulk. "Expand" includes making greater in size or bulk. "Expanded" includes increased size or area.

11. "Bulk" is defined in Section 24.08.030(17) of the Seattle Municipal Code as:

"...size and location of buildings and structures in relation to the lot. Bulk regulations include maximum height of building, minimum lot area, minimum front, side and rear yards and maximum lot coverage...."

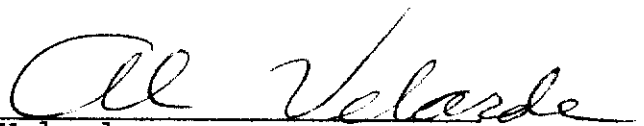
12. The proposed enclosure of the deck will not affect the size and location of the building in relation to the lot. The height of the building will not be affected.

13. Since the proposed enclosure of the deck with glass will not affect the walls, columns, beams, supporting members of the building or roof, the building will not be extended or expanded if this permit is granted.

Decision

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

Entered this 29th day of April, 1981.


Al Velarde
Hearing Examiner Pro Tempore

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).