

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

In the Matter of the Appeal of

MICHAEL A. ZAUGG, et al.

FILE NO. S-80-032

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

The appeal is DENIED and the Decision of the
Director of the Department of Construction and
Land Use is AFFIRMED.

Introduction

An interpretation of the Zoning Ordinance as to the number of dwelling units that could be built on property at 315-21 19th Avenue East was requested and was issued by the Director of Construction and Land Use (Director). Appellants, Michael A. Zaugg, James Flanagan, Geraldine Cook and Sandee Noreen, appeal that interpretation.

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

Parties to the proceeding were: Appellants, Zaugg, Flanagan and Noreen; the Director of the Department of Construction and Land Use represented by Joyce C. Kling, Zoning Administrator; and Seattle Housing Authority represented by Lee Hepfer.

This matter was heard before the Hearing Examiner on July 8, 1980.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

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 property subject to this interpretation consists of two platted lots, Lot 4 and 5, Block 2, Calligan and Coryell's Addition and the south 35 ft. of Lot 3.

2. Lots 3 and 4 are zoned Single Family Residence High Density (RS 5000). Lot 5 is zoned Multiple Residence Low Density (RM 800).

3. Section 4.13(d) provides:

Where a zone boundary line at right angles or approximately at right angles to a street divides a lot which fronts on such street, then the provision of this Ordinance covering the more intensive zoned portion of such lot may be extended to the entire lot, or for twenty-five (25) feet from such zone boundary line, whichever is the lesser distance.

4. The Director concluded that Section 4.13(d) could be applied to the subject property to allow it to be developed with six units in one of two ways:

(a) to extend the RM 800 zone boundary 25 ft. north of the south lot line of Lot 4 and placing a six unit building on the 65 ft. width with the remaining 50 ft. as open space; or

(b) by dividing the parcel into two lots, one 60.62 by 82.48 with a single family residence and one 54.38 by 82.48 with Section 4.13(d) applied to extend the RM 800 boundary for the full width of the lot and developing it with five units.

5. Appellants contend that because the zone boundary coincides with a platted lot line Section 4.13(d), the zone extension provision, should not apply.

Conclusions

1. The Zoning Ordinance provides definitions for words underlined in its provisions. Those definitions are to be used in the interpretation and application of the Zoning Ordinance, according to Section 3.01. Since "lot" is defined in the ordinance that definition must be used.

2. Section 3.13"L" of the Zoning Ordinance defines "lot" as follows:

"A platted or unplatted parcel of land unoccupied, occupied or to be occupied by a principal use or building and accessory buildings, together with such yards and open spaces as are required by this ordinance and abutting by not less than twenty (20) feet upon a street sufficiently improved for automotive travel or having an exclusive, unobstructed permanent access easement serving not more than two (2) principal uses and jointly owned by the two (2) property owners served and at least twenty (20) feet wide and not exceeding one hundred fifty (150) feet in length to such street; provided that lots for townhouse dwellings may abut upon a street or unobstructed permanent access easement by not less than twelve (12) feet and said easement may be not less than fifteen (15) feet in width and may serve up to ten (10) townhouse dwellings.

3. "Lot", as defined would include the full parcel or whatever portion the owner chose to use for one principal use development, and under that definition, the coincidence of boundary and plat lines would not prevent the use of the zone boundary extension provision.

4. Section 4.13(d) does limit the extension to 25 ft. so that ownership of a series of lots would not result in a de facto rezone or more than 25 ft., a concern expressed by appellants.

5. While a right to extend the higher intensity zone beyond a platted lot line may not actually have been intended, the ordinance with its definitions is unambiguous and therefore is not subject to further consideration of policy or construction. Pearson v. Evans, 51 Wn.2d 574 (1958).

Decision

The appeal is DENIED and the Decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 18th day of July 1980

M. Margaret Klockars
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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. After 5 days from the date of this decision, a permit may be issued unless a party of record files with the Director of the Department of Construction and Land Use a written notice of intent to seek judicial review of the City's action. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).