

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

In the Matter of the Appeal of

PETER G. NALIS

FILE NO. S-78-012

from a ruling of the Superintendent
of Buildings

The appeal is DENIED and the Findings and Decision
of the Superintendent of Buildings are affirmed.

Introduction

The appellant, Peter G. Nalis, filed an appeal from a
decision of the Superintendent relating to property at 3835
Fremont Avenue North.

The appellant exercised his right to appeal pursuant to
Section 25.40, Ordinance 86300, as amended by Ordinance
104795.

Parties to the proceeding were: Patricia Parks, representing
the appellant, and Joyce Kling for the Superintendent of
Buildings.

This matter was heard before the Hearing Examiner on
May 24, 1978.

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 appellant, Peter Nalis, requested the Superintendent
to prepare a written interpretation with regard to his
property at 3835 Fremont Avenue North. A written interpretation
was prepared and published on April 25, 1978.

2. On December 27, 1977, Mr. Nalis applied for a
building permit to change the occupancy of his property from
a duplex to a triplex use. The Superintendent in his written
interpretation dated April 21, 1978, denied the permit. The
basis for the denial is Section 24.3(b), which provides that
a residence cannot be converted into a triplex in a Multiple
Residence Low Density (RM 800) zone without complying with
all bulk and density requirements of the zone. The Superintendent
concluded that a variance would be required.

3. The property in question is a three-story residence
located in an RM 800 zone in the Fremont area of the city.
In 1976, Mr. Nalis proceeded to construct second and third
floor additions to the then single family residence. The
proposed additions did not comply with the 8 foot side yard
requirement. A variance was granted by the Hearing Examiner.
The decision of the Hearing Examiner stated that the proposed
structure was to be used as a single family residence.

4. The plans submitted for the variance were somewhat
confusing and upon review the Superintendent of Buildings
concluded that the plan showed two residential units and a

permit for the establishment of a duplex use was issued. The applicant now proposes to establish a triplex use.

5. The plans for the triplex conversion are the same as those that were approved for the earlier permits. The only physical change would relate to the installation of a kitchen for the third unit since a bathroom already exists.

6. Section 24.3(b) provides:

(1) The conversion of a residence structure into a duplex dwelling in an RD, RM, RMH, B or C zone or to a triplex in an RM, PMH, B, or C zone shall be permitted provided that:

(1) No single side yard is less than 3 feet or total side yard less than 8 feet, and no rear yard is less than 15 feet.

(2) The conversion will comply in all other respects with the bulk and density requirements of the zone in which it is located except as to existing front yards.

Conclusions

1. The language of Section 24.3(b) is clear in that it requires a conversion of a residence structure into a triplex to meet the side yard requirements. In this case the subject structure does not have the required side yard and consequently a variance is required.


2. This matter is somewhat complicated by the fact that a variance was previously granted for the side yard in question but this related to a duplex use. If the public is to be adequately informed then the plans submitted by the applicant in the variance process must be controlling when the permit is issued. In this case a triplex was not shown on the plans.

3. The use of a structure relates to the bulk requirements. In this case the applicant is proposing to increase the intensity of the use and he has an opportunity to obtain a variance after a public review. The applicant had an opportunity to seek a triplex when he submitted his original plans so any delay is self created.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are affirmed.

Entered this 6th day of June, 1978.


William N. Snell
Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.