

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

In the Matter of the Appeal of

JAMES & MICHAEL LOUGH

FILE NO. S-77-019

from an interpretation of the
Superintendent of Buildings

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

Introduction

The appellants, James & Michael Lough, by their representative, filed an appeal from a written interpretation of the Superintendent of Buildings, hereinafter Superintendent, concerning property at 1626 N. 52nd Street.

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

This matter was heard before the Hearing Examiner on November 28, 1977.

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. In a written decision signed between October 19 and 24, 1977, the Superintendent ruled that the platform at 1626 N. 52nd is a deck and as such must be included in lot coverage calculation and may not project into required yards without a variance. An appeal was filed November 8, 1977.

2. On June 17, 1977, a building-use permit was issued to appellants for construction of a single-family residence. The platform was not included in the approved plan. A revised plan was later submitted showing the platform as constructed.

3. From Superintendent's exhibit #1 it appears that the platform now extends along the west side of the house from 2 feet 7 inches in front of the house at its outermost point to the back wall some 58 feet 7 inches and then around the rear of the house. The side portion varies in width from 4 feet 3 inches to 7 feet 1½ inches. The request for a formal ruling came as a result of the need to determine if the addition of the deck exceeded the maximum lot coverage permitted.

4. Appellants argue alternatively that: (1) the platform is a porch and as such is not to be counted in lot coverage; (2) even if the platform is considered a deck, because it is not more than 4 feet above the finished ground level its area should not be included; and (3) even if the area must be included in determining lot coverage, the maximum is not exceeded because the area of the platform between the decorative posts and the house wall should be excluded.

Conclusions

1. Section 8.54, Ordinance 86300, as amended, provides that buildings shall not occupy more than 35% of a lot. "Building" is defined by Section 3.03 as "Any structure built for the support, shelter or enclosure of persons..." Section 3.20 defines "structure" as "anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, but not including fences and walls less than six (6) feet in height." Nothing further is said in the ordinance regarding what should or should not be included in the computation. Neither porch or deck is defined in the ordinance.

2. Section 27.42(b) does mention porches in a provision allowing uncovered porches, 4 feet or less from the finished ground level, to project into a required yard to a certain extent. The lot coverage provisions Section 8.54 and 22.57 do not mention either porches or decks.

3. Apparently because of the failure to specifically mention decks in Section 22.42(b), dealing with uncovered porches in required yards, the Superintendent promulgated Ruling No. 30-76. That ruling stated that decks are not to be allowed to project into required yard without a variance and are to be included in lot coverage computation. The reason given for excluding decks is that the exception for porches is based on the necessity of providing access to a structure. Section 22.42(b) did not, however, specifically exclude porch area from lot coverage computation. The practice of excluding it seems to be an extension by implication from Section 22.42(b) because of the necessity for access.

4. A proposed ruling, also interpreting Section 22.42(b), has been drafted. That draft has apparently been used as a guideline pending possible further revision and adoption. That ruling would exclude uncovered porches no higher than 4 feet from the finished ground level from lot coverage but not covered porches. It also attempts to differentiate between "porches" and "decks" by definitions. A porch would have stairs to the ground and provide access to the building by a doorway while a deck would be a platform either not having stairs or not providing access by a doorway. It goes on to provide however that the area of uncovered decks, not more than 4 feet above finished ground level need not be included in lot coverage.

5. The Superintendent has been in the practice of not including 18 inches of roof overhang in the forms of eaves and gutters. This practice seems again to be an extension by implication from Section 22.42(a) which allows their projection 18 inches into the required side yard of an RS 5000 lot.

6. There is no specific language in the ordinance excluding either an uncovered porch or 18 inches of roof overhang from lot coverage computation. As pointed out this has been by informal interpretation. Formalization of that interpretation will most likely be included when the proposed ruling is promulgated.

7. A strict reading of the ordinance would require the inclusion of the area of buildings which, as defined, would include porches, decks and roof overhangs. Only by the extension of Section 22.42(a & b) to lot coverage computation, because of their necessity, are porches and overhangs excluded.

8. To require the Superintendent to add to these voluntary exclusions portions of a structure added for

aesthetic reasons would be requiring him to stray too far beyond the language, and perhaps intent, of the ordinance. The Superintendent is correct in treating the platforms as a deck.

9. For purposes of lot coverage the computation should include the area of the platform (deck) less the usual 18 inches of allowable roof overhang and less the area of a reasonable access porch. If the maximum lot coverage would be exceeded and special conditions pertaining to this property exist then appellant should seek relief through a variance.

Decision

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

Entered this 7th day of November,
1977.

Margaret Klockars
Margaret Klockars
Deputy 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.