

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

In the Matter of the Appeal of

MARK VON WALTER

FILE NO. S-79-018

from a determination of the  
Superintendent of Buildings

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

Introduction

The appellant, Mark Von Walter, filed an appeal from the denial of a use permit for property at 7412 Third Avenue N.W.

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

This matter was heard before the Hearing Examiner on August 20, 1979.

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. On July 6, 1979, John Comick applied for a use permit to construct a single family residence with a carport at 7412 Third Avenue N.W. in a Single Family Residence High Density (RS 5000) zone.

2. The use permit was denied on July 19, 1979, for failure to provide a 20 foot front yard. The plans showed a 10 ft. 2 inch front yard fronting on Third Avenue N.W. The subject lot abuts a reverse corner lot which provides a 10 ft. 6 inch side yard fronting on Third Avenue N.W.

3. Section 8.53 requires a 20 ft. front yard unless one of the modifications contained in Section 22.4 applies. The Superintendent holds that the modifications contained in Section 22.4 do not apply. The applicant, through his architect, Mark Von Walter, filed a timely appeal claiming that the modification provision in Section 22.4 applies.

4. Section 22.43 provides:

In any RS Zone when on lawfully improved lots comprising fifty percent or more of the total frontage in any one block front, the distance from the front lot lines to the principal buildings is less than the depth of the basic front yard, then the required depth of the front yard for any unimproved lot in that block front shall be the average of the distance between the principal buildings and the front lot lines of the first improved lots on either side, provided that the greater depth used in computing such average shall not exceed twenty-five feet.

5. Mark Von Walter did not appear at the hearing. Douglas J. Frederick, a contractor, filed a request to intervene. Mr. Frederick's property at 2508 E. Roy Street abuts an undeveloped reverse corner lot. This appeal raises similar issues with regard to the required front yard setback. The request for intervention was granted.

#### Conclusions

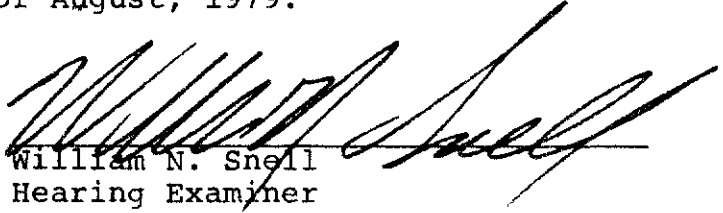
1. Section 22.43(a) clearly provides that in order to average the front yard requirement, one must be able to refer to the front lot line of the improved lots on either side or the calculation cannot be made. In the Von Walter appeal, there is no front yard on one side, only a side yard. In the Frederick appeal, the lot on one side is an undeveloped reverse corner lot. In both of these appeals the Superintendent is unable to make an averaging calculation and correctly determined that Section 22.43(a) does not apply.

2. The basic front yard requirement for the RS 5000 zone is 20 feet but Section 22.4 provides for some relief if at least 50 percent of the lots provide less than the required front yard. Section 22.4 is intended to apply to a limited set of circumstances. In this case, neither of the appellants' cases meet the facts required by Section 22.4. The appellants have the option of seeking variance relief from the front yard requirement.

#### Decision

The appeal is DENIED and the decision of the Superintendent is affirmed.

Entered this 29th day of August, 1979.

  
William N. Snell  
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 appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18Wn.App. 418 (1977).