

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CAROLE J. MANN

FILE NO. MUP-81-002
CLU NO. X-81-001

from a determination of the Director
of the Department of Construction
and Land Use on a Master Use Permit
application

Introduction

Carole J. Mann, appellant, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny a side yard variance component of a master use permit application for property at 9232-20th Avenue S.W.

Carole J. Mann and Henry Mann, applicant, appeared as appellants. Patricia McCotter, environmental specialist, represented the Director.

The matter was heard before the Hearing Examiner on July 2, 1981.

After due consideration of the decision of the Director and the evidence presented 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 subject property is a 40 by 128 ft. lot developed with a long, narrow, one story, single family house. The property provides a 5 ft. north side yard and 25 ft. front and rear yards. The gravelled garage access area accounts for the majority of the rear yard.
2. Section 24.20.090 requires a minimum 5 ft. side yard in the Single Family Residence High Density (RS 5000) zone in which the subject property lies. The house is set 12 ft. back from the south property line. Appellants have constructed a roof from the house to the property line from a point approximately 48 ft. east of the front property line to the rear of the house. Variance from Section 24.20.090 would be necessary to legalize the zero foot side yard for the length of the roof.
3. The Director denied the application concluding that no unique property condition created hardship warranting variance relief.
4. The front yard, like that of many other lots on the block, consists of a 50 percent slope supported by a rockery and, therefore, provides no space for outdoor enjoyment.
5. The house on the subject property, unlike others on the block, is oriented to the south side rather than to the front or west.
6. The house on the lot adjoining to the south is set nearer to the front of the lot than that on the subject property and is set several feet lower than the subject residence. Consequently, appellants' house receives greater exposure to the elements than other houses. Mrs. Mann reported considerable wood and paint deterioration prior to the construction of the roof.

7. A seven foot wide roof would not provide the necessary protection from the elements and would result in support poles through the middle of the lot's usable outdoor area.

8. Appellants provided signatures of immediate neighbors showing their support of the variance application.

Conclusions

1. The placement of the house on the lot and the lot's grade, in relation to the adjacent house, are conditions creating some hardship as evidenced by the rapid weathering experienced. While a 12 ft. wide roof would, under some circumstances, create the need for more variance than necessary, in this case it is the minimum necessary for relief since the side yard is the only usable outdoor space and a narrower roof would result in supports in that area.

2. The unique circumstances of the lot assure the absence of special privilege.

3. No material detriment to the public welfare nor injury to other properties would result from the requested variance.

4. The Single Family Residential Areas Policies establish a 3 ft. side yard as a minimum to assure open space. While the variance, on its face, would appear to conflict with that policy, in actuality the totally open sides, siting of adjacent house and topography provide the desired openness.

Decision

The determination of the Director of Construction and Land Use is reversed and the variance is GRANTED.

Entered this 10th day of July, 1981.


M. Margaret Klockars
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. 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).