

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

In the Matter of the Appeal of

GEORGE AND BRYDIE ANDERSON

FILE NO. MUP-84-022(V)  
APPLICATION NO. 84-00041

from a decision of the Director  
of the Department of Construction  
and Land Use on a master use  
permit application

Introduction

George and Brydie Anderson, appellants, appeal the decision of the Director, Department of Construction and Land Use, to grant a lot area variance for property at 4211-29th Avenue W.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on April 3, 1984.

Parties to the proceedings were: appellants, represented by George Anderson, the Director, represented by Mary Pfender, and the applicant, William Page.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

After due consideration of the evidence elicited during the public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The applicant applied for a master use permit to construct a single family house at 4211 29th Avenue W. A short plat and variance would be required. The Director granted the variance and appellants filed this appeal of that decision.

2. The area apparently was platted in 1906 into 4,000 sq. ft. lots. The applicant's property consists of two of these lots on which a house was constructed.

3. In 1980, the applicant applied for a variance to short plat the property into two buildable lots. On appeal from a decision by the Hearing Examiner granting the variance, the Board of Adjustment denied the variance. Thereafter, the applicant removed the existing house and constructed a new one which is larger than most houses in the neighborhood.

4. The applicant now proposes to redivide the lot to create a second building site. The new house straddles the existing north-south lot line dividing the two platted lots.

The new line would run east and west. The new lot would contain either 3,880 sq. ft. or 4,000 sq. ft. of area depending on whether the lot line is straight or irregular.

5. The site and area is zoned SF 5000 so the minimum required lot area is 5,000 sq. ft. Section 23.44.10.

6. Lot sizes in the immediate area vary from 3,750 sq. ft. to 8,000 sq. ft. On the same block face most lots are 4,000 sq. ft. Across 29th Avenue W. most exceed 4,000 sq. ft. Though there are many exceptions, the predominant pattern of development is houses on lots smaller than 5,000 sq. ft., generally 4,000 sq. ft.

7. The applicant has found record of five lot area variances granted between 1962 and 1975 in the general area of his property.

8. There has been recent construction on each of two 4,000 sq. ft. lots nearby.

9. If a house is built upon the proposed new lot it will eliminate some of the light and open space enjoyed by the adjoining property. Additional cars may compete for space on the street. The photographs show available on-street parking within the same block though residents testified that they find the street crowded.

10. A separate short subdivision application and decision would be required prior to development of the second lot.

#### Conclusions

1. The platting of the applicant's lots is the same as most in the area. His property is unusual, though, in that two such lots have been, and are still, combined. As other 4,000 sq. ft. lots have been developed and are still being developed, his property is denied rights and privileges enjoyed by most other properties in the vicinity.

2. A variance to allow the creation of two 4,000 sq. ft. lots would be the minimum necessary to afford relief, given the 8,000 sq. ft. size. As other similar variances have been granted such a variance would not constitute a grant of special privilege.

3. A continuation of the development pattern to one more lot can not be said to be materially detrimental to the public welfare. Though a new house would reduce the light received by appellants' property, it does not appear that this would be the result of the reduced size of the lot but of the new structure. This is an appropriate short plat decision consideration.

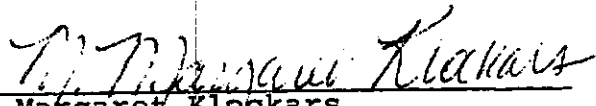
4. The strict application of the lot area requirement would cause some undue hardship in that the applicant's use of the property would be more restricted than his neighbors. The fact that he has already built a house which is larger than most in the area lessens the hardship involved, however.

5. While the Land Use Code continues the minimum requirement of 5,000 sq. ft. for a lot in this zone, exceptions are allowed. This variance to allow a 4,000 sq. ft. lot is consistent with the spirit of the Code.

Decision

The variance is hereby granted.

Entered this 14th day of April, 1984.

  
M. Margaret Klockars  
Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.