

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

In the Matter of the Appeal of

JAIME S. PEREZ

FILE NO. MUP-82-004(V)
APPLICATION NO. 81293-0404

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

Introduction

Jaime S. Perez, appellant, appeals the denial by the Director of the Department of Construction and Land Use (Director) of variances for property at 2112 First Avenue West.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on February 17, 1982..

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. Appellant applied for a master use permit to permit the construction of a second story deck. The Director determined that variances would be needed to provide less than the minimum required front yard and to allow for the expansion of a building nonconforming as to bulk. The Director denied the variances. Mr. Perez appealed.

2. The subject lot is in a Duplex Residence High Density (RD 5000) zone, contains 3,600 sq. ft. of area and was granted a variance in 1979 to develop a duplex on a undersized lot. A front yard variance was also granted appellant at that time so the structure, when constructed, provided a 14 or 15 ft. front yard.

3. Appellant has begun construction of a deck which extends to within 6 ft. of the front property line. Section 24.26.090 requires a 20 ft. front yard. Since the front yard is already nonconforming a variance would also be required from Section 24.14.040 to increase the nonconformity.

4. Other houses on the same and facing blockfronts provide more front yard setback. No other front yard variances have been granted within 10 blocks of the subject site.

5. The appellant would like the deck to cover the lower porch. He points out that there is no view to be obstructed.

Conclusions

1. For variance relief an applicant must prove that the subject property has a unique characteristic which makes providing the required front yard an undue hardship compared with other properties in the area. Appellant showed no such characteristic of his property nor any indication that his property was deprived of any rights enjoyed by other properties in the vicinity. Therefore, the variance must be denied.

2. A variance without the requisite hardship conditions would go beyond the minimum necessary for relief and confer special privilege.


3. It does not appear that any injury would be caused other properties.

4. The variance would conflict with the land use policies.

Decision

The Director's decision to deny the variances is AFFIRMED.

Entered this 2nd day of March, 1982.


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). Should an appeal 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.