

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

In the Matter of the Appeal of

MARIE L. TUSKY

FILE NO. MUP-82-092(V)
APPLICATION NO. 82-0497

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

Introduction

The appellant, Marie L. Tusky, appeals the decision of the Director of the Department of Construction and Land Use (Director) denying variances to allow the expansion of a structure nonconforming as to development standards, to provide less than the minimum required side yard and to provide less than the required rear yard in connection with a proposed addition to her single family residence at 419 North 70th Street.

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

Parties to the proceedings were: Marie Tusky, appellant, pro se; Arthur Ward, representing the Director of the Department of Construction and Land Use.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on January 14, 1983.

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 three variances in connection with a proposed expansion of 15 ft. by 22 ft. at the rear of her house (replacing an 8 ft. by 16 ft. porch).

2. The subject lot is developed with a single family house located in an SF 5000 zone.

3. The proposed addition would intrude into the required 20 ft. rear yard by 6½ ft.; and a proposed back porch would extend an additional three ft. leaving only a 10½ ft. rear yard. Section 23.44.14.B of the Seattle Municipal Code requires a minimum of 20 ft. for rear yards.

4. The present site of the residence provides only a 4 ft. side yard on the west whereas Section 23.44.14.C and D.3 require 5 ft. side yards. Therefore, additional variances to allow the expansion of a structure nonconforming as to development standards (Section 23.44.82.A, Seattle Municipal Code) as well as to the required side yard were applied for.

5. Other properties in this single family residence zone have not received variances for intrusion into required side and rear yards.

6. The lot is similar in size and topography to others in the neighborhood.

7. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

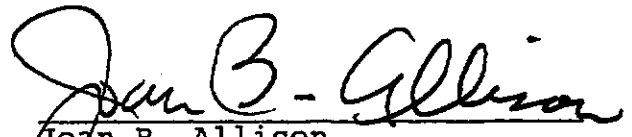
Conclusions

1. There is no unique property condition to support the granting of a variance in this instance.
2. Alternative additions which could be done without variance relief were not explored and other properties in this area do provide rear and side yards as the Code requires; therefore, granting these variances would afford this applicant special privilege.
3. No material detriment would result from a grant, but open space would be intruded upon.
4. Hardship may be avoided by alternative remodeling providing the added space for the personal needs of this couple without variances.
5. The reduction in rear and side yard open space which would result were these variances granted is not consistent with the Land Use Policies and Code.

Decision

The decision of the Director to deny the variances is AFFIRMED.

Entered this 28th day of January, 1983.


Joan B. Allison
Hearing Examiner Pro Tempore

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.