

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

In the Matter of the Appeal of

THE WALLINGFORD COMMUNITY COUNCIL

FILE NO. S-79-001

from a ruling of the Superintendent
of Buildings

The use permit is CONDITIONALLY GRANTED and the
Superintendent's decision is modified.

Introduction

The appellant, the Wallingford Community Council, filed an appeal from a decision of the Superintendent to issue a use permit for property at 3715 Sunnyside Avenue North.

The appellant organization exercised its right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

This matter was heard before the Hearing Examiner on January 24, 1979.

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. Emmett Jones owns a single family residence at 3715 Sunnyside Avenue North. Mr. Jones operates a typewriter rental business out of the subject property and requested a use permit to operate the business as a home occupation.

2. On December 21, 1978 approval of the use permit (No. 580701) was published and the appellant filed a timely appeal.

3. Mr. Jones also applied for a building permit (No. 579443), to add a second story addition to the residence. The permit shows the addition would be for residential purposes only.

4. The use permit issued by the Superintendent contains numerous restrictions that limit the operation of the business.

5. Several of the issues raised in this appeal were also previously considered with regard to Building Permit No. 579443 in the appeal (S-79-001) of the Wallingford Community Council which was dismissed without prejudice on December 28, 1978.

6. The appellant's main contention is that the business operated by Mr. Jones disrupts the residential quiet and character of the area and generates activity and traffic that is incompatible with a single family area. Other issues were raised with regard to the particular type of storage and use of the facility made by Mr. Jones.

7. Mr. Jones testified that the intensity of the business that has been operated out of his residence has been scaled down since most of the storage of typewriters is now done off of the site. He also stated that he has plans to locate the business totally in another location within one year.

8. Mr. Jones stated that about 4 trips a day are generated by his business. The appellant claimed that the trips and type of vehicles servicing the business were intrusive.

9. The typewriters are occasionally cleaned on the site and certain fumes escape an exhaust vent and blow into the nearby residential area. Mr. Jones has agreed to alter the method of exhaust to lessen the impact on nearby property owners.

10. Section 6.31(j) permits home occupations in the single family zones. A home occupation must be clearly incidental to the use of the property for dwelling purposes. Specific limitations on the type of activities that can take place are set forth.

Conclusions

1. The appellant has failed to show that the Superintendent's decision is erroneous. The record supports the Superintendent's evaluation of the use permit and the decision to impose reasonable conditions.

2. The home occupation provision of the zoning ordinance provides a means for a person to conduct a business in his residence while keeping costs at a minimum provided certain conditions are met. Problems arise when a business thrives and enters a period of transition when it should probably be relocated outside of a residential area. It appears that Mr. Jones' business has reached that point. However, certain additional conditions and restrictions can be provided to ensure an orderly transition.

3. The record in this case shows that an additional limitation should be imposed on the number of typewriters stored, the venting of fumes and an overall time limitation on the permit in order to provide another period for public review in the event the business is not moved. The inherent problem in imposing conditions on a use such as this is the difficulty of enforcement and the most effective means of controlling such uses is the outright revocation of the permit. Therefore, a new application must be filed in one year if the business is not relocated.

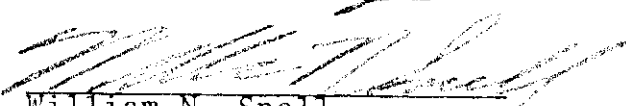
4. The use permit in this case is not related to the building permit since there has been no showing that the second story addition would be used for business purposes or provide additional room for business uses in the remaining living area of the residence.

Decision

The use permit shall be GRANTED subject to the conditions imposed by the Superintendent in his decision and with the addition of the following conditions:

- a) The storage of typewriters either boxed or unboxed in the garage or on the premises must not exceed a total of 15.
- b) The applicant must relocate either the fan or the method of venting the fan in the garage to minimize the impact of fumes on adjacent properties.
- c) The use permit shall expire within 1 year from the date of this decision. The applicant can then apply for a new permit.

Entered this 1st day of February 1979.


William N. Snell
Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.