

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MATT SUROWIECKI

FILE NO. MUP-82-053(V)  
APPLICATION NO. 82-0298

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

#### Introduction

The Director of the Department of Construction and Land Use (DCLU) denied applicant's requested variance to exceed the maximum number of non-resident employees for a home occupation at 2312-23rd Avenue South. The applicant filed this appeal.

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

Parties to the proceedings were: applicant-appellant Matt Surowiecki, pro se; DCLU Director by Diane Althaus.

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 October 5, 1982.

After due consideration of the evidence elicited during the public hearing and as a result of the personal inspection of the subject property and the surrounding area by the Hearing Examiner, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

#### Findings of Fact

1. The subject property is located in the Single Family (SF) 5000 zone at 2312-23rd Avenue S.
2. The applicant's lot, generally triangular in shape, is developed with a two-story house constructed in 1980. The house is surrounded by single family residential development.
3. The site is on the east side of 23rd Avenue S. and is a short distance south from east-west oriented S. College Street. Rainier Avenue S. and General Commercial (CG) zoned development is approximately one-half block east.
4. Applicant is in the fastener and tool (construction supply) business. The paperwork for this business is done at the subject property by one full and three part-time employees. The Land Use Code allows a maximum of one non-resident employee in a dwelling unit. Section 23.44.10(F)(6). The DCLU Director denied applicant's request for a variance from this numerical limitation, and applicant appealed.
5. According to applicant, 2312 property has a driveway and ample parking for two or three cars. With the exception of a UPS truck one or two times per month, applicant continued, there are no exterior indicators that the property is in business use. Applicant was also of the view that generally no more than two cars would simultaneously be on site.

6. Applicant submitted a Petition in Support of the variance signed by some neighbors. One signator, however, testified that she had signed the petition under the mistaken impression that applicant was living in the subject dwelling.

7. Neighbors testified that the use of the subject property increases the traffic hazard at and near the 23rd Avenue S. - S. College Street intersection. Employee parking has occurred along (parallel to) 23rd Avenue S. This impairs the visibility by westbound College Street vehicular traffic of northbound 23rd Avenue traffic. The weight of the evidence continues that the corner has been the site of "numerous" accidents. Other evidence showed that the applicant's use of the subject property has generated car and semi-truck traffic, some of which blocks College Street while unloading. Neighbors were also concerned with what is perceived to be the adverse effects of the applicant's use of the property on their single family zoned and developed neighborhood.

8. Based on observations of the dwelling, neighbors questioned whether applicant resided in the subject unit. When asked in hearing the degree of time in residence at the subject property, applicant declined to directly respond. It was provided in an August 11, 1981, Interpretation by the Director, conclusion affirmed by the Hearing Examiner, that applicant had stated that he did not live in the residence. We find that the subject dwelling is not the principal residence of the applicant.

9. Applicant alleged no property related circumstances that restricts single family use of the subject dwelling. No variances similar to that requested by applicant have been granted in the vicinity.

#### Conclusions

1. The criteria for variance relief are delineated in Section 24.74.030, as amended. All criteria must be met. Considering same, the request for variance relief is denied, and the Director's decision affirmed. Applicant alleged no "unique property conditions" which, without variance relief, deprive his property of comparable development rights and privileges, and indeed, no such conditions are present. Although the applicant's house is near CG zoning and development, it is in an immediate area of single family zoning and development.

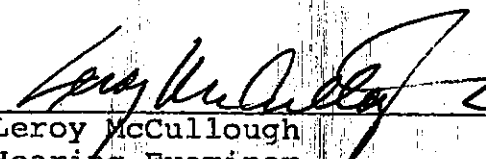
2. No similar variances have been granted in the vicinity. In view of the foregoing, authorizing the requested relief would not afford applicant comparable development; it would in fact afford him a grant of prohibitive "special privilege".

3. Finally, considering applicant's non-residency; the traffic safety issues traceable to applicant's business; the fact that no property conditions restrict single family use; and that no similar variances have been issued for the subject area, authorizing the requested variance would be "materially detrimental to the public welfare and injurious to property in the subject...vicinity." Section 24.74.030, as amended. The request for variance relief is denied.

#### Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 19th day of October, 1982.

  
Leroy McCullough  
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, instruction 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.