

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

In the Matter of the Appeal of

RONALD D. NEWTON

FILE NO. S-78-015

from a ruling of the Superintendent of Buildings.

The appeal is DENIED and the Findings and Decisions of the Superintendent of Buildings are affirmed.

Introduction

The appellant, Ronald D. Newton, filed an appeal challenging an interpretation of the Superintendent of Buildings (Superintendent) with regard to Section 20.7, Zoning Ordinance (86300, as amended).

Parties to the proceeding were: the appellant, Ronald D. Newton, and the Superintendent, represented by Joyce Kling.

This matter was heard before the Hearing Examiner on July 18, 1978.

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. The subject property consists of a 13-unit apartment building at 1417 South Henderson Street. The appellant proposes to convert a 3 room, laundry and utility area into an additional dwelling unit.

2. The property is located in a General Industrial (IG) zone. The surrounding uses are not incompatible with residential development.

3. Section 20.7 prohibits in the IG zone dwelling units not in existence on the premises at the effective date of the Zoning Ordinance except for watchmen or caretakers quarters and artist's studio and dwellings subject to special exception approval.

4. Since the dwelling units are located in an IG zone, they constitute a nonconforming use. Section 5.34a prohibits the extension or expansion of a nonconforming use. Section 28.3a prohibits the granting of use variances.

5. The Superintendent in a written decision, dated June 6, 1978, held that the addition of one more dwelling unit constitutes an extension of a nonconforming use; the addition of a dwelling unit is prohibited by Section 20.7a and that no variance can be granted since it would constitute a use variance.

### Conclusions

1. Dwelling units are clearly prohibited in the IG zone unless such units qualify for one of the exceptions set forth in Section 20.7a. The proposed dwelling unit would not qualify under the existing exceptions unless the appellant decided to utilize the property for artist's quarters and an appropriate application was filed.

2. The addition of one more dwelling unit would constitute an extension of a nonconforming use and is prohibited by Section 5.34a.

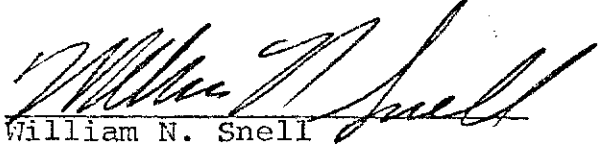
3. The variance process cannot be used to secure an exception from the prohibition against dwelling units in an IG zone since it would constitute a use variance which is prohibited by Section 28.3a.

4. The zoning ordinance provisions are quite clear in that the action proposed by the appellant is not permitted. It is also evident that the addition of one dwelling unit under the circumstances in this case would be a practical and reasonable alternative. This raises the issue as to whether the existing policy prohibiting dwelling units in the IG zone is wise in light of the increased need and cost of residential units and whether or not some modification should be made to the zoning ordinance. The problem in this case may be unique and not worthy of a general legislative exception such as was made for artist's quarters. However, the appellant may wish to request a review of this problem to determine whether or not a legislative change would be appropriate.

### Decision

The appeal is DENIED and the Findings and Decisions of the Superintendent of Buildings are affirmed.

Entered this 27th day of July 1978.

  
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.