

MINUTES
Zoning Board of Appeals
June 18, 2020
Teleconference/Virtual Meeting

Members Present: Jen Platt, Bob Breen, Vincent Ragucci, Matt D'Angelo and Maria Lockhart
Also present: Kathy Morgan, Secretary
Attendees noted: Andrea & Hercules Correa, Rick Cioffi, John Magazzu, Melarocca, Nicole, Gerry Noel, Valerie Taylor, Victor Manganiello , and Michael Kushakji

The Public Hearing was held by teleconference/virtual meeting due to the Town Hall being closed because of the Coronavirus.

12 Magnolia St. – Special Permit for Home Occupation (Construction Business)

Ms. Platt, Chairperson, opened the meeting and read the hearing notice. Mr. Noel was asked to explain the background behind the reason for the Appeal and subsequent request for a Special Permit/Home Occupation. Mr. Noel explained that he received a complaint by phone from Valerie Taylor, 13 Magnolia Rd, on April 28th and a formal complaint received April 29th, about the homeowners at 12 Magnolia doing work to their house (they have several permits) along with operating their construction business out of their house. He also told of his inspector, Al DiSalvo, who had monitored the area because of another complaint earlier and he said that it was hard to tell if the traffic was from permits or running a business. He said that the owners have said that employees come to the house to get their work assignments. Mr. Correa's attorney told Mr. Noel that because of Mr. Correa's condition (he had Covid 19) he had to stay home and he was working for a short time out of his house, but Mr. Noel said this has been going on for some time. Mr. Noel said he does have another business address. Ms. DeVito, Attorney for the Correas, said after looking at the businesses allowed, they decided not to go forward with the home business. When Mr. Correa got sick he, like many others, worked from home, but he is better now and hasn't been conducting business from his house. Andrea Saunders-Correa, the homeowner said they don't have employees come to the house for their

assignments; but she has they've had painters and other workers doing work at the house. She said she is building a bonus room over her garage and a pool house. She said her neighbor complains even if her husband is power washing their house or doing other work around the house. Andrea works from home on the computer, but there are no cars on the street. She said her neighbor parks in the street. Mr. Correa said he brought his employees to work on his house to keep them working during the shutdown. Chair asked if he has another place that he parks his trucks. Mr. Correa said he has a place in Brookline where he leaves his trucks; he has 15 trucks. He said the cars in their driveway belong to him, his wife and his kids. Jr., Mr. Correa, meets his employees at the site and gives them their work for the day.

Victor Manganiello, 16 Liberty Lane, came on as a character witness for the Correas. He has financed a few of their projects. He said that they don't run their business from their home. He asked Mr. Noel how much traffic, is there too much traffic? They're not abrasive or want to have issues with people. He asked about the one-ton vehicle. Mr. Noel explained that the zoning bylaws only allow someone with a Home Occupation to have a one-ton vehicle.

Valerie Taylor, 13 Magnolia Rd, gave some background. Her first call to the Building Inspector was about an unpermitted fence. They live on a paper street and there are vehicles going up and down the street all day long.

Chair asked Attorney DeVito if they are still looking for a Special Permit/Home Occupation or are they just doing work on their home now? Atty DeVito said, yes, correct. Mrs. Correa said she did want the permit for the computer work that she does for permits and so forth, and that way her neighbor would leave them alone. Mrs. Correa said her kids don't feel safe. Her neighbor complains about noise from them.

Bob Breen referred to one of the pictures sent to him that showed more than one construction vehicle and asked Mr. Noel if he knew who these vehicles belonged to or what the activity was about. Mr. Noel said no, he couldn't say. His inspectors and the neighbor took the pictures. Mr. Noel mentioned that if the motion was denied, Ms. Correa couldn't bring the request back to the ZBA. Mr. Noel said a home business is supposed to be invisible to the neighborhood. Mr. Breen said, is the level of activity greater than what can be allowed? It would be hard to abide by the home occupation standards and the noise. Vinnie said he appreciates that Mr. Correa is trying to keep his workers busy but he needs to abide by the zoning bylaws of one truck. Matt D'Angelo questioned whether this was a case of a complaint for the construction on the site or operating a business. Maria asked what types of trucks? What times? Amount of congestion or just issues that the two neighbors aren't getting along.

Chair read a memo from CPC, which cautioned on the impacts to the neighborhood with vehicles, children's safety and asked if they can abide by intent of zoning bylaws. Chair mentioned that the complaint noted that work starts before 7 and the use of heavy equipment. Under a building permit you have to abide by work hours, but workers taking equipment off site is not allowed.

Mr. Correa spoke about working in town and being able to stop at home for lunch. Chair said, you're allowed to come home, you just can't bring the crew with you. Mrs. Correa said he doesn't bring workers home. She also mentioned that if the workers at her home need materials, her husband will go out and get it. Mr. Correa said he doesn't need to run his business but asked if he could keep his truck with a plow and his bobcat that he does his work around the house with. Chair said the bylaws say 1 one-ton truck.

Chair said that she didn't think the Special Permit/Home Occupation was needed in this situation and advised the applicant to withdraw the application in case they wanted to bring it back again, they could. Atty. DeVito asked about Mr. Correa's truck being at the house and if two workers are there working, is that ok. Members advised that workers working at the home and a home occupation is different.

Valerie Taylor said that her complaint has nothing to do with the work being done to the house just with them running a business out of their house, traffic and damage to the street.

Chair summed up by saying a construction business is not appropriate for this area and the applicant doesn't need a home occupation special permit but is doing work on their property with permits. Chair asked Atty. DeVito if the applicant wanted to formally withdraw the application for a home occupancy permit. Atty. DeVito said, it sounds like Mrs. Correa does still want the permit. Mrs. Correa said, no, we can withdraw if I can still do the paperwork from my home. Chair said it doesn't sound like just paperwork, more of a business being run. Mrs. Correa said, no, only paperwork, permits being done at home, no employees here or work orders.

Mr. Breen moved that the application for a Special Permit Home Occupation according to Article 200-42, based upon information gathered at this hearing, be denied. Mr. Ragucci seconded the motion and a roll-call vote was taken: Bob Breen – deny, Vincent Ragucci – deny, Jennifer Platt – deny, 3-0 in favor of denying.

299 Main St. – Special Permit for the Use of a Motorcycle Repair Business

Chair open the Public Hearing and read the notice. Mr. and Mrs. Cioffi were present. Mr. Cioffi explained that he currently runs his business at 92 Concord St. in North Reading and wants more exposure by moving to Main St. He said they are a customizing shop – customize Harley Davidsons, do add-ons, tires, handle bars. Mr. Cioffi said they don't sell motorcycles. Mr. Noel said the bylaws changed in 1992. You can sell motorcycles but the zoning bylaws don't say that motorcycle repairs are allowed and if it doesn't say it is allowed than, it's prohibited. A dealer would be allowed. Because there is an existing motorcycle shop down the street, Mr. Noel told them they could go to the Zoning Board of Appeals instead of just denying the business.

Jim O'Neil, Emerson Rd, said the use of dyno tuning can be abrasive. They already have to deal with oil deliveries, and Dunkin Donuts, and a lot of traffic. Mr. Cioffi said they will have a sound proof room and if someone complained, he would make it more so. It runs 30 seconds at a time. Melarocca, Porter Rd., Harley Davidson's tend to be loud, what will you do when they leave your shop, just the noise is loud now, and if testing? Mr. Cioffi said they will test on Rt. 125 and will be accommodating to the neighbors. He said his clients are very respectful.

Chair asked the hours of operation of the shop down the road. Mr. Noel didn't know, but 7 am to 9 pm is usual. Chair asked if the business needs to go before CPC. Mr. Noel thought the sign would need to go before CPC, and CPC could issue time limits. He also mentioned that they have not been issued any building permits yet. Melarocca – is this already a done deal? Mr. Cioffi said he signed a lease, changed the existing sign and then COVID happened. They have applied for sign permits. She also asked if they find the noise is much more than anticipated, what is the remedy? Mr. Noel is the enforcement officer. Mr. Noel said he starts with fines, and the police might get involved. Mr. Cioffi said they have been in business for 6 years and haven't had any complaints. Mr. Cioffi said they do drop offs and pickups on Saturdays until noon. Michael Kushakji asked how many motorcycles will be there and after they are tuned what happens. Mr. Cioffi said no one will be idling outside but will cruise off gently. Mr. Cioffi said he gets 4 – 5 people a day, and it's seasonal, people don't drive in the winter months. Mr. Magazzu said he has known Rick for a few years and he has always run a clean business and been a good neighbor, none of the neighbors have had any problems with him. Mr. Cioffi said he works on very expensive motorcycles and not kids with hot rods. Michael Kushakji, Fairway Rd, asked Mr. Magazzu, "are we going to hear motorcycles all day long". Mr. Magazzu said no, he mostly sells chrome parts; yes he has a dynamo, but that's not his main business. Peter Gluck Pluff Ave, said he was in favor of the motorcycle shop and welcomes him to the area. He supports small business but wants a procedure for complaints when people leave the business. He asked where the dyno would be. Mr. Cioffi said inside at the Main St. entrance.

Bob Breen – glad to see the neighbors are in attendance and glad to hear that the owner is mindful of being respectful to his neighbors. Vincent Ragucci – sounds like Mr. Cioffi is already a good neighbor. He asked if the Board has the ability to condition that customers can't test drive a vehicle in the area of the shop? Chair said yes, approval could be granted with the condition - no test driving in the area. Mr. Cioffi said he tells customers how to exit the building and to be quiet. He agreed to put it in their customer agreement to be quiet. Matt wants to make a stipulation, whether by CPC or ZBA, on noise and the recourse if it is exceeded. Chair said the noise ordinance is separate from the zoning bylaws but we can tell them to comply. Maria sounds like the owner wants to comply and it will be a challenge. Chair told the applicant to check with CPC to see if they need any permits from them.

Michael Kushakji wanted to commend the Board and the owner on how the hearing was held.

Chair noted conditions to be added to the decision would include dyno testing being done in sound proof room, applicant has an existing business and approval based on their history and no test driving be done on the premises.

Ms. Platt made a motion to approve the special permit for use of a motorcycle repair shop at 299 Main St. North Reading, map 12/parcel 128. Mr. Ragucci seconded the motion and a roll call vote was taken Bob Breen – approve the special permit application submitted by Mr. Cioffi, Vincent Ragucci – vote to approve, Jennifer Platt – vote to approve. Mr. Noel noted that there is a 20 day appeal period. The motion was carried to approve 3-0 in favor.

Minutes

Mr. Breen moved to approve the minutes of April 9, 2020, seconded by Mr. Ragucci and voted 3-0 in favor.

Ms. Lockhart was welcomed to her first zoning meeting.

Mr. Breen moved to adjourn the meeting, seconded by Mr. Ragucci, and voted 3-0.

Approved _____ date _____