**Town of Milford**

**Zoning Board of Adjustment**

**November 15, 2018**

**Case #2018-30**

**Brian M. Espaillat Veras & Lorena Guarin**

**Special Exception**

Present: Steve Bonczar, Chair

Michael Thornton

Wade Scott Campbell, Alternate

Robin Lunn, Zoning Administrator

Absent: Jason Plourde, Vice Chairman

Joan Dargie

Rob Costantino

Karin Lagro, Alternate

Tracy Steel, Alternate

Laura Dudziak, Board of Selectman Representative

Secretary: Peg Ouellette

Brian M. Espaillat Veras and Lorena Guarin, for property located at 487 Nashua St., Milford, NH, tax Map 32, Lot 19, in the Limited Commercial district, is seeking a Special Exception of the Milford Zoning Ordinances per Article X, Section 10.02.3 to allow for a Home Occupation for an office only of a wholesale motor vehicle dealership.

APPROVED December 20, 2018

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. He explained that the rules allow for a 10 p.m. adjournment. Any cases not heard would be re-scheduled to a date and time certain. There being only two regular Board members present, he asked to seat Wade Scott Campbell, Alternate, as fully participating and voting member. All in favor.

S. Bonczar read the notice of hearing and invited the applicant to present the case.

Brian M. Espaillat Veras & Loren Guarin came forward.

B. Veras said they wanted to have a home occupation for an auto dealership with just office use, no cars parked on the property. No customers – only for paperwork and to have license from his house.

S. Bonczar asked if it was correct that there would be no vehicles parked there, and whether that was applicants’ primary residence.

B. Veras said yes.

S. Bonczar said they were using a room within the residence. According to the plan it was 308 SF.

B. Veras said that was correct. There was a home occupation there previously.

S. Bonzcar said, with a home occupation, when the applicant who had that home occupation approval left, that approval went away. You had to re-establish it. He asked how many individuals would be there.

B. Veras said he will be only employee.

S. Bonczar asked if he planned to have any signs.

B. Veras said yes.

S. Bonczar asked, just a small sign?

B. Veras said a sign was approved previously and he was trying to use the same size.

S. Bonczar wanted to know that there would be no other evidence there would be something inside. They calculated the square footage. They would not be selling anything out of that location.

B. Veras said all business is outside the property.

S, Bonczar asked where the cars would be located.

B. Veras said the plan was to buy cars from auto auctions and trade from other dealerships and be sold to other auto auctions.

M. Thornton asked, from one auction to another.

B. Veras said correct.

M. Thornton asked if any wholesale to retail would be done out of any location whatsoever.

B. Veras said no retail.

S. Bonczar said there are state laws in that case; it would be prohibited.

B. Veras said if you apply for a wholesale, you are not allowed any retail.

S. Bonczar remembered from a previous case there was a whole set of rules.

B. Veras said he’d need a whole garage [for retail]. That was not the plan.

S. Bonczar looked at ordinance under Limited Commercial District. He read the section on Intent. He said there were numerous acceptable used as part of Sec. 5.07.1 I, “Home Occupations in accordance with Sec. 10.02.3” which was what the applicant was there for. He read the criteria for a home occupation into the record. He asked for questions from the Board for the applicant.

W. Campbell asked, if it was his understanding that they were getting cars from auction and bringing them to another auction to sell. What happened if the car didn’t sell?

B. Veras said it would stay at the auction.

W. Campbell didn’t know if they would end up on the [applicant’s] property.

B. Veras said he already looked into that.

S. Bonczar said the property was previously a home occupation with a real estate office. That was mentioned in the application. He asked M. Thornton for any questions.

M. Thornton said his questions had been answered.

S. Bonczar asked applicant for anything else he wanted to add.

B. Veras said no.

S. Bonczar opened the meeting for public comment.

Christine Charter of 487 Nashua St. came forward with concern about a sign. She said if you had a home occupation business where no clients were coming to the home business, why do they need a sign the size that was out there?

S. Bonczar said there was a specific sign size allowed for that? He asked R. Lunn.

C. Charter said the current sign said Granite State.

R. Lunn said that size met the criteria for that zone.

C. Charter said she just questioned why it would need a sign if he had no clients coming to the business.

B. Veras said after this process there was another process with the State for the dealership approval and one of the requirements was to have a sign, for a dealership to have a sign and have the hours posted.

Sharon Andreas of 486 Nashua St. came forward and asked what recourse they had if there were automobiles on the property.

S. Bonczar said they could contact the enforcement office at Building and Planning. ZBA wasn’t an enforcing board. If this was approved – the plan stipulated no vehicles to be stored there. If that was violated, they would have to go to the office with the complaint and the office would act on it.

S. Bonczar asked for any other questions or comments. None.

S. Bonczar asked the Bd. members if they wanted to make a condition on it that there was no storage or sale of vehicles from that location.

M. Thornton said it would have to be worded very specifically because he had a perfect right to own a certain number of registered vehicles.

S. Bonczar agreed. He was throwing it out there [for consideration].

W. Campbell would not mind a condition to not allow that, - if he tried to sell vehicles.

S. Bonczar looked at part of the application.

M. Thornton understood it was wholesale to wholesale only.

W. Campbell said if he was doing that [storing, selling vehicles at property] he would be breaking the law.

S. Bonczar said they might not need the condition.

M. Thornton said applicant stipulated not to do any retail. He didn’t fulfill the number of stipulations required for retail.

W. Campbell asked what would keep him from reverting to retail.

R. Lunn reminded them to close public comment if they wanted to deliberate.

S. Bonczar asked for any other questions from the audience. He asked applicant if he had any questions.

B. Veras said he had no intent to sell.

S. Bonczar said it would be pretty much moving cars from one auction to the other.

Loren Guarin said they had cars.

S. Bonczar said right. He concluded public comment.

S. Bonczar worried about wording being too restrictive.

W. Campbell and M. Thornton agreed.

S. Bonczar said with the nature of the business applicant would not only be in violation, if they approved this, of the Town ordinance, but also State law.

M. Thornton said he can’t have unregistered vehicle on his property that shows. Not one outside that would be an eyesore to the public.

S. Bonczar said rather than go through criteria individually, he asked for comment.

M. Thornton said except for the sign, you would never know that he was trying to do business there. Commended the applicant for his honesty in coming forward to work with them.

S. Bonczar said they were next talking about the Special Exception criteria.

**1. Was the proposed use similar to those permitted in the District?**

W. Campbell said yes.

S. Bonczar said there was a home occupation there before. Little difference with a real estate office.

M. Thornton said that did have a flow of people.

W. Campbell said this would be less impact.

**2. Was the specific site an appropriate location for the proposed use?**

S. Bonczar said there was adequate access to the back.

M. Thornton said there was no question of access because no retail considered.

**3. Would the use as developed not adversely affect the adjacent area?**

W. Campbell said no. Less impact with traffic than a real estate business.

S. Bonczar agreed. Based on the fact it was wholesale business with no customers coming and going and no sale of business on the property.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

All Bd. members agreed there would not.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.**

M. Thornton said it will be up to applicant.

W. Campbell agreed there would be adequate facilities.

S. Bonczar said it was a home occupation in an existing structure. It was a home occupation before.

M. Thornton said it would have lower impact, if anything.

W. Campbell agreed.

S. Bonczar moved on to vote on the Special Exception:

**VOTE: On Special Exception:**

**1. Is the Special Exception allowed by the ordinance?**

**W. Campbell – yes**

**M. Thornton - yes**

**S. Bonczar - yes**

**2. Are all the specified conditions present under which the Special Exception may be granted?**

**M. Thornton – yes**

**W. Campbell - yes**

**S. Bonczar – yes**

S. Bonczar said, based on the vote being unanimous, the criteria for special exception were satisfied and the application was approved. He reminded applicants of the 30-day appeal period.