



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

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FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

ZBA Case No.: 2024-10

Date: September 24, 2024

Decision: Grant of Special Permit

Applicant: Michel Trankels, 273 Center Street, Hanover, MA

Property Address: 49 Market Street, Rockland, Massachusetts

The Rockland Zoning Board of Appeals has considered the petition submitted by Michel Trankels, 273 Center Street, Hanover, MA 02339, for a Special Permit pursuant to Zoning Bylaw Sections 415-14C.(7), Uses requiring a special permit, and 415-89, Special Permits, to allow applicant to operate a retail home improvement business with storage for the sale of PVC building materials, windows, roofing and siding nails; no flammable materials. Customers will be by appointment only. The company's fleet consists of 3 pickup trucks and 3 dump trailers. Trailers may be parked overnight occasionally. A storage container will sit outside the building. 49 Market Street is located in the B-2 Business II Zoning District, Section 415-14 of the Bylaw, and is further identified as Lot 85, Map 51, on the Rockland Assessor's Maps. The owner of the property is 49 Market Street, LLC, Michael Ahern, Manager, 190 Williard Street, Quincy, MA 02169.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board, and the Building Department pursuant to Mass. Gen. L. c. 40A, Section 11.

Advertised: August 14, 2024, and August 21, 2024, in the Patriot Ledger.

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The Board lastly has taken into consideration testimony of the applicant, the public, the application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties.

A virtual remote Public Hearing was held via Zoom at 7:30 P.M. on September 10, 2024.

ATTENDANCE:

Board Members: Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr. and Stephen Galley.

Also present: Town Planner Allyson Quinn

MEMBERS VOTING: Chair Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr., and Stephen Galley.

DISCUSSION:

The Chair of the Zoning Board introduced the members of the Board advising the public that the hearing is being recorded and explained the rules of the hearing.

The Chair asked the members of the ZBA for a roll call vote to open the public hearing. The ZBA members then took a roll call vote:

Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Robert Baker, Sr. – Yes; Stephen Galley – Yes, Robert Baker, Jr. – Yes. The roll call vote was unanimous and the public hearing was opened.

The Chair read the advertised notice in the Patriot Ledger with a Public Hearing Date of September 10, 2024.

Michel Trankels stated that he was leasing the premises, gave a description of the business and the background of the business. He explained that the property was used for storage and to distribute product consisting of pvc building materials, windows, roofing and siding nails. Customers would be by appointment only and the retail is wholesale sale to contractors.

The Chair then opened the meeting to the Board for questions.

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Mr. Baker, Sr. asked about the dumpster. Applicant stated he uses dump trailers to collect debris and trash is brought to the Brockton Transfer Station and as the business is basically storage only, there is no accumulation of trash.

Mr. Baker, Jr. asked about vehicles parked on site. Applicant stated that no vehicles would be stored overnight. The [2] dump trailers would be stored overnight and could contain construction debris. The business is essentially a warehouse.

Mr. Baker, Jr. then asked about deliveries. Applicant answered that there are 2 deliveries a year. The truck arrives at 7:00 a.m. and it takes 2 hours to unload (40 foot container). Materials are sold prior to the next delivery and semi-annual deliveries are enough to support the business.

Mr. Baker, Jr. then asked about signage. Applicant stated that whatever was allowed by the town would be put on the building.

Mr. Baker, Jr. asked about the operation of the business. Applicant answered appointments would be in the morning, starting at 8:00 a.m. At 7:00 a.m. product would be loaded for delivery to the job site.

Mr. Galley asked about the dump trailers. Applicant stated they are pulled behind the trucks, have walls, and would have a tarp covering over any debris.

Mr. Tansey asked how many customers per week, what the applicant was selling, how many trucks were operated by the business and what the hours would be. Applicant answered 2-3 customers per week; sales of boxes roof nails, pvc, pvc screws and plugs for the screws; 3 pick-up trucks; and the hours would be 7:00 a.m. to 6:00 p.m. for the home improvement business; pvc only in the morning from 7:00 a.m. to 10:00 a.m. Applicant also stated he may be getting rid of the dump trailers and using dumpsters on the job site.

Mr. Rosa stated that the site plan showed that the storage container was on the property line and must be moved 5 feet off the property line and must be proven to the Building Commissioner. He pointed out that there was no grass or striping but there was striping on the site plan. Mr. Rosa further stated there could be no parking on the Walgreen's side. Applicant stated he did not anticipate parking. Mr. Rosa also mentioned that he did believe that dump trailers should be stored on site as there was no fencing.

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Ms. Quinn stated the parking was not flagged as the building was for storage only and the retail for only for selling, not purchase from the site. Mr. Baker, Sr. stated that there was a retail component to the business.

Mr. Rosa also stated that he had an issue with the dump trailers not being fenced in. He also had concerns about deliveries in a shipping container. The applicant stated product would be unloaded from the truck with a forklift which would be rented and delivered to the site in a flatbed the day before delivery. Mr. Rosa stated there was not enough room to maneuver on site. The applicant disagreed. Mr. Rosa asked about storage inside the building and applicant answered the pvc boards were 18 feet long and would take up almost half of the inside of the building.

Ms. Quinn stated there were no other issues and the retail use makes sense. Regarding the storage container, validate the move with a mechanism to enforce.

The Chair then opened the meeting up to members of the public, asking if any of the attendees would like to speak either in favor or opposed to this applicant.

Mr. Jared Malarsky, International Motor Sports, 7 Market Street, Rockland, stated he wanted to learn more about the business and that he supported the business.

No one spoke in opposition.

Mr. Baker, Sr. makes a motion to close the public hearing.
Robert Baker, Jr. seconds the motion.

The Board takes a roll call vote: Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Robert Baker, Sr. – Yes; Stephen Galley – Yes, Robert Baker, Jr. – Yes. The vote was unanimous, and the public hearing is closed.

The Chair read to the applicant the appeal process and stated a decision will be made later the same night after the public portion of the hearing, and that the applicant was welcome to be present during deliberations and informed them of their obligations to request a certificate of no appeal. The Chair also stated that if relief was granted, one of the conditions would be to show the Building Department proof of recording of the decision.

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DELIBERATION:

Although the site is constrained, the Board felt that the applicant could make the business work there.

DECISION ON SPECIAL PERMIT:

Robert Baker, Sr. makes a motion to grant the Special Permit with conditions. Seconded by Gregory Tansey.

The ZBA members take a roll call vote: Robert Rosa – Yes, Robert Baker, Sr. – Yes, Gregory Tansey – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous.

FINDINGS:

The Board voted to grant the Special Permit with the following conditions:

CONDITIONS:

1. The existing storage container must be moved to a minimum of 5 feet from the adjacent property line with stakes set by the surveyor for the Building Commissioner to measure from for confirmation of the location.
2. No loading or unloading of materials of any kind before 7:00 a.m. or after 6:00 p.m. Monday through Friday and Saturdays from 7:00 a.m. to 2:00 p.m. The business shall not be open on Sunday or legal holidays. There shall be no loading or unloading of materials on Market Street or John Dunn Drive. All deliveries are to be made on site.
3. All retail business is to be appointment only, as stated by applicant. Retail hours are to be 8:00 a.m. to 6:00 p.m. Monday through Friday and Saturdays from 8:00 a.m. to 2:00 p.m. The business shall not be open on Sundays or legal holidays.
4. Parking requirements – 6 striped parking spaces with barrier flower boxes as shown on the previously submitted site plan dated March 25, 2024 as revised on May 1, 2024, and with concrete or rubber tire/wheel stops shall be painted and installed prior to the commencement of operation of the business. There shall be no angled parking along the northerly property border. Parking by employees may be allowed behind the building only during deliveries.
5. Flower boxes shall be installed along the northerly property border as shown on the previously submitted site plan dated March 25, 2024 as revised on May 1, 2024, and shall be maintained seasonally to create a buffer.
6. Site landscaping shall be maintained in a neat and clean condition and on a regular basis in order to be consistent with conditions at the surrounding businesses and properties.

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7. A reasonable number of empty dump trailers are allowed to be stored on site behind the building only and must be empty at all times. There shall be no overnight storage of trash trailers containing any amount of site or construction debris.
8. There shall be no outside storage of business/construction materials of any kind except within the single storage container as shown on the approved plan.
9. A fenced-in dumpster area must be added pursuant to Board of Health Dumpster Regulations effective March 22, 2022, prior to the commencement of operation of the business.
10. The site shall be free of any trash or debris. The applicant shall be responsible for removing any and all trash that exits on their site and/or lands on abutting properties.
11. No outside banners of any kind. All signage shall comply with the current Zoning By-Laws and is at the discretion of the Zoning Enforcement Officer.
12. No on-site snow piles higher than 6 feet in height shall be allowed. Excess snow must be removed within 24 hours of a projected storm event or at the discretion of the Zoning Enforcement Officer or Highway Superintendent
13. The applicant shall comply with all other local, state and federal laws and regulations and obtain any other permits and approvals required in connection with the proposed use.
14. The ZBA will review the operation of the business under this Special Permit one year after the date of filing this decision with the Town Clerk.
15. To take effect, this Special Permit must be recorded at the Plymouth County Registry of Deeds and proof of recording must be filed with the Building Department prior to the commencement of operation of the business.
16. Prior to the commencement of operation of the business, a revised certified site plan prepared by a Professional Land Surveyor must be filed with the Building Department and Zoning Board of Appeals showing: The proposed 6 striped parking spaces out front with tire stops and barrier flower boxes, the proposed fenced in trash dumpster area, the as-built location of the storage container with the location of the required stakes set by the land surveyor, the proposed location of parked dump trailers and the location of designated snow storage areas on site.

REASON FOR DECISION:

The Board found that the Applicant is seeking a Special Permit per Zoning Bylaw Sections 415-14C.(7), Uses requiring a special permit, and 415-89, Special Permits, to allow the operation of a retail home improvement business with storage for the sale of PVC building materials, windows, roofing and siding nails; no flammable materials. The Board found that the use would fit with the

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business zone. The Board found that by granting the Special Permit with the conditions set forth will not derogate from the intent or purpose of the Zoning By-Laws and would be in harmony with the surrounding neighborhood.

THIS DECISION, ALONG WITH THE CERTIFICATION FROM THE TOWN CLERK THAT NO APPEAL HAS BEEN FILED, MUST BE RECORDED WITH THE PLYMOUTH COUNTY REGISTRY OF DEEDS AND PROOF OF RECORDING MUST BE FILED WITH THE BUILDING COMMISSIONER PRIOR TO THE COMMENCEMENT OF ANY USE.

NOTE:

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states that in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

FOR THE ZONING BOARD OF APPEALS

By: 

Robert C. Rosa, III, Chair