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ACTON, MA

BOARD OF APPEALS

Hearing #22-06

**DECISION ON PETITION FOR A GRANT
OF A SPECIAL PERMIT
WITH RESPECT TO
3 MAIN STREET**

A public hearing of the Acton Board of Appeals was held in-person and via video/phone conference on Tuesday, August 2, 2022, at 7:30 PM, on the petition of Abby Fuerte d/b/a Superior Landscape for a SPECIAL PERMIT under Section 3.8.1.2 of the Zoning Bylaw to allow for a non-resident employee. The property is located at 3 Main Street in the Residence 2 (R-2) zoning district.

Present at the hearing were Ken Kozik, Chairman, David Schena, Alternate Member, R. Scott Robb, Member, Kristen Guichard, Planning Director and Zoning Enforcement Officer and Kaila Sauer, Assistant Planner. Also present was the petitioner, Abby Fuerte.

Applicable Bylaws:

3.8.1.2 A home occupation, other than retail sales, conducted entirely within the DWELLING UNIT or an accessory BUILDING by a resident and employing no persons other than the residents. In the Village Residential District, the portion of the DWELLING UNIT or accessory BUILDING used for a home occupation shall be limited to 500 square feet of NET FLOOR AREA. The Board of Appeals may authorize by special permit a home occupation which 1) conducts retail sales, or 2) employs non-residents provided that no more than two such non-resident employees shall be present on the premises at any one time.

10.3.5 Mandatory Findings by Special Permit Granting Authority – Except for a Site Plan Special Permit, the Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed USE:

10.3.5.1 Is consistent with the Master Plan.

10.3.5.2 Is in harmony with the purpose and intent of this Bylaw.

10.3.5.3 Will not be detrimental or injurious to the neighborhood in which it is to take

place.

10.3.5.4 Is appropriate for the site in question.

10.3.5.5 Complies with all applicable requirements of this Bylaw.

Mr. Kozik opened the hearing, read the contents of the file and explained how the Board procedurally operates. Mr. Kozik then asked the petitioner to begin.

The petitioner is requesting a Special Permit to allow for a non-resident employee to work at their home occupation to perform administrative duties for Superior Landscape. The home occupation at 3 Main Street consists of office space located within the existing dwelling owned by Abby and Roberto Fuerte whom reside at 3 Main Street. The administrative duties include, but are not limited to, accounts receivable, accounts payable, customer communication via phone and email, writing proposals and contracts, ordering materials, and any other administrative type duties involved in a landscape business. Customers do not come to the home office. The home has one room that includes two desks, a few computers, a printer, and a file cabinet. The hours that the non-resident employee may be here are Monday - Friday from 7:00 AM to 5:00 PM. The non-resident employee will park their car in the driveway and not in the street. There are no hazardous materials or wastes being generated, stored, used or disposed of during the performance of these administrative duties.

Comments solicited from the public were all supportive.

With no further input, Mr. Robb made a motion to close the public hearing. Mr. Schena seconded the motion. The Board unanimously voted to close the hearing.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

1. Petitioner seeks a SPECIAL PERMIT under Section 3.8.1.2 of the Zoning Bylaw to allow for a non-resident employee. The property is located at 3 Main Street in the Residence 2 (R-2) zoning district.
2. Petitioners' proposed non-resident employee is consistent with the Master Plan.
3. Petitioners' proposed non-resident employee is in harmony with the purpose and intent of this Bylaw.
4. Petitioners' proposed non-resident employee will not be more detrimental or injurious to the neighborhood in which it is to take place.
5. Petitioners' proposed non-resident employee is appropriate for the site in question.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT**, subject,

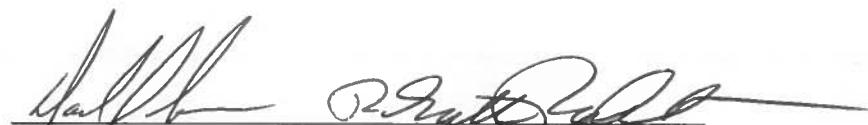
however, to the following conditions:

- (a) No more than two non-resident employees shall be present on the premises at any one time;
- (b) Any non-resident employee shall park their vehicle in the driveway of 3 Main Street and not on Main Street;
- (c) Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision; and
- (d) The Board reserves its right and power to modify or amend the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON BOARD OF APPEALS

Kenneth F. Kozik
Chairman



David Schena
Alternate Member

Scott Robb
Member

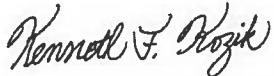
5. Petitioners' proposed non-resident employee is appropriate for the site in question.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT**, subject, however, to the following conditions:

- (a) No more than two non-resident employees shall be present on the premises at any one time;
- (b) Any non-resident employee shall park their vehicle in the driveway of 3 Main Street and not on Main Street;
- (c) Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision; and
- (c) The Board reserves its right and power to modify or amend the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

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TOWN OF ACTON BOARD OF APPEALS



Kenneth F. Kozik, Chairman

David Schena

R. Scott Robb