



Approved 11/27/12

**Zoning Board of Appeals  
Meeting Minutes  
September 25, 2012**

**Members in attendance:** Richard Rand, Chairman; Mark Rutan, Clerk; Richard Kane; Craig Gugger; Fran Bakstran; Robert Berger, Alternate

**Members excused:** Jeffrey Cayer, Alternate

**Others in attendance:** Kathy Joubert, Town Planner; Elaine Rowe, Board Secretary; Dean Hoffman, Dynotune; Richard Stevens, Creative Tile; Eglío Coniglio, Jr., Novelities Wholesale, Inc.; Thomas Wallanger, Boston Trading Group; Brad Petrishen, MetroWest Daily News

**Chairman Rand called the meeting to order at 7:00PM.**

**Public Hearing to consider the petition of Dean Hoffman of Dynotune, Inc., for a Variance/Special Permit to allow the use of a motorcycle customization and light repair shop in Otis Street Business Park Condominium Unit C1-5 on the property located at 160 Otis Street, GIS Map 105 Parcel 27**

Dean Hoffman explained that he currently operates in a building located in Hudson, where they manufacture custom parts for motorcycles and automobiles that are shipped worldwide. He noted that the Hudson facility does not have sufficient space for his planned expansion, so he is looking to bring part of the business to Northborough. Chairman Rand asked Mr. Hoffman to clarify the business activities. Mr. Hoffman explained that his business does high-end motorcycle customizations. Mr. Kane asked about the average noise level. Mr. Hoffman indicated that it is minimal, except when they need to use a dynamometer to tune a bike. He explained that his plans are to have the work on the bike done during the day, and any tuning that is needed will be done after 5:00PM. He also noted that, if the tuning portion of the business grows, he would then invest in a shelter for the dynamometer that will dramatically reduce the noise levels. Mr. Hoffman stated that a dynocell sells for approximately \$20,000 TO \$25,000, so he would like to wait and see if the business justifies purchasing one. He indicated that the manufacturer's website compares the noise level to just above that of a library. He noted that he is aware that the neighbors are concerned about the noise levels, and stated that he had chosen this unit because there is already a business doing repairs in the complex. Mr. Hoffman also commented that he may opt not to install the dynamometer at all. He explained that he does not intend for this to be a full-blown motorcycle shop, and envisions that there will be only one or two employees at most with only 2 to 3 motorcycles onsite at one time. He also indicated that he is willing to accept restrictions

on the operation of the dynamometer, and estimates that it will only be in use five to 8 hours per week.

Mr. Hoffman reiterated that he selected this location because there is a large equipment repair business already in the complex. He stated that working on a motorcycle is not typically noisy. He also stated that there will be no manufacturing done at this site.

Mr. Hoffman voiced his understanding that there are concerns about nitrous oxide. He confirmed that, though many of the parts they manufacture use nitrous oxide, there will be none stored onsite. He also indicated that he is willing to work with the other tenants in the building to ensure that they are comfortable with his operation, including agreeing to time limits as to when the dynamometer can be operated. He also noted that it takes approximately 6 to 7 seconds to run the test on a bike, and it may take up to 5 to 10 runs to tune it, so the noise impact is not excessive.

Ms. Bakstran asked if the main reason for expanding to Northborough is so that Mr. Hoffman can take the dynamometer out of storage. Mr. Hoffman indicated that this was part of the reason, but that it is mainly due to the fact that he is running out of space at his Hudson facility. He reiterated that the dynamometer is only used for tuning motorcycles, which comprises just a small portion of his business.

Ms. Bakstran asked if the majority of the business is repairs or customization. Mr. Hoffman indicated that he does more customizations. Ms. Bakstran asked if Mr. Hoffman could ensure that the bikes being brought in for service would not be using nitrous. Mr. Hoffman noted that nitrous use is not allowed on public streets. Ms. Bakstran asked Mr. Hoffman to confirm that nitrous would not be used in installations. Mr. Hoffman noted that 95% of his customers are from outside the state, so he needs to have the ability to test out the parts.

Ms. Bakstran asked if a customer wishes to customize a bike to be adapted for a nitrous oxide kit, if he would then have to take it elsewhere in order to test it with the nitrous oxide. Mr. Hoffman indicated that he would, and reiterated that his Northborough shop would not run it with nitrous oxide.

Ms. Joubert explained that the reason town staff had asked Mr. Hoffman to apply as a repair shop is because it was the closest fit based on his explanation of the business operation. She noted that this type of business requires a special permit in this zone.

Chairman Rand asked Mr. Hoffman if he buys and sells complete motorcycles. Mr. Hoffman stated that he does not, and is not licensed to do so.

Ms. Bakstran asked if the board needs input from the Fire Chief about whether Mr. Hoffman is allowed to store motorcycles onsite. Ms. Joubert explained that Mr. Farnsworth determines who needs to see the application and who does not and, in this case, he did not feel that input from the Fire Chief was necessary. She noted that the entire complex is already operating under site plan approval, which dictates what can and cannot be done on the site. She also stated that she had asked the management company to provide a list of what other businesses are located in the complex. Ms.

Joubert explained that the application makes reference to a repair service that is operating onsite and, though she is not entirely sure exactly what they do, it appears that it may be some type of heavy repair. She stated that the Management Company had called to advise her that they are opposed to this use, and she informed them that it would be up to them to enforce since the Town bylaws allow for it. She also mentioned the existing repair business to them, which they indicated they were not aware of.

Ms. Joubert explained that the Management Company was the original owner of this complex, but they have sold off individual units over the years. In Mr. Hoffman's case, there is an owner who wishes to lease the unit to him. She noted that, while leasing of units appears to be allowable under the condo documents, she is unclear as to whether those condo documents allow for a repair business, though that matter is not under this board's purview.

Mr. Gugger disclosed that his daughter attends Scribbles elsewhere in town and commented that, while he does not believe it to be a conflict of interest, he wanted to mention it since there is a Scribbles abutting this site.

Ms. Bakstran stated that the units are small (approx. 1300 sq. ft.), so she can't imagine that MH Davis Inc. is working on large equipment onsite.

Richard Stevens, Creative Tile (Unit C1-10), expressed concerns about the noise generated from Mr. Hoffman's business. He noted that Harry's Machine Shop is located ½ mile away and he can hear them tuning up their motorcycles, so the thought of having a similar operation 30 feet away is of real concern. Mr. Stevens also voiced concerns about traffic jamming up the parking lot.

Eglio Coniglio, Novelties Wholesale (Unit C1-8), voiced concerns about safety and noise. He explained that he operates a novelty business that requires him to be on the phone all day, which will be hard to do with the amount of noise being generated by motorcycles in such close proximity. Mr. Rutan asked about Mr. Coniglio's work hours. Mr. Coniglio indicated that he works 9:00AM to 5:00PM, with longer hours at Christmastime. Mr. Stevens stated that he is typically in his unit until approximately 6:00PM.

Thomas Wallanger, Boston Trading Group (Unit C1-7), commented that his business is located approximately 30 feet from where the dynamometer is to be installed, and he too is concerned about the noise. He voiced his understanding that racing bike owners are Mr. Hoffman's target customer, and commented that there is no such thing as a quiet racing bike. He also noted that the buildings in this complex are not sealed and have openings at the ceiling. As it is now, he can hear people talking in the adjacent unit.

Mr. Wallanger asked the decibel levels of the noise generated by Mr. Hoffman's business. Mr. Hoffman stated that the noise level from the dynamometer, without the enclosure, is 118 decibels. He reiterated that the custom enclosure is guaranteed to reduce the noise to reasonable levels.

Ms. Bakstran asked Mr. Hoffman how reasonable it is to ask a customer to come back at a time when he can run the dynamometer. Mr. Hoffman reiterated that the dynamometer is only a small piece of his business, and being able to run it after 6:00PM would cover his needs.

Mr. Wallanger asked about the enclosure, specifically inquiring about where the sound goes other than out with the exhaust. Mr. Rutan voiced his opinion that, if this is a manufactured cell, it will be baffled so that the sound is absorbed while the exhaust is passing through. Mr. Stevens asked about exhausting the dynocell out of the building. Mr. Hoffman stated that the unit brings in a lot of air, and that the exhaust contains minimal pollutants.

Mr. Berger commented that Mr. Hoffman had previously indicated that the dynocel lowers the noise level by about 40 decibels. He indicated that, if the dynamometer generates noise level of 118 decibels, reducing it by 40 decibels will lower it to 78 decibels which is nearly at the 80 decibel level where OSHA recommends hearing protectors. Mr. Wallanger stated that he would like to see data that confirms that the noise generated by a racing bike is only 118 decibels, as he believes it to be much higher.

Ms. Bakstran asked how many nights per week Mr. Hoffman will need to operate the dynamometer. Chairman Rand commented about the impact to residents at Fountainhead Apartments. Mr. Wallanger commented that the tenant that occupies the unit between his and Mr. Hoffman's has a motorcycle with straight pipes, and when he drives in it is impossible to work on the phone.

Mr. Rutan asked Mr. Hoffman to confirm that he plans to set up the dynamometer without the dynocel initially, until he proves that there is sufficient business to support it. Mr. Hoffman confirmed that this is his plan. Ms. Bakstran asked about moving the dynamometer into the Hudson facility and moving something less problematic into this location. Mr. Hoffman stated that there is not enough space in Hudson to do so.

Mr. Coniglio commented that, while he appreciates the applicant's willingness to limit the hours of operation for the dynamometer, he believes the temptation will be to run the machine when it is needed.

Ms. Bakstran commented that, regardless the ZBA decision, Mr. Hoffman will have to comply with the requirements of the condo agreement, master deed, and the other condo unit owners. Mr. Hoffman indicated that, if the majority of the unit owners are not comfortable with his business moving in, he will look for another location. However, he voiced his opinion that this use should be allowable under the current bylaw.

Chairman Rand noted that it is clear that the abutters who are here tonight are concerned about the operation, and suggested that the decision should stipulate that the dynocel be installed from day one. Ms. Bakstran commented that, even with the dynocel, the noise levels could potentially be as high as OSHA limits. Mr. Rutan commented that the condo documents could enforce an allowable sound level. Mr.

Stevens stated that there is nothing in the condo documents that specifies how much noise is allowed.

Mr. Conglio asked about the turnaround time. Mr. Hoffman noted that the business operates by appointment only. Mr. Gugger asked how many bikes per day will be serviced. Mr. Hoffman stated that there will only be one mechanic onsite, so he anticipates no more than two bikes per day. He also reiterated that, if use of the dynamometer is more than 10 hours per week, he will invest in the cell.

Ms. Bakstran asked for confirmation that there will be no welding or blowtorching. Mr. Hoffman confirmed there will not be. Mr. Rutan asked the abutters if they would be amenable to limiting operation of the dynamometer to specific hours. Mr. Wallanger commented that it would be difficult to say what hours would be acceptable.

Mark Rutan made a motion to close the hearing. Fran Bakstran seconded, vote unanimous.

### **DECISIONS:**

Mr. Rutan stated that he is torn between allowing this industrial use in an industrial zone and his appreciation for the valid concerns about the noise level. Ms. Bakstran commented that she is very sensitive to the sound issues, and does not believe that operating the unit at night is necessarily better. She agrees that the use is allowable, but is not in favor of allowing the dynamometer equipment unless it is contained within a baffling system. Mr. Gugger suggested that a performance guarantee can be added as a condition in the decision. Mr. Rutan commented that conditions in the decision must be enforceable by the Building Inspector.

Ms. Joubert noted that a special permit is typically granted to condition the use, whereas a variance provides the opportunity for the board to outright deny a request. Mr. Bakstran reiterated her concerns about the noise levels generated by the dynamometer. Chairman Rand suggested approving with the stipulation that the baffling system must be installed initially and that the noise levels be kept at reasonable levels.

Mr. Rutan agreed that it would be reasonable to require a sound-reducing enclosure. Ms. Bakstran stated that she would still like to limit the operating hours of the dynamometer. Mr. Rutan commented that, if it can be operated quietly enough, then he would not be in favor of restricting hours of operation. Mr. Kane agreed.

Ms. Bakstran asked about waste generated from oil changes. Ms. Joubert noted that, while a small piece of the property is in the GW3 area, the strip of buildings is not in the Groundwater Overlay. She noted that oil changes and similar operations do not have extra requirements but are subject to state law.

Mark Rutan made a motion to grant a special permit for the use with the condition that the sound generated from the business is no more than 50 decibels. Richard Kane seconded, vote unanimous.

**Minutes of the Meeting of August 6, 2012** – Ms. Joubert stated that the references made to “candles” on the bottom of page 3 were modified to “light poles”, “bulb wattage”, etc.

Fran Bakstran made a motion to accept the Minutes of the Meeting of August 6, 2012 as amended. Mark Rutan seconded, vote unanimous.

**Adjourned at 8:25PM**

Respectfully submitted,  
Elaine Rowe  
Board Secretary