

LICENSE HEARING MINUTES
Arcade Auto Body, 1346 Arcade Street
Monday, August 26, 2019, 1:00 p.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 1:00 p.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Charles Belcher, Applicant/Owner

License Application: Auto Body Repair/Painting Shop

Other(s) Present: Neighbors Mike Strouse, Michelle Curtis, Charles Curtis

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application, and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, the Legislative Hearing Officer will develop a recommendation for the City Council to consider. The recommendation will come before the City Council as a resolution on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge.

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report. He said there were limited conditions on the last license; he read Condition 1:

CONDITION #1 PER NONCONFORMING USE PERMIT #92-77:

1. No auto body or auto repair work shall be conducted in the garage area labeled as "this area storage only" on the approved site plan on file with the Department of Safety and Inspections (DSI) dated 07/17/2019.

Mr. Fischbach said a garage addition put on in 1992, and the date on the site plan now referred to the current application. He read the remaining conditions:

ADDITIONAL LICENSE CONDITIONS #2 - 12:

2. All customer, employee, and business vehicles must be parked in accordance with the approved site plan on file with DSI dated 07/17/2019.
3. The parking lot shall be striped and maintained in accordance with the approved site plan on file with DSI dated 07/17/2019. A maximum of 17 (17) vehicles may be parked on the exterior of the property at any time.
4. There shall be no exterior storage of vehicle parts, tires, oil or any other similar materials associated with the business. Trash will be stored in a covered dumpster. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.
5. At no time shall customer, employee, and/or business vehicles be parked in the driveway or the public right of way, or project into the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.). This includes, but is not limited to vehicles awaiting repair, and/or that have been repaired and are awaiting pick-up by the owner of the vehicle.
6. The storage of vehicles for the purpose of salvaging parts is expressly forbidden. All vehicles parked outdoors must appear to be completely assembled with no major body parts missing. Vehicle salvage is not permitted.
7. No repair of vehicles may occur on the exterior of the lot or in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.). All repair work must occur within an enclosed building.
8. Vehicle sales and auto repair are not permitted.
9. Customer vehicles may not be parked longer than ten (10) days on the premises. It shall be the responsibility of the licensee to ensure that any vehicle not claimed by its owner is removed from the lot as permitted by law.
10. Provide maneuvering space on the property to allow vehicles entering and exiting the site to proceed forward. Backing from the street or on to the street is prohibited.
11. Licensee must comply with all federal, state and local laws.
12. Wheel stops shall be added to the customer parking spaces fronting along Arcade St to ensure that vehicles do not project into and/or obstruct the public right-of-way (i.e., sidewalk).

Mr. Fischbach said the previous license conditions prohibited vehicle sales. He said at one time there was a wholesale license, and they were not allowed to have vehicles awaiting wholesale parked outside. Those vehicles had to be parked indoors. He said no repair work was allowed on wholesale vehicles.

Mr. Fischbach said DSI had not received anything from the neighborhood association. Inspection requirements: Building was not applicable, Licensing and Zoning approved with conditions, DSI recommended approval with conditions.

Ms. Vang asked Mr. Belcher if he had any questions about the conditions. Mr. Belcher said he didn't.

Ms. Vang asked Mr. Belcher about his background with similar businesses, and his plans going forward. Mr. Belcher said he owned two or three auto-related businesses in St. Paul, including a

car sales business down the street. He said when he purchased a property he liked to come in and improve it; he didn't like negative feedback and preferred to resolve issues. He said this was all to be determined, but he was tentatively planning to buy the building. He said the recommended conditions were standard for this type of business and he wouldn't contest any. He said the current owner/tenant didn't have a parking diagram. He said in this type of situation he would have it done by a professional architect in conjunction with the zoning department.

Ms. Vang asked Mr. Belcher when he expected the lot would be completed if the license went through. Mr. Belcher said the striping just took a day or two.

Ms. Vang referred to the parking diagram and asked how the stacked cars on the Clear Avenue side would be handled. Mr. Belcher said those cars would be waiting to be worked on; customers wouldn't have access to them. He said picking up of cars would take place to the front or rear of the building. Ms. Vang asked where other cars would be parked if the center car had to be accessed. Mr. Belcher said cars in the employee spaces might not always be used, or employee cars could be moved from those spots to provide maneuvering space. He said the cars waiting for service had to be moved from the alley direction. Ms. Vang asked whether the cars would be moved to an available spot or to the public right of way. Mr. Belcher said it had been clearly stated that the street and alley were not for parking cars, and he agreed with that, and all employees would be made aware.

Ms. Vang asked Mr. Belcher how many employees he would have. Mr. Belcher said they would be sub-contractors, not employees, and there might be four. Ms. Vang asked Mr. Belcher whether he would be educating them as to the license conditions. Mr. Belcher said they would sign an agreement and be aware of the rules.

Ms. Vang asked the hours of operation. Mr. Belcher said normal business hours – 8:00 a.m. to 7:00 p.m. Ms. Vang asked about Sunday hours. Mr. Belcher said on Sunday they were not open for business but people could have access to it; maybe from 10:00 a.m. to 2:00 p.m. people could stop in and check on their work. He asked Mr. Fischbach what hours were written on the license application. Mr., Fischbach said to keep in mind these were proposed hours but not in conditions: Monday - Friday, 8 a.m. to 8:00 p.m.; Saturday, 8:00 a.m. to 7:00 p.m.; Sunday, 8:00 a.m. to 7:00 p.m. Mr. Belcher said he was fine with refining the hours on Sunday.

Ms. Vang asked for the opening date. Mr. Belcher said October 1.

Ms. Vang asked Mr. Belcher how he would manage all of his businesses. Mr. Belcher said they were within a few blocks of one another and he was always available. Ms. Vang asked whether an on-site assistant manager would be hired. Mr. Belcher said no. He said this body shop had four areas and each person would have their own area and oversee their vehicles. He said he would be directly managing and his contact information would be readily available.

Ms. Vang asked Mr. Belcher what problems had been encountered at his other businesses and how had they been resolved, and whether there had been enforcement action. Mr. Belcher said there was at one of the car sales lots at the beginning, where he had more cars for sale than

allowed. He said disciplinary action was taken and it hadn't happened again. Ms. Vang confirmed with Mr. Belcher that he was familiar with the complaint and penalty system.

Ms. Vang referred to the site plan and said she assumed the storage area was used for storage of parts, oil, and materials. Mr. Belcher said they didn't plan to store any oil or chemicals. He said the storage area was for vehicles; the current owner built it for vehicle storage, and auto body repair was not permitted at this time. Ms. Vang reviewed the condition regulating the use of the storage space. Ms. Vang asked how many cars could be stored there. Mr. Belcher said four or five.

Ms. Vang asked where parts were stored. Mr. Belcher said there was no parts storage; he explained the process for ordering and delivery of parts. Ms. Vang asked about on-site storage of trash and disposal of parts. Mr. Belcher said there was no parts storage outside the building. He said he didn't know what was being done now, but normally a metal guy would come and pick them up. Ms. Vang asked if there were garbage bins or parts outside. Mr. Belcher said no; he said the place looked clean on the outside, and he would keep it the same.

Ms. Vang asked about lighting or cameras to help ensure a safe and secure place. Mr. Belcher said there were cameras already, and some lights could be added. He said some of the emails received had expressed concerns about theft, and he didn't see why more cars on the lot would attract more theft. Ms. Vang said they would wait for the person to testify, so there could be a conversation.

Ms. Vang encouraged use of lighting that was not disruptive. Mr. Belcher said when he was there that day, the police were there asking to see video footage related to a theft from a neighboring business.

Ms. Vang opened the hearing for public comment.

Mr. Belcher said he understood and appreciated neighbors' concerns. He said at some point this business needed to be able to park on the property and there was no parking diagram. He said it was better to have as many vehicles on the property as possible rather than on the street.

Michelle Curtis (834 Clear Avenue) said she had lived there for two years, and she had submitted an objection. She said there were reports every day on a neighborhood social media group about cars being rifled through, and you only had to read the police blotter to know that a bunch of cars there invited ne'er do wells to come check doors. She said 17 cars in various state of disrepair in one spot was just ripe for crimes of opportunity. She said the previous week a scrap guy went through the alley, and that was common in the neighborhood. She said she was also concerned about fumes and ventilation with the current operator, and had had to close windows on numerous occasions because of the fumes. She said paint colored her grass and she couldn't let her small dogs outside sometimes. She said she was certain they were not following the regulations about closing doors when there was painting. She said the previous owner of her house moved out due to the extreme conflict with current business, and she was concerned about not making too many waves with the current contractors. She said she was disturbed about seven days a week; at least now she could count on peace and quiet in the evenings and on weekends.

She said if this business went to 7:00 p.m. and was open on Saturday and Sunday they would have to move. She could not tolerate the loud verbal, the swearing; she had to go elsewhere if she wanted relief from the fumes and noise. She said the City should have rigorous ventilation and air pollution inspections and requirements. She said currently the sub-contractors didn't adhere to the rules, and the idea that a new owner was going to make a difference was ludicrous.

Ms. Vang asked Mr. Belcher whether he would have the same people working once he took over the business. Mr. Belcher said he wasn't sure; he said the concerns were valid. He said the people there had been there for 10 to 15 years. Ms. Curtis said that was the problem. Mr. Belcher said painting was only supposed to be done in the paint booth, and 95% of the time that was happening as far as he knew. Ms. Vang asked how Mr. Belcher would ensure there was minimal impact to the neighbors. Mr. Belcher said the current owner was not responsible in terms of investing in a better ventilation system. The exhaust system was new, but there were updates that could make it more efficient, because people shouldn't be smelling paint 100 feet down the road. Ms. Vang asked whether the updates had been done. Mr. Belcher said the new system had been installed, but improvements could be made to make the system function better. Ms. Vang asked whether a permit would be pulled for the updates. Mr. Belcher said yes, normally you would pull a permit for the installation of the system, and that had been done a couple of years before for about \$50,000. He said there were some things he could do as the owner that could make the system better. Ms. Vang asked how often the filters had to be changed and when it was last changed. Mr. Belcher said the frequency depended on the type of system and how much painting was done, and he didn't know when it was last changed. Ms. Vang said since Mr. Belcher is thinking about buying the property, she hoped that he would consider improvement opportunities and be more diligent in checking how often filters were being changed. Mr. Belcher said changing the filter was an easy thing to do, and he would stay on top of it. Ms. Vang asked Mr. Belcher if he had an auto body paint shop. Mr. Belcher said he had one with a different type of system and he had never had a complaint. He said if he were to purchase this property, he would be more proactive. Ms. Vang asked Mr. Belcher what he would do if he discovered a sub-contractor doing painting somewhere other than the paint booth. Mr. Belcher said he would have a two-strike system, and three main rules - parking cars only on site, painting only in the booth, and maybe hours. Ms. Vang asked whether the sub-contractors shared the booth. Mr. Belcher said a shared paint booth in a body shop was standard for a body shop, but it wasn't being used 24/7.

Ms. Vang said Ms. Curtis had concerns about the environmental impact on her property, herself, and her pets. Mr. Belcher said her situation was especially problematic because her property was right behind the business and elevated on a hill.

Ms. Vang asked Mr. Belcher how he minimized impacts at his other shop. He said he hadn't had any problems or made any modifications. Ms. Vang recommended that Mr. Belcher research the issues with the ventilation system at this shop. Mr. Belcher said he had appointments to go see some other body shops to get some additional ideas.

Ms. Vang confirmed with Mr. Belcher that he had heard the concerns loud and clear. He said he had, and it was a concern for him as well.

Ms. Curtis said it was incumbent on the City to provide residents with results of inspections made in response to concerns, and someone should have come prepared with a log of inspections done on the business. Ms. Vang clarified that this was a licensing hearing staffed by a licensing inspector, not a building or fire inspector, and that was a different process. Mr. Belcher said inspections were done yearly. Ms. Curtis asked that the inspection logs from the last five years be included as part of the license approval process. Mr. Fischbach said there was a Certificate of Occupancy inspection in January, and there was a paint fumes complaint in the last week. He said he had checked with the Fire inspector on the status of the complaint but hadn't heard back. He shared the 651-266-8989 complaints number, and said the complainant could ask that the inspector call them back, or the complaint could be anonymous. He said he looked back at the complaint system, and records didn't show recent complaints; the most recent were in 2016. He said he'd also asked police for an incident report and was told there were none within the last year. He said he did not research the ventilation work done in 2016. He reiterated that the most recent Fire Certificate of Occupancy inspection was in January.

Ms. Vang asked whether there was enforcement action in 2016. Mr. Belcher said the complaint led to the current owner re-doing his exhaust system. He said what it needed now was better filtration system.

Ms. Vang said she would check with DSI about records related to the ventilation system.

Mike Strouse (1332 Arcade Street) said he concurred with everything Ms. Curtis had brought up. He said he'd lived in his house for 15 years, and the current contractors hadn't been there that long. He said he addressed all the issues in his letter. He said he would like to see the City go back at least 15 years and review the complaints. Ms. Vang said she could only look at the new license applicant and rely on DSI's review and assessment. She said all she could do was address the concerns currently being raised, and see if she could shape any conditions that would make it work.

Mr. Strouse asked whether the workers were sub-contractors or renters; he said they were part of the problem. Mr. Belcher said typically there was turnover when he came into a business. He said he would give two of them the opportunity to stay, but they might end up paying more, or he might have different rules, and they might not stay.

Mr. Strouse said Mr. Belcher was giving all the right answers, and he (Mr. Strouse) didn't know whether he believed half of what Mr. Belcher said but would give him the benefit of the doubt. He said the neighbors wouldn't know until a year down the road. He said the stipulations on the new license were considerably less than what was there now, and there had been enough complaints to cause the current owner not to park any vehicles on the lot after business hours. Mr. Fischbach clarified that cars could be parked outside; the only condition was that no wholesale cars could be parked outside. Mr. Strouse said for the last nine years there had been no cars outside, until the renter guys came in and started parking cars in the lot, in the street, and everywhere else. He said there was no way they could park 17 cars without impeding ingress and egress. Mr. Belcher said he had done it and it worked. Mr. Strouse then said that he and Mr. Belcher were going to have a problem with the number of cars. Mr. Belcher said there were 17

parking spots on this lot, and he had hired a professional to draw it up. He said they may not all be used all the time. He said they wanted to utilize their own property and stay off the street.

In response to a question from Ms. Vang, Mr. Belcher said there was plenty of room for ingress and egress. Ms. Vang stressed the importance of an accountability plan to make sure the sub-contractors knew and understood what was discussed at the hearing. Mr. Belcher said the current owner had inherited the business from his father and hadn't invested in it, but he (Mr. Belcher) would invest and make sure it was run right to protect his investment. Ms. Vang asked Mr. Belcher whether he would be willing to communicate with neighbors directly about concerns. Mr. Belcher said he would; he said he spoke with a couple of neighbors prior to the hearing but had received two of the letters just the previous night.

Mr. Strouse said he was more than willing to sit down with Mr. Belcher and could give him 15 years of history of what he had put up with. He said the paint booth was garbage, and he had a video he had taken the previous Friday. Ms. Vang asked Mr. Strouse to email the video to be included in the record. Mr. Strouse said if he could smell the paint and see it coming out of the stack, there was something wrong with the paint booth.

Mr. Fischbach said he would provide the contact information for commercial Fire inspector's supervisor, so the neighbors could share what they'd seen, including the video. Mr. Strouse said they'd had an inspector's contact information in the past but the inspector had been unresponsive to complaints.

Mr. Strouse asked Mr. Belcher if he was buying the whole property including the house. Mr. Belcher said yes; the house going to be rented to one of the current owner's family members. Mr. Strouse said he would like to talk to Mr. Belcher about that as well, privately.

Mr. Belcher said buying this property was a nail-biter for him, and he was probably the best person to buy it because of his attitude about making things right.

Mr. Strouse said his concerns all still stood, and he didn't think the property should be re-licensed as a body shop. Ms. Vang asked Mr. Strouse what, specifically, he would like to see regulated further. Mr. Strouse said specifically the parking. He said when you put a lot of cars in a lot, as Ms. Curtis said, it drew the dregs of east St. Paul, and when they couldn't find anything in the cars on the lot, they would move down the alley to neighbors' cars, which is what they'd been doing.

Ms. Vang asked Mr. Strouse how he could help Mr. Belcher improve that situation. Mr. Strouse said Mr. Belcher should clean out the garage and put all the cars in the garage after hours. Ms. Vang asked what if that wasn't possible. Mr. Strouse said it had been done at that property before. Mr. Fischbach said that must have been an agreement between the neighbors and the owner.

Mr. Strouse said the storage garage was of concern to the residents, but the bigger problem was the wash bay next to it which had been converted to a paint booth. He said the garage door had filters on it which weren't there four years before, and they had video of painting taking place

there. He asked whether primer could be applied outside of the paint booth. Mr. Belcher said it could be done anywhere if they were priming with a paint can, but if they were using a paint gun it had to be done in the paint booth. Mr. Strouse said there was a compressor and paint guns in the wash bay. Mr. Belcher said he didn't know what they were doing now. Ms. Vang asked Mr. Belcher to look into that. Mr. Belcher said he would, and there would be no painting allowed there.

Ms. Vang asked Mr. Strouse to send in the video and asked if he wanted to forward it as a complaint. Mr. Strouse said the video was sent to the City by the neighbors across the street that preceded the Curtises. Ms. Vang asked Mr. Fischbach to follow-up. She asked Mr. Fischbach to also follow up with site plan review staff about the 17 parking spaces determination.

Mr. Strouse said he also didn't like that Mr. Belcher was going to do business on Saturday and Sunday. Mr. Belcher said he could agree with limited hours on Sunday.

Ms. Vang stated that Mr. Strouse and Ms. Curtis both provided oral testimony and sent letters, which were accepted into the record.

Charles Curtis (834 Clear Avenue) asked whether the sub-contractors were bringing in their own work, and whether Mr. Belcher would be getting a commission. Mr. Belcher said they were bringing their own work, and the payment was to be determined. He said the simplest arrangement was for them to pay a fee to use a portion of the garage. Mr. Curtis said it seemed like they were tenants rather than sub-contractors. Mr. Belcher said he didn't see a difference. Mr. Curtis said employees could be terminated if they weren't following the rules, but tenants had certain rights under the lease. Mr. Belcher said if he had a contract with tenants, and the terms were violated, he had the option to cancel the contract. Mr. Curtis asked who was going to be there to enforce the rules or find violations. Mr. Belcher said Mr. Curtis and the neighbors would always have access to him with a phone call. He said the tenants would have rules and he would be enforcing them, and he would be kept informed because, at that property, as on all of his properties, he would have somebody in charge. He said a selected tenant would receive a discount in exchange for acting as a supervisor. Mr. Curtis asked whether that would be one of the existing tenants. Mr. Belcher said absolutely not. He said the current tenants may or may not stay on. He said he understood and shared the concerns expressed, except for Mr. Strouse's concern about cars parked on the lot. Mr. Strouse and Ms. Curtis said cars should be parked inside. Mr. Belcher said he was on board with everything except that issue.

Ms. Vang said it would be great if Mr. Belcher had a dedicated staff person supervising, and the neighbors knew who that person was.

Mr. Curtis said the bay doors were sometimes open now, and the conditions required that they be closed. Mr. Fischbach clarified that the conditions didn't state that the doors had to be closed, but there was a noise ordinance that would have to be adhered to. Mr. Curtis said it was loud, especially when they were doing something like grinding on metal.

Ms. Vang said she had in the past placed conditions requiring that the doors be closed when certain types of tools and equipment were being used. She said she knew Mr. Belcher was

inheriting the issues of the previous owner, but given that he intended to keep some of the existing sub-contractors, and he was ultimately responsible, she would like to know how he felt about adding a condition.

Mr. Belcher said they didn't want something that said they had to have the door closed all the time, but would tell the tenants to close the doors when they were doing something loud. Ms. Vang confirmed with Mr. Belcher that he would agree to have that added as a condition. He said he would. Ms. Vang asked Mr. Fischbach to draft language for her to consider. Mr. Fischbach, Ms. Vang, Mr. Curtis, and Mr. Belcher discussed the language.

Mr. Curtis said the chatter and music in the alley from the workers and their friends who came over created a nuisance. Ms. Vang asked Mr. Belcher whether he had spaces where his contractors could comfortably do those things without disturbing the neighbors.

Mr. Belcher said to Mr. Strouse that he'd want to talk to him. He said the current owner wanted to sell the property and someone was going to buy it, and he was the first one, and he thought he and Mr. Strouse were on the same page.

Mr. Curtis said he had a couple of other concerns; he asked where a flatbed would be pulled in and unloaded if not on the street or alley. Mr. Belcher asked where it was being done right now. Mr. Curtis said on the street; Mr. Strouse said in the alley. Mr. Belcher asked if it was a violation to use the street or alley for five minutes to unload a vehicle. Mr. Fischbach was not sure but would research that.

Mr. Curtis said his final thought was the hours. He said what made the current situation tolerable was that they started at 8:00 a.m. or 9:00 a.m. and closed at 5:00 p.m., and weren't there on the weekends, and not having that respite was going to be a big issue.

Mr. Belcher, Ms. Vang, Mr. Fischbach, and Mr. Curtis discussed the hours. Mr. Belcher agreed to hours of 8:00 a.m. to 7:00 p.m. Monday through Friday; 8:00 a.m. to 5:00 p.m. on Saturday; and 10:00 a.m. to 4:00 p.m. on Sunday with no work to be performed on vehicles except for paperwork and maintenance. Ms. Vang asked Mr. Fischbach to draft language for her to consider.

Ms. Vang said there were some issues still outstanding and she was not ready to make a recommendation. She said the issues included checking on any inspections of the paint booth, and a statement from site plan review staff on the feasibility of parking 17 cars. Mr. Fischbach said it was best for neighbors to be in direct contact with Fire inspections regarding their concerns about the painting and the paint booth.

The hearing adjourned at 2:38 p.m.

The Conditions Affidavit was signed and submitted on September 18, 2019.