

Subject: Formal Challenge to Denial of Home Occupation Permit

Dear Appeals Board/Committee Members,

I am writing to formally challenge the denial of my home occupation application, citing concerns that the reasons provided are inconsistent with the City of Johns Creek Zoning Ordinance, Section 4.12. It is my belief that personal discretion, rather than the code itself, significantly influenced the decision. I will outline the key points of contention and request that the board review my application in light of these inconsistencies.

Background

I first contacted Allen regarding the home occupation permit process. During our two conversations, one by phone and one in person, he confirmed after reviewing Section 4.12 of the Johns Creek Zoning Ordinance that my proposed business would be eligible for approval. Following these discussions, I began making significant investments in my business, amounting to nearly \$30,000, with the understanding that my application would be approved.

However, upon subsequent interactions with other city officials, including Ruchi Agarwal and Ben Song, my request was unexpectedly denied without proper review of the facts or my previous discussions with Allen. It became clear that subjective judgment and discretion, rather than the zoning code, guided the decision-making process.

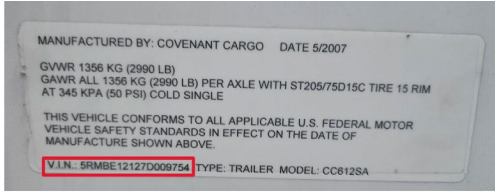
Misapplication of Zoning Ordinance Section 4.12

1. Inconsistency with Code Provisions

The reasons for denial do not align with the specific language of Section 4.12. For example, Mr. Song's reasoning that my business proposal could "scale up for production" in the future is speculative and unrelated to my current application, which complies with all zoning regulations. No section of the code explicitly addresses concerns about future scaling as a valid reason for denial.

2. Misinterpretation of Storage and Vehicle Use (Section 4.12.C and 4.12.H)

The denial references Section 4.12.C, which prohibits storage of materials outside the structure. However, this was misapplied to my mobile food unit. The unit is not stored on the property but is registered as a vehicle with the Fulton County Vehicle Registration Office (VIN: 5RMBE12127D009754). Under Section 4.12.H, vehicles associated with home occupations are allowed, provided they are used by residents only, which is the case here.



3. Comparison to Permitted Home Occupations

Section 4.12.E permits businesses like beauty salons to operate under a home occupation license. These businesses, which involve substantial income and require specific installations such as sinks, are allowed despite financial benefits. I questioned why my business is being denied on the grounds of potential financial profit when similar businesses are permitted without such scrutiny.

4. Discretionary Denial of Permit

Throughout the decision-making process, it became clear that personal discretion was a significant factor. For example, Mr. Song expressed concern that approving my request might lead to future abuses by others, which is not a legitimate reason for denial under the zoning code. Moreover, during my interactions, officials failed to verify information with Allen, as requested, leading to baseless accusations of manipulation.

I respectfully request that the board examine whether it is appropriate for a home occupation application to be denied solely at the discretion of a department member. In reason #2, Mr. Song states, *“In the past, the City has not allowed similar businesses.”* This reasoning implies that my application is being denied because similar requests were previously denied. I question the fairness of using such a broad and general reason to reject my proposal.

It is my understanding that each proposed business should be considered individually and then evaluated against the relevant codes and limitations. Mr. Song’s reasons, when closely examined, do not seem to pertain directly to my specific proposal. Instead, it appears that the reasons provided were formulated to justify delaying and ultimately denying my request.

Additionally, in reason #2, he states, *“The kitchen setup as you have proposed could allow for a business like yours to scale up for production.”* This suggests that my current proposal complies with existing regulations, but there is concern about potential future expansion. It seems my request is being denied not based on what I have proposed, but on hypothetical future scenarios.

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To be more specific, I find nothing in the code that addresses the volume of production allowed in a home occupation. The fact that this is communicated in writing as part of the denial is troubling.

5. **Discrimination**

The reasons provided for the denial of my home occupation request are inconsistent with the City of Johns Creek Zoning Ordinance, Section 4.12 - Home Occupation. Additionally, it is evident that City of Johns Creek Community Development Director Ben Song, Planning and Zoning Manager Ruchi Agarwal, and Salvatore Gaeta have exercised discretion—and, in my opinion, discrimination—in making the decision to deny my request. I will outline how discrimination, rather than the code itself, influenced their decision.

I had two conversations with Allen (one by phone and another in person) in which he informed me that I would need to apply for a Home Occupation permit. We thoroughly reviewed ARTICLE IV - GENERAL PROVISIONS Sec. 4.12 of the Johns Creek Zoning Ordinance. After going over the regulations, Allen assured me that I would be permitted to build out my proposed business and receive approval from his department.

On Friday, August 9, 2024, I went to the office to meet with Allen and requested an email confirming his findings that I would be approved for the permit. However, Allen was unavailable, as he had gone to lunch. Ruchi Agarwal came to speak with me instead. I explained that I had spoken to Allen and needed an email for The Georgia Department of Public Health plan review. Without verifying the facts of my conversation with Allen or reviewing the code, she immediately told me that I would not be granted a license. Her decision appeared to be based solely on her discretion. (I have recorded this conversation, during which she acknowledged that she was committed to denying my request without fully understanding the facts.)

Ben Song then joined the conversation. He asked how he could assist me, and I explained that Allen had informed me that I would be approved for the permit, leading me to spend nearly \$30,000 in preparation for my plan review. In response, Song accused me of manipulating Allen and not providing him with all the necessary facts. I asked him if he was seriously making such an accusation without first speaking to Allen to verify the details. Despite my request, Song refused to call Allen into the conversation to confirm what had been said.

I explained to Song that I was initially unaware of what a home occupation permit entailed and that Allen had explained how it could be applied to the business I was proposing. I expressed my shock at being treated this way and at the accusations being made. Song then stated, "Let's forget about this entire conversation and start over. Send me an email explaining what you're trying to do, and I will make a determination afterward."

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A week later, Song requested additional information via email, which I promptly provided. Two weeks after that, he said a follow-up in-person meeting was necessary before making a final determination. Upon entering the meeting, the first thing he told us was that we could appeal his decision, which made me wonder what the point of the meeting was. He then stated that if he allowed my request, someone else could later abuse it. I asked if he was seriously considering denying my request based on what someone *else* might do in the future. His response was that I could not financially benefit from this.

I then asked if a beauty salon would qualify as an acceptable home occupation, to which he replied, "Yes." I followed up by asking if, for example, a home salon offering high-end extensions and making \$200,000 a year would be questioned. He confirmed it would not. I pointed out the inconsistency in denying my business proposal based on financial benefit while approving other home occupations with substantial income.

His primary concern seemed to be the grease trap I was proposing. However, after consulting with Fulton County, they reviewed my business plan and determined that a grease trap was not required based on the scope of my operations. I forwarded their findings to Song, yet he still "manufactured" a reason to deny my request.

During a subsequent meeting with Ruchi Agarwal, I spoke with Sal Gaeta. I mentioned that a contractor who had worked with Sal before warned me that he could be unusually difficult. I explained that my wife and I are tax-paying citizens in this community, contributing to his salary, and expressed concerns about the toxic culture in this department. I emphasized that the department, rather than using public trust to diminish residents, should advocate for and support them. I have this entire conversation recorded. Sal responded dismissively, stating, "First of all, you don't know how government works. I don't work for you. And secondly, you can't get everything you want."

Sal was part of the panel that ultimately denied my request. It is clear that a discriminatory and toxic environment pervades this department. I believe an investigation should be launched to review my claims, and appropriate measures should be taken to address this behavior.

Clarifications Sought

1. Vehicle Storage and Usage

I request clarification as to why the storage of a legally registered vehicle associated with my business is being treated as a violation, especially when Section 4.12.H explicitly allows for vehicles used by residents to be kept on-site.

2. Consistency in Application of Rules

I ask the board to consider whether businesses like beauty salons and home daycare operations, which involve outdoor play areas and customer traffic, are comparable to my

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proposal in terms of activity visible outside the structure. If these businesses are allowed to operate without issue, why is my business being denied?

3. **Misapplication of Financial Profit as Grounds for Denial**

Mr. Song indicated that financial profit was a concern in my case but not for other home occupations like beauty salons. I request clarification on why this standard is being applied inconsistently.

Conclusion

Based on the above, I respectfully request that the board reconsider my home occupation application or initiate an investigation into the decision-making process within the Community Development Department. The reasons provided for denial are speculative, inconsistent with the zoning code, and seem to reflect arbitrary judgment rather than a fair assessment of my proposal. I look forward to a fair and transparent review of my application.

Thank you for your time and consideration.

Sincerely,
Akili Bivins

agbivins@gmail.com

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Discrimination Instances

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To be more specific, I find nothing in the code that addresses the volume of production allowed in a home occupation. The fact that this is communicated in writing as part of the denial is troubling.

According to Sec. 4.12.E, residents participating in a home occupation, including beauty salons, are required to obtain the appropriate occupational licenses, including business licenses. This requirement applies equally to our business. Additionally, both businesses are subject to non-scheduled, unannounced inspections by Fulton County.

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