MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 00-106
Docket No. Lin-99-720

MADELYN M. HUFFMIRE et al.

v.

TOWN OF BOOTHBAY

Argued September 8, 2000
Decided September 25, 2000

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, SAUFLEY, ALEXANDER, and CALKINS, JJ.

MEMORANDUM OF DECISION

Madelyn and Donald Huffmire appeal from an order of the Superior Court (Lincoln County, *Marsano, J.*) affirming the decision of the Town of Boothbay Zoning Board of Appeals, which approved the denial by the Planning Board of the Huffmires' application for a home occupation use permit. The Superior Court's order resolved count I of a five–count complaint.[1] At oral argument the Huffmires, with agreement of the Town, requested dismissal, without prejudice, of the remaining counts.[2] The dismissal of those counts renders the Superior Court's order on count I a final, appealable judgment.

On appeal the Huffmires present a due process/void for vagueness challenge to the home occupation ordinance and its application by the

1. An identical five-count complaint is pending in Federal Court. *See Huffmire v. Town of Boothbay*, 35 F. Supp. 2d 122 (D. Me. 1999).

2. Although the remaining counts in the state court complaint should have been dismissed before the appeal was taken, in the interest of judicial economy, we allowed the parties to correct the record before us.

Zoning Board of Appeals to their case. Subsection 2(f) of the Home Occupation Permit Ordinance requires that applicants demonstrate that provisions are made to protect neighboring properties from "adverse impact from traffic . . . [and] . . . parking." This language is sufficiently specific to avoid a due process challenge. *See Nugent v. Town of Camden*, 1998 ME 92, ¶¶ 5 & 11, 710 A.2d 245, 248. The record contains more than adequate evidence to support the Zoning Board of Appeals' determination that the Huffmires' parking plans, which anticipated customers backing out onto a narrow, well–used road, included inadequate sight distances, and presented a safety hazard. Because the finding on the traffic and parking issue is adequately supported in the record and sufficient to support the decision, we need not review the Huffmires' challenge to adverse findings on other issues. *See Grant's Farm Assocs., Inc. v. Town of Kittery*, 554 A.2d 799, 801 (Me. 1989).

The entry is:

> Remanded to Superior Court for dismissal, without prejudice, of counts II through V of the complaint. With those counts dismissed, judgment affirmed.

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