

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: JUNE 18, 2014

CASE NO.: 6/18/2014-1

APPLICANT: MARLENE L BISHOP
JOSEPH O'LEARY
4 HOVEY ROAD
LONDONDERRY, NH 03053

LOCATION: 4 HOVEY ROAD; 10-36; AR-I

BOARD MEMBERS PRESENT: NEIL DUNN, ACTING CHAIR
JIM TIRABASSI, VOTING MEMBER
JACQUELINE BENARD, VOTING MEMBER
DAVID PAQUETTE, CLERK

REQUEST: SPECIAL EXCEPTION TO ALLOW GUN REPAIR AND SALES AS A HOME
OCCUPATION IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.12.

PRESENTATION: Case No. 6/18/2014-1 was read into the record with no previous cases listed.

NEIL DUNN: Who will be presenting for the applicant? I'm sorry please come up and introduce yourself, please.

JOSEPH O'LEARY: Yes, I am Joseph O'Leary, I am the...owner of 4 Harvey Road...one of the co-owners actually. What we are proposing is to open up a small gun shop in the separate building that I have, so it wouldn't be in the living space. I have a barn that is about seventeen by...twenty...and we are going to use the downstairs...part of the downstairs portion of the barn...to open up a small gun repair, gun shop...you know...sales services, that kind of thing. Restorations...gunsmithing...I do have a friend who is a master gunsmith. He went to school and did all the...all the schooling...you know he has been a gunsmith for many years so...basically...he is going to be there as you know...my employee...slash silent partner, if you will. I have plenty of room for parking. I...I don't see it being a big you know, traffic concern of any kind. I think it's...the hours of operations we are hoping to do maybe like a nine to five during the week and I would say four or five days a week. And then any of the other days will be by appointment only. If it was an instance where someone wanted to pick up a firearm for hunting purposes and they needed it that day, than they could call us and we will be living there so I can...you know...either deliver or you know whatever. There will be no firing of fire arms on the property. We have a separate place for that for test firing and you know that kind of thing so...I mean that is basically the bottom line. We are just looking to make a few bucks...we are not going to get rich obviously but you know...it would be nice...you know...small supplemental income to keep things going.

NEIL DUNN: Any questions from the board?

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JACKIE BERNARD: What is the name of your business?

JOSEPH O'LEARY: We have been actually toying with a few business names...[Chuckling]...because we have to register with the State obviously but this was the first step. I wanted to get the 'ok' from the Town before we did anything. Obviously for you know...financial reasons...you know...paying the expenses for the permits and all that stuff, we were toying with "Algunquin...Gunsmithing."

JACKIE BERNARD: Ok so you are not registered with the State of New Hampshire...

JOSEPH O'LEARY: Not yet...no...not yet...

JACKIE BERNARD: Ok...

JOSEPH O'LEARY: So I don't know if that name is taken, we have to go to the State and find out.

LES SEYBOYER: I might be able to clarify a little bit...in this process...

NEIL DUNN: Could you state your name...

LES SEYBOYER: Oh I am sorry...my name is Les Seyboyer...and...

NEIL DUNN: Where do you live?

LES SEYBOYER: I live...actually live in Derry...

NEIL DUNN: Ok

LES SEYBOYER: I have known Joe for thirty plus years. I...I am a certified Master Gunsmith through the Pennsylvania Gunsmith School...over the last ten years I have been the in house gunsmith with Kittery Trading Post. I left that position earlier in the year...and...that is when Joe and I started talking about doing something different...because everything has to be federally licensed, there is a sequential process to it. So our first step here is to go before you folks and see if you will approve that zoning variance so that we can place the business there. Until you have a business location in place, you can't make application to the Bureau of Alcohol, Tobacco, Firearms and Explosives, who ultimately says yes or no to licensing. You have to have a business location in place before you make that application...and...answer to your questions...once we have an answer from the town as to yes or no. If it is yes the next step will be to do a search of...a number of names that we have selected and see if any of them are already taken...because you can't overlap. At that point in time we go and make that application to the State. There is a...I forget it is a seventy five or eighty five dollar fee for...

JOSEPH O'LEARY: It's eighty five...

LES SEYBOYER: For registered...to register the name of your business. At that point in time once the name of the business is registered we can make application to...BATF...that process takes anywhere between sixty and

91 about one hundred and twenty days before they contact you. You make the physical application first. They do
92 background checks; you have to submit finger prints and all of that. The next step in that process is that they
93 send a field agent out to look at the premises, interview the parties that are going to be working there...ask
94 questions and make clarifications as to what they want in regards to what their expectations are and what
95 they need and if they have any questions on the application. And then...one you have done that
96 prelim...preliminary interview they make a decision and to whether or not they are going to recommend the
97 issue of the license...and they license is than good for three years at that location.

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99 NEIL DUNN: So you are aware that there are only four members and you need three votes.

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101 LES SEYBOYER: Yup...

102
103 NEIL DUNN: Ok...Richard, if I may if no one else has anything at the moment. On the calculation and using that
104 barn as opposed to the dwelling or garage, we look at the barn as being equivalent to an existing building like
105 a garage.

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107 RICHARD CANUEL: Yeah according...

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109 NEIL DUNN: So the zero percent on the form is a...is a fine number...

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111 RICHARD CANUEL: Well...according to the terms of the ordinance...home occupation can take place in a
112 detached garage and by definition the detached garage can be any accessory structure that's either parking or
113 storage so the barn certainly fits that criteria.

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115 NEIL DUNN: My other question is...I...I know these forms get a little confusing and they are almost like double
116 negatives...[clearing of throat]...number ten says will the home occupation be incidental and secondary to the
117 use of property as a dwelling and not change its residential character and you wrote no...to me it sounds like it
118 won't be incidental and secondary to the use of the property.

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120 JOSEPH O'LEARY: I really didn't....I really didn't understand the question...

121
122 [Laughter]

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124 NEIL DUNN: Typically is that a yes...

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126 RICHARD CANUEL: That actually should be a yes...

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128 JOSEPH O'LEARY: Ok...ok

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130 JACKIE BERNARD: SO basically you answered that...this...home occupation is going to...what your business...is
131 going to be used for...primarily just for this gun...

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133 JOSEPH O'LEARY: Right well...

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135 JACKIE BERNARD: ...shop...

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JOSEPH O'LEARY: This is kind of grey the way it is on the form because we are not talking about where I physically live in the house...we are talking about a separate structure that is on the property...

JACKIE BERNARD: But you take your...

JOSEPH O'LEARY: So I am not sure which way to go with that...

JACKIE BERNARD: Yeah...ok...so...will you be only using this property only for your gun business?

DAVID PAQUETTE: No...he lives there...

[Laughing]

DAVID PAQUETTE: It is your primary residence right?

JOSEPH O'LEARY: It is my primary residence...

JACKIE BERNARD: You will live there?

JOSEPH O'LEARY: I...I live there now yes...and I will live there.

JACKIE BERNARD: OK...

JOSEPH O'LEARY: Certainly.

NEIL DUNN: You mentioned just now in your presentation...you were looking at nine to five, four days a week. On the application you had Wednesday through Saturday, ten to seven and Sunday and Tuesday appointment only.

JOSEPH O'LEARY: Is that what it was?

LES SEYBOYER: Yeah...I think we did ten to seven.

JOSEPH O'LEARY: Ok...

LES SEYBOYER: Four days a week and then by appointment only after that.

NEIL DUNN: Ok so you are sticking with the application?

LES SEYBOYER: Yeah...yes...

JOSEPH O'LEARY: Yeah, we are sticking with the application.

180 LES SEYBOYER: Absolutely and...BATF requires you to designate what your business hours are and if those
181 business hours are going to be changed you have basically two options...one you can go online to the Bureau
182 of Alcohol, Firearms and Explosives website and you go to the FFL section...Federal Firearms Licensing section
183 and there is a subsection that allows you to make changes through the internet or you can do it in writing and
184 submit it. Either way it can be done. But once you set your hours...your hours are set...with you know...a
185 reasonable amount of flexibility. You know if someone calls and says I am going to be there in fifteen minutes
186 and you are supposed to be closing at seven o'clock, they don't have an issue if you stay past that time...it's
187 just if you significantly change how your hours of operation are going to be you have to make those changes
188 for them to review.

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190 NEIL DUNN: Number of customers per day...an average, can you estimate?

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192 LES SEYBOYER: It varies...I think you would see a peak prior to and just after the hunting season. People
193 who...or shooting season which kind of starts now, we have a lot of competitor shooters now...so you see
194 some peaks where you may see some increased activity but typically you will see two or three people trickle
195 in...off and on over the course of the day...I wouldn't expect to see a high volume of traffic by any means of
196 the imagination...you are probably looking at maybe ten or fifteen people per day on average spread out over
197 the course of your business hours. And...like he had said, we have...room for off street parking. No one will be
198 parking on the street. They actually come down the driveway and there will be space for them to park on the
199 side of the building.

200
201 NEIL DUNN: So I heard two to three and ten to fifteen or something on the average...

202
203 LES SEYBOYER: Well two to three people at a time, typically will show up. And...and that is historically how it
204 has been over the years...I have worked at...I have helped friends in other gun shops and...and I have friends
205 now...John that owns Chester Arms over in Derry...you know, I stop and talk with him off and on and help his
206 out if his customers have got some challenges. And...typically you will see maybe two or three people at a
207 time. We don't have this pig massive...it is not like something you would expect to see at Kittery Trading Post
208 or Bass Pro Shops or something like that.

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210 JACKIE BERNARD: You didn't answer one of the question, number eleven, will there be any exterior
211 renovations, construction or the outside storage of materials. Will you be doing any of that?

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213 LES SEYBOYER: There will be no outside storage of materials...

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215 JOSEPH O'LEARY: No...we would...actually we would like to expand part of...part of the room we want to open
216 up...we want to push it out, again this is if we have the go-ahead than we would like to expand back about
217 eight feet, but obviously I would have to go through the Building department to get building permits and stuff
218 like that. But again, that is all contingent on our answer for tonight.

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220 NEIL DUNN: So you would be impacting the exterior and pushing the physical walls back?

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222 JOSEPH O'LEARY: Yeah...part of...just the back part of it.

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224 LES SEYBOYER: Potentially...

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JOSEPH O'LEARY: Potentially...and hopefully a little paint on the outside.

JACKIE BERNARD: Now...on your drawing you have the barn and then you have what looks like its labeled garage that is off to the side that attaches to this barn

JOSEPH O'LEARY: The garage...the lift bay yes...the lift bay...there is a lift bay right next to where we are going to...

JACKIE BERNARD: Ok so...and this barn...I see a picture of it...can you tell me how...because you have described the storing of guns you are going to be machining them you are going to be polishing them and cleaning the...everything that you put in your...application...

JOSEPH O'LEARY: Right.

JACKIE BERNARD: How is that structure...set up in which to secure these firearms?

LES SEYBOYER: Steel cages will be built and an automatic lock system will be installed.

JACKIE BERNARD: And that alarm system...is that also part of the house so that you are aware.

LES SEYBOYER: No...

JACKIE BERNARD: No...

LES SEYBOYER: It's separate...

JACKIE BERNARD: It's separate?

LES SEYBOYER: The alarm system will make you aware of what is going on.

JOSEPH O'LEARY: Plus it will be wireless so they can't cut the wires or anything like that it will be...issued to a cell tower. That is when it notifies the police department.

JACKIE BERNARD: Who will monitor the alarm system? Will it be a professional company?

LES SEYBOYER: Yes...

JACKIE BERNARD: Or will you be doing this yourself?

LES SEYBOYER: We went with 'Simpli Safe'. And...because it is a wireless system, as Joe had said before, phone lines cut whatever...cable lines cut...it has no impact. There is a separate cell transmitting device that goes out. The way the system works and...if I understand correctly is...is under the guidelines of the State of New Hampshire. If an alarm is triggered, the first person they have to contact is the property owner, either Joe or myself. If they do not obtain any type of a phone response from us when they call, than they notify the police

270 department, which would be Londonderry PD and they would respond. It is an audible alarm, internal and
271 external...and because it is wireless, there...there is no way to stop it outside the building. And we will tighten
272 up the building to make sure it is secure. I spent twenty years in corrections; I understand the security side of
273 the process.

274
275 [Chuckling]

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277 LES SEYBOYER: Not doing time, but supervising for the prison.

278
279 [Laughter]

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281 JACKIE BERNARD: Thank you for clarifying that.

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283 JIM TIRABASSI: I do have a question if no one else does. You did say there would be no firing of weapons on
284 the premises.

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286 LES SEYBOYER: Correct.

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288 JIM TIRABASSI: Ok well if people are going to come in for modifications and they are just going to walk out
289 with them, or are you going to take them somewhere else to test fire them.

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291 LES SEYBOYER: No I will test fire them. I will take them out to a range and test fire them. Legally...legally we
292 can do that...that's not an issue.

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294 JIM TIRABASSI: Ok.

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296 NEIL DUNN: In the...in the act of gunsmithing, what kind of equipment do you use?

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298 LES SEYBOYER: I use anything from a very advanced set of hand tools; on up through lads, milling machines,
299 grinders, buffers...mills and drills...there are a number of things involved. It depends on what level you want to
300 go to in this process. And...and how far you want to...to go...the vast majority of...of repairs are done with
301 simple hand tools and drill press and occasionally a milling machine.

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303 NEIL DUNN: Is the building soundproof at all...with...with grinders...one of the requirements is there would be
304 no...sight, smell, noise type thing...and I know grinders and machinery tools can be noisy, especially in an
305 empty, hallow garage.

306
307 LES SEYBOYER: I would...I would not expect to see any issues. You are not going to have anything, any noise
308 here that's any different than turning on your food processor in your kitchen, in terms of what you will hear
309 outside the building.

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311 NEIL DUNN: A grinder on metal...

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313 LES SEYBOYER: Yeah you are not talking about...real heavy...heavy grinding. It is very subtle work that is done
314 typically...

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JOSEPH O'LEARY: More like a bench grinder...

JIM TIRABASSI: I got...I have a couple more questions here...based on this...no material is going to be stored on site, but you do have the weapons stored on site right...

LES SEYBOYER: Right...

JIM TIRABASSI: Because you left that as a no...so you are going to be storing equipment, which is going to be the guns.

LES SEYBOYER: That would be correct...

JOSEPH O'LEARY: Yes...

JIM TIRABASSI: Ok...just bear with me I need my glasses to look at this thing...[chuckling]...so you are talking about eventually expanding the rear of the building but...right now as it exists you're going to be able to open shop...if you are granted the permit...you are going to be able to open shop...and in the space you have now there's no recon...reconstruction needed except the erecting of steel frame cage.

LES SEYBOYER: Yeah that and some modification inside...put up some additional walls and change the door and...and that type of stuff.

JOSEPH O'LEARY: More for security than anything else.

LES SEYBOYER: Yeah, tighten it up for security purposes.

JOSEPH O'LEARY: Insulation.

JIM TIRABASSI: Ok...and...thirdly the question is because you are going to be doing some milling and drilling in there...usually when you work with metal you tend to have oil spills...what is your plan to dispose of the products?

LES SEYBOYER: In terms of oil for disposal you are looking at minimal amounts...you know a few drops here a few to generate lubrication and typically that burns off or is wiped off. There is no continuous flow feed of fluids like what you would see in...in like CNC machine.

JIM TIRABASSI: Ok

LES SEYBOYER: And if there was we would have capture tanks for that.

JIM TIRABASSI: And you have no washers or anything like that.

LES SEYBOYER: The wash that we use is predominantly mineral spirits...

360 JIM TIRABASSI: Ok.
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362 LES SEYBOYER: And you can actually just recycle it out.
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364 NEIL DUNN: Anything else from the board?
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366 [Clearing of throats]
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368 NEIL DUNN: We will be going out to the public so we can come back to us if we need to.
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370 JACKIE BERNARD: Ok.
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372 NEIL DUNN: Ok, thank you gentleman. Anyone out in the audience that would like to speak against this or has
373 questions? Anybody who's...you are...please step up and identify yourself...please...
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375 CURTIS BOLES: My name is Curtis Boles, I live on fifty seven Hovey Road. I have lived there for approximately
376 thirty-nine years. I am not against the concept of a home business or the building or what he does...but I do
377 have some concerns and I would like some clarification. Do I address the questions strictly to you or to him?
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379 NEIL DUNN: To the board, he will respond...but they are really to the board.
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381 CURTIS BOLES: Ok...Is this going to entail class three sales? AR Automatic Rifles, Automatic Shotguns...is it
382 going to include sale of ammunition? The reason I ask this, this draws more people to the area...more traffic.
383 My question is, could it be possible if the entrance to this could come from Trolley Car Lane. My
384 understanding is there is an entrance to his property, two from Hovey Road and one from Trolley Car. With
385 the addition of Woodmont Orchards, there is a lot of traffic already on Hovey Road. I have seen it grow
386 tremendously in the last thirty nine years. From when the town didn't want to plow it, to now it is a cut
387 through from Gordon and people from the north end of town. The ability to get into his property is on a little
388 bit of a curve. You are going to see traffic buildup as they add onto Woodmont and that all gets developed
389 into the different zones, including some right across from our property. Would it be possible or feasible to
390 come in from the Trolley Car Lane, instead of down on that corner? As it is now, you have a...well it is just a
391 babysitting service at approximately seventy-nine Hovey Road, it is on a corner, it is difficult and every day I go
392 home the school bus stops there, you are on a corner, people go into the house to get their kids, it is a
393 dangerous situation. You are going to have traffic that will be backed up right at the bottom of Hovey Road
394 and people are going to cut in. is there going to be parking there? Those are some of my...questions...obviously
395 he answered about the firing outside that won't...that won't happen. Does he have ample parking? The
396 concept of it, I have no problem. I am an avid sportsman, target shooter, so I have no problem with that he is
397 doing. I will probably become one of his customers if I don't irritate him enough right now...but those are my
398 concerns.
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400 NEIL DUNN: Ok...thank you. Would the applicant like to answer the question?
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402 JOSEPH O'LEARY:...Ok so as far as the sale of AR platforms and automatic...I...I think that covers basically all fire
403 arms I mean, whether it looks like an AR or it has a wooden stock...it can be automatic it can be...you
404 know...semi-automatic...as far as a full automatic weapon, no...the persons has to have a tax stamp you

405 know...to...to obtain one of those weapons, you can't just sell a weapon like that to just anyone. So everything
406 is pretty much semi-automatic. There is all kinds of different definitions of that...you know that style fire arm.
407 The sale of ammunition...yeah...we would like to sell certain ammunitions. You know the popular stuff, like
408 nine millimeter and twelve millimeter shot gun...you know two twenty three...that kind of thing. So yes we
409 would like to do some sales of ammunition because you know you do make some money selling ammunition.
410 As far as the parking goes, I have plenty of space for parking there. I can probably park about thirty cars
411 without even being a hindrance to anyone on Hovey Road. It would not even be near it. I have plenty of
412 parking out back behind the barn and on the side of the barn...as far as accessing the shop from Hovey Road,
413 they can come in and I can make it a one way where they can come in that way and the can exit on Trolley Car
414 Lane. So I think that would solve some of his concern, you know...people trying to get out on Hovey Road, they
415 wouldn't have to...they could exit...going out of...

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417 NEIL DUNN: And...and so the question was about class three, so maybe you could help educate me on class
418 three...

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420 LES SEYBOYER:...There are several class three dealers in the area and we have no intentions at this time of
421 considering doing anything with NFA...National Fire Arms act class three weapons...which would be listed as
422 destructive devices...that would include selective fire weapons, which will allow you to...like an M\$ Assault
423 Rifle, which has selective fire capability. You have to squeeze the trigger each time and the licensing we would
424 have to discharge one round. So each time you squeeze the trigger that allows you to discharge one round. A
425 class three weapon, you press the trigger and that would allow the weapon to continue fire until you release
426 the trigger and we have no intentions of dealing with anything like that.

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428 NEIL DUNN: Anybody else on the board?

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430 LES SEYBOYER: Also if I might, in regards to the entrance...I should have...I should have brought a map and I
431 apologize for that...if you come in where the...the entrance is by the orchards onto Hovey Road...the first road
432 up is Trolley Car Lane, which goes to your right...than there is his first driveway and then you are looking at
433 approximately a fifty to sixty foot run before you come to the driveway that would be utilized to access the
434 business in the rear. From that position you have...about one hundred and fifty feet of view up the road and
435 about two hundred feet down the road, back towards where you came in. I wouldn't foresee or expect any
436 backing up traffic any more than what would be normal in peak traffic hours if someone was waiting to come
437 it...but like you said...certainly we can request that people come in from Trolley Car Lane and they can exit out
438 unto Hovey Road.

439
440 JOSEPH O'LEARY: Or...or vice versa...they can enter from Hovey and exit onto Trolley Car Lane. Whichever is
441 preferred.

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443 NEIL DUNN: Ok...thank you. Any follow...?

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445 JIM TIRABASSI: Oh I am sorry I did have one question...

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447 NEIL DUNN: I apologize...

449 JIM TIRABASSI: This may sound like a stupid question...I went to Walmart today to buy a phone...and it popped
450 in my mind...do you need to store ammunition on site to sell it?
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452 JOSEPH O'LEARY: Yes...
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454 LES SEYBOYER: Yes.
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456 JIM TIRABASSI: Do you need to...you need to have it on site?
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458 JOSEPH O'LEARY: Yes...
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460 LES SEYBOYER: Yes...we wouldn't be looking at...at huge quantities. Ammunition supply right now is fairly thin
461 to begin with...because of demand...so...you're not looking at any significant amounts of...of ammunition to be
462 stored...
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464 JIM TIRABASSI: And the reason I asked that is because I went to buy something and most everything they just
465 have they sample in the store and you order it online and that is why I was just curious...
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467 LES SEYBOYER: Right...right...
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469 JIM TIRABASSI: Because it is a matter of having to carry less liability.
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471 JOSEPH O'LEARY: Yes...yeah...
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473 LES SEYBOYER: That and of course they will be stored in the cage.
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475 JIM TIRABASSI: Now and...and going with that just one more question...is...what type of firearms are going
476 intending to carry. I mean I know you are going to be a transfer business as well, but what are you...are you
477 intending to store for a long period of time?
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479 LES SEYBOYER: At this point in time, we are much more focused on the repair side of it. I mean...we can
480 compare the repair of firearms by a gunsmith to try and find a mechanic...you know they are getting fewer and
481 further between obviously...so...general care, cleaning and maintenance...and...and repair...is the primary
482 focus. To be honest with you...that is a big chunk of...of cash flow. Is...is that knowledge base and that skill
483 base. I graduated from the Pennsylvania Gun School in 1995 as a Master Gunsmith, like I said I spent ten years
484 as the in house gunsmith at Kittery Trading Post until earlier this year...when I left the company and...I can tell
485 you that there, by volume, I typically would process between three hundred and fifty and four hundred guns a
486 year. Here we are probably looking at maybe one hundred and fifty to two...two fifty. It depends on...on...you
487 know what weapon demand is like and...and...where people are looking to go. The other thing is...is we have a
488 certain amount of storage space...we don't exceed that storage space...and I don't have a problem seeing
489 someone right now look I am backed up two months so...call me in a month and a half and let's see where we
490 are to get these done.
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492 JACKIE BERNARD: Mr. Chairman I have one more question...what is your customer base now? How many
493 customers do you have?

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LES SEYBOYER: Our customer base right now...I have talked with...with people I have had for clients for an extended period of time. Some come from this area...so I am probably looking at a client base of...one hundred to one hundred and fifty people...that doesn't include I have...a couple of shops, gun shops, outside of Londonderry that have said you know I would like to be able to send customers to you. So...it...it is a word of mouth thing from the start and then you move along and it moves from there. Certainly if we got to a point where the demand was...was that size...we would obviously have to look at relocating to another...another place.

JACKIE BERNARD: Ok...thank you.

NEIL DUNN: Mr. Boles does that answer your question? If not do you have any follow up?

CURTIS BOLES: Pretty much...I am concerned about the traffic...

LES SEYBOYER: You can stop by and see us that it is no problem.

NEIL DUNN: We don't want to have a conversation out there, you need to come to the microphones...no that's fine...fine...it's for record keeping and all that good stuff. Anybody else out there that would like to speak for or have other questions...please come up and identify yourself and where you live.

CHRIS OLIVERIO: My name is Chris Oliverio and I live at one Trolley Car Lane...I am one of three abutters I believe...I don't have a problem with the business. I am sure it is going to be run similar to the one up the street...JR's which is on a busier road than Hovey is and Trolley Car so...I am sure if he abides by the law I have no issues with the business being run...I probably make more noise than he will when working on my Jeep so...I don't think it will be an issue.

NEIL DUNN: Anybody else out there with any questions, concerns or thoughts? Back to the board for any questions...

DAVID PAQUETTE: No sir...

NEIL DUNN: I...I do have one for you folks...the applicant...when you look at 3.12 which is the general home occupation and it says there shall be no exterior renovations...so I...I guess at this point we...if it were to be approved...I would be hoping that we would put that restriction on because it is very clear. It is not like we have a lot of option on that...it is the written code so...I guess my question would be...[Chuckling]...if...if it were to be...if that restriction were to be placed on it would you be all right with that or would you say no you are giving up? To me...or do you have any...have any response to that I guess...

JOSEPH O'LEARY: So what you are saying is if...if....contingent upon you approving...

NEIL DUNN: Correct...yeah...

JOSEPH O'LEARY: ...the variance...we have to use it as is...we can't...

539 NEIL DUNN: Exterior...you can insulate and that would probably be recommended...you can put up interior
540 cages...all that...but according to the ordinance...there is to be no exterior renovation...
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542 JOSEPH O'LEARY: Right...
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544 NEIL DUNN: And so...I heard you say that and just...to be honest with you...I don't know Richard...if this were
545 approved with no restriction, there is not an exterior renovation allowed if he went in for a building permit on
546 the building...does that necessarily tie together?
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548 RICHARD CANUEL: Yeah it would be tied together.
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550 NEIL DUNN: Ok so I am...I am...just throwing that out there so...so...if we granted it as is...and...and...and then
551 really there is no way for him to do the exterior renovations and I guess I am bringing that up in case it sways
552 you...and your decision to stay at that location...so...
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554 RICHARD CANUEL: Yeah...yeah that's correct and to clarify that you may want to include that as a condition in
555 the decision...
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557 NEIL DUNN: Oh, because it was brought up.
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559 RICHARD CANUEL: Absolutely.
560
561 NEIL DUNN: So I...I guess I am just throwing that out there.
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563 JOSEPH O'LEARY: Ok so while you are throwing things out there...[chuckling]...let me throw one out there...so
564 how would I go about later on going down the road...adding like eight feet to the back of the building so that
565 we could have an area for you know certain procedures, and then an upfront area for all the other stuff?
566
567 NEIL DUNN: You could have the ordinance changed or...take the business out of there...
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569 JOSEPH O'LEARY: Ok...[chuckling]...
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571 NEIL DUNN: Well I mean that's black and white and that is why I am looking for Richard to clarify...
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573 JOSEPH O'LEARY: Right right...I am just...this is all new to me...
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575 DAVID PAQUETTE: You could come to the board again for another exception.
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577 JOSEPH O'LEARY: So in other words, I would try to go for another variance before I go for a building permit to
578 add on.
579
580 RICHARD CANUEL: Yeah that would actually be a variance request at that point because that is not something
581 that is allowed by this section of the ordinance so you would have to request a variance if you wanted to add
582 onto the building.
583

584 JOSEPH O'LEARY: I see.
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586 [Talking amongst the public]
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588 NEIL DUNN: Anything else from the board?
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590 JACKIE BERNARD: Mr. Chairman...I do...so we discussed adding on...Richard, is section 3.12.1.9, the following
591 use...uses shall not be considered for home occupation and one of them is machine shop...you explained to us
592 that you are going to have a machine shop there...the ordinance clearly states that the home occupations are
593 not allowing machine shops...so...could you answer that?
594
595 LES SEYBOYER: Well...I guess...I guess to a certain degree I can't argue with what you are saying...machining
596 operations I guess it would be kind of a question in terms of how you are going to define a machine shop. If
597 I...if I put a barrel in a lay and I recut and put on a mussel...is that considered a machining operations...yes. Am
598 I running a machine shop for the purpose of...of...creating firearms, the answer to that is no. It is strictly part of
599 the repair process. My concept of a machine shop would be on machining parts and I am machining materials
600 to create for example a fabricated weapon, which is not something that we are going to do there. I mean I
601 guess it is a question of like how that work does and what constitutes machining if I take a file and cut a
602 dovetail and barrel is that machining? If I do it by hand...so I am not one hundred percent sure on how to
603 answer that for you to be perfectly honest with you. Is there some limited machining processes that happen
604 yes, is it being set up as a machine shop, the answer to that is no.
605
606 JACKIE BERNARD: Ok...
607
608 NEIL DUNN: Richard, do we have a definition of machine shop.
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610 RICHARD CANUEL: Unfortunately, we don't.
611
612 NEIL DUNN: Thank you...[chuckling]...
613
614 JACKIE BERNARD: Thank you.
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616 NEIL DUNN: Ok...any other questions from the board? Ok we will go into deliberation...thank you...
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618 DELIBERATIONS:
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620 DAVID PAQUETTE: So her question about the machine shop itself, I think there is a grey area.
621
622 JACKIE BERNARD: Mhmm.
623
624 DAVID PAQUETTE: I don't think that the work that is being done is classified as a machine shop type work...in
625 my opinion.
626
627 JIM TIRABASSI: Because a machine shop is a very specific industrial definition.
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629 DAVID PAQUETTE: Yeah larger machines...
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631 JIM TIRABASSI: Larger machines...and the process it goes through...
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633 JACKIE BERNARD: Well the reason I brought it up is because within the application...it so stated so that is why I
634 needed clarification because it is listed by the application...
635
636 JIM TIRABASSI: Right...right...
637
638 JACKIE BERNARD: ...by the applicant...that they will be refinishing, polishing of metal parts...part
639 modifications...so these are his own terms...maintenance repair...so within his own language of his
640 request...that is why I asked about the machine shop, because it clearly states in our zoning
641 ordinances...because the majority of the business...[clearing of throat]...is of this nature...and the sales is...of
642 the firearms and ammunition is just a second...it is truly a machine shop being done in the context of the
643 barn...that was my concern. They will obtain a license to sell pistols and rifles, they are not a registered
644 business as of yet...so...by their own admission...does anyone else have input to this...
645
646 NEIL DUNN: That is why I brought up the noise level...we have had other people who make things and have
647 machines and...if...if you look at home occupation and...and the general statement that...you know 3.12.1.6 is
648 says you know that considering the exception the board adjustment considering additional requirements
649 above whether the proposed occupation will affect the property involved, the neighboring properties by
650 reason of onsite...unusual site, light, noise, small, traffic and other effects of the home occupation and if we
651 look at some of the rational for a home business in residential neighborhood, that's why it's a home business,
652 it is supposed to be a very low impact...you wouldn't even know it was there is typically what...what it was set
653 up for and...we are getting into more and more of ten to fifteen people a day, two to three at a
654 time...it...granted it is a busy street I understand that but it is still a residential neighborhood and it has been
655 codified in the ordinance...I...I have trouble when we get into a residential business that has that much retail
656 business going on...ten to fifteen people a day, based on clause 3.12.1.6 and we have to consider traffic and
657 noise. Granted it might not be a high level noise to the extent of the machine shop which is explicitly not aloud
658 but...but those are things that need to be considered and you know...so often you get to this point and you
659 have ten to fifteen retail customers walk up a day, is that a home business or a retain and...and that is
660 where...where I always have...
661
662 JACKIE BERNARD: Well if it is seasonable...as he explained that it is seasonable...is that...
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664 DAVID PAQUETTE: Peak time...
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666 JACKIE BERNARD: Peak time...so there will be times when there is very little activity and you wouldn't even
667 know if versus...hunting season you know...there is...you know it's almost like when it snows people go in for
668 snow tires...you know...so peak season it may only be a short duration...a small amount of time when you look
669 at it on an annual basis...
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671 [Pause]
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673 NEIL DUNN: Anymore thoughts...discussion...?

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DAVID PAQUETTE: I don't have any more.

JACKIE BERNARD: The...time from ten o'clock to seven PM...so ten in the morning until seven PM, again we are in a residential area...you know after five and it's after six...seven PM when the applicant...is everyone ok with the...time?

DAVID PAQUETTE: I am ok with the time...

JACKIE BERNARD: Ok.

DAVID PAQUETTE: We heard from two people that live in the area...that were both for the business...

JACKIE BERNARD: Ok...

DAVID PAQUETTE: I think that is...a proven factor for people that spoke.

JACKIE BERNARD: Ok...

NEIL DUNN: I...I don't know I guess my...my thought is...my concern is yes it could be only peaked ten to fifteen, but it could be every day...that is a valid point...seven PM you are getting people who are home from work and there is more activity going on...it...it is starting to look like retail hours to me...[chuckling]...

JACKIE BERNARD: Well it...it has the essence of retail when it is presented this way...

NEIL DUNN: No, absolutely...

JACKIE BERNARD: You know Sunday to Tuesday by appointment only...that just sort of keys that down...but the...the higher volume days...when we reach that Wednesday through Saturday.

NEIL DUNN: Anyone want to make a motion or are you still thinking?

JIM TIRABASSI: I...I am still thinking here...

NEIL DUNN: That's fine take all the time...you need...

JIM TIRABASSI: Who is going to go at 6 PM on a Sunday to get a gun repaired...?

DAVID PAUQUETTE: I'm...a sportsman myself and...those hours are a lot better...I work full time so it is difficult to find...to find...those after work hours to have services performed...

NEIL DUNN: In a residential neighborhood...

DAVID PAQUETTE: [Chuckling]...in a residential neighborhood...yeah...

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[Pause]

JIM TIRABASSI: Yeah...I...I am all set...

NEIL DUNN: Ok, anyone want to make a motion?

DAVID PAQUETTE: I would like to Mr. Chairman...in regards to case number 6/18/2104-1, I raise a motion to grant the special exception for a home occupation with the restriction pertaining to 3.12.1.3 that no exterior renovations or construction is done without further...applicant...applications to the Zoning Board.

NEIL DUNN: All those in favor...

JIM TIRABASSI: Aye.

DAVID PAQUETTE: Aye.

NEIL DUNN: Those opposed?

JACKIE BERNARD: Aye.

NEIL DUNN: Aye.

[Pause and talking amongst each other]

DAVID PAQUETTE: So what is this referred to when there is a tie and only four?

NEIL DUNN: It is defeated.

DAVID PAQUETTE: Ok...in regards to case 6/18/2014-1...the special exception for a home occupation has been denied with a tally of two to two.

RESULT: THE MOTION TO GRANT CASE NO. 6/18/2014-1 WITH RESTRICITONS FAILED, 2-2-0.

RESULT:

RESPECTFULLY SUBMITTED,



DAVID PAQUETTE, CLERK

TYPED AND TRANSCRIBED BY KIRBY WADE, EXECUTIVE ASSISTANT

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APPROVED JULY 16, 2014 WITH A MOTION MADE BY DAVID PAQUETTE, SECONDED BY JACKIE BENARD AND APPROVED 4-0-1 WITH A. STOLLER ABSTAINING AS SHE HAD NOT ATTENDED THE MEETING.