

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

DATE: SEPTEMBER 21, 2011

CASE NO.: 9/21/2011-1

APPLICANT: PAUL L. MARCEAU, JR.
20 WILSHIRE DRIVE
LONDONDERRY, NH 03053

LOCATION: 20 WILSHIRE DRIVE, 6-99-49, AR-I

BOARD MEMBERS PRESENT: JIM SMITH, ACTING CHAIR
MICHAEL GALLAGHER, VOTING ALTERNATE
JAY HOOLEY, VOTING ALTERNATE
NEIL DUNN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING OFFICER

REQUEST: SPECIAL EXCEPTION TO ALLOW A HOME OCCUPATION FOR A BUSINESS INVOLVING THE SALE AND OCCASIONAL REPAIR OF FIREARMS.

PRESENTATION: Case No. 9/21/2011-1 was read into the record with no previous cases listed. Clerk Neil Dunn read Exhibits B through G into the record, letters and emails from abutters.

JIM SMITH: At this point, I'm gonna ask Richard Canuel, our Zoning Officer, to give a little explanation of the home occupation special exception, just so everybody in the audience will have an idea of what we're really talking about.

RICHARD CANUEL: Yeah, I think it needs to be made clear, especially looking at the letters that have been sent in to the Board, the difference between a special exception as opposed to a variance or a zone change request. A special exception is basically a use that is allowed by the ordinance, subject to application and review by the Board and also subject to whatever conditions that the Board sees fit. As our ordinance is written, our Table of Uses lists those specific uses which are allowed in specific zones. In this particular case, the residential zone where a home occupation, which is what this application is for, is listed as a permitted use in the ordinance. However, just because it's listed as a permitted use, it doesn't automatically be allowed to happen. It must come before the Board for their review. So that's really the difference between a special exception versus any other application that would be made to the Board.

JIM SMITH: Okay, I think one other point I'd like to make; the special exception is granted to the particular owner of the property, versus a variance which goes with the property. So if a special exception is granted to a particular person, if he leaves that residence, the special exception ceases that point. So at this point, I'd

45 give the applicant...you have the choice of continuing with the hearing with four (4) people or waiting until
46 next month when we possibly would have five (5). Either way, you still have to get three (3) positive votes.
47

48 PAUL MARCEAU, JR: I'll continue.
49

50 JIM SMITH: Okay. Could you approach one of the mics and...wanna give your name and address for the
51 record?
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53 PAUL MARCEAU, JR: Yup. My name is Paul Marceau, Jr. and I live at 20 Wilshire Drive. Okay. I'm here,
54 obviously, to present my case for a special exception for a home occupation. First, I'd like to present an
55 overview of my business model and how I intend to operate my home occupation. Next, I'll discuss why I'm
56 here and why I would like permission for the home occupation and approval. Then I'll go onto to address all
57 the points that are listed in the application for the special exception. First of all, I'll address the number of
58 emails that were talking about the retail presence. My business will be selling and servicing firearms. I'll work
59 tradeshows throughout the State of New Hampshire and create a website to conduct sales via the internet.
60 Once a buyer purchases from my website, I'll have the merchandise drop shipped directly to the customer
61 from the manufacturer or the distributor. I'll not operate my business as a retail establishment, which means I
62 will not open my doors to the general public for walk-in customers. The only walk-in visitors will be the
63 Bureau of Alcohol, Tobacco, and Firearms who will do routine checks of my records and to make sure that I'm
64 operating in accordance with the laws of the Alcohol, Tobacco, and Firearms Bureau. They periodically do
65 unannounced inspections, so that's why I need to have some sort of hours. But other than that, my hours will
66 be strictly by appointment. I will perform gunsmithing services to include but not be limited to mounting
67 accessories such as scopes, slings, that type of thing. Bore siting new mounted scopes, stalk, foregrip, and
68 trigger and firing mechanism repair. I've thoroughly reviewed the Federal, State, and local laws and find the
69 business model outlined above does not conflict with any of those laws. Additionally, I've reviewed other
70 special exception requests where the Zoning Board approved similar home occupations and I feel my business
71 model conforms to what has been approved in those similar cases. Alright, so why am I here to present my
72 model if it's going to be mostly online? The special exception approval is required for the Bureau of Alcohol,
73 Tobacco, and Firearms which is the Federal agency that handles the Federal Firearms license request. As part
74 of the application process, the Bureau of Alcohol, Tobacco, and Firearms will contact the Zoning Board to
75 ensure that I have obtained approval for a home occupation and that I conform to any zoning ordinances. The
76 reason I need to apply for the FFL, which is the Federal Firearms License, is so I can purchase merchandise at
77 dealer costs, which will allow me to become a profitable business, rather than operate as just a hobby.
78 Without the FFL, I will not be able to establish relationships with wholesale vendors and I'll have to purchase
79 merchandise at retail costs at yard sales or at auctions. Additionally, the Gun Control Act of 1968 requires that
80 in order to obtain a Federal Firearms License to conduct business, a firearms importer, manufacturer, or
81 dealer must have a premise from which he conducts business. This requirement exists so, as I mentioned
82 earlier, so that the officers of the Alcohol, Tobacco, and Firearms Bureau know where the inventory and
83 records can be found. While it will not be possible within the confines of the Federal and State...excuse me.
84 While it would be possible within the confines of the Federal and State laws for me to operate my business as
85 a hobbyist without an FFL, it just makes sense from a business and safety perspective for me to do so as a
86 registered dealer as the regulations are much more strict regarding firearm sales. For example, as a registered
87 dealer, I'm required to keep a record of every sale and every purchase for every firearm. Additionally, for each
88 sale, I'm required to call and perform a background check on the customer who wishes to purchase a firearm.
89 However, as a hobbyist, or through a private sale, there is no such requirement. The Bureau of Alcohol,

90 Tobacco, and Firearms guidelines simply states a person may sell a firearm to an unlicensed resident of his
91 state if he does not know or have reasonable cause to believe the person is prohibited from receiving firearms
92 under Federal law. So, I could have yard sales, I could do auctions, you know, I could do private sales in my
93 home without any regulations, as long as I have reason to believe that this person who I'm selling a firearm to
94 is legally, under the Federal law, able to own a firearm. Now, I have reviewed the zoning ordinance and
95 Section 3.12 regarding requirements for obtaining a special exception for a home occupation and feel my
96 business model is one hundred (100) percent compliant with the zoning ordinance as outlined in said section.
97 As already stated in my opening statement, I am the property owner. This home occupation will be operated
98 solely by me and will occur wholly within my dwelling. Since this is my primary residence, the home
99 occupation will be incidental and secondary to the use of the property and residential character will not be
100 changed or impacted. Since I will be operating from within my garage and spare bedroom, no external
101 renovations or construction will be required. Additionally, any materials, supplies, or inventory will be stored
102 within the garage or securely stored in the office in a UL approved gun safe. The total square footage in use
103 will be approximately eight (8) percent of the total living space. According to the application, the garage is not
104 included in that calculation. The attached home plan, I believe you all have a copy, is that correct?
105

106 JAY HOOLEY: Yeah.

107
108 NEIL DUNN: Mmm.

109
110 PAUL MARCEAU, JR: Okay. The attached plan, obviously not drawn to scale, shows the room sizes and
111 formula used to calculate the percentage. The first floor square footage is seven hundred and forty eight
112 (748) square feet as calculated by thirty four (34) by twenty two (22). The second floor is eight hundred and
113 eighty four (884) square feet or thirty four (34) by twenty six (26). This results in sixteen hundred thirty two
114 (1,632) square feet of living space. The bedroom/office that I plan to use is approximately twelve (12) by
115 eleven (11) or a hundred and thirty two (132) square feet, which results in approximately eight (8) percent. I
116 will be the only employee and currently do not have any plans to add any employees. There is plenty of off-
117 street parking for the occasional customer. Please see the attached. I believe you all have aerial photos as
118 well? I have a very long driveway. At the top of my driveway, there's room to park two (2) or three (3) cars.
119 The only State licensing I would require would be a permit from the Londonderry Chief of Police that would
120 allow me to sell pistols and revolvers. This would be necessary for online sales and the gun shows. The New
121 Hampshire Revised Statute, Title XII, Chapter 159, Section 159:8 states a license issued by the Selectmen or
122 the Chief of Police is necessary to sell pistols and revolvers. Regarding days of operation, I am scheduling days
123 of operation to be Tuesday, Wednesday, and Thursday and Saturday. The hours would be six (6:00) to eight
124 (8:00) PM, Tuesday, Wednesday, and Thursday and one (1:00) to five (5:00) on Saturday. These are the only
125 hours I will be allowing customers to come to my premise and customers can only arrive via appointments. To
126 ensure the privacy of my home life and to minimize the impact on the neighborhood, I will not be requesting a
127 sign, nor do I plan to publish my address on the web site. I plan to use a mailbox service such as the UPS store
128 for published mailing addresses. My home occupation will not cause any adverse effects to the property or
129 neighboring properties with regard to unusual sight, light, noise, smell, traffic, or other effects. There will not
130 be any modifications to the property for the purpose of the home occupation, therefore, there will be no
131 impact on the current site. No additional lights or signs will be requested and since all business operations will
132 be conducted within the dwelling, there will not be any adverse impact or additional lighting or any other
133 sights. While the home occupation is in the firearms industry, for obvious safety reasons, no weapons will be
134 discharged on the property or within the confines of the neighborhood. My home occupation does not

135 require disposal or use of toxic chemicals or solutions. It will not create any foul or objectionable smells or
136 odors. Regarding any increase in traffic, the overall impact will be minimal. I did a crude traffic analysis, if you
137 would all like a copy. What I did is I sat on my steps for two (2) weeks, the hours of operation I'm supposed to
138 be allowing customers by appointment and I counted the number of cars that drove back and forth and on
139 average, there was ten (10) cars that drove by per night between the two (2) hours that I stated that I would
140 be opening. There was a maximum of...one night there was fifteen (15). On the slow night, there was seven
141 (7). Now, the way I plan to do appointments, I don't plan to schedule any more than two (2) appointments in
142 any one (1) night. So, given the fact that there's an average of ten (10) cars already driving up and down the
143 street, an extra two (2) cars I don't see as being a major increase in traffic pattern. Would you like a copy of
144 this or...?
145

146 JIM SMITH: Yeah, please.

147
148 NEIL DUNN: Yes, please.
149

150 PAUL MARCEAU, JR: Okay. Like I said it's a little crude but it, you know, has the appropriate numbers. As I
151 already stated, I do not plan to operate as a retail establishment, as my firearms sales will be via the internet
152 and gun shows and the results of any customer traffic will be: 1) rare and minimal, 2) controlled by
153 appointments so I can specify when a customer would arrive, and 3) would not create any noticeable increase
154 in everyday traffic pattern. No traffic shall be generated by such occupation in greater volumes than would be
155 normally be expected in a residential neighborhood. An increase of two (2) cars a night should not be
156 considered greater volume than would normally be expected in a residential neighborhood. Even shipments
157 would be via UPS, United States Postal Service, or Fed Ex, and they all make daily trips to the neighborhood.
158 And for all outgoing shipments, I would use the UPS store or the Post Office and basically it would be no
159 different than me just running out to run an errand across town. As for the general safety of the
160 neighborhood, obviously, there would be no, as I mentioned earlier, there would be no test firing of any
161 firearms within the neighborhood, all firearms, when not under my direct control, will be securely stored in a
162 UL approved gun safe and all firearms will be in cases or secured with anti-firing devices when coming into or
163 leaving the premises. Any firearms brought into or removed from my premise will be done so in a safe
164 manner in accordance with Alcohol and Tobacco, Firearms guidelines. Additionally, I have plans to install and
165 ADT-type alarm system with active monitoring. Let's see, I covered sight, light, noise, smell, chemicals, traffic,
166 storage, shipping, transport to and from my premise. I think that about covers all the points concerned. As
167 stated on the application, there are five (5) distinct uses that are now allowed to be home occupations. They
168 are auto repair, on-site auto sales, landscaping business, machine shops, lawnmower/tractor sales and service.
169 My business does not fall into any of those. Thank you for the opportunity to allow me to explain the
170 operation and model of my business. I respectfully request the necessary special exception approval that will
171 allow me to move forward with the dream and goal of forming my own business. Thank you.
172

173 JIM SMITH: Okay, I'll open it up to the Board for any questions.
174

175 MICHAEL GALLAGHER: Inventory. Are you gonna have inventory and product on display or...?
176

177 PAUL MARCEAU, JR: On display? No. If I do have an inventory, it will be minimal and it will be what I will take
178 to a gun show to sell at a gun show.
179

180 MICHAEL GALLAGHER: And one of your first statements, it kind of skipped by me, you had mentioned your
181 sales are gonna take place mainly over the internet or...?

182
183 PAUL MARCEAU, JR: Yup. Mainly over the internet and gun shows, yes.

184
185 JAY HOOLEY: May I follow up on that?

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187 MICHAEL GALLAGHER: Sure.

188
189 JAY HOOLEY: I did actually make a note in the beginning and I just wanna really clarify this; one of the
190 statements, and maybe I misheard it, that you made was that you would not actually be doing retail sales on
191 site. Your sales would be through trade shows, gun shows, and the internet. And that the hours of operation
192 were only being written to procure the licensing.

193
194 PAUL MARCEAU, JR: I will be doing...

195
196 JAY HOOLEY: But subsequently...

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198 PAUL MARCEAU, JR: ...repairs on site.

199
200 JAY HOOLEY: Repairs on site.

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202 PAUL MARCEAU, JR: And that's why I said I will schedule customers to come in, drop off a weapon for repair,
203 pick up a weapon for repair during the...

204
205 JAY HOOLEY: So, it will be repairs by appointment only...

206
207 PAUL MARCEAU, JR: Yes.

208
209 JAY HOOLEY: ...not any retail sales whatsoever on the premise?

210
211 PAUL MARCEAU, JR: There will be no retail sales on the premise.

212
213 JAY HOOLEY: Okay. I just wanted to make sure I had that straight in my head...

214
215 PAUL MARCEAU, JR: And like I said...

216
217 JAY HOOLEY: ...I'm not sure everybody else...maybe I'm the only one that was mixed up on that.

218
219 JIM SMITH: No, yeah, I, no...

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221 PAUL MARCEAU, JR: And like I stated, any customers coming to my home will be through appointment, so
222 that I can control when they come, how frequently they come, if I get...If I get to the point where I'm getting
223 two (2), three (3) customers requesting business in a night, then it's time to start moving out and looking to a
224 retail space.

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JAY HOOLEY: Right, but I think that's a very clear distinction...

PAUL MARCEAU, JR: Right.

JAY HOOLEY: ...that the visits would be, and I don't know, Richard, maybe you can give us an idea exactly how many special exceptions we have in town for in-home gunsmithing and repairs.

PAUL MARCEAU, JR.: Four (4).

JAY HOOLEY: Is it four (4)? Okay.

RICHARD CANUEL: Yup.

JAY HOOLEY: Okay. And you wouldn't necessarily know it, I guess, in at least several of the instances, it doesn't, but that is very different than a legitimate retail presence, which...

PAUL MARCEAU, JR: Correct.

JAY HOOLEY: ...you know...

PAUL MARCEAU, JR: And that's why I wanted to make sure that I distinguished that I'm not a retail space for people coming in...

JAY HOOLEY: That is a key distinction.

PAUL MARCEAU, JR: ...willy nilly...

JAY HOOLEY: Right.

PAUL MARCEAU, JR: ...at all hours of the day, so...

JAY HOOLEY: Okay, so that's something I think we need to be very clear about if that if that was to be retail on site, that's certainly a very different situation.

PAUL MARCEAU, JR: Right.

NEIL DUNN: If I may, I know we've gone down this road before and in repairing sometimes, you actually have to replace a part of the gun which is, what do they call it...?

PAUL MARCEAU, JR: Receiver?

MICHAEL GALLAGHER: The receiver.

NEIL DUNN: The receiver, thank you, and then so by virtue of that, you're actually selling, so then the repair

270 becomes a sale and it starts to look like a retail sale, so how can you get...help me out with understanding
271 that.

272
273 PAUL MARCEAU, JR: Well, depending on...I mean, if a receiver needs to be repaired as part of a...replaced as
274 part of a repair, what will have to happen is...I mean, it's no different than, you know, if somebody buys a
275 scope or something else that gets sent to my house that I mount on the weapon. So I'm not exactly sure...

276
277 NEIL DUNN: Well, we're trying to draw the line between retail and having customers present and whether
278 they're there for repair or new guns and we know that this repair gets into a foggy area where it's no longer
279 really repair 'cause you're selling receivers, so now I'm looking at it as a retail sale when they're coming in for
280 repair.

281
282 PAUL MARCEAU, JR: Well, I guess....

283
284 NEIL DUNN: To me, that's what makes the gun the gun, I believe, isn't it?

285
286 PAUL MARCEAU, JR: The receiver is the part that's registered with the Bureau of Alcohol, Tobacco, and
287 Firearms. Most, what most rifles, handguns, the receiver's, you know, one (1) piece. It generally doesn't go
288 bad. I think where you're thinking of receiver is in the realm of AR-15, M-16 type weapons where the actual
289 receiver is basically just a shell and the trigger mechanism's mounted in it, the bolt's mounted in it, the
290 barrel's mounted to it, the stalk is mounted to it. You know, that is a kind of a different scenario where you
291 can actually attach different components for a rifle to the receiver. For example, you can attach different
292 barrels, you can attach different triggers, you can attach different stalks to a receiver. Generally, receivers
293 don't break, so I mean, you know, if your concern is that someone's getting a receiver, well, they already own
294 a weapon and if the receiver needs to be replaced, then I'll order the receiver, put the parts back on it, and,
295 you know, the barrel, the trigger, the stalk, all the other parts that were all part of that weapon will all be
296 replaced back into the weapon. So it's not a new weapon, it's just a new receiver that will need to be
297 registered. Did I clarify that or make it worse?

298
299 NEIL DUNN: I, yeah, I think it's, to me, it makes it a new gun and now the repair customer is just, to me,
300 becomes a retail customer. I don't know. If we're trying to distinguish between "retail" and people walking in
301 and doing business for repair, that that line gets blurred and crosses and we've had that cross before, so I was
302 just looking for interpretation on that. And then if I may, just in regards to one of the letters where he had a
303 bunch of questions, to make sure we hit all of them [see Exhibit "G"]. So what licensing...this was to answer
304 Mr. Doherty's email, what licensing is required to operate the business?

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306 PAUL MARCEAU, JR: To operate as a licensed dealer, I need a Federal Firearms License, which I need to apply
307 for from the Bureau of Alcohol, Tobacco, and Firearms. In addition to that, I would need a, if I wanted to sell
308 online and at gun shows, I would need a license from the Chief of Police in Londonderry that would authorize
309 me to sell pistols and revolvers. Now, conversely to that, if I wanted to operate, as I said, as a hobbyist, I
310 wouldn't need any licensing. I could just hold a yard sale, put fifteen (15) weapons out on a table and if
311 someone came up to buy them, as long as I had reason to believe that they were legally capable of owning a
312 firearm, I could make that sale as a hobbyist without any...without being a licensed dealer.

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314 NEIL DUNN: And what jurisdiction, then, is responsible for inspecting the occupation and how frequently?

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PAUL MARCEAU, JR: That would be the Alcohol, Tobacco, and Firearms and the license is renewed every three (3) years. They don't have a policy on how frequently they inspect, but they do do unannounced inspections.

NEIL DUNN: And I think you already covered ammunition, scopes, and other accessories will be sold at the location. And what requirements for safeguarding from theft of the items are required? Is there anything required by any of these agencies?

PAUL MARCEAU, JR: The Alcohol, Tobacco, and Firearms requires that any handguns that are sold, and again, this would be online or through gun shows, have a safety trigger lock on them. Other than that, there's no laws or, you know, there's guidelines that say, you know, all weapons being transferred in and out should be in cases. Obviously, anything I store will be stored securely in my gun safe.

NEIL DUNN: And the trigger locks, do they have a unique unlock mechanism that only you would have so someone...

PAUL MARCEAU, JR: It's usually like a key...like, are you familiar with laptop cable locks?

NEIL DUNN: Yeah, but is it unique to you? You would have the only key or would it...?

PAUL MARCEAU, JR: Well, it would go...

NEIL DUNN: ...is it like a generic key that anybody has for trigger locks?

PAUL MARCEAU, JR: It would...it's not a generic, no. It's, you know, specially made for that lock and then that would be sold or included with the sale, so the firearm would be locked and then the person would have the key.

NEIL DUNN: What machine tools would you be using to repair the firearms?

PAUL MARCEAU, JR.: Just basic home tools; drill, hammer, wrenches, screwdrivers.

NEIL DUNN: And no advertising you said or signage on the property?

PAUL MARCEAU, JR: Zero. And like I said, even on my website, I'm not going to post my home address. I'm going to use a UPS store service or something similar to that with a PO Box or a separate mailing address for all business correspondence.

NEIL DUNN: Okay, and there's question eight, parking for the customers would be your existing, where it goes now...

PAUL MARCEAU, JR: Yup.

NEIL DUNN: And do you have any statistics for firearm thefts from homes in southern New Hampshire?

360 PAUL MARCEAU, JR.: I do not.
361
362 NEIL DUNN: Or in Londonderry? Thank you.
363
364 JIM SMITH: Anything else?
365
366 MICHAEL GALLAGHER: Ammunition? Did you say you would be selling ammunition there and say, any other
367 peripherals?
368
369 PAUL MARCEAU, JR: I mean, if a customer comes for a repair and I have, you know, if they tell me ahead of
370 time that they want something, I can order it and, you know, if they're coming back to pick up a firearm for
371 repair or drop off a weapon for repair, at the time, I , you know, if they want ammunition or a scope or a sling
372 or whatever, you know, I could...I don't see why I wouldn't say "sure, I'll sell ya"..
373
374 MICHAEL GALLAGHER: So all these sales, are they gonna be initiated on the internet?
375
376 PAUL MARCEAU, JR: Yes.
377
378 MICHAEL GALLAGHER: From, you know, include the ammunition, scope, whatever, so you won't be
379 stocking...I'm assuming you'll stock a few pieces for repair but..
380
381 PAUL MARCEAU, JR: Right.
382
383 MICHAEL GALLAGHER: ...will you be stocking any ammunition? Storing any ammunition?
384
385 PAUL MARCEAU, JR: Well, I mean, I have my own private collection of ammunition but..
386
387 MICHAEL GALLAGHER: Well, for the business.
388
389 PAUL MARCEAU, JR: ...as far as like stocking, you know, five thousand (5,000) rounds of a certain ammo? No.
390 I mean, right, you know, I mean, I'm a hobbyist shooter, so I do a lot of shooting myself, I'm a member at the
391 Londonderry Fish and Game Club, I'm a member at Manchester Firing Line, so, I mean, I have round of
392 ammunition for my guns.
393
394 MICHAEL GALLAGHER: That's it. Thank you.
395
396 JIM SMITH: Anything else? Any other questions from the Board?
397
398 NEIL DUNN: Not at the moment.
399
400 JIM SMITH: Okay. We'll open it up to anybody who is in support of this? Okay, seeing none, anyone who is
401 either in opposition or has questions and if you do, would you please approach one of the microphones and
402 give your name and address for the record?
403

404 MARY RAYMOND: My name is Mary Raymond and I live at 16 Wilshire Drive. I do have a few questions for
405 Paul. First, I would like to thank you very much for coming here and explaining what your special exception is.
406 I appreciate that.
407
408 JIM SMITH: Okay, just one point, direct everything through the Board, not...we don't wanna get any running
409 conversations going.
410
411 MARY RAYMOND: Mm-hmm. A couple of questions that I do have; one of them is, you had stated that the
412 inventory was going to be minimal. How small is considered minimal?
413
414 PAUL MARCEAU, JR: Right now, I'm just starting out...
415
416 MARY RAYMOND: Mm-hmm.
417
418 PAUL MARCEAU, JR: ...so inventory to sell would maybe ten (10) weapons to bring to a gun show. I mean,
419 right now, I have a personal collection of fourteen (14) firearms myself, personally.
420
421 MARY RAYMOND: Right.
422
423 PAUL MARCEAU, JR: They're all locked up, they're all secure. I'm a hunter, I'm a sportsman shooter...
424
425 MARY RAYMOND: Mm-hmm.
426
427 PAUL MARCEAU, JR: You know, I have a ten (10) year old daughter who I have every other weekend, so
428 obviously, safety is a number one concern of mine as well.
429
430 MARY RAYMOND: The other thing that you had brought up is pistols and revolvers, that you were going to
431 have them on your property. You're gonna be selling those at gun shows, correct?
432
433 PAUL MARCEAU, JR: Correct.
434
435 MARY RAYMOND: Okay, so if somebody comes to the house, sees the pistols or revolvers and questions that,
436 will you be selling it to them or will you be referring them back to the website?
437
438 PAUL MARCEAU, JR: There shouldn't be any need for anyone to see anything because...
439
440 MARY RAYMOND: Okay.
441
442 PAUL MARCEAU, JR: ...everything will be locked up unless it's going to the person who already owns it. If I'm
443 working on a weapon...
444
445 MARY RAYMOND: Mm-hmm.
446

447 PAUL MARCEAU, JR: ...and that person's coming to pick it up, that will be the only weapon that's out and
448 unlocked because he's coming to pick it up or she's coming to pick it up. Like I said, anything else, if it's not
449 under my direct control, will be locked away in my gun safe.

450
451 MARY RAYMOND: And that's under the URL [sic] secured safe, correct?

452
453 PAUL MARCEAU, JR: Yup.

454
455 MARY RAYMOND: Okay. You are going to be installing a home alarm system as well?

456
457 PAUL MARCEAU, JR: I am, yes. I have plans to, yes.

458
459 MARY RAYMOND: Okay.

460
461 PAUL MARCEAU, JR: I didn't do it yet because I wanted to make sure I got approval and, you know, it's just
462 one of the long, many other steps that I need to get in place before...

463
464 MARY RAYMOND: Okay.

465
466 PAUL MARCEAU, JR.: But I will be installing a ADT-type alarm system with active monitoring so that if
467 something goes off, then, you know, it alerts the alarm company and then they call the police department.

468
469 MARY RAYMOND: Okay. When you originally opened up, you had said that you were going to be going...first it
470 was going to be by appointments only. And then you discussed hours of operation, which were going to be six
471 (6:00) PM to eight (8:00) PM. Then you had also discussed the Saturday, one (1:00) to five (5:00) PM.

472
473 PAUL MARCEAU, JR: Right.

474
475 MARY RAYMOND: I get nervous with that, and my only reason is is because being a homeowner, I do believe it
476 is going to increase the traffic, but I'm also concerned that people who are unfamiliar with the residential area
477 are going to be entering the wrong homes, knocking on doors, or stuff like that, which, you know, at six (6:00)
478 or eight (8:00) o'clock, you know, basically dinner time, I just wanna be able to be sure that your customers
479 are going to be approaching the right home. And then also, what's gonna happen...I understand that you are
480 starting out, but say, six (6) months down the road, two (2) years down the road, how much is business going
481 to pick up and again, how much is that going to involve the traffic, the crime and the noise?

482
483 PAUL MARCEAU, JR: Alright, as far as my hours, yes, I have six (6:00) to eight (8:00)...

484
485 MARY RAYMOND: Mm-hmm.

486
487 PAUL MARCEAU, JR: ...and my appointments will be, or my customers will be by appointment only. So I will
488 only accept or allow customers to come between six (6:00) and eight (8:00) Tuesday, Wednesday, Thursday
489 and again, the reason why I'm doing by appointment only is so I can control how frequently and when
490 someone comes. You know, like I said, if I get...I won't allow more than two (2) people at any one (1) night...

492 MARY RAYMOND: Okay.
493
494 PAUL MARCEAU, JR.: ...to minimize traffic and like I said, if I'm getting to the point where I'm trying the
495 schedule two (2) people every night or every day, then it's definitely time to move into a different area
496 because then I can operate as a retail establishment and, you know, grow from there. As far your concern
497 about people going to the wrong house...
498
499 MARY RAYMOND: Yes.
500
501 PAUL MARCEAU, JR: ...I mean, it happens in all neighborhoods. You know, I...
502
503 MARY RAYMOND: I do understand that, but if you're going to be having two (2) appointments a night, you
504 have your first appointment, say, at six (6:00) PM...
505
506 PAUL MARCEAU, JR: Right.
507
508 MARY RAYMOND: ...you have your next appointment at seven (7:00) o'clock at night, what happens if you're
509 running behind on the appointments, do you...what are you going to be doing with your next customer
510 [indistinct]...?
511
512 PAUL MARCEAU, JR: Well, I'll make sure I schedule them with enough time in between. That's why I have a
513 two (2) hour window with a maximum of two (2) customers per night. And to start out, I probably am only
514 gonna see, you know, one (1) customer every night. It'll probably be, you know, one (1) customer a week or
515 one (1) customer every couple weeks.
516
517 MARY RAYMOND: Okay. And then, I just wanna make sure that I clearly understand. Who holds Paul
518 accountable if, God forbid, anything should happen? Is it going to be the Alcohol, Tobacco, and Firearms? Is it
519 the Londonderry Police Department? How do we...?
520
521 PAUL MARCEAU, JR: Both.
522
523 MARY RAYMOND: They're both gonna be accountable? You had also stated that you need to renew your
524 license every three (3) years. You don't know how sporadic that they're gonna be making surprise visits?
525
526 PAUL MARCEAU, JR: Correct.
527
528 MARY RAYMOND: That kind of terrifies me.
529
530 PAUL MARCEAU, JR: Why was that?
531
532 MARY RAYMOND: I am the type of person...I don't mind if people own a gun that are licensed, doing it for
533 your home safety. I'm fine with that. As long as I don't know about it, I'm okay. I'm just concerned where
534 you're going to be selling the ammo on site or you're...I'm sorry. You're gonna be having the ammo on site.
535 So if they're coming to pick up their gun, you're gonna have the ammo in there. I don't know what people are

536 gonna do. I'm...that does scare me. That really does scare me. But again, thank you, I don't have any
537 additional questions at this time.

538
539 JIM SMITH: Okay. One aspect of a home occupation; generally, the neighborhood is part of the enforcement.
540 In other words, if the neighborhood sees a sudden influx of people, then it's up to them to report to the Town
541 Code Enforcement and then they'll look into it, so...

542
543 JAY HOOLEY: And if I may, Mr. Chairman...

544
545 JIM SMITH: Sure.

546
547 JAY HOOLEY: Richard, the call to you, if this were occurring outside of the approved hours at all, that would be
548 cause to revoke the special exception if it happened?

549
550 RICHARD CANUEL: It's gonna depend on the conditions that the Board...

551
552 JAY HOOLEY: Not once...

553
554 RICHARD CANUEL: ...sets as part of the special exception. If the Board chooses to grant...

555
556 JAY HOOLEY: Yeah, I don't mean to say that one time, one person showed up one minute late, but if there
557 were a pattern. Okay, so...

558
559 JIM SMITH: And this is kind of an editorial. I think one of the problems that we have in this town is the fact
560 that a lot of people don't seem to wanna keep their street numbers posted on their homes. It's part of the
561 local zoning that requires that and I know on more than one occasion, after a home has been occupied,
562 suddenly the street number comes down. That's the reason you have street numbers, so people can, in fact,
563 locate the correct home that they're looking for, police, fire, or whoever. And again, it's up to the individuals
564 to maintain the street number on the house in a manner that can be seen from the street.

565
566 PAUL MARCEAU, JR: I do have a post at the end of my driveway. Right now it's covered with weeds. It does
567 have my number on there, so I will make sure that that's exposed as well.

568
569 JIM SMITH: Okay. Is there any other questions, ma'am?

570
571 MARY RAYMOND: I can't think of any right now.

572
573 JIM SMITH: Okay.

574
575 MARY RAYMOND: But give me time. Thanks.

576
577 PAUL MARCEAU, JR: Thank you.

578
579 JIM SMITH: Anyone else? Same procedure, name and address.

580

581 REBECCA DOHERTY: Good evening.
582
583 PAUL MARCEAU, JR: Good evening.
584
585 REBECCA DOHERTY: I'm Rebecca Doherty, I live at 29 Wilshire Drive and I'm a little confused by a little bit of
586 the information. I certainly appreciate that you're not going to have your address posted on your website, but
587 I'm confused how someone would come and pick up materials if you do not give them your address.
588
589 PAUL MARCEAU, JR: Well, when it's time to come up and we schedule the appointment, I will give them the
590 directions and the address.
591
592 REBECCA DOHERTY: Will you be having a business card with your address printed on it?
593
594 PAUL MARCEAU, JR: My home address? No.
595
596 REBECCA DOHERTY: You won't have business cards at the gun show?
597
598 PAUL MARCEAU, JR: I will have business cards but, like I said, all mail correspondence will be done through a
599 post office box or a UPS type service.
600
601 REBECCA DOHERTY: I have to admit that I am very, very reluctant with having individuals come into the
602 neighborhood, either bringing a gun to be repaired or leaving the residence with a gun and yes, the address is
603 not on the website, but individuals that would like to have guns, I'm sure they communicate where those are.
604 I have three (3) children that have grown up in the neighborhood. We certainly...our property backs up to
605 Macks. We have seen individuals out there hunting. That is fabulous. I...you have a one way driveway
606 without a turn around. I'm sure that there will be some individuals that will park on the side because that
607 would be nice parking. I don't want my three (3) children or any of their friends watching individuals leave
608 your home with a gun in a case or not in a case. It's different when it's a hunter in the orchard behind the
609 house. I believe that there has been some weapons that have been stolen from a individual's home in
610 Londonderry and it was used at a scene of a crime. I don't wanna bring up a bad thought, but there was a
611 horrific crime that occurred in a neighborhood just behind us. And that was a very devastating thing to our
612 neighborhood. I remember that day as if it was yesterday. I do not want this in our neighborhood. We live in
613 a very violent society. We cannot...we cannot do this in a quiet neighborhood. Thank you.
614
615 JIM SMITH: Any...well, you'll be given a chance to rebut, at the end, to any of these points. Anyone else wish
616 to speak?
617
618 ARLENE AGOSTO: Hi, my name is Arlene Agosto. I live on 27 Wilshire Drive. This is my daughter, Auriana.
619 And my husband and [indistinct]. I'm a little worried about the fact that we might be closing the door after
620 the horses have gone out of the barn if you're telling us that we're supposed to be policing what he's doing. If
621 we're opposing this now because we're worried about the effects that this might have on our neighborhood,
622 we're telling you now that we don't want this kind of thing in our neighborhood. We don't want retail
623 business in our neighborhood. We don't want strangers coming in, wanting to buy things or to repair things.
624 We want this before something bad happens like it happened in Isabella Drive. We are very worried that the
625 same thing might happen again. I'm not saying that Mr. Marceau is the same at all, but it could happen. He

626 doesn't know, he can't predict how many customers he's going to have in the future. He can't predict who's
627 going to come and who's not going to come. There are many commercial areas in Londonderry; they're
628 available for him to live in or to provide for him to sell his weapons. But we don't want it in our neighborhood.
629 That's why we moved there. It's a quiet neighborhood. We want it safe for our children. We want it with as
630 little traffic as possible. We don't have to be worrying about who's going to be knocking on our door and...at
631 night or during the day or who's gonna be driving in our neighborhood that shouldn't be there. Thank you.

632
633 AURIANA KANE: Can I say something?

634
635 JIM SMITH: Certainly.

636
637 PAUL MARCEAU, JR: Hi.

638
639 AURIANA KANE: Hi.

640
641 JIM SMITH: Your name for the record?

642
643 AURIANA KANE: Auriana Kane. I'm thirteen. I have a twin brother. We're outside every day and I don't
644 wanna see a man with a gun coming across our street while I'm babysitting a four (4) year old or out walking
645 my dog. It's just...I don't know how to explain it really. I'm not comfortable with it at all. I don't like it. And I
646 would say...

647
648 JIM SMITH: You wanna talk into the mic, ma'am...miss?

649
650 AURIANA KANE: There's a lot of kids in our neighborhood and I don't want them to grow up around guns. I
651 know a lot of them personally. That's my neighbor Jocelyn. Those are my next door neighbors, the Dohertys,
652 those are the Duyons. I know them all. I don't know him.

653
654 JIM SMITH: Okay. Anything else? Anyone else? There's two (2) more in the back. No, either...ma'am...

655
656 ROB MANDEVILLE: Hello, I'm Rob Mandeville, 19 Wilshire Drive. I'm not a gun owner, but hearing everything
657 that's been going on here, I'm understanding that you're trying to set up an establishment for online gun show
658 sales, not retail, and occasional repair.

659
660 PAUL MARCEAU, JR: Correct.

661
662 ROB MANDEVILLE: And I've also been made aware that there is actual gun hunting going on in the area. To
663 me, a gun's dangerous when it's being discharged and I see hunting as actually more of the problem because
664 that's when the gun is being discharged. I do not see a reason to believe that this establishment would raise
665 the odds of a weapon being discharged in the area. I don't think people are gonna walk out with a newly
666 repaired gun and start shooting something up. That just doesn't make sense to me and I don't think that the
667 people that it would make sense to would be good customers. Thank you.

668
669 PAUL MARCEAU, JR: Thank you.

671 JIM SMITH: Anyone else? Oh, we got...ma'am, then the gentleman in the rear. You're next.

672
673 PAUL MARCEAU, JR: Hello.

674
675 KAREN BELIVEAU: Karen Beliveau, 14 Wilshire Drive. I've been a resident of Londonderry for over thirty six
676 (36) years and I've seen many changes and I certainly understand the concern of people, "not in my backyard,"
677 'cause I work for Granite Ridge Energy and went through all of that with the town of Londonderry and many
678 residents. But in this instance, I'm totally against this. I truly believe that...I mean, I don't mind a pizza driver
679 getting lost in my neighborhood and I'm having to direct him to one of my neighbors, but they're not walking
680 up to my door with an M-16, trying to get it repaired. I mean, there's a complete difference there. I mean,
681 you cannot possibly tell me that when someone is calling you for a repair service, you're gonna be able to do a
682 background check over the phone to see what kind of a person they are that's coming to do a repair.

683
684 PAUL MARCEAU, JR: If...

685
686 KAREN BELIVEAU: And you can't say to me that you got a border here and nobody from Massachusetts is
687 gonna come over to drop off guns. I mean, once they know you're open and they know you're repairing guns,
688 there's a definite problem over the border and we all know which city it is. I mean, and they probably have
689 more guns there than we have children in our schools. So, I mean, this is an issue. This is not lightweight
690 thing. And quite honestly, I don't think there's any neighborhood in Londonderry that would welcome this, let
691 alone ours. Thank you.

692
693 JIM SMITH: In the rear.

694
695 TED CHEN: Hi Zoning Board. My name is Ted Chen. I'm 39 Wilshire Drive. My concern is that this gentleman
696 say his business is for internet only and he won't do any retail. And because people know each other, my
697 questions is if people that come here, they come to his site and want to buy a gun and he did a sale, he sell the
698 gun to the people and do you have any power, do you know any...if he sell it, how do you know, first question.
699 Second, if he sell, do you have any power to cancel his license or stop he doing that? You know. And another
700 thing is he say the business hours are from six (6:00) to eight (8:00) PM. What happen if he extend the
701 business hour from six (6:00) to twelve (12:00) PM or for twelve (12:00) AM or any hours? How do you know?
702 And if he violate his promise or what he say, do you have any power to cancel his license or do something
703 about it? That's my concern. Thank you.

704
705 JIM SMITH: Okay, we can...I can answer part of that question. When I referred to the fact that the
706 neighborhood has to be part of the enforcement, that would be part of what you're suggesting. If he suddenly
707 has people coming in there after the appointed hours, it would be up to the neighborhood to bring that to the
708 attention of the Code Enforcement. As far as being the sale, if it came to light that he was, in fact, retail
709 selling, again, that would have to be brought to the Code Enforcement and the Code Enforcement can then
710 make a decision if it's actual fact, he could revoke the special exception. So there is some enforcement from
711 that point of view. Okay. Anyone else that has any comments, questions? Okay. We'll give the applicant the
712 opportunity to rebut anything that's been brought up that he can.

713
714 PAUL MARCEAU, JR: Alright. Like I said, I'm trying to approach this as a business perspective. I'm going
715 through all the channels to legally get licensed by the Federal Government Bureau of Alcohol, Tobacco, and

716 Firearms. They mandate that I do background checks and, you know, that I have to follow certain safety
717 procedures, everything like that. Like I said, I could operate as a hobbyist, throw a table in my driveway, put
718 fifteen (15) guns on the table, say "yard sale," not licensed by the Federal government, not licensed by, you
719 know, not have to obey by any of the Federal ATF guidelines or rules and as long as I have reason to believe
720 that that person is a New Hampshire resident and that that person can legally own a firearm, I can sell that
721 gun. No record checking, no background checking, no, you know, grabbing a name and, you know, registering
722 that firearm to that person. All they need is a bill of sale. So that's why I'm approaching it this way, to do it
723 the legal way and the most safe way possible. And, you know, people brought up concerns about people
724 running around, carrying guns. This is not gonna be like that. They'll drive down to the end of my driveway,
725 I'll let 'em in the side door, and, you know, like I said, I'll mandate that all guns be cased or safety locked.
726 Obviously, they're not going to be loaded, coming in or going out. Anybody who I'll be dealing with is going to
727 be a responsible firearms owner. Otherwise they wouldn't be coming to a FFL dealer in order to have a
728 firearm repaired. They'd be going to, you know, the guy on the street corner and if they have problems with
729 it, they're not gonna repair it, they're just gonna throw it away and get a new one. And again, they'll do that
730 through black market means. So as far as people running around or crossing the street with weapons, it's not
731 gonna happen. And again, you know, someone brought up the fact that they border the apple orchards. Yup,
732 there's hunting all around Londonderry. There's people hunting on 102, there's people hunting on Wilshire,
733 there's people hunting on Pillsbury, there's people hunting all over the place and right now, hunting season's
734 right around the corner and, you know, you're gonna see more people running around with exposed, loaded
735 firearms than you will coming to my home to have a unloaded, securely cased firearm dropped off for repair
736 or picked up.

737
738 JIM SMITH: Okay. Could you expand a little bit on the procedure of selling a weapon and the background
739 check and the time element involved with that?

740
741 PAUL MARCEAU, JR: Sure. Again, I won't be doing retail sales at my house, so it won't be an issue for my
742 home. But if I'm at a trade show selling guns, I have to call a 1-800 number that's monitored by, depending on
743 the type of firearm, either the State of New Hampshire or the FBI, and they do an instant background check.
744 Before I can sign that weapon over to any customer, I have to get an approval from the...either FBI or State of
745 New Hampshire and that takes about a half hour. It will happen no matter where you go to buy a firearm,
746 whether it's Rileys or at a gun show or anywhere where you're...you know, you can go up to the Manchester
747 Firing Line, same thing. Any weapon that's sold through an FFL needs to be registered, you have to track the
748 serial number, model, manufacturer, date of sale or date that I acquired it or that I got it and then I have to
749 track your name, serial number, date it was sold, who it was sold to, and before I can actually complete the
750 sale, I have to get approval from the FBI or the State of New Hampshire in order to make that sale complete.
751 And they do an instant background check, sometimes fifteen (15) minutes, ten (10) minutes, sometimes half
752 an hour, depending on how busy it is.

753
754 JIM SMITH: Okay. Anything else?

755
756 NEIL DUNN: So if someone was coming there for a repair, do you have to do any kind of check, make sure
757 they have any kind of license or permit, especially if it's a handgun, I mean, where do you...?

758
759 PAUL MARCEAU, JR: In New Hampshire...

761 NEIL DUNN: How do you get involved with that and say that they drive...someone's concern was out of state.
762 What kind of liability or what kind of regulations kick in there and what would you have to do to prove that
763 they were legal gun owners and supposedly upstanding citizens?
764

765 PAUL MARCEAU, JR: As far as proving that they're a legal gun owner? There's nothing in New Hampshire that
766 states that I have to do that. I would, obviously, try not to work with anybody and if I'm working on a firearm
767 that I know is illegally owned, then I would call the Alcohol, Tobacco, and Firearms, I'd call local police or, you
768 know, whatever, and have them get involved and, you know, figure out what the next steps would need to be.
769 But as far as doing background check on if someone is legally allowed to own that weapon? There's...there's
770 nothing.
771

772 NEIL DUNN: Okay, but as far as once you get the weapon, do you have to run a serial...or the receiver or
773 anything by anything when you're repairing it?
774

775 PAUL MARCEAU, JR: No.
776

777 JIM SMITH: Okay.
778

779 JAY HOOLEY: If I could, just for a moment, Mr. Chairman?
780

781 JIM SMITH: Sure.
782

783 JAY HOOLEY: So just to try to do a synopsis, 'cause we did have several questions and clarification, your intent
784 is to have on-site storage and on-site repair, modification or firearms.
785

786 PAUL MARCEAU, JR: Correct.
787

788 JAY HOOLEY: No retail sales of new or used to be conducted on-site?
789

790 PAUL MARCEAU, JR: Correct. All sales will take place over the internet or via gun shows, which will be in, you
791 know, like the...
792

793 JAY HOOLEY: Sales will be finalized and transacted at shows or via...
794

795 PAUL MARCEAU, JR: Internet.
796

797 JAY HOOLEY: But...and physically transacted via...a parcel service, quite frankly.
798

799 PAUL MARCEAU, JR: Correct.
800

801 MICHAEL GALLAGHER: Okay, so what you're saying is the only guns going in and out, or weapons, would be
802 for repair?
803

804 PAUL MARCEAU, JR: Correct.
805

806 NEIL DUNN: And how do you verify someone's identity on the internet?
807
808 PAUL MARCEAU, JR: On the internet? What I have to do is actually have to send it to another FFL dealer who
809 would then do the in-person check and background check. So if it's an out of state residence, I'd have to...like
810 for someone in Mass, I'd have to send that to another federally licensed dealer.
811
812 JAY HOOLEY: And the person could pick it up at that licensed dealer...
813
814 PAUL MARCEAU, JR: Correct.
815
816 JAY HOOLEY: ...at their own locale?
817
818 PAUL MARCEAU, JR: Correct.
819
820 JAY HOOLEY: So your shipment would be from your location to the other licensed dealer?
821
822 PAUL MARCEAU, JR: It would be from the vendor or the distributor.
823
824 JAY HOOLEY: Okay.
825
826 PAUL MARCEAU, JR: In that case, I would never even have to touch the firearm.
827
828 JAY HOOLEY: So that could go directly, in that instance, from a warehouse to a licensed dealer in another
829 state.
830
831 PAUL MARCEAU, JR: Exactly.
832
833 JAY HOOLEY: You conducting the sale without ever physically...
834
835 PAUL MARCEAU, JR: Exactly.
836
837 JAY HOOLEY: Okay.
838
839 JIM SMITH: Okay. Anything else? Yes? Yes, please.
840
841 JOHN KANE: John Kane, 27 Wilshire Drive. Right across the street. Would it be true, then, that another
842 licensed dealer could send it to you? Say, somebody from out of state sold a weapon into New Hampshire,
843 would the opposite be true that they could send you a weapon that you would then store on site and then
844 deliver to the customer?
845
846 PAUL MARCEAU, JR: Yes.
847
848 JOHN KANE: Okay.
849
850 JAY HOOLEY: Clarification myself on that one. Not on location at your site.

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PAUL MARCEAU, JR: If it was sent to me and already paid for and transacted? Then, yes, it would be sent to me and then I would deliver it. Now whether I delivered it in person to someone else or, you know, if you want to stipulate that they don't come to my place, that I go drop it off somewhere else...

JAY HOOLEY: I just wanna be very, very clear about whether it's retail sales or drop off and pickup of repairs only.

PAUL MARCEAU, JR: Again, it wouldn't be...there would be no transaction, a retail transaction. It would just be a pickup.

MICHAEL GALLAGHER: So...

UNIDENTIFIED AUDIENCE MEMBER: [Indistinct].

JIM SMITH: Ma'am, if you're gonna...approach a mic.

JOHN KANE: Should I go back? I...this is a comment, I don't see the difference there. I see that as a retail sale. I see the lines just blurring and I think it's gonna be extremely hard to track that, obviously, you know, I'm against this. But I see lines blurring. It's a retail sale because it's bilateral. It would be impossible for you to track it. It would be impossible for the neighborhood to track it.

JIM SMITH: Okay. Do you have anything else?

JAY HOOLEY: No, that was...again, I guess that line is suddenly blurring for me, too.

JIM SMITH: Okay, ma'am?

JOCELYN LANE: [Indistinct comments]. Jocelyn Lane, 21 Wilshire Drive. Hi. I like that he said that going through this process would mean...I mean, he could do like a yard sale and that's scary too. But I like that, because that means he's going to be making all these efforts to make sure that it's done properly and safely. I don't like that you guys said we should police our neighborhood because...and I am curious about how...what the turnaround time is. So, if we saw something that he didn't agree to here in front of everybody, if we saw him doing things that wasn't right and we...and you said, Mr. Hooley said, 'Well, it wouldn't be just one time. It would have to be a bunch of times.' What's the turnaround time? I need to know from you guys what the turnaround time is and what do you do? Do you shut him down? Do you...what do you do? How does that work?

JIM SMITH: It's a process.

JOCELYN LANE: A process. So six months, six days, six weeks?

JIM SMITH: Okay. Not that this is the same thing, we currently have another situation in town where an enforcement action had been started. It is now in the Superior Court and how many months has it been going?

896
897 RICHARD CANUEL: Two (2) months at least.
898

899 JIM SMITH: Yeah. So once you get into the legal part of it, it's a slow, laborious process. No matter who or
900 what the case is. It takes a certain amount of time. And when I say that it's the neighborhood, what we're
901 suggesting is as a neighborhood, you have an idea of what, you know, how much traffic is being generated
902 normally and if you suddenly see a whole bunch of cars coming in, it's gonna probably come to somebody's
903 attention. That would be the trigger to call the Code Enforcement and ask them to look into it. If it turns out
904 to be somebody having a party on one of the other homes and nothing to do with this gentleman, it'll come
905 out. If it's something to do with his situation, then they're gonna try to figure it out, find out what's going on
906 and try to understand what the problem is. If it's a situation where it needs to be...to start the enforcement
907 process which invariably ends up in court or something, then it will start. But again, we have a large town.
908 There's Richard and one other gentleman in the Code Enforcement. They are not riding up and down every
909 street in the town looking for violations. It's physically impossible. So it's up to the neighborhood, whether
910 it's this situation or any other situation, to see what's going on and if there's somebody or something that's
911 going on that's breaking some sort of zoning or regulations, something like that, it's up to the neighborhood to
912 call it to the attention of the Town officials.
913

914 JOCELYN LANE: So I understand that it has to be a repeated pattern and then we make the reports and 'oh,
915 it's them again calling in,' and it really...and it turns out is him, he's still running his business while we're still
916 calling you and you guys are still, you know, making tallies about how many times, how many occasions this
917 has been. He's still doing the business, so we're kind of...we're policing for what? You know, I mean, we're
918 just gonna be...
919

920 JIM SMITH: Well, there again, you have to understand, it's not gonna...if he does something...sells one
921 weapon once, it's not gonna be lights out at that point. It's gonna have to be proven. Typically, they would be
922 looking for advertisements or something or something to substantiate what's going on. The other thing I think
923 you should probably be looking at, by him...by the applicant coming in and getting this special exception, he's
924 conforming with both the State, Federal, and local regulations. He's doing this up front. He's giving you
925 people due notice as to what's gonna happen on that site. It's not like somebody just started doing it. And I
926 think this is in the best interests of everyone so that everyone has an idea of what's going on...I hate to get
927 onto this point, but again, when it comes to weapons and so forth, I think part of the problem with this
928 country and a lot of the people around here, they're not familiar with weapons. They never were taught how
929 to properly use them, what the safety measures are and so forth. If you're familiar with something, it's not as
930 scary. I have been in situations, I have worked here in the town, I know on one occasion, I had to go into a
931 location where the gentleman met me at the door wearing a shoulder harness and an automatic weapon. I
932 felt somewhat nervous. But he's in his own home. Perfectly legal for him to do that. Most people probably
933 don't realize how many people in this state are walking around with weapons. They just are. And there's no
934 way that you can stop them.
935

936 JOCELYN LANE: I totally agree and I heard Mr. Mandeville talking about...or Rob. He's Rob. Talking about a
937 discharged weapon isn't the danger. I mean, I had a hunter walking right through my property last year
938 because he was chasing a moose that he had only scarred and you know, and I saw the size of his gun...rifle. It
939 was a rifle.

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JIM SMITH: No, it was probably a shotgun.

JOCELYN LANE: Shotgun, okay. Thank you. But, you know, that was scary for me to see this guy walking across my...through my yard and, you know, and when I talked...I called the place in Concord and they said, 'well, are you posted?' And I said, 'it's my yard.' I mean, I can see the people's houses next door. They're not supposed to be doing that. They didn't even get permission. But, you know, in this economy, this man's trying to make a business and, you know, he's not selling jewelry or Avon or you know, even cutlery or anything like that. He's going to be...he is going to be doing retail. And you're asking us to police him and, you know, he's not gonna like me...seeing me all the time, but, you know, he's gonna see a lot of me walking around the street, being nosey. But the other thing was that, someone else said it, everybody's gonna know where he lives. You know, it's not gonna be on his business card, it's not gonna be on his website, they're all gonna know. And he would be grateful because then his business would pick up really quickly but, you know, he thinks it's gonna go slowly but it's not and everybody's gonna know where he lives and the bad guys are gonna know where he lives and they're gonna know how to get in. You know, it's gonna happen. And, you know, we don't want a tragedy, you know, like there have been so many and there are every day where, you know, people break into houses to get to prescription drugs and they'll kill everyone in the way. Now, his situation may be different. His daughter's only there every other week, so, yeah, that does mean that he's got some...every other week, he's a concerned parent. You know, at least for her safety right there. But, you know, I just...it's gonna happen that somebody's gonna break into this guy's house and you want us to tell you it happened, well...

MICHAEL GALLAGHER: No...

JAY HOOLEY: No. No, no.

JIM SMITH: No.

JOCELYN LANE: You want us to police him?

MICHAEL GALLAGHER: No, no. I think what Jim was trying to get at, you know, you're asking kind of about violations. Right now, the hours of operation are gonna be, what, eight (8) hours during the week, or ten (10) hours total. So, I mean, if you're seeing him doing some business, say on Sunday, Sunday's not there, and you see it a couple of times, they're asking you call the Code Enforcement Officer. Not police, I mean, you brought it kind of to a different level. That's kind of what Jim was referring to. You see something going on at ten (10:00) at night, his hours are gonna be six (6:00) to eight (8:00), is what he applied for. So there's a small window there. Very small. And that's how it gets back to us. It gets reported, just like any other code...any other violation. Not "police," you know?

JOCELYN LANE: Yeah. Okay.

MICHAEL GALLAGHER: But you know, and like and Jim said, there's two Code Enforcement Officers. It was the same if you were breaking the law, you'd call the police.

984 JOCELYN LANE: It would be wonderful if we had a guarantee that nothing would ever...anything bad would
985 ever happen on this street. But we don't.

986
987 MICHAEL GALLAGHER: I know.

988
989 JOCELYN LANE: We don't and when you put this kind of a business in...and to tell him...for him to stand here
990 and say that he's not gonna be doing any retail business, from what I've heard tonight, he's going to and were
991 not going to know until...well, I don't know what happened with the other guy in town. So, you know, he
992 wasn't supposed to be selling either. So, anyway, that's all.

993
994 MICHAEL GALLAGHER: Thank you.

995
996 NEIL DUNN: Jim? If I may? Richard, could you maybe...they sound confused and I know we say this a lot about
997 policing and the neighborhood as far as hours and time of operation and storage and all that. Could you help
998 me get a better understanding; if I made a call and said 'I believe a person's in violation. It's my first call to
999 you,' what the process is and what happens?

000
001 RICHARD CANUEL: The process would be make an attempt to contact the person being complained of, in this
002 case, if you wanna direct towards this gentleman, I would make a contact with him. If necessary, make a site
003 visit, interview him, asking him what his nature of his operation is and verify if the complaint was valid.

004
005 NEIL DUNN: So you wouldn't wait for two (2) calls, you'd do that with the first call.

006
007 RICHARD CANUEL: Oh sure, yeah. Especially if it's a case such as this where there are specific conditions
008 attached to an approval. If one of those conditions is not met, number one, that's reason to revoke that
009 special exception. We're in the middle case now on another issue. So, yeah, that's all it takes.

010
011 NEIL DUNN: So then, so if he was...if he was in violation and we made notification that the exception was
012 pulled, like the court case now, that business is not still going on, is it? I don't know, that's what I asking for
013 clar...does it go on until the Supreme Court rules or we've pulled it? We've pulled the allowance, right?

014
015 RICHARD CANUEL: Yeah. Unfortunately...

016
017 PAUL MARCEAU, JR: He moved to a retail store.

018
019 RICHARD CANUEL: Yeah, well, we're not so sure that he's not still conducting, you know, business on the side.

020
021 NEIL DUNN: But technically, they're not supposed to be or he can until the case is heard? That's where I'm
022 not having a clear feeling.

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024 RICHARD CANUEL: He does so at his own risk, let's put it that way.

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026 NEIL DUNN: So he's not supposed to be. He's been shut down from the Town's point of view.

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RICHARD CANUEL: He's been shut down from the first date of notification. Each day after that is a separate violation for which he is totaling up his fines.

NEIL DUNN: Okay.

RICHARD CANUEL: I cannot, you know, the Town cannot physically stop him from what he's doing.

NEIL DUNN: No, right, short of locking somebody up. And then the third thing would be if Mr. Marceau, is that how you pronounce your...

PAUL MARCEAU, JR: Marceau, yes.

NEIL DUNN: ...or anybody wanted to have a yard sale, is there a limit how many yard sales they could have with guns out there? They could do that every week and it would not be an issue?

RICHARD CANUEL: Well...

NEIL DUNN: Does it hit a point where there's a trigger? I mean, what...?

RICHARD CANUEL: Well, you know, yard sales are just what they are, yard sales. There's no regulation on what product an individual sells at his yard, so...

NEIL DUNN: So every weekend, a person can have a yard sale and sell guns? There could be no...? Okay, that's what I'm looking for. Okay, thank you.

RICHARD CANUEL: Well, you know, Mr. Marceau is correct, there is no regulation regarding an individual selling his personal firearms to anyone who walks onto his property. So, yeah, that's true.

PAUL MARCEAU, JR: So that's why I'm here, as a first step in obtaining my Federal Firearm License, to do this by the law.

JIM SMITH: Which I'm trying to point out to everybody is in the best interest of everyone because it's putting it up front and putting some regulations and some Federal and State rules that he would have to adhere to. So I think in that light, it's safer for everybody to be operating in this manner than what he's suggesting, if somebody wanted to simply conduct a yard sale. I know from anyone who's lived in town for a length of time, I don't know how many years ago, they attempted to put some regulations on for yard sale and that didn't go anywhere, so as it stands right now, anybody can run a yard sale and I guess they can sell pretty much anything they want to.

JOE DOHERTY: Joe Doherty, 29 Wilshire Drive. I think, Mr. Smith, that the issue is not the guns and the business. I mean, that's great, he's starting his own business. I think the issue is the business in our neighborhood. It's not gonna be...we are assuming there's gonna be strangers coming to our neighborhood, going to his house, for whatever reason that is, it's a home occupation, I don't care what the home occupation is, going to his house from out of town, out of the area, not familiar with neighborhood, and because it is a

072 particular type of occupation dealing with weapons, there has been articles in the papers about Peterborough
073 being a nice town, recently having a very high percentage of guns being stolen from their town. Auburn
074 recently has had in the paper numerous burglaries in their neighborhood whereas before, they were just a
075 quiet little place over there by the lake. So I think what we prefer to see is not a home occupation but as
076 Arlene mentioned, an occupation in one of our great malls, strip malls, 102, some place more conducive to
077 running a business rather than in our neighborhood. So that's the major concern here, is not that it's guns,
078 although that has definitely has an impact on it, but it's strangers coming in from out of town, out of the area,
079 casing our neighborhood, casing our houses, driving by. Our neighborhood is not one of the new ritzy ones.
080 It's been around for, you know, the 70's, so we're not...but we're pretty proud of what we have and we're just
081 concerned about having strangers come through that don't normally come through, coming through on a
082 regular basis, word gets out, you can do a Google search of his name and I'm sure you're gonna find
083 immediately what the address is, so that's, you know, the word gets around to those people looking to find
084 out 'Where can I get a weapon? Hmmm, maybe we can go here. Oh look at this house over here, there's no
085 one home, blah, blah, blah,' and just a crime factor that we're concerned about being a home occupation
086 where people are gonna be coming from out of town. It's not the nature of that business, it's just that it's a
087 commercial business; it belongs in a commercial area.

088
089 JIM SMITH: I think that was one of the reasons I asked Code Enforcement to describe what the home
090 occupation was up front.

091
092 JOE DOHERTY: Understood.

093
094 JIM SMITH: It is a mechanism that's addressed in the zoning regs. It does allow businesses of a limited nature
095 in residential situations. It's part of the regulations.

096
097 JOE DOHERTY: And I can...I think of home occupations as being, you know, a design engineer working at his
098 house or something like that. Doesn't have customers coming to their home. So that's maybe just my own
099 personal interpretation of an acceptable home occupation as not having customers come to my home, coming
100 into the neighborhood, versus having outside customers coming into the neighborhood. That's the part that
101 concerns the neighbors.

102
103 PAUL MARCEAU, JR: I have a stack of approved special exceptions for hair salons, electronics repair, dog
104 grooming...

105
106 JOE DOHERTY: I bet.

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108 PAUL MARCEAU, JR: ...child care...

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110 JOE DOHERTY: Yup.

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112 PAUL MARCEAU, JR: All of them involve people coming to a home and picking up...

113
114 JOE DOHERTY: I would imagine most of those are probably more local residents than they are from, you
115 know, across the state that happen to see you at a gun show coming down from far, being from away. I think
116 that's being the difference in my mind. Thank you for your time.

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JIM SMITH: Okay.

MICHAEL GALLAGHER: Thank you.

JIM SMITH: Anyone else? Okay, we got...we're gonna have to wrap this up, you know, if someone starts repeating information, we'll have to...we don't want repetition of information.

MARY RAYMOND: And that's why I'm looking for clarification. Michael, I believe that you had stated that there would be no guns on site, it was just gonna be repairs. That he wasn't gonna be selling. My understanding, and maybe I'm wrong, is that he's going to have pistols and revolvers there at the house for gun shows. I just wanna make sure, am I correct in saying there are guns or there are not guns?

MICHAEL GALLAGHER: I was gonna...I wanted to clarify that, yes, because he did make a statement when I asked how the sales were gonna take place, you said there was not gonna be any sales in your home.

PAUL MARCEAU, JR: Correct.

MICHAEL GALLAGHER: Correct. But, and I missed the initial point of it, but something with the out of state thing come in that Jay had mentioned that you did say that a weapon would be delivered to you? Is that...?

PAUL MARCEAU, JR.: Could be. That would be considered a transfer, similar to a person coming to pick up a firearm that they dropped off for repair.

MICHAEL GALLAGHER: Okay.

PAUL MARCEAU, JR: It's already been purchased, the other dealer got the money for it, I'm just doing a transfer.

JAY HOOLEY: Assuming that that were approved as part of the...

MICHAEL GALLAGHER: Right, okay. Yeah.

JAY HOOLEY: So...

MICHAEL GALLAGHER: Okay, yeah.

MARY RAYMOND: So then can we all assume that there will be no guns at the house other than those that are being repaired or will there be guns at the house such as the pistols and revolvers that will be used to sell at gun shows? I'm just looking for that clarification. Is it just repairs that are gonna be there or physical, physical guns that will be placed at a show?

PAUL MARCEAU, JR: I will need inventory to take to a gun show to sell.

MARY RAYMOND: Perfect. Thank you.

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JIM SMITH: Yes?

KAREN BELIVEAU: Since I haven't been at a Zoning Board meeting for many years, I'm just curious if any of you were on the Zoning Board when the special variance was issued to, I believe, the gun repair shop on Isabella?

NEIL DUNN: Yes, I was.

JIM SMITH: I wasn't.

MICHAEL GALLAGHER: I was not, but I was part of...

JIM SMITH: The appeal.

MICHAEL GALLAGHER: ...the appeal, yes.

KAREN BELIVEAU: And no one else...

JAY HOOLEY: I was not on the Zoning Board at that time.

KAREN BELIVEAU: Jim?

JIM SMITH: No.

KAREN BELIVEAU: Okay. Thank you.

JIM SMITH: Okay.

NEIL DUNN: Mr. Chairman? Can you decline a transfer, I think you called it?

PAUL MARCEAU, JR: Sure.

JIM SMITH: Okay, at this point I will call the public hearing to a close and the Board will go into deliberation on this case.

DELIBERATIONS:

JIM SMITH: [Indistinct]

MICHAEL GALLAGHER: Mr. Chairman.

JIM SMITH: Yes.

206 NEIL DUNN: I...I don't know what the rest of your guys think, but we do have a case that is supposed to have a
207 resolution here very shortly. I don't know if we think that's gonna impact the way we would vote here. Is it
208 worth waiting for that resolution?
209

210 JAY HOOLEY: I don't know that that...the issue there was that it was approved for one thing and it turned out
211 the business being conducted was other.
212

213 MICHAEL GALLAGHER: Right.
214

215 NEIL DUNN: Yeah, but it's being heard on many different grounds other than that and...
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217 JAY HOOLEY: But we...
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219 NEIL DUNN: ...my only other concern that maybe we're...would have a better direction after we get the ruling
220 from the court. 'Cause it's more than that one issue, there's a whole...
221

222 JAY HOOLEY: But we, correct me if I'm wrong, we only address...
223

224 JIM SMITH: We're only looking at zoning.
225

226 JAY HOOLEY: ...the one scope as a special exception.
227

228 JIM SMITH: Right.
229

230 JAY HOOLEY: We have no authority to address the rest of...
231

232 NEIL DUNN: Well, no, but those, to me at least, it would all weigh in very heavily if the court comes in favor of
233 some of the arguments being made in the court case, whether we have jurisdiction over that or not. I'm
234 throwing that out there because I think, personally, I think it would help me in my decision. I don't know.
235 Again, I'm just bringing it up for conversation 'cause it seems like it's around the corner, I do believe.
236

237 JIM SMITH: Well, it could be next week or it could be a month, who knows?
238

239 MICHAEL GALLAGHER: What do you think, it may make you change...?
240

241 NEIL DUNN: No, just some of the points brought up where the right for a person to sell from a home and that
242 it might be even bigger and broader than us trying to regulate it. I don't know. There was a list of things that
243 came up in the petition to the court.
244

245 JAY HOOLEY: And it arguably might nullify what we do tonight but it also might not address it at all.
246

247 NEIL DUNN: Right or it might support our ability to make that decision. All I'm saying is I think I would feel
248 more comfortable knowing what that outcome is. I mean, I'm ready to go through here tonight. I was
249 bringing that up 'cause I thought maybe it might be a legitimate reason to either continue it for a month for

250 wait...I'm bringing it up for discussion, I guess, was my thought. I thought it would help me clarify my
251 thoughts.

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253 PAUL MARCEAU, JR: Can I add a point to that?

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255 JIM SMITH: No.

256
257 PAUL MARCEAU, JR: Okay.

258
259 JIM SMITH: Once we go into deliberation, we can't take anymore. I think we have to look at this case on its
260 merits.

261
262 NEIL DUNN: Right, no, absolutely.

263
264 JIM SMITH: And whether or not that court case, I don't believe, is gonna have any direct bearing on our
265 decision tonight at this point. Most of those other arguments are...

266
267 MICHAEL GALLAGHER: Well beyond our...

268
269 JIM SMITH: Well beyond what we can...I think the narrow issue we have to look at is does this or does this not
270 meet the criteria for a home occupation? That's what we have to decide. Has he met the requirements, is...?

271
272 NEIL DUNN: Well, I guess then if we go into the statute 3.12, home occupation, looking at these, applicant's
273 traffic submittal, he stated the average was ten (10), eleven (11), or twelve (12) cars. Ten (10) was the
274 average traffic on the dates he visited it. If he did two (2) cars a day, that would be twelve. If he did one, it'd
275 be eleven (11). I mean, to me, that's a ten (10) or twenty (20) percent increase in traffic. Although it sounds
276 like very little when you say one (1) or two (2), it, percentage wise, in a residential neighborhood, that is a ten
277 (10) or twenty (20) percent increase in traffic. So that would be in reference to 3.12.1.6 in considerations, you
278 know, by reason of unusual sight, light, noise, smell, traffic or other effects of the home occupation. And I
279 guess the other point I have in reference to that clause is the other effects being the neighbor's concerns
280 about going to the wrong houses. I did drive by there today, I did have trouble finding 20 'cause the mailbox is
281 on the opposite side, kind of diagonally away. So, to me, there's some other effects that I do think are
282 impacted with a business of this nature that are different than a hair salon if someone's looking to get their
283 hair done.

284
285 JAY HOOLEY: I guess I would only ask, if somebody were gonna have a hair salon and have two (2) customers
286 a day, would we consider that a traffic impact?

287
288 NEIL DUNN: It depends. If it's a neighborhood where they only have ten (10) cars in the evening, then I guess
289 you would but we don't usually get traffic impacts, to be honest with you. I'm just saying...

290
291 JAY HOOLEY: I would assume most of the in-home hair salons visit certainly at least two (2) people per day.

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293 NEIL DUNN: Well, no, I know that one [indistinct] is on High Range that has much more than ten (10) cars an
294 evening going down it.

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JAY HOOLEY: Mmm.

NEIL DUNN: I mean, so as a percentage is what I'm looking at. I know one of them was High Range and in the last couple years and I'm pretty sure there's more than ten (10) cars that go down High Range between Pillsbury and Davis.

JIM SMITH: Okay, just looking at the worksheet, it kind of lists the various things. Okay, the first item says business within a dwelling or garage. That's yes. Incidental and secondary to the use of the property. It's only eight (8) percent, so I would say it meets that. He stated there's no exterior renovation or construction. No outside storage. He meets the percentage. Number of customers; he states no more than two (2). He wouldn't be using any on-street parking. The driveway, according to the picture, looks like its sufficient to provide parking for one (1) or two (2) cars. No family employees. He didn't request any outside employees. Didn't request a sign. Will the business affect the neighborhood by unusual sight, noise, traffic, light, smell, or other? I would sight would be no, noise no, light no, smell no, traffic...he has provided us with a traffic survey over a...and I believe he said this was just during those hours that he would be operating. If you look across, the average was...

NEIL DUNN: Ten (10).

JIM SMITH: ...ten (10). But if you go back across, the low was seven (7), the high was fifteen (15). So even with the fifteen (15), if you had twelve (12), you're still less than a peak day, which happened to be...and also, this is over a...let's see...one, two, three...nine...a nine (9) day segment, which happens to be in this month. This is not a all inclusive traffic survey, much like you would have for a site plan or something like that. So at best, it's a rough sampling. So I would think eleven (11) or twelve (12) cars wouldn't be unusual in my mind for that type of a street. Even though, you know, if you look at percentages, then it looks, you know, either ten (10) percent or twenty (20) percent, which is relatively high on a percentage but like anything with statistics, you can make numbers say almost anything you want to sometimes.

NEIL DUNN: I didn't provide the numbers.

JIM SMITH: I know. Again, this is unusual that an applicant even went to this effort to even give us this. But you also have to bear in mind that it's over a relatively short time frame. Whether this is typical of the entire year or not would be anyone's guess. So I would say the traffic impact is nothing unusual in my mind. Anybody got any other comments on that?

JAY HOOLEY: I would only observe that that was for several reasons but kind of key to the question about retail sales because I assume he's gonna be in business with the intent of succeeding.

JIM SMITH: Yeah.

JAY HOOLEY: Limiting himself to the on-site pickup and drop off of repairs, most repairs are probably gonna get shipped in and shipped out. Retail, if you're successful, that would increase.

JIM SMITH: But again, he's saying he's gonna be doing the retail sale via the internet.

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JAY HOOLEY: But we would either allow or not allow on-site retail, completion of a transaction, whether it initiated somewhere else or initiated there, I mean if the intent were for storage only and the retail sales to be conducted off-site, that door's either opened or closed. I'm not sure you can leave it half open.

NEIL DUNN: I think that's where it gets back to before when we talked about the receiver and then now you're actually selling a gun and if someone's coming in for a repair, now is that a repair or a retail sale? And then how do we really monitor and know if retail sales are going on? It is starting to get blurry. I think it got blurry in asking for the retail. I mean, the other ones that came to us as...

MICHAEL GALLAGHER: Just repair.

NEIL DUNN: ...gunsmithing repairs. Nobody was ever supposed to show up.

MICHAEL GALLAGHER: Right.

NEIL DUNN: This one's coming to us straight with a repair and the retail which in a neighborhood is starting...I don't know. I think it does blur the line a little. And the ordinance is...

MICHAEL GALLAGHER: Blurrier?

NEIL DUNN: Yeah. Blurrier.

JIM SMITH: It's not a listed business which is in fact prohibited.

NEIL DUNN: Right.

NEIL DUNN: But none of them are, and that's why it's always up to us to look at each case separately.

JIM SMITH: Right. Well, any more comments? If not, I'll be looking for a motion. And the motion could contain restrictions if it's to grant or...

JAY HOOLEY: Well, as a hypothetical, I don't know where everybody's leaning at the moment but at least the beginning of conditions would be, in my mind, and I'm the rookie here, so, I'm assuming somebody else will fill in some of the blanks, but maintaining any and all other required licensing, the FFL, etc.

JIM SMITH: Yeah.

JAY HOOLEY: The door has to either be open or closed to retail sales being transacted on that site.

MICHAEL GALLAGHER: He should know, is that correct?

JAY HOOLEY: But then you get into a 'what if he's completing a sale,' I mean, either yes or no because that's it.

MICHAEL GALLAGHER: Completing a sale?

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JAY HOOLEY: Completing a sale for somebody else is...

JIM SMITH: He's making a delivery.

MICHAEL GALLAGHER: Can we restrict the transfers? I mean...

JAY HOOLEY: You could restrict the business, the specific business on site to be limited to the drop off and pick up of repairs, modifications only and any, whether it's initiated or being completed, retail sales would have to be completed...

MICHAEL GALLAGHER: Were you referring to the transfers, Jay?

JAY HOOLEY: Yes, that's, you know, because the issue with retail is...

MICHAEL GALLAGHER: Yeah, right.

JAY HOOLEY: ...if a house goes up for sale across the street, you don't expect tomorrow to find a shoe store, a Dunkin' Donuts or anything else that's gonna have a lot of traffic and if the business is successful...

MICHAEL GALLAGHER: Right.

JAY HOOLEY: ...and whether he's initiating or completing them, he's transacting at a retail level, then you do have a different traffic impact than the...I think we have history that the in-home gunsmithing repair and alteration does not create, that I'm aware of...

MICHAEL GALLAGHER: Yeah.

JAY HOOLEY: ...as long as that's what it's limited to, an issue with traffic that I've heard. But I don't know how you would know how many...wrapping up a retail sale for somebody else, you know? That's where it gets fuzzy. If it is...

MICHAEL GALLAGHER: Right.

JAY HOOLEY: ...repairs and alterations on-site only, no retail sales, start, finish, or otherwise at the location, then, you know...

NEIL DUNN: So he can't replace a receiver?

JAY HOOLEY: He could replace a receiver if it were...

NEIL DUNN: Then that now gets...

JAY HOOLEY: ...required as integral to the repair of a specific firearms that was sent in for a repair. I think that was the way the condition was worded in the other one. Which is different than it's in the box coming from

430 the factory. I think, you know, we all know if it looks like a duck, walks like a duck...if you had one of those few
431 instances where the receiver itself were damaged beyond repair and all the other parts of the gun.
432
433 NEIL DUNN: I'd like to throw out a motion for a feeler.
434
435 JIM SMITH: Sure.
436
437 NEIL DUNN: I'd like to make a motion to deny case 9/21/2011-1 on the basis of traffic impact and safety
438 concerns from the neighbors.
439
440 JIM SMITH: Do we have a second?
441
442 [No response]
443
444 JIM SMITH: No second.
445
446 NEIL DUNN: I put it out for a feeler.
447
448 JIM SMITH: Okay, we're looking for another motion.
449
450 JAY HOOLEY: Is there anybody else with thoughts on additional conditions?
451
452 JIM SMITH: Okay, the issues are no on-site sale...
453
454 JAY HOOLEY: Retail sales.
455
456 JIM SMITH: He should list the hours and days.
457
458 MICHAEL GALLAGHER: I think there was a...
459
460 JIM SMITH: Six (6:00) to eight (8:00)...
461
462 JAY HOOLEY: As specified in the application.
463
464 MICHAEL GALLAGHER: Saturday, he said...the application says three (3:00) to five (5:00)...
465
466 JIM SMITH: And Saturday, one (1:00) to...
467
468 MICHAEL GALLAGHER: He was mentioning one (1:00) to three (3:00), so...
469
470 JIM SMITH: One (1:00) to three (3:00)...Okay, those are the primary ones. Anything else? Okay.
471
472 NEIL DUNN: Well, the application also says sale of firemens [sic] via internet, gun shows and occasionally in
473 person on premise. So I guess...
474

475 JAY HOOLEY: But again, that portion could be approved or not. Is that correct, Richard?
476
477 NEIL DUNN: Right, I guess I'm just reading out to help you with your verbiage or verbage or wording.
478
479 MICHAEL GALLAGHER: Can we force an alarm system?
480
481 JIM SMITH: Yeah.
482
483 RICHARD CANUEL: If it's any help to the Board, if I could just add something?
484
485 JIM SMITH: Sure.
486
487 RICHARD CANUEL: Under the requirements for a Federal Firearms License, the applicant has to show that
488 they meet both State and local laws and regulations. If the Board so choose to put a restriction as a condition
489 that no retail sales take place on site, then that would be monitored by the ATF as they do their routine
490 inspections. If it is shown that the applicant is out of compliance with local regulations, he could be subject to
491 revocation of his Federal Firearms License because of that.
492
493 JIM SMITH: Okay.
494
495 RICHARD CANUEL: The applicant also has to show that he's in compliance with local regulations and prove
496 that to the ATF, so if that's of any consolation to the Board.
497
498 JAY HOOLEY: Then, as a feeler, I'm gonna throw out a multiple condition...
499
500 JIM SMITH: Go ahead.
501
502 JAY HOOLEY: I'm going to move that the Board approve special exception request 9/21/2011-1 with the
503 following list of conditions: that the FFL and all other applicable licensing be maintained; that the alarm
504 system be installed, maintained, and monitored; that there is no on-site retail sales of new or used firearms
505 and the business is limited to the repair and modification, gunsmithing; and that customer visits are limited to
506 drop off and pickup of firearms for those gunsmithing functions; that upon their visiting, the guns be cased or
507 safety locked while being walked in and out of the premises; and that the hours be limited to those as listed in
508 the application; and that business is conducted by appointment only.
509
510 JIM SMITH: Okay. Is that it? Do we have a second?
511
512 MICHAEL GALLAGHER: Before...I just wanna clarify the Saturday hours. I mean, I believe he mentioned one
513 (1:00) to three (3:00). The application says three (3:00) to five (5:00), so if we word this by the application...
514
515 PAUL MARCEAU, JR: I'll stick with the application.
516
517 MICHAEL GALLAGHER: Okay. No problem. It's the application, Jay.
518

519 RICHARD CANUEL: I would suggest that the Board actually state the hours of operation as the condition,
520 rather than just referring to the application.

521
522 JAY HOOLEY: That the specific hours of operation would be Tuesday, Wednesday, Thursday between six (6:00)
523 and eight (8:00) PM and Saturday between three (3:00) and five (5:00) PM.

524
525 NEIL DUNN: By appointment only?

526
527 JAY HOOLEY: By appointment only. And lastly, that the number of the house be clearly marked at the end of
528 the driveway so that there is no confusion with any other home on the street.

529
530 JIM SMITH: Okay. Do we have a second?

531
532 MICHAEL GALLAGHER: I'll second it.

533
534 JIM SMITH: We have a second. Okay, all in favor of the motion?

535
536 MICHAEL GALLAGHER: Aye.

537
538 JAY HOOLEY: Aye.

539
540 JIM SMITH: And you're? Okay. Chairman votes aye. In opposition?

541
542 NEIL DUNN: Nay.

543
544 JIM SMITH: Nay. So three (3) to one (1)...

545
546 NEIL DUNN: For the motion.

547
548 JIM SMITH: Motion passes.

549
550 NEIL DUNN: No, that was just for the motion, now we vote, right?

551
552 Clerk Neil Dunn read the results into the record:

553
554 RESULT: THE MOTION TO GRANT CASE NO. 9/21/2011-1 WITH CONDITIONS WAS APPROVED, 3-1-0

555
556 RESPECTFULLY SUBMITTED,

557
558 
559

560
561 NEIL DUNN, CLERK

562 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

563

564

565

APPROVED OCTOBER 19, 2011 WITH A MOTION MADE BY MICHAEL GALLAGHER, SECONDED BY JIM SMITH
AND APPROVED 4-0-1 WITH MATT NEUMAN ABSTAINING AS HE HAD NOT ATTENDED THE MEETING.