

**TOWN OF CHESTERFIELD, NH  
ZONING BOARD OF ADJUSTMENT**

**MINUTES  
July 19, 2007**

**Present:** Chairman Burt Riendeau, John Perkowski, Renee Fales, Alternates Jim Larkin and Carol Ross.

The Zoning Board of Adjustment met at the Chesterfield Town Office on July 19, 2007 at 7:00 p.m. Riendeau opened the meeting at 7:15 p.m. and explained that the public meeting was scheduled to consider rehearing **Robert C Hodgkins' III** request for a Special Exception under Article 204.3 Section A, Home Industry Article 402.4 to permit a Security Consulting business and Firearms Manufacturing. The property is located at 1041 Route 63, Spofford (Map 3 Lot B8.1) Rural/Agricultural Zone.

The Special Exception was approved March 20, 2007 and the request to rehear was approved May 9, 2007. It was reheard on June 12, 2007 and some abutters have requested this rehearing consideration. Riendeau stated for clarification that this is not a rehearing request of a rehearing but is a request for a rehearing of the June 12<sup>th</sup> meeting. Once the Board granted a rehearing from the first decision then it is a completely new hearing. This is a proper request for the meeting of June 12<sup>th</sup>.

Riendeau reviewed the different points for the petition to rehear. One of the points noted was that the storage of the ammunition doesn't match up with what the request of the original application was of having an assembly of firearms and consulting business. The petitioners do not believe the storing of the ammunition falls into that category or in Home Industry.

Riendeau read from the petition. (F) "...The applicant clearly stated that the purpose of having ammunition stored on his property was to permit him to sell ammunition off site at gun shows that he might attend." (H) "The storage of ammunition for off site sale at gun shows poses safety and Health hazards contrary to Section 402.1 (3)." (I) "The storage of ammunition for off site sales is not a feature 'normally associated with residential use' contrary to Section 402.1 (3).

The petition also noted that the storage of ammunition for off site sale at gun shows is not a "home occupation" or "home industry" as defined in the Town of Chesterfield Zoning Ordinance. Riendeau went back to the definition in the ordinances for "home occupation". The definition reads on page 52 of zoning, "Any use by a resident occupant which is customarily incidental or accessory to the residential use, may properly be carried on entirely within a dwelling or other accessory structure to a dwelling unit, and which use is clearly incidental and secondary to the use of the dwelling..." Riendeau stated the ammunition storage isn't going to overtake the residence and he doesn't see how it violates the home occupation definition on its own.

Riendeau read (K) “The storage of ammunition for off site sale at gun shows is so far removed from the allowed assembly of firearms which can not be test fired on site that there is no reasonable or logical basis to permit the storage of ammunition”.

Riendeau asked if there is anything in the request for rehearing in terms of new information that the Board did not consider during the meeting and deliberation the first time. If there were that would constitute a rehearing. If you don't see anything new in the request the rehearing would be denied.

Riendeau asked Larkin if he is familiar with the case. Larkin advised he attended the first meeting in March and the rehearing request from that decision in May; however, he was not a voting member on the application. Perkowski asked Larkin if he recalls if there was discussion regarding ammunition and Larkin stated yes there was discussion on ammunition.

Riendeau stated that the angle Bentley is bringing to the Board is did the Board take it into the context of the Home Occupation that the storage was separate from either the consulting business or assembly of firearms in relation to the ordinance. Riendeau stated he knows that there was discussion regarding storage for ammunition but was it considered separately.

Is there enough information that was not considered in the previous applications? It was noted that there was to be no public testimony at this meeting. Perkowski stated that the Board had discussed storing a larger amount of ammunition using a bunker facility. He stated that anyone could store anything, as long as it is not HAZMAT material without a home occupation. He does not see anything new here. Everything has been covered at the last two meetings on the application.

Fales stated that she had always considered the sale of weapons would also include the sale of ammunition. Larkin agreed. She stated that in the June 12<sup>th</sup> meeting the State law was read and there is no regulation regarding storage of ammunition. Perkowski stated that only the Federal government regulates the sale of ammunition and it would require a Federal license. Fales stated that Hodgkins is being responsible in using a storage bunker instead of putting it in the bedroom closet. Perkowski guessed that probably 75% of homes in this county store some sort of ammunition. Fales stated she does not see anything new here.

Riendeau stated the request brings a unique position for the request to rehear but stated that there is nothing that the Board didn't understand was going to happen on that site. He does not agree with the angle that the storage of the ammunition since the off site sales of ammunition would not qualify on its own for a home occupation. Riendeau quoted from (M) “since the on site storage of ammunition for off site sale at gun shows would not qualify on its own for a Special Exception to conduct a home occupation or home industry it should not be permitted as a separate and distinct business ancillary to the permitted assembly of firearms business since there is no reasonable basis to link the two.”

Riendeau stated that Fales had just stated that she did link the two, firearms assembly with ammunition sales. Perkowski stated he didn't think you would have one without the other. The government has always linked it together ever since they required a license. Riendeau stated that the original request did not note the sale of ammunition but was for the assembly

of firearms. Perkowski stated that the sale of firearms goes with ammunition. He stated that he thinks the only way to sell is at your place of business or at a registered trade show.

Riendeau stated the storage of products from a home business or home occupation whether it is sold on the premises or sold at other sites is customary to a home occupation. Right now we are talking ammunition but in his mind he thinks of pottery but they could have it out in local stores for sale or anyone who is making a product, maple syrup products. These can be distributed in a lot of different ways. He believes the distribution of product from a home occupation outside the property is a customary and usual avenue to sell product. Of course what these people don't like is that ammunition is not the same kind of thing because ammunition is not pottery. But it is a product from this type business and the Board did come to the conclusion that it did fit as a home industry and that they did meet the requirements of the home industry. Riendeau stated that looking at the ordinance, which he had read again tonight noting the definition of a home occupation. The Board had been diligent about going through the criteria at the previous hearing and he doesn't see the argument that would require the Board to rehear this application.

Ross asked if Hodgkins hadn't come for a home business and he wasn't doing any sort of manufacturing on his property at all but was just going to guns shows and was storing ammunition on his site to sell would he have to come to the Board at all? Perkowski stated that he wouldn't. Riendeau thought that he would because of the ATF requirements and that is why is he came to the Board in the first place. Perkowski stated they came because of the home occupation and assembly of firearms. He believes that storage of ammunition would not require a permit. Sales of ammunition require he be registered with the government. Perkowski agrees Hodgkins could sell ammunition without having a home occupation. Riendeau stated that some part of the Federal Firearms license caused him to come to the Board. Perkowski stated that in order to manufacture you would have to have a legal location to do so.

Riendeau stated he is comfortable with the previous decisions and does not see anything that would require rehearing the application.

*Perkowski moves to deny the request for a rehearing for lack of any new information. The items that were brought up in the request for rehearing were adequately covered the first two times the Board reviewed the application. We do not see anything out of the ordinary and it meets all the criteria for a home occupation.*

*Fales seconded the motion, which carried unanimously. (5-Yes: Perkowski, Fales, Larkin, Ross & Riendeau)*

**Adjournment:** The Board adjourned at 7:35 p.m.  
Respectfully submitted,

Carol Ross  
Secretary

Approved:

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Burton Riendeau  
Chairman  
Zoning Board of Adjustment  
Date: \_\_\_\_\_