

**TOWN OF EPSOM
PLANNING BOARD MEETING
Epsom Fire Station, 1714 Dover Rd, Epsom, NH
February 14, 2024, 6:30 PM**

PRESENT

Kathy DesRoches, Chair
Bob McKechnie, Vice Chair
Cheryl Gilpatrick, Board of Selectmen Representative
David Goulet, Member
Betsy Bosiak, Member
Dan McGuire, Member
Sean Heichlinger, Member

ALSO PRESENT

Jennifer Riel, Recording Secretary
Laura Spector-Morgan, Esq., Town Counsel
Jason Johnson, resident
Meadow Wysocki, resident
Patricia Rhodes, resident
Steven Rhodes, resident
Meadow Wysocki, resident
Virginia Drew, resident
Bill Acheson, resident
Lisa Acheson, resident
Roger Leroux, resident
Trish Leroux, resident
Michael Keeler, applicant

CALL TO ORDER

Chair DesRoches called the meeting to order at 6:33 PM.

AGENDA REVIEW

Ms. Gilpatrick added update for the escrow balances.

MOTION: To accept the agenda as amended. Motion by Ms. Gilpatrick. Second by Mr. McGuire. Motion passed unanimously.

Michael and Karen Keeler, 22 Spring Street, Map R01-30-9INT1

Mr. Goulet recused himself from this portion of the meeting.

Chair DesRoches stated the public hearing for this case was closed at the meeting of January 10, 2024. The Board met with Town Counsel to discuss this case.

Ms. Bosiak read the Findings of Fact into the record:

Michael Keeler has applied for site plan approval for a home business. The proposed home business is the sale and manufacturing of guns and gun parts. Mr. Keeler argued strongly that he required a variance for the proposed use; however, the Planning Board finds that no variance is required, and it grants site plan approval for a home occupation. In so doing, the Board finds and rules as follows:

1. Michael Keeler, along with his wife, owns property located at 22 Spring Street in Epsom. The property is identified in the tax records as Map R1, Lot 30-09 INT1, and is located in the Residential/Agricultural District.
2. Mr. Keeler has applied for site plan approval to operate a home business from his residence. On his Business Inquiry Application, he stated that his intended use is “Gun Dealer with a level 07 Federal Firearms License¹. I intend to use the license to the fullest extent possible which can include selling NFA² level weapons including machine guns, sawed off shotguns, silencers and any explosive devices allowed by the license.”
3. He also offered several conditions of approval:
 - a. Customer pickup/delivery of firearms may occur only by appointment, Monday through Friday, 9 am to 3 pm.
 - b. Only one customer pick up may be scheduled per week.
 - c. Customer firearms cannot be loaded at any time during the transfer.
 - d. No discharging of customers’ weapons on the property except in the case of self-defense.
 - e. The Epsom Police Department shall perform all necessary inspections.
 - f. No business signage is permitted on site.
 - g. No firearms packages may be delivered on site without recipient’s signature.
 - h. The manufacture or sale of ammunition is prohibited.
4. In his Business Permit Application, Mr. Keeler described the business as “Gunsmithing of firearms, transfer of firearms from seller to buyer upon completion of required ATF³ and/or background check. Manufacturing components from raw materials.”
5. Mr. Keeler’s site plan application provided no further information on the proposed use; however, he did submit an e-mail dated November 30, 2023, in which he stated “The proposed business is for selling firearms and sporting goods. I will be utilizing the internet and trade shows for sales. There will be no over-the-counter sales of firearms out of the home. No one will be coming to the home for pickup of guns as all orders will be shipped, with the exception, if a customer chooses a Federal Firearms license transfer. It would only be occasionally when a customer would come to the home to pick up a gun. There will be no manufacturing, reloading, or selling of ammunition. There will be no discharging of firearms on the property, excluding self-defense. The ATF needs me to get town approval before they can process my application.”
6. The Board heard a public hearing on January 10, 2024. At that hearing, it became abundantly clear that Mr. Keeler does not have an actual plan to open a firearms business at his home. His answers to questions were evasive, inflammatory, and, at times, unbelievable.
7. Mr. Keeler represented at the hearing that “manufacturing” of firearms that he will do will most likely be done by 3-D printing; however, he has not yet purchased the printer,

¹ Hereinafter referred to as “FFL.”

² NFA is the acronym for the National Firearms Act.

³ ATF is the acronym for the Bureau of Alcohol, Tobacco, Firearms and Explosives.

and does not know how much noise it may create. He testified that he proposed to sell firearms accessories such as holders, flashlights, knives, and silencers. He indicated that the firearms business would be contained mostly within his existing workshop, which is enclosed and part of the house. He represented that there would be no employees other than himself and his wife, and no more than one business vehicle used for storing his tools and equipment. He testified that advertising would be by word of mouth, FFL listings, and internet sales.

8. Home Occupation is defined in the Epsom Zoning Ordinance as the “[u]se of a dwelling by the resident owner or tenant for a customary home occupation such as dressmaking, hairdressing, home day care, teaching, or the offices for real estate, insurance, engineer, doctor (other than veterinarian), dentist, architect, lawyer, or other recognized profession similar in scope and impact.”
9. Home Occupations are permitted in the Residential/Agricultural Zone pursuant to Article III, K of the Epsom Zoning Ordinance.
10. Home occupations, by their very nature, allow uses in the Zone that would not otherwise be permitted because they are done on a small scale. For example, while retail establishments and manufacturing are not permitted in the Zone, a dressmaker clearly manufactures and sells apparel. Likewise, professional offices require a special exception in the Zone; however, real estate, insurance, engineer, doctor, dentist, architect, and lawyer offices are permitted as home occupations.
11. What is a customary home occupation has evolved over the years since the definition of home occupation was adopted over 50 years ago. Specifically, the Board finds that, in 2024, selling goods via the internet is a customary home occupation.
12. The Board also recognizes the objections expressed by the public to the nature of the proposed home occupation—the manufacture and sale of firearms. However, RSA 159:26 prohibits the Planning Board from treating the manufacture and sale of guns any differently than the Board would treat any other product, such as dresses.
13. Therefore, the Planning Board concludes that even if Mr. Keeler will be manufacturing or selling firearms, that use may be permitted as a home occupation.

Ms. Spector-Morgan noted customers can have firearms other than the ones in the transaction and the Board discussed whether that would be limited. Mr. McGuire noted that condition was offered by Mr. Keeler and the Board agreed to leave it.

Mr. McGuire suggested adding a condition specifically addressing noise. He distributed data from the Center for Disease Control regarding noise, for review by the Board. After discussion, the Board agreed to add the condition. Mr. McKechnie stated he is concerned this approval is allowing manufacturing in a residential zone. Ms. Bosiak noted this is on a small scale, same as a “dressmaker.”

MOTION: With these limitations in mind, and fully cognizant that the site plan approval goes with the property, the Planning Board approves the site plan application submitted by Mr. Keeler to operate a firearms business as permitted by FFL 01 and FFL 07 at his home, subject to the following conditions:

- a. *Customer pickup/delivery of firearms may occur only by appointment, Monday through Friday, 9 am to 3 pm. No over-the-counter sales may take place, nor*

may any sales be made to anyone visiting the property for any reason who does not have an appointment with the business.

- b. Only one customer pick up may be scheduled per week. A customer is defined as an individual. A group or club is not a single "customer."*
- c. Customer firearms cannot be loaded at any time during the transfer.*
- d. No discharging of customers' weapons on the property except in the case of self-defense.*
- e. The Epsom Police Department shall perform all necessary inspections.*
- f. No business signage is permitted to be displayed on site.*
- g. No firearms packages may be delivered on site without recipient's signature.*
- h. The manufacture or sale of ammunition is prohibited, other than manufacturing ammunition for Mr. Keeler's personal use.*
- i. No sustained noise greater than 70db measured from the property line may be created by the manufacturing of guns and gun parts. Manufacturing of guns and gun parts is limited to Monday through Saturday, 9 am to 5 pm. There shall be no noticeable noise created by the home occupation outside of those hours.*
- j. No employees other than Mr. Keeler and his wife may be employed by the business.*
- k. Only one registered and inspected business vehicle may be parked on the property.*
- l. The applicant must obtain and maintain all other required town, state and federal permits and licenses to conduct the business.*
- m. No changes shall be made to the exterior of the property related to the home occupation.*

Motion by Mr. McGuire. Second by Mr. McKechnie. Discussion: Ms. Gilpatrick noted during the public hearing it was stated by Mr. Keeler that the work would be done by just himself and his wife and there would be no employees. This was added to the Findings of Fact. Chair DesRoches stated at the meeting of January 10, 2024, two Board members were not present. Ms. Bosiak stated she feels she can vote on this case; she has reviewed all the materials presented, the meeting minutes and believes she has a good understanding of the case. Mr. Heichlinger stated he has done the same and feels comfortable making a decision on this case.

Motion passed 6-0-0.

Mr. Goulet rejoined the Board.

OLD BUSINESS

Approval of Minutes

Meeting of January 24, 2024 – Edits were made. **MOTION: To approve the minutes as amended. Mr. McGuire. Second by Mr. McKechnie. Motion passed unanimously.**

Master Plan

Chair DesRoches stated she wants to complete the Master Plan and Site Plan done this year and keep it a priority. The Board agreed.

Ms. Gilpatrick shared an email sent to Central New Hampshire Regional Planning, outlining all the changes that were submitted by the Board, but have not been made to the Master Plan. She also requested a status update, and this will be scheduled for the next meeting. She stated the updated chapters are also not posted yet.

Escrow Balance Summary

Ms. Gilpatrick distributed a summary of the escrow balances for review by the Board. Mr. McKechnie noted the Site Plan for Country Campers expired in March 2021 and no building permit was obtained. Ms. Gilpatrick stated the escrow will need to be returned. She stated some of the items will take some research to determine who the refunds should be sent to.

MOTION: To close the escrow accounts for AV Bedford, S&R Properties, 603 Sports Complex, and return the funds to the property owners. Motion by Ms. Bosiak. Second by Mr. Goulet. Motion passed unanimously.

MOTION: To send a letter to Country Campers indicating the Site Plan has expired as it has been beyond two years, and the time to request an extension has expired, and to return the escrow balance. Motion by Ms. Bosiak. Second by Mr. Goulet. Motion passed unanimously.

NEXT MEETING

February 28, 2024, 6:30 PM – Epsom Fire Station Meeting Room.

Vice Chair McKechnie adjourned the meeting at 8:07 PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary