

**TOWN OF EPSOM
PLANNING BOARD
1598 DOVER ROAD
EPSOM, NH 03234**

NOTICE OF PLANNING BOARD APPROVAL

Mike 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. Mike 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

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.

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, 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.
14. 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.

Dan McGuire moved to approve the decision. Bob McKechnie seconded the motion. The motion was approved by unanimous vote.

Date: February 20, 2024

Kathy DesRoches
Kathy DesRoches, Chair

Any person aggrieved by this decision may appeal it pursuant to RSA 677:15 and/or RSA 676:5 within 30 days of the date of decision.

