

Shaftsbury Development Review Board

November 18, 2020

Call to order

The meeting came to order remotely via the teleplatform Zoom at 6:04 p.m. Present were Board members Tom Huncharek (chair), Lon McClintock, Mike Day, and Tedd Habberfield; presenters Art Coons and Eamon Mulligan; citizens Ellen Vaine and an identified caller. Also present was zoning administrator Shelly Stiles.

Conflict of interest

No one reported a conflict of interest with any item on the agenda.

Minutes

Mr. Huncharek moved to accept the minutes as published. Mr. Day seconded the motion. Mr. McClintock noted that the profession regards “wastewater” as one word, not two; that in the description of the vote on the deliberative session, a count of 5-0-0 rather than the accurate 4-0-0 was recorded; and that he preferred a locution such as “unanimous assent to adjourn” to signal the end of the meeting. Upon roll call vote, the amended minutes were approved 4-0-0.

Hearing, application #20-0095, Parcel 01 01 38, 1046 Shaftsbury Hollow Road, owner Art Coons, request for a permit for a home occupation -- selling and repairing firearms

Mr. Huncharek swore in Mr. Coons, reading to him and receiving his assent to the Interested Persons Oral Testimony Oath.

1. Mr. Coons described himself as an engineer and mechanical designer with a special interest in firearms. He has owned gun shops in New York State and Pownal. He hopes to open a gunsmithing shop open by appointment only. Repairs would be the focus, but he would occasionally act as the middleman between a distributor such as GunBroker, the Ebay of guns, and individual purchasers. He is approaching retirement, and he sees this endeavor as a possible supplement to his retirement income, as well as an enjoyable activity.
2. He would devote about one-half of his full basement to his gunshop. That space has a separate entrance via a Bilco door. He has a four-car parking lot. When his shop is open, it would hold only the customer’s car and Mr. Coons’s personal vehicle.
3. Someday he may build a garage and move his business into one half of the garage, leaving the rest for his wife’s vehicle.
4. Mr. Coons described the federally mandated process of transferring ownership of a gun to an individual, which involves a face to face meeting, the showing of a license, the completion of a form 4473 (which Alcohol, Tobacco, and Firearms – ATF -- uses to track transfers of gun ownership), and an FBI check.
5. Only those with a Federal Firearms License (FFL) are permitted to act as such a middleperson. Mr. Coons must secure the concurrence of the municipality (hence this hearing) before he can apply for a FFL for his address at 1046 Shaftsbury Hollow Road. The process of receiving a FFL will take several months. All firearms and related materials, especially paperwork tracking all transactions, would be perennially subject to audit by ATF.
6. He will use hand tools to do repairs. He will use as a cleaning agent Happy’s #9, sold at Walmart in quart containers. He will purchase oils and greases in very small, e.g. two ounce, containers.
7. He will test his repairs by shooting at the Hale Mountain Rod and Gun Club, where he is secretary on the board. He has a private range at his Shaftsbury Hollow home, but out of concern for his neighbors, he only shoots “suppressed.” He will have nearly no occasion to shoot his repair work suppressed because 99.9% of the guns he will work on will not have the threading that holds the suppressor. Suppressors are very expensive and are regulated similarly to machine guns and short rifles by the National Firearms Act.

8. He said he might replace a barrel, but he doesn't have the tools and is not interested in re-boring barrels. He will buy after-market stocks.
9. He would be glad to return to the DRB to request changes to the permit should his plans change.
10. He described his security system. All his weapons, his and others, would be stored in gun safes. His home has 24/7 battery backup, wireless and landline security with cameras and motion detectors, and double locks. Several neighbors serve as watchpersons.
11. All records would be kept in the basement workspace. (ATF requires that records be kept separate.) The ATF does not conduct safety inspections. So far as he knows, no entity does.
12. Mr. Coons plans on laying down crusher stone on the pathway from the driveway to the Bilco door. Someday he may pave the driveway, and he would pave the pathway at that time as well.
13. He will need to place a light beside the door, but not one so bright as to disturb the animals he and his wife feed in the front yard.
14. He may sell ammunition, although it is very expensive. If he does carry it, it will be stored in a fireproof container. He is a reloader, but selling reloads requires a special license and paying an excise tax. He doesn't want to pursue that option.
15. Ellen Vaine, of 176 Hollow Hide-a-way Road, asked to speak. Mr. Huncharek swore her in. She asked Mr. Coons if he would be doing any test shooting on his private range. (She occasionally hears him target practicing.) He said any weapon that couldn't be suppressed would be tested at the Rod and Gun Club.
16. He knows nothing of muzzleloaders and will not be repairing them. He would accept the condition that no testing be conducted unless it was suppressed. Ms. Vaine was content with this condition.
17. Other than scopes, sights, or other optics, he will not sell hunting equipment or gun cases. He will transfer the gun shipping containers to the customer.
18. He will not purchase for resale from a manufacturer. Minimum purchase requirements are beyond his financial capabilities.
19. Mr. Huncharek noted that bylaw 4.2.2.f. vi limits the items that can be sold in a home occupation setting. He asked Mr. Coons to provide a list of what he intends to sell so the DRB can better assess his request. He will send that list to the ZA in time for the December 2 DRB meeting.
20. Until he retires, the business will be very part time. He will accept appointments only Friday afternoon through Sunday. He will inform ATF of these intentions as well. He doesn't plan to retire for about ten years.
21. He will put up a small sign by the back door. If nothing else, it will be required to prove to ATF that his is a legitimate business.

Mr. Huncharek moved to recess the hearing to December 2, 2020 at 6 p.m. Mr. Day seconded the motion, which upon roll call vote passed 4-0-0.

Final subdivision plat approval, application #20-0069, Parcel 16 23 02, owner Bennington College Corp., 170 Matteson Road: to subdivide a 67.04 acre parcel into two lots, lot 1 at 57.04 acres and lot 2 at 10.00 acres.

Mr. Eamon Mulligan of MSK Engineering presented the final plat, with changes made as required by the DRB. They include (from the preliminary plat approval document):

1. The name and address of owner is to be added to property owner block, and the preparer's name and professional stamp shall be added.
2. The easements described in "Survey Notes" will be depicted on the plat. (Additional easements were described in the survey notes and located on the plat where possible.)
3. The approximate location of the proposed residence will be illustrated on the plat.
4. The isolation zone for the proposed well will be depicted on the plat.
5. The plat shall contain the following statement: "The subdivision regulations of the Town of Shaftsbury are a part of this plat, and approval of this plat is contingent upon completion of

all the requirements of said regulations, excepting only any variances or modifications made in writing by the DRB, and attached hereto."

6. The identifying number and date of approval of all applicable state and local permits, including the town subdivision permit number, shall be recorded on the plat.

Ms. Jan Blair, who had called in, asked to speak. Mr. Huncharek swore her in, reading to her and receiving her assent to the Interested Persons Oral Testimony Oath. Ms. Blair asked if any new materials had been received after November 4. Ms. Stiles responded "no." She said she was glad the well isolation zone had been moved. She asked that her presence be noted in the minutes.

Mr. Huncharek moved to close the hearing on final subdivision plat approval, application #20-0069, Parcel 16 23 02, owner Bennington College Corp. Mr. McClintock seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to enter private deliberative session on the referenced application. Mr. McClintock seconded the motion. Upon roll call vote the motion passed 4-0-0.

Mr. Huncharek moved to exit private deliberative session. Mr. Day seconded the motion. Upon roll call vote, the motion passed 4-0-0.

Mr. Huncharek moved to approve the referenced application with conditions as captured in the minutes. Mr. McClintock seconded the motion. Mr. McClintock noted that deliberative session comments were not recorded, and suggested that the motion should be amended to "moved to approve the referenced application with the condition that the applicant receive a final wastewater and potable water supply permit consistent with the plat presented to the DRB." Mr. Day seconded the amendment. By roll call votes, first the original and then the amended motion were approved 4-0-0.

Review of proposed revision to bylaw and subdivision regulations: dog kennels and boundary line adjustments

Mr. Huncharek shared his concerns with board members. The proposed kennel bylaw offers no guidance, no boundaries to the DRB on how to review applications. The state rule is vague. Without objection, it was agreed that Mr. McClintock will reach out to Second Chance Animal Shelter to see if there are industry standards that could be applied.

Mr. Huncharek said he would like to see the section on boundary line adjustments in the Subdivision Regulations pulled out as its own section, and the requirements for the plat simplified and made more relevant to BLAs.

Without objection, he will share both thoughts with the Planning Commission.

Other business

Mr. McClintock reported that he and Mr. Habberfield would be getting together via Zoom to discuss the Rules and Procedures Saturday morning this week.

Mr. Day said members of Rotary had expressed deep concern over using Zoom, as, they said, it is a Chinese company and uses Chinese servers. He will try to confirm that is the case and get back to the board.

Adjournment

Mr. Huncharek moved to adjourn at 8 p.m. Mr. Day seconded the motion, which passed by unanimous assent.

Notes by ZA Stiles.