

Hopkinton Zoning Board of Adjustment
Minutes
June 3, 2008

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of Tuesday, June 3, 2008, at 7:00 PM in the Town Hall. Members present: Harold Perkins, John Boatwright, and Charles Koontz.

Due to the fact that only four members were present, Chairman Krzyzaniak began the hearing explaining that a vote of three members is necessary to decide in favor of any application before the Board. Chairman Krzyzaniak gave the Applicant the opportunity to postpone review until all five members were present. Following brief discussion, the Applicant agreed to move forward with a four member Board.

Chairman Krzyzaniak then gave a brief outline of the Rules of Procedure that will govern the hearing.

I. Application(s):

#ZO2008-07 Michael Briggs: Request for a SPECIAL EXCEPTION to operate a training and consulting business as a Home Business specializing in firearm safety and proficiency. The property is owned by Lorenca Rosal Trust, located at 769 South Road in the R-4 (residential/agricultural) district, shown on Tax Map 253 as Lot 21. The application was submitted in accordance with Table of Uses 3.6.A.7 and paragraph 3.7.3 of the Hopkinton Zoning Ordinance.

Mr. Briggs began his presentation clarifying the language in the notice of the hearing, stating that there will be no discharge of fire arms at the property. Mr. Briggs is a member of the Pioneer Club in Dunbarton and other clubs in the area where he can teach clients on how to safely discharge firearms.

Mr. Briggs is a veteran of the U.S. Army where he was operations and training specialist and a member of the Military Police. In addition, he has an extensive resume on the subject matter of firearms.

Mr. Briggs reviewed the standards for Special Exception in accordance with Section 15.8.2 of the Hopkinton Zoning Ordinance.

1) Standards provided by this Ordinance for the particular use permitted by Special Exception.

"The use is permitted by Special Exception per section 3.6.A.7 of the Hopkinton Zoning Ordinance."

2) No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

"Use of space above the garage at the home address will not cause any hazards. The home business will not involve use of toxic or explosive materials."

3) No detriment to property values in the vicinity or change in the essential characteristics of the neighborhood on account of the location or scale of buildings and other structure, parking areas, access ways, odor(s), smoke, gas, dust or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

“There will be no visible or physical impact on neighboring properties. The home business will take place in space that presently exists above the garage.”

- 4) No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

“We would receive clients by appointment only. No traffic safety hazard or substantial increase in the level of traffic would occur. I estimate three to five visits per week.”

- 5) No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

“There will be no increase in demand whatsoever having to do with the office.”

- 6) No significant increase of storm water runoff onto adjacent property or streets.

“There will be no impact whatsoever as the office space above the garage already exists.”

- 7) An appropriate location for the proposed use.

“The proposed new use fully complies with the Zoning Ordinance use and dimensional requirements.”

- 8) Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.

“This is a rural five acre property with building not visible from the road. I do not see how the use of the office space would entail any impact.”

- 9) In the public interest and in the spirit of the Ordinance.

“New England Tactical offers comprehensive training that specializes in firearm safety and proficiency. Our clients include professional law enforcement and law abiding citizens. We also do consulting work that includes technical advice for the movie industry, as well as promoting firearms events and competitions in the New England area. We carry a line of defensive safety equipment that includes holsters, high intensity flashlights, non-toxic frangible ammunition and pepper spray.

My articles on firearms training have appeared in nationally published magazines such as *Guns&Ammo*, and *Combat Handguns*, and my events have been featured locally in the *Concord Monitor* and *Union Leader* newspapers.

During my twelve years of living here in Hopkinton, I've been asked by parents on several occasions to teach their children about the dangers of unsafe gun handling. Most of these parents were non-gun owners who wisely wanted to make sure that their children were 'inoculated' in the event that they encountered unsafe behavior from others.

The home office that I'm applying for would receive clients only, by appointment, and that would be on a very limited basis that I estimate to be about three to five people per week.”

Mr. Briggs advised of conversations he has had with residents in the neighborhood and his agreement to stipulations as requested by residents.

Attorney Robert Miller addressed the Board on behalf of residents in the neighborhood. Attorney Miller advised of the following stipulations that have been agreed upon by Mr. Briggs and abutters:

1. "There will be no on-street parking on South Road, either by clients or visitors to any home business approved at 769 South Road, or by residents or tenants of 769 South Road;
2. There will be no signage for the home business visible from any portion of the public right of way on South Road; and
3. There will be no discharge of live rounds, blanks, or any other ammunition at 769 South Road by any clients or customers of any home business approved at 769 South Road. This provision is specifically intended to prevent any audible effect of the home business on the neighborhood, and to limit risk to neighbors and others who use South Road for recreational purposes."

Mr. Koontz inquired as to the proposed hours of operation. In response, Mr. Briggs stated that while he will most likely be writing in his office late into the evenings his clients will be seen from 9 AM to 5 PM, Monday through Friday.

Chairman Krzyzaniak inquired as to whether the stipulation preventing no on-street parking is intended to affect Mr. Brigg's ability to have a private home party in which those attending may need to park along the street. Attorney Miller replied no, suggesting that the language could be revised to read as follows: "There will be no on-street parking on South Road, either by clients or visitors to any home business approved at 769 South Road, or by residents or tenants of 769 South Road that may be displaced by such customers or clients."

Mr. Perkins questioned whether the stipulations are intended to prohibit Mr. Briggs from being able to discharge firearms on his property. Attorney Miller replied no, indicating that it is Mr. Briggs' constitutional right to be able to discharge fire arms on his own property.

Robert Reno of 1128 South Road addressed the Board as an abutter in favor of Mr. Briggs' application. Mr. Reno operates a home business at his property which includes a sign located at the street advertising his architectural business. Mr. Reno discussed the benefits of being able to work from home. He believed operating a business from your home is being environmentally responsible.

Martin Kashulines of South Road addressed the Board in favor of the application. Mr. Kashulines noted his preference that the shooting of firearms occurs at professional shooting clubs. He stated that his experience with Mr. Briggs is that he is very safety conscious, noting that he had the opportunity to join Mr. Briggs at the shooting club in Dunbarton.

Chairman Krzyzaniak explained that the Planning Board will address issues involving parking, so that there should not be any need for parking of clients' vehicles along the street or backing out onto the street. In addition to parking, the Planning Board will determine whether additional screening of Mr. Briggs' property is necessary.

Mr. Briggs readdressed the Board agreeing to the stipulations proposed by the residents. He further stated that he has no plans for any signage at the street.

Natalie Duval of South Road concurred with Mr. Kashulines in that any discharge of fire arms should be done off premises. Mr. Briggs concurred stating that any training that does not involve the discharge of firearms will take place at the property, noting that training could include the use of a plastic gun.

Board members discussed clarifications to the intent of the home business which does not include a request or the contemplation of the firing of any firearms or use of a loaded firearm at 769 South Road.

Charles Wetterer of South Road requested that Mr. Brigg comply with the hours of operation that have been indicated to the Board. Furthermore, he noted that he is opposed to any signage that may be visible from South Road.

At this point in time, Chairman Krzyzaniak welcomed students of the Hopkinton High School civics class. She asked the students to relay to their teacher her interest in viewing their reports.

Following brief discussion concerning the stipulations agreed upon by Mr. Briggs and interested neighbors, a motion was made by Mr. Koontz, seconded by Mr. Boatwright, to vote on the application which is to include the stipulations as agreed upon and the clarification of intent of the home business. Stipulations and clarification as follows:

1. There will be no on-street parking on South Road, either by clients or visitors to any home business approved at 769 South Road, or by residents or tenants of 769 South Road that may be displaced by such customers or clients;
2. There will be no signage for the home business visible from any portion of the public right of way on South Road;
3. There will be no discharge of live rounds, blanks, or any other ammunition at 769 South Road by any clients or customers of any home business approved at 769 South Road. This provision is specifically intended to prevent any audible effect of the home business on the neighborhood, and to limit risk to neighbors and others who use South Road for recreational purposes;
4. This request to operate the home business does not include a request or contemplate the firing of any firearm or the use of a loaded firearm.

Motion carried unanimously (Koontz, Boatwright, Perkins, and Krzyzaniak). The Applicant adequately addressed all nine points to be granted a Special Exception in accordance with Section 15.8.2 of the Zoning Ordinance.

II. Review of the Minutes and Notice of Decision of May 6, 2008.

Mr. Boatwright, seconded by Mr. Koontz, moved to approve the May 6, 2008 Minutes and Notice of Decision as presented. Motion carried unanimously.

III. Adjournment.

Motion made by Mr. Perkins, seconded by Mr. Koontz, to adjourn at 8:05 PM. Motion carried unanimously. The next scheduled meeting of the Board is Tuesday, July 1, 2008, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning/Zoning Director

Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.