

**TOWN OF NORTHAMPTON  
ZONING BOARD OF APPEALS  
February 27, 2013**

The Town of Northampton Zoning Board of Appeals held their regular meeting and Public Hearing on Wednesday, February 27, 2013. The meeting was called to order by Chair Skotarczak at 7:05 p.m. in the Municipal Building, 412 South Main St., Northville, NY.

**PRESENT:** Chair Amanda Skotarczak  
Deputy Chair: Thomas Corrigan  
Members: Jeff Daum and Heidi Darling  
Excused: Bruce Backer and Alternate member: Heather Simpson

**ALSO PRESENT:**  
Matthew Ginter: Code Enforcer  
Supervisor: Linda Kemper  
Walter Santucci, Matthew Jacobs and Antoinette Santucci

**RECORDING SECRETARY:** Elaine Mihalik, Town Clerk

Chair Skotarczak led the Salute to the Flag

**MINUTES:** Member Darling motioned to approve the September 26, 2012 meeting minutes as presented by the Town Clerk/Secretary, seconded by Deputy Chair, Thomas Corrigan, and passed by, 4-Ayes: Skotarczak, Corrigan, Daum and Darling 0-Nays

**COMMUNICATIONS:**

\* Hudson River/Black River Regulation District letter dated 2/12/2013 regarding Case #2013-01

\* Information was received regarding a fence permit for Timothy Cox Jr.

Chair Skotarczak: Has anything more been dropped off by Timothy Cox Jr., then what we had previously?

Elaine Mihalik, Town Clerk: The only that has transpired with Mr. Cox is that he has picked up at my office the new application that has to be filled out. I have not received anything since that time.

If we do get the completed application in time we will schedule him for the next meeting.

Chair Skotarczak **Opened the Public Hearing at 7:06 p.m. for Case #2013-01:**

The legal notice was posted on 2/11/2013 for Case #2013-01:

**APPLICANT:** Walter Santucci, 518 Bunker Hill Road, Mayfield, NY 12117

Parcel #59.4-2-4 at 518 Bunker Hill Rd, in the Town of Northampton, Fulton County, NY

Provisions to the Town of Northampton Zoning Ordinance: Schedule A – Retail or Service Establishment

**PROPOSED:** Gunsmithing and Retail.

All interested people will be heard for or against the above variance application, which is available for review at the Town Clerk's office, 412 South Main St., Northville, NY.

(518)-863-4040 ext 22, Amanda Skotarczak, Chair, Town of Northampton Zoning Board of Appeals

Chair Skotarczak: Is somebody requiring you to have a Retail permit?

Walter Santucci: In order for me do my Gunsmithing Home Occupation. If I sell parts to people, now, it's retail. That is why I am here.

Deputy Chair Corrigan: It has nothing to do with a Federal License?

Walter Santucci: Well no, I just want to make sure I cover all of my bases, to the letter of law.

Deputy Chair Corrigan: What a major home occupation is, it does appear to me that you are intending to operate within that.

Walter Santucci: Yes, I am. I was granted a buyer but with Retail sales the Code Enforcer suggest applying for a Major Home Occupation permit.

Deputy Chair Corrigan: You don't need a variance to do the Major Home Occupation.

Walter Santucci: it was under the advice of Code Enforcer, Matthew Ginter.

Code Enforcer, Matthew Ginter: The reason why I made the determination was if you look **at #7 on page 25. Retail sales ( ) prohibited except those that are incidental to a product that is created or service provided. If he was preparing a gun and a site was broken. He could sell him the site.** But, Mr. Santucci made it clear, that he at some point perhaps he would like to sell accessories.

Chair Skotarczak: He would have to be repairing a gun to sell a stock or a scope.

Matthew Ginter: Which that is not incidentals to the product. That's retail. If that is what he wants to do, to sell more than what is under #7.

Deputy Chair Corrigan: The problem with that is, that is not the intent in the Zoning Law, to allow a retail store in that zone. You are looking at going beyond what is allowed. You know what you are allowed to do. Say you sell your house to Walmart tomorrow and Walmart starts to build a store there because this board issued this variance.

Chair Skotarczak: Do we have to issue a variance for a retail establishment? Can we issue him a variance to the "Major Home Occupation" to allow him to sell incidental retail?

Deputy Chair Corrigan: It flows with the property though.

Supervisor Kemper: To issue a use variance, he would have to meet the criteria.

Deputy Chair Corrigan: A use variance is almost impossible to grant.

Matthew Ginter: If Mr. Santucci kept it to repairing guns, he would be allowed in the zone as a Major Home Occupation under the restrictions. That is why I asked Mr. Santucci to write a letter stating exactly what he wanted to do. He has written buying and selling firearms. He might take one in and resell it. My interpretation is that is retail, selling guns. That is not a product or service provided. Like repairing a broken stock; or broken scope; or changing a barrel; or somebody wanted to upgrade a gun. Those would be allowed under Home Occupation but branching off and maybe selling ammo.

Deputy Chair Corrigan: All he would have to do is consider that as incidentals.

Matthew Ginter: If you consider that as incidentals then it's allowed.

Deputy Chair Corrigan: If you're good with it, I'm good with it.

Chair Skotarczak: What do you think of your gross sales? What percentage would be for somebody coming in off the street just to buy a stock for example?

Mr. Santucci: I won't be having any big signs with advertising saying anything about that. It will basically be a small sign and it you won't be seeing it from the road.

Mrs. Santucci: It will be more word of mouth with friends and family.

Deputy Chair Corrigan: I think the solution is to consider all that stuff and keep it incidental. That way there is no variance involved and it's just up to you and you keep it incidental. The problem is if the board grants the variance and you sell the property, like I said you could put up a Walmart.

Matthew Ginter: I have no problem with that. I just didn't want to see him get in a bind later when he is trying to sell more things. It would be in violation.

Deputy Chair Corrigan: Mr. Santucci needs to understand that he is not in a retail zone and you can't grow a retail business there for retail incidentals for fixing guns.

Chair Skotarczak We don't want to discourage Home Occupation. I don't think that most people are going to think come to Bunker Hill Road.

Mr. Santucci: there's not going to be a sign like Walmart. If it gets to that type of a situation I'll just take it from there and take it somewhere else. I've done this once before in Burnt Hills. I was working a full time job and it was hard for me. I'm retired now and I need something to do.

Supervisor Kemper: The problem I have is I would like to know about your citing a gun and shooting a gun. I do live there and it is very close to my home. My dog goes into a spasm attack. I do have a problem if you are going to do something like that.

Heidi Darling: I know someone who cited in his guns, he did it in his basement.

Mr. Santucci: To discharge a gun. You have to be 500' from any home or dwelling. That's the law.

Matthew Ginter: At this point, correct me if I'm wrong. I'm going to have Mr. Santucci fill out another "Major Home Occupation", and approve it based on current zoning?

Deputy Chair Corrigan: Yes. I think that is the wisest way to go because we can do what he wants us to do.

Matthew Ginter: Is this under any kind of a special use thing or does it expire at any time? This there any inspections or is this a one time thing and it's done.

Heidi Darling: We're not doing anything, so how can you put a condition on it.

Jeff Daum: There is no time line on it.

Heidi Darling: You just fill out a different paperwork.

Jeff Daum: It's just if you get really huge you move to a different location.

Deputy Chair Corrigan: Do you do inspections on a Commercial building?

Matthew Ginter: Yes. I wouldn't consider that a Commercial establishment.

Deputy Chair Corrigan: Why not? The public is walking in.

Matthew Ginter: If home occupation is considered commercial...

Heidi Darling: Then we're in trouble.

Deputy Chair Corrigan: Home Occupation is a zoning term. In prospective to the building code you're supposed to inspect areas that are Commercial areas, areas that are used by the public for the purpose of protecting it. Is that correct?

Matthew Ginter: Or places of gathering. I inspect annually or every three years.

Deputy Chair Corrigan: Anyone with a Home Occupation should get an inspection once in awhile.

Matthew Ginter: Technically.

Supervisor Kemper: Would they get a permit?

Deputy Chair Corrigan: They don't need a permit.

Supervisor Kemper: How would he know who has a Home Occupation?

Deputy Chair Corrigan: The same way there is not permit for the Village Pizzeria.

Chair Skotarczak: Wouldn't somebody who opens an eatery like that need a permit? They get inspected by the DOH.

Matthew Ginter: Our Town Board adopted legislation in 2009 enforcing the States recommendation in 2007 to conduct fire inspections. There is a whole section on operating permits. When I issue a year end with the Federal Government it does ask me if the Town of Northampton issue Operating permits. I put in "no". Legislation in 2009 says we're supposed to. We don't issue it even though we say we do. If a new business comes into the town, they get an operating permit.

Heidi Darling: But we've never done that.

Matthew Ginter: We never had to. It's says that we are suppose to based on the law. Everything we have is pre-existing.

Deputy Chair Corrigan: Probably something to think about is to answer this question. Should we be looking at Home Occupations from the 2007 code perspective?

Matthew Ginter: Absolutely, should they be issued an operating permit as a Home Occupation and then you can set standards of a renewal every 5 years. Say in 5 years from now he has tree stands in there. I'm saying, where is the checks and balances?

Deputy Chair Corrigan: The ordinance the Town passed does it require you to inspect Commercial buildings every three years?

Matthew Ginter: If they hold more than fifty, it's every year. If it's not, then it's not more than every three years. New York State adopted legislation in 2007 after the Rhode Island night club incident. Our Town adopted it in 2009. This is why I started this year doing town wide inspections of any place of business - churches, bars, restaurants.

Deputy Chair Corrigan: Places of assembly basically. Could the town have chosen an annual safety inspection?

Matthew Ginter: Sure, you can do it. The Florist you can inspect every three years because no one comes in and sits down. If I inspect a bar or a restaurant and they are not compliant, I can contact the DOH and they can close them down.

Discussion ensued on inspections and regulations.

Chair Skotarczak: I think that it's a good idea in general any time we have a Home Occupation that you keep a record of them.

Matthew Ginter: For Mr. Santucci the ATF will be watching him. But certain situations there wouldn't be that type of a regulation. This is something we need to discuss as a Zoning Board for the future establishments. Are we going to start issuing Operating permits? We passed a law saying that we are.

Chair Skotarczak: Mr. Santucci you will have to fill out a new permit with the Code Enforcer.

Mr. Santucci: We've already paid for this permit. Do we have to pay for another?

Matthew Ginter: I don't have a problem with it.

**Chair Skotarczak closed the Public Hearing at 7:25 p.m. for Case #2013-01**

The next Zoning Board of Appeals meeting will be held Wednesday, March 27, 2013 at 7 p.m.

Timothy Cox Jr. application is pending. He will need a completed application 3/12/2012 and a survey of his property. Matthew Ginter will check on the road frontage with the County.

Deputy Chair Corrigan: If it's a County issue then let the County deal with it.

### **New Business**

Matthew Ginter: We are starting to see more Solar Panels. There is a big one on Seven Hills Road.

Heidi Darling: They have to call you if they want to put a Solar Panel in?

Matthew Ginter: Absolutely. An electrical inspection is required. Set backs are an issue. What are our regulations on this? I don't want somebody to come get a permit and we end up with a monstrosity that you can see from the lake. We need to know, what are we calling this? Is it going to be a secondary structure if it's a certain size? The one I inspected has 3' sono-tubes in the ground. They are twice the size of a house trailer.

Deputy Chair Corrigan: There was someone in Colonie who did do this. The Town had an ordinance that said that you can't install a ground mounted collectors and the owner did it anyway. It ended up in court and the Town lost.

Heidi Darling: Maybe we should ask Moncia the consultant from River Street.

Matthew Ginter: Edinburg has lakefront residential property and they are very strict with what is allowed in that zone. There are only three uses, a house, a secondary structure like a garage and a shed. That's it.

Heidi Darling: What about if they put solar panels on the roof of a house? Is there anything you do about it?

Matthew Ginter: Perhaps, I don't know.

I just making this board aware of it because NYSERTA is give huge rebates. Page #15 talks about solar energy systems. Pages #19, 136 and 169 are the pages where solar is mentioned. We need to determine, is it a secondary structure if it's beyond a certain size?

Jeff Daum: When you go to put up a sign there is a certain dimension.

That is a question for Monica.

Matthew Ginter: I will be talking with the APA tomorrow and I am going to ask as far as the APA wise if they have any restrictions.

Chair Skotarczak: Ask what they are allowing.

Supervisor Kemper: Ask, Do they have guidelines on them?

Matthew Ginter: In our local zoning we have restrictions on, no one primary structure on a property.

Discussion ensued on the payback on the unit over time and of solar panels.

Chair Skotarczak: The Town Board decides our policy

Deputy Chair Corrigan: We need to talk with Monica to get some guidance on this.

Having no further business come before the board, Member Daum made a motion to **adjourn** the meeting at 7:43 p.m., seconded by Member Darling and passed by,  
4-Ayes: Skotarczak, Daum, Corrigan, and Daring                      0- Nays  
Respectfully submitted,

Elaine Mihalik  
Secretary/Town Clerk