



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
Louis J. Costanza, Member
Scott M. Savage, Member

**Hopedale Zoning Board of Appeals
Meeting Minutes
July 27, 2022**

Chairman Christopher P. Hodgens called the Zoning Board of Appeals (ZBA) public meeting and public hearing to order on July 27, 2022, at 7:00 pm. Meeting was held in the Town Hall Draper Room, streamed live via Zoom and on Hopedale Cable Access. Participation was made available through the following Zoom link:

Join Zoom Meeting

<https://us02web.zoom.us/j/89428044314?pwd=SUFVVmo3V2UydVRoN014a3cyT2tHZz09>

Meeting ID: 894 2804 4314

Passcode: 439560

Recorded meeting can be found on the Town of Hopedale website under meeting videos.

Members that were present:

Christopher P. Hodgens, Chairman
Nicholas A. Alexander
Sandra E. Biagetti
Scott M. Savage
Louis J. Costanza

Mr. Hodgens indicated that all members of the ZBA were present. For the convenience of those present and listening via zoom, Mr. Hodgens announced that the Plain Street / Rosenfeld Concrete public hearing was being continued into September at the request of the applicant. The purpose of the continuance was to allow the Board of Health an opportunity to review the proposed development. He said that he would read from the letter from counsel for the applicant at the end of the meeting. Mr. Hodgens said that he was announcing this continuance at the beginning of the meeting so that people joining the meeting would not be waiting around until the end only to hear there was going to be a continuance. He also mentioned that he will refer to a couple of letters received by residents. Mr. Hodgens invited people to remain at the meeting if they wished, but there will be no substantive action taken on the project tonight. Mr. Costanza asked to see the letter from the Board of Health. Mr. Hodgens said that he read excerpts from the Board of Health letter at the last meeting. Mr. Hodgens looked through the paperwork and said that he did not bring it this evening, but he will look further during the meeting.

Mike Follo and Arms Group LLC (Case # 6-2022)

Mr. Hodgens called the case of Mike Follo and Arms Group LLC and asked if anyone was present on behalf of the applicant. Mike Follo answered present. Mr. Hodgens introduced members of the ZBA, opened the public hearing, explained the process, and outlined the procedural posture of the application. Mr. Hodgens said the zone is General Business A where retail sales of many products are allowed. Retail sales and manufacture of firearms are not expressly allowed under the Hopedale Zoning By-Laws. The catchall category for other products requires a special permit. Mr. Hodgens invited Mike Follo to present the application.

According to Mr. Follo, the retail sales is part of “one-stop shopping” in connection with his firearms training school in Shrewsbury. He explained the manufacturing aspect is actually modifying firearms. Firearms are heavily regulated. Manufacturing is the word that federal regulations use to describe modifications.

Mr. Hodgens asked about the hours of operation. Mr. Follo said that he would be looking for 10 a.m. to 8 p.m. daily.

Mr. Hodgens invited ZBA members to comment. Sandra Biagetti asked if there would be a shooting range in connection with the business. Mr. Follo said there would not be a range. Nicholas Alexander asked about the number of customers. Mr. Follo said that it would not be a high-intensity business. The primary focus is to be a “one-stop shop” for students at the firearms school. Ms. Biagetti asked again about the volume of business. Mr. Follo does not anticipate a lot of traffic from walk-in customers.

Mr. Hodgens made reference to the Hopedale Assessors field card. The property is part of a plaza with other businesses and contains ample parking. The lot is 1.26 acres.

Ms. Biagetti asked about security. Mr. Follo said that firearms will be stored in a safe. There is an alarm system in the building. Mr. Hodgens asked if he spoke with the police chief. Mr. Follo said that one of the instructors had done so.

Scott Savage asked about the process of ATF inspection. Mr. Follo explained the process of obtaining ATF approval. ZBA approval and a lease are required to complete the approval process. Part of the process involves consultation with the Chief of Police to determine what additional conditions will be required for operation of the business. Louis Costanza confirmed that the police chief had been notified and was not opposed to the proposal.

Mr. Hodgens asked if any members of the public who were present would like to be heard. Charles Lee, who lives across the street from the property, raised concerns about the nature of the business and asked why Hopedale would be selected as the location rather than Shrewsbury. A lengthy discussion followed, and Belinda Charles joined the discussion. She expressed concern about the location and the intensity of business along route 140, the proximity to 495, and the overall security as it impacts residents nearby. Mr. Follo said that the business is heavily regulated. He is not required to sell firearms to anyone. He has the discretion to decline if he believes there is an issue. Following up on the concerns expressed by the Lees, Mr. Hodgens asked if Mr. Follo had been turned down by another community. Mr. Follo said that he had not been turned down. He selected Hopedale after meeting the owner of the property and believing that the location would be a good fit for the business. He said Hopedale is a “happy place” and appears very family friendly.

Mr. Hodgens asked about the square footage of the proposed business. Mr. Follo said there is 700 square feet available on the ground floor and an additional 700 square feet for storage. Retail sales will be limited to the 700 square feet.

Mr. Lee asked again about sales of firearms and the ability of people to modify weapons. Legal firearms may be rendered illegal by modifications. Mr. Follo said that all modifications have to be legal and that modifications are for the comfort and convenience of the owner – not to make the weapon more lethal. Mr. Hodgens asked about adding large capacity feeding devices. Mr. Follo explained the detailed regulations limiting such devices.

Ms. Biagetti added that media accounts of shootings have left the impression that modifications are for the purpose of creating assault weapons. She said that it is her experience that modifications are simply for the purpose of enabling the owner to be comfortable with the use of the firearm. Modifications can be a good thing and can render the weapon safer. Mr. Follo agreed. Mr. Costanza emphasized that modifications are not for the purpose of creating a sawed-off shotgun.

Mr. Hodgens asked for comments from people on zoom. Michaela Kellogg, of Green Street, said that she appreciated the great questions asked by the ZBA and wanted to follow up. She said that the fact that the questions had to be asked at all demonstrates that these weapons are inherently dangerous, and we should not be considering this type of business at all in Hopedale. Mr. Follo emphasized that there is a rigorous process for acquiring firearms. Only the local police can authorize people to purchase firearms. His business will not make the community less safe.

Heather Lewis, of 17 Bens Way, asked about the security measures. Mr. Follo said there will not be a large inventory, and a safe will contain all the firearms. The building is equipped with an alarm. Cameras will likely be added as well. Rolling steel or bars will be added to glass windows. There are also storage regulations that have to be followed. He wants to exceed the security required.

Belinda Lee emphasized the changes in Hopedale over the past 20 years. There is more truck traffic, police activity, and development. She said there are activities going on that she believes are not legal in her neighborhood. As a nurse, she is concerned about the proliferation of pot shops around town. She is concerned about the future of Hopedale and the location of the business. Mr. Costanza added that it is easier to buy marijuana than firearms.

Mr. Hodgens said that if there are any illegal activities going on, residents should not hesitate to call the police. If there is a suspected zoning violation, then there is a process to address that as well. He invited residents to review the ZBA website for an explanation of the process for zoning complaints. The complaints will be reviewed and addressed. That is what the ZBA and Building Commissioner are here to do.

Mr. Hodgens then explained the process of obtaining a special permit. He said the ZBA has broad discretion, but that discretion is not unbridled. The ZBA is bound to follow the General Laws and the Hopedale Zoning By-Laws. He then read each of the requirements for obtaining a special permit. He said the ZBA does not act as a five-headed Caesar, giving thumbs up or thumbs down to whatever proposal that comes before the board. Instead, the board is bound to apply the law. The personal feelings of ZBA members should not come into play. He gave the example of the marijuana sales. Mr. Hodgens voted against the issue at Town Meeting, but once a member of the ZBA, he had to put his personal views aside and apply the law and ultimately approve the projects. Mr. Hodgens then walked through all the standards for issuing a special permit. The checklist does not allow for personal likes and dislikes.

Mr. Hodgens asked if there were any conditions that could be imposed to address some of the concerns of residents. Ms. Lee said that as a nurse she is pleased with firearms training, but she is still concerned about why Hopedale. She said that Milford is at the bottom of the list for firearm licenses in the state, and Hopedale does not even rate on the list. Mr. Follo said that he has two young children. He appreciates the concerns about children. He said that he is subject to criminal penalties if he fails to follow regulations.

Mr. Lee asked why are we here if there is so little discretion to issuing the special permit. Mr. Hodgens said the ZBA actually has “wide discretion,” but it is not unbridled discretion. The ZBA cannot “run roughshod” over applicants who have property rights that are protected. The ZBA cannot refuse to issue a special permit for a retailer who wants to sell cigarettes just because there is a personal dislike of cigarettes. The ZBA has to follow the law as given to us by the elected Legislature and as approved by Town Meeting. There is wide discretion, but it is not unlimited. If a special permit is denied, there must be a rational basis for doing so. It is not enough to say, “I have a gut feeling” or “I don’t like firearms.” Also, the ZBA does not have the final say. There is a right of appeal if people are not satisfied with ZBA action. Courts have the final say and can review the work of the ZBA. Mr. Hodgens emphasized that his remarks are not intended to steer members to vote one way or the other. He said each member of the ZBA has an equal vote, and 4 of 5 votes are needed to issue a special permit. The “super majority” is needed because the very fact that a special permit is needed suggests that there is something unusual about the proposed use of the property. It is entirely appropriate for residents to say “we have to take a closer look at this.”

Ms. Lee said there is a daycare in the neighborhood. Mr. Follo said there are limitations on locations based on schools. Mr. Alexander asked about the 700 square feet. Mr. Hodgens said that the limitation could be a condition. Mr. Alexander said that was his intention in asking. Mr. Alexander believed the limitation requirement may address some concerns of residents about the unknown scale of the business. Mr. Hodgens said that makes sense to insure a Cabella-type business doesn’t spring up in in the plaza. Mr. Follo said that if the business grows to such a scale, he will be finding a larger location. Mr. Follo also said that he would not oppose such a condition and wants residents to feel comfortable.

Mr. Hodgens said that this hearing shows two things. First, it shows how much people care about this town. He was not expecting anyone to be in attendance. Second, it shows the wisdom in the judgment that a special permit was in fact required under the Hopedale Zoning By-Laws. We are not dealing with mere sporting goods. Clearly, the proposed use is not one contemplated without hearing input from residents and giving everyone an opportunity to be heard. At the request of Ms. Lee, Mr. Hodgens reread the pertinent section of the Hopedale Zoning By-Laws.

Mr. Costanza moved to approve the application.

Mr. Hodgens said that he will address the motion in one moment, but first he wanted to close the public hearing after everyone had a chance to be heard.

Mr. Hodgens addressed the Lees because they are the residents most impacted by this proposed use. He asked if there were any conditions that would be helpful in addressing the concerns they raised. He asked about the hours. Ms. Lee said it is a retail space. She was concerned about the manufacturing. She is not a fan of the sport. Mr. Lee said that he is a little less optimistic. He has seen the traffic and many incidents in the area that give him reservations about the location. He understands the right and need for commerce but wonders if the revenue from commerce is offset by negative impacts. Mr. Lee said that he worries about what happens with firearms. He said that firearms fall into the wrong hands with frequency.

Mr. Hodgens said that perhaps a condition that the applicant comply with all state and federal law would help. Mr. Hodgens emphasized that because we are not writing the law, there is only so much that the ZBA can do to address all of the concerns raised. Mr. Alexander asked about someone presenting a fake identification. Mr. Follo explained the process of acquiring a firearm including instant background checks by the Federal Bureau of Investigation.

Ms. Lee asked about meetings of students. Mr. Follo said that he holds training classes, not meetings. Mr. Follo said that people often have reservations about firearms, but they take classes on safety and have a better understanding.

Tim Watson, of 120 Mill Street, offered an observation that Hopedale has an existing firearms retailer in town. He believes the Hopedale Police buy firearms from the local company. Members all agreed there is a retailer that operates unobtrusively. Firearms are already being sold in town.

Mr. Alexander raised the issue of signage. Mr. Follo said that he will use existing signage. Arms Group LLC is the intended name (rather than something more provocative). Mr. Hodgins read from the sign by-laws.

Scott Savage read from a comment on zoom seeking to limit hours of operation. Mr. Hodgins asked Mr. Follo about the hours. Mr. Follo said the limitation proposed by the zoom comment would effectively shut the business down. Ms. Biagetti agreed with Mr. Follo that the hours must be convenient for customers. Mr. Follo said he doubts the hours of operation will be an issue. He will not operate to the maximum allowed. He just wants some flexibility as he gets the business going.

Mr. Hodgins said that he would close the public hearing unless there were objections. No objections were made. The hearing closed.

Mr. Hodgins outlined the conditions that had been discussed. Mr. Savage discussed an additional condition about security cameras. Following a discussion, all agreed that the Chief of Police will be able to address the specific security needs. Mr. Savage said that he would be satisfied with the conditions set forth by the Chief of Police.

Mr. Alexander emphasized that signage must not change. Ms. Biagetti said that appears to be the proposal.

Ms. Biagetti said that we have a pistol range in Hopedale available 24 hours a day. She could not recall any incident in connection with that facility. Standards of security and education tend to make such facilities among the safest. Mr. Follo said they pride themselves on safety.

Mr. Hodgins then read through each of the requirements for a special permit and asked any ZBA members to raise objections if they believed any of the requirements were not satisfied (use in harmony with by-laws, all requirements met, use will not have detrimental effect that outweighs benefits, master plan not a factor, use will not endanger public safety, off-street parking, water and sewer not an issue, traffic and pedestrian safety will not be put in jeopardy).

Mr. Hodgins returned to the motion of Mr. Costanza and outlined the following conditions that had been discussed:

1. Compliance with all state and federal law.
2. Hours of operation daily from 10 a.m. to 8 p.m.
3. Retail sales area limited to 700 square feet.
4. Compliance with any conditions imposed by Hopedale Chief of Police.
5. Signage will be limited to existing signs at the property (allowing for appropriate name changes).

Mr. Hodgens asked Mr. Costanza if he was incorporating those conditions into his motion. Mr. Costanza confirmed that he was doing so. Mr. Savage seconded the motion.

A roll call vote followed on the motion:

Scott Savage	yes
Nicholas Alexander	yes
Sandra Biagetti	yes
Louis Costanza	yes
Christopher Hodgens	yes

Mr. Hodgens declared the motion had passed unanimously, and a special permit would issue.

Mr. Follo asked that the language in a letter he received from ATF be incorporated into the special permit. Mr. Hodgens read the language aloud and said that would not be a problem and would be included because that is what has been discussed. Mr. Follo thanked ZBA members for the time they put into the hearing and expressed his appreciation for the fact that members came to the meeting just to hear his application.

Mr. Hodgens discussed correspondence received. He said that on July 25, 2022, the ZBA received identical letters dated April 23, 2022, from neighbors John and Patricia DePietropolo (198 Laurelwood Drive) and Sandra and Michael Farrer (202 Laurelwood Drive). Both expressed support for the Plain Street project because the revenue will help offset taxes on residents. Mr. Hodgens thanked the residents for sending the letters.

Mr. Hodgens said that the ZBA received a letter from Attorney Joe Antonellis. Attorney Antonellis said that he was informed that the Board of Health would not be meeting until August 18, one day after the ZBA meeting. The timing of the meetings would prevent the ZBA from hearing from the Board of Health. Therefore, Attorney Antonellis was requesting on behalf of GFI that the public hearing be continued into September. This hearing date would give the Board of Health an opportunity to review the materials and provide input to the ZBA.

Mr. Hodgens said the next meeting date that month would be September 21 at 7 p.m. Mr. Savage made a motion to continue the public hearing to that date and time, and Mr. Alexander seconded the motion. Following a voice vote, Mr. Hodgens declared the motion passed unanimously. Mr. Hodgens then announced the continuance to that date and time at the Town Hall and via zoom.

Mr. Hodgens emphasized the continuance for those watching via zoom. He said there will be no hearing in August on the Plain Street matter. The hearing would continue into September to provide the Board of Health with an opportunity to review the matter.

Mr. Hodgens said the High Hopes litigation has officially come to an end. He said that he mentioned it at the last meeting, but the dismissal has now entered. Mr. Hodgens explained the history of the case. High Hopes appealed a condition of a special permit issued by the ZBA. That appeal entered in the Land Court. That appeal has now been dismissed. Mr. Alexander asked about the impact of the dismissal. Mr. Hodgens said that it means the litigation is now over, and the condition imposed by the ZBA stands. All litigation against the ZBA is now over.

Mr. Hodgens said that he is attempting to put all of this information on the website. There are four decisions that were voted on last week and have been memorialized in writing. The decisions will be posted on the website as soon as the information technology issue is resolved. Meeting minutes have also been completed and will be posted. Other information for residents will also be posted.

Mr. Hodgens said there will be two matters on for the August 17 hearing date. One will be 18 Westcott (accessory apartment) and the other is unspecified relief for 25 Freedom Street (adding a residence).

Mr. Hodgens said that he received a call from an individual yesterday. The individual expressed an interest in meeting with the ZBA relative to a 40B development. Mr. Hodgens asked the individual to send an email asking to be placed on the agenda for the next meeting.

Mr. Savage made a motion to adjourn. Mr. Costanza asked again about the Board of Health letter. Mr. Hodgens checked his phone and indicated that the letter had been forwarded to all members of the ZBA, but he would be happy to send it again to Mr. Costanza. Mr. Hodgens read from the concluding paragraph of the letter. Mr. Costanza asked if the letter was on Board of Health letterhead. Mr. Hodgens said that it was. Sandra Biagetti seconded the motion to adjourn. Following a voice vote, Mr. Hodgens declared the motion passed unanimously.

The meeting adjourned at 8:36 p.m.