

ZONING BOARD OF APPEALS
VILLAGE OF BUCHANAN
NOVEMBER 13, 2019

PRESENT: Gary Bell, Chairman
Marco Pinque
Ed Mevec
Stephanie Porteus, Village Attorney
Rosemary Martin, Secretary

ABSENT: Sal Bottiglieri (illness)
Mary Funchion. (vacation)

OTHERS: Marcus Serrano, Interim Village Administrator
James Lent
Brendan McGuigan
Mr. and Mrs. George Forman

CALL TO ORDER:

Chairman Gary Bell informed all attending of the fire regulations and led them in the Pledge of Allegiance. Chairman Bell called the regular meeting of the Zoning Board of Appeals to order at 7:00 p.m. on November 13, 2019.

APPROVAL OF MINUTES:

Marco Pinque, seconded by Ed Mevec, with all present in favor, made a motion to approve the minutes of October 9, 2019 as written. Motion carried.

CAL NO. 3-19-BZ: PUBLIC HEARING FOR SPECIAL PERMIT FOR HOME BASED
FIREARMS TRANSFER BUSINESS AT 117 BANNON AVENUE. (GEORGE FORMAN)

George Forman of 117 Bannon Avenue submitted an application for special use permit for home occupation consisting of a home based firearms transfer business at 117 Bannon Avenue.

Mr. Forman submitted the mailings of the notice of public hearing sent to those within 250 feet. It was noted that 24 notices were sent and 21 were returned. The notices were sent by certified mail, return receipt requested. The legal notice of public hearing was duly filed and published to consider this application. The certified receipts were submitted for the file. It was determined that adequate notification was made.

Marco Pinque, seconded by Ed Mevec, with all present in favor, made a motion to open the public hearing to consider the application of George Forman seeking a special use permit for a home occupation consisting of a home based fire arms transfer business at 117 Bannon Ave.

Mr. Foreman advised in New York State all transfers of ownership of firearms must go through someone who holds a class 01 Federal Firearms License. A firearm would be brought to Mr. Forman's home where he would record the serial number of the firearm as well as the sellers information including their name, address, driver's license number and Social Security number. He would then use the FBI proprietary software installed on his computer. He would run the

required background check using the FBI national instant criminal background check system on the buyer. Results would be known immediately.

Chairman Bell advised there is criteria that has to be followed. Chairman Bell read the list of uses allowed according to the Village Code Section 211-19(B).

- (1) The home occupation shall be carried on wholly indoors within a dwelling unit.
- (2) Not more than 300 square feet and in no case more than 20% of the floor area of the dwelling unit may be used.
- (3) There shall be no exterior storage of materials or equipment.
- (4) The home occupation must be operated only by a person residing in the dwelling unit.
- (5) There shall be no use of show windows, displays or advertising visible outside the premises to attract customers or clients other than one home occupation announcement sign, not more than two square feet in size.
- (6) No external alterations, additions or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.
- (7) The Building Inspector shall be permitted free access to the dwelling during normal business hours.
- (8) The special use permit shall be valid for a period of one year and may be renewed annually upon a showing that all the conditions of the original permit are still satisfied.
- (9) The following uses are the only uses eligible as an accessory home occupation: writer, seamstress, typist, crafts, word processing, tutor and such other similar uses that the Board of Appeals deems compatible with a residential district.
- (10) Among those uses not to be interpreted to be a home occupation are the following: clinics, hospitals, laboratories, group-care facilities, group homes, shelters and veterinarians.
- (11) No offensive odor, noise, vibration, smoke, dust, heat, light, glare or similar condition shall be produced by a home occupation.
- (12) Parking requirements for home occupation uses must be complied with.
- (13) A home occupation shall not be permitted on a lot where the dwelling also contains an accessory apartment as an accessory use.

Mr. Forman was advised that the use has to be compatible with the residential district. The parking requirements were discussed. Chairman Bell advised that the building inspector will check the premises and, if warranted, the special permit can be renewed. Renewal is required every year.

Chairman Bell asked if anyone was present to speak for or against the special permit. Two letters in favor of the special permit were received.

Piet Boonstra of 151 Seward St. was unable to attend the meeting and sent a letter stating he has no objection to Mr. Forman opening a business in his home to legally facilitate the transfer of ownership of firearms, and wishes him success in this venture.

John Harbolic of 141 Seward Street was unable to attend the public hearing and submitted a letter saying he has no issue with this at all. Chairman Bell asked if anyone was against the special permit. There was no one present who was against the special permit.

Marco Pinque noting the uses that are permitted, questioned whether or not this fits with the uses outlined in the code. Ed Mevec stated the code allows other similar uses that the Board

deems compatible with a residential district. Ed Mevec noted no firearms are being stored. He was advised that the client would come in, do the transfer and leave.

Chairman Bell asked Village Attorney Porteus if the decision and order can be written to make this clear. When asked how many clients Mr. Foreman expected, he stated probably two a month.

James Lent of 102 Sunnyside Place was present and in favor of the application. Chairman Bell stated the Zoning Board has to do due diligence. The firearms have to be locked and unloaded. Mr. Forman advised he has an 01 Federal Firearms License and with this approval he will get an 03 license so he can conduct this business. Marco Pinque asked are there other firearms transfer places in the area. He was advised there are several in Yorktown and Putnam.

Chairman Bell asked if there was anyone else who would like to speak. Brendan McGuigan of 118 Bannon Ave. stated he and his wife are employed by the New York Police Department. Doing a legal transfer is the preferred way to go and have a record of ownership. They support him.

Since there were no further questions or comments, a motion was made by Marco Pinque, seconded by Ed Mevec, with all present in favor to close the public hearing. Motion carried.

Section 211(b)(9) provides examples of eligible uses and allows the Board some discretion to deem a proposed use as similar and compatible with a residential district. As described by George Forman, his role, other than to make certain that any gun coming into the residence was locked and unloaded, was simply to make sure that all required paperwork was filed and that the transfer of the gun met all legal requirements. Thus, the Board members likened this use to those specifically permitted and described the use as an administrative transaction.

Marco Pinque made a motion to approve the Special Permit for 117 Bannon Avenue to allow a home based firearms transfer business subject to the following conditions: Mr. Forman will make certain that every gun being brought onto the property will be unloaded and locked, any buyer or seller will not be allowed to bring ammunition onto the property, and the permitted hours of operation for this home occupation use are 8 a.m. to 5 p.m., seven days per week.

The Board finds this use to be compatible with the uses listed in section 211-19 of the Zoning Code. Mr. Forman will be capable and responsible for legally transferring gun ownership from one person to another. As described by Mr. Forman, an individual gun owner will bring his gun into the house, unloaded and locked, and Mr. Forman will enter the proposed buyer's name and information into a federal database to make certain that the prospective purchaser is permitted to legally own a gun. Once Mr. Forman is certain that the purchaser is not prohibited from owning the gun, he will complete all necessary paperwork to legally transfer ownership of the gun from the seller to the buyer. The transfer will then take place and both the seller and buyer will leave the property. Ed Mevec seconded the motion with all present in favor. Motion carried.

George Forman was reminded that according to Village Code 211.19 (B), the special use permit must be renewed annually.

Village Attorney Porteus will prepare a decision and order for the Board's review.

ADJOURNMENT:

Marco Pinque, seconded by Ed Mevec, with all in favor, made a motion to close the meeting at 7:40 p.m. Motion carried. The next meeting is December 11, 2019.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rosemary Martin". The signature is written in black ink and is positioned above the printed name.

Rosemary Martin, Secretary