



TOWN OF VESTAL
ZONING BOARD OF APPEALS
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TOWN OF VESTAL
ZONING BOARD OF APPEALS

In the Matter of the Application of

Dick Pearsall
2924 New York State Route 26
Vestal, NY 13850
BCTMP #223.01-2-26

DECISION

For a Special Permit as required by Chapter 24, Article IV, Division 1, Section 24-154(a)(3) of the Code of the Town of Vestal, Broome County, New York (Zoning Ordinance)

At a meeting duly scheduled for July 14, 2022, the Zoning Board of Appeals of the Town of Vestal held a public hearing to consider the application of Dick Pearsall regarding premises situate at 2924 New York State Route 26, Vestal, NY 13850 (BCTMP #223.01-2-26) for a Special Permit as required by Chapter 24, Article IV, Division 1, Section 24-154(a)(3) of the Code of the Town of Vestal pertaining to a home occupation not specifically allowed or disallowed in an RR Rural Residence zoning district. Appearing in support of the request are Sarah Campbell, Special Counsel, Hinman, Howard & Kattell, LLP, and Dick Pearsall.

Proof of publication of the notice of the hearing in *The Town Crier* was submitted, and the Board's letter to the applicant in response to the application was read. The applicant submitted a package outlining the request.

Board members present: Clayton Ellis, Acting Chairman; Eugene Burns; Patrick MacPherson; and John Taylor. All Board members stated that they had visited the site and were familiar with the character and nature of the area and this property.

After due deliberation, the Zoning Board of Appeals makes the following findings of fact and conclusions of law:

The applicant is requesting a Special Permit to operate a gunsmith/gun repair business, a home occupation not specifically allowed or disallowed in an RR Rural Residential zoning district under Chapter 24, Article IV, Division 1, Section 24-154 of the Code of the Town of Vestal. Sarah Campbell said Dick Pearsall and his wife purchased the property at 2924 New York State Route 26, Vestal, New York 13850 about three months ago. Sarah Campbell described the business as a hobby that Dick Pearsall has been involved in for many years. She said there would be no signage

and no advertising. The business would rely strictly on word-of-mouth referrals and Dick Pearsall will interview each prospective customer to determine if he is comfortable doing business with the individual.

Dick Pearsall said typical services he provides – about once or twice a month – include modification of new guns, new sights, new hand grips, and repair of guns. He will also sell new guns if a prospective customer asks him for assistance in obtaining a specific gun. He said the equipment in his garage/shop would be minimal and that no guns, aside from his own guns, the ones he is working on, and an occasional gun he obtains for a customer, will be stored on the property. He does not reload ammunition and will not stock ammunition.

A Special Permit from the Zoning Board of Appeals is a prerequisite for Dick Pearsall to apply for necessary federal and state licenses.

John Taylor said that he feels very strongly that Dick Pearsall should contact Captain Christopher Streno of the Vestal Police Department so they can establish a relationship, and so that Captain Streno knows about the business. John Taylor has already spoken to Captain Streno. Dick Pearsall said that he will contact Captain Streno.

Dick Pearsall responded to several other questions from Board members. His responses were as follows:

- No weapons will be fired on the property.
- He has resided in South Carolina for the last 11 years having relocated from this area for work as a design engineer.
- He did not need a Special Permit when he operated a gunsmith/gun repair business in the City of Binghamton.
- He said he has never declined to do business with a prospective customer based on an interview, but that he would not hesitate to do so.
- The property at 2924 New York State Route 26, Vestal, New York 13850 does have an ADT alarm system.

Board members expressed concerns about accessing the property, which is at the crest of a small hill, in a 55-mph speed zone. They also asked for some clarifications on a Short Environmental Assessment Form that was submitted.

The meeting was opened to the public. Maria Allio, 2934 New York State Route 26, Vestal, New York 13850 asked if approval of the Special Permit would affect zoning. Board members said it would not. Pam Lulkoski, 2894 New York State Route 26, Vestal, New York 13850 said the previous property owner was discharging weapons on the property. She is also concerned about traffic safety. She was told that no guns would be fired on the property. Pam Lulkoski also inquired about the potential sale of the business and having the Special Permit transferred to a new owner. She was told the Special Permit is not transferrable.

Since a Short Environmental Assessment Form was submitted, Counsel indicated the Board should act as the lead agency and should vote on a negative declaration.

A motion was made by John Taylor to approve a negative declaration regarding environmental impact. The motion was seconded by Patrick MacPherson. A vote was called and:

The negative declaration was APPROVED by a 4-0 vote. The vote was unanimous, and votes were cast as follows: Acting Chairman Clayton Ellis-AYE; Eugene Burns-AYE; Patrick MacPherson-AYE; and John Taylor-AYE.

Therefore, in consideration of the above, and in balancing the factors of 1.) Whether an undesirable change would be produced in the character of the neighborhood or would be a detriment to the nearby properties; 2.) Whether the benefit sought by the applicant can be achieved by a feasible alternative; 3.) Whether the requested variance is substantial; 4.) Whether the requested variance would have an adverse impact on the physical or environmental conditions in the neighborhood; and 5.) Whether the alleged difficulty was self-created.

A motion was made by John Taylor to grant a Special Permit as required by Chapter 24, article IV, Division 1, Section 24-154(a)(3) for BCTMP #223.01-2-26 aka 2924 New York State Route 26, Vestal, New York to operate a gunsmith/gun repair business. Two conditions are attached: 1.) Dick Pearsall is to contact Captain Christopher Streno of the Vestal Police Department to establish a relationship and discuss the business; 2.) The business will be operated based on the facts as presented by Dick Pearsall, including obtaining the required federal and state licenses. The motion was seconded by Patrick MacPherson. The motion was seconded by Patrick McPherson. A vote was called and:

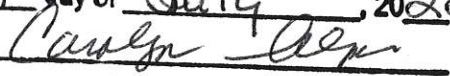
The request for a Special Permit is hereby GRANTED by a 4-0 vote. The vote was unanimous, and the votes were cast as follows: Acting Chairman Clayton Ellis-AYE; Eugene Burns-AYE; Patrick MacPherson-AYE; and John Taylor-AYE.

The Code Enforcement Officer is herewith authorized to take the necessary action to carry out the provisions of this Decision.

Dated: July 21, 2022

ZONING BOARD OF APPEALS
OF THE TOWN OF VESTAL

BY: 
Clayton Ellis, Acting Chairman

Subscribed and sworn to before me this
21 day of July, 2022

Notary Public

CAROLYN L ALMY
Notary Public, State of New York
Reg. No. 01AL6422753
Qualified in Broome County
Commission Expires 09/27/2025