

WEST SENECA COMMUNITY ROOM
1300 Union Road
West Seneca, NY 14224

WEST SENECA PLANNING BOARD
Minutes #2024-04
April 11, 2024

The meeting was called to order at 6:00 P.M. followed by the Pledge of Allegiance.

ROLL CALL:	Present	-	Margaret Bebak, Chairperson James Frick Timothy Hayes Christopher Holmes Dale J McCabe Eric Sailer Joe Sherman Jeffrey Schieber, Code Enforcement Officer Chris Trapp, Town Attorney
	Absent	-	None

APPROVAL OF PROOFS OF PUBLICATION

Motion by Bebak, second by Sherman, to receive and file the proofs of publication and posting of legal notice.

Ayes: All Noes: None Motion Carried

APPROVAL OF MINUTES

Motion by Bebak, seconded by Sailer, to approve minutes 2024-03 of March 14, 2024.

Ayes: All Noes: None Motion Carried

Motion by Bebak, seconded by Frick to open the public meeting.

Ayes: All Noes: None Motion Carried

OLD BUSINESS

None

NEW BUSINESS:

SPR2024-04

A request of Rebecca Morcio (Bieger) for a home occupancy use permit Section 120-64 for property located at 110 Dirkson Avenue.

Ms. Morcio has been a life long resident of West Seneca and recently applied for her Federal Firearms License (FFL) for firearms sales and transfers along with ammunition sales. She has completed the process for obtaining this license. The process involved a interview with the Bureau of Alcohol Tobacco, Firearms and Explosives (ATF) at her home for approximately four (4) hours. Her property will have 24 hour surveillance system. The office will be run out of her basement. She will have a relatively small online sale (approximately four (4) per month).

When a registered gun owner passes away she would handle the Estate's transfer of any firearms to the appropriate party properly license and according to the ATF procedures.

Mr. Sherman inquired about the transfer process of the possession of the pistol from beginning to end. Mr. Sherman's previous scenario was that the Police Department had to hold them until he was able to show them evidence that he had the proper documentation to be able to put them on his permit. Ms. Morico confirmed that she would be contacted once an individual has passed away and there is no appropriate party to legally have the firearms. Once in her possession she would lock them in one of the two (2) the basement office gun safes. Then would work with the customer/appropriate party for their background check and paperwork so they could legally take possession of the weapon. Upon proper evidence she would then finalize the transfer and the party can take their weapon.

The inventory of all firearms must be recorded in a book, by serial number. Ms. Morcio advised that the ATF has strict guidelines as to the information on each transfer or sale. The information must include: where the weapon is from, the party name, and the serial number and the date of either the sale or the transfer depending on the situation. This record is kept indefinitely for the ATF. For any new sales she is responsible for the background investigations. She already has a NYS NICS account set up for the background investigations for the purchase of ammunition. If the use permit is approved she then plans on having a NICS account set up through ATF for the complete background investigations. Mr. Sailer asked for confirmation that the security system for surveillance will include a central station burglar alarm that will be monitored. Ms. Morcio advised yes, federal law requires 24 hour surveillance and those recordings will have to be kept for two (2) years. Ms. Morcio confirmed to Ms. Bebak the recordings will be stored with the security company.

Mr. Hayes asked where in the process is the Applicant is and approximately how long before the business could be upon and running. Ms. Morico indicates she has been approved by the ATF and has her FFL and needs the approval from the Town and she believes within three (3) months the business will be up and running. This is the last step to get approval from the town to have a business operating out of her home. She is an avid hunter and already has her pistol permit and very familiar with of guns. The interview with the ATF was approximately four (4) hours long. There is additional training for the hiring of employees along with updates on the new laws and regulations and she will continue to educate herself on these topics. Right now, no additional employees other than herself and her partner. Mr. Hayes followed up for additional information on the safes. Ms. Morico confirmed they are anchored, are 5-hour fireproof and can hold maximum of 26 long guns, though she does not plan to have that many. They have their own guns in the house which also will be secured and locked up.

Ms. Bebak asked for a summary procedure for online sales. Ms. Morico anticipates that an order come in, or will be placed, the background check is done, once cleared then an appointment to come to the house and pick up their weapon. She will ensure the individual is properly permitted. Ms. Bebak wanted confirmation that ammunition is separate from firearms. The response was yes, everything must be kept separately and securely.

Ms. Morico further advised that ammunition will be sold online and can also be shipped. If the applicant of the order is cleared here in NYS and purchased is made with vendor in Maine, all background checks are in the same system. If the applicant wanted a firearm and ammunition that would not be duo transaction.

Emphasized all transactions are going to be by appointment and not going to be stocked in the house. This will be order on demand. The transfers based only on the situation such as a death as you cannot have a gun without a permit. Ms. Morcio confirmed for Mr. Holmes that she will not be doing gunsmithing or loading. She understands that there are educational classes, perhaps down the line, not right now.

Mr. Hayes wondered if the applicant looked into other facilities are already available in West Seneca and wondered if there is a need for this. Unbeknownst to the applicant when she applied for the business permit she was advised that there are a few others in West Seneca furthermore, believes there is a need. Ms. Morico confirmed to Mr. McCabe that she does not plan to sell reloading components such as powder.

The basement has glass block window for additional security. There are entrances on both the front and the side of the home and the side entrance will be used for the business. The security system will cover all entrances both the front, side and inside the house.

Is there any local or state ordinance for the close proximity to playground? Mr. Scheiber advised that there is nothing in the town's local law regarding the query made by Mr. Hayes. Town Attorney Mr. Trapp advised that the Department of Justice just today issued a final ruling on the definition of what constitutes being engaged in a business of firearms. As it was coincidental it just came out today and wanted the board to be aware. Mr. Trapp confirmed to Ms. Bebak that yes this fits the definition from the ATF. Mr. Sherman confirmed that it also fits the definition of the Town Code for home businesses. Mr. McCabe reiterated that the ATF is very vigilant in terms of monitoring those individuals with a FFL.

Questions from the public:

Bill Kruger – 80 Dirkson Avenue – Asked about partner and wanting more information about keys to house, keys to the safe? Safe are they regular gun safes?

Mr. Sherman confirmed that Applicant previously stated has gun safes that are locked, bolted to the floor and have fire protection.

Ms. Bebak did also ask the applicant for further information about the business partner, whether he lives in the house, and is authorized by the ATF.

Applicant confirmed yes authorized by ATF, Kyle Funk lived there two (2) years and also went through the process. ATF requires two (2) individuals as you cannot do this solely on your own. ATF requires a additional responsibility party to verify the paperwork. He will have access to everything. The applicant advised that her daughter also resides in the home. Everything will be locked and kept separate from each other in two different places. Mr. McCabe as if Mr. Funk has his pistol permit, which was confirmed yes. Additionally, her daughter also has her pistol permit. Mr. McCabe advised that thorough background checks would have been done in order to get the permits.

The house is in her name and so she applied as owner for the home use permit.

Chris Leo - 138 Dirkson Avenue – Wondered about friends in the house, other people in the home? Is the safe locked by key or combination? Where are those kept, can anyone come in the home to visit and get the keys or the combination.? Where is the safe located, is the combination written down somewhere, who has access to that? As this is a new business to get up and running, are you going to be doing any advertising? What type of clientele looking to bring in? Concerned about the location and close to the city of Buffalo line is a concern. Recently there has been break in with cars on Klas and Dirkson. What is surveillance?

Applicant advised that family does not have a lot of individuals over for visits. The safe has a combination and a fingerprint to open and the only fingerprints are of Rebecca Morico and Kyle Funk. No advertising and by appointment only and she can be looked up online ATF under the FFL section, her information will be available there only to contact her. There is no need for additional parking. She plans on selling on case by case basis, nothing stocked in the home. Ms. Bebak reminded everyone that Ms. Morico will be highly regulated and residents do have their gun permits that other residents are not aware of. ATF highly regulates these transfers. Ms. Morico will facilitate the transfer and the background checks only. Furthermore, Ms. Morcio will be monitored by the ATF, they will come to her house for inspections and to check inventory, books, paperwork. She also needs to protect herself. Mr. Sherman reiterated that central station will be alerted for the alarm does have a panic button for assistance if necessary.

Pete Quinn -111 Dirksen Avenue inquired about the similar questions that already had been asked (security system, safes and license). Ms. Bebak advised that the last step is the approval of the home use permit. Security not in yet, then she will get that. Furthermore Ms. Bebak advised that the ATF has already been to the house for the inspection.

Julie Fallon - 62 Dirksen Avenue how many guns onsite at all time? How much ammo onsite at all times? Applicant reiterated she will not have a store. Ordering upon request only, there will not be mass quantities. Ms. Bebak inquired about special fire alarming. Ms. Morcio advised that is all part of the security system.

Mr. Frick inquired if the ammo is in fireproof safe and Ms. Morcio confirmed, yes. Mr. McCabe reiterated that applicant said no gun powder stored or sold on the property.

A question was asked generally from the audience how many guns currently on the property, Mr. McCabe indicated that information does not have to be divulged as it is not part of the application. If you have a pistol permit you can request not to have this information disclosed to the public for security reasons. The safes are not only requirements but very stringent requirements for how the guns are stored and there could be criminal liability if they are not stored properly.

Motion by Ms. Bebak, seconded by Mr. McCabe to close the public hearing.

Ayes: All Noes: None Motion Carried

Motion by Mr. McCabe, seconded by Mr. Sherman for the recommendation approval of the home occupation use under 120-64 for the operation of an FFL license.

Ayes: All Noes: None Motion Carried

ADJOURNMENT

Motion made by Ms. Bebak, seconded by Mr. Frick to close the public hearing at 6:30 pm.

Ayes: All Noes: None Motion Carried

Kate Newton

Town Clerk/Planning Board Secretary