

## WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES

April 10, 2013

Vice-Chairman Scott Goldman convened the April 10, 2013 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Scott Goldman, Dane St. Clair, Mark Will, Tom Matteson and Brent Schrock. Gary Lefever was absent. Also present were Zoning Officer Thomas Zorbaugh, Zoning Hearing Solicitor Neil Albert, Court Reporter Brenda Pardun, Rod Witman, Linda Woodard, Laura Bowman, Ray Bowman, Barb Bowman, Glenn Bowman, David Clark, Ron Tropasso, David Covey, Andrea Covey, Sally Austin, Cain Austin, and Rosella Clugston.

**MINUTES APPROVAL:** On a motion by Goldman, seconded by Will, the Board voted unanimously to approve the minutes of the March 13, 2013 meeting as submitted.

**POSTING, PROOF OF PUBLICATION AND NOTICE:** The Zoning Officer confirmed the posting, notice and proof of publication of the case to be heard at this evening's hearing.

**HEARING PROCEDURES:** For the benefit of those present, the Zoning Hearing Solicitor explained the procedure to be followed for the evening's hearing.

**CASE #794, RODNEY WITMAN - SPECIAL EXCEPTION/VARIANCE:** The Vice-Chairman read the zoning notice received from Rodney Witman, 2057 Main Street, Lititz, PA 17543. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-14.C.(1), pertaining to a Home Occupation in a R-1 Residential Zoning District. The applicant would like to sell guns, gun parts and antiques from his home. A Variance of Section 340-78.F to allow the applicant to sell merchandise he does not produce is also requested.

The Vice-Chairman requested clarification of the zoning of the property. The Zoning Officer stated that the property is zoned Mixed Use and not R-1 Residential as advertised. He added that the same Special Exception provision for a Home Occupation applies in the Mixed Use zone under Section 340-16.C.(5). He noted that the applicable subsection for a Home Occupation remains unchanged (370-78.F as advertised).

Rodney Witman was sworn in. Witman testified that he is re-applying for a Federal Firearms License. He explained that he originally obtained a license in 2007. At that time, he did not want retail customers and sold guns only at gun shows and through internet sales. He explained that he had only been selling gun parts and long rifles, which do not require a Federal Firearms License, so he let the license lapse due to a bookkeeping issue. He explained that the new application requires applicants to be authorized to have retail sales of firearms from their property. He stated that he would like to limit retail sales of firearms to 2-3 per month since he operates from his home. He testified that he would like to obtain a Federal Firearms License since business has picked up and the number of guns he can sell per year is limited without a license. He added that he would like to continue with internet sales and gun shows, and limited retail sales from his home. Witman stated that his office is at the front of his home near the foyer, where he performs transfers. He explained that this is where his office had been for seven years. He added that he has approximately 10-15 firearms onsite for inventory and he does not intend to increase his inventory. Witman testified that he can provide 10 parking spaces on the property and outlined their location for the benefit of the Board. He explained that 1-2 spaces would be reserved for customers who

wish to do transfers. He added that he would have hours by appointment only (once or twice per week).

The Vice-Chairman reviewed the criteria under "Home Occupations" with the applicant for the benefit of those present. The Zoning Officer noted that the business was previously operated as a Limited Business since he was not going to have regular visitation by customers. Witman explained that the building contains 2 rental units in addition to his main use of the home and office. He stated that his home contains 3,200 square feet (2 stories), and the office area is approximately 10'x14'. He added that there are no other Home Occupations in the building. Witman testified that he would not deal in ammunition.

The Chairman inquired whether anyone present wishes to comment on the case. Laura Bowman, Ron Tropasso, Cain Austin, Linda Woodard, David Clark, Andrea Covey, and David Covey were sworn in.

Linda Woodard, 2 Picnic Woods Road, stated that her property is in close proximity to the Witman property. She inquired how the zoning change would affect property values. The Zoning Officer clarified that the zoning would be unchanged, and explained that the request is for a Special Exception which would allow a Home Occupation provided specific criteria is met. He added that a Variance of the listed criteria is being requested since he would sell merchandise. Woodard inquired whether property values would be affected. The Zoning Hearing Solicitor stated that all properties in the Agricultural, Rural Estate, R-1, R-2, Mixed Use and Local Commercial zones are permitted to request a Special Exception for a Home Occupation. He added that the Zoning Hearing Board does not govern property values.

David Austin, 2063 Main Street, stated that he owns Austin Dental Ceramics which borders the property. He stated that his biggest concern is over the number of parking spaces due to vehicles, boats, and other items currently using these parking spaces. He added that his business was required to have Handicap Parking Spaces although they are not technically open to the public. He noted that guests of the other tenants in the building sometimes use his parking area. He added that a shared drive provides the only access to the property and he is concerned over the flow of traffic. The Zoning Officer explained that the customer parking area would have to be marked if the use is approved. He added that the use would require handicap accessibility to the office area; however, handicap bathrooms would not be required. He noted that only 1 space would be required based on testimony that the use is by appointment only. Austin inquired how the Township would know that the provisions are being met. The Vice-Chairman explained that the provision would be complaint driven. Witman stated that he has been conducting the business for five years and added that most of the business is through the internet and gun shows. He added that he does not want retail sales from his home since he lives at the property and would like his privacy. He noted that if the ATF did not require the provision, he would not have asked for permission for retail sales from his home. The Zoning Officer stated that if the use is approved, residents in the area should contact him if they become aware of any violation of the conditions for approval. Will inquired how many customers per week currently come to the property. Witman stated that he has no customers coming to the home currently. He stated that the ATF changed their policy regarding licenses, and require that Applicant's have municipal approval for retail sales. Witman stated that 90% of his business would be brokering and gun shows. Matteson inquired whether Witman would be agreeable to the Board limiting the number of retail customers as part of any approval. Witman stated that he would be agreeable to limited retail customers.

David Clark, 5 Picnic Woods Road, stated that the ATF most likely will not permit hours by appointment only, and will require specific hours. He requested the Board to again review the issue if specific hours are required. Clark inquired how deliveries would be provided and what type of vehicles would be providing deliveries. He added that there are school bus stops near the home. Witman stated that his hours would be Monday through Thursday from 10:00 a.m. to 4:00 p.m. by appointment only. The Zoning Officer explained that the Zoning Hearing Board previously approved a similar request, and the ATF accepted the stipulation that the individual could operate by appointment only, with only 1 hour per week designated for the appointments. The day or time was not restricted, only the duration. Witman stated that he would have limited deliveries of approximately 1 UPS truck per month. He noted that his inventory of 10-15 firearms is from gun shows, and occasional deliveries.

Ron Tropasso, 1 Picnic Woods Road, stated that the access for the Witman property also serves his property. He added that the portion in front of Witman's property is in need of repair. He inquired whether Witman keeps his inventory in a gun safe. Witman responded that his personal firearms are in a gun safe, but his inventory is kept in a locked room. Tropasso stated that if the room has windows with no bars, an individual could break in and steal the guns. Tropasso stated that the police were called to the property twice in the past.

Andrea Covey, 3 Picnic Woods Road, stated that she observed that Witman shot a pistol at a tree while she and her children were in their back yard. She added that she contacted the police. David Covey stated that he also works with firearms, and recommends a security system. He expressed the opinion that ATF is going to want a store front for new sales. Witman stated the ATF has indicated their approval; however, they need verification of municipal approval. He added that they do not require a store front, and only require locks and not a high tech security system.

David Covey stated that he has driven past Witman's property and has observed guns while Witman's windows were open. Witman stated that they were his personal collection and is permitted to clean and repair his guns. Covey stated that he also works in law enforcement and encouraged Witman to increase security to prevent gun theft.

The Zoning Officer explained that, according to the Mixed Use zoning of the property, Witman could have requested a Conditional Use to use a portion of the property as a store. He noted that a Home Occupation requires the business to look like a home and not a store.

The Zoning Officer inquired whether anyone wishes to become a party to the case. Laura Bowman (2050 Main Street), Ron Tropasso, David Clark, and Andrea & David Covey indicated that they wish to become a party to the case. On a motion by Goldman, seconded by St. Clair, the Board voted unanimously to grant party status to these individuals due to the proximity of their home in relation to the Applicant's home.

The Vice-Chairman announced that the Board will recess to an Executive Session with the Solicitor. Upon reconvening the meeting, the Vice-Chairman inquired whether anyone wishes to provide additional testimony. No one indicated their desire to provide additional testimony.

The Vice-Chairman explained that the Board intends to continue the case until next month, with testimony permitted. On a motion by Goldman, seconded by Matteson, the Board voted unanimously to continue to the case to their meeting on Wednesday, May 8, 2013 beginning at 6:30 p.m. Matteson explained that testimony remains open for anyone, including the Applicant, who

wishes to provide additional testimony next month.

**ADJOURNMENT:** With no further business to come before the Board, the meeting was adjourned at 7:00 p.m.

Respectfully submitted,

Thomas Zorbaugh  
Zoning Officer