

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JUNE 14, 2023**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

SILENT PRAYER

OPEN PUBLIC MEETINGS STATEMENT: “Adequate notice of this meeting has been provided indicating the time and place in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star-Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

ROLL CALL

Present: Chairman Fred Gary, Vice-Chairman Gus Rutledge, Member Douglas Mace, Member Andrew Horun, Member Jose Valente and Member Michael Unangst

OLD BUSINESS

- Approve the Reorganization and Regular Meeting Minutes from January 11, 2023.

Chairman Gary: Alright. Old business. Is there a motion to approve the regular meeting minutes from May 10, 2023?

Vice-Chairman Rutledge: So moved.

Chairman Gary: Is there a second?

Member Mace: Second.

Motion by: Vice-Chairman Rutledge

Seconded by: Member Mace

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Members Mace, Valente and Horun

NAYS: None

ABSTAIN: Member Unangst

NEW BUSINESS

- Gail Rotham, Block 70, Lot 5 – Variance to add a second floor bathroom and variance to enclose basement door.

- Santiago Pena, Block 76, Lot 2 – Variance to add manufacturing to the current use.

Chairman Gary: Alright. Moving on to new business. Gail Rotham, Block 70, Lot 5. Variance to add a second floor bathroom and variance to enclose basement door.

Gail Rotham: Good evening.

Chairman Gary: Hello.

Attorney Bryce: Hello. Are you Ms. Rotham?

Ms. Rotham: Yes sir.

Attorney Bryce: And are you the applicant?

Ms. Rotham: Yes.

Attorney Bryce: Okay. And I see you have somebody with you.

Ms. Rotham: Yes. The architect.

Attorney Bryce: That's the architect? Okay. I'm going to swear you both in. Okay? If you please raise your right hands. Do you swear and affirm that the testimony you are about to give ... the truth ... about the ... Strike all of that. Let me try that again. Do you swear and affirm that the testimony you are about to give this Board is the truth, the whole truth and nothing but the truth?

Architect Chris Blake: Yes

Ms. Rotham: Yes.

Attorney Bryce: Beginning with you Ms. Rotham. Please state your name and spell you last for the record.

Ms. Rotham: Gail Rotham. Rotham. R-O-T-H-A-M.

Attorney Bryce: Very Good.

Mr. Blake: I'm Chris Blake. Architect. B-LA-K-E.

Attorney Bryce: And before we go on Mr. Blake, let me just ask you a few questions for Ms. Rotham's benefit. You are a licensed architect in the State of New Jersey ... a registered architect?

Mr. Blake: Yes.

Attorney Bryce: License is in good standing?

Mr. Blake: Yes.

Attorney Bryce: You testified before boards before?

Mr. Blake: Yes.

Attorney Bryce: Okay.

Chairman Gary: Okay. You may proceed.

Ms. Rothman: Okay.

Attorney Bryce: Ms. Rothman, just tell the Board what you want to do and then you can defer to your architect.

Mr. Rothman: Okay. I wanted to add a second bathroom ... a third bathroom on the second floor over the existing kitchen and the basement has a shutter and I don't like the shutters. I want to enclose it and put a door. Entrance and exit door to go into the basement.

Mr. Blake: If you will, I'll elaborate on that a little bit. We're 316 Baltimore Street and consisting of one and a half story one family dwelling. The existing house is deficient in its front yard setbacks. It's on the corner of Baltimore and South 4th Street. Usually, the front yard setbacks are to be required of 25 feet where we have ... on Baltimore Street 16.30 and on South 4th Street 14.70. As the client mentions, we are looking to add ... we call it a one story addition but we're kind of looking to enclose the basement or the cellar entry where currently there's Bilco doors or shutters ... ya know, kind of a normal concrete stairwell into the basement. Currently there exists a second floor balcony in this area on stilts if you will and a staircase that goes there. So, we're kind of building something underneath something that's already there. We are not building any closer to the street. At that point, it's 20.55 to the front yard setback on South 4th Street. We are not building anything closer to the existing building ... I mean anything closer to the front property line. We're not even as close as some of the other houses to their front property line but it is in the front yard setback which is why we are here. We're also building a second floor bathroom ... adding a second floor bathroom. It's pretty much right in the middle of the property. Again that's the second floor so were not adding any more coverage so it not even to talk about as far as setbacks. It's dead in the middle of the property. We have a 13,000 ... over a 13,000 square foot property where 9,000 is required in a R75 zone. We're not deficient in the size of the property we're just working with an existing building that was located a little too close to the front yard setbacks. As a note, we're also kind of rearranging some ... I guess the word decks and we're adding a wood rail to the ... we'll call it left side (inaudible) to the left. As you might head up Baltimore Street, we're adding a ramp. This is to allow ... it's a handicap ... it's to be a handicap ramp since it's allowing her elderly mother to get into the property a little bit easier. It's a decent size wood deck in the back. We're kind of proposing to wrap it around and attach it to the kitchen and things like that. But everything back there is again pretty much in the middle of the property as of right ... We're not proposing any roofs over these

decks or anything like that so we're not really adding any building if you will just kind of ground cover if you will. The house is a little bit ... was a little bit in disrepair so we're doing some major upgrades to the house. It will be, ya know, a lot more prettier and shinier, cleaner and more aesthetically appealing and we're just kind of looking for, I guess, it's just a front yard setback variance to enclose this cellar entrance. Again, just make it a little more useful and a little more convenient ... a little more pretty. Again, it kind of blends in with that balcony above it. I was under the impression from, I guess, it was the Town Planner that they needed the ... the exterior elevations weren't included in your package.

Engineer Wisniewski: They weren't

Mr. Blake: They were?

Engineer Wisniewski: They were not.

Mr. Blake: So I would like to show these as well.

Attorney Bryce: We'll make that as Exhibit A1.

Mr. Blake: Sure.

Attorney Bryce: You can do it after the fact sir.

Mr. Blake: Sheet A3 dated November 20 22 (inaudible – pad with plans hitting microphone)
This is the ...

Engineer Wisniewski: I think it's the west.

Mr. Blake: This is the side showing you the handicap route.

Engineer Wisniewski: Right.

Mr. Blake: So again it's just kind of a ramp that's kind of (inaudible) the parking area. And there's a current deck right here anyway so we're just kind of wrapping around and connecting to the deck. And we're wrapping around to connect to a rear porch as well. And it looks like this. Again, it's just a one story. The case of rear in the middle of the yard there is a little roof over it as well. So, I believe that is the total elevations I have. (Inaudible) It's a two story house (Inaudible) and a back porch and a cellar enclosure to go downstairs into the lower existing back. It's kind of hard to see in this flat three dimensional drawing.

Attorney Bryce: Just for the benefit of the Board could you point out where the proposed addition is on the elevation?

Mr. Blake: It's this ... I hope you can see it from here, but it's this hatched area ... to kind of indicate that it's new versus some of the other part that's not. Again, that bathroom on the second floor kind of fills in the corner that's missing so we're just continuing more roof over

there. That'll be relatively simple and straight forward. And, if you will, this is the deck on the second floor, the balcony, we're just kind of filling underneath to kind of carve out a cellar stair entry.

Chairman Gary: As I understand, you're not changing the footprint. Right?

Mr. Blake: We're not changing the footprint. We're not making things any worse.

Chairman Gary: Okay. Anyone have any questions? Go ahead.

Member Mace: Just to clarify, this is a single family residence?

Planner George Ritter: Yeah.

Mr. Blake: Correct.

Member Mace: And it's going to remain that way?

Mr. Blake: Correct.

Mr. Mace: Okay.

Mr. Blake: That is correct?

Ms. Rotham: Yes.

Mr. Blake and Ms. Rotham: (Inaudible)

Member Mace: I just ... I've noticed there were a lot of quote, unquote potential front doors in there and I wasn't sure with porches and I just wasn't sure what was what.

Planner Ritter: The applicant is actually changing this back to a single family.

Mr. Mace: Oh. Okay.

Mr. Blake: Yeah. I'm actually trying to ...

Planner Ritter: They're actually bringing it more into conformance than it was previously.

Mr. Mace: That answers my multiple doors that look like front door questions. Thank you.

Mr. Blake: I've only seen the building in somewhat of a demolished state so I couldn't even tell you what was what previously.

Chairman Gary: Anyone else have any other questions? George, you have anything you want to say?

Planner Ritter: Well, just to clarify what's needed. The applicant in terms of the improvements that he's making over the Bilco door to enclose that space, that's where the variance is required on South 4th Street. It's basically just adding more mass into an area that it's not supposed to be in. It's an encroachment of about five feet. So that's where the variance relief is required. In my letter, I noted that there might be the need for a variance for the ... what was listed on the drawing as submitted, the wood ramp off of Baltimore Street. The applicant's testimony making it basically a handicap ramp makes it an accessory structure and under our code accessory structures are allowed in the yards so there is no need for a variance on the handicap ramp. So the Board really is considering a variance to just allow them to infill and cover the Bilco door area. All the other improvements to the back of the house, to the roof, decks, to add to the second floor are all out of the variance to conform. So that's what you're really considering tonight.

Chairman Gary: Okay. And that ... where's that five feet come in. You said ...

Planner Ritter: The house is already non-conforming.

Chairman Gary: Right.

Planner Ritter: And when you measure from the street the Bilco door ... the corner they're filling in with that encroaches about five feet into the 25-foot setback. But it's underneath ... it's underneath the line of the house.

Chairman Gary: Yeah.

Planner Ritter: It's just that they're filling what is an open space right there. So that's it. It really does not change the encroachments of the house it only changes the volume of encroachment.

Member Horun: In order for the handicap ramp to be installed, there are certain specifications that have to be followed for that? Like certain ...

Planner Ritter: Yes. The slope of the ramp and everything else but as an accessory structure it will not require a variance to encroach into the yard.

Member Mace: I think ... question ... it will ... In order to be a handicap ramp will it have to comply with the handicap slope requirement?

Planner Ritter: I assume.

Chairman Gary: But that's not our ...

(Inaudible) Everyone speaking at once.

Member Mace: My argument being or my statement ... If it's an accessory structure and it's a handicap ramp ... you make it a handicap ramp, it would seem it would have to comply with the handicap requirements and it doesn't, then is it a handicap ramp?

Member Horun: In order for the need for a variance?

Member Mace: Yeah. Exactly.

Planner Ritter: Yeah. It's been explained to me as a handicap ramp.

Chairman Gary: So the assumption is that it's going to meet code.

Planner Ritter: My assumption was that it is going to comply. Have I looked at the specifications? No.

Attorney Bryce: It's going to be subject to the construction code official.

Chairman Gary: Right. Thank you. That's what I was trying to say.

Vice-Chairman Rutledge: Motion to approve ...

Chairman Gary: Hold on just a second. Anyone else with any other questions? Any other comments? Questions? Is there anyone from the public that would like to comment on this or has any questions? Okay.

Vice-Chairman Rutledge: I move to approve the requested variance.

Member Unangst: I'll second it.

Chairman Gary: Motion to approve and a second.

Member Mace: Question on the motion. It is presumed in that motion we are going to incorporate in the Resolution that this will be a ... go from a two dwelling building ... two unit building to a single family house?

Chairman Gary: Is that something we need to do?

Attorney Bryce: It's going to be part of the testimony that's been provided.

Member Mace: Yeah. Just ... Okay.

Chairman Gary: Okay, so there was a motion and a second. So, Gus ...

Motion by: Vice-Chairman Rutledge **Seconded by:** Member Unangst

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge and Members Mace, Horun, Unangst and Valente

NAYS: None

ABSTAIN: None

Chairman Gary: Alright next. Santiago Pena

Attorney Bryce: Ms. Rothman, I should just note for you that the Resolution for this is going to be adopted ... on for adoption next month. Okay?

Chairman Gary: Santiago Pena, Block 76, Lot 2. Variance to add manufacturing to the current use.

Attorney Scott Wilhelm: Good evening. My name is Scott Wilhelm. I'm an attorney here with Winegar, Wilhelm, Glynn & Roemersma in Phillipsburg. I represent Tech Operations, Inc. and its principal Santiago Pena who is here with me. You can have a seat. And Mr. Pena had previously submitted an application I believe for a variance which I don't think was necessary under the circumstances so I've asked to be heard today for an interpretation. I provided a submission which hopefully all of you had an opportunity to look at so you understand what's going on. His property is in the Retail Business Zone and in 2011 this Board granted an application to allow firearm retail sale at that property. That was reaffirmed in August 2014 upon the transfer of the property from the applicant prior owner to Mr. Pena. He's operated that business for the last nine years. His business, because it's firearms, is regulated by the State and Federal Government. His business is gunsmithing which is generally a trade that prepares, assembles and customizes firearms. So if you have a firearm and you're not sure why it's not working properly, he'll take a look at it, try to help you if you get it jammed. You need a little scope on it ... something like that. That's what gunsmithing is. And he's the lawful holder of a federal firearms license. There are various types of federal firearms licenses I submitted in Exhibit C. He's been a holder of an FFL1 since 2014 but now the ATF has changed the regulations and they now consider this guy a manufacturer of guns. And so he had ATF visit and they said to him basically "Do you have approval from your local township to manufacture your guns?" and he said, "Well, I don't manufacture." and they said, "Oh you do under our definition." So, in order to get his FFL07 which includes manufacturing which the ATF defines as those things such as gunsmithing he needs approval from this Board that this Board considers what he does there to be allowable under the Resolution that was granted in 2011. And that's really all we're looking for. Something ... Just a general statement from this Board, the Board secretary, the Board itself ... however you want to do it so that he can get his license for this year. That's the gist of that. I think I laid it out as best I could in the submission and I'm happy and Mr. Pena's happy to answer any other questions you may have.

Attorney Bryce: Mr. Pena why don't you come up and let me swear you in.

Santiago Pena: Sure.

Attorney Bryce: Raise your right hand sir. Do you swear and affirm that the testimony you're about to give this Board is the truth, the whole truth and nothing but the truth?

Mr. Pena: Yes.

Attorney Bryce: Okay. State your name. Spell your last for the record.

Mr. Pena: Santiago Pena. S-A-N-T-I-A-G-O P-E-N-A.

Attorney Bryce: Thank you.

Attorney Wilhelm: Are you ... I'll just ask him a few unless you have something specific?

Attorney Bryce: You. By all means, feel free to examine him. I'll follow-up with any questions I need.

Attorney Wilhelm: Are you the owner of Tech Operations, Inc?

Mr. Pena: Yes. I am.

Attorney Wilhelm: And you had an opportunity did you not to review this submission I made to the Board.

Mr. Pena: Yes.

Attorney Wilhelm: And you heard the presentation that I made?

Mr. Pena: Yes.

Attorney Wilhelm: Is ... Are my submissions accurate?

Mr. Pena: Yes, it is.

Attorney Wilhelm: And is my summary of what the history and what we're looking for accurate?

Mr. Pena: Yes, it is.

Attorney Wilhelm: Is it your request that the Board give you its blessing, we'll call it for lack of a better term, in order for you to complete your current FFL07 application.

Mr. Pena: Correct.

Attorney Wilhelm: And it's correct, you do not actually build guns on this site?

Mr. Pena: That is correct. I don't build anything by hand or by machine. I just make sure that the guns that leave the store to the customers their compliant by the State law. So unfortunately or fortunately, the federal government just changed the definition. Now, for me to pin the stock and pin the muzzle brake on the rifles, it's considered manufacturing by the ATF definition,

which is technically ... it's not manufacturing cause I'm not creating anything, again, by hand or by machines. So I need to get that approval to continue doing what I'm doing right now. My business ... seventy-five percent of my business is based on those rifles ... that I sell them and I pin in both part of the guns.

Attorney Bryce: And I think that's where I really want to hit the question. The primary business that you have there is the retail sale.

Mr. Pena: Correct.

Attorney Bryce: That is correct?

Mr. Pena: Correct.

Attorney Bryce: Would you agree that the modification of those items that you sell are ancillary or accessory to your sales?

Mr. Pena: They are. I need them to finish the sale. The gun actually ... the only modification is adding a pin ... I don't even change the parts on the guns because they already came complete to me. What I do is mentioned by the state law, the stock has to be fixed, not adjustable and the brake has to be pinned. That's a state law. And I was doing that by my 01 license and now I need the 07 to do the same thing which it doesn't make any sense at all.

Chairman Gary: I don't mean to really be redundant here or repetitious ... You're saying that you're not going to do anything different then you've been doing for the last nine years?

Mr. Pena. No.

Chairman Gary: Alright. Thank you. Anything further that you need to ...

Attorney Wilhelm: No.

Member Mace: I just had a quick question. Hypothetical. More to understand clearly. So if I came to you, and I'm not a gun guy, I'm not against guns but I don't know much about them other than you pull triggers and projectiles fly out of the barrel ... If I were to come to you and say I want a reproduction of, pick anything, whatever, some World War I gun and you would have to do it from scratch, is that something you would or would not do.

Mr. Pena: No. I don't do it and I won't do it and I'm not planning to do it. Not at all. That is not what I do at the shop. I only retail the complete gun that I receive from the distributors.

Mr. Mace: Do you repair guns there?

Mr. Pena: I do. I do repairs.

Mr. Mace: Okay. And do they consider that manufacturing too?

Mr. Pena: According by the new definitions, yes.

Mr. Mace: So if I bring a gun in and it needs a new stock let's say, that's manufacturing?

Mr. Pena: Actually, to put in a scope now with the new definition for me as a dealer to put in a scope, when I read that, on a rifle or a pistol, it's manufacturing. I cannot do it. Now, the customer he can purchase the gun from me and then go on Amazon and buy the red dot and put it on, that's fine. But if I do it in my shop for the customer, that's considered manufacturing. So I need to have a 07 license to put something on top of it ... on the gun.

Attorney Wilhelm: Which overall is a bit more safe for everyone that you have some experience.

Mr. Pena: Exactly. It would be safer that I do it because I know what I'm doing. With a new person, they don't know what they are doing. That would be actually pretty bad but that for the least is considered manufacturing. So it's ...

Chairman Gary: You got something George.

Planner Ritter: Well, the only thing I would say is that the Board really should ... what you're being asked is whether or not you consider this accessory for his business. That is the normal retail sale of guns and gunsmithing ... What he's suggesting he's doing is the normal ... in the normal course of business, an accessory. I guess the only other thing I would add, I would suggest that the Board might consider having put in the file and the applicant did provide the sheet today to the township that outlines exactly what he does so that there's a record that it is accessory ... that it's not manufacturing of a weapon. And that's really your call on that. But I think the real question is that you're comfortable that it is accessory to the retail sales of the gun and that he's not involved in the actual active manufacturing of weapons. And that's really your call tonight because it is a permitted use in the district. He's allowed to have retail sales and he is allowed to have accessory uses to that. So that's your call.

Member Horun: Are there circumstances where a customer comes to you and he asks you to do something and you say, "I can't do that"? Does that happen?

Mr. Pena: Yeah. It's something ... anything relating with manufacturing that I have to do something I won't do it because it's ... I'm not planning to do ... I can probably build guns. I have the knowledge to do manufacturing but that is something that I'm not doing and I don't plan to do. Okay. I need a bigger space if I want to do that. It's a little more complicated and I don't have the time for that. I have other businesses. So, my main business is just retail. Okay. And for me to retail the guns I have to do the things that I have been doing for the last past actually 13 years. Because I started the business in 2011 with my partner and he left. I bought him out and in 2014 became just myself doing the business. So, no. Not really. I won't do anything for the customer that I'm not allowed to do.

Chairman Gary: So you're saying if someone comes to you with a semi and wants you to make it so it's automatic, you won't do that?

Mr. Pena: I won't! No. Not in New Jersey. Now, in PA I have a license that I can do it.

Chairman Gary: I'm saying ...

(Inaudible) Every talking at once.

Chairman Gary: I think Mike ...

Member Unangst: What's the new license number? The 07?

Mr. Pena: Yes. It would be an 07.

Member Unangst: Would you be able to do it under that license?

Mr. Pena: Yes. Correct. Yeah.

Member Unangst: But you don't intend to.

Mr. Pena: I'm sorry.

Member Unangst: But you don't intend to manufacture?

Mr. Pena: No. Again, I want to keep doing what I have been doing for last past 10 years ... that is the area of my business. Right now, I been having a hardship cause I cannot do what I was doing.

Member Unangst: Right.

Mr. Pena: So, I can't even pay my employees.

Vice-Chairman Rutledge: I move to grant the variance.

Chairman Gary: Hold a second. Is there anyone? Sir would you have anything to ... No? Okay.

Planner Ritter: This is an interpretation.

Chairman Gary: Right. The motion would be to interpret. It's just an interpretation. They're not asking for a variance.

Member Mace: May I ask since it's an interpretation ... So, if we interpret this in a generic fashion ... and what you are doing ... We have reviewed this and what you are doing is in conformance with our zoning, we don't have to use the word manufacturing.

Attorney Wilhelm: No. No. Just that it's consistent with the zoning.

Member Mace: Because that concerns me for the future ... somebody can make it a future ...

Attorney Wilhelm: I think is it just wording consistent with the zoning and consistent with the Resolution from 2011. Just real short and sweet.

Member Mace: Okay.

Member Unangst: That'll be adequate.

Attorney Bryce: I'll produce that and memorialize it in the Resolution.

Chairman Gary: I just would add Doug that any application that comes before us kind of not dependent upon anything previous.

Member Mace: Well, I know that very well. It always worries me to not give them even the argument to make if we can avoid it. That's my purpose. But thank you. That's just my purpose, to stay out of it.

Chairman Gary: I get it.

Member Mace: "Well, what you guys do?" You know.

Chairman Gary: Okay. Alright. So the motion is made?

Member Unangst: I'll second it but I thought you didn't need a motion?

Attorney Bryce: You do.

Chairman Gary: Well we need a motion but it's not a variance.

Member Unangst: I'll second it.

Chairman Gary: It's, ya know, a motion to ... Tell us what the motion is.

Attorney Bryce: The motion would be to interpret the activities of modification of retail goods as testified as an accessory use.

Planner Ritter: In accordance with zoning.

Attorney Bryce: Perfect.

Chairman Gary: Wonderful.

Secretary Segeda: So Gus and Mike seconded?

Chairman Gary: Yeah. Correct.

Secretary Segeda: Alright.

Motion by: Vice-Chairman Rutledge **Seconded by:** Member Unangst

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge and Members Mace, Horun, Unangst and Valente

NAYS: None

ABSTAIN: None

Attorney Wilhelm: Thank you very much for your time.

Chairman Gary: You're welcome. Hope you can get back to work quickly. Anything else that needs to come before the Board? Anyone have any questions. Anything to add?

Secretary Segeda: I have a question.

Chairman Gary: Sure.

Secretary Segeda: So, is his business shut down right now? Does he have to wait a month for the resolution in order for his business to open?

Attorney Bryce: I don't know.

Chairman Gary: He did say it was a hardship ... he's not able to do business, I guess. I don't know until he gets the license? Is that it?

Attorney Bryce: I don't know. I guess he can still retail, he just can't do the modifications to it.

Chairman Gary: Well, it sounds to me if he can't do the modifications than he can't sell the guns. I don't know.

Engineer Wisniewski: Certain weapons ...

Chairman Gary: Yeah.

Engineer Wisniewski: That need modifications under New Jersey law.

Attorney Bryce: I'll prepare the resolution. I don't know if you think you're going to have a lot on the agenda next month but I can theoretically prepare that resolution and you guys could hold a special meeting just to adopt the resolution. You don't have to include anybody; you just have to comply with the Open Public Meetings Act just to adopt these resolutions.

Chairman Gary: Yeah.

Attorney Bryce: If you want to do it in advance. It's up to you guys.

Chairman Gary: Well, I just don't want to see the guy shutdown.

Member Unangst: Can we check with him? ... See what the status is? Maybe his current isn't expired yet.

(Inaudible) Everyone talking at once.

Secretary Segeda: He gave me the impression his business is closed until this is taken care of.

Member Mace: That's what I kind of just heard him say.

Secretary Segeda: Do you want me to go get him?

Chairman Gary: Pardon me.

Secretary Segeda: Do you want me to go get him?

Chairman Gary: Yeah, if he's not gone. Yeah, if you don't mind.

(Inaudible) Everyone speaking at once.

Attorney Bryce: He can be on the record. I mean the case is closed; this is just for extra information.

Chairman Gary: We would like to fast track the resolution. Are you not able to do business right now?

Mr. Pena: Well, I'm open but I cannot sell the rifles that I usually sell. Seventy-five percent of that business I'm not doing. I'm just doing the rest of my business ... pistols and accessories. But yes. ATF actually ... I said to ATF that I would have something in about two weeks. So, they're expecting ... I'm expecting them to come in about two weeks to do an inspection and get ready for my ...

Chairman Gary: So regardless of what we do here at this moment, you're still two weeks away from being able to go back to business as usual you're saying?

Attorney Wilhelm: Yeah, you can't do business as usual until ATF comes in ... until the 07.

Vice-Chairman Gary: Is this right behind the Hess station?

Attorney Wilhelm: Yes.

Member Mace: A little house?

Attorney Wilhelm: Yeah.

Member Horun: You can't fax him something tomorrow say this is a resolution or whatever you want to call this and say ...

Attorney Wilhelm: Well, I've explained to him out in the hallway that he can ... if they have any inquiry that he can say it was approved, there just won't be a written memorializing resolution until next month but it was approved. So, that's his true statement and I would speak with them day after if necessary.

Mr. Pena: Well, I'm expecting when they come to the shop in about two weeks, they're gonna ask me for the letter because I assumed all the paperwork ...

Attorney Bryce: I'll draft correspondence to counsel indicating that it was approved memorializing it. Resolution will be forthcoming.

Attorney Wilhelm: The only other thing he did indicate to me is that he believes that they're gonna want in the Resolution something to the ... using the word manufacturing. Something to the effect of "your approval includes manufacturing, ya know, per the ATF definition". Something to that effect.

Attorney Bryce: I'll craft the resolution but it's going to be crafted to our specification.

Attorney Wilhelm: I understand that. I understand that ... I'm just putting that out there and I know ...

Attorney Bryce: It will reference their definition of manufacturing as over broad for what we consider to be accessory uses.

Attorney Wilhelm: That sounds good. Okay. Great. Thank you.

Mr. Pena: Thank you very much.

Chairman Gary: Okay. No other issues or questions or anything before I ... well then, I would entertain a motion to adjourn.

Vice-Chairman Rutledge: So moved.

Member Mace: Second.

Chairman Gary: There's a motion and second. All in favor of adjourning say aye.

Vice-Chairman Rutledge and all members: Aye.

Chairman Gary: Opposed? We are adjourned.

MOTION TO ADJOURN:

Motion by: Vice-Chairman Rutledge

Seconded by: Member Mace

ALL IN FAVOR: Ayes

NAYS: None

Respectfully submitted by:

Patricia A. Segeda
Secretary, Zoning Board of Adjustment