

TOWNSHIP OF LACEY

Zoning Permit

Application #: 21493	Permit No: 20150489.000	Issue Date: 10/29/2015	Voucher/Receipt #: 0 Check #: 1004 Amount collected: \$85.00
Construction Control Number: 55667			
Block: 276	Lot: 11-12	Qualifier: TM-18	
Work Site: 118 SO MAIN STREET		Zone: C-150	
Owner: F R HOUSE C/O SEA PINE MOTOR INN		Agent: WILLIAM MALCOLM T/A JERSEY SPORTSMAN	
Address: 526 RTE 9		Address: 1504 BEACH BLVD	
City/State/Zip: WARETOWN NJ 08758		City/State/Zip: FORKED RIVER NJ 08731	
Telephone: 609 290-8655		Telephone: 908 451-5865	
Fax: () - -		Fax: () - -	
E-Mail:		E-Mail: COBRA2858@GMAIL.COM	
Tenant: JERSEY SPORTSMAN			
Flood Zone: X		Cafta: N/A	

This is to certify that the above-described premises together with any building thereon, are approved for use as indicated below and as depicted on the Plot Plan:

NEW TENANT- "JERSEY SPORTSMAN" 900 SQ FT. RETAIL SALES OF AMMUNITIONS, PAINT BALL, BB AND PELLET GUNS, AIR SOFT RIFLES. REFACING TWO EXISTING 32 SQ FT FLAT ATTACHED SIGNS ON SOUTH AND NORTH FACADES OF BUILDING. . THIS APPROVAL IS CONTINGENT UPON ALL APPLICABLE NJ STATE POLICE AND ATF LICENSES BEING ISSUED AND SUBMITTED TO OUR OFFICE. UPDATE**5/23/17 SALE OF FIREARMS PERMITTED AS PER LITIGATION SETTLEMENT AGREEMENT LR****

Which is a:

☒ [X] Use permitted by Zoning Ordinance, Article - 335-IX Section - 60-62/43

☐ [] Use permitted by variance approved on _____, # _____ subject to any special conditions attached to the grant thereof.

☐ [] Valid nonconforming use as established by () findings of the Zoning Board of Adjustment or by () the undersigned zoning officer or by () Planning Board on the basis of evidence supplied by applicant. Conditions, if any:

☐ [] There is a nonconforming structure on the premises by reason of insufficient

☐ [] Other:

Loretta A. Rule Zoning Official

This is NOT a Construction Permit

Chris Reid

From: Veronica Laureigh Clerk/Administrator <laceyclerk@comcast.net>
Sent: Friday, June 02, 2017 11:44 AM
To: lacey.commdev@laceytownship.org; 'Lacey Zoning'; lrs@gm-law.net
Subject: MX-M453N_20170602_105111;
Attachments: MX-M453N_20170602_105111.pdf

See attached letter from Mr. Hlering regarding Jersey Sportsman litigation.

Thank you
Veronica Laureigh
Municipal Clerk/Administrator
Township of Lacey
818 Lacey Road
Forked River, NJ 08731
609-693-1100, ext 2240
laceyclerk@comcast.net
www.laceytownship.org

*C. G. Reid
J. Rule
H. Staiger*
HIERING, GANNON AND MCKENNA

COUNSELLORS AT LAW
29 HADLEY AVENUE
TOMS RIVER, NEW JERSEY 08783

WILLIAM T. HIERING, JR.
THOMAS G. GANNON
MICHAEL J. MCKENNA

Monmouth County Office
108 South Main Street
Ocean Grove, N.J. 07756

(732) 349-1800
FAX # (732) 286-2275

HHG4288@AOL.COM

May 30, 2017

Veronica Laureigh, Administrator
Township of Lacey
818 Lacey Road
Forked River, New Jersey 08731

Re: Lacey Twp. Board of Adjustment ads. Jersey Sportsman
Docket No. OCN-L-002814-16

Dear Administrator Laureigh:

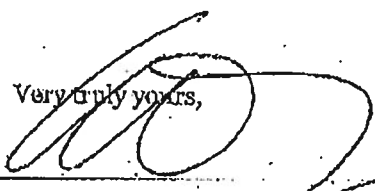
As you are aware, our office represents the Township's Board of Adjustment. There was an application submitted by the Jersey Sportsman for expanding the use of its operation at 118 South Main Street, Forked River, New Jersey. The Board subsequently denied the requested relief and the applicant has commenced litigation based on that denial.

~~It is our understanding that the applicant is now willing to accept a monetary settlement from our insurance carrier, receive a zoning permit and then withdraw it's complaint.~~

The above will insure that no precedent is established for the use and avoid the cost and uncertainty of litigation.

Thank you for your efforts.

Very truly yours,


WILLIAM T. HIERING, JR.
For The Firm

WTH/da



**PLATT
& RISO, P.C.**

DEC 23 2016

R

Attorneys at Law

* Stuart A. Platt, platt@prlawoffice.com
** Eric J. Riso, eriso@prlawoffice.com
** CharylLynn Walters, cwalters@prlawoffice.com

* Member of NJ & NY Bars
** Member of NJ & PA Bars

December 27, 2016

VIA OVERNIGHT MAIL

Honorable Mariene Lynch Ford, A.J.S.C.
Superior Court of New Jersey
118 Washington Street
Toms River, NJ 08754

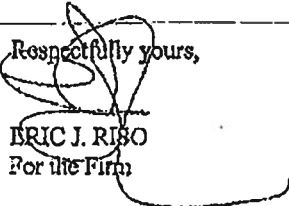
RE: Jersey Sportsman c/o William Malcolm v. Lacey Twp. Board of Adj.
Docket No. OCN-L-002814-16
Our File No: 16-0120

Dear Judge Ford:

This firm represents Plaintiff, Jersey Sportsman c/o William Malcolm, in connection with the above-referenced matter. Returnable before Your Honor on January 6, 2017 is the Motion to Sever and Demand a Jury Trial with respect to Count Six filed by Kevin B. Riordan, Esquire on behalf of Defendant, Lacey Township Zoning Board of Adjustment. I have spoken to Mr. Riordan, and he has graciously agreed to adjourn the Motion in light of our ongoing settlement negotiations with the Township Solicitor. Accordingly, it is respectfully requested that the pending Motion be carried at least one cycle.

Your Honor's time and attention to this matter is greatly appreciated. Awaiting Your Honor's advice, I am

Respectfully yours,


ERIC J. RISO
For the Firm

EJR/jb

cc: Kevin B. Riordan, Esquire
Thomas G. Gannon, Esquire
Clerk, Superior Court of New Jersey
William Malcolm (via e-mail)

LA16-01201-jlgford(motion to sever)-122716.doc

40 Berlin Avenue, Stratford, New Jersey 08084 • Telephone (856)784-8500 • Fax (856)784-8050
www.prlawoffice.com

7

**PLATT
& RISO, P.C.**

Attorneys at Law

* Stuart A. Platt, platt@prlawoffice.com
** Eric J. Riso, eriso@prlawoffice.com
** Cheryl Lynn Walters, cwalters@prlawoffice.com

* Member of NJ & NY Bars
** Member of NJ & PA Bars

February 14, 2017

VIA FAX: 732-240-6097 AND REGULAR MAIL

Honorable Marlene Lynch Ford, A.J.S.C.
Superior Court of New Jersey
118 Washington Street
Toms River, NJ 08754

RE: Jersey Sportsman c/o William Malcolm v. Lacey Twp. Board of Adj.
Docket No. OCN-L-002814-16
Our File No: 16-0120

Dear Judge Ford:

As Your Honor is aware, this firm represents Plaintiff, Jersey Sportsman c/o William Malcolm, in connection with the above-referenced matter. Returnable before Your Honor on Friday, February 17, 2017 is the Motion to Sever and Demand a Jury Trial with respect to Count Six filed by Kevin B. Riordan, Esquire on behalf of Defendant, Lacey Township Zoning Board of Adjustment. As Your Honor will recall, the parties have been engaged in serious settlement negotiations and, as a result, Your Honor graciously adjourned the pre-trial management conference from January 30, 2017 until April 10, 2017.

The settlement negotiations are still ongoing. Therefore, it is respectfully requested that the aforementioned Motion to Sever and Demand a Jury Trial likewise be adjourned to April 10, 2017. For reasons unexplained, Mr. Riordan will Not consent to this request. Nevertheless, and in an effort to conserve time and resources for all involved, including Your Honor, we are still respectfully requesting that the Motion be adjourned to April 10, 2017, notwithstanding Mr. Riordan's objection.

40 Berlin Avenue, Stratford, New Jersey 08084 ♦ Telephone (856)784-8500 ♦ Fax (856)784-8050
www.prlawoffice.com

Honorable Marlene Lynch Ford, A.J.S.C.
February 14, 2017
Page 2

Your Honor's time and attention to this matter is greatly appreciated. Awaiting Your Honor's advice, I am

Respectfully yours,

ERIC J. RISO
For the Firm

BJR/kfj

cc: Kevin B. Rordan, Esquire (via e-mail)
Thomas G. Gannon, Esquire (via e-mail)
Lauren R. Stalger, Esquire (via e-mail)
William Malcolm (via e-mail)

LAJ-0120 - William Malcolm - Lacey Twp. Zoning Board (Jdg Ford) (Req Confirmation) - 021417.doc

**PLATT
& RISO, P.C.**

Attorneys at Law

* Stuart A. Platt, platt@prlawoffice.com
** Eric J. Riso, eriso@prlawoffice.com
** Cheryl Lynn Walters, cwalters@prlawoffice.com

* Member of NJ & NY Bars
** Member of NJ & PA Bars

February 16, 2017

VIA FAX: 732-240-6097 AND REGULAR MAIL

Honorable Marlene Lynch Ford, A.J.S.C.
Superior Court of New Jersey
118 Washington Street
Toms River, NJ 08754

RE: Jersey Sportsman c/o William Malcolm v. Lacey Twp. Board of Adj.
Docket No. OCN-L-002814-16
Our File No. 16-0120

Dear Judge Ford:

As Your Honor is aware, this firm represents Plaintiff, Jersey Sportsman c/o William Malcolm, in connection with the above-referenced matter. Further to my conversation with Your Honor's Law Clerk, Sara, this will confirm that notwithstanding Mr. Riordan's objection, my request to adjourn Defendant's Motion to Sever and Demand a Jury Trial with respect to Count Six has been granted. This will further confirm that the aforesaid Motion will be heard on April 10, 2017 at 10:00 a.m., assuming the case does not resolve before then. Naturally, we will keep Your Honor posted as to all further developments in this regard.

Your Honor's time and attention to this matter is greatly appreciated. As always, I remain

Respectfully yours,

ERIC J. RISO
For the Firm

ELR/kfj

cc: Kevin B. Riordan, Esquire (via e-mail)
Thomas G. Gannon, Esquire (via e-mail)
Lauren R. Staiger, Esquire (via e-mail)
William Malcolm (via e-mail)

L:\16-0120 - William Malcolm - Lacey Twp. Zoning Board\JdgFord\ConfirmNewMotionDate\021617.doc

40 Berlin Avenue, Stratford, New Jersey 08084 ♦ Telephone (856)784-8500 ♦ Fax (856)784-8050
www.prlawoffice.com

**PLATT
& RISO, P.C.**

Attorneys at Law

* Stuart A. Platt, platt@prlawoffice.com
** Eric J. Riso, eriso@prlawoffice.com
** Cheryl J. Walters, cwalters@prlawoffice.com

* Member of NJ & NY Bars
** Member of NJ & PA Bars

May 18, 2017

Via E-Mail

Hierling, Gannon & McKenna
29 Hadley Avenue
Toms River, New Jersey 08753

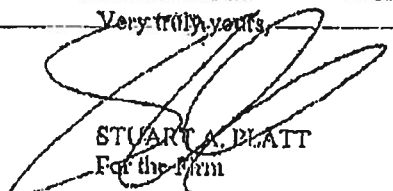
Attn: William T. Hierling, Jr., Esquire

RE: Jersey Sportsman c/o William Malcolm v. The Lacey Township Board of
Adjustment
Docket No. OCN-L-002814-16
Our File No. 16-0120

Mr. Hierling:

As you advised me last week, Lacey Township was taking action on the settlement at its meeting of Thursday, May 11, 2017. Despite repeated phone calls to you, we have not received a response. Please respond by the end of business tomorrow, Friday, May 19, 2017, or we will be pursuing this litigation along with the Open Public Records Act request which has been held in abeyance.

Very truly yours,


STUART A. PLATT
For the Firm

SP/kj

cc: Lauren R. Staiger, Esquire (via e-mail)
Kevin B. Rfordan, Esquire (via e-mail)

LA16-0120 - William Malcolm - Lacey Twp. Zoning Board SETTLEMENTV-styHierling (Confirm Settlement)-051817.doc

40 Berlin Avenue, Stratford, New Jersey 08084 ♦ Telephone (856)784-8500 ♦ Fax (856)784-8050

From: Stuart Platt platt@prlawoffice.com
Subject: Jersey Sportamen
Date: May 22, 2017 at 11:41 AM
To: la@gm-law.net

Dear Lauren,

The parties reached a settlement whereby my client would receive a zoning permit to sell legal firearms at his existing store in Lacey Township and a payment of \$5000. I spoke with Mr. Hering, from the zoning board Solicitor's office, who told me that the governing body was going to take some action on this on May 11. Despite my requests to consummate the settlement, no zoning permit has been issued, payment has not been made and I have been ignored. Late last week I sent a letter upon which you were copied regarding the situation. If the Township and zoning board wish to continue to litigate this matter please let me know so that I may advise my client.

I expect to hear from you shortly.

Stuart

Stuart A. Platt, Esquire
Platt & Riso, P.C.
40 Berlin Avenue
Stratford, NJ 08084
Phone: (856) 784-8500 x20
Fax: (856) 784-8050
E-Mail: platt@prlawoffice.com

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure, or distribution is prohibited. This message may be an attorney-client communication and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. If you are the intended recipient but do not wish to receive communications through this medium, please so advise the sender immediately.

RESOLUTION #2017- 181

RESOLUTION OF THE TOWNSHIP OF LACEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE SETTLEMENT OF LITIGATION WITH RESPECT TO JERSEY SPORTSMAN VS. LACEY TOWNSHIP BOARD ADJUSTMENT

WHEREAS, Jersey Sportsman c/o William Malcolm ("Jersey Sportsman") filed a complaint against the Township of Lacey Zoning Board of Adjustment ("Board") appealing the Board's decision on his zoning permit application and his request for a variance; and

WHEREAS, the Board and Jersey Sportsman engaged in settlement negotiations; and

WHEREAS, the parties agreed to certain terms in order to settle the matter, said terms being the withdrawal of the complaint, the issuance of zoning permit, and the payment of \$5,000.00 to Jersey Sportsman; and

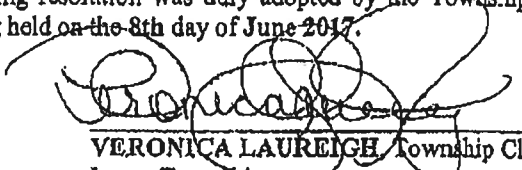
WHEREAS, the Township of Lacey ("Township") is not a party to the action, however, the Township is the holder of the insurance policy under the Joint Insurance Fund and must ~~provide a resolution of approval/acknowledgement for the payment of the settlement proceeds~~ agreed to above.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the ~~Township of Lacey, that:~~

1. The Township acknowledges the settlement negotiated by the Board and Jersey Sportsman requiring the withdrawal of the complaint, the issuance of a zoning permit and the payment of \$5,000.00 to Jersey Sportsman.
2. The Joint Insurance Fund may process payment to Jersey Sportsman in accordance with the terms of this Resolution and the settlement negotiated by the Lacey Township Zoning Board of Adjustment.

CERTIFICATION

I, VERONICA LAUREIGH, RMC, Municipal Clerk of the Township of Lacey do hereby certify that the foregoing resolution was duly adopted by the Township of Lacey Township Committee at a meeting held on the 8th day of June 2017.


VERONICA LAUREIGH, Township Clerk
Lacey Township

Chris Reid

From: James H. McKelvie <jmckelvie@alaimogroup.com>
Sent: Friday, July 15, 2016 9:03 AM
To: Susan Connor (lacey.landuse@laceytownship.org)
Cc: Chris Reid (Lacey.commdev@laceytownship.org); Joe Augustyn
Subject: Lacey Township Zoning Board-Jersey Sportsman V16-11
Attachments: Jersey Sportsman Supplemental Report 7-13-16.pdf

Hi Sue,

Attached is a Supplemental Report for the above-referenced variance application. Have a great weekend.

Jim

Best Regards,

James McKelvie, PE, CME
Associate



ALAIMO
Group

jmckelvie@alaimogroup.com
609-267-8310 x 245
200 High Street, Mt. Holly, NJ 08060



Alaimo Group

200 High Street, Mt. Holly, New Jersey 08060 Tel: 609-267-8310 Fax: 609-267-7452
2 Market Street, Paterson, New Jersey 07501 Tel: 973-523-6200 Fax: 973-523-1765

July 13, 2016

Lacey Township
Zoning Board of Adjustment
818 Lacey Road
Forked River, NJ 08731

Re: Lacey Township Zoning Board
of Adjustment
Variance Appeal #16-11
Jersey Sportsman
118 South Main Street, Forked River
Use Variance Proofs
Supplemental Report
Our File: A-0528-0052-000

Dear Board Members:

Expanding on Comment 17 in my report of June 3, 2016, specific proofs are required in the Municipal Land Use Law (MLUL) 40:55D-70d. to allow the Zoning Board to grant a "Use Variance," in this case allowing firearm sales on this property.

Retail sale of firearms is not specifically permitted in Highway Business Zone C-150 (Section 335-60). **The applicant will need to provide the following proofs convincing the Zoning Board Members all of the following:**

1. There are "special reasons" why firearm sales should be permitted at this location in that it carries out a "purpose" of zoning (or refusal to allow firearm sales at this location imposes an undue hardship, such as the property cannot be developed for a permitted use). "Purposes" of zoning include as listed in the MLUL (40:55D-2). Note also Court rulings have held promotion of general welfare is the zoning purpose that most clearly exemplifies the meaning of "Special Reasons".
2. The site is particularly suitable for firearm sales.
3. Allowing firearm sales on this site will not be inconsistent with the intent and purpose of the Lacey Township Master Plan and Zoning Ordinance.

- Consulting Engineers -

Civil • Structural • Mechanical • Electrical • Environmental • Planners

4. There is a valid reason why firearm sales should be permitted on this site despite not being permitted in the Highway Business Zone.
5. Convince the Board there will not be a substantial detriment to the public good, nor substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance should firearm sales be allowed on this property.

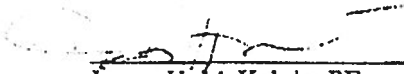
The applicant should present current site security measures for the ammunition sales, and any additional site security measures for the firearm sales.

Testimony should be provided regarding the residential apartment within this building specific to its position relative to the ammo/firearm sales, and size of the apartment, (1 or 2 bedrooms).

Should you have any questions, please do not hesitate to call.

Very truly yours,

ALAIMO GROUP


James H. McKelvie, PE
Associate

JHM/JSA/kem

cc: William Malcolm, Jersey Sportsman (118 South Main Street, Forked River, NJ 08731)
Christopher M. Supsie, Attorney-At-Law (1041 W. Lacey Road,
Forked River, NJ 08731)
Susan Connor, Board Secretary, Lacey Township Zoning Board of Adjustment
Loretta Rule, Zoning Official, Lacey Township Zoning Board of Adjustment
Thomas Gannon, Esq., Board Attorney, Hering, Gannon & McKenna
(29 Hadley Avenue, Toms River, NJ 08753)

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Thursday, July 21, 2016 4:16 PM
To: Al Nappi; Chris Reid; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; James Letellier; jmckelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; Larry Gudgeon; Louis Kosco; Maryanne C. DeFranco; Tim McDonald
Subject: August Meeting

Hi Everyone,

I am reaching out to everyone..... to make sure everyone will be attending our upcoming meeting.

The application for Jersey sportsman was carried and is a use variance. The applicant is entitled to a full board of seven members.

Please respond back as to whether or not you will be attending so I know in advance as to whether or not will be have a quorum for this application.

Thanking you in advance for your cooperation.

Sue

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext. 2251

Fax: (609) 693-8846

Chris Reid

From: Maryanne DeFranco <mdefranco@ldcpc.com>
Sent: Thursday, July 21, 2016 4:40 PM
To: 'Sue Connor'; 'Al Nappi'; 'Chris Reid'; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; 'James Letellier'; jmkcelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; 'Larry Gudgeon'; 'Louis Kosco'; 'Tim McDonald'
Subject: RE: August Meeting

Yes, I plan on attending the August 1st meeting.
-Maryanne DeFranco

From: Sue Connor [mailto:lacey.landuse@laceytownship.org]
Sent: Thursday, July 21, 2016 4:16 PM
To: Al Nappi; Chris Reid; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; James Letellier; jmkcelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; Larry Gudgeon; Louis Kosco; Maryanne C. DeFranco; Tim McDonald
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Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext. 2251

Fax: (609) 693-8846

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Version: 2016.0.7688 / Virus Databasc: 4627/12654 - Rclease Date: 07/21/16

Chris Reid

From: Colleen Bradley <colfbradley@aol.com>
Sent: Thursday, July 21, 2016 4:45 PM
To: 'Maryanne DeFranco'; 'Sue Connor'; 'Al Nappi'; 'Chris Reid'; 'Ed Scanlon'; hhg5258@aol.com; 'James Letellier'; jmckelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; 'Larry Gudgeon'; 'Louis Kosco'; 'Tim McDonald'
Subject: RE: August Meeting

Colleen will be in attendance ☺

From: Maryanne DeFranco [mailto:mdefranco@ldcpc.com]
Sent: Thursday, July 21, 2016 4:40 PM
To: 'Sue Connor'; 'Al Nappi'; 'Chris Reid'; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; 'James Letellier'; jmckelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; 'Larry Gudgeon'; 'Louis Kosco'; 'Tim McDonald'
Subject: RE: August Meeting

Yes, I plan on attending the August 1st meeting.
-Maryanne DeFranco

From: Sue Connor [mailto:lacey.landuse@laceytownship.org]
Sent: Thursday, July 21, 2016 4:16 PM
To: Al Nappi; Chris Reid; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; James Letellier; jmckelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; Larry Gudgeon; Louis Kosco; Maryanne C. DeFranco; Tim McDonald
Subject: August Meeting

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Thanking you in advance for your cooperation.

Sue

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext 2251

Fax: (609) 693-8846

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Version: 2016.0.7688 / Virus Database: 4627/12654 - Release Date: 07/21/16

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Tuesday, July 26, 2016 3:26 PM
To: Al Nappi; Chris Reid; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; James Letellier; jmckelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; Larry Gudgeon; Louis Kosco; Maryanne C. DeFranco; Tim McDonald
Subject: Lacey Township - Board of Adjustment
Attachments: 8-1-2016 pdf.pdf; 7-6-2016 pdf.pdf; V16-11 Jersey Sportsman.pdf; Jersey Sportsman Supplemental Report 7-13-16.pdf; V16-12 Mareello.pdf; V16-13 Pasbjerg Development.pdf; V16-14 Gibson.pdf

Hi Everyone,

Attached Please find the agenda for our upcoming meeting on Monday, August 1st, 2016

1. Agenda
2. Minutes to be voted Upon: July 6, 2016
3. Appeal 16-11 Jersey Sportman along with current review
4. 16-12 Mareello
5. 16-13 Pasbjerg Development
6. 16-14 Taffy Gibson

As always, please let me know if you are unable to attend the meeting, so I can make sure we have a quorum.

REMINDER: The Jersey Sportsman Application is a "D" Variance/Special Reasons and a Seven Member Board is being requested by the Applicant... Thank you ...

Take Care.... Sue.... ☺

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext 2251

Fax: (609) 693-8846



**Township of Lacey
Board of Adjustment**

REGULAR MEETING AGENDA
Monday, August 1, 2016 • 7:00 p.m.

NO TESTIMONY WILL BE TAKEN PAST 11:00PM

7:00 PM PUBLIC PORTION:

Call to Order & Salute the Flag

ROLL CALL OF BOARD MEMBERS:

Laurence Gudgeon, Chairman
Colleen Bradley, Vice-Chair
Joseph Appello
Maryanne DeFranco
Louis Kosco
Al Nappi
Craig Tomalo
Edward Scanlon, Alternate #1
James LeTellier, Alternate #2

Also Attending:

Thomas Gannon, Board Attorney
James McKelvie, Board Engineer
Loretta Rule, Zoning Officer
Susan Connor, Board Secretary

APPROVAL OF VOUCHERS

MINUTES:

Minutes to be voted upon: *July 6, 2016 Regular Meeting Minutes*
(Members Eligible to vote: Bradley, Gudgeon, Kosco, Nappi, Scanlon, LeTellier)

RESOLUTIONS: NONE

OLD BUSINESS: NONE

NEW BUSINESS:

Appeal #16-11
Block: 276 Lot: 11, Tax Map: 18
118 South Main Street, Forked River
Submitted by: Jersey Sportsman - c/o William Malcolm

Retail Sale of Firearms
Application for Use Variance

Agenda – Monday, August 1, 2016
Lacey Township Board of Adjustment
Page 2

Appeal #16-12
Block: 791.02, Lot: 7, Tax Map: 43
406 Camden Court – Lanoka Harbor
Submitted by: Eric Marella

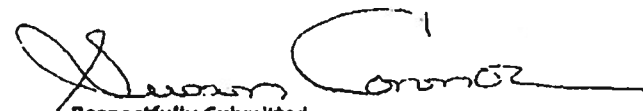
2-Story Addition, Front Porch, Relocation of Shed
Variances: Front Yard Setback, Lagoon Setback,
Accessory Use in Front Yard

Appeal #16-13
Block: 409, Lot: 2.01, Tax Map: 30
Route #9, Lacey Mall – Lanoka Harbor
Submitted by: Pasbjerg Development

New Signage
Variances: Bulk

Appeal #16-14
Block: 4024, Lot: 9-11, Tax Map: 112
2355 Holly Road, Forked River
Submitted by: Taffy Gibson

Addition
Variances: Front Yard Setback, Side Yard Setback,
Side Yard Combination



Respectfully Submitted
Susan Connor, Administrative Secretary DCD
Lacey Township Zoning/Planning Board

Next Regular Meeting Scheduled: Wednesday, September 7, 2016



Alaimo Group

200 High Street, Mt. Holly, New Jersey 08060 Tel: 609-267-8310 Fax: 609-267-7452
2 Market Street, Paterson, New Jersey 07501 Tel: 973-523-6200 Fax: 973-523-1765

July 13, 2016

Lacey Township
Zoning Board of Adjustment
818 Lacey Road
Forked River, NJ 08731

Re: Lacey Township Zoning Board
of Adjustment
Variance Appeal #16-11
Jersey Sportsman
118 South Main Street, Forked River
Use Variance Proofs
Supplemental Report
Our File: A-0528-0052-000

Dear Board Members:

Expanding on Comment 17 in my report of June 3, 2016, specific proofs are required in the Municipal Land Use Law (MLUL) 40:55D-70d. to allow the Zoning Board to grant a "Use Variance," in this case allowing firearm sales on this property.

Retail sale of firearms is not specifically permitted in Highway Business Zone C-150 (Section 335-60). **The applicant will need to provide the following proofs convincing the Zoning Board Members all of the following:**

1. There are "special reasons" why firearm sales should be permitted at this location in that it carries out a "purpose" of zoning (or refusal to allow firearm sales at this location imposes an undue hardship, such as the property cannot be developed for a permitted use). "Purposes" of zoning include as listed in the MLUL (40:55D-2). Note also Court rulings have held promotion of general welfare is the zoning purpose that most clearly exemplifies the meaning of "Special Reasons".
2. The site is particularly suitable for firearm sales.
3. Allowing firearm sales on this site will not be inconsistent with the intent and purpose of the Lacey Township Master Plan and Zoning Ordinance.

- Consulting Engineers -

Civil • Structural • Mechanical • Electrical • Environmental • Planners

4. There is a valid reason why firearm sales should be permitted on this site despite not being permitted in the Highway Business Zone.
5. Convince the Board there will not be a substantial detriment to the public good, nor substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance should firearm sales be allowed on this property.

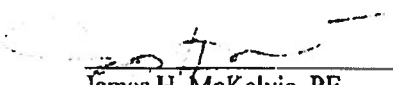
The applicant should present current site security measures for the ammunition sales, and any additional site security measures for the firearm sales.

Testimony should be provided regarding the residential apartment within this building specific to its position relative to the ammo/firearm sales, and size of the apartment, (1 or 2 bedrooms).

Should you have any questions, please do not hesitate to call.

Very truly yours,

ALAIMO GROUP


James H. McKelvie, PE
Associate

JHM/JSA/kem

cc: William Malcolm, Jersey Sportsman (118 South Main Street, Forked River, NJ 08731)
Christopher M. Supsie, Attorney-At-Law (1041 W. Lacey Road,
Forked River, NJ 08731)
Susan Connor, Board Secretary, Lacey Township Zoning Board of Adjustment
Loretta Rule, Zoning Official, Lacey Township Zoning Board of Adjustment
Thomas Gannon, Esq., Board Attorney, Hering, Gannon & McKenna
(29 Hadley Avenue, Toms River, NJ 08753)

A Regular Meeting of the Lacey Township Board of Adjustment was held Monday the 6th of July 2016 at 7:00 in Town Hall with Chairman Laurence Gudgeon presiding.

PRESENT:

Laurence Gudgeon, **Chairman**
Colleen Bradley, **Vice-Chairman**
Al Nappi
Louis Kosco
James LeTellier, **Alternate #2**
Edward Scanlon, **Alternate #1**

ALSO PRESENT:

Thomas Gannon, **Attorney**
Susan Connor, **Secretary**
Joseph S. Augustyn **PP AICP**,
Christopher Reid, **Director DCD**

EXCUSED

Joseph Appello
Maryanne DeFranco
Craig Tomalo
Loretta Rule, **Zoning Officer**

Chairman Gudgeon called the meeting to order and requested that all rise and salute the Flag. The roll was called and as a result Board Members Appello, Tomalo and DeFranco were found to be excused.

Chairman Gudgeon announced that the Lacey Township Board of Adjustment operates under the 'Open Public Meeting Act' also known as the 'Sunshine Law'. Proper notice for this evening's meeting has been given in the Asbury Park Press on the 9th day of January and in the Beacon on the 14th day of January 2016. The times and dates of the Board of Adjustment meetings for the year 2016 have also been posted on the official bulletin boards of the municipality and filed with the Municipal Clerk.

VOUCHERS:

Chairman Gudgeon asked for a motion to approve the invoices submitted. Vice-chair Bradley made a motion to approve the invoices, seconded by Mr. Nappi.

Roll Call Vote:

For: Bradley, Nappi, Kosco, Gudgeon, Scanlon, LeTellier
Against: None
Abstain: None
Not Voting: None
Absent: Appello, Tomalo, DeFranco

MINUTES:

Chairman Gudgeon asked for a motion to approve the minutes of May 2nd, 2016. Motion to approve the meeting minutes of May 2nd, 2016 was made by Mr. Scanlon, seconded by Vice-chair Bradley.

Roll Call Vote:

For: Scanlon, Bradley, Kosco, Nappi, Gudgeon, Scanlon, LeTellier
Against: None
Abstain: None
Not Voting: None
Absent: Appello, Tomalo, DeFranco

Chairman Gudgeon asked for a motion to approve the minutes of June 6th, 2016. Motion to approve the meeting minutes of June 6th, 2016 was made by Mr. LeTellier, seconded by Mr. Scanlon.

Roll Call Vote:

For: LeTellier, Scanlon, Nappi, Bradley, Gudgeon
Against: None
Abstain: None

Not Voting: None
Absent: Appello, Tomalo, DeFranco

RESOLUTIONS:

A resolution memorializing the approval of a variance for AC Unit/ Denial for Shed Appeal #16-04, regarding Block: 101.04, Lot: 21, Tax Map: 3.01 aka: **1221 Taurus Court, Forked River** submitted by **Michael Davino** was sanctioned on a motion by Mr. LeTellier, seconded by Vice-Chair Bradley. Roll Call Vote:

For: LeTellier, Bradley, Nappi, Gudgeon, Scanlon
Against: None
Abstain: None
Not Voting: Kosco
Absent: Appello, Tomalo, DeFranco

WORKSHOP SESSION:

Appeal #16-13

New Signage

Variances: Bulk

Block: 409, Lot: 2.01, Tax Map: 20

Route#9, Lacey Mall, Lanoka Harbor

Submitted by: Pasbjerg Development

Mr. Augustyn, Board Planner summarized Mr. McKelvie's review letter dated June 30, 2016 into the record. A small amount of planning criteria was also placed on the record by Mr. Augustyn.

Based on the information submitted it was recommended that the application could be deemed technically complete

Motion to deem the application technically complete was made by Vice-chair Bradley, seconded by Mr. Scanlon and unanimously carried by the membership present.

Roll Call Vote:

For: Bradley, Scanlon, Kosco, Nappi, Gudgeon, LeTellier
Against: None
Abstain: None
Not Voting: None
Absent: Appello, Tomalo, DeFranco

NEW BUSINESS:

Appeal #16-11

Retail Sale of Firearms

Variances: Use Variance

Block: 276, Lot: 11, Tax Map: 18

118 South Main Street, Forked River

Submitted by: Jersey Sportsman c/o William Malcolm

Christopher Supsie, Esq. Attorney representing the applicant came forward and stated since there was not a full Board present he would request the application be carried

Motion to carry the application was made by Mr. LeTellier, seconded by Vice-chair Bradley and unanimously carried by the membership present.

Roll Call Vote:

For: LeTellier, Bradley, Kosco, Nappi, Gudgeon, Scanlon,
Against: None
Abstain: None
Not Voting: None
Absent: Appello, Tomalo, DeFranco

ADJOURNMENT:

With no further business to be acted upon this evening, the meeting was adjourned at 7:30 pm by the membership present.

Respectfully submitted,

Susan Connor, Secretary
Lacey Township Board of Adjustment

LACEY TOWNSHIP APPLICATION FOR DEVELOPMENT APPROVAL

PLANNING BOARD _____ BOARD OF ADJUSTMENT X

APPLICATION MUST BE FILED FIFTEEN (15) WORKING DAYS PRIOR TO THE SCHEDULED PUBLIC HEARING. THE REQUIRED NUMBER OF PLANS AND FEES MUST BE SUBMITTED WITH A COMPLETE APPLICATION PACKAGE TO THE BOARD SECRETARY PRIOR TO BEING PLACED ON THE HEARING AGENDA.

APPLICANT PLEASE CHECK ONE: OWNER ☒ CONTRACT PURCHASER _____ AGENT _____

APPLICANT NAME JERSEY SPORTSMAN
 CONTACT PERSON William Malcolm
 STREET ADDRESS 118 South Main St
 CITY Forked River STATE NJ ZIP CODE 08731
 WORK PHONE # 609 756-4322 HOME PHONE # 409 451 5865 FAX # 609 756 1467
 FED ID # _____ SOC. SEC. # _____
 OWNER OF THE PROPERTY GEORGE MACKLES 535 Rt 9 WARETOWN NJ 08754 609 693 6600
 EMAIL ADDRESS: JERSEY SPORTSMAN @ COMAIL.COM

DEVELOPMENT SUBJECT OF THIS HEARING

PRIMARY BLOCK 276 PRIMARY LOT 11 TAX MAP 18
 ADDITIONAL BLOCKS AND LOTS: _____
 CURRENT ZONE _____ PROJECT NAME Jersey Sportsman
 PROJECT LOCATION 118 South Main Street, Forked River, NJ
 PROJECT DESCRIPTION RETAIL SALE OF GUNS (FIREARMS)

CLASSIFICATION

NUMBER OF ACRES _____ NUMBER OF LOTS _____ NUMBER OF DWELLINGS _____

- | | |
|--|--|
| ☐ CONCEPT PLAN | ☐ MAJOR SITE PLAN PRELIMINARY |
| ☐ MINOR SUBDIVISION | ☐ MAJOR SITE PLAN FINAL |
| ☐ MAJOR SUBDIVISION PRELIMINARY | ☐ GENERAL DEVELOPMENT PLAN |
| ☐ MAJOR SUBDIVISION FINAL | ☐ STATUTORY EXTENSION |
| ☐ SITE PLAN PRELIMINARY | ☐ STREET VACATION |
| ☐ SITE PLAN FINAL | ☐ AMENDED SITE PLAN |
| ☐ CONDITIONAL USE | ☐ ZONE CHANGE REQUEST |
| ☐ MINOR SITE PLAN | ☐ MISCELLANEOUS _____ |
| ☐ DESIGN WAIVER FOR ROAD IMPROVEMENT PLAN | |
| ☐ APPEAL OF DECISION OF THE ADMINISTRATIVE OR ZONING OFFICER | |
| ☐ INTERPRETATION OF ZONING MAP/ORDINANCE | |
| ☐ VARIANCE FOR BUILDING LOT NOT FRONTING ON AN IMPROVED STREET | |
| ☐ BULK VARIANCE; DESCRIBE TYPE: _____ | |
| ☒ USE VARIANCE; DESCRIBE TYPE: <u>Variance to permit retail sale of Firearms in CISO Highway Business Zone</u> | |
- PREVIOUS VARIANCE AT THIS LOCATION: YES _____ NO X IF YES, YEAR _____
- TYPE OF VARIANCE APPLIED FOR _____ APPROVED _____ DISAPPROVED _____

LACEY TOWNSHIP APPLICATION FOR DEVELOPMENT APPROVAL

PROFESSIONALS

ENGINEER _____
ADDRESS _____
CITY _____ STATE _____ ZIP CODE _____
TELEPHONE NUMBER _____ FAX NUMBER _____
EMAIL ADDRESS: _____
ATTORNEY Christopher M. Suprie, Esq.
ADDRESS 1041 W. Lacey Road
CITY Forked River STATE NJ ZIP CODE 08731
TELEPHONE NUMBER 609/693-6200 FAX NUMBER 609/693-6202
EMAIL ADDRESS: CSuprie@steinlawny.com
ARCHITECT _____
ADDRESS _____
CITY _____ STATE _____ ZIP CODE _____
TELEPHONE NUMBER _____ FAX NUMBER _____
SURVEYOR _____
ADDRESS _____
CITY _____ STATE _____ ZIP CODE _____
TELEPHONE NUMBER _____ FAX NUMBER _____

CERTIFICATION

I (WE) William Malcolm HEREBY CERTIFY THAT THE PROPOSED WORK THAT
IS THE SUBJECT OF THIS APPLICATION IS AUTHORIZED BY THE OWNER OF RECORD AND THE INFORMATION
PROVIDED ON THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.
X William V. L. L. L.
SIGNATURE OF OWNER, CONTRACT PURCHASER OR OWNER'S AUTHORIZED AGENT

+ FOR BOARD SECRETARY'S USE ONLY +

V16-11
APPLICATION NUMBER

E-14-56-856-884
ESCROW ACCOUNT NUMBER

APPLICATION FEE \$ 200.00
J# 1039

ESCROW FEE \$ 1200.00
J# 1040

OFFICE COPY (WHITE) · FILE COPY (GREEN) · APPLICANT COPY (GOLDENROD) · CHIEF FINANCIAL OFFICER (PINK)
PLANNING BOARD/B.O.A. ATTORNEY (CANARY) · PLANNING BOARD/B.O.A. ENGINEER (BLUE)

Account Inquiry Summary by Years

Exit Help

Account # 0512.1 Block/Lot 2/R 1/1/1
 Owner Name FORKED RIVER HOUSE C/O SEA PINE INN
 Address RTE 9
 City/State WARETOWN NJ 08758
 P.Loc. 118 SO MAIN STREET
 Bank 99964 MACKRES. GEORGE
 Ded. Amt. 00 Sp. Tax Cd
 Lst Sch Date Lst Pay Date 2/17/2016

Principa 00
 Interest 00
 Uncol. Interest 00
 Total Due 00

OTL Certificate # 98-102 - H
 Interest thru Date 02/25/2016

Narratives

New Account # New Blk/Lot/Qual < Prev Next > View Details

Double Click on Year below to view Specific Year or Click "View All" Button to see Details for All Years

Year	Deductions	Billed Amount	Paid Amount	Adjusted Amount	Open Balance	Interest	Last Pay Date
2016		4,155.30	2,077.65		2,077.65		2/17/2016
2015		8,310.60	8,310.60				11/10/2015
2014		7,353.00	7,353.00				11/10/2014
2013		7,040.93	7,040.93				11/14/2013
2012		6,523.65	6,523.65				11/15/2012
2011		6,225.20	6,225.20				11/15/2011
2010		6,130.35	6,130.35				11/09/2010
2009		6,036.30	6,036.30				11/05/2009
2008		4,891.91	4,891.91				11/19/2008
2007		4,926.09	4,926.09				11/09/2007
2006		4,640.78	4,640.78				11/03/2006
2005		4,422.34	4,422.34				12/01/2005
2004		4,261.85	4,261.85				12/03/2004

Narrative Edit Account Edit Print Account Duplicate Bill Refresh QTL Inquiry

Account Inquiry Summary by Years
Exit Help

14-ES-4

Account # 2512 Block/Lot 216/1
Owner Name FORKED RIVER HOUSE C/O SEA PINE INN
Address RTE 9
City/ST/Zip WARETOWN NJ 08758
P.Loc 118 SO MAIN STREET
Bank 9996 MACKRES, GEORGE
Ded. Amt. .00 Sp. Tax Cd.
Est. Set Date 1st Pay Date 7/1/2016

Principals .00
Interest .00
Unaccr. Interest .00
Total Due .00

Narratives

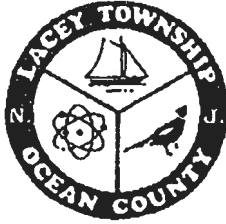
QTL Certificate # 98-10-8-1
Interest thru Date 02/25/2016

New Account# ... New Blk/Lot/Dual / / < Prev Next > View Summary

Double Click on Year below to view Specific Year or Click "View All" Button to see Details for All Years

Tax Yr	Q	Trans/Due Date	Description	Rlt/Paid/Adj Amt	Open Balance	Days	Interest	Check#	Innt	Str
2015	1	3/06/2015	TAX PAYMENT	1030.25				1172	7	0
2015	2	5/01/2015	TAX BILL	1030.25						
2015	2	5/11/2015	TAX PAYMENT	1030.25				1101	29	0
2015	3	8/01/2015	TAX BILL	2312.05						
2015	3	8/10/2015	TAX PAYMENT	2312.05				1220	31	0
2015	4	11/01/2015	TAX BILL	2312.05						
2015	4	11/10/2015	TAX PAYMENT	2312.05				1250	30	0
2016	1	2/01/2016	TAX BILL	2077.65						
2016	1	11/10/2015	TAX PAYMENT	9.90				1200	30	0
2016	1	2/17/2016	TAX INTEREST	9.90				1315	36	0
2016	1	2/17/2016	TAX PAYMENT	2070.94				1315	36	0
2016	2	5/01/2016	TAX BILL	2077.65	2077.65					

Narrative Edit Account Edit Print Account Duplicate Bill Refresh QTL Inquiry



Township of Lacey

Assessor's Office

818 LACEY ROAD
FORKED RIVER, NJ 08731
(609) 693-1100 Ext. 2242 • Fax (609) 693-4803

Web Site: www.LaceyTownship.org
e-mail address: Lacey.TaxAssessor@laceytownship.org

2/22/2016

#2016-09

REQUESTED LIST OF OWNERS OF PROPERTY IN LACEY TOWNSHIP THAT
ARE WITHIN 200 FEET OF BLOCK 276 LOT(S) 11. LACEY TOWNSHIP TAX MAP
PAGE(S) 18, 19.

OWNER: FORKED RIVER HOUSE C/O SEA PINE INN
RTE 9
WARETOWN, NJ 08758

I hereby certify that the attached is a correct list of names and addresses of owners of
property within a 200 foot radius of Block 276 LOT(S) 11. LACEY TOWNSHIP TAX MAP
PAGE(S) 18, 19.

Mark J. Fitzpatrick, CTA
Tax Assessor

MJF:le

PROPERTY ID	PROPERTY LOCATION	CLASS	OWNERS NAME & ADDRESS
276 1	136 SO MAIN STREET LOTS 2,3,16,17	4A	CICCO,VITTORIO & ANGELA C/O CICCO,3 568 LANLAC DRIVE LANOKA HARBOR NJ 08734
276 7	121 PARKER AVENUE LOTS 8,9	15F	FORKED RIVER FIRE DEPT. NO. 1 PARKER AVENUE FORKED RIVER, NJ 08731
276 10	124 SOUTH MAIN STREET LOTS 13,14,15	15C	TOWNSHIP OF LACEY 818 LACEY ROAD FORKED RIVER NJ 08731
276 18	126 SOUTH MAIN STREET	15C	TOWNSHIP OF LACEY 818 LACEY ROAD FORKED RIVER NJ 08731
281 11	SOUTH MAIN STREET	1	J & D ENTERPRISES INC 952 LAKEWOOD ROAD TOMS RIVER NJ 08753
281 12	116 SO MAIN STREET	4A	116 OAK STREET, LLC 128 ADMIRAL WAY WARETOWN, NJ 08758
281 13	10 OAK STREET	15F	LACEY TOWNSHIP FIRST AID SQUAD PARKER & OAK STS FORKED RIVER NJ 08731
281 14	PARKER AVENUE	1	J & D ENTERPRISES INC 952 LAKEWOOD ROAD TOMS RIVER NJ 08753
281 14.01	115 PARKER AVENUE	2	J & D ENTERPRISES INC 952 LAKEWOOD ROAD TOMS RIVER NJ 08753
282 3.01	121 SOUTH MAIN STREET	4A	FORKED RIVER HOUSE C/O SEAPINE INN ROUTE 9 WARETOWN NJ 08758
282 8.01	113 SOUTH MAIN STREET	4A	PETRO LAND PROPERTIES,LLC C/O HYLAN 950 HOLMDEL ROAD HOLMDEL, NJ 07733

To the best of my knowledge, the following Utilities service properties in Lacey Township.

Comcast Cable
P.O. Box 847
Toms River, NJ 08754

AT&T
1 AT&T Way
Bedminster, NJ 07921

New Jersey Natural Gas
P.O. Box 1464
Wall, NJ 07719

Jersey Central Power & Light
300 Madison Avenue
Morristown, NJ 07960-1911

Verizon
540 Broad Street
Newark, NJ 07102

New Jersey DEP
1510 Hooper Avenue
Toms River, NJ 08753

Lacey Twp MUA
P. O. Box 205
Forked River, NJ 08731

Ocean County MUA
P.O. Box "P"
Bayville, NJ 08721

New Jersey DOT
CN 600
Trenton, NJ 08625

New Jersey Turnpike Authority
P.O. Box 5042
581 Main Street
Woodbridge, NJ 07095-5042
(Includes Garden State Parkway)



Alaimo Group

200 High Street, Mt. Holly, New Jersey 08060 Tel: 609-267-8310 Fax: 609-267-7452
2 Market Street, Paterson, New Jersey 07501 Tel: 973-523-6200 Fax: 973-523-1765

April 29, 2016

Lacey Township Board of Adjustment
818 Lacey Road
Forked River, NJ 08731

Re: Lacey Township Zoning Board
of Adjustment
Variance Appeal #16-11
Jersey Sportsman
Use Variance
Block 276, Lot 11
118 South Main Street, Forked River
Completeness Review - Revised
Our File: A-0528-0052-000

Dear Board Members:

Our office has reviewed the above-referenced application. The following documents have been submitted for this application:

- Application for Development Approval, prepared by William Malcolm, Applicant.
- Variance Application Checklist
- 200-Foot List of Property Owners, prepared by Mark J. Fitzpatrick, CTA, Tax Assessor, dated 2/22/16.
- Property Tax Inquiry Summary

A. **Project Description:**

The subject property is located on the west side of South Main Street (Route 9) at the intersection of South Main Street with Oak Street in the Forked River section of Lacey Township, in the C-150 Highway Business Zone. There are several retail establishments and what appears to be a second floor residential unit at this location.

- Consulting Engineers -

Civil • Structural • Mechanical • Electrical • Environmental • Planners

The applicant presently conducts retail sales of ammunition and requests a use variance to permit the sale of firearms. Retail sale of firearms is not specifically referenced in Section §335-60 of the Township Ordinance as a permitted use in the zone. No modifications to the property are proposed.

B. Variances Requested:

1. Use Variance: To permit the sale of firearms.

During the public hearing, the applicant will need to present the required proofs for granting of the use variance by addressing the positive and negative criteria.

C. Completeness Review:

The following checklist items required by Section §215-21 of the Township Ordinance have not yet been submitted but the application indicates they are to be provided:

1. A(6): Form of Notice.
2. A(7): Affidavit of Service.
3. A(8): Notice to the Public.
4. A(9): Photographs of the subject property and properties within 200 feet.

Waivers of the following checklist items have been requested from the submission requirements in Section §215-21 of the Township Ordinance:

1. A(3): 200-Foot Radius Map.
2. A(4): Plans or renderings of the intended use or variance.
3. B(1): Plot plan of the property.
4. B(2)(a): Current survey of the property.
5. B(2)(b): Existing and proposed easements.
6. B(2)(c): Existing and proposed buildings and structures and setbacks.
7. B(2)(d): Buildings and structures on adjacent properties.
8. B(2)(e): Existing and proposed sidewalks and driveways.
9. B(2)(f): Street name and surface composition.
10. B(2)(g): Existing and proposed street, lot and floor elevations.
11. B(2)(h): Drainage flow arrows.
12. B(2)(i): Lot grading.
13. B(2)(j): Limits of clearing and site disturbance.
14. B(2)(k): Location of freshwater wetlands.

We have no objection to the granting of the waivers for completeness purposes. However, during the course of the public hearing, should the Board determine that any of the above items are required, then they must be submitted.

April 29, 2016

D. Outside Agency Approvals:

The applicant would be required as a condition of any approval to obtain approvals of all other agencies having jurisdiction.

Should you have any questions, please do not hesitate to call.

Very truly yours,

ALAIMO GROUP



James H. McKelvie, PE
Associate

JHMcK:llhr

cc: Susan Connor, Lacey Township Zoning Board of Adjustment Secretary
Loretta Rule, Lacey Township Zoning Board of Adjustment Zoning Official
Thomas Gannon, Lacey Township Zoning Board of Adjustment Attorney
William Malcolm, Jersey Sportsman (118 South Main Street, Forked River, NJ 08731)
Christopher M. Supsic, Attorney-At-Law (1041 W. Lacey Road, Forked River, NJ 08731)

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Thursday, July 28, 2016 10:30 AM
To: hhg5258@aol.com
Cc: Chris Reid
Subject: Jersey Sportsman
Attachments: doc02044620160728084713.pdf

Hi Tom,

Attached is an article from the Reporter regarding the Board of Adjustment Case "Jersey Sportsman" we are going to here on Monday Night. Thought I'd give you some insight on what is floating around out there on the internet regarding this case already.

See you Monday, Sue

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext 2251

Fax: (609) 693-8846

Ammo Store Owner Battling Town Hall Over Right to Sell Guns

^{TR} laceyreporter.com/small-business-owner-battling-town-hall-right-sell-guns/

Gavin Rozzi

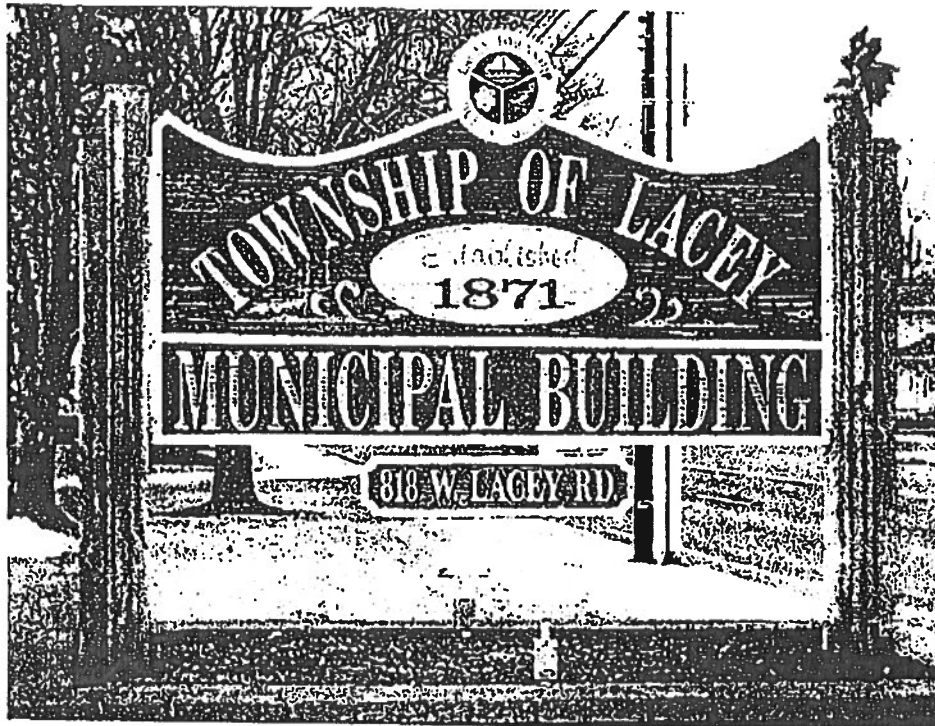
July 27, 2016

Lacey resident Bill Malcolm retired as a career law enforcement officer to pursue his dream of opening his own business right here in Forked River. His new enterprise, The Jersey Sportsman, filled the empty Route 9 storefront that was previously home to the Army Navy surplus store.

But the future of his business is up in the air, as he faces difficulty in moving forward in obtaining a variance from township officials while also battling the objections of a neighboring business.

Ammo Store Owner Seeks Variance To Sell Guns From Route 9 Store

The small business owner will appear before the Lacey Township Zoning Board of Adjustment on Monday night along with his attorney to formally make the case as to why he should be granted a variance, which will allow him to sell firearms from the storefront.



Mr. Malcolm said Tuesday afternoon that Lacey Township Zoning Officer Loretta Rule denied his request for a zoning letter, which would deem the proposed use of the property for firearms sales as being in compliance with existing zoning rules for this location. The property is currently zoned as C-150, the highway business zone.

The only way for him to be able to move forward in obtaining outside federal approvals at this point would be to successfully obtain the variance, which can only be granted by the township zoning board of adjustment.

Met With Resistance Over Compliance With Zone Requirements

The Lacey Township Municipal Code provides several examples of permissible uses of the C-150 zone, including

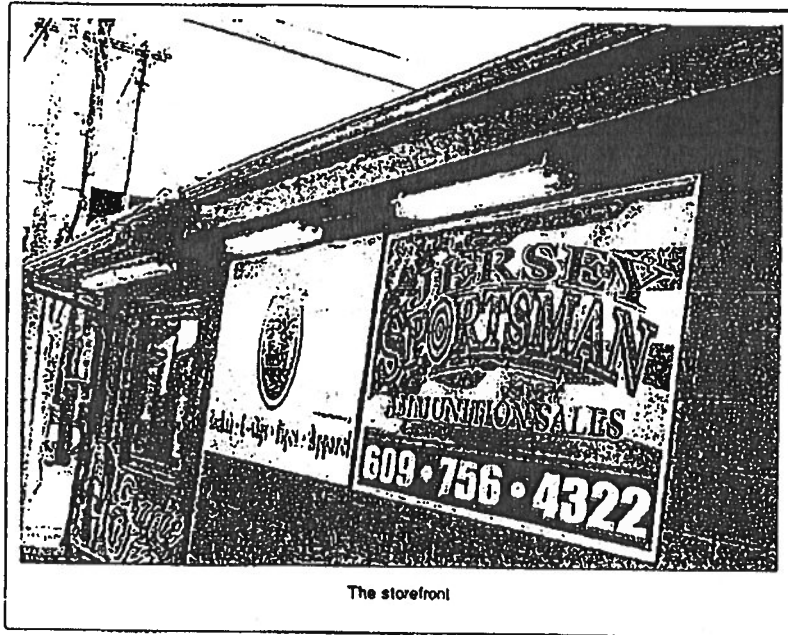
commercial storefronts, retail establishments where merchandise is sold or services are provided, along with restaurants, offices and related uses consistent with the zone as set forth in local zoning ordinances.

Mr. Malcolm contends that he was denied a zoning letter by Ms. Rule on the basis that selling firearms was not explicitly listed as a permissible use in the highway business zone as defined in the township code, requiring him to go before the Lacey Township Zoning Board of Adjustment in order to obtain a variance for the property instead.

The ammunition store owner provided public records that demonstrate that there are multiple Lacey residents with federal firearms licenses (FFL) that are licensed to operate gun sales businesses from their homes. He questioned why his store is seemingly getting caught up with more "red tape" than other firearms dealers.

The store owner cited numerous examples of other Lacey business owners that were able to sell firearms without a problem (or the need for a variance), with many operating out of their homes. Malcolm noted that another C-150 zoned store, Fish Bonz Bait & Tackle is licensed for firearms. Lanoka Harbor resident John Teahan operates a firearms business out of his home along with Bamber resident Diana Gyger and Sam's Firearms, also of Lanoka Harbor.

Malcolm also has a license from the New Jersey State Police to sell ammunition, and he showed that all sales are documented with the information of purchasers logged as required by state and federal law.



The storefront

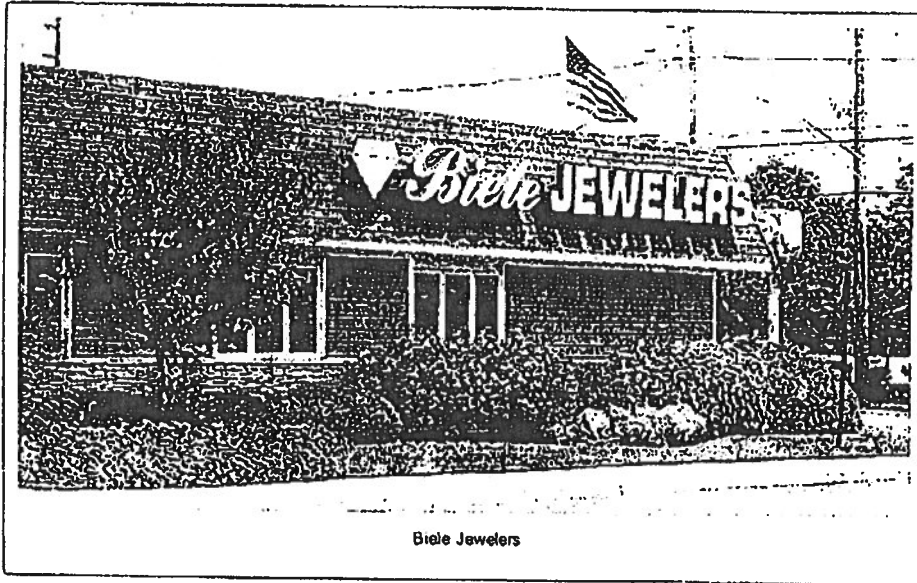
As Legal, Engineering Bills Mount, Future Of Business In Hands Of Zoners

Mr. Malcolm said in an interview that the income the retired law enforcement officer is generating from selling ammunition and related accessories at the business is not enough to keep his store financially sustainable given current demand. If he is unable to obtain the variance – by getting 5 "yes" votes – at Monday's zoning board meeting, he said his business may face closure and that he will pursue legal action against the township in state Superior Court if unable to obtain the variance. Malcolm said he has retained Christopher Supsie, Esq. from the law firm of Stein & Supsie to represent him before the town.

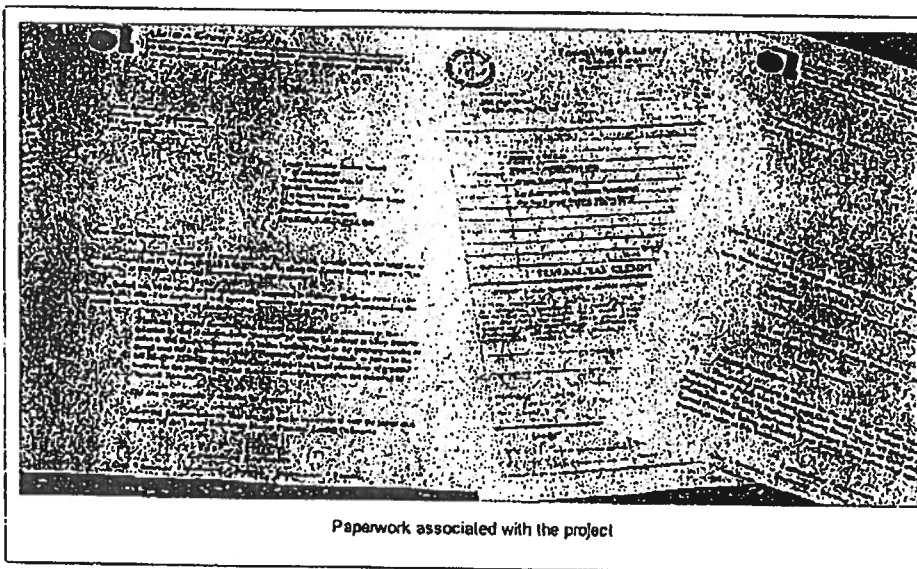
The failure of the Lacey Township Zoning Board of Adjustment to have a quorum at their meetings has been another setback in obtaining township approvals, as 5 affirmative votes are required to grant the use variance being sought for the property.

Opponents to Malcolm's attempt to sell firearms have included Biele Jewelers, which is located in close proximity to

the ammunition store.



The Biele family has opposed Malcolm on the grounds of it potentially increasing their insurance rates and being a safety hazard due to the value of the jewelry sold at their storefront. The Bieles were not immediately available for comment, but are known to remain in opposition to the store's approval.



In a July letter sent to Malcolm from an engineering firm retained by the township, the township's engineer said that the business owner must demonstrate to the members of the zoning board the following:

- The proposed use of the property is consistent with the intent and purpose of the zoning ordinance and the township's master plan
- The site is suitable for firearm sales
- Firearm sales should be allowed in the highway business zone. The board maintains that firearms sales is not an approved use.
- There will not be a "substantial detriment" to the public good with the approval of the project.

7/28/2016

Ammo Store Owner Battling Town Hall Over Right to Sell Guns | Lacey Reporter

If he is successful of convincing the board members and professionals that the project meets that criteria, he will be able to obtain the variance.

2nd Amendment Activists To Support Business Owner

Meetings of Lacey's planning board and zoning board of adjustment are typically quiet and attended by very few members of the public or the media, but the upcoming zoning board of adjustment meeting is expected to attract some attention.

Jim Bangert, a supporter of Malcolm's store, and a self-described 2nd Amendment activist said that he and a group of supporters will attend Monday's public meeting to voice their support for Malcolm. He criticized the township's handling of the matter, claiming that Malcolm was being charged "exorbitant" escrow fees from township land use officials, while echoing some of Malcolm's sentiments.

The public hearing will be held at town hall, 818 West Lacey Road, on Monday, August 1st, 2016 at 7:00 PM. See the full agenda for the meeting below.

TLR POLL:

Should this small business owner be allowed to sell guns at his Route 9 store?

- Yes (90%, 383 Votes)
- No (10%, 44 Votes)

Total Voters: 427

🔄 Loading ...

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Thursday, September 01, 2016 10:11 AM
To: Al Nappi; Chris Reid; colfbradley@aol.com; 'Ed Scanlon'; hhg5258@aol.com; James Letellier; jmckelvie@alaimogroup.com; joe_appello@comcast.net; lacey.zoning@laceytownship.org; Larry Gudgeon; Louis Kosco; Maryanne C. DeFranco; Tim McDonald
Subject: Board of Adjustment - Meeting - September 7th, 2016
Attachments: 9-7-2016 pdf.pdf; V16-11 Jersey Sportsman pdf.pdf; V16-12 Mareello Eric pdf.pdf; V16-13 Piedmont Associates pdf.pdf; V16-14 Gibson, Taffy pdf.pdf; V16-15 Adao.pdf; V16-16 Zeitlin Murray.pdf

Hi Everyone,

Attached Please find the agenda and other information for our upcoming meeting on Wednesday, September 7th, 2016

1. Agenda
 2. Resolutions: V16-11 Sportsman/ V16-12 Mareello / V16-13 Pasbjerg / V16-14 Gibson
 3. V16-15 Adao Information
 4. V16-16 Zeitlin c/o Murray Information
- Note: minutes will follow in separate email.

As always, please let me know if you are unable to attend the meeting, so I can make sure we have a quorum. Thank you....

Hoping you all have a wonderful holiday weekend..... Sue

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext. 2251

Fax: (609) 693-8846



**Township of Lacey
Board of Adjustment**

REGULAR MEETING AGENDA

**Wednesday, September 7th, 2016 •
7:00 p.m.**

NO TESTIMONY WILL BE TAKEN PAST 11:00PM

7:00 PM PUBLIC PORTION:

Call to Order & Salute the Flag

ROLL CALL OF BOARD MEMBERS:

Laurence Gudgeon, Chairman
Collen Bradley, Vice-Chair
Joseph Appello
Maryanne DeFranco
Louis Kosco
Al Nappi
Craig Tomalo
Edward Scanlon, Alternate #1
James LeTellier, Alternate #2

Also Attending:

Thomas Cannon, Board Attorney
James McKelvie, Board Engineer
Loretta Ruic, Zoning Officer
Susan Connor, Board Secretary

APPROVAL OF VOUCHERS

MINUTES:

Minutes to be voted upon: *August 1, 2016 Regular Meeting Minutes*
(Members Eligible to vote: Bradley, DeFranco, Gudgeon, Kosco, Tomalo, Scanlon, LeTellier)

RESOLUTIONS:

Appeal #16-11 Jersey Sportsman c/o William Malcolm, Block: 276, Lot: 11, Tm: 18
(Voting to Deny: DeFranco, Bradley, Scanlon)

Appeal #16-12 Mareello, Eric, Block: 791.02, Lot: 7, Tm: 43
(Voting to approval: DeFranco, Kosco, Tomalo, Bradley, Gudgeon, Scanlon, LeTellier)

Appeal #16-13 Pasbjerg Development, Block: 409, Lot: 2.01, Tm: 30
(Voting to approval: DeFranco, Kosco, Tomalo, Bradley, Gudgeon, Scanlon, LeTellier)

Appeal #16-14 Gibson, Taffy, Block: 4024, Lot: 9-11, Tm: 112
(Voting to approval: DeFranco, Kosco, Tomalo, Bradley, Gudgeon, Scanlon, LeTellier)

OLD BUSINESS: NONE

NEW BUSINESS:

Appeal #16-15
Block: 362 Lot: 46, Tax Map: 28
1005 Capstan Drive, Forked River
Submitted by: Frank & Catherine Adao

Existing Pergola
Variances: *Lagoon Setback, Side Yard Side Back,
Distance Between Structures*

Appeal #16-16
Block: 211, Lot: 12, Tax Map: 11
1708 Anchorage Drive, Forked River
Submitted by: Lynda C. Zeitlin c/o Roger Murray

Demolished a Portion of a Pre-existing nonconforming dwelling that was reconstructed on the same footprint. The applicant raised the roof increasing the nonconformity.
Variances: *Lagoon Setback, Side Yard Setback*

Respectfully Submitted
Susan Connor, Administrative Secretary DCD
Lacey Township Zoning/Planning Board

Next Regular Meeting Scheduled: Monday, October 3rd, 2016

**RESOLUTION OF MEMORIALIZATION
OF THE LACEY TOWNSHIP BOARD OF ADJUSTMENT
APPEAL #16-11**

WHEREAS, JERSEY SPORTSMAN c/o WILLIAM MALCOLM, whose address is 118 South Main Street, Forked River, New Jersey, has applied for a use variance pursuant to N.J.S.A. 40:55D-70(d) to operate a retail firearms sales store in a building located in the C-150 Highway zone; and

WHEREAS, pursuant to the Municipal Land Use Law public notice was given to the adjoining property owners as required by the Township Ordinance; and

WHEREAS, a hearing was held on the application on August 1, 2016 in the Municipal Building of the Township of Lacey and testimony and exhibits were presented on behalf of the applicant and all interested parties having been heard; and

WHEREAS, the applicant presented testimony and evidence, Christopher Supsie, Esq, appearing as follows:

- a. The applicant, William Malcolm, who leased portion of the building, testified that he wished to sell firearms in a structure located at 118 South Main Street, Forked River, New Jersey. He testified that he is presently selling paint-guns and ammunition at the store.
- b. Mr. Malcolm submitted an exhibit entitled, "License to Retail Firearms" pursuant to New Jersey Statutes 2C:58-2. He also submitted a "Dealer Inspection Report" conducted by the New Jersey State Police for the license to sell ammunition and Dealer Inspection Report for an employee at the same site.

- c. The applicant also submitted photographs of various commercial sites in the area and aials of the site. A floor plan of the site was also submitted into evidence by the applicant.
- d. Mr. Malcolm described the existing first floor plan and indicated that the space he proposed to retail the firearms was approximately 400 square feet with an entrance doorway to the parking lot. The other retail and tenant space was not connected by any doorways or stairwells to his location.
- e. Mr. Malcolm further described the present uses of the building which included a palm reader, smoke shop and residential apartments on the second floor.
- f. In response to questions from members of the Board Malcolm believed there was sufficient parking already existing on the site for the proposed uses. No site improvements were planned as part of the development.
- g. Malcolm suggested that one of the reasons to justify the variance would be for the convenience of Lacey Township residents who would no longer have to travel outside of the Township to purchase firearms. Malcolm also testified that, to his knowledge, there are other Federal Firearm Licenses (FFL) located within Lacey Township, but did not know the exact location or the extent of the operations. He also represented that there had been a bait and tackle shop located within the Township that had previously sold firearms.

WHEREAS, other persons testified with regard to this application:

- a. Various residents testified in support of the application. The majority cited the convenience of purchasing firearms within the Township without the need to travel

outside of Township. They also supported the Second Amendment Right to Purchase Arms.

- b. The majority of those who spoke in favor of the application did not believe firearm sales would have a negative impact on the welfare of the general public.
- c. A representative of a local jewelry store testified against the application citing negative impacts that could potentially affect the neighborhood and their business if the application was approved as submitted. A statement (O-1) was placed into evidence.

NOW, THEREFORE, BE IT RESOLVED the Board finds and rules as follows:

- 1. The applicant has failed to provide sufficient credible evidence to satisfy the positive and negative criteria which would warrant the grant of the use variance.
- 2. The Board finds that there are no special reasons offered by the applicant other than the convenience of the public to purchase firearms within the Township.
- 3. Further, the Board finds that there is no proof that this site was uniquely suited for the sale of firearms and to the contrary, finds that such use within the mixed used facility does not support the uniqueness of this site for the proposed use of firearms sales.
- 4. The Board further finds that the applicant has also failed to satisfy the negative criteria and particularly finds that this structure contains a multiple of uses, including residential tenants that are not compatible with the sale of firearms.
- 5. The Board also concludes that the site can be developed in accordance with other permitted uses in the Zone without undue hardship.

NOW, THEREFORE, BE IT RESOLVED for the reasons set forth above, the application is hereby **denied**.

MOVED BY:

SECONDED BY:

ROLL CALL

Those in Favor:

Those Opposed:

Those Absent:

Those Not Voting:

CERTIFICATION

I, **SUSAN CONNOR**, secretary of the Lacey Township Board of Adjustment, hereby certify the above Resolution to be a true and correct copy of a Resolution adopted by the Lacey Township Board of Adjustment on September 7th, 2016.

SUSAN CONNOR, SECRETARY
LACEY TOWNSHIP BOARD OF ADJUSTMENT

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Wednesday, September 21, 2016 10:25 AM
To: 'Jill Butler'
Cc: Chris Reid; jmckelvie@alaimogroup.com; hhg5258@aol.com; jerseyssportsman@gmail.com
Subject: RE: Jersey Sportsman (Our File No. 16-0120)
Attachments: Board of adjustment Letterhead - V16-11 Jersey Sportsman transcript.doc; Lacey Township OPRA Request 2016 - ADJUSTED.pdf

Jill,

Please see attached correspondence. Thank you...

From: Jill Butler [mailto:jill@prlawoffice.com]
Sent: Tuesday, September 20, 2016 2:53 PM
To: lacey.landuse@laceytownship.org
Subject: Jersey Sportsman (Our File No. 16-0120)

Please see attached correspondence. Thank you.

Jill Butler, Office Manager - Finance
Paralegal to Eric J. Riso, Esquire
Platt & Riso, P.C.
40 Berlin Avenue
Stratford, NJ 08084
Phone: (856) 784-8500 x13
Fax: (856) 784-8050
E-Mail: Jill@prlawoffice.com

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TOWNSHIP OF LACEY
DEPARTMENT OF COMMUNITY DEVELOPMENT
BOARD OF ADJUSTMENT

818 LACEY ROAD , FORKED RIVER, NJ 08731 (609) 693-1100 FAX (609) 693-8466
EMAIL LACEY.LANDUSE@LACEYTOWNSHIP.ORG

CHAIRMAN – LAURENCE GUDGEON
BOARD SECRETARY – SUSAN CONNOR, EXT. 2251

September 20, 2016

Eric J. Riso
Platt & Riso, P.C.
40 Berlin Avenue
Stratford, New Jersey 08084

VIA E-MAIL & REGULAR MAIL

SUBJECT: Use Variance - Application #V14-11

Submitted by: Jersey Sportsman c/o William Malcolm
Block: 276, Lot: 11, Tax Map: 18
118 South Main Street, Forked River

Dear Mr. Riso,

I am in receipt of your letter dated September 20, 2016; whereas you are requesting a copy of a transcript from a Lacey Township Board of Adjustment hearing held on August 1, 2016. Be advised my office does not provide verbatim transcripts of any Board hearings. You may request a digital copy of said hearing in order to hire your own transcription firm to transcribe the hearing. The fee to burn the CD of this hearing is a minimal cost.

Attached please find the OPRA request form. This form must be filled out and sent to the Clerk's Office for processing. If this option does not work, you are welcome to hire the transcription firm and have them call my office to make arrangements to burn their own CD. The recording system we use is: a Liberty Court recording device.

If there are any questions regarding this matter please feel free to contact my office.

Thanking you in advance for your cooperation.

Yours truly,

Susan Connor, Administrative Secretary
Department of Community Development

cc: Thomas Gannon Esq., Lacey Township Board of Adjustment Attorney
James McKelvie, PE, Lacey Township Board of Adjustment Engineer
Christopher Reid/ Director DCD / Loretta Rule, Lacey Township Zoning Officer
William Malcolm

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Wednesday, September 21, 2016 10:50 AM
To: Chris Reid
Subject: FW: Jersey Sportsman (Our File No. 16-0120)
Attachments: l-sconnor(transcript)-092016.pdf

From: Jill Butler [mailto:jill@prlawoffice.com]
Sent: Tuesday, September 20, 2016 2:53 PM
To: lacey.landuse@laceytownship.org
Subject: Jersey Sportsman (Our File No. 16-0120)

Please see attached correspondence. Thank you.

Jill Butler, Office Manager - Finance
Paralegal to Eric J. Riso, Esquire
Platt & Riso, P.C.
40 Berlin Avenue
Stratford, NJ 08084
Phone: (856) 784-8500 x13
Fax: (856) 784-8050
E-Mail: Jill@prlawoffice.com

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PLATT & RISO, P.C.

Attorneys at Law

- Stuart A. Platt, platt@prlawoffice.com
- Eric J. Riso, eriso@prlawoffice.com
- Cheryl Lynn Walters, cwalters@prlawoffice.com

- Member of NJ & NY Bars
- Member of NJ & PA Bars

September 20, 2016

VIA E-MAIL & REGULAR MAIL

Township of Lacey
Department of Community Development
Board of Adjustment
818 Lacey Road
Forked River, New Jersey 08731

Attn: Susan Connor

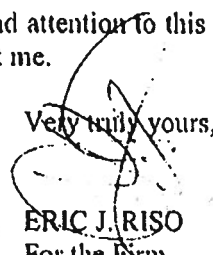
**RE: Jersey Sportsman
Appeal #16-11
Block 276, Lot: 11, Tax Map 18
118 South Main Street, Forked River
Our File No: 16-0120**

Dear Ms. Connor:

Please be advised that this firm has been retained to represent Jersey Sportsman c/o William Malcolm with regard to the above-referenced matter. Please accept this correspondence as a formal request for a copy of the transcript from the hearing of August 1, 2016, at which time the Lacey Township Board of Adjustment denied our client's application for a use variance. If there is a fee associated with this request, please advise.

Thank you for your time and attention to this matter. Should you have any questions or concerns, please feel free to contact me.

Very truly yours,


ERIC J. RISO
For the Firm

EJR/jb
cc: William Malcolm

L:\16-0120N-sconnor(transcript)-092016.doc

Chris Reid

From: Sue Connor <lacey.landuse@laceytownship.org>
Sent: Thursday, November 10, 2016 2:32 PM
To: 'Veronica Laureigh'
Cc: Chris Reid; lacey.zoning@laceytownship.org
Subject: Complaint - Jersey Sportsman
Attachments: doc02960020161110141413.pdf

Please see attached

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext 2251

Fax. (609) 693-8846

Stuart A. Platt, Esquire
Attorney I.D. No. 028031988
PLATT & RISO, P.C.
40 Berlin Avenue
Stratford, NJ 08084
(856) 784-8500
Attorneys for Plaintiff, Jersey Sportsman c/o William Malcolm

JERSEY SPORTSMAN c/o WILLIAM
MALCOLM,

Plaintiff,

v.

THE LACEY TOWNSHIP BOARD OF
ADJUSTMENT,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY

Docket No. OCN-L-002814-16

CIVIL ACTION

SUMMONS

From The State of New Jersey To The Defendant Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/pro se/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Michelle M. Smith

MICHELLE M. SMITH, ESQUIRE
Clerk of the Superior Court

DATED: November 2, 2016

Name of defendant to be served: Thomas G. Gannon, Esquire
Solicitor for the Lacey Township Board of
Adjustment

Address of service: Hiering, Gannon & McKenna
29 Hadley Avenue
Toms River, NJ 08753

L:\16-0120\PLEADINGS\SUMMONS.doc

OCEAN COUNTY SUPERIOR COURT
OCEAN COUNTY COURTHOUSE
CIVIL LAW DIVISION
TOMS RIVER NJ 08754
COURT TELEPHONE NO. (732) 929-2016
COURT HOURS 8:30 AM - 4:30 PM

TRACK ASSIGNMENT NOTICE

DATE: OCTOBER 24, 2016
RE: PM JERSEY SPORTSMAN VS LACEY TWSP BOARD ADJUSTMENT
DOCKET: OCN L - 002814 16

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON MARLENE L. FORD

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (732) 288-7830 EXT 7830.

IF YOU BELIEVE THAT THIS TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 10 DAYS OF THE FILING OF YOUR PLEADING. PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE WITH R.4:3A-2.

ATTENTION:

ATTY. STUART A. PLATT
PLATT & RISO P.C.
40 BRADLIN AVENUE
STRATFORD NJ 08084

JTMAM16

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:6-6(c)</i> , if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY	
			PAYMENT TYPE: ☐ CK ☐ CG ☐ CA	
			CHG/CK NO	
			AMOUNT	
			OVERPAYMENT	
				BATCH NUMBER
ATTORNEY / PRO SE NAME Stuart A. Platt, Esquire		TELEPHONE NUMBER (856) 784-8500	COUNTY OF VENUE Ocean	
FIRM NAME (if applicable) Platt & Riso, P.C.		DOCKET NUMBER (when available)		
OFFICE ADDRESS 40 Berlin Avenue Stratford, NJ 08084		DOCUMENT TYPE Complaint		
		JURY DEMAND ☐ Yes ☒ No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Plaintiffs, Jersey Sportsman c/o William Malcolm		CAPTION Jersey Sportsman c/o William Malcolm v. The Lacey Township Board of Adjustment		
CASE TYPE NUMBER (See reverse side for listing) 701	HURRICANE SANDY RELATED? ☐ YES ☒ NO	IS THIS A PROFESSIONAL MAL PRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? ☐ YES ☒ NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☒ NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☒ UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ☒ NO		IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☒ NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☒ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4.5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 389 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

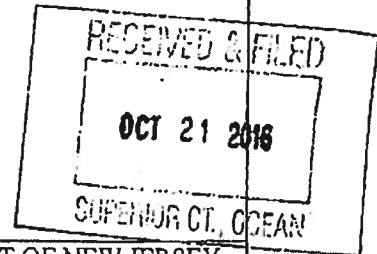
Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 292 PELVIC MESH/BARD |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 289 REGLAN | 601 ASBESTOS |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 623 PROPECIA |
| 291 PELVIC MESH/GYNECARE | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59

Stuart A. Platt, Esquire
Attorney I.D. No. 028031988
PLATT & RISO, P.C.
40 Berlin Avenue
Stratford, NJ 08084
(856) 784-8500
Attorneys for Plaintiff, Jersey Sportsman c/o William Malcolm



JERSEY SPORTSMAN c/o WILLIAM
MALCOLM,

Plaintiff,

v.

THE LACEY TOWNSHIP BOARD OF
ADJUSTMENT,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY

Docket No.

RW 2814-16
CIVIL ACTION

COMPLAINT IN LIEU OF
PREROGATIVE WRITS

Plaintiff, Jersey Sportsman c/o William Malcolm, by way of Complaint in Lieu of
Prerogative Writs against Defendant, the Lacey Township Board of Adjustment
("Board"), says:

PARTIES AND SUBJECT PROPERTY

1. At all times relevant hereto, Plaintiff was and is the lessor of certain
property situate within the Township of Lacey in the County of Ocean and State of New
Jersey located at 118 South Main Street, Forked River, New Jersey also known as Block
5.03, Lot 4 ("P.I.Q").

2. The P.I.Q. is located in the C-150 Highway Zone of the Township of
Lacey.

3. At all times relevant hereto, Defendant, Lacey Township Board of

Adjustment, is the duly constituted administrative agency of the Township of Lacey, County of Ocean, State of New Jersey, charged with the duty, among other things, to grant variances from the provisions of the zoning ordinance of Lacey Township.

LAND USE APPLICATION

4. On or about April 13, 2016, Plaintiff applied to the Board for a use variance pursuant to N.J.S.A. 40:55D-70(d) to operate a retail firearms store at the P.I.Q. ("Variance Application").

5. On or about August 1, 2016, a public hearing was held before the Board on the Variance Application, during which Plaintiff demonstrated that special reasons existed for the use variance and that the approval could be granted without causing substantial detriment to the public good.

6. At the time of the hearing, several witnesses testified in favor of Plaintiff's Variance Application, and only one witness testified against it.

7. At the conclusion of the August 1, 2016 hearing, the Board voted to approve Plaintiff's Variance by a vote of four (4) in favor and three (3) against, resulting in the statutory denial of the application pursuant to N.J.S.A. 40:55D-70(d), which requires five (5) affirmative votes to grant a use variance.

8. The Board memorialized its August 1, 2016 decision by way of Resolution adopted on September 7, 2016, a true and correct copy of which is attached hereto as Exhibit "A" and made a part hereof.

9. As set forth in the Resolution, the Board denied the use variance sought by Plaintiff for the following reasons:

- The applicant has failed to provide sufficient credible evidence to satisfy the positive and negative criteria which would warrant the grant of the use

variance.

- The Board finds that there are no special reasons offered by the applicant other than the convenience of the public to purchase firearms within the Township.
- Further, the Board finds that there is no proof that the this site was uniquely situated for the sale of firearms and to the contrary, finds that such use within the mixed use facility does not support the uniqueness of this site for the proposed use of firearms sales.
- The Board further finds that the applicant has failed to satisfy the negative criteria and particularly finds that the structure contains a multiple of uses, including residential tenants that are not compatible with the sale of firearms.
- The Board also concludes that the site can be developed in accordance with other permitted uses in the Zone without undue hardship.

10. The record contains unsworn testimony and statements from at least one municipal official, namely Chris Reid, who knowingly, intentionally and purposefully persuaded the Board to deny the variance application through unsubstantiated assertions, interpretations and commentary.

11. Such actions on the part of Chris Reid improperly influenced the Board's decision, improperly interfered with the independent decision-making of the Board and was otherwise unlawful.

12. Upon information and belief, certain members of the Lacey Township Governing Body who were opposed to the Variance Application improperly communicated or attempted to improperly communicate with Board members or their professionals, either directly or indirectly through Chris Reid and others.

13. Such actions violated and interfered with the independence of the Board as required by law, amounted to a usurpation of the Board's authority and violated the rights of the Plaintiff.

COUNT ONE

(The Board's Decision Was Arbitrary, Capricious and Unreasonable)

1. Plaintiff repeats each and every allegation contained in the preceding paragraphs as if set forth at length herein.
2. The Board's denial of Plaintiff's Variance Application is at odds with the substantial evidence in the record and is without basis in law or fact.
3. As such, the Board's decision was arbitrary, capricious and unreasonable and an abuse of its discretion.
4. By denying the use variance, the Board acted contrary to fundamental principles of sound planning and violated the intent and spirit of the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-1, *et seq.*, and the case law interpreting same.

WHEREFORE, Plaintiff demands judgment against Defendant, Lacey Township Board of Adjustment, as follows:

- (a) Declaring the Board's decision arbitrary, capricious, and unreasonable;
- (b) Reversing the Board's denial of Plaintiff's Variance Application;
- (c) Cancelling, annulling and setting aside all actions taken by the Board;
- (d) Granting the requested use variance; and
- (e) Awarding such other procedural, substantive or equitable relief as the Court deems necessary and proper, including costs of suit and attorneys' fees.

COUNT TWO

(Improper Denial as to Variance Relief)

1. Plaintiffs repeat each and every allegation contained in the preceding paragraphs as if set forth at length herein.
2. Plaintiff demonstrated by sufficient and credible evidence that the

proposed use of the P.I.Q. as a retail firearms store satisfied both the positive and negative criteria as required by N.J.S.A. 40:55D-70(d).

3. The record is devoid of findings of fact and conclusions of law sufficient for the Board to deny the use variance requested by Plaintiff.

4. As such, the Board's actions are contrary to the fundamental principles of sound planning and violate the spirit and intent of the MLUL and governing law.

WHEREFORE, Plaintiff demands judgment against Defendant, Lacey Township Board of Adjustment, as follows:

- (a) Declaring the Board's decision arbitrary, capricious, and unreasonable;
- (b) Reversing the Board's denial of Plaintiff's Variance Application;
- (c) Cancelling, annulling and setting aside all actions taken by the Board;
- (d) Granting the requested use variance; and
- (e) Awarding such other procedural, substantive or equitable relief as the Court deems necessary and proper, including costs of suit and attorneys' fees.

COUNT THREE

(Improper Acceptance of Testimony and Proofs)

1. Plaintiff repeats each and every allegation contained in the preceding paragraphs as if set forth at length herein.

2. The record fails to contain sufficient evidence or testimony to support the Board's denial of the use variance in this matter.

3. The denial of the requested use variance was an abuse of the Board's discretion as it is in conflict with the testimony and evidence in the record.

4. The failure of the Board to properly consider the evidence and applicable case law in this matter is contrary to the Board's statutory obligations and the lawful

rights of the Plaintiff.

5. Plaintiff's interests have been adversely affected by the Board's decision in this matter.

WHEREFORE, Plaintiff demands judgment against Defendant, Lacey Township Board of Adjustment, as follows:

- (a) Declaring the Board's decision arbitrary, capricious, and unreasonable;
- (b) Reversing the Board's denial of Plaintiff's Variance Application;
- (c) Cancelling, annulling and setting aside all actions taken by the Board,
- (d) Granting the requested use variance; and
- (e) Awarding such other procedural, substantive or equitable relief as the Court deems necessary and proper, including costs of suit and attorneys' fees.

COUNT FOUR
(Defective Resolution)

1. Plaintiff repeats each and every allegation contained in the preceding paragraphs as if set forth at length herein.

2. The Board is obligated under applicable law to make findings of fact and conclusions of law and its resolutions are supposed to correspond by reiterating such findings in writing.

3. The Board's decision must reflect the actual deliberations and specific findings of fact made by its members in order to ascertain the Board's actions.

4. The Resolution does not reflect that the Board voted to approve Plaintiff's variance application or that four (4) members voted in favor thereof.

5. The Resolution does not contain sufficient findings of fact and conclusions of law to support the statutory denial of the requested use variance

6. The Board's resolution fails to comply with the MLUL and does not accurately reflect the record of the hearing in this case.

7. The failure of the Board to adopt a proper resolution is a violation of law and contrary to its statutory obligations and the lawful rights of Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendant, Lacey Township Board of Adjustment, as follows:

- (a) Declaring the Board's decision arbitrary, capricious, and unreasonable;
- (b) Reversing the Board's denial of Plaintiff's Variance Application;
- (c) Cancelling, annulling and setting aside all actions taken by the Board;
- (d) Granting the requested use variance; and
- (e) Awarding such other procedural, substantive or equitable relief as the Court deems necessary and proper, including costs of suit and attorneys' fees.

COUNT FIVE
(Duty to Turn Square Corners)

1. Plaintiff repeats each and every allegation contained in the preceding paragraphs as if set forth at length herein.

2. The Board owes Plaintiff and the public a duty "to turn square corners" as articulated by the New Jersey Supreme Court in F.M.C. Stores, Co. v. Borough of Morris Plains, 100 N.J. 418 (1985).

3. The Board's actions in denying the use variance was arbitrary, capricious, unreasonable and otherwise without basis in law or fact, contrary to its statutory obligations and the lawful rights of the Plaintiffs

4. The actions of the Board violated fundamental concepts of fairness.

5. As a result of the aforementioned conduct by the Board, Plaintiff has been

and continues to be injured and deprived of its rights as owners of their property.

WHEREFORE, Plaintiff demands judgment against Defendant, Lacey Township Board of Adjustment, as follows:

- (a) Declaring the Board's decision arbitrary, capricious, and unreasonable,
- (b) Reversing the Board's denial of Plaintiff's Variance Application;
- (c) Cancelling, annulling and setting aside all actions taken by the Board;
- (d) Granting the requested use variance; and
- (e) Awarding such other procedural, substantive or equitable relief as the Court deems necessary and proper, including costs of suit and attorneys' fees.

COUNT SIX

(Constitutional Violations/Deprivation of Civil Rights)

1. Plaintiff repeats each and every allegation contained in the preceding paragraphs as if set forth at length herein.
2. The Board's denial of Plaintiff's application results in a prohibition on the sale of firearms in violation of the Second Amendment, made applicable to the states by the Fourteenth Amendment, and amounts to selective enforcement in violation of Plaintiff's right to equal protection as provided for under both the United States and New Jersey Constitutions.
3. The Board's denial of Plaintiff's application violated his rights of due process and equal protection under the law.
4. The Board's decision constitutes an arbitrary, capricious and unreasonable restriction that prevents Plaintiff from exercising his fundamental rights guaranteed by the Second Amendment.
5. As a result, Plaintiff is entitled to equitable relief and damages pursuant to

42 U.S.C. §1983 and/or the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, *et seq.*, in an amount to be determined at trial.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- (a) Declaring that Defendant has violated Plaintiff's Second Amendment rights;
- (b) Declaring that Defendant has violated Plaintiff's rights to equal protection;
- (c) Reversing the denial of Plaintiff's application for a use variance;
- (d) Awarding compensatory damages; and
- (e) Awarding punitive damages;
- (f) Awarding attorney's fees and costs pursuant to 42 U.S.C. §1988 and/or N.J.S.A. 10:6-2(f); and
- (g) Awarding such other procedural, substantive or equitable relief as the Court deems necessary and proper.

PLATT & RISO, P.C.

By: 

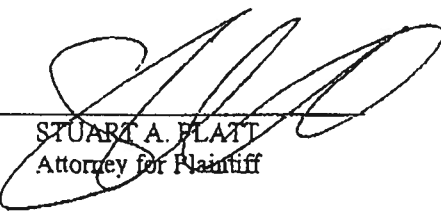
STUART A. PLATT
Attorney for Plaintiff

Dated: October 21, 2016

NOTICE PURSUANT TO RULES

TAKE NOTICE that the undersigned attorney, counsel for the Plaintiffs, hereby demands pursuant to R.1:5-1(a) and R.4:17-4(c), that each party herein serving pleadings, interrogatories, requests for production of documents, and receiving answers thereto, serve copies of all such pleadings and answered interrogatories, admissions or documents produced or received from any party upon the undersigned attorney and take notice that this is a continuing demand.

PLATT & RISO, P.C.

By: 

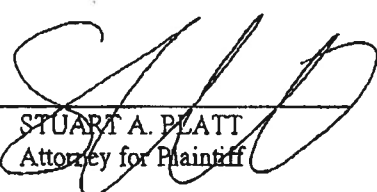
STUART A. PLATT
Attorney for Plaintiff

Dated: October 21, 2016

CERTIFICATION

Pursuant to R.4:5-1, the matter in controversy is not the subject of any other actions pending in any Court or other arbitration proceeding. Furthermore, there are no non-parties who should be joined in this action pursuant to R.4:28 or who are subject to joinder pursuant to R.4:29-1(b) because of potential liability to any party on the basis of the same transaction or facts.

PLATT & RISO, P.C.

By: 

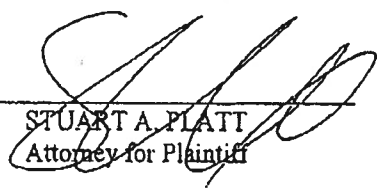
STUART A. PLATT
Attorney for Plaintiff

Dated: October 21, 2016

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that pursuant to R.4:25-4, Stuart A. Platt, Esquire, is hereby designated as trial counsel.

PLATT & RISO, P.C.

By: 

STUART A. PLATT
Attorney for Plaintiff

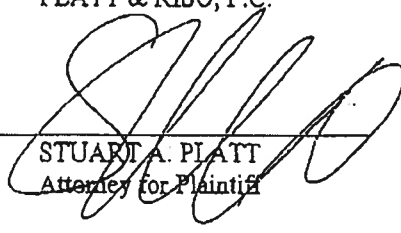
Dated: October 21, 2016

CERTIFICATION PURSUANT TO RULE 4:69-5

The undersigned hereby certifies that all necessary transcripts of local agency proceedings have been ordered.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

PLATT & RISO, P.C.

By: 

STUART A. PLATT
Attorney for Plaintiff

Dated: October 21, 2016

L:\5-0120\PLEADINGS\Complaint.doc

Chris Reid

From: Chris Reid <lacey.commdev@laceytownship.org>
Sent: Thursday, November 10, 2016 3:29 PM
To: Veronica Laureigh
Subject: FW: Complaint - Jersey Sportsman
Attachments: doc02960020161110141413.pdf

Jersey Sportsman complaint attached.

From: Sue Connor [mailto:lacey.landuse@laceytownship.org]
Sent: Thursday, November 10, 2016 2:32 PM
To: 'Veronica Laureigh' <lacyclerk@laceytownship.org>
Cc: Chris Reid <lacey.commdev@laceytownship.org>; lacey.zoning@laceytownship.org
Subject: Complaint - Jersey Sportsman

Please see attached

Susan Connor

Administrative Secretary DCD

Lacey Township Planning / Zoning Board

Local Registrar of Vital Statistics

818 Lacey Road

Forked River, New Jersey 08731

(609) 693-1100 Ext. 2251

Fax: (609) 693-8846

Stuart A. Platt, Esquire
Attorney I.D. No. 028031988
PLATT & RISO, P.C.
40 Berlin Avenue
Stratford, NJ 08084
(856) 784-8500
Attorneys for Plaintiff, Jersey Sportsman c/o William Malcolm

JERSEY SPORTSMAN c/o WILLIAM
MALCOLM,

Plaintiff,

v.

THE LACEY TOWNSHIP BOARD OF
ADJUSTMENT,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY

Docket No. OCN-L-002814-16

CIVIL ACTION

SUMMONS

From The State of New Jersey To The Defendant Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prosc/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Michelle M. Smith

MICHELLE M. SMITH, ESQUIRE

Clerk of the Superior Court

DATED: November 2, 2016

Name of defendant to be served: Thomas G. Gannon, Esquire
Solicitor for the Lacey Township Board of
Adjustment

Address of service: Hering, Gannon & McKenna
29 Hadley Avenue
Toms River, NJ 08753

LA16-0120 PLEADINGS SUMMONS.doc

OCEAN COUNTY SUPERIOR COURT
OCEAN COUNTY COURTHOUSE
CIVIL LAW DIVISION
TOMS RIVER NJ 08754
COURT TELEPHONE NO. (732) 929-2016
COURT HOURS 8:30 AM - 4:30 PM

TRACK ASSIGNMENT NOTICE

DATE: OCTOBER 24, 2016
RE: PW JERSEY SPORTSMAN VS LACEY TNSP BOARD ADJUSTMENT
DOCKET: OCN L - 002814 16

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE
JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST
DEFENDANT, WHICHEVER COMES FIRST

THE MANAGING JUDGE ASSIGNED IS: HON MARLENE L. FORD

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (732) 288-7830 EXT 7830.

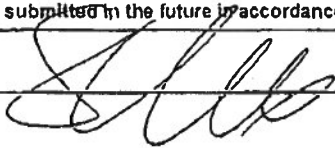
IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R 4:5A-2.

ATTENTION:

ATT: STUART A. PLATT
PLATT & RISO P.C.
40 BERLIN AVENUE
STRATFORD NJ 08064

JUN16

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i> , if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: ☐ CK ☐ CG ☐ CA	
			CHG/CK NO.	
			AMOUNT	
			OVERPAYMENT	
		BATCH NUMBER:		
ATTORNEY / PRO SE NAME Stuart A. Platt, Esquire		TELEPHONE NUMBER (856) 784-8500	COUNTY OF VENUE Ocean	
FIRM NAME (if applicable) Platt & Riso, P.C.		DOCKET NUMBER (when available)		
OFFICE ADDRESS 40 Berlin Avenue Stratford, NJ 08084		DOCUMENT TYPE Complaint		
		JURY DEMAND ☐ Yes ☒ No		
NAME OF PARTY (e.g., John Doe Plaintiff) Plaintiffs, Jersey Sportsman c/o William Malcolm		CAPTION Jersey Sportsman c/o William Malcolm v. The Lacey Township Board of Adjustment		
CASE TYPE NUMBER (See reverse side for listing) 701	HURRICANE SANDY RELATED? ☐ YES ☒ NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? ☐ YES ☒ NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☒ NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☒ UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ☒ NO		IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☒ NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☒ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
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If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59