

ZONING BOARD OF APPEALS

Amended and approved on August 4, 2026

This hearing on Tuesday July 7, 2026, called to order by chairman, Harry Kwiek at 7:00 PM with the pledge of allegiance.

Members Present:

Harry Kwiek
John Jimenez
Greg Kalinowski
Shawn Pralow
Ron Carey

Also Present:

Robert Schaefer, Alternate
James Lembke, Alternate
Phyllis Todoro, Town Attorney
Rosemary Bapst, Deputy Town Attorney

Others Absent:

Ray Balcerzak, Assistant Building Inspector

Appeals case #1505 for Eric Hopkins of 2930 Bullis Road, Elma, NY who is requesting a use variance to obtain a Federal Firearms License for online sale purchases Section 144-51 A(3), Section 144-51 B(1), Residential B.

Mr. Hopkins explained that he wants to have zoning to allow his in home business of buying and selling guns through the Federal Firearms License (FFL) Type 01 for which he is applying. He indicated that he has done approximately 8 **Sales**/year but that he pays other FFL's to do the paperwork. When he sells, he pays 15-20% commission depending on where he goes. To do the paperwork, it costs \$50.00 which if he is allowed his use variance he would be permitted to obtain. Mr. Hopkins indicated that guns would be delivered to his home and people would pick them up from his home.

Mr. Hopkins Indicated that he would not have a retail store in his home. Mr. Hopkins indicated that he has been buying and selling guns for about 5 years.

Mr. Carey explained the process for granting a use variance including that he has to prove a hardship unique to him; that Mr. Hopkins cannot make a reasonable financial return, which is demonstrated by financial records; that this will not affect the character of the neighborhood; and that his hardship is not self-created.

Mr. Hopkins indicated that he does not have any financial records and has not filed taxes on this.

Mr. Hopkins is hoping to have 1-2 people per week.

His present EIN/Federal Identification Number has nothing to do with this proposed business.

Mr. Hopkins admitted that thus far his buying and selling has operated at a loss.

Mr. Kalinowski indicated that Mr. Hopkin's business hardship is more of an Opportunity loss rather than financial. The Board asked several times if he could provide any financial proof of hardship if adjourned which Mr. Hopkins indicated that he did not have any and that he needed to rescind his application tomorrow if denied.

Mr. Hopkins indicated that he has only bought 8 guns and has not sold any. He does not provide guns for raffles.

Mr. Kwiek asked if anyone wanted to speak in favor of the variance.

Robert Gross of 11 Northrup spoke in favor indicating that if the Board denied Mr. Hopkins' variance it would be discrimination. The house is not going to change anything and then referred back to last month's approval of an area variance that he took issue with.

The Board attempted to explain the difference between area and use variances.

No one spoke against the variance.

Mr. Kalinowski made the motion concerning **Appeals case #1505 for Eric Hopkins of 2930 Bullis Road, Elma, NY who is requesting a use variance to obtain a Federal Firearms License for online sale purchases Section 144-51 A(3), Section 144-51 B(1), Residential B be denied respectfully since unlike an area variance a use variance must prove injurious state of not making a profit. Mr. Hopkins cannot prove that he cannot make a reasonable return as shown by competent financial evidence; that alleged hardship is unique and does not apply to the neighborhood and that the hardship was not self-created. For those reasons, I am making this motion.**

Mr. Pralow Seconded the motion.

4 Yays

1 No-Mr. Kwiek

The Board denied the use variance for Mr. Hopkins to obtain a Federal Firearms License for online sale purchases pursuant to Sections 144-51A(3) and 144-51B(1).

Mr. Jiminez made a motion to approve the minutes of the Zoning Board of Appeals' June 2, 2026 meeting.

Mr. Kalinowski seconded the motion

4 Yays

0 nays

Mr. Carey abstained since he was not at the meeting.

The June 2, 2026 meeting minutes were approved.

Mr. Jiminez made the motion to adjourn the meeting. Mr. Pralow seconded the motion.

5 Yays

0 nays

Meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Rosemary Bapst, Deputy Town Attorney

Drafted but not approved by board.