

Town of Southeast Planning Board and Zoning Board of Appeals
c/o Victoria Desidero
67 Main Street
Brewster, NY 10509

July 27, 2021

Donald Whitman
20 Elizabeth Ct.
Brewster, NY 10509

Dear Planning Board and Zoning Board of Appeals Members,

I am writing regarding the application by Subtract Inc. to obtain a Conditional Use Permit at their residence of 20 Welfare Road in Brewster, NY. Following a lengthy public hearing before the Planning Board on the evening of July 26, 2021, during which numerous residents voiced significant concerns regarding the approval of a Type 10 FFL in a residential neighborhood, the applicant has now been referred to the Zoning Board of Appeals. I would like to clarify in this letter several concerns that have been addressed by myself and my neighbors regarding this application and hope that the Zoning Board of Appeals will preserve our residential area and advise that this application be denied.

- 1) The Town of Southeast, at the onset of Article X Special Permits and Conditional Uses, states that such uses will be appropriate, harmonious, and desirable uses in the district. Subtract Inc. fails on all three accounts in this regard. A type 10 FFL is defined as a "Manufacturer of Destructive Devices, Ammunition for Destructive Devices, or Armor Piercing Ammunition." As was made clear by the public outcry at the last Planning Board meeting, the residents of Brewster do not want such a business in a residentially zoned area where children and grandchildren are at play. This company is neither appropriate, harmonious nor desired in our area.
- 2) The ATF, while they are charged with regulating FFLs, are only able to inspect approximately 15% of all firearms dealers each year. As a May 28, 2021, article in USA Today "Gun used in Odessa shooting shows risk when chain of illegal sale starts with home-based hobbyist dealers" shows us, many guns landing in the wrong hands in our country can be traced back to "kitchen-table" gun dealers, like the one proposed by Subtract Inc. These are individuals who often have other careers, such as Mr. Smith, who plan to manufacture and deal in firearms on the side. In fact, the part (lower receiver of an AR-15) that was traced back to the home-based FFL in the case of the Odessa shooting is the EXACT part that the applicant displayed and said he intends to manufacturer at his home. This is the only regulated part of the weapon, and all other parts can be bought online without any background check. The reliance upon local oversight and less stringent security measures than exist in commercial locations are both cited in the article as reasons that home based FFL's are not as secure as store front locations.
- 3) On the application for the FFL, in section 20, part a, the applicant is asked to verify that (bold is on the application): "*The business/activity to be conducted under the Federal Firearms License is not prohibited by State or local law at the premises shown in item 6. This includes compliance with zoning ordinances. **(Please contact your local zoning department PRIOR TO submitting application)***". At the last Planning Board meeting the applicant read this section out loud approximately three times, however each time he chose to leave out the part that states "This

includes compliance with zoning ordinances.” He stated that he contacted Mr. Michael Levine in the building department and received an email that confirmed an FFL is not prohibited by State or local law at the premise shown, however, he did not verify compliance with zoning ordinances. This is, in fact, why this application came before the Planning Board in the first place. If the applicant did not seek zoning clarification or was not fully forthcoming as to his intentions in his email with Mr. Levine, or if Mr. Levine provided approval beyond that which his position authorizes him to do without the prior approval of the Planning Board, then the Zoning Board of Appeals should rectify this immediately with their decision to deny this application for a conditional use permit. Had this applicant verified with the proper zoning department prior to submitting his application, as he was directed to do, the Type 10 FFL would not have been granted unless the Planning Board gave their approval first. There is no gray area here, as was expressed by the attorney for the Planning Board at the prior meeting. This business clearly violates zoning ordinances unless it first has a conditional use permit, which it currently does not and did not have at the time the application for the FFL was submitted.

- 4) The Zoning Board of Appeals is being asked to weigh the letter of the law and zoning guidelines, with the spirit of those laws and guidelines. I am hoping that the latter will prevail. The applicant moved into our community at the end of 2018, purchasing 13 acres and an additional 23 in an adjacent lot. He stated publicly on July 26, 2021 that he has no intent of being neighborly, of speaking with his neighbors, or “coming to your barbecues.” The business is listed as a woman owned business as Mrs. Smith is listed as the majority owner. She has not spoken at, nor attended, any of the past three meetings. During the notification process, the applicant notified only those neighbors he was legally bound to notify, despite homes just beyond the 500-foot mandatory radius. At the first meeting before the Planning Board the applicant did not clarify which type of FFL he was planning to run, a distinction that was finally addressed at the public hearing and was clarified by a neighbor as to what it means to produce destructive devices and armor piercing ammunition out of your home. Further, while the conditional use permit can prevent on site “sales,” the applicant said he still intends to do on site “transfers” as these are, in his words, a service he will be providing. As one board member said, this is purely an argument in semantics as goods will still be exchanging hands on site, and the goods in this case are firearms. The applicant clearly does not care about the spirit of the law or our zoning regulations. Please consider the impact on our residential neighborhood, including increased traffic, risk of successful or attempted break-ins, and the blemish upon our home values when someone googles their potential new home to learn that the house next door is producing destructive devices.

The conditional use guidelines stipulate that “the home occupation shall not sell, produce, or dispose of any lethal, toxic, or hazardous substance.” Listed in 138-56.2 are business types that are considered appropriate for residentially zoned areas. These include art and craft studios, baking, clergyman, lawyers, architects, accountants, and music lessons, etc. A manufacturer of destructive devices and armor piercing ammunition does not belong on this list.

Sincerely,



Don Whitman

Cc Southeast Town Board