

**TOWN OF BATAVIA PLANNING BOARD
PUBLIC HEARING, April 20, 2021, 7:00 P.M.**

VIA ZOOM CONFERENCING

Meeting ID: 981 1691 8418

Password: 81525

By phone 1-646-558-8656 US (New York)

Because of the Novel Corona Virus Pandemic and state and federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive order 202.1 issued March 12, 2020 suspending the Open Meeting Law, the Town of Batavia Planning Board meetings was held electronically via ZOOM video conference/call conference instead of a public meeting open for the public to attend in person. Minutes of the meeting will be posted on the Town of Batavia Website.

PRESENT: Chairman Kathy Jasinski, Paul Marchese, Paul McCullough, Don Partridge, Jonathan Long, and Brooks Hawley.

ALSO ATTENDING: Brandon Lewis Owner of The Firing Pin, Matthew Hume, Linda and Jason Tomporowski, Kevin H., Corey Coles, Bridget Cuddihy, Paul Lewis, Kevin Heist, Jim Taravella of LaBella, Mark Allen, Rich Schildwaster, Kaelyn Roche, Paul Heist, Ryan Whitcombe, Christopher M., KCharland, Jim, Nancy, Steve Mountain Town Engineer, Dan Lang Building Inspector, Sarah Sauka is Host for the Zoom Meeting, Sharon White Town Board Member, Mike Pettinella of The Batavian, Alecia Kaus of Video News Service, and Secretary Kim McCullough.

ABSENT: Lou Paganello, Jeremy Liles and Steve Tanner.

Public Hearing announcement was read regarding the application for a Special Use Permit by Brandon Lewis to allow recreational use of existing land features for firearms training, shooting range, recreation, fitness training and a Drive-In at 3269 Harloff Road in the Town of Batavia NY.

Brandon Lewis – Owner of The Firing Pin – 3269 Harloff Road, Batavia NY – Mr. Lewis gave an overview of the project, which will be located at the former Polar Wave property. He stated that they are trying to bring a professional, safe training and shooting center to the Town of Batavia. Mr. Lewis said that the likes of this has not been seen in this region and will be quite a draw to the Town of Batavia from shooters, fire arms enthusiasts, law enforcement, countless groups would be interested in this type of training from the fire arms side, but he also wants to do other forms of outdoor recreation, outdoor fitness, wants to return the property back into a well-used piece of land year around. After that was done Chairman Jasinski opened the floor to discussion in which individuals are given 3-5 minutes to speak. Sarah Sauka the Host stated if you want to speak to unmute yourself, say your name and then talk.

Linda Tomporowski – lives on Kelsey Road in the Town of Batavia, and the proposed shooting range in consideration under the special use permit is basically in her back yard. Ms. Tomporowski stated she did send a detailed letter to Chairman Jasinski and it was forwarded onto the board. Ms. Tomporowski is asking the Planning Board to deny the Special Use Permit, based on the fact that the primary use of this property is a shooting range. Does not know what the percentage is shooting range versus the other recreational activities, due to Mr. Lewis's background with the shooting range, she thinks this will primarily be a shooting range location and that concerns her quite a bit seeing it's in her backyard. The application did not give any proposed hours of operation and she does not know if that has been changed, she is concerned because of possible night shooting, unlimited day shooting, all hours all weekends, so she is concerned about the time and use. Under the Town of Batavia Planning Board Code 3A – it is stated the Planning Board should take into consideration a harmonious relationship between the proposed use and existing adjacent uses and there is nothing harmonious for her with a shooting range in her backyard, she has heard the shooting before and its very clear. What is most important to her is Section D Regulation 8 – it states that the Special Use Permit will not impair adjacent land and their values, which she believes it would and the operation of any said use shall not be more objectionable to nearby properties then would the operation of any permitted use. If you look at some of the other uses for outdoor recreation it definitely does not fall into that as far as a shooting range versus a snow tubing business which was there before. The most important regulation that Ms. Tomporowski found was on the proposed use should not cause undo noise and like she said just hearing them back there shooting previously it is very clear, there is really no buffer between us as far as there is no way to block the noise, the motor cross track has cleared pretty much all of the vegetation, there is no berm anymore therefore it is basically a straight shot to her backyard. As she has said before the outdoor recreation definition in the Planning Board states pretty much everything like a golf course, driving range there is trap and skeet shooting but that is very different from an open shooting range just do to the number of people shooting at one time and the caliber that is being shot, just the noise in general. She has been to indoor ranges and they are super loud and in the outdoor you have more people shooting she it would be magnify that. She also stated that anytime a new business comes up that is noise generated it seems to go off on Harloff Road, which just does not seem fair to our neighborhood. We have Area 51 and have to deal with that 7 days a week, pretty much year around because if the weather allows them to run, they're running and they were originally told that was going to be limited it has not been that way and they are very concerned with another Special User Permit goes through it is going to become unlimited use again, there is no enforcement and it really

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does not allow her to enjoy her property. She thinks it's a great proposal, she is not anti-gun or anti-business or anything like that, she just wants to enjoy her property so again she thinks it's the right business just the wrong location. It is definitely going to cause undo noise which she thinks is a huge concern and this is a residential/agricultural area, primarily you are asking for the Special Use Permit so I am just asking to deny just based on the fact the shooting range is going to be just make my property just so I cannot enjoy it at any point outside day or night and it will really have an impact on my husband's business as well. She does invite any Planning Board Member to come out and if Mr. Lewis is in agreement to have a couple of my friends go out and shoot anything out there so you can hear the noise for yourself, she is more than willing to do that and she knows her husband and his friends would love to do that.

Jason Tomporowski – lives on Kelsey Road. He and his wife have gone to the indoor range. One of things that the Board does not realize is that this is just not junior shooting Daddy's raffle eight times at a target, he had mentioned running drills and what I would like you guys to do, the internet is an amazing tool, is to just You Tube Thunder Ranch, when he talks about drills, some of this stuff is going to be tactical, which means multiple magazines, if you get law enforcement officers in there, they are exempt from the Safe Act, they can use 30 round magazines and they are going to be just popping away shots doing all of their drills and it's something if you guys are not familiar with you can easily You Tube this stuff and just see what you are kind of getting into. It's not just somebody shooting trap, you know pull one shot here and one shot there, it's going to be repetitive shooting and again it's very hard for me because I am pro 2nd Amendment but you know we deal enough with Area 51. On Sunday, Chris was running, somebody was back shooting, he heard it, he was walking his dogs, you can tell and it is just one thing on top another and it is just something I really think you guys could maybe pull back a little bit, learn a little bit more about what he is trying to do with the range and address it appropriately then, because it's just not somebody shooting a shot gun or a bolt action raffle there are going to be some other things going on there. It's something I really thing that should be addressed because when he says drills I understood and knew exactly what he meant and its fun but this is the wrong place for it. If there was a big giant hill there, because we don't even hear the thruway. The Thruway is blocked by the landfill and everything but like my wife had said Moisers cleared everything away and its cart blanche all the way across, we can hear it and she has even taken video. You guys are always invited, well one you can always come out and visit the farm, but on like a Saturday or Sunday if you guys want to come out, preferably it would be awesome if it was when Chris is running one of his events and then we could go shoot then you can hear all of it happening. You can hear them shoot over the dirt bikes.

Rich Schildwaster – lives on Kelsey Road. He has spoken to some of the staff at the Town of Batavia, Dan Lang and some of the guys in his department on this. Mr. Schildwaster has already forwarded some information which he hopes it has reached the Planning Board. Mr. Schildwaster is an avid outdoorsman, he stated that he hunts and shoots. He has several years of military experience as a lot of people do in this area and based on the statements he has seen from his business and employees, things that Mr. Schildwaster has found on the internet, the last speaker (Mr. Tomporowski) was correct on the tactical aspect of it. Mr. Schildwaster has spoken to a lot of people about this and he does not particularly have an issue with a gun range, what he has an issue with is in general is the manner of what they are looking to do out there. He has painted a beautiful picture, we're going to have movie theater, a fitness center, we're going to have an RV lot and the other thing he said a lot is various activities. Mr. Schildwaster stated when it comes to a Special Use Permit, I don't think various activities cut the mustard as far as what he going to be doing out there. He has used a lot of generalities and I think we need to get specifics, he evades the direction of shooting, and based on the video I forwarded, what I have seen personally they are shooting towards the Thruway and that is concerning to me. On the other side of that Thruway is a trailer park, with over a 100 trailers/mobile homes, that they shoot in the direction on a regular basis. At the last meeting he (Mr. Lewis) stated it would be mobile directions because they were going to be holding competitions, so what is stopping bullets from exiting the property. Mr. Schildwaster stated that Mr. Lewis has a 50 Cal and Mr. Schildwaster is fairly confident with his background and several other people in the area are certain that he has touched it off over there on that property and where that bullet stops, he is not sure there is enough berm to stop it. There needs to be some surveys done to figure that out. Shooting at night, law enforcement agencies in this county has an agreement as to when they can and can't shoot at night at the facilities they use and that was set up with the residents. There was a package sent out to him about sound studies, EPA and all those things. Question how big is this RV lot going to be, cause it sounds like it is primarily for shooting. Mr. Lewis mentioned members becoming essentially certified range safety officers, is it essentially or are they actually, are they going to take all 6 parts and the test or is it going to be his company's modified version which doesn't meet the standard, that needs to be clarified. Open to the public on the weekends, so it won't be bad when the common person is working during the week and not here, but when the volume is going to ramp up is when residential neighbors are home, Mr. Schildwaster is not a big fan of that. If the Planning Board denies this idea of a range, is he still willing to go forth and develop the land for everything else that he has on that plan or is this thing hinging entirely on him getting the permit for the range. Mr. Schildwaster is not in favor; he is not quieter than the thruway and Mr. Schildwaster can hear him shooting and his cohorts shooting recently over the top of the motorcycles running at the same time at Area 51. It will be intrusive on Mr. Schildwaster's property and it will be intrusive on the value of all of our properties in the neighborhood. Several studies have been done when ranges have come in. Mr. Schildwaster encourages you to dig deep with this and encourages you to deny his application.

Kevin Heist – He works for a technology company from home in the IT field and the shooting during the day would affect his work. He sent an extensive email about doing some research on this and to reiterate the point is that all the, there are a lot of different activities here and there is cart blanche with zip line, paint ball, fitness center, obstacle courses, pavilions, drive in theater, RV park, event venue
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for concerts, car shows, craft shows, over night guests, it seems to be excessive and there are no specifics as to what the use should be. So, there are concerns with all of these activities and what's odd to me is that we need specifics before we can even sign off on this and with the shooting, I agree with all of the different avenues before, it's going to affect noise and it just seems like the plan is all over the place and we are going to do everything and what is the safety going to be like, if you are doing shooting and have the movie theater how does that work. Has there been an environment studies, you are putting public on that land what is the safety going to be like, have all of the necessary tests been done to match with the federal and state regulations to make sure the safety of the guests if this were to go through? A lot of unanswered questions. His suggestion would be to deny the Special Use Permit until specific business uses and use of the land and proper studies have been done before we move forward.

Paul Heist – Lives on Pratt Road, about straight across the thruway from Area 51. Mr. Heist agrees with the rest of the people that the noise level, and he has been in indoor shooting areas too, and when you are talking a 50 Caliper or something that big it's going to let off some noise and I haven't seen in anything he has produced as far as cutting the noise, is there any verification that it works. His other concern is with the ammunition and the lead in it, you are going to stick it into a berm and you are going to have to clean it and there can't be any small puddles it all has to be grated that was from a report he picked up off of the internet. Safety Rangers, Mr. Lewis stated you can get the safety instruction done on the internet. The NRA states yes you can but you have to be a certified fire arm instructor to do that, if you don't you have to take the course in person, so there wasn't really anything clear about that. Mr. Heist lives next door to the Silver Shoe Farms, which basically has about 10 horses, and if you are familiar with horses, they are very sensitive to their hearing, so any time a gun is being shot off and Nicole is on a horse or training a horse that horse can be spooked and that becomes a safety issue for her and it also becomes a safety issue for any other animals that are in the neighborhood. He sent over a detailed sheet over of some of the things that we are really concerned with and like what Kevin was saying there are a lot of things Mr. Lewis wants to do with this property and he talks about the shooting range and moving it at a later date, so are we going to try the shooting range and if it doesn't produce enough capital, we're going to then put a movie theater in and a 130 camper/trailers. There is no municipal water going down there and you are talking about having access to water and access to sewage for 130 campers. The other thing is we talk about Area 51 and like others have said there is no control on that, they are suppose to be at 60 decibels and they're running cycles out there that don't even have mufflers on them and that is basically against the state law, so there is no enforcement there and I think that is what we are concerned with, the noise is not going to be good for our neighborhood and not going to be good to enjoy our properties especially on the weekends. I would reject this.

Cory Coles – Lives on Pratt Road. All of the people who already spoke touched on a lot of good points. Two weekends ago there was shooting over there and Mr. Coles saw on either the Batavia Daily New or Video News Service post on Facebook about a lady a few house down from him who had to give her dog medication because of the noise. Mr. Coles stated that Mr. Lewis and his employees dismiss the noise saying that there is the Thruway and Area 51, but if you go by decibels – motor cross bikes make about 120 in decibels, train horns make about 140 decibels and an unsuppressed gun makes anywhere from 150 -170 decibels, they are saying the thruway and Area 51 are there its already noisy, well if that's the case why build an airport over there and what's funny is a passenger jet engine are actually not as loud as guns are. Would also like to ask to deny the Special Use Permit.

Dan Lang – All phone calls have been documented. There have been 21 phones calls received regarding this and Dan has taken note that 3 of the individuals are at this meeting tonight, and for all others who could not make it tonight all concerns have been covered. Silver Shoe Farms has a lot of concerns. Paul Fenton is concerned due to him doing all of his farming over there and several others are concerned with the ground water and the lead on the environmental. 13 miscellaneous calls from the trailer park no one left their name. He has also received a few other calls as well but no one would leave their name.

Chairman Jasinski – Agrees with Dan Lang a lot of response to this and she has 3 letters in front of her who are supporting the shooting range. People supporting it as being a great addition to Batavia and will bring more money to the Town. Brandon and his team's number 1 priority is safety. Brandon's use of the property will be a nice change from what has been there and positive tax revenue to the Town and County. Bergen Planning Board sent a letter supporting this.

Sharon White – Have we heard anything from the Thruway Authority. Chairman Jasinski stated no and that Brandon would be required to get something from them. He has a list of what he must comply with before we start talking about the Special Use Permit. Steve Mountain stated once and if we get to the environmental review any involved agency will be notified.

Matthew Hume – Architect working with Mr. Lewis. Mr. Hume totally understands everyone's concerns and he also lives on Pratt Road. He has worked with both Brandon and his Father and they are incredible people, more than willing to work with the community, they are not looking to make any enemies here, they are looking to provide different alternatives for our community.

Don Partridge – Relative to Special Use Permits and a yearly review – concern over Area 51 operation – when can we review them and try to control some of the problems that have arisen from their operation. How do we go about reviewing a Special Use Permit and

bringing them in if there is an issue to make them stand up to it. Per Chairman Jasinski Chris is scheduled to come in in May and we will be reviewing the Special Use Permit.

Jason Tomporowski – Wanted to thank Mr. Partridge for addressing Area 51, he wants Mr. Lewis to know if Area 51 was not already there and did not have to deal with this noise and we have addressed and just gave up. It comes back to the noise. They moved to the country to live in peace. Only issue is the noise. Would like to see the plans on how Mr. Lewis will muffle the noise and Chairman Jasinski stated coming to the meetings.

Kevin Heist – Mental Disabilities and PTSD – the loud noises – take this into consideration for them.

Rich Schildwaster – Heard everyone talking about safety and how well he has done out there in Bergen. Maybe that would be a great location for this range if they love him that much. On the safety record would Mr. Lewis be willing to reveal how many people have shot themselves at this facility in Bergen. Mr. Schildwaster believes is it probably more than one, whether it was fatal or not, how many people have had an accidental shooting in his Bergen Facility. Chairman Jasinski told Mr. Schildwaster he would need to contact him on that and that's probably not appropriate for our public hearing. Mr. Schildwaster asked why it would not be pertinent to the public hearing when he is bringing a range here and talking about safety. Since he is already operating a range why would that not be a question for the Town Board would have or Zoning Board or Planning Board would have for him. Chairman Jasinski asked Mr. Lewis if he wanted to answer the question. Mr. Lewis did not want to answer the question as he was taken back by it but understands the nature of it. Mr. Lewis felt it was not asked in a sincere way, but did state there was a suicide at the range and it was completely unavoidable and that he cannot control someone's actions when they decide to make that decision. That is the only incident they have had in that regard. Mr. Lewis agreed with the Chairman that they question was inappropriate.

Public Hearing was closed at 7:43 p.m.

Respectfully submitted,

Kim McCullough
Secretary

Kathleen Jasinski
Chairman