

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Scott Gustin
DATE: February 7, 2023
RE: ZAP-22-9; 94 Glen Road

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 6S

Owner/Appellant: Joel Fitzgerald / Barbara & Stephen George

Request: Appeal of zoning permit ZP-22-508 for a new shed, relocation of existing shed, driveway widening, and home occupation office.

Overview:

The appellant is appealing a zoning permit issued to the property owner for shed placement and relocation, driveway work, and a home occupation (in-home office). The appeal centers on the home occupation aspect of the zoning permit.

This matter started out as a zoning complaint by the appellant in May 2022. Enforcement staff issued a warning letter to the property owner later that month as to the home occupation and yard parking. No formal notice of zoning violation has been issued, as the property owner sought and received zoning approval for the home occupation and property changes. This appeal does not pertain to enforcement action. It pertains to the zoning permit issued for the home occupation and property changes.

The subject property is located within the Residential – Low Density zone at the southeastern corner of the city, close to the South Burlington city line. It is among a suburban style residential neighborhood wherein detached single family homes predominate.

Recommendation: **Uphold administrative zoning permit** based on the following findings:

I. Findings:

The property owner filed the subject zoning application September 4, 2022. It was not made complete until October 27, 2022. Revisions to the driveway proposal and clarification of the home occupation were made in order to bring the application into compliance with the applicable standards. The home occupation amounts to office work associated with a pool installation and maintenance business run by the property owner. Given the nature of the home occupation work, it qualified for administrative (rather than conditional use) review. The zoning permit was approved November 25, 2022.

The approved zoning permit contained the standard permit conditions 1-15 and the following project permit conditions:

1. Per Section 2.7.8, Withhold Permit, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. In this case, zoning permit ZP-11-834 for basement finishing, window well, deck, and stairs has expired without its required certificate of occupancy. To close out this expired zoning permit, go to: DPI Zoning Administration - DPI Zoning Administration - ViewPoint Cloud.
2. This zoning permit in no way grants or implies approval of the short term rental / second dwelling unit that may be present on the property

It bears noting that enforcement staff found no evidence of a short term rental operating within the residence since issuance of the zoning permit.

The zoning permit was appealed December 8, 2022 within the 15-day appeal period.

The appeal focuses on the home occupation aspect of the zoning permit. It asserts that the truck and trailer associated with the business are not allowed. The appeal also asserts that pool equipment and chemicals are improperly stored on the property.

As noted above, the property owner runs a pool installation and maintenance business. Office work related to the business is conducted at the property. No clients come to the property, nor is there a sign for the business at the property. A truck and trailer associated with the business park within the driveway or on-street. Neither contains commercial identification related to the business. The application notes that the only materials related to the home occupation stored onsite include contracts and pictures. It does not mention pool equipment or materials but does note occasional UPS or Fed-Ex deliveries. The applicable home occupation standard as to onsite storage allows for storage of materials related to the home occupation within an enclosed structure. No outside storage of materials related to the home occupation is evident.

The requested home occupation is approvable under the standards of Sec. 5.4.6, *Home Occupations, (a) Administrative Approval*. If the home occupation is altered such that it is not compliant with these standards, it will be subject to enforcement action. As permitted, the home occupation complies with the applicable standards.

II. Recommended Motion:

Uphold administrative zoning permit ZP-22-508.