

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner
Date: December 1, 2015
RE: 29 Home Avenue, ZP16-0499HO

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.



File: ZP16-0499HO

Location: 29 Home Avenue

Zone: RL **Ward:** 5S

Date application accepted: October 16, 2015

Applicant/ Owner: Roger and Dorothy Lewis

Request: Home Occupation for Ghostwalk Tours and Tarot reading business.

Background:

- Zoning Permit 16-0430CA, replace front steps, no change to footprint. October 2015.

- Non-Applicability of Zoning Permit Requirements, replace asphalt shingle roof. August 2010.
- Zoning Permit 97-209, Construction of a 16' x 22' single story outbuilding/shed for the existing single family home. November 1996.
- Zoning Permit 96-007, shed. July 1995.
- Zoning Permit 93-419; Installation of 2 sqft nonilluminated freestanding sign for home occupation (“A Woodworking Shop”). May 1993.
- ZBA HO-93-055, Home Occupation – Woodworking Shop within garage and garage extension. April 1993.
- Zoning Permit 92-338; Construction of 12' x 14' single story rear addition to existing single family home. May 1992.
- Zoning Permit 89-246; construct rear addition to existing single family home. Addition will be single story. June 1989.

Overview: The resident owners of 29 Home Avenue seek Conditional Use approval for their existing Ghostwalk Tours home occupation. The tours have apparently been organized and occurring since 2002. As the activity has a vehicle with the commercial name of the business on it, conditional use review is required.

While under review, it has become apparent that another activity is associated with this owner and address: Tarot Card reading.

<http://www.queencitytarot.com/Booking.html>.

Recommendation: Consent approval per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 5 Conditional Use & Major Impact Review

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards (as adopted by City Council 8.10.2015)

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area.*

The proposed home occupation for ghost walk tours and tarot card reading off-site will have no perceptible impacts on existing or planned community facilities. **Affirmative finding.**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development Plan;*

The proposed ghost walk tours home occupation is within a low density residential neighborhood. As defined, it will not entail any site or exterior building changes and will not adversely impact the character of the area. If the tarot reading activity attracts dozens of

people to the residence, it has the potential to alter the character of the area. The applicant has defined that none of the readings are done in the home; they occur off-site at businesses or at other people's residences. **Affirmative finding.**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

As presented, the activities of the ghost walk tours portion of the home occupation are generally office-related; computer use and document printing. Similarly, web site management of the tarot card reading business occurs in the home office. There are no identified impacts that require mitigation. **Affirmative finding.**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*

29 Home Avenue is within a neighbor with associated network of transportation systems.

Sidewalks and paved roads currently serve all homes and businesses in the immediate area.

No customers will come to the residence for the tours or tarot card reading. The principle and dominant use will be that of a single family residence. **Affirmative finding.**

and

5. *The utilization of renewable energy resources;*

There is nothing within the application that would prevent the use of solar, wind, water, geothermal or other renewable energy resource. **Affirmative finding.**

and

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*

The applicant is cautioned against off-premises signs for the Home Occupation, which is specifically prohibited by Section 7.1.4, except where allowed by Section 7.1.7. (b):

Sec. 7.1.7 Off-Premise Signs

Off-premise signs shall not be permitted with the following exceptions:

*(b) Temporary non-illuminated signs directing persons to **temporary** exhibits, shows or events provided: 1. The size of such sign does not exceed twelve (12) square feet in area; and, 2. Such signs are not posted earlier than two (2) weeks prior to the event and are removed within three (3) days after the event. **Affirmative finding as conditioned.***

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*

None identified. **Affirmative finding.**

2. *Time limits for construction.*
No construction is proposed. Not applicable.

3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*
The home occupation will largely be limited to office type activities within the dwelling. The Ghost Tours and card reading are conducted off-site and seasonally. **Affirmative finding.**



4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*
If there is an expansion in the Conditional Use, the applicant will be required to turn to the DRB for further review under the regulations in effect at that time. **Affirmative finding as conditioned.**

and

5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*
Web information for the ghostwalk tours includes information about ghost rides in Winooski and Burlington. It is not clear if additional review may be required for the hire of a vehicle for commercial purposes.
Any and all additional performance measures are at the discretion of the DRB. **Affirmative finding if conditioned.**

Article 4: Maps & Districts

Sec. 4.4.5, Residential District

(a) Purpose

(1.) Residential Low Density (RL)

The proposed home occupation will take place within the RL zone. This zone is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The Home Occupation, as proposed, will not change the character of the area as activities within the residence are office-like in nature. Tours and card readings will be conducted off-site and around various parts of the city. **Affirmative finding.**

(b) Dimensional Standards & Density

Not applicable.

(c) Permitted & Conditional Uses

The Home Occupation, with a vehicle with commercial identification, requires conditional use review. See Section 3.5.6, above.

Article 5: Citywide General Regulations

Part 4: Special Use Regulations

Section 5.4.6, Home Occupations

(b) Conditional Use Review:

1. *A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL districts and no more than two (2) full-time equivalent employees in other districts. The home occupation shall be conducted entirely within an existing dwelling unit and/or one enclosed accessory structure.*

The home occupation will be conducted by two resident occupants. The only portion of the home occupation that occurs on-site is office associated; website maintenance and occasional printing of materials. The minimal amount of related administrative work will take place within a family room of the existing dwelling. **Affirmative finding.**

2. *No more than thirty-five percent (35%) of the floor area of said residence, including accessory structures, up to a maximum of seven hundred fifty (750) square feet, whichever is less, shall be used for such purpose.*

The office area of the home occupation is estimated to be approximately 5' x 8' (40 sf); far less than the 35% floor area maximum within the 1864 sf. single family residence which would be 652 sf. . **Affirmative finding.**

3. *No home occupation shall require alterations, construction or equipment that would change the fire rating of the structure or the fire district in which the structure is located.*

The home occupation does not result in a change to the fire rating of the structure. No modifications to the existing single family home are proposed. **Affirmative finding.**

4. *There shall be no outside storage of any kind related to the home occupation.*

No outside storage is proposed. **Affirmative finding.**

5. *There shall be no exterior evidence of the conduct of a home occupation except for:*

*Occasional garage/lawn/yard type sales (up to twice a year not to exceed two (2) days each); and
One non-illuminated attached parallel sign that shall not exceed two (2) square feet. No other signs shall be permitted.*

No garage/lawn/yard type sales are included in this proposal. No outdoor sign is proposed. A commercially painted vehicle parks in the driveway, however, which requires the Conditional Use review. **Affirmative finding.**



6. *No home occupation may increase vehicular traffic flow or parking by more than one additional vehicle at a time for customers or deliveries. All parking shall be located off-street and shall maintain the required front yard setback per Article 5.*

No customers will come to the residence for the ghostwalk tours or for tarot card reading. The Home Occupation will largely be conducted off-site, as the focus is on leading ghostwalks around the city, with a seasonal change to the card reading activity. **Affirmative finding.**

7. No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit.

The home occupation as proposed will not generate any nuisance or unsightliness discernible from the exterior. All skeletons will remain in closets. **Affirmative finding.**

8. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.

The proposed home occupation is clearly incidental to the primary residential use of the property. The only evidence of the home occupation will be the commercially painted private vehicle in the driveway. **Affirmative finding.**

9. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day.

No commercial delivery vehicles will serve either home occupation. **Affirmative finding.**

10. With the exception of one delivery per day, as specified in subparagraph (9), no more than one commercial vehicle shall be allowed on the premises at any one time; and

No commercial vehicles are associated with the proposed home occupation. **Affirmative finding.**

11. There shall be no sale of goods except for goods fabricated on the premises as part of an approved home occupation.

Ticket sales are arranged through FlynnTix. No customers will come to the residence, and the home occupation will not include the sale of any goods. **Affirmative finding.**

Article 8: Parking

There is adequate parking for the existing single family residence. The Home Occupation, as proposed, will not generate any additional traffic to the premises, so no additional parking spaces are required for this application. **Affirmative finding.**

II. Conditions of Approval

1) If there is an expansion or alteration to the home occupation, the applicant will be required to return to the DRB for further review under the regulations in effect at that time.

2) Off-site signage shall be prohibited, unless meeting the following exemption:

Section 7.1.7 Off-Premise Signs

Off-premise signs shall not be permitted with the following exceptions:

*(b) Temporary non-illuminated signs directing persons to **temporary** exhibits, shows or events provided: 1. The size of such sign does not exceed twelve (12) square feet in area; and, 2. Such signs are not posted earlier than two (2) weeks prior to the event and are removed within three (3) days after the event.*

3) The applicant is responsible for complying with all representations disclosed on the Home Occupation Questionnaire.

4) The applicant is required to determine if the transport of customers in a personal vehicle for commercial purposes requires any additional licensing or approval.

5) Standard permit conditions 1-15.

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