

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

<http://www.burlingtonvt.gov/PZ/>

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

David E. White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Senior Planner
Mary O'Neil, AICP, Senior Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner
Date: May 19, 2015
RE: 54 Muirfield Drive, ZP15-1039CA/HO

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: ZP15-1039CA/HO

Location: 54 Muirfield Drive

Zone: RL-W **Ward:** 4N

Date application accepted: April 22, 2015

Applicant/ Owner: Luis Llanos & Kristin Juliano Llanos

Request: Home occupation for production of granite cheese boards. Add a 10' x 14' shed (already on site; not permitted by previous owner.)

Background:

- Zoning Permit 11-1122CA; enlarge and enclose screened porch at rear. July 2011.
- Appeal of Impact Fee assessment. Fees adjusted by DRB decision. April 1997.
- Zoning Permit 93-317; Construction of single family home on vacant lot. March 1993.



Overview: The applicants wish to conduct a small business creating granite cutting boards from their single family residence. The application has been revised to move the production off-site; only a small home office (approximately 6' x 8') and an area of the garage (8' x 8') will be assigned to the home occupation. The garage area will be limited to product presentation (tying bows.)

The application includes review of a 10' x 14' shed which is already on-site, but was not permitted by previous owners.

Recommendation: Consent approval, per the following findings and conditions:

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

I. Findings

Article 3: Applications and Reviews

Part 5 Conditional Use & Major Impact Review:

(1) The capacity of existing or planned community facilities;

The proposed home occupation will have no perceptible impacts on existing or planned community facilities. **Affirmative finding.**

(2) The character of the area affected;

The area is a residential neighborhood near Lake Champlain on Appletree Point. As proposed, the home occupation is anticipated to have no impact on the character of the area. The production portion of the home occupation has been removed from the residence to allay neighbor concern about noise. **Affirmative finding.**

(3) Traffic on roads and highways in the vicinity;

No customers will come to the residence, and only the owners will be employed by the home occupation. No increase of traffic beyond typical residential use is expected. **Affirmative finding.**

(4) Bylaws then in effect;

As conditioned, the application is consistent with applicable bylaws. This provision excludes any private covenants or bylaws of the homeowners' association. **Affirmative finding.**

(5) Utilization of renewable energy resources;

Not applicable.

(6) Cumulative impacts of the proposed use;

There has been raised a concern about disposal of granite waste. As the production portion of the home occupation has been moved off-site, no cumulative impacts are anticipated. **Affirmative finding.**

(7) Functional family;

Not applicable.

(8) Vehicular access points;

The subject property is served by a private driveway. The home occupation does not require any change to this access point. **Affirmative finding.**

(9) Signs;

No exterior signs are proposed for the home occupation. **Affirmative finding.**

(10) Mitigation measures;

All material wastes must be disposed of in a safe and legal manner. As the production portion of the home occupation has been moved off-site, mitigation appears unnecessary. **Affirmative finding.**

(11) Time limits for construction;

The Certificate of Appropriateness portion of the permit relates to the construction of the shed. There is a two year time limit for the zoning permit. The applicant must provide an accurate site plan confirming the location of the shed relative to property boundaries. **Affirmative finding as conditioned.**

(12) Hours of operation and construction;

The applicants propose work 2 hours a day, 2 afternoons a week. The production work is intended to occur offsite; product finishing (packaging, bows) will occur within the garage. Paperwork relating to the home occupation will occur within a home office within the residence. **Affirmative finding.**

(13) Future enlargement or alterations;

Any future enlargement or alterations of the home occupation will require additional permit review per the regulations in effect at that time. **Affirmative finding as conditioned.**

(14) Performance standards;

The Board may, at their discretion, impose particular performance standards.

(15) Conditions and safeguards;

See proposed conditions of approval.

Article 4: Maps & Districts

4.4.5 Residential Districts

(a) Purpose

2. Waterfront Residential Low Density (RL-W)

The proposed home occupation will take place within the RL-W zone. This district is intended primarily for low-density residential development, and characterized by a compact and cohesive development pattern reflective of the neighborhood's history. A greater consideration is required for views from the lake and stormwater runoff. Neither will be impacted by the proposed home occupation nor shed addition. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.5-3 limits coverage to 35% in the RL-W district. The coverage will increase from 20.82 to 21.70% with the construction of the shed. As submitted, the application meets the dimensional standards of this section. The applicant will need to provide an accurate site plan confirming that the proposed shed meets all required setbacks. **Affirmative finding as conditioned.**

(c) Permitted & Conditional Uses

The existing single family home is a permitted use in the RL-W zoning district. The proposed home occupation may be conditionally allowed. **Affirmative finding.**

Article 5: Citywide General Regulations

Part 4: Special Use Regulations

Sec. 5.4.6 Home Occupations

1. A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL and WRL 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. No alterations are proposed to the residence. A 10' x 14' shed was originally proposed to be included as part of the production area, where boards will be chiseled by hand. The applicant has now chosen to perform the production work off site. **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 Assessor's data card provides a gross area of 5868 sf. Thirty-five percent of that would exceed the 750 sq. ft. maximum (2053.8 sq. ft.) . The applicant has provided that a 6' x 8' area will be used for the home office, and a 8' x 8' area within the garage for the product finalization (tying bows.) The total of 112 sq. ft. is within the percentage allowed for a home occupation, or 1.9% of the gross floor area of the residence. **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 single family home. No electrical tools are proposed to be used, and no consultation with the Fire Marshal appears warranted. **Affirmative finding.**

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

Storage is proposed within the existing garage. The applicant notes some storage will be behind shed; assumably this may be raw material. It is noted that **no outside storage** can be permitted as part of this home occupation. All materials, both raw and finished, will need to be stored within a structure. **Affirmative finding as conditioned.**

*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. **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.

As no customers or deliveries are included within this proposal, there is no anticipated change in the traffic flow or parking for this residence. **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 proposed production of granite cutting boards will use manual labor and be conducted off site. Finishing work within the garage should have no greater impact than gift wrapping. **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. Work is limited to the garage with related administrative work in the residence. As proposed, the home occupation will not be perceptible from the exterior. **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 deliveries are proposed. **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;

No commercial vehicles are identified 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.

The applicants have not defined how the product will be distributed; only that no customers will come to the residence. No other sale of goods is included within this home occupation. **Affirmative finding.**

Article 8: Parking

The single family home in a Neighborhood parking district requires 2 parking spaces. There are existing 2 in the garage and 2 in the driveway (tandem) for a total of four parking spaces. The applicant is cautioned not to consume the entire garage with the home occupation, which would eliminate the legitimate parking spaces via access driveway. The result would be Front Yard Parking, if the driveway did not connect to a parking space that was beyond the front setback of the house.

As no customers are proposed to come to the residence, no additional parking requirement is warranted. **Affirmative finding.**

II. Conditions of Approval

1. The applicant shall provide an accurate site illustrating the location of the shed, observing all required property setbacks **prior to release of the zoning permit.**
2. Any changes to the home occupation as proposed, including outside employees or customer arrivals shall require an amendment to the home occupation permit approval.
3. The applicant is responsible for complying with all representations disclosed on the Home Occupation Questionnaire.
4. The garage may not be entirely converted for use of the home occupation, as there remains legitimate parking spaces via an access driveway. Removal of those spaces for use would conflict with Section 8.1.12 (c), constituting *Front Yard Parking*.
5. There shall be **no outside storage** of any materials relating to the home occupation.
6. Standard permit conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.