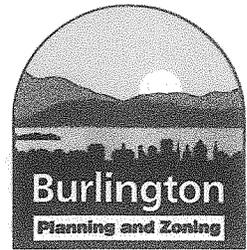


Department of Planning and Zoning

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Mary O'Neil, AICP, Senior Planner
Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner *monell*
Date: July 1, 2014
RE: ZP 14-1143HO

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: ZP 14-1143HO
Location: 78A North Prospect Street
Zone: RL **Ward:** 1
Date application accepted: May 28, 2014
Applicant/ Owner: Wayne Senville, Lila Shapero
Request: Home occupation for home office with 2 part time employees; approximately 60 sf for office, 10-20 sf. storage in attic.

Background:

- **Zoning Permit 13-0739CA;** replace nine existing upper level windows. Approved March, 2013.
- **Zoning Permit 13-0500CA;** replace eight wooden windows with wooden clad replacement windows. Approved October 2012.
- **Zoning Permit 02-265;** Home occupation to include consulting and training in legal and policy issues in 145 sf of 1800 sf home. Approved December 2001.
- **Zoning Permit 80-766;** Convert the existing single family dwelling to residential duplex use.
- **Zoning Permit 80-764;** Erect a (second) residential building of 2 dwelling units. Permit issued.

Overview: One of the home residents currently has a home occupation approval (see above); a second owner now requests a minor home office/home occupation to include part time employees that are not residents. This requires Conditional Use review by the DRB.

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

I. Findings

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).

Article 3: Applications, Permits and Project Reviews

Sec. 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

(a) Conditional Use Review Standards:

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 the following general standards:

1. The capacity of existing or planned community facilities;

An existing home occupation has been in practice for 13 years, although is currently inactive. The second home occupation has a similar minor-impact nature and is more limited in scope.

No negative impact has been acknowledged or recorded in the existing; none is anticipated in the proposed. **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 existing home occupation has demonstrated to be low impact in nature, conducive to co-existence with the single family residential use of this and other surrounding residential properties. The request is also in step with policies and guidance of the Municipal Development Plan in these areas:

- *Promote and strengthen a mixed economy, work actively to retain existing businesses and jobs. (Economic Development Plan, Page VI-2)*
- *Partner with the private, not-for-profit and other government sectors to support existing businesses and attract future development. (Ibid.)*
- *Consider land use and transportation systems together...in a more efficient use of existing services and facilities. (Transportation System Plan, Page V-3.)*

Affirmative finding

3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;

No customers are proposed to come to the house. Two part-time employees work on a flexible schedule; coming between 9:00 am and 2:00 pm. The office manager will work, on average, two hours, two days a week. A second employee comes to complete billing; working 1-2 hours one day per week. This limited scheduled is no more intensive than an occasional visitor, and will not increase the parking or traffic demand typically associated with residential use. Employees will have the availability to use the two parking spaces associated with the residential use. The owners have the opportunity to park on the street with residential permits as well. See Section 5.4.6 (b) for further discussion. **Affirmative finding**

4. Any standards or factors set forth in existing City bylaws and city and state ordinances;

As proposed, there are no identified conflicts with applicable City bylaws, city and state ordinances. **Affirmative finding**

5. *The utilization of renewable energy resources;*
Nothing within this application prevents the use of wind, solar, water, geothermal, or other alternative energy resources. **Affirmative finding**

and,

In addition to the General Standards specified above, the DRB;

6. *shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;*

The inclusion of 2 limited part time employees, as defined by the applicant, does not introduce unreasonable or negative impacts to the residential nature of the property. **Affirmative finding**

7. *in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.*

Not applicable.

8. *may control the location and number of vehicular access points to the property, including the erection of parking barriers.*

No change to existing access or parking areas proposed. Not applicable.

9. *may limit the number, location and size of signs.*

No signs are proposed. Any signage would require a separate sign permit. **Affirmative finding**

10. *may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

No mitigation measures will be required. Not applicable.

11. *may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.*

No construction is proposed. Not applicable.

12. *may specify hours of operation and/or construction to reduce the impact on surrounding properties.*

No construction is proposed. The exercise of the proposed Home Office/Home occupation is proposed to be roughly 9:00 am – 6:00 (resident) and within the time window of 9:00 am – 2:00 pm for the two part time employees. No measureable impact on the surrounding properties is anticipated. **Affirmative finding.**

13. *may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.*

The existing home occupation, although dormant, has not engaged any outside employees. The proposed home office for the other owner includes non-resident employees, which requires Conditional Use review by the DRB. Any future alteration or expansion, of either home occupation,

will also require Conditional Use Approval per this standard or standards in effect at that time.

Affirmative finding.

14. may consider performance standards, should the proposed use merit such review.

This opportunity is at the discretion of the DRB.

15. may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

No further conditions seem warranted, but this is also at the discretion of the DRB.

Article 5: Citywide General Regulations

Section 5.4.6 (b) Conditional Use Review, Home Occupations

All home occupations not otherwise eligible for administrative approval above shall require review and approval by the DRB pursuant to the requirements of Art. 3, Part 5. In addition to the conditional use criteria, the following criteria must be met for any home occupation:

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 is proposed within the existing dwelling unit, by a resident owner, with the assistance of 2 part time employees with very limited hours. Collectively the hours proposed for the part time employees would not be the equivalent of a full time employee. **Affirmative finding.**

2. No more than thirty-five per cent (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;

This application is in addition to a 2001 Home Occupation permit for use of 145 sf. The current request is for approximately 80 sf (60 sf office, 10-20 sf storage in attic.) For a 2,200 sf residence, that means a 3.63% use of the floor area; significantly less than the 35% maximum.

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;

No construction is 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:

A. Occasional garage/lawn/yard type sales (up to twice a year not to exceed two (2) days each); and

B. One non-illuminated attached parallel sign that shall not exceed two (2) square feet. No other signs shall be permitted.

While allowable, garage sales are not included within the request. No signs are included within the application. **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;*

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 laptop computers, printer, fax machine and telephone line are not likely to introduce noises or other negative impacts to any adjacent dwelling unit. **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.*

As presented, the home occupation will be secondary and incidental to the existing residential use. **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;*

The accompanying material indicates the rare (once a month) business related delivery. The publication that is produced by the home occupation is web based; therefore hard copies are not produced or delivered.

The business has a separate post office box on Shelburne Road. **Affirmative finding.**

10. *With the exception of one delivery per day, as specified in subparagraph (9), no more than one (1) commercial vehicle shall be allowed on the premises at any one time;*

No commercial vehicles will be used in the exercise of the home occupation. There are no commercial vehicles associated with the existing home occupation. **Affirmative finding.**

and

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

No sale of goods is proposed. **Affirmative finding.**

(d) Revocation:

Approval of a home occupation may be revoked by the DRB in accordance with the following provisions:

1. *Noncompliance. Upon receipt of notification or evidence of noncompliance with conditions of approval or evidence of error or misrepresentation, the DRB may schedule a public hearing to consider the revocation or modification of approval for a home occupation;*

2. *Notice. The administrative officer shall duly warn such public hearing and give notice to the applicant, abutters, and other interested parties;*

3. *Public Hearing.* The DRB shall hold a public hearing to hear cause as to why the approval of the home occupation should not be revoked. The DRB shall render its decision in accordance with the conditional use time limitations set forth in Article 3, Part-5; and

4. *Errors.* The burden of providing complete and accurate information shall be the sole responsibility of the applicant. Any error or misrepresentation may result in voiding or modification of the approval for a home occupation.

The potential and conditions for revocation shall be noted within the conditions of the permit approval.

II. Conditions of Approval

1. The home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee (in RL zone.) The home occupation shall be conducted entirely within the existing dwelling unit.
2. No more than 35% of the floor area of the residence, including accessory structures, up to a maximum of 750 sf whichever is less, shall be used for the home occupation.
3. The home occupation shall require no alterations, construction or equipment that change the fire rating of the structure;
4. No outside storage for the home occupation;
5. No exterior evidence of the conduct of the home occupation except for:
 - A. Occasional garage/lawn/yard type sales (up to twice a year not to exceed two days each, and
 - B. One non-illuminated attached parallel sign that shall not exceed two square feet. Any signage will require a separate sign permit.
6. The home occupation may not 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.
7. The home occupation shall not 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.
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.
9. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day;
10. With the exception of one delivery per day, as specified in subparagraph (9), no more than one commercial vehicles shall be allowed on the premises at any one time;
11. There shall be no sale of goods except for goods fabricated on the premises as part of an approved home occupation.
12. Standard Permit Conditions 1-15.

Revocation:

Approval of a home occupation may be revoked by the DRB in accordance with the following provisions:

1. Noncompliance. Upon receipt of notification or evidence of noncompliance with conditions of approval or evidence of error or misrepresentation, the DRB may schedule

a public hearing to consider the revocation or modification of approval for a home occupation;

2. Notice. The administrative officer shall duly warn such public hearing and give notice to the applicant, abutters, and other interested parties;

3. Public Hearing. The DRB shall hold a public hearing to hear cause as to why the approval of the home occupation should not be revoked. The DRB shall render its decision in accordance with the conditional use time limitations set forth in Article 3, Part 5; and

4. Errors. The burden of providing complete and accurate information shall be the sole responsibility of the applicant. Any error or misrepresentation may result in voiding or modification of the approval for a home occupation.

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



Department of Planning and Zoning

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www.burlingtonvt.gov/pz

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MAY 28 2014

DEPARTMENT OF
PLANNING & ZONING

Home Occupation Application Questionnaire

Use this checklist for all applications for a home occupation - See Sec. 5.4.6 of the Zoning Ordinance. This questionnaire is provided to summarize details and is required to accompany a zoning permit application form and required fee (for either administrative approval or conditional use review).

Please note:

- 1. The specific requirements for home occupations can be found in Section 5.4.6 of the Comprehensive Development Ordinance which is available in its entirety on our website at www.ci.burlington.vt.us/planning
2. A 'Business Personal Property Registration Form' may be required to be submitted to the Assessors Office. This form is available at www.ci.burlington.vt.us/assessor/businesses

Name of Business Proposed: PlannersWeb.com / Champlain Planning Press, Inc.

Type of Business Proposed: Online newsletter

Provide a detailed description of the proposed Home Occupation such as: activities involved; materials and equipment used; quantities of materials and equipment stored on-site; methods of operation; hours of operation. This may be done on a separate piece of paper and attached.

Please respond to the following: See attached paper for replies to questions.

- 1. How many persons will be involved or employed in the conduct of the proposed Home Occupation: Residents of premises: Others Total Number
2. What type of product will be produced, serviced, or repaired in the conduct of your Home Occupation? (For example: repair of clocks or watches, making jewelry, etc.). Explain:
3. Describe any alterations to the home or premises that might be required to facilitate your Home Occupation:
4. Describe what rooms will be used in the conduct of the Home Occupation and how these rooms will be used. (For example: garage will be used to store supplies; or den will contain desk and file cabinets, etc.). Indicate the gross floor area(s) that will be used in the conduct of the Home Occupation. Indicate the total gross floor areas of your house and include any accessory structure(s) to be used for the Home Occupation, (Ex. Garage).
5. Describe the mechanical and/or electrical equipment that will be necessary to conduct your business activity:
6. Describe how, where and in what amounts the material, supplies and/or equipment related to your Home Occupation will be displayed or stored:

PLEASE TURN OVER

see answer sheet for 1-6

- 7. Will people come to your home to obtain any product or utilize any service connected with the proposed Home Occupation activity? Yes _____ No _____
If yes, please explain in detail:

- 8. Are any signs necessary or proposed relative to the Home Occupation?
Yes _____ No _____
If yes, you are required to file for a Sign Permit. An application form can be obtained at the Planning and Zoning Department or on our website.
- 9. If trucks or other equipment will be used in your Home Occupation, where will they be parked or stored?

- 10. Will the Home Occupation involve the use of commercial vehicles for delivery of materials to or from the premises? Yes _____ No _____
If yes, please explain:

- 11. How many parking spaces will be provided for the home occupation? _____
Where will they be located? Indicate parking spaces on a site plan of this property as part of your application submission.
- 12. Is your proposed Home Occupation in conformance with the conditions, covenants and restrictions pertaining to your property? Yes _____ No _____
We suggest checking your deed for conditions, covenants and restrictions.

I have read and understand 'Sec 5.4.6 Home Occupations' under the City of Burlington Comprehensive Development Ordinance and believe that to the best of my knowledge my proposed Home Occupation would not violate any portion of said Ordinance:

Applicant's Signature: Wayne M. Fitch
Date: 5/28/14

Property Owner's Signature: Wayne M. Fitch
Date: 5/28/14

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MAY 28 2014

DEPARTMENT OF
PLANNING & ZONING

Home Occupation Permit Application
May 28, 2014

Wayne Senville
PlannersWeb.com
(formal business name is Champlain Planning Press, Inc.)

1. I am the publisher and editor and will work full time from my home office. We also have an office manager who works, on average, two hours, two days/week - she handles our billing; a second individual will come in for one to two hours, one day/week to keep our QuickBooks file up-to-date.
2. I own and operate an online publication: <http://PlannersWeb.com>. For 20 years I had published and edited a print publication, the quarterly Planning Commissioners Journal. In the fall of 2012 we switched to an exclusively online format. As a result, I do not need separate office space, since we are now storing only a very small amount of supplies, and do not need room for mailing out issues (since it is now an online publication).
3. No alternations to my home/premises will be needed.
4. The home occupation will use a small alcove area on the second floor of our house, to the right of the stairs. Our house is approx. 2,200 square feet, the alcove area to be used is approx. 60 square feet. I will also use approx. 10 to 20 square feet of attic space to store supplies related to the business.
5. The home office will use two standard wall outlets for electricity, and one phone jack for our business and FAX lines. Our operation makes use of two laptop computers, a printer, a FAX machine, and a telephone line.
6. We will have between five and eight small cartons of misc. supplies stored in one corner of the attic of our house on our third floor (approx. 10 to 20 square feet).
7. We will not have any customers coming to the house. My work hours vary, but I usually do most of my work between 9am and 6pm. Our two part-time employees work on a flexible schedule, but would typically be coming in between 9am and 2pm (see also 1. above). There will be very few, if any, pickups or deliveries related to the business, at most one/month. We have a separate P.O. Box on Shelburne Road.
8. There will be no signs.
9. We do not use any trucks or other equipment.
10. We will not use any commercial vehicles.
11. Our part-time employees will use one of our two parking spaces while they are working; we will then (if necessary) have one of our cars parked on North Prospect Street in front of our house during that time (we have a resident parking permit and sticker).
12. The home occupation is in conformance with the conditions, covenants, and restrictions pertaining to our property.

Wayne Senville 5/28/14

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MAY 28 2014

DEPARTMENT OF
PLANNING & ZONING

72A N. Prospect Street
Burlington, Vermont 05401
May 28, 2014

To Whom It May Concern:

The Orchards Condominium Association has been informed of plans by Wayne Senville to establish a home office for PlannersWeb.com at his residence, 78A North Prospect Street, one of the units in our association. As President of the Association and having conferred with the executive board, we grant approval for this home office at this location.



Holly Pedrini
President, Orchards Condominium Association