

Department of Permitting & Inspections

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: January 22, 2020
RE: ZP20-0536HO; 2 Brierwood Lane

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: ZP20-0536HO
Location: 2 Brierwood Lane
Zone: RL **Ward:** 4N
Parking District: Neighborhood
Date application accepted: November 22, 2019
Applicant/ Owner: Nancy Ross-Babineau / Kenneth Babineau
Request: Establish a home occupation for a pet grooming studio.

Background:

- **Zoning Permit 05-483BA;** convert existing 2 car garage into living space and add a shed in the rear yard. Approved April 5, 2005 – Permit Indeterminate
- **Zoning Permit 05-482HO;** request to operate a dog grooming business as a home occupation. Approved May 20, 2005. (Permit was never enacted and has been relinquished)
- **Non-Applicability of Zoning Permit 16-0733NA;** installation of a roof mounted solar panel array system. Approved December 21, 2015.
- **Zoning Permit 17-0880BA;** rear addition, deck and patio, dumpster surround with light, storage shed, and fence. Approved April 21, 2017.

Overview: The applicant seeks approval for a pet grooming home occupation in the existing single family residence. Employees will total a maximum of 2 at all times: the applicant who resides onsite, and two non-resident, part-time employees (the part time employees will work at separate times – representing the equivalent of one full-time employee). No new development is proposed.

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

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. Immediate review indicates

ZP05-483BA and ZP17-0880BA have not been issued Certificates of Occupancy. See attached list for guidance on open permits. **Affirmative finding as conditioned.**

Article 3: Applications, Permits, and Project Reviews

Section 3.5.6 Review Criteria

(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 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 utilization of an existing room within the dwelling unit for the purpose of a pet grooming business will have no impact on existing or planned public utilities, facilities or services in the city. It is recommended by the City's Plumbing Inspector that a hair trap be installed in the underlying plumbing to prevent hair from entering into the public infrastructure. **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 home occupation is accessory to a residential use within a residential zoning district. The limited use of a portion of the residential unit for the home occupation is anticipated to have no impact on the character of the area. From the Municipal Development Plan:

- *Explore and expand approaches to promote and support locally-owned and controlled small businesses, including home occupations and social entrepreneurs that serve both city-wide needs and surrounding neighborhoods. [Burlington Comprehensive Plan, Economic Development 5.8, P. 43] **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;*

There will be no perceptible noise, odor, dust, heat or vibrations associated with the proposed home occupation. **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;*

The location is within a residential zoning district, connected within an established network of streets and sidewalks, and near a public transit route. No adverse impacts, unreasonable demand of services or dearth of transportation modes are identified. **Affirmative finding.**

5. *The utilization of renewable energy resources;*

The proposal will not prohibit the use of alternative or renewable energy resources.
Affirmative finding.

and

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*
None identified. It is the applicant's obligation to secure any additional permits (from state or federal offices) as required. **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;*
No requirements for screening are 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 applicant states that grooming hours would typically be between 9:00 am to 4:00 pm, Monday thru Saturday. Additionally, the applicant tends to groom 3 to 4 dogs a day. The business operates on an appointment basis. For a small residential home occupation, the hours do not suggest unreasonable traffic, parking congestion, or neighborhood nuisance.
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,*
Any request for enlargement or alteration of the Home Occupation will be reviewed under the standards in effect at the time of application. **Affirmative finding.**

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.*
None are identified; however, the DRB may add conditions at their discretion.

Article 5: Citywide General Regulations

Section 5.4.6 Home Occupations

Pursuant to the requirements of 24 VSA 4412(4), it is the intent of these regulations to provide for the use of a minor portion of a dwelling unit for a home occupation and to ensure compatibility with other permitted uses and with the residential character of the neighborhood. Such a home occupation must clearly be secondary or incidental to the principal residential use, and so located and conducted that the average neighbor, under normal circumstances, would not otherwise be aware of its existence.

(b) Conditional Use Review:

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 applicant states that there will be two part-time employees that make up the equivalent of one full-time employee. If the two part-time employees do not overlap in working hours, it would have the effect one full-time employee. A condition can be placed on the permit requiring no more than one employee on-site at any given time.

Affirmative finding as conditioned.

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;*

The Assessor's property listing has a total area for the first floor at 1,530 sf. 35% of the first floor totals 459 sf. The applicant proposes to use a room totaling 260 sf, or 17% of the total floor area. **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 property owner proposes minor interior renovations (new flooring and the addition of a tub), none of which will change the structure's fire rating. **Affirmative finding.**

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

None 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);*

Not proposed.

and

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

The applicant proposes a small sign on the exterior door of the grooming studio. This sign will be limited to 2 sf in area, and cannot be illuminated. **Affirmative finding as conditioned.**

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;*

Scheduling is on an appointment basis. The applicant notes that traffic will consist of client's drop-offs and pickups. The applicant does not anticipate more than one customer at a time. Approximately one delivery truck (UPS, FedEx, or similar) every couple of

months is expected for the delivery of shampoos. This subsection prohibits more than 1 customer vehicle at a time at a home occupation, and as such, the proposed business will be limited to this restriction. The property has ample driveway and parking space to accommodate several vehicles. In addition to the 2 spaces required for the residence, there is room in the driveway to accommodate employee parking and customer parking, which is prohibited from parking on the street. **Affirmative finding as conditioned.**

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;*

No defined nuisances are anticipated from the proposed home occupation. **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.*

Aside from a small sign (2 sf max.), the home occupation should present no exterior evidence of its presence and it is not anticipated to change the character of the dwelling unit or the residential district within which it is located. **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 applicant expects one delivery every couple of months for shampoos. **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 are associated with the proposed 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.*

There is no sale of goods proposed with the home occupation. **Affirmative finding.**

(c) Exclusions:

Home occupations shall not include commercial stables or kennels, veterinary clinics, or similar establishments.

The home occupation does not involve commercial stables, kennels, veterinary clinics or similar. **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 standards of revocation of a home occupation are provided to the applicant for informational purposes. Noncompliance with the conditions of the approval or errors in information may result in revocation of the home occupation approval. **Affirmative finding as conditioned.**

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Minimum parking requirements for a single family residence is 2 spaces. While Article 8 doesn't include a parking requirement for home occupations, the home occupation provisions of Article 5 limit customer visitation to no more than 1 at a time, with off-street parking provided. There are no home occupation employee parking requirements to speak of in the CDO. However, as with most other uses, on-site parking should be provided accordingly. The property currently has a driveway and single-car garage combination that can adequately fit 4 parking spaces, with additional space at the start of the driveway for 2 more vehicles. **Affirmative finding as conditioned.**

II. Conditions of Approval:

1. All permits issued after July 13, 1989 shall be closed out with issuance of Final Certificates of Occupancy prior to request for a FCO for this development. See attached list for guidance on open permits.
2. The applicant is advised to install a hair trap in the underlying plumbing to prevent animal hair from entering into City infrastructure.
3. Any expansion of the home occupation or alteration or construction to conduct the home occupation shall require the applicant to return to the DRB for review under the standards in effect at that time.
4. The home occupation shall be conducted solely by resident occupants. Two part-time employees are permitted as an equivalent to the one full-time employee allowance. However, those employees shall not work on-site concurrently.
5. There shall be no outside storage of any kind related to the home occupation.
6. One exterior sign may be allowed. The sign shall be limited to a maximum of 2 square feet and shall not be illuminated. A separate sign permit will be required.

7. In addition to two off-street parking spaces for the single family home, one off-street parking space shall be provided for customers and one off-street parking space shall be provided for the 2 non-resident, part-time employee(s) (equivalent of 1 full-time employee). There shall be no overlap in customer, nor part-time employee scheduling so as to require more than one parking space at a time for customer or part-time employee. Employee and customer parking is prohibited from on-street parking.
8. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day.
9. Hours of the home occupation operation are as follows:
 - Monday thru Saturday – 9:00 am to 4:00 pm
10. The applicant shall secure any associated trades permits required for the interior work.
11. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Permitting & Inspections as well as other permit(s) as may be required, and shall meet all energy efficiency codes as required.
12. Any noncompliance with the conditions of this approval or errors in information shall be the burden of the applicant and may be subject to revocation per Section 5.4.6 (d), above.
13. Standard Permit Conditions 1-15.