

§ 220-59 Major home occupations.

A.

It is the intent of this section to allow a variety of major home occupation pursuits as specially permitted uses in residential districts while recognizing the substantial governmental goal of preserving and maintaining the residential atmosphere, appearance and character of residential districts. It is recognized that while home occupation pursuits are specially permitted under the conditions provided for in this section, it is the primary purpose of this section to preserve and maintain the residential atmosphere, appearance and character of residential districts. It is the stated intent that the special permitted home occupation use will always be second and subordinate to the principal residential use of the premises and that the major home occupation will not harm other residential uses of the property or adversely affect neighboring premises. Under no circumstance shall a special permitted major home occupation become so extensive that it predominates the principal permitted residential use of the premises. It is further the intent of this section to establish specific performance standards and controls to limit major home occupations so as to minimize the adverse impacts a home occupation could have on a neighborhood or district and to assure that it does not become the predominant use of the property. Finally, it is the intent of this section to exclude family or group family day care as first defined in New York State Social Services Law, § 390(1)(d) and (e), which are exempt from the provisions of this chapter, from having to comply with these regulations.

- The proposed use will preserve the primary residential use of the property because all sales and display of inventory will be online. The special use proposed does not alter the residential atmosphere of the property or neighboring properties. The property will still primarily be used for residential use and the appearance will remain residential.

B.

A major home occupation, as defined in Chapter 1, Article II, of the Town Code, shall first require the issuance of a special use permit by the Planning Board. The Planning Board may condition or restrict the special use permit for a major home occupation if, in the Board's judgment, such restriction is required to minimize the impact of the use upon the neighborhood or district. No special use permit shall be issued unless the Planning Board makes a finding that, in addition to compliance with the general requirements in § 220-35 of this article, all of the following criteria have been met:

(1)

The property is in full compliance with the provisions of the Town Code.

- The property at 1940 New Michigan Road meets all Canandaigua Town code.

(2)

The major home occupation is determined to be clearly subordinate to the permitted principal residential use of the premises.

- The proposed use will be secondary to the primary residential use of the property. The section of the structure to be used is pre-existing and the rectangular area only measures 14' x 19'. No exterior display of vehicles will be present, maintaining the primary residential use. It is our goal to not have it known by the general public that this is our main base for our online operations. Our only goal is to have this location be used as the DMV required physical location.

(3)

No other major home occupation is conducted upon the premises.

- There are no other major home occupations on the premises.

(4)

The special use permit must be issued to the owner of the premises who is an actual resident of the premises.

- The owner of the premises requesting the special use permit is a resident of the property.

(5)

No more than two employees, whether full-time or part-time and whether paid or unpaid, who are not residents of the premises shall be permitted.

- There are no employees.

(6)

The major home occupation must be carried on within an existing or proposed building on the premises. A major home occupation located within the principal dwelling unit may not exceed 25% of the total gross floor area, or 500 square feet of the principal dwelling unit. Home occupations in excess of 15% of the floor area of the primary structure may be required to meet commercial occupancy requirements as established in the New York State Uniform Fire Prevention and Building Code.¹⁴ A major home occupation may not be located

in both a portion of the principal dwelling unit and a portion of an accessory structure located on the premises.

- The major home occupation would be carried out in an existing structure on the premises. The area proposed is a rectangle that measures 14' x 19', which is less than the town threshold of 15% of the 1,795 sq. ft. primary structure that exists on the property.

(7)

No site preparation or construction shall commence until final site plan approval as required by Town Code § **220-64**, Authority; approval required, has been granted by the Planning Board.

-There is no construction associated with the proposed use.

(8)

The major home occupation must be fairly transparent and unobtrusive. The standard "fairly transparent and unobtrusive" requires that the nonresidential character of the home occupation shall not be apparent to the Planning Board. The Planning Board shall consider the following standards when making this determination:

(a)

Noise. The Board must find that the noise produced by the major home occupation is not likely to create any potentially significant adverse impact upon the adjacent neighborhood and that the type of noise and times of day of noise generation are not inconsistent with the primary residential use of the premises and the adjacent neighborhood.

- There is no noise associated with the proposed use. There will be no adverse impacts upon any neighboring properties or primary residential use.

(b)

Pedestrian traffic. The Board must find that the major home occupation is not likely to produce more pedestrian traffic to and from said premises than would

exist in the case of a residence without a major home occupation and that the timing of such traffic is not inconsistent with traffic likely to be generated by the primary residential use.

- There will be no additional pedestrian traffic because there will be no sales or displays conducted on the property.

(c)

Vehicular traffic. The Board must find that the major home occupation is not likely to produce significantly more vehicular traffic to and from said premises than would exist in the case of a residence without a major home occupation and that timing of such traffic is not inconsistent with the primary residential use.

- There will be no additional vehicular traffic associated because there will be no sales or displays on the property. No one will be coming to the property to see the vehicles.

(d)

Parking. The Board must find that the major home occupation does not create a need for more than three additional off-street parking spaces. In addition, such off-street parking spaces shall not be provided on the lot in such a manner as to create the backing of vehicles onto a public highway. Furthermore, such off-street parking spaces shall be adequately landscaped so as to provide a visual buffer between the parking spaces and adjacent properties or public rights-of-way.

- There will be no additional vehicular parking needed because there will be no sales or displays on the property. No one will be coming to the property to see the vehicles.

(e)

Lighting. The Board must find that the major home occupation does not create light trespass onto adjacent properties or public rights-of-way which would be inconsistent with the Town's lighting standards.

- No additional lighting will be involved with the proposed use. No light will trespass onto neighboring/adjacent properties or public rights-of-way.

(f)

Aesthetics. If any change is proposed to the exterior of the building, the Board must find that the change will not materially alter a characteristic architectural feature of the building, such as fascia, window style or roofline.

- No changes are proposed to the exterior of the building.

(g)

Trash. The Board must find that the major home occupation does not create additional waste products that are not properly contained within receptacles normally associated with the principal residential use of the premises. Where there is found to be additional waste products associated with a major home occupation that cannot be stored within such receptacles, then there must be provision for adequately securing such waste products within a screened and landscaped facility. Such a facility should be located behind the principal dwelling unit, or behind the accessory structure used for the major home occupation and must be effectively screened from adjacent properties and the public right-of-way.

- No additional trash is involved with the proposed use of the property.

(h)

Exterior display. The Board must find that the major home occupation does not involve the exterior display or storage of goods, materials, equipment or inventory.

- There will be no exterior display or storage of goods, materials, equipment or inventory.