

**Town of Milford**  
**Zoning Board of Adjustment Minutes**  
**May 5, 2011**  
**Case #6-11**  
**Loreen Daniels**  
**Special Exception**  
*(Tabled from April 21, 2011)*

Present: Kevin Johnson, Chairman  
Steven Bonczar  
Steve Winder  
Zach Tripp - Alternate

Katherine Bauer – Board of Selectmen representative

Absent: Laura Horning  
Fletcher Seagroves

Recording Secretary: Shirley Wilson  
Transcribing Secretary: Kathryn Parenti

The applicant, Loreen Daniels, owner of 127 Whitten Road, Map 38, Lot 60 in the Residential “R” district, is requesting a Special Exception from Article V, Section 5.04.2:A.3 for a home occupation for an alterations and crafts business, in accordance with Article X Section 10.02.3.

**MINUTES APPROVED JUNE 2, 2011**

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Kevin Johnson, chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinances and the applicable New Hampshire statutes. He continued by informing all of the procedures of the Board; he then introduced the Board. He read the notice of hearing into the record as well as the list of abutters; Loreen Daniels, applicant and owner of 127 Whitten Rd along with Gary Daniels owner of 127 Whitten Rd were present. He noted that the application had been tabled from the April 21<sup>st</sup> meeting at the applicant's request and then invited the applicant forward to present her case.

S. Bonczar noted that there were only four members present.

K. Johnson advised the applicant that only four of the five members of the board were sitting tonight and she has the right to table the case until we do have a full five member board sitting or have the case heard by the four sitting members; however, in either case you must still have three affirmative votes to have this application granted.

L. Daniels signed the waiver to a five member board and proceeded with presenting her case. She stated she would like to start an alterations and crafts business in her home. She has registered her business with the State for the name, which they approved and she also got her Hawkers and Peddlers license. She then asked if she would have the ability to sell crafts on her property, as possibly part of a yard sale or her crafts alone, in light of the fact that she has that license.

K. Johnson said he would have to refer the applicant to the Town office as our jurisdiction is specifically with what is and isn't allowed by the ordinance. The implementation and the details of how that would be handled would come from the office.

S. Bonczar said there is a stipulation regarding this and read from the Town of Milford Zoning Ordinance Article X, Section 10.02.3 Home Occupations: *"4. Accessory finished goods may be provided for sale in conjunction with the home occupation, sold and stored in allowed home occupation space only. (2008)"* It's a question of the definition of accessory finished goods.

K. Johnson stated that brought up the issue of does having a home occupation permit prohibit her from having a yard sale, per say but it's not for the ZBA to determine. He asked if the board had any questions.

Z. Tripp asked about access in and out of the home occupation space in the basement.

L. Daniels replied there was a full size door with a sloped access that is similar to a handicap ramp. There are no stairs for the clients to access.

Z. Tripp asked if there was direct access at the driveway level.

L. Daniels replied there was.

S. Bonczar expressed some concern with the location of the home occupation. He hoped it would be inspected by the fire department to determine there is adequate egress from the space. Is there any other way to get in and out the space other than the stairs to the house?

L. Daniels replied there is a short door in that area, due to the flooring in the hallway.

S. Bonczar asked the applicant to clarify the access to the space; is it a walk out basement?

L. Daniels replied it was and was accessed through the red door by the driveway.

S. Bonczar asked about windows.

L. Daniels pointed them out on the submitted plan and stated it was a standard 1'x2' basement window.

S. Bonczar noted it was a rather closed in area and asked if there was adequate egress in an emergency situation. He did not want to be the judge of that; he was just bringing it to the applicant's attention.

L. Daniels replied there were two (2) exits including stairs going up to the living space.

K. Johnson noted all building and fire regulations and codes must be met and will be part of the building permit process, as referenced in the ordinance. This is one of the issues they want the applicant to be aware of as the process goes forward. The home occupation is limited to a

specific area of the basement and a building permit would be required for the construction of walls to delineate the area.

L. Daniels replied the basement is finished and she didn't think she needed a building permit. She is using the existing area.

S. Bonczar asked about parking.

L. Daniels replied there is room for up to six (6) cars, not counting the garage.

S. Bonczar asked if she would see people by appointment.

L. Daniels replied she would make appointments to see one (1) person at a time.

S. Bonczar stated there was enough traffic on Whitten Road and the applicant wouldn't want many cars backing out of the driveway onto the road.

Z. Tripp asked noted she had mentioned the selling of crafts. He asked if she had plans for any marketing and selling them.

L. Daniels replied she had a booth last Sunday at the Hollis flea market and craft fairs. She asked if she could set up outside a location for yard sale crafts items.

S. Bonczar replied he didn't know what the ordinance said about that type of activity.

K. Johnson stated she should call the Office of Community Development and ask specific questions as this is the first time this type of question has come up.

S. Bonczar noted her space would be primarily for making crafts and doing alterations.

Z. Tripp asked if she would have hours liked a traditional store for customers to swing by.

L. Daniels replied she would not; it shouldn't be an issue for the traffic flow on the road. It would be a lot less traffic than if she had a yard sale.

S. Bonczar asked if she would be installing a sign.

L. Daniels replied she would and it meets the requirements.

K. Johnson asked if there were any other questions; there were none so he opened the meeting to public comment.

Katherine Bauer noted, looking at the home occupation conditions in the ordinance, there is to be no evidence of the home occupation on the outside of the building. She could go to the planning office if she had any questions and noted all the conditions of the home occupation must be met in order to gain approval.

K. Johnson asked if there were any additional public comments; there were none so he closed the public portion of the meeting. He then asked the applicant to go through the criteria for a special exception.

**1. The proposed use shall be similar to those permitted in the district:**

L. Daniels stated the home occupation will be in the basement and will not alter the residential use of the neighborhood.

**2. The specific site is an appropriate location for the proposed use because:**

L. Daniels stated the basement is the best place for her business with less than 25% of the space being used for the business.

**3. The use developed will not adversely affect the adjacent area because:**

L. Daniels stated appointments will be made so people will come only one at a time so it won't adversely affect traffic and I have a huge driveway for one car at a time.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians:**

L. Daniels stated there will be no increase in traffic so no hazard to vehicles or pedestrians.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**

L. Daniels stated no additional facilities are needed.

K. Johnson read from Article V, Section 5.04.0, the intent of the Residence "R" District (2001): *"The intent of the Residence "R" District is to provide for low-density residential and agricultural land uses, and other compatible land uses, that are sensitive to the rural character*

*and environmental constraints existing in the district.” He also read from Section 5.04.1, Acceptable Uses: “A. One single-family dwelling and its accessory uses and structures, per lot, B. Agricultural and Farming (2010), C. One single-family manufactured housing unit, per lot, D. Harvesting of natural resources, E. Telecommunication facilities (2000), F. Deleted (2011), G. Farm Roadside Stands (2010).” He then read from Section 5.04.2 - Acceptable Uses and Yard Requirements by: (2009): “A. Special Exception: 1. One two-family dwelling unit per lot (2001), 2. Veterinary clinics, 3. Home occupations in accordance with Section 10.02.3...” He also read from Article X, Section 10.02.3, Home Occupations: “A. In all cases involving home occupations, the Board of Adjustment in addition to the criteria contained herein shall consider the following requirements: 1. The person conducting the home occupation shall reside in the dwelling unit, and there shall be no more than one (1) non-resident person employed in connection with such occupation. 2. There shall be no evidence outside the dwelling, except permitted signs and required off-street parking, that the dwelling contains a home occupation. 3. The home occupation shall be confined to one (1) floor of the dwelling unit or accessory buildings and not more than twenty-five (25) percent of such floor shall be so used. 4. Accessory finished goods may be provided for sale in conjunction with the home occupation sold and stored in allowed home occupation space only. (2008) 5. The home occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other residential property in the neighborhood. B. Any special exceptions issued hereunder shall automatically terminate when the applicant no longer resides in the dwelling unit.” He asked the applicant if she planned on having any employees.*

L. Daniels replied she would not, at this time.

K. Johnson asked if there were any additional questions; there were none so they continued with the discussion of the criteria.

**1. Is the exception allowed by the Ordinance?**

Z. Tripp stated the application meets all the requirements for a home occupation, has the data for the appropriate signage, all finished goods will be stored in the home occupation space only, the home occupation will be in 17% of the basement and all finished goods would be inside that space, there would be no other employees and there would be no impact to the neighborhood if this was granted.

S. Winder stated the applicant has met every requirement, he doesn't anticipate any hazards or nuisance to the surrounding area.

S. Bonczar stated the home occupation is called out in the ordinance and felt this request, as long as it meets the criteria in Section 10.02.3, would not be an issue if this was granted.

K. Johnson agreed with the previous comments. He clarified any number of family members could assist with the business but there could only be one (1) non-residential employee at a time. The size of the signage and the percentage of floor space criteria are met. In addition, he noted the proposed use is similar to those in the area, the site is an appropriate location for the proposed use, the use as developed will not adversely affect the adjacent area, there will be no nuisance or serious hazard to vehicles or pedestrians and adequate appropriate facilities will be provided for the proper operation of the proposed use.

**2. Are the specified conditions present under which the exception may be granted?**

S. Winder stated this is an appropriate location for this request, the proposed use is allowed, the use will not adversely affect the immediate or adjacent area, there will be no nuisance or serious hazard to vehicles or pedestrians, and adequate appropriate facilities have been provided.

S. Bonczar stated the proposed use is permitted in the district by special exception. It is an appropriate location for the request and the home occupation is allowed if the area for

that use is 25% or less of the floor space; in this case it is 17%. There would be no adverse effect if this was granted and no nuisance. The traffic on Whitten Road is heavy and that would be an issue in the morning with the elementary school traffic. That is tempered by the fact people will be seen by appointment only and only one (1) at a time. He would like the building inspector to do a review of the site and see if he feels it is necessary to have the fire department take a look as well; it would benefit the applicant. This does have adequate and appropriate facilities.

Z. Tripp agreed with both S. Winder and S. Bonczar and could not add anything else.

K. Johnson agreed with the statements made previously; this use is allowed by special exception. He could not have designed a better location for the home occupation because of the direct access. There is adequate access and parking and the use would not affect the adjacent homes. There will be no serious hazards or nuisance to vehicles or pedestrians. Noting the traffic on the road to the elementary school, he suggested the applicant schedule appointments around the heavy traffic times. He asked the applicant to contact the building department for health, safety and fire inspections to protect the general public and the applicant.

K. Johnson asked if the board members or anyone in the audience had any questions or comments; there were none so he called for a vote. After reviewing the petition and after hearing all of the evidence and by taking into consideration the personal knowledge of the property in question, the Board of Adjustment member has determined the following findings of fact:

**1. Is the exception allowed by the Ordinance?**

Z. Tripp - yes                      S. Winder - yes                      S. Bonczar - yes                      K. Johnson – yes

**2. Are the specified conditions present under which the exception may be granted?**

S. Winder – yes                      S. Bonczar – yes                      Z. Tripp – yes                      K. Johnson - yes

S. Bonczar - yes

K. Johnson asked if there was a motion to approve Case #6-11.

S. Bonczar made the motion to approve Case #6-11.

Z. Tripp seconded the motion.

**Final Vote**

Z. Tripp – yes                      S. Winder – yes                      S. Bonczar – yes                      K. Johnson - yes

Case #6-11 was approved by a unanimous vote.

K. Johnson reminded the applicant of the 30 day appeal period.