

TOWN OF LIVERMORE FALLS
PLANNING BOARD REGULAR/SPECIAL MEETING
AGENDA FOR

Wednesday, February 21, 2001

1. CALL MEETING TO ORDER 6:00 P.M.
2. MINUTES OF PREVIOUS MEETING AND COMMUNICATIONS
3. NEW BUSINESS
 - A. Melisso Buzzell, Map 20 Lot 189
Richardson Ave. Internet business as a Home Occ.
 - B. Trey for next month
 - C. _____
 - D. Albecca Torres. want to go
commercial rather than home
occupation.
4. OLD (UNFINISHED) BUSINESS
 - A. _____
 - B. _____
 - C. _____
 - D. _____
5. OTHER BUSINESS
 - A. Home Occupation Standards
 - B. Site Plan Review Ordinance Changes
 - C. Town Meeting Articles
 - D. welcome to Liv. Fls. welcome package
 - E. Sludge Ordinance
6. PUBLIC PARTICIPATION
7. ADJOURNMENT

Candle business gets commercial designation

The change was requested because Alicca Torres is now selling wholesale in addition to retail.

BY CORA C. BRIGGS
Special to the Sun Journal

LIVERMORE FALLS - Alicca Torres' candle-making business was granted commercial status Wednesday night by her fellow Planning Board members.

Torres, who has been operating The Candle Cabin as a home occupation, asked that the business be changed to commercial status because she is now selling wholesale in addition to her retail business. The business is still located in Pine Ridge Park in East Livermore in a 16- by 24-foot building on her lot in the mobile home park.

She said she anticipates more traffic because she is having ship-

The proposed definition would clarify just what a home occupation should be.

ments of wax come in, but she does all deliveries herself. Her shop is handicap accessible, she has a recycling program for her jars and she also sells refills.

Assisting her are her husband, Juan, and a part-time helper. "We just decided to go commercial, it seemed right," she told the board.

Her application was accepted unanimously. Torres did not vote.

Planners devoted the remainder of their meeting to a proposed definition of home occupation, which they have struggled with for several months.

The board has had to approve as home occupations some applications which have come before them, according to the present wording in the Site Plan Review Ordinance, even though they have not felt they should be such.

The proposed definition would clarify just what a home occupation should be and allow the board to better control such things as noise, smoke, odor, increase in traffic, etc.

"It's not like we don't want businesses. We do. But it should be commercial," explained Planner Christine Pelletier. Members also noted that being commercial is not a big process so people should not be put off by it. A public hearing on the changes will be held in April.

Board members also agreed they want to review all applications so everyone will know what is happening in town.

In other business, the board reviewed some items that should be included in a "Welcome to Livermore Falls" package, and agreed to take no action on a proposed sludge ordinance, which would ask for a 180-day moratorium on sludge spreading, until after the special town meeting April 9.

ROM AUGUSTA
hrv wayne RT 133
EFT ONTO RT 106

LEAD-FREE
LESS SOOT

SOME SECONDS
Available



Hand-poured
and dipped
in
MAINE
daily.

From RT TURNER
From 219
Passed twin
bridges LEFT
ON RT 106 4 miles
ON LEFT. passed
N. Leeds buildin
Supply

(207) 897-6519

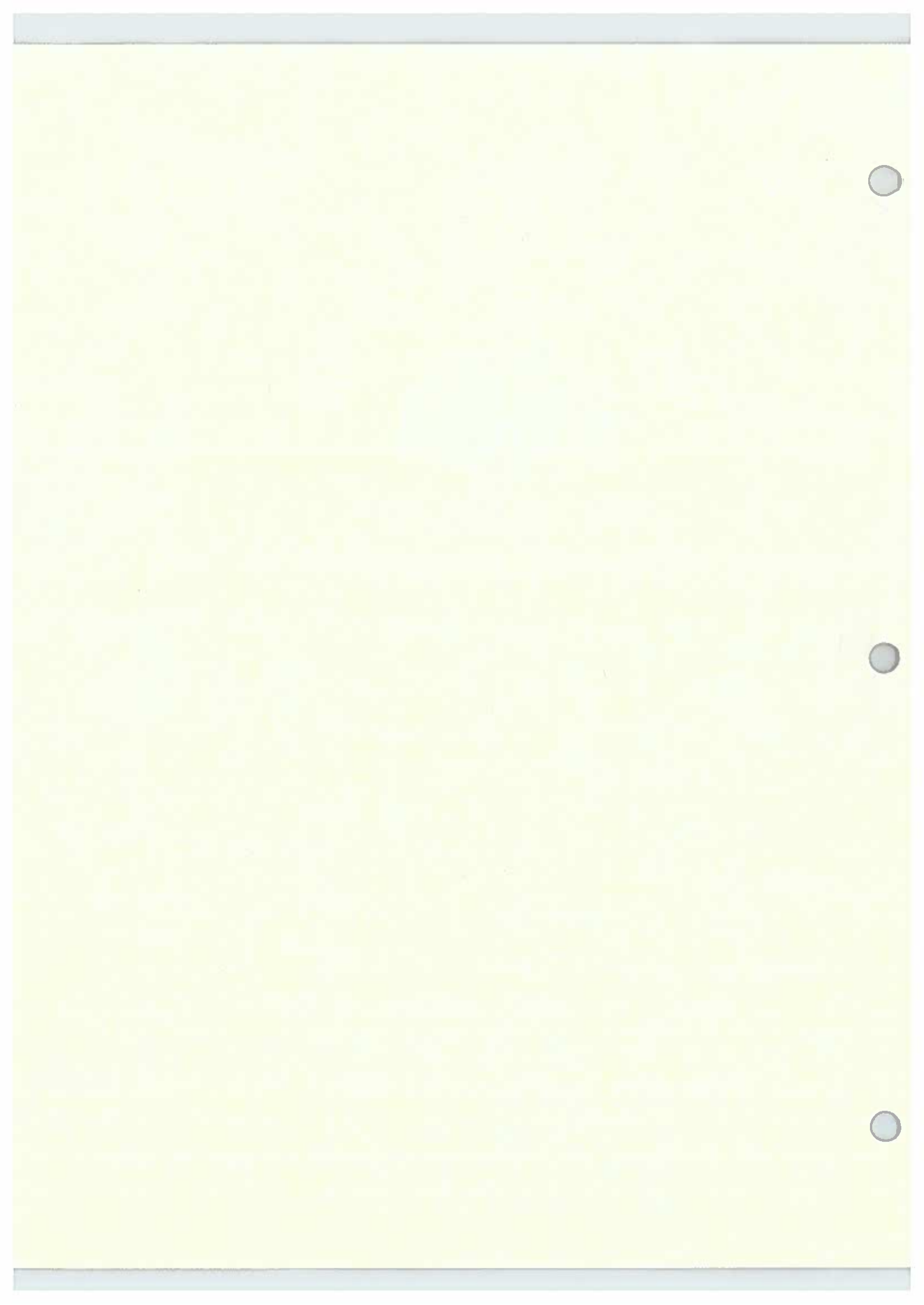
OPEN DAILY 11 to 6 OR SUN. & MON. by APPT.

Experience a cleaner even burning Lead-free Scented
Candle! Unique REFILLABLE line. REFILLS sold seperately.

votives \$1 { Affordable jar line in 40+ scent choices
STARTS at \$4.95 for 5oz
ENDS at \$14.95 for 26oz. 2 wick jar. (square)

• COUNTRY TAPERS & Accessories. Even gifts & BASKETS
• Built RESIDENTIALLY you save! Low overhead
allows for lower prices! Wholesale Inquires Accepted

Follow the signs tacked to the pines OFF
RT 106. E. Livermore nestled in Pineridge Park
to the CANDLE CABIN and allow the 40+ Scent
Choices to greet you! just before Stevenson's strawberry
up RT 133 ONTO RT 106 at PIKES CORNER watch for the
MOOSE ON YOUR Right. Follow the signs.



MAINE MUNICIPAL ASSOCIATION

Legal Services
60 Community Drive
Augusta, Maine 04330-9486
(207) 623-8428
Fax (207) 623-1287

**WILLIAM W. LIVENGOOD
REBECCA WARREN SEEL
RICHARD P. FLEWELLING
ELLERBE P. COLE
JAMES N. KATSIAFICAS
SUSANNE F. PILGRIM**

**JOSEPH J. WATHEN
(1957-1997)**

May 26, 2000

David R. Giroux, Code Enforcement Officer
Town of Livermore Falls
2 Main Street
Livermore Falls, ME 04254

VIA FAX

Re: Home Occupations

Dear Dave:

Your letter of May 24th said the Planning Board had been rethinking the issue of home occupations; you gave two examples. In the first, the tenant of a second floor apartment applied for an antique shop on the first floor, which already housed a hair salon. The remainder of this three-story building is vacant. You said the Board deemed the entire building to be a dwelling unit and then decided that an unlimited number of home occupations and commercial uses may coexist on the same premises. I would probably have decided it differently.

In the first place, I think the dwelling unit is the second floor apartment only (see Section XIV(5), Site Plan Review Ordinance, the definition of "dwelling unit"). Since the definition of "home occupation" requires that it be carried on "in a dwelling unit or a structure accessory to a dwelling unit," that would have disqualified the antique shop as a home occupation at the outset. The first floor is not part of the dwelling unit, nor is it an accessory structure. Even if this issue could have been surmounted, however, the shop may still have flunked the test because it is not "customarily carried on" in a dwelling unit or accessory structure and is not "incidental" to the residential use. This is a question of fact and would depend partly on common land use patterns in the vicinity. Retail sales, though, tend to be less customary from a residence than, say, office or professional activities.

The second example involved an addition to a building that a former Board believed was a commercial building but that the current Board believes is a home occupation. First of all, the current Board is not necessarily bound to a previous interpretation if the present facts point in a different direction. Having said that, however, I would raise the question again about incidental use, that is, at what point does that home occupation no longer qualify as being "incidental" or secondary to the residential use? Would the proposed addition represent the transition from an incidental use to the principal or even a co-equal use? That seems to me to be the question here.

05/26/00

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It may be helpful for the Board to recall that the fundamental reason for the distinction between home occupations and conventional commercial uses is to acknowledge that some types of commercial activities may be of such a character and scale that they can compatibly coexist with residential uses without altering the essential residential character of either the building or the neighborhood in question. Examples could include professional offices, beauty parlors, and small-scale fabrication. Other types of commercial activities may be so unusual to or outsized for residential neighborhoods that they merit review as full-fledged commercial uses, however. Examples might include retail sales, vehicle service and repair, and most manufacturing. These examples are only illustrative, though, and each case would depend on the facts and applicable ordinance language.

I hope this discussion is helpful. Please let us know if we can be of further assistance.

Yours truly,

Richard P. Flewelling
Richard P. Flewelling, Esq.



Town of Livermore Falls

CODE ENFORCEMENT OFFICE

2 MAIN STREET

LIVERMORE FALLS, MAINE 04254

Tel. 207-897-4427

To: Brian Jordan, Chair, and Planning Board members
From: David R. Giroux, CEO
Re: Amendments to the Site Plan Review Ordinance
Date: January 19, 2001

Enclosed please find my thoughts on certain amendments the Board may want to look into regarding making the Site Plan Review Ordinance more user-friendly. I have also included my thoughts on other minor administrative changes.

Additions are underlined; Deletions are lined over

Section III APPLICABILITY

Change the order of Section III.A and III.B; Add Section C.

- A. The following uses and structures are exempt from this ordinance:
1. The normal and customary practices involved in the growing and harvesting of field crops and timber.
 2. Home Occupations.
 3. Existing buildings and land uses legally established prior to the adoption of this ordinance unless one or more of the factors described in the following Section III, B is present.
- B. This ordinance shall apply to all development proposals for:
1. New buildings, structures, and land uses for commercial, retail, industrial, institutional, residential institutional, recreational, utility, state, municipal, or public.
 2. New uses or changed uses of land or of existing structures if such new or changed uses would generate significantly greater traffic volumes, employ new materials or processes, or generate any new impacts (glare, noise, odor) not normally associated with the previous use.
 3. Resumption of conforming uses that have been discontinued for at least two years.
 4. Expansions of existing uses, or a change from one type of area to another type of area, by either 1,000 square feet or 25% in area (whichever is lesser provided that such expansion involves at least 500 square feet) within any 10-year period, with regard to the following areas: floor space, parking area, seating capacity, outdoor storage area, or outdoor use area. *out*
- C. *Re X* The decision of whether a use or structure is exempt, as noted in Section III.A, is made by the CEO and/or the Planning Board as outlined in Section VI and Section IV.





Town of Livermore Falls

CODE ENFORCEMENT OFFICE

2 MAIN STREET

LIVERMORE FALLS, MAINE 04254

Tel. 207-897-4427

DEFINITION OF HOME OCCUPATION

February draft

HOME OCCUPATIONS: A business that is not located on property where another home occupation is located and that: 1. Is conducted by the person or persons who reside in the home that is on the same property as the occupation or profession; 2. *Employs no more than 1 employee who does not reside in the home that is on the same property as the occupation or profession;* 3. Provides for adequate off-street parking and does not cause the residential character of the property to differ by means of light, colors, or sounds, causes an objectionable increase in traffic, or generates any nuisance, noise, smoke, or odor that would cause a hardship to the abutters of the property on which the occupation or profession will be conducted; 4. *Either occupies not more than 20% of the floor area or volume of the residential structure if the occupation or profession is to be conducted in the residential structure, or occupies not more than 20% of the floor area of accessory structures if the occupation or profession is to be conducted in the accessory structure, or occupies not more than 20% of the lot on which the occupation or profession will be conducted;* 5. *Does not have any exterior storage of materials or display any exterior exhibits other than a 2' high by 2' wide sign advertising the home occupation;* 6. Uses only common household chemicals.

Hearing at April meeting





Maine Municipal
Association

60 COMMUNITY DRIVE
AUGUSTA, MAINE 04330-9486
(207) 623-8428

Welcome Packet

Chamber Book

Municipal Directory

Library Bookmark

Dump Sticker

Town - list of municipal officials

Info on schools, churches, medical

DARE Info

facilities

Business cards in plastic sheet

Church listings

Medical facilities





Town of Livermore Falls
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2 MAIN STREET
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APPLICATION PROCEDURE
HOME OCCUPATIONS
PROPOSED SITE PLAN REVIEW AMENDMENTS
February Draft
Additions are underlined

Section VI PLANNING BOARD ACTION ON APPLICATION (page 6)

- A. Prior to submitting an application for development to the Planning Board, the property owner, the property developer, or his authorized agent shall meet with the Code Enforcement Officer. If the Code Enforcement Officer determines that the proposed use meets the definition of Home Occupation as defined herein, then the Code Enforcement Officer shall approve the application. If the Code Enforcement Officer determines that the application does not meet the definition of Home Occupation, then the property owner, the property developer, or his authorized agent may appear informally at a regular or special meeting of the Planning Board to discuss the proposed development, as outlined in Section IV.A or shall present the application to the Planning Board as outlined in Section VI., B thru E., inclusive. The Planning Board may also overrule the Code Enforcement Officer's decision that an application does not comply with the definition of Home Occupation.

Re-letter Section VI, A thru D to Section VI, B thru E.

No!

acting as the board's agent
he'll provide a list





Town of Livermore Falls

CODE ENFORCEMENT OFFICE
2 MAIN STREET
LIVERMORE FALLS, MAINE 04254
Tel. 207-897-4427

LIVERMORE FALLS
PLANNING BOARD
MINUTES OF THE
FEBRUARY 21, 2001
MEETING

MEMBERS PRESENT: Brian Jordan, Chair, Christine Pelletier, Nancy McManemon, Guy Palmieri, Lorraine Barney, Veronica Pillsbury, and Allicca Torres.

PUBLIC PRESENT: Miriam Buchanan, Cora Briggs, and David Giroux, Code Enforcement Officer (CEO).

On a motion from A. Torres and a second by L. Barney, the minutes of the January 17, 2001 Planning Board meeting were accepted as presented. VOTE 6-0-0.

NEW BUSINESS:

1. Melissa Buzzell was not able to attend this evening, due to personal reasons. She will notify the Board when she is ready to attend.
2. Allicca Torres, dba Alike's At It, wants the Board to review her business as a commercial enterprise. Her business was reviewed and approved by the Planning Board as a Home Occupation on June 21, 2000. Since that time the retail portion of her business has become secondary to the wholesale portion of her business. Because of this, she would like review and approval as a commercial business under the provisions of the Site Plan Review Ordinance. On a motion from G. Palmieri and a second by L. Barney, the Board determined that the business as currently conducted is a commercial application. VOTE 5-0-1. There are currently 3 parking spaces available for the public. After a review of the standards in the Site Plan Review Ordinance, the Board, on a motion from C. Pelletier and a second from V. Pillsbury, approved the application for Allicca Torres as presented. VOTE 5-0-1. Allicca Torres abstained from participating in both votes.

The Board then continued with a review of the CEO's latest draft of the Site Plan Review Ordinance amendments outlining the process, generally, by which the CEO could review an application for a determination that the application is a Home Occupation. Because the Board is proposing a new definition of Home Occupation to the voters at Town Meeting, the members felt that for the time being keeping a determination of what constitutes a Home Occupation should rest with the Planning Board. The CEO will not make a determination of whether an application is a Home Occupation.



The Board also worked on additional amendments on Section III, Applicability, of the Site Plan Review Ordinance. This Section addresses what projects are exempt from review and what projects require review.

The Board briefly discussed how many articles on the Annual Town Meeting Warrant they will be presenting to the voters. The Board will only require 1 article.

The Board conducted a brief discussion about the status of the Sludge Spreading Moratorium. They were of the opinion that there would not be enough time between now and this year's town meeting to put an ordinance together. The CEO would pass this information along to the Town Manager.

The Board also reviewed information that would be compiled for a "Welcome to Livermore Falls" welcome package that would be given out to those new applications that come before the Planning Board. These packages could also be given out to new residents in town. These could be targeted through deeds or car registrations.

On a motion from N. McManemon and a second by L. Barney, the Board voted to adjourn at 7:53 P M.

Respectfully submitted, David R. Giroux, CEO.

