

TOWN OF MARLBOROUGH
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“ Heart Of the Hudson Valley Fruit Section”
MILTON, ULSTER COUNTY, NEW YORK 12547
DEPARTMENT OF BUILDINGS

FILE COPY

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THOMAS CORCORAN JR.
BUILDING INSPECTOR
CODE ENFORCER
FIRE INSPECTOR

June 24, 2017

Re: Danskammer House / 5 West Street

S.B.L. : 108.12-3-14

This letter is in response to the planning board request for a interpretation of town code in reference to the above project located at **5 West Street, Marlboro NY 12542.**

Town Code Definitions :

*Bed and Breakfast : A **home occupation** allowing overnight accommodations in residential structures which takes place only in **owner-occupied** structures. The use is limited to 50% of the structure. Meals may be served to guest of the business. Use is subject to site plan review by the Planning Board.*

*Home Occupation : Any business or professional use customarily conducted entirely within a dwelling, provided that such use is carried on by the owner of the dwelling, is **clearly incidental and secondary to the use of the dwelling** and does not significantly change the character of the dwelling or neighborhood.*

*Section 155-23 (A) Home Occupations : The home occupation shall be clearly **incidental to the principal use of the residential structure** in which it is located.*

Webster's Dictionary Definitions :

Owner : as the “ legal right to possession” or “ belonging to oneself ”

Occupy : as “ to reside in “ and there definition of

Reside : is “to live in a place for a permanent or extended time”

Taking all of the above definitions into consideration along with the past practice of this office my interpretation specific to this case as explained to me is :

The Cool's are the " owners " of the property but by definition of "owner-occupied as a home occupation" I feel that the occupancy of the home ONLY when there are guest do not meet the criteria "**incidental and secondary to the use of the dwelling**" or "**clearly incidental to the principal use of the residential structure**" This principal use of this home is a **one family home** and if only occupied by the owner when there are guest makes this our definition of a **boarding house** or the lack of a occupant full time (the owner) in this home would make it a commercial use more similar to the definition of **hotel**. By the owner living at the home full time the overnight accommodations would then be secondary to the use as a owner-occupied one family home.

The second question asked was the interpretation of the limitation to 50% of the structure as defined in bed and breakfast in our code book.

I have reviewed Willingham Engineering letter dated July 7, 2017 in regards to the calculations of interior square footage. As per the response to the town engineers comments. Number 3 says :

3. Please see the attached floor plans which indicate the distribution of uses on each floor. The portions of the home considered " bed and breakfast " use are the bedroom suites and their private bathrooms. The remainder of the home, including the kitchen, dining areas, living room, family suite, hallways and third floor multimedia lounge are considered part of the single family home use and will be utilized as such by the owners.

With this in writing (and I don't agree that the hallways are not part of the calculation) and the **owner confirmation** that the kitchen, dining area, living room, family suite and the third floor multi media lounge **WILL NOT** be utilized by the guest I feel that they have met the 50% use limitation of the structure.

I hope this letter has answered the planning boards questions as I understood them. I write these interpretations to the best of my ability and my full knowledge of the Code of The Town of Marlborough. Any other interpretation or any disagreement with my interpretation must be ruled on by the Town of Marlborough Zoning Board of Appeals.

Thank You.



Thomas J. Corcoran Jr.

Building Inspector

Code Enforcement Officer