

**MITCHELL MUNICIPAL GROUP, P.A.**

ATTORNEYS AT LAW  
25 BEACON STREET EAST  
LACONIA, NEW HAMPSHIRE 03246  
[www.mitchellmunicipalgroup.com](http://www.mitchellmunicipalgroup.com)

WALTER L. MITCHELL  
LAURA A. SPECTOR-MORGAN  
NAOMI N. BUTTERFIELD  
JOSEPH H. DRISCOLL, IV

TELEPHONE (603) 524-3885

October 5, 2021

Ray Demarais, Vice-Chairman  
Barrington Zoning Board of Adjustment  
333 Calef Highway  
Barrington, NH 03825

Re: Temporary Variance Application Submitted by Robert & Allison Russell  
99 Tolend Road  
Case No. 2020-54-16-GR-21-ZBA Var

Dear Mr. Vice-Chairman and Members of the Board:

As you know, this firm generally represents the Town of Barrington. In this case, I am writing on behalf of the Select Board.

Robert & Allison Russell have submitted a request for a temporary variance<sup>1</sup> to allow them to continue to operate 2A Tactical at 99 Tolend Road until its new facility is completed at the Calef Highway Property. As part of that application, Mr. Russell requested that the Board determine that his existing use complies with the definition of Home Occupation and that a variance is therefore unnecessary. I am writing to explain why the selectmen believe that 2A Tactical is not operating a permitted Home Occupation.

Before I address the specifics of the ordinance, let me start by saying that the selectmen are happy that 2A Tactical is a successful booming business and look forward to having a long relationship with that business, when the business is operating in an appropriate location. I would also like to review the approvals the town has granted for the use of the property. In July, 2015, Mr. Russell proposed a home occupation performing gunsmithing services. He averred that there would be no signage, no type of retail or customer area, and very little added traffic to his residence. He also provided a plan, illustrating that he would use approximately one quarter of his basement to perform this work. That application was approved, "based upon plans and/or specifications submitted." See materials attached as Exhibit A, attached. In 2018, Mr. Russell sought a change to his Certificate of Occupancy, allegedly so that he could have "greater flexibility" in what he did. He asked that the wording on the certificate of occupancy be changed from "gunsmithing business" to "firearms gunsmithing and manufacturing." He represented that "since the last permit application we've expanded somewhat, but no large differences." In reliance on this information, the town issued the requested revised certificate of occupancy. See materials attached as Exhibit B.

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<sup>1</sup>There is no such thing as a temporary variance in New Hampshire. Variances run with the land; therefore, any variance granted by this Board would be perpetual.

In 2020, the town received, through its Zoning Administrator, complaints of parking in the road. At that time, town officials met with Mr. Russell and, apparently, everyone, including Mr. Russell, agreed that 2A Tactical had exceeded the limits of a Home Occupation. The town agreed to take no legal action for 6 months to allow Mr. Russell to relocate his business, either by constructing a new building or renting an appropriate commercial space. See materials attached as Exhibit C. Mr. Russell could have appealed that administrative decision, applied for a variance and site plan approval for the 99 Tolend Road location, brought the business back into compliance, or rented a new space for the business. He decided to do none of that, and instead continued operating his business from his home.

2A Tactical is no longer a small gunsmithing shop operating in the corner of Mr. Russell's basement. Mr. Russell is using his entire basement for his operation, as well as his garage and backyard. There are at least four storage trailers on the property,<sup>2</sup> and Mr. Russell also has a heated tent outside in which customers gather before the shop officially opens. Moreover, despite Mr. Russell's representations that there would be no retail or customer area, 2A Tactical has clearly become a retail establishment. It sells ammunition, silencers, and guns. It has a Test Fire Room for customers to hear the silencers it sells with live ammunition. It buys shot brass from customers and processes it to be resold. There are signs throughout the tent and backyard. It offers classes to build ArmaLite Rifles.

Not only do these activities violate the certificate of occupancy which was issued by the town, but they also violate the zoning ordinance. A home occupation is defined as a use conducted entirely within a dwelling that is clearly incidental and secondary to the use as a dwelling, which does not change the character of said dwelling or its neighboring environment. Mr. Russell's alleged home occupation is not being conducted within the single family dwelling—it is being operated throughout the property; nor is it incidental and secondary to the use as a dwelling. It is open to the public from 10 am to 5:30 or 6 pm during the week and until 4 pm on Saturdays, and in fact, the heated tent opens at 9 am to allow customers to begin lining up. The requirements for a home occupation also require that the business not be objectionable and detrimental to the residential character of the neighborhood. Mr. Russell's business is detrimental to the residential character of the neighborhood given the traffic it generates.

It is also worth noting that the Fire Chief, along with the State Fire Marshal's office, inspected the property at the ZBA's request to determine whether any hazardous materials are being stored there; and the Building Inspector has inspected the property at the request of the owner. I understand you will be receiving letters from both the Fire Chief and the Building Inspector summarizing their findings, which include fire/life safety code violations, unpermitted electrical work, and confirmed violations of the certificate of occupancy and the zoning ordinance.

For these reasons, the Select Board asks that you determine that 2A Tactical has exceeded the certificate of occupancy that was issued, that the business as it is operated does not constitute a permitted home occupation, and that a variance is necessary to continue to operate this business at 99 Tolend Road.

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<sup>2</sup>I understand that Attorney O'Donnell argued to the Board that outside storage was permitted on residential properties. While this is true, that outside storage must be associated with the residential use of the property. Here, the outside storage is associated with the business operation, which is not permitted for a home occupation.

Ray Demarais, Vice-Chairman  
October 5, 2021  
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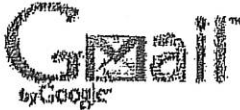
Sincerely,

A handwritten signature in black ink, appearing to read "Laura Spector-Morgan", with a long horizontal flourish extending to the right.

Laura Spector-Morgan  
[laura@mitchellmunigroup.com](mailto:laura@mitchellmunigroup.com)

cc: Conner MacIver, Town Administrator

# EXHIBIT A



John Huckins <barringtondepbl@gmail.com>

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**RE: Question about Home Occupation Notice**

1 message

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Robert Russell <robertwrussell@metrocast.net>  
To: John Huckins <barringtondepbl@gmail.com>

Thu, Jul 9, 2015 at 11:32 AM

John,

Please see my attached sketch of the approximate shop / work area of my proposed home business.

I read the town rules and I can say that not only will I not be in violation of these, but I believe that my small side business will have zero negative impact on our neighborhood as I plan no signage, no type of "retail" or "customer" area and in fact I plan to pick up most of my work at local firearm stores. So there will also be very little added traffic at my residence.

So to paraphrase what I am proposing to do:

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I am a 23-year veteran of the Army National Guard and a Combat Veteran of Afghanistan. While I am not currently serving as a police officer, I have approximately 13 years in law enforcement and I have served as an armorer in the past. I am presently a fully disabled Veteran from wounds I sustained overseas. I am permitted to make a limited income in my current capacity.

I am proposing to start a small business doing gunsmithing. I already have a good level of knowledge in the area of gunsmithing and to do this as a part time job is a natural progression. I have already reached an agreement with a local gun store to take in work from their business to bring home and work on at my residence. It is my goal to have minimal customers actually come to my residence, although certainly some will from time to time. In order to legally do gunsmithing I am also obligated to obtain a Federal Firearms License, something that I am presently working on. In order to even send the application for the FFL, I need to have a letter from the town showing that I am not in violation of any zoning or ordinances.

I will have a workshop area in my basement which will consist of a number of work benches and several shop tools such as a drill press. No fumes, odors or unreasonable noise and the like will be generated by the work that I do.

Please let me know if you have any questions or would like to come out and see the area of my basement that I am talking about.


-Robert Russell

99 Tolend Road

Barrington NH 03825

603-332-9511

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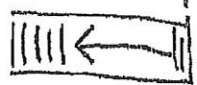
 Russell House Shop Plan 99 Tolend Road.pdf  
14K

#99  
TOLAND RD  
BARDENSTON  
RUSSIAN  
RESIDENTS

DRIVEWAY

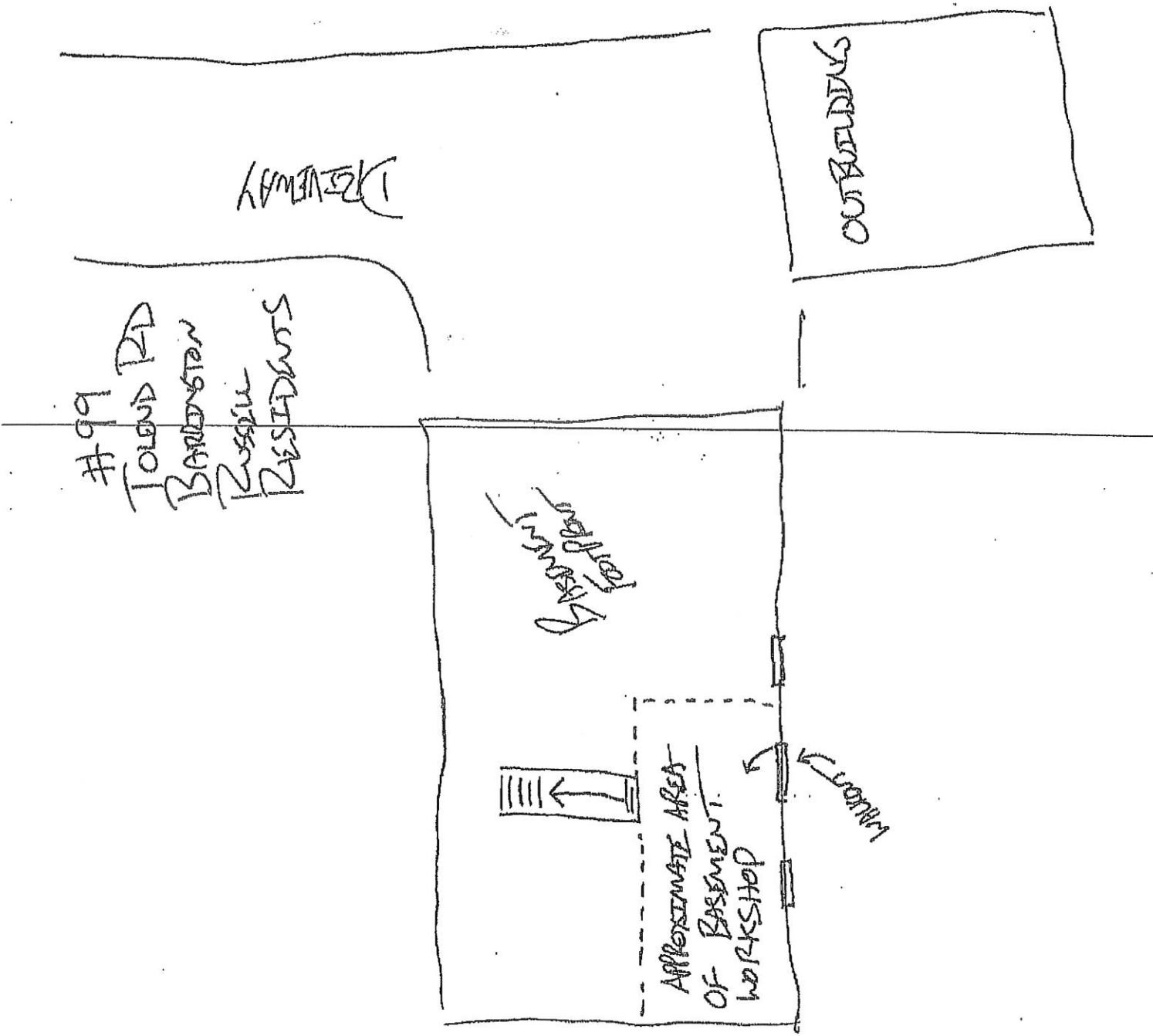
OUTBUILDING

Handwritten note, possibly "Handwritten note" or similar, written diagonally.



APPROXIMATE AREA  
OF BASEMENT  
WORKSHOP

WORKING





Town of Barrington  
Code Enforcement/Building Department  
P.O. Box 660  
Barrington, NH 03825  
603-664-5183

ORIGINAL  
PERMIT

### CERTIFICATE OF OCCUPANCY

No. 15-52  
Date: 7/9/15

This certifies that the residence located at  
Map: 220 Lot: 0054 99 Tolend Road  
may be occupied and has been approved for a home occupation/gunsmithing business.

This Certificate of Occupancy has been issued based upon plans and/or specifications submitted, inspections made during construction and other information (photos) and/or engineering data, (whether required or not); and appears to be to the best of our belief and knowledge, in accordance with all the applicable provisions of the state of NH Building Code and/or and Town of Barrington Regulations in effect at the time issued.

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This certificate issued to:  
Robert Russell  
99 Tolend Road  
Barrington, NH 03825

Sincerely,

John Huckins  
Code Enforcement Officer



**EXHIBIT B**

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2A Tactical, LLC  
Precision Gunsmithing

99 Tolend Road  
Barrington NH 03825  
Work: 978-833-1215  
Fax: 603-948-1619  
[2atactical@metrocast.net](mailto:2atactical@metrocast.net)  
[www.2atacticalnh.com](http://www.2atacticalnh.com)  
01 FFL, Fully Insured  
FFL# 6-02-017-01-6K-02693

04SEP2018  
John Huckins,  
Town of Barrington Building Inspector,

John,

Roughly 3 years ago you issued my business a permit for a home occupation for a "Gunsmithing business." As a fully disabled Veteran, this business has done well and has provided an income for me and my family. I am pleased to tell you that the business is doing well and we are currently in the process of applying for a new Federal Firearms License with the BATFE. The license that we are applying for is what is called a Class 07 FFL Manufacturer.

This change in type of licensure will give us greater flexibility in what we do and allow us to comply with all applicable laws. I have reviewed the limitations set by the town and I can tell you that we will be in compliance with all town ordinances.

In order to satisfy the BATFE, I am kindly requesting that our permit allow the following activity in this wording if possible:

→ "Firearms Gunsmithing and Manufacturing" ← THIS WORDING IF POSSIBLE PLEASE

Thank-you and please let me know if you need anything further.

Robert Russell  
Owner,  
2A Tactical LLC

RWR 9-10-18  
\* SINCE THE LAST PERMIT APPLICATION WEVE EXPANDED SOMEWHAT BUT NO LARGE DIFFICULTIES \*



**Town of Barrington**  
**Code Enforcement/Building Department**  
P.O. Box 660  
Barrington, NH 03825  
603-664-5183

## CERTIFICATE OF OCCUPANCY

No. 15-52  
Date: 9/6/18

This certifies that the residence located at  
Map: 220 Lot: 0054-16 99 Tolend Road  
may be occupied and has been approved for a home occupation/Firearms Gunsmithing  
and Manufacturing.

This Certificate of Occupancy has been issued based upon plans and/or specifications  
submitted, inspections made during construction and other information (photos) and/or  
engineering data, (whether required or not); and appears to be to the best of our belief  
and knowledge, in accordance with all the applicable provisions of the state of NH  
Building Code and/or and Town of Barrington Regulations in effect at the time issued.

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This certificate issued to:  
Robert Russell  
99 Tolend Road  
Barrington, NH 03825

Sincerely,

*John Huckins A.N.*

John Huckins  
Code Enforcement Officer

# EXHIBIT C



**Town of Barrington**  
**Code Enforcement/Building Department**  
P.O. Box 660  
Barrington, NH 03825  
603-664-5183

Home Occupation for 2A Tactical, 99 Tolend Road

The original C/O for the Home Occupation was issued July 9, 2015

Home Occupation was updated September 6, 2018 to comply with Firearm Rules.

Received complaints of parking in road July 2020.

A group effort with the Town Administrator, Police Chief, Road Agent and myself, working with Rob from 2A Tactical about the parking issue. It became obvious that they had exceeded the limits of a Home Occupation.

November 17, 2020 there was an agreement made with Rob that if he did not expand any more, the Town would not take legal action against him for six (6) months, giving him a chance to move to a new location.

John Huckins



Zoning Administrator

## Conner MacIver

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**From:** Rob Russell <rob@2atac.com>  
**Sent:** Tuesday, November 17, 2020 8:45 AM  
**To:** John Huckins  
**Cc:** Conner MacIver  
**Subject:** RE: Home occupation

John and Connor,

Thank-you again for allowing me the time figure this out. I had already developed a rough business plan to get out of my home to a proper location in approximately 10-12 months. I will now do my best to redevelop it to a 6 month plan. I am very interested in that land, I just don't know if I can physically plan, design and build a stick building in six months. Might be close.

I will do the best about the parking, but sometimes folks just park where they want. As you and I discussed, whenever neighbors call about parking issues, which is extremely rare, as in maybe once every month, I respond immediately and rectify the situation. I will keep an eye on the parking.

With the recent suicide of my second in line, it's been a very rough several weeks here. I can assure you that I take this very seriously and I will do our absolute best to meet the 6 month deadline.

For what it's worth, nine of my employees are Veterans, and of those nine, all but just a couple of them are Fully or Partially Disabled. One of my employees was shot in my face in Iraq and another was blown up. I myself was hit by two IED explosions in the same incident and am now an epileptic for the rest of my life due to my Traumatic Brain Injury. Why am I telling you this? Because I don't have a business degree. I was a cop in Dover. I have a Bachelors in Science of Law Enforcement. I never expected or even imagined my business would grow the way it has. I didn't hire any consultants or anything. I've had to make everything up by design as I've gone along. I know 2A Tactical has grown to beyond the capacity of my neighborhood. But you have to understand that many of the guys and gals that I employ, the Veterans, by their own admission, could not hold jobs working for a "normal" employer. Veterans working with Veterans is considered often one of the best therapy groups out there. And now just weeks after one of my guys blew his brains out, the potential ripple effect cannot be underestimated, especially with an at risk group such as this.

In six years I haven't paid myself yet, but I have emptied many of my own personal retirement accounts and taken big penalty hits. I have invested all profits back into my business. I take such a huge responsibility in taking care of my guys, paying them extremely well and watching out for their health and wellbeing. The average starting wage for a "gun store" employee in this area is around \$10-11 / hr. My starting rate, depending on experience, is \$14-17 / hr for a general sales person. I consider that a much better "living" wage than \$10-11 / hr. Listen, I'm not asking for a pat on the shoulder. I'm just trying to say that I've somehow, by God's Grace, managed to cobble something together here. And I am blessed with this amazing team of men and women. I've spoken to realtors who keep telling me about commercial space in Rochester, Somersworth, Dover and more. And I keep telling them the same thing, that I want to stay in Barrington. I know I'm technically barely a Barrington Baby at 15 years (I think it's been 15 years now.) But we love Barrington, we've met and have grown to know so many great people here, and I just want to keep my business close to my home and in my community.

Thank-you for your time and patience.

-Rob

Robert W. Russell