

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: January 16, 2018
RE: 18-0544CU; 32 Marble Avenue

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP18-0544CU

Location: 32 Marble Avenue

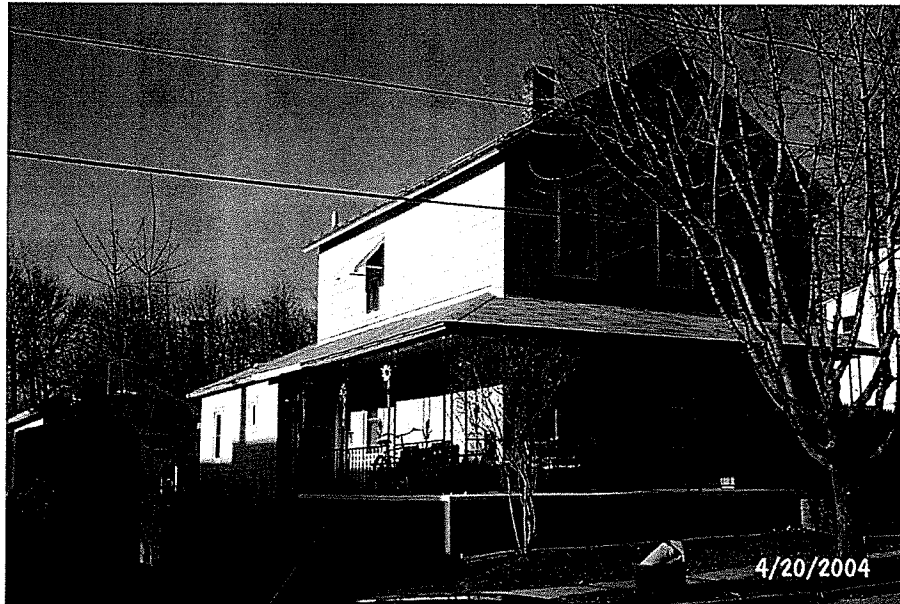
Zone: RM **Ward:** 5S

Date application accepted: November 30, 2017

Applicant/ Owner: Amey Radcliffe & Maryann Neuzil

Parking District: Neighborhood

Request: Convert an existing duplex to a single family dwelling with an associate one-room bed and breakfast rental.



Applicable Regulations:

Appendix A (Use Table – All Zoning Districts), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps & Districts), Article 8 (Parking)

Background:

- **Zoning Permit 94-485**; replace existing picket style fencing with 6' stockade fencing in same location. Approved June 21, 1994.
- **Zoning Permit 15-1192CA**; replace two existing windows. Approved June 11, 2015.

Overview:

The applicant proposes to convert the existing duplex into a single family dwelling with an associate one-room bed and breakfast use. The building was originally constructed ca. 1884 as a residence, and is listed on the State of Vermont Register of Historic Sites and Structures. In 1977, when the structure was recorded in the State register, it was documented as a 2-family residence.

Recommendation: Conditional Use Approval, per the following findings and conditions:

I. Findings

Appendix A: Use Table – All Zoning Districts

Bed and Breakfast is a Conditional Use in the RM zoning district. Footnotes 4 & 6 of Appendix A apply to bed and breakfasts. Footnote #4 states: “*No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.*” Footnote #6 states: “*Must be owner-occupied.*” The applicant proposes to convert the existing duplex into a single family dwelling with an associated one-room B&B. The owner currently occupies the first floor apartment. **Affirmative finding.**

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area;*

The proposal will have minimal impact on public utilities, facilities and services. It is possible that a state wastewater permit will be required, and if so, the applicant will be responsible for securing said permit. **Affirmative finding as conditioned.**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the Municipal Development Plan;*

The property is within an established residential neighborhood and a residential zoning district. The Residential Medium Density (RM) zoning district is intended primarily for medium-density residential development in the form of single-family detached dwellings and attached multi-family apartments. The Residential Medium Density district has the potential to have up to 5 bed & breakfast rooms. The proposal will result in little to no change in traffic and circulation impacts. The MDP provides the following support:

- *Support the development of additional housing opportunities within the city...* (MDP, Housing Plan, Page IX-1.
 - *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning.* (MDP, Housing Plan, Page IX-12.) **Affirmative finding.**
3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*
 No greater impacts are anticipated than other residential uses in the area. **Affirmative finding.**
4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*
 This parcel is located on Marble Avenue, a public street with approximately 30 residential properties fronting on it. The proposed conversion to a single family residence with a 1 room B&B use will see a one-space reduction to the onsite parking requirement, which is currently 4 spaces for the duplex use. Unlike a full-time apartment, the proposed conversion should result in a reduction to the property's traffic and circulation demand, which in turn will not negatively impact the surrounding neighborhood. **Affirmative finding.**
5. *The utilization of renewable energy resources;*
 Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and;
6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*
 The application and resultant change in use will be required to meet all bylaws and city and state ordinances in effect. Specific to the proposed use, the applicant will have to ensure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes. **Affirmative finding as conditioned.**

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*
 Not applicable. No changes to the site are proposed.

2. *Time limits for construction.*
Not applicable. There is no construction proposed.
3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*
It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance. **Affirmative finding as conditioned.**
4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*
There are no enlargements or alterations proposed. However, should the applicant wish to add an additional B&B room(s), the change will require review and permitting under regulations in effect at that time. **Affirmative finding as conditioned.**
and
5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*
None identified.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

3. *The Residential Medium Density (RM) district is intended primarily for medium-density residential development in the form of single-family detached dwellings and attached multi-family apartments.*

A one-room B&B use is proposed, and may be approved through the conditional use permit process. Appendix A – Use Table – All Zoning Districts has 2 footnotes for Bed and Breakfast Use:

#4: *No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.*

#6: *Must be owner occupied.*

The property is in the RM zoning district, and the application proposes a one room B&B use in association with the residence. The property owner resides in the first floor apartment. In order to maintain the B&B room, the owner must continue occupying the property. **Affirmative finding as conditioned.**

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.

Not applicable.

Table 4.4.5-2 Base Residential Density

Medium Density: RM, RM-W, 20 units/acre.

3,450 / 43,560 (acre) = 0.079 acres

2 units / 0.079 = 25.32 units; more than the 20 unit/acre limitation.

1 unit / 0.079 = 12.66 units; less than the 20 unit/acre limitation.

The proposal reduces the dwelling unit count from 2 to 1. B&B rooms are not considered dwelling units. Based on the density requirements noted herein, in addition with the parking requirements of Article 8 (below), re-establishing the duplex use will not be possible.

Affirmative finding as conditioned.

Table 4.4.5-3 Residential District Dimensional Standards

Not applicable. No new construction or alterations to existing site features are proposed.

(c) Permitted and Conditional Uses

An owner-occupied bed and breakfast use, up to 5 rooms in the RM zoning district, is a conditional use per Appendix A. **Affirmative finding.**

(d) District Specific Regulations

1. Setbacks

A. Encroachment for residential driveways

Not applicable.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

Not applicable.

3. Lot Coverage

A. Exceptions for Accessory Residential Features

Not applicable.

4. Accessory Residential Structures and Uses

Not applicable.

5. Residential Density

Not applicable.

6. Uses

A. Exception for Existing Neighborhood Commercial Uses

Not applicable.

7. Residential Development Bonuses

Not applicable.

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

In the Neighborhood Parking District, single family and duplex uses require 2 parking spaces per unit. The property is served by a 10' x 75' (approx.) driveway, with a single car garage at the end. While the combined depth of the driveway and garage appears to be able to physically accommodate 4 vehicles, the CDO only recognizes 2 legitimate tandem spaces. The width of the driveway and its location adjacent to the primary structure prohibit any possibility of side by side tandem parking for the existing duplex.

The parking requirement for a bed and breakfast use is one space per room in addition to the single family residence. By converting the duplex into a single family dwelling with an associate B&B room, the parking requirement for the property will be reduced from 4 spaces to 3, thus bringing the property closer to compliance with the off-street parking requirements. As the degree of nonconformity will lessen, the proposed parking arrangement is acceptable.

Affirmative finding.

II. Conditions of Approval

1. This approval is for a 1-room Bed and Breakfast use, in association with the single family dwelling. The applicant will allow Code Enforcement to periodically confirm that the use is limited to the one bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaint.
2. The subject property must be, and remain, owner occupied as long as the B&B use remains in operation.
3. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
4. All guest parking shall be on-site and off-street.
5. Regarding Standard Permit Condition #1 below, the applicant will have to ensure compliance with state regulations regarding short-term B&B type rentals, including but not limited to payment of required rooms and meals taxes.
6. Any additional B&B room, or physical alteration, will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.
7. The applicant/property owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
8. The applicant/property owner shall secure a state wastewater permit, should one be required for the proposal.
9. Standard Permit Conditions 1-15.