

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 19, 2016
RE: ZP16-1378CA; 75 Orchard Terrace

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: ZP16-1378CA

Location: 75 Orchard Terrace

Zone: RH **Ward:** 8E

Date application accepted: June 1, 2016; revised application received June 23 and 24, 2016. A Parking Management Plan was received via email July 1, 2016.

Applicant/ Owner: Liam and Laura Murphy

Parking District: Neighborhood

Request: Change of use from one apartment with a boarding house for not more than four people to a dwelling unit with boarding house for not more than 2 people. Relief from condition imposed by ZP83-539 / COA 83-120A requiring two off-site parking spaces. Request for a one space parking waiver.

Background:

- Zoning Permit 16-1377CA; Replace window with egress casement; replace existing north fencing to match rear yard fencing, add picket fence in front yard; replace missing spindlework on porch. June 2016.
- Non-Applicability of Zoning Permit Requirements 16-0685NA; repair slate and flashing, repoint chimney. December 2015.
- Zoning Permit 94-528 / COA 094-113; installation of vinyl siding with aluminum trim elements on the existing multi-unit structure, listed on the state list of historic buildings. Denied, July 1994.
- Driveway/Curb cut permit No. 152, 83-120. Install/repair driveway, not to exceed 12 ft. January 1984.
- Zoning Permit 83-539 / COA 83-120A; convert building into one apartment and a boarding house for not more than four persons. No exterior changes. Original decision: **Denied** for inadequate parking space (12/8/1983.) Burlington Planning Commission moved to approve with utilization of the two parking spaces available from Palmer's Funeral Home. **Approved** with conditions, January 12, 1984.

Overview: Until a change-of-use permit approved in January 1984, 75 Orchard Terrace had been a single family residence. Its approval for a single residential unit and a boarding house spurred an increased parking demand, requiring lease of additional parking offsite to meet the requirement. There is no evidence that the parking lease for 2 off-site spaces was renewed after its expiration in 1988. At present, the site is deficient in parking for its permitted use.

There are 2 parking spaces on-site.

Although the new owners would prefer to utilize the subject property as a single family residence, that use is not a permitted use in the RH zoning district under the present zoning ordinance. This application seeks to minimize the parking requirement by altering the permitted use from one dwelling unit and a boarding house with 4 persons to one with 2 persons. This will minimize the overall parking requirement from 4 to 3. There are 2 on-site spaces; a one space parking waiver is requested.

This is an extremely small lot (2481 sq. ft.) that is unlikely to accommodate any more off street parking.

Recommendation: Currently the property is non-compliant for parking with only 2 on-site spaces, as permit conditions of ZP83-120 required an additional 2 off site spaces. It is a difficult situation, where single family homes are not a permitted use in the zoning district, and parking is insufficient for the current use or alternate residential uses (duplex, smaller boarding house.) A Parking Management Plan was submitted 7/1/2016 to identify specific measures to address the parking demand; the primary response is selection of boarders without vehicles and a lease confirming no parking space for the boarding house use. Additionally, bikes will be offered to boarders. Although these are good steps, the potential for up to six residents (4 unrelated in the single unit, 2 in the boarding house) suggest the measures inadequate to meet potential parking demand. A one space parking waiver for the boarding house use is not supported; therefore **denial** as proposed is recommended.

If a one space off-site parking lease, renewable annually is provided, approval can be recommended.

I. Findings

Appendix A – Use Table.

Single family home and Accessory Dwelling Units are NOT permitted uses in the CDO in the High Density Residential (RH) zoning district.

Boarding House, 4 persons or less is a permitted use. Footnote 6 of the CDO requires owner occupancy. As this use was permitted in 1984, it may remain under the terms and conditions imposed under that ordinance as amended. That permit did not include a condition of owner occupancy.

Article 5: Citywide General Regulations

Part 3: Non-conformities

Section 5.3.3 Continuation

Except as otherwise specified in this Article, anynonconformity which lawfully existed at the time of passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this Part.

The change of use in 1984 from a single family home to an apartment and a boarding house was a conditional use. Its approval required two off-site parking spaces. Owner occupancy was not a condition for the boarding house use in the 1984 permit, issued under the 1973 zoning ordinance. Although proposed to be diminished in size from a boarding house with not more than four persons to a boarding house with 2 people, the use may be considered pre-existing and may continue as conditioned; owner occupancy was not a requirement. Off-site parking was, however required. **Affirmative finding if conditioned.**

Article 8: Parking

Table 8.1.8-1 Minimum off-Street Parking Requirements

Neighborhood Parking District

Residential Uses: Multi unit attached dwelling units, single family detached and Duplex: 2 spaces.

Boarding House (per two beds) 1 parking space.

Parking Requirement for proposed use: $2 + 1 = 3$ parking spaces. There are only 2 on-site parking spaces. A one space waiver is requested.

Section 8.1.15 Waivers from Parking Requirements / Parking Management Plans

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a) 7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

(a) *A calculation of the parking spaces required pursuant to Table 8.1.8-1.*

The applicant has correctly concluded that the proposed use will diminish the existing parking requirements from 4 parking spaces to 3. **Affirmative finding.**

(b) *A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.*

The submitted Parking Management Plan identifies the close proximity to downtown, public amenities, a Carshare location and public transit. Additionally, it offers the assurance that any lease to boarders will define no parking for the boarding house use, and will provide bicycles for boarders. The Municipal Development Plan emphasizes the importance of intermodal and multi-modal transportation alternatives; something the

Parking Management Plan identifies for the transportation needs of boarding house residents. The plan additionally suggests approaching the Department of Public Works to request resident-only parking in front of the house. (More correctly, it is the Police Department that accepts these requests.) Resident Parking Permits (RPPs) are only issued after an examinative process; their issuance not guaranteed. Collectively, these efforts *may* meet the demand; however there remains the potential to have four unrelated adults in the single unit, and 2 boarders in the boarding house for a total of 6 unrelated persons. That possibility suggests the Parking Management Plan inadequate to demonstrate *a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan*. A decisive action, like securing a lease for an off-site parking space for the boarding house use would more closely meet this standard. This has not been offered. **Adverse finding.**

(c) *An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:*

1. *Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;*
2. *Anticipated parking demand by time of day and/or demand by use;*
3. *Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;*
4. *Availability and frequency of public transit service within a distance of 800-feet.*
5. *A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,*
6. *Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.*

The applicant has offered to install a bike rack and suggests that not all residents or tenants will own a car. The applicant has identified opportunities for using other modes of transit; Car Share, public transit and the College Street shuttle, but does not meaningfully commit to providing those alternatives (via membership or subsidy) to tenants. Providing bus passes, entering into an agreement with Car Share, confirming a shared use parking arrangement or leasing an off-site space would be strong evidence that the parking management plan would adequately serve the needs of the permitted use. None of these have been proposed. **Adverse finding.**

(d) *Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:*

1. *A telecommuting program;*
2. *Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;*
3. *Implementation of a car-share program;*
4. *Development or use of a system using offsite parking and/or shuttles; and,*
5. *Implementation of public transit subscriptions for employees.*

As noted, the applicant has not substantively engaged in providing an effectual alternative, other than noting nearby opportunities. **Adverse finding.**

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

The record demonstrates the difficulty in confirming compliance with conditions of approval; the change-of-use permit issued in January 1984 has not been compliant with conditions of approval since 1988. Current practice is to secure parking leases (a draft has been authored by the attorneys' office that has been utilized with other projects) that are annually renewed. This option remains available, however has not been proffered.

Adverse finding.

II. If considered for approval of a one space parking waiver:

1. As previously permitted, the boarding house use does not require owner occupancy.
2. If the Parking Management Plan is found acceptable by the DRB, a one space parking waiver is extended for the diminished Boarding House use.
3. No exterior changes are included with this approval.
4. Standard Permit Conditions 1-15.

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