

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: August 7, 2018
RE: 18-1137CU; 6 Wildwood Drive

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: ZP18-1137CU

Location: 6 Wildwood Drive

Zone: RL **Ward:** 4N

Date application accepted: June 5, 2018

Applicant/ Owner: Shouyan Li & James Gardiner

Parking District: Neighborhood

Request: To permit a bed and breakfast use in two bedrooms within the existing single family residence.



Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 8 (Parking)

Overview:

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The applicant proposes to convert two bedrooms within the existing single family dwelling to bed and breakfast use. The 3-bedroom home (which is now on the verge of becoming a 5-bedroom home) was constructed in 1955.

A Notice of Zoning Violation (NOV 334920) was issued on October 11, 2017, for the unpermitted conversion of the cellar into habitable space, and changing the use of the single family residence to a bed and breakfast. The NOV found there to be two bedrooms, a living/dining area, a kitchen, and a full bathroom in the cellar. The home was originally listed as a 3 bedroom home.

In response to the NOV, the applicant submitted Zoning Permit 18-0420BA on October 19, 2017. The application sought to increase the living space in the cellar (including the two additional bedrooms) and to install egress windows. The application did not seek to establish bed and breakfast rooms. As such, the permit had two specific conditions:

- The property remains a single family home. No change of use (including an Airbnb or bed and breakfast use) or increase in the number of residential units is part of this approval.
- This permit moves the property toward compliance with NOV 334920. As outlined in the Notice of Violation, several unpermitted basement features need to be removed in order to gain compliance. The features to be removed are kitchen cabinets, a refrigerator, a microwave, and a kitchen sink. Removal of these features should clear up any confusion as to the presence of an unpermitted second dwelling unit or accessory apartment in the basement.

The bed and breakfast use remains ongoing, and the kitchen remains. After discussion with Code Enforcement staff, ZP 18-0420BA can be closed out after removal of the kitchen from the basement (as outlined in condition #3). The bed and breakfast rooms can comply once approved and conditions met.

Bed and Breakfast is a Conditional Use in the RL 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 rent out 2 bedrooms within the 5-bedroom home as a bed and breakfast use. The owner currently resides at the property.

Previous zoning actions:

- **Zoning Permit 00-112;** installation of a picket style fence to surround the rear yard of the existing single family home. Proposal includes widening the driveway to an overall width of 14’8”, and expanding the front and rear porches. Approved August 26, 1999.
- **Zoning Permit 01-088;** installation of an 8’ x 10’ storage shed in the side yard of the existing single family home. Proposal includes installation of a 3’ tall picket fence along

the front yard, and a 4' chain link fence along the rear portion of the side yard. Approved August 15, 2000.

- **Zoning Permit 01-515**; installation of a satellite tv dish in the front of the home. Proposal includes the relocation of an existing shed, and the installation of a trash enclosure. Approved June 25, 2001.
- **Zoning Permit 03-431**; construct a sunroom and a carport, convert the garage into a family room, install 2 front basement egress windows, and add a roof overhang to the west of the carport. Approved April 21, 2003.
- **Zoning Permit 04-051**; amend ZP 03-431 to build just the sunroom and the roof overhang (garage to remain a garage). Approved August 19, 2003.
- **Zoning Permit 08-804BA**; construct a 16'x22' addition to the existing home. Approved May 29, 2008.
- **Zoning Permit 14-0032BA**; widen driveway to 18 ft and install a walkway to the front porch. Approved July 5, 2013.
- **Zoning Permit 18-0420BA**; increase living space in the cellar, install egress windows. Approved November 3, 2017.

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

I. Findings

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 Low Density (RL) zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. B&Bs have the potential for up to 3 rooms in the underlying zoning district. The proposal should result in little to no change in traffic and circulation impacts. The B&B

is accessory to the single family home, which is consistent with the intent of the zoning district. **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 at the corner of Wildwood Drive and Shore Road, within a residentially developed neighborhood. The driveway and garage combination provides adequate space to accommodate the 4 required parking spaces. It is expected that the B&B use will generate two additional vehicles to the property when fully occupied. There are transit stops within walking distance along North Avenue. Sidewalks line both sides of Wildwood Drive, as well as Shore Road – which leads to North Avenue. The proposal is not expected to create adverse impacts on the existing transportation system. **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 guest check-ins and check-outs be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances. **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, 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 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

In the Neighborhood Parking District, single family uses require 2 parking spaces per unit. B&Bs require 1 parking space per room. A total of 4 off-street parking spaces will be required. The driveway/garage combination provides 4 off-street parking spaces in a tandem arrangement. Because they are tandem spaces, a parking attendant must be present at all times to move cars if needed. A provision must be guaranteed in writing by the applicant. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. **Prior to issuance of a certificate of occupancy**, the kitchen in the cellar shall be entirely removed, as conditioned under ZP 18-0420BA.
2. This approval is for a 2-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 two bedroom rental limitation. This may include review of web-based advertising, posted guest comments, or response to neighborhood complaint.
3. The subject property must be, and remain, owner occupied as long as the B&B use remains in operation.
4. It is recommended that guest check-ins and check-outs be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
5. All guest parking shall be on-site and off-street.
6. **Prior to release of the zoning permit**, a written agreement from the applicant shall be provided to Planning and Zoning verifying that a parking attendant will be present at all times to move cars if needed.
7. 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.

8. 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.
9. 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.
10. The applicant/property owner shall secure a state wastewater permit, should one be required for the proposal.
11. Standard Permit Conditions 1-15.