

Department of Planning and Zoning

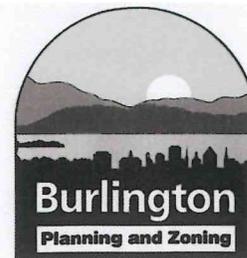
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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner *monie*
Date: July 16, 2013
RE: ZP 13-0830CA/CU 31 Rivermount 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: ZP 13-0830CA/CU

Location: 31 Rivermount Terrace

Zone: RL **Ward:** 7

Date application accepted: June 10, 2013

Applicant/ Owner: Greg Jenkins

Request: The applicant has revised a previous zoning application to minimize the number of rooms for let at a proposed Bed and Breakfast. The application is now for Conditional use approval for **two** bedroom bed and breakfast. Widen driveway to accommodate one additional parking space. Parking waiver request for one space.

Background:

- **Zoning Permit request 13-0830CA/CU**, request for a three bedroom bed and breakfast; widen driveway to accommodate a single parking space, request to lease one parking space off site. Request denied April 23, 2013. Decision not appealed.
- **Zoning Permit 06-673BA**; replace brick stairs with wooden stairs, same size. Approved April 2006.
- **Zoning Permit 02-103**; replace wooden deck with patio. Approved August 2001.
- **Zoning Permit 01-405**; home occupation (mobile home loan broker) in the existing single family home. No exterior changes or signs included. Approved May 2001.
- **Non-Applicability of Zoning Permit Requirements:** repair of front brick steps. June 1989.

Overview: The applicant wishes to convert 2 of his four bedrooms to bed and breakfast use. A third bedroom is proposed to be converted to an exercise/hot tub room, a single bedroom will



serve the owner/occupant. There exists a single width driveway at present; proposed to be expanded to accommodate additional parking to provide 3 parking spaces on-site. A single space parking waiver is requested.

Recommendation: Approval, per the following findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Sec. 3.5.6 (a) Conditional Use Review Standards

1. Capacity of existing or planned community facilities.

The change of use to a bed and breakfast appears to pose no identified impact to the capacity of existing or planned community facilities. **Affirmative finding.**

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.

This is an existing, developed residential neighborhood. The conversion of two bedrooms in a low density residential neighborhood to rental lodging may have some impact on traffic and circulation, but not noticeably greater than a family with multiple drivers. If most cars are located on-site and only 2 bedrooms are intended for rental, the anticipated impact would be negligible.

Affirmative finding.

3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;

The proposed rental of two bedrooms has the potential of introducing at least two more vehicles to the parking demand, which already has a requirement for 2 parking spaces for the existing single family residential use. The change of use will likely increase traffic and circulation from the present residential demand of this parcel, however not to noticeable so as to affect the overall neighborhood.

Affirmative finding.

4. 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 at the time of decision. **Affirmative finding as conditioned.**

5. The utilization of renewable energy resources;

See Section 6.2.2 (e), below.

and,

In addition to the General Standards specified above, the DRB;

6. shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;

A Bed and Breakfast is a special category residential use. The revised application, which diminishes the number of rooms proposed to be let, and the elimination of a request for an off-site parking lease minimizes the intensity and associated impact of the new use. It is possible to consider a conditioned

Bed and Breakfast use within the low density residential district with such limitations to address impacts of traffic, circulation, parking, and intensity of activity. **Affirmative finding.**

7. *in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.*

The change-of-use proposed is for a special residential use, and has different review criteria than identified within this standard.

8. *may control the location and number of vehicular access points to the property, including the erection of parking barriers.*

No change to existing. Not applicable.

9. *may limit the number, location and size of signs.*

Any signage will require a separate permit, and will be limited by the standards for this zoning district. Not applicable.

10. *may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The applicant includes the proposal to expand the existing driveway to accommodate another parking space. Any headlight glare will likely affect only the subject property. **Affirmative finding as conditioned.**

11. *may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.*

Construction is typically limited by the zoning permit; i.e., one year to begin construction, two years to finish. **Affirmative finding as conditioned.**

12. *may specify hours of operation and/or construction to reduce the impact on surrounding properties.*

The applicant proposes being open 24 hours a day 7 days a week. If approved, arrivals are recommended to commence after 7:00 am and cease after 10:00 pm to preserve characteristic neighborhood quiet. Any limitations are at the discretion of the board. **Affirmative finding if conditioned.**

13. *may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.*

Footnote #4 in Appendix A informs that not more than 3 rooms may be let for that purpose in the RL district. Previous permit review has illustrated that parking limitations have functionally limited consideration of additional room rental. Future regulations may allow for different circumstances. **Affirmative finding if conditioned.**

14. *may consider performance standards, should the proposed use merit such review.*

The applicant has requested a one-space parking waiver toward the parking requirement for the proposed 2 bedroom Bed and Breakfast. The applicant is a single individual property owner with

a single vehicle, who will occupy one bedroom. With this information, it is possible to consider a one-space parking waiver for the resident parking requirement. The other two required parking spaces for guest use will be located on-site. The board may choose to request the applicant return in one year to present and address any neighborhood concerns, should performance demand it.

Affirmative finding as conditioned.

15. *may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

As noted, the DRB may request the applicant/owner to return after a period of time to assess neighborhood impacts, if appropriate. **Affirmative finding if conditioned.**

Article 4: Zoning Maps and Districts

Table 4.4.5-3 Residential District Dimensional Standards

Zone	Max lot coverage	Minimum Building Setbacks			Height
		Front	Side	Rear	
RL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5'	Min: 10% of lot width, but in no event less than 5'	25% of lot depth but in no event less than 20'.	Max 35'
31 Rivermount Terrace	12.6% existing; 14.56% proposed	Not applicable	Not applicable	Not applicable	Not applicable.

Affirmative finding.

Sec. 4.4.5 (c) Permitted and Conditional Uses

A Bed and Breakfast is a Conditional Use in the RL zoning district.

Appendix A – Use Table has 2 footnotes for Bed and Breakfast Use:

#4 : *...no more than 3 rooms permitted to be let in the RL district.*

The application proposes 2 bedrooms.

#6: *Must be owner occupied.*

The applicant lives at the subject property.

The property has previous been approved for a home occupation:

Zoning Permit 01-405; home occupation (mobile home loan broker) in the existing single family home. The applicant signaled in a March 27, 2013 email that the home occupation will be abandoned for this request.

Affirmative finding.

Article 5: Citywide General Regulations

Sec. 5.1.1 Uses

(d) Conditional Uses

A conditional use is listed in any district where denoted by the letters “CU” in Appendix A – Use Table. Such uses may be permitted by the DRB only after review under the conditional use

provisions provided in Article 3, Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity imitations, performance and design standards, and parking requirements.

A Bed and Breakfast is a Conditional Use in Appendix A, Use Table, for the RL District. The project meets the two footnote requirements; see Sec. 4.4.5(c), above. The subject parcel, however, does not at present meet the parking requirements for the proposed use. A driveway expansion is proposed to offer a third on-site parking space. The DRB previously approved a driveway expansion that had been administratively denied as constituting front yard parking (Zoning Permit 09-778CA/AP, 1323 North Avenue. See Article 8, Sec. 8.1.12, (c)). Given the limitation that the driveway cannot be wider than 18', and the cited decision precedent, the driveway expansion as proposed may be considered. **Affirmative finding as conditioned.**

Part 2: Dimensional Requirements

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.3. Lot Coverage Requirements

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.4. Buildable Area Calculation

For any properties two or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district...

31 Rivermount Terrace is not more than two acres in size. This standard does not apply.

Sec. 5.2.5. Setbacks

See Section 4.4.5, Table 4.4.5-3, above. **Affirmative finding.**

Sec. 5.2.6, Building Height Limits.

See Section 4.4.5, Table 4.4.5-3, above.

Affirmative finding.

Sec. 5.2.7, Density and Intensity of Development Calculations

The application is for a change-of-use to a specialty residential use. It is viewed the same as a single dwelling unit for intensity purposes.

Affirmative finding.

Part 4: Special Use Regulations

Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

(b) Topographical Alterations

The applicant proposes cutting into an existing elevated grade and stone retaining wall to widen a driveway and create a new parking space for the proposed Bed and Breakfast. Alteration to the

natural contour of the site should minimize grading, cut, fill and needs to take necessary measures to protect against erosion and future instability. The applicant proposes to remove the wall, and grade to low slope. Groundcover is submitted as a method of stabilization. No construction details or specifics have been submitted. Any retaining wall over 3' will require approval of the building inspector. **Affirmative finding as conditioned.**

(l) Parking and Circulation

The application, as proposed, will require 2 parking spaces for the resident use and 2 for the Bed and Breakfast. The applicant has requested to expand the driveway to provide one required space. A request for a one-space parking waiver is included, and intended to address the second parking space requirement for the owner.

As proposed, with two spaces provided on-site for guests, and a single space within the garage for the owner, it is not unreasonable to consider a single parking space waiver for the owner's parking requirement. **Affirmative finding if one-space parking waiver extended.**

Part 3: Architectural Design Standards

Not applicable.

Article 7: Signs

Any signage will require a separate sign permit. Any signage will be required to meet the standards of this article and specific standards of the zoning district.

Not applicable.

Article 8: Parking

Sec. 8.1.1 Purpose

It is the purpose of this article to:

- (a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;*
- (b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;*
- (c) Reduce congestion in the streets and contribute to traffic safety; and*
- (d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.*

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family residential use (Neighborhood Parking District) requires 2 parking spaces. Bed and Breakfast (per room, in addition to single-family residence) 1 per room; 2 required. Total parking requirement: 4 parking spaces. 2 are provided on-site (one in the garage, one in the single-lane driveway.) The applicant proposes expanding his driveway to the full 18' in width to provide an additional parking space for a total of 3. There remains a deficiency of 1 parking space. The applicant has requested a one space waiver to be used toward the owner's requirement. This precedent has been acceptable in previous review: See 204 South Willard Street, ZP 1209942CU.

Affirmative finding, if parking waiver granted.

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-site parking facilities

1. *Neighborhood parking district. No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.*

The application is asking for a one space waiver for the owner's parking requirement. Three spaces will be provided on site: one for the owner/resident use, the other two to accommodate the 2 bedroom B & B. As proposed, more than 50% of the requirement parking spaces will be provided on-site. No off-site spaces are proposed.

Affirmative finding.

Sec. 8.1.12 (c) Front yard parking restricted

Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than eighteen feet or less in width.

The proposed driveway expansion is limited to 18' per this section. As noted, previous review by the DRB has allowed for expansion of a parking area to accommodate further parking (See ZP 09-778CA/AP, 1323 North Avenue.)

Per this precedent, the proposed driveway expansion does not constitute Front Yard Parking.

Affirmative finding.

Table 8.2.5-1 Bicycle Parking Requirements

Temporary lodging, include bed and breakfast: 1 per 20 rooms long term spaces, 2 per 20 rooms short term. The application, with 3 guest rooms, does not rise to the level to require bicycle parking. Given the interest in providing accommodations to cycling guests, bicycling parking is recommended outside of the reserved vehicular parking spaces.

Not applicable.

Article 13: Definitions

Bed and Breakfast: *An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.*

Affirmative finding as conditioned.

II. Conditions of Approval

1. This approval is for a TWO bedroom Bed and Breakfast use. 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.
2. The Bed and Breakfast must be, and remain owner occupied.
3. This approval will include a one-space parking waiver, to be exercised toward the resident/owner's parking requirement only.
4. The driveway shall not exceed 18' in width, and shall meet all required setback requirements (not less than 5' from any property boundary.)

5. The applicant will be required to annotate a floor plan defining which rooms will be dedicated to the two-bedroom Bed and Breakfast use **prior to release of the zoning permit.**
6. It is recommended that guests' arrival and departures be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
7. All guest parking shall be on-site and off-street.
8. No sign of the Bed and Breakfast use, other than a (separately permitted) sign, shall be visible on the exterior of the residence.
9. It is recommended that the applicant return to the DRB in one year to report on any neighborhood concerns or complaints relative to the Bed and Breakfast use.
10. Any signage will require a separate sign permit.
11. While the Development Review Board never entertains individual property covenant restrictions, it is noted that the warranty deed(s) for this parcel specifically identify restrictions that prohibit certain activities and limit uses. (Burlington Land Records, 1158:721, 156:175; waiver of restrictions (limited) 258:22.) The property owner is alerted to these restrictions, dated May 7, 1959 and recorded specifically in 156:175.
12. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.

I seek a 2 bedroom B&B, with a one parking spot waiver . I live alone and own but one very small car. I seek to widen my driveway to the same configuration that was approved on North Ave in 2009. This allows me to park my car and two guest cars.

I wish to address the adverse findings stated on 4/16/13

1. “The conversion of 3 bedrooms suggests much greater intensity of use” I disagree. No matter if this is a single family residence or a B&B, or if I were to continue with roommates, the number of bedrooms at 31 Rivermount will remain the same. If anything traffic will decrease as I am but one person and essential changing my home from permanent residents to weekend guests, who may or may not arrive via car. I am working with Local Motion to help promote eco tourism. I can easily park ½ dozen bikes in my garage. In addition I am but 2 blocks from public transportation. I am also a 6 mile cab ride from the airport.

2. “ Round the clock activity” How so? They will arrive in the afternoon and the following morning leave to do what they came to Burlington for, and then return again in the evening. This suggests a much lower use than my 18 year history in my home.

3. “Parking deficiency” Again I am but one person with one car and my garage is empty. Expanding my driveway in a manner that has already been approved satisfies all parking needs.

RECEIVED

JUN 10 2013

DEPARTMENT OF
PLANNING & ZONING

