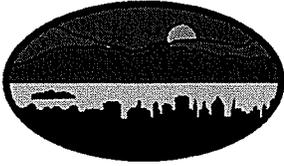


Unknown FolderType – Reasons for Denial



City of
Burlington, Vermont
149 Church Street

ZP #: 16-0363NA

Tax ID: 028-3-135-000

Issue Date: September 17, 2015

Decision: Permit Not Required

Property Address: 1300 NORTH AVENUE

Description: Continuation of nonconforming residential/commercial use.

Reasons for Denial:

The subject property is located in the low density residential (RL) zone. The existing commercial use (TV sales and repair) is nonconforming. The residential use, however, is conforming. On September 22, 1959, the Zoning Board of Adjustment approved an expansion of the present building and associated commercial use subject to the following conditions:

1. That the only business that could be operated at that address would be TV Sales and Service.
2. That this permit would apply only to the present owners.
3. That the present owners would have to live there in order to operate this TV Sales and Service.

The owners at the time were Mr. and Mrs. Conrad Alaire. The present owners are Raymond and Sharon Lones. In light of the conditions of the 1959 approval, the existing TV sales and service is arguably in violation of the decision. More important, however, is the nature of the approved use. Under the present Comprehensive Development Ordinance (CDO), TV sales and service would be classified as “general merchandise/retail – small < 4,000 sf.” The proposed “small scooter and motorcycle sales and repair shop” constitutes a different use. The described use is not defined in the CDO, nor does it exactly match any of the uses in *Appendix A – Use Table – All Zoning Districts*. The closest matches in *Appendix A* are “automobile/vehicle repair” and “automobile sales, new & used” or “bicycle sales/repair.” Section 5.1.1, *Uses, (e) Uses Not Permitted*, of the CDO states “a use in any district denoted by the letter ‘N,’ or any use not listed, shall not be allowed in any zoning district unless the administrative officer determines that the use is substantially equivalent in use, nature, and impact to a listed permitted or conditional use.” Arguably, the proposed “small scooter and motorcycle sales and repair shop” could be substantially equivalent to the “bicycle sales/repair” use; however, this use is prohibited in the RL zone, as are the noted automotive uses.

The proposed “small scooter and motorcycle sales and repair shop” use is not allowed in *Appendix A* of the CDO. Trying to assert substantial equivalency with a defined use such as noted above ends with the same result. “Automobile/vehicle repair” and “automobile sales, new & used” or “bicycle sales/repair” uses are all prohibited in the RL zone. The proposed “small scooter and motorcycle sales and repair shop,” therefore, cannot be approved.

September 25, 1959

Mr. and Mrs. Conrad Alarie
1300 North Avenue
Burlington, Vermont

Dear Mr. & Mrs. Alarie,

Following the Public Hearing on your petition to continue operation and also to expand your present building by 50% at 1300 North Avenue which was held September 22, 1959, the Zoning Board of Adjustment voted to grant this petition with the following stipulations:

1. That the only business that could be operated at that address would be TV Sales and Service.
2. That this permit would apply only to the present owners.
3. That the present owners would have to live there in order to operate this TV Sales and Service.

Very truly yours,

John F. Fitzpatrick
Zoning Administrator