

Thomas G. Walsh
97 Dunder Road
Burlington, VT 05401

April 1, 2021

To: City of Burlington DRB

RE: Neighborhood Impacts / Lack of Compliance- Airbnb (B&B) Rental at 81 Dunder Road (18-0682CU):

I am Tom Walsh and I own 97 Dunder Road; my property abuts immediately south of 81 Dunder Road. I had recently moved into my freshly constructed home when the 2018 B&B application was filed. I reviewed the Application which sought approval to “rent 1 BR in single family home.” I was not happy about short-term rental, but I was hoping that renters within a home would have limited impacts.

I have tried to ignore the rental activity for 2 years. I do not want to be involved, but the impacts are significant, and growing, so I am left with defending my quiet enjoyment of my Burlington home.

The B&B Application significantly misrepresented the rental activity. Renters do not enter/exit the front door as the owner does. There is a separate side entrance, on my common boundary a few feet from my property. This doorway leads to a separate unit. There is no sharing of the house. The rental is a completely separate apartment. The Airbnb rental listing reads: **“Private HotTub Oasis Retreat Ski, Brews, Beach, Bike.” “Entire home- You’ll have the house to yourself.” “Hot tub, swimming pool, Bikes and sleds included! It feels like a tiny house in the trees.” “Private entrance -Separate street or building entrance.”** Although the listing currently says no kitchen, the comment section from November 2020 states: “My deepest apologies for not making the lack of freezer and the size of the convection microwave oven more clear.” This is a whole unit, not merely “1 BR in a single family home” and is therefore significantly inconsistent with the approved B&B permit/ permit application.

The City is currently addressing short-term rentals. The reform, specifically Amendment No. ZA-20-05, limits the number of housing units that can be converted into short-term rental uses. This reform creates “[c]lear standards for short-term rentals that differentiate between a ‘bedroom(s) within a unit’ and a ‘whole unit’ short-term rental” The reform provides greater restrictions on “whole unit” rentals by stating that these are considered a non-residential use that requires, among other things, that the use be approved as a conditional use. The City’s amendment is indicative of the City’s clear intent to limit “separate apartment” short-term rentals due to their heightened impacts on the community.

The two rental situations (sharing a bedroom in a home versus renting a completely separate unit) have much different neighborhood impacts. These differing impacts arise in large

part because there is no built-in management or control of separate units. As the renters are not sharing space with the owner, renters come and go as they please without concern of disrupting the single family home and without the owner being aware.

The direct impacts to me are that I have to ask renters to stop parking and blocking the sidewalk, I have to go out at midnight and ask renters using the hot tub (new activity) to quiet down, I have to ask renters to not smoke in my driveway, and I have to be disturbed by renters in front of my house talking loudly on their speaker phone. Neighbors that actually live here do not cause any of these impacts. Before the AirBnb, I experienced a neighborhood that was extremely quiet, especially after the evening commute hours.

The situation is getting worse. Rental activities and impacts are increasing. A few examples are:

- a. Sometimes renters have more than one car (permit condition limits renters to one car); when this happens they block the sidewalk.
- b. There is new hot tub use (From AirBnb reviews it appears that the hot tub was installed around November 2020); there wasn't a hot tub before this. Now renters are waking me up at midnight whooping it up in the hot tub.
- c. There is a pool in back yard that hasn't been used since I have lived here. Mr. Heller is getting it ready for use and recently has taken down several large trees around the perimeter of the pool. The AirBnb ad says the pool is going to be part of the rental package. The hot tub and pool use by renters is commercial use and should NOT be allowed.
- d. The rental use commonly is one or two renters. But, there has also been a family of four, sometimes there are three renters, and recently on March 15 there were 5 people renting the unit. More people results in more noise and activity and more disruption to my quiet enjoyment of my property.

The adverse impacts from the short-term rental activities are not hard to understand: Neighbors living next to each other impact each other, but the disturbances become predictable over time and often neighbors work with each other in reasonable ways to reduce impacts.

On the other hand, when you have transient people changing out daily, disturbances are not predictable and they don't get worked out. To be clear, I'm not using transient as a derogatory term; however, people who are only staying one or two nights have different interests than people who live here. They are on a trip or on vacation, letting off steam, they don't have to work the next day, they stay up late, maybe they have a few drinks and get noisy. Whatever happens, they are leaving the next day and they are not too worried about their impacts.

When approving the B&B use, City regulations require you to consider:

1. First and foremost; whether the use actually qualifies as a B&B, which was proposed as "1 BR in a single family home", or whether it is actually an accessory unit which may

only be approved pursuant to special use regulations. See BCDO Appx. A (listing B&B's as conditional uses in the RL-W District); BCDO § 3.5 (describing conditional uses and review criteria) BCDO § 5.4.5 (setting forth the special use regulations for accessory dwelling units).

BCDO Art. 13 defines a B&B as “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.” This requires that a B&B is a shared-living structure where only “lodging rooms,” which do not include separate sanitary or food preparation areas, are available for rental. In addition, the BCDO also requires that any B&B in the RL-W district “must be owner-occupied.” See BCDO Appendix A. This definition does not contemplate a separate apartment complete with the associated facilities necessary for independent living and separate from the owner’s residence, as is the case here.

81 Dunder Road is operating a separate accessory unit, which the BCDO defines as “an efficiency or one bedroom apartment that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.” See BCDO § 5.4.5. Here, the short-term rental activity is located in a separate unit with no connection to the single-family use. The listing itself advertises as a separate unit: “Entire home- You’ll have the house to yourself.” Moreover, the short-term rental provides separate food preparation facilities and sanitation facilities, irrespective of the hosts, unlike a B&B. The way this B&B is being managed is more like a hotel or resort (separate unit and hot tub and pool) which is commercial use not a residential home use.

Thus, the rental use as a separate accessory unit is not consistent with the B&B Permit. The rental of a separate accessory unit has not been reviewed or approved.

2. Whether the the B&B changes the character of the area. See BCDO § 3.5.6(a)(2).

What is the character of the area? There are just over 90 properties in the South Cove Association. I am aware of only 1 accessory apartment and that has a long-term renter. The remainder of the properties are single-family homes that are predominately owner occupied. It is a very quiet neighborhood; once people are home from work there is little traffic as the streets are not through streets.

So YES, the short-term rental changes the character of the area– new transient renters come and go daily. A cleaner comes and goes in between. Traffic and PARKING is irregular. These renters have little concern for their disruptions. Because of the short-term rental, it is no longer a trusted neighborhood. Renters are mostly out of state from NY, CT, MA, OR, UT to name a few. I do not feel comfortable leaving my house unlocked, even for a few minutes for a dog walk.

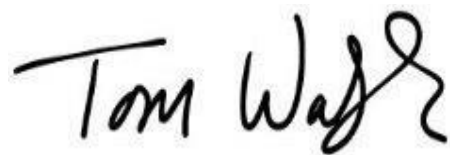
3. Whether the use will have nuisances. See BCDO § 3.5.6(a)(3).

Yes – I am being woken up at midnight by loud renters. Think about it, these renters are on a get-away or vacation when people tend to live it up even late into the night.

This is what I ask:

1. The AirBnb changes the character of the neighborhood and creates several nuisances. The approval limiting the rental to 1 BR WITHIN home has not been complied with and the conditions set by the permit have not been honored. The approval should be revoked.
2. If any rental is allowed then I request the following conditions:
 - a. Expressly prohibit short-term rental of the accessory unit. Such rental has not been applied for or reviewed;
 - b. Require a tall privacy fence along my common boundary. Limit renters to going in and out of the front door to minimize disturbances. The driveway is right on the common boundary so privacy is still a concern.
 - c. Limit the number of renters to TWO at a time.
 - d. Set a condition for no outside noise between 10 PM and 7 AM.
 - e. Do not allow renters to use the outside hot tub or pool. The expanding activities are akin to a hotel or resort; these are commercial uses not appropriate for residential zones. These outside activities have the most disrupting impacts.

Respectfully,

A handwritten signature in black ink that reads "Tom Walsh" with a stylized flourish at the end.

Thomas G. Walsh