

## Department of Permitting & Inspections

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### MEMORANDUM

To: Development Review Board  
From: Ryan Morrison, Associate Planner  
Date: March 17, 2020  
RE: 20-0677CU; 52 Appletree Point Road

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**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:** ZP20-0677CU

**Location:** 52 Appletree Point Road

**Zone:** RL-W **Ward:** 4N

**Date application accepted:** February 3, 2020

**Owner / Applicant:** William Kent Casella

**Parking District:** Neighborhood

**Request:** The applicant seeks approval to rent out one apartment in the existing duplex as a short term bed and breakfast room and a long term rental, depending on the demand.

#### **Applicable Regulations:**

Appendix A (Use Table – All Zoning Districts), Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 8 (Parking)

#### **Background:**

- **Zoning Permit 91-390;** 3-lot subdivision – preliminary and final approval granted 11/9/89. Approved 5/23/91.
- **Zoning Permit 92-354;** addition of enclosed screened porch to existing duplex. Approved 5/14/92.
- **Zoning Permit 93-521;** 3-lot subdivision – preliminary and final approval granted 11/9/89 and 5/23/91. Approved 6/24/93.
- **Zoning Permit 94-148;** construct a detached garage and an attached screened deck to existing duplex. Approved 9/16/93.

#### **Overview:**

The applicant proposes to utilize one unit within the existing duplex as a short-term and long term rental, while residing in the other unit. The building was constructed in 1945. Similar requests, albeit to rent out ADUs as short term rentals, were approved by the DRB in 2017 and 2019 on similarly zoned properties. The mere fact that the owner will reside on the property supports the second unit being used as a bed and breakfast use as demand warrants.

**Recommendation: Consent Approval,** per the following findings and conditions:

#### **I. Findings**

## **Appendix A: Use Table – All Zoning Districts**

Bed and Breakfast (B&B) is a Conditional Use in the RL-W 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 utilize one unit within the existing duplex as a dual use – short term B&B rental room/long term unit rental - while residing in the other unit. As required, the B&B room use is subject to conditional use review. **Affirmative finding.**

## **Article 2: Administrative Mechanisms**

### **Part 7, Enforcement:**

#### **Section 2.7.8 Withhold Permit**

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. There have been no violation notices placed on the property. There are, however, two zoning permits (ZP92-354 & ZP94-148) that have not been closed out. **Affirmative finding as conditioned.**

## **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. **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;*

The property is within an established residential neighborhood and a residential zoning district. The Waterfront Residential Low Density (RL-W) 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. B&Bs are typically accessory to primary residences of a property owner. By utilizing one unit within the duplex as a short term/long term rental, while the property owner resides in the other unit, consistency with the intent of the underlying zoning district is still met. **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 along Appletree Point Road, a residential street. The driveway and two-car garage combo provides adequate space to accommodate the four required parking spaces. There is a transit stop within walking distance at the intersection of Appletree Point Road and Staniford Farms Road (approximately 550 ft from the property). A sidewalk lines one side of Appletree Point Road, the same side as the subject property. **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 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. No construction is proposed.

3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*

It is recommended that guest check-ins for the B&B use 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,*

Should the applicant wish to alter the use, such alteration 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 4: Zoning Maps and Districts**

### **Section 4.4.5 Residential Districts**

#### **(a) Purpose**

*1. The Waterfront Residential Low Density (RL-W) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history. This district is distinguished from the Residential Low Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.*

Both duplexes and B&B short term rental rooms are conditional uses within the RL-W district, and the proposal is compliant within the underlying zone. **Affirmative finding.**

#### **(b) Dimensional Standards and Density**

*The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:*

#### **Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.**

**Duplex and above, RL Minimum 60' frontage, RL Minimum 10,000 sq ft lot size.**

Not applicable. The property is located within the RL Larger Lot Overlay District. See Sec. 4.5.5 below.

#### **Table 4.4.5-2 Base Residential Density**

Not applicable. The property is located within the RL Larger Lot Overlay District. See Sec. 4.5.5 below.

#### **Table 4.4.5-3 Residential District Dimensional Standards**

Not applicable. No site or building changes are proposed.

#### **(c) Permitted and Conditional Uses**

Both duplexes and B&B rooms (up to 3 rooms) are conditional uses in the RL-W zoning district, per Appendix A. **Affirmative finding.**

#### **(d) District Specific Regulations**

##### *1. Setbacks*

##### *A. Encroachment for residential driveways*

**Not applicable.**

##### *B. Encroachment into the Waterfront Setback*

**Not applicable.**

##### *2. Height*

**Not applicable.**

##### *3. Lot Coverage*

##### *A. Exceptions for Accessory Residential Features*

**Not applicable.**

4. *Accessory Residential Structures and Uses*  
**Not applicable.**

5. *Residential Density*  
A. *Additional Unit to multi-family*  
**Not applicable.**

B. *Additions to Existing Residential Structures*  
**Not applicable.**

C. *Residential Occupancy Limits*  
*In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.*  
**Not applicable.**

6. *Uses*  
A. *Exception for Existing Neighborhood Commercial Uses*  
**Not applicable.**

7. *Residential Development Bonuses*  
**Not applicable.**

**Section 4.5.5 RL Larger Lot Overlay District**

*The RL Larger Lot Overlay District is intended to maintain the existing residential development pattern of larger residential lots reflective of the respective neighborhoods' development history. The property is within this overlay district and is subject to the requirements herein. **Affirmative finding.***

**Table 4.5.5-1 Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay**

	<b>Minimum Lot Frontage<sup>1</sup></b> <i>(In linear feet)</i>	<b>Minimum Lot Size</b> <i>(In square feet)</i>	<b>Maximum dwelling units per acre<sup>2</sup></b> <i>(without bonuses or any Inclusionary Zoning allowances)</i>
<b>Single detached dwelling</b>	75 feet	9,900 sqft	4.4 units/acre
<b>Duplex and above</b>	100 feet	15,840 sqft	5.5 units/acre
The DRB may adjust the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street. Inclusive of new streets but exclusive of existing streets.			

The lot is compliant with the minimum requirements laid out for a duplex use. It is 22,003 sf in size and has 186 ft of frontage. **Affirmative finding.**

## **Article 5: Citywide General Regulations**

### **Part 5: Performance Standards**

#### **Section 5.5.1 Nuisance Regulations**

Nothing within the application suggests non-compliance with applicable nuisance regulations and performance standards per the requirement of the Burlington Code of Ordinances. **Affirmative finding.**

#### **Section 5.5.2 Outdoor Lighting**

New lighting is not proposed. **Not applicable.**

#### **Section 5.5.3 Stormwater and Erosion Control**

**Not applicable.**

#### **Section 5.5.4 Tree Removal**

**Not applicable.**

## **Article 8: Parking**

### **Table 8.1.8-1 Minimum Off-Street Parking Requirements**

Duplexes require 2 parking spaces per unit in the Neighborhood Parking District. B&Bs require one parking space per room. With the dual use, 4 parking spaces are required. The driveway and two-car garage currently provides for 4 onsite parking spaces. **Affirmative finding.**

## **II. Conditions of Approval**

1. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 must be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for this permit. See attached permit list. Upon expiration of this new zoning permit, no additional zoning permits may be issued until it, and all prior zoning permits, have been closed out with final certificate(s) of occupancy. It is recommended that certificates of occupancy for the old zoning permits be sought prior to seeking a certificate of occupancy for the new zoning permit.
2. The subject property must be, and remain, owner occupied as long as the bed and breakfast short term rental use remains in operation.
3. It is recommended that guest check-ins for the B&B room be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
4. All guest parking shall be on-site and off-street.
5. 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 and compliance with Division of Fire Safety standards and Health Department standards.
6. 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.
7. 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.
8. Standard Permit Conditions 1-15.