

## Department of Permitting and Inspections

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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: ~~March 8, 2022~~ ~~May 3, 2022~~ June 7, 2022 continued hearing **Revised staff report for June 7 hearing date.**  
RE: ZP22-50, 83 Central Avenue

**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 Number:** ZP22-50  
**Zone:** RL-W **Ward:** 5S  
**Date application accepted:** January 21, 2022  
**DRB public hearing:** March 8, 2022, May 3, 2022.  
**Applicant/ Owner:** Andrea Noonan  
**Request:** Change of use, 1 bedroom Bed and Breakfast  
**Background:**

- **Non-Applicability of Zoning Permit Requirements 16-0706NA;** Handicap access ramp. December 2015.
- **Non-Applicability of Zoning Permit Requirements 16-0586NA,** installation of handicap access ramp (temporary). November 2015.
- **Zoning Permit 96-346;** Cover existing single family home (double wide) with vinyl siding. February 1996.
- **Zoning Permit 91-362;** Construction of 10'X 12' Single story storage shed in rear yard of existing single family home. Structure to be painted t1-11 to match house. 5' Minimum side yard setback. May 1991.

**Overview:** This application seeks approval for a one room Bed and Breakfast rental.

**Recommended motion:** **Conditional Use Denial** per the following findings:

#### **I. Findings**

#### **Article 3: Applications, Permits and Project Reviews**

##### **Part 5, Conditional Use & Major Impact Review**

##### **Section 3.5.6 (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:*

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

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 addition of a one-room Bed and Breakfast rental would not appreciably alter the current impacts of the single family home. **Affirmative finding.**

2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;

The property is located within the Residential – Waterfront Low density zone. The neighborhood consists largely of single family and duplexes intermingled; characteristic of the neighborhood. Structures are rhythmically arranged; buildings range in scale. A majority of the homes follow patterns established by the Queen City Cotton Company in developing worker housing, but this home is a double wide manufactured home. The Assessor places the house's date of construction as 1985. The lot is unusual, as this property fronts on Central Avenue but connects through to Proctor Place. **At the March 8, 2022 hearing, the DRB requested that the applicant return with a parking plan that limited parking access to the Central Avenue frontage. The applicant has submitted a plan for the driveway parking to accommodate the required parking for the single family home and a one bedroom rental. The 4.28.2022 site plan exceeds allowable driveway width, and encroaches into a required site yard setback. Overall and inclusive of the access drive from Proctor Place, the site plan exceeds allowable coverage for the zoning district. Despite staff attempts to define a plan to bring coverage down to acceptable levels, the proposal continues to exceed allowable lot coverage. Adverse 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;

There is nothing within the application that includes a change to the existing residential structure. There is an existing driveway (approved on a 1991 site plan as 20'w x 25' long) that

has been reduced to a single lane with the addition of a handicap access ramp. At present, the single lane driveway meets the required 2 space parking for the existing single family home. However this lot is unusual, in that it is a through-lot connecting directly to Procter Place. **The applicant has proposed removal of the handicap access ramp to reveal the existing, paved driveway, which might provide adequate parking for the three required spaces. Inspection services has provided a photograph taken in October 2021 to confirm the existing driveway under the ramp. The 1991 approved site plan did **not** include the lot coverage introduced by the access easement provided to property owners on Procter Place. To do so exceeds allowable lot coverage for the zoning district. It is obvious from aerial photographs that lot coverage on that land utilized for driveway access from Procter Place has drastically increased since the redevelopment of those parcels. See attached aerial images. At present, the 83 Central Avenue parcel far exceeds allowable lot coverage for the zoning district.**

**Adverse 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;*

A short-term rental will bring a rotation of vehicles at differing intervals. With linear access to Central Avenue and Lakeside Avenue, both capacity and acceptable level of service are assured. Short term guests **would** arrive and depart within established timeframes to minimize any

disruption to area uses. Guests will be within reasonable bike or walking distance to area amenities, the downtown and area attractions. **Affirmative finding.**

*5. The utilization of renewable energy resources*

Nothing in this application would preclude the use of wind, water, solar, geothermal, or other renewable energy resource. **Affirmative finding.**

*6. Any standards set forth in existing City bylaws and city and state ordinances:*

The bed and breakfast must adhere to applicable life safety standards and provide payment of rooms and meals taxes as per the State of Vermont relative to short term rentals. **Affirmative finding as conditioned.**

**(b) Major Impact Review Standards**

Not applicable.

**(c) Conditions of Approval**

*In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) and (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.*

Typically a bed and breakfast is not expected to produce adverse effects in need of mitigation. The use will remain residential. **Affirmative finding.**

*2. Time limits for construction.*

No construction timeline or phasing is included in this proposal. **The removal of the handicap access ramp is the only exterior change proposed, and can reasonably be achieved within the three year permit window. Affirmative finding if conditioned.**

*3. Hours of operation and/or construction to reduce the impacts on surrounding properties.* Guest check-ins will be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances. **Affirmative finding if conditioned.**

*4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions;*

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. **The applicant, however, is advertising the whole house as a rental under Air BnB Burlington, and has bookings well into 2023.**

[https://www.airbnb.com/rooms/567394091862066189?source\\_impression\\_id=p3\\_1646712645\\_aQ0GLeOR+vHV/0dh](https://www.airbnb.com/rooms/567394091862066189?source_impression_id=p3_1646712645_aQ0GLeOR+vHV/0dh)

**This venture does not align with the request for a one bedroom, owner occupied Bed and Breakfast. See link to the Air Bnb listing. In that the application is not consistent with the**

intended use, and the owner has not as yet assumed occupancy, the proposal for a Bed and Breakfast diverges from the applicant's demonstrated intent. **Adverse finding.**

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.

Short term whole house rentals have not yet found a regulatory path in Burlington. Short term lodging may only be viewed as hotels, motels, hostels or Bed and Breakfasts. As advertised, the applicant's proposal is inconsistent with any of these lodging options. **Adverse finding.**

## **Article 4: Zoning Maps and Districts**

### **Section 4.4.5 Residential Districts**

(a) Purpose:

*The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and historic development patterns are reinforced.*

*Parking shall be placed either behind, within, or to the side of structures, as is consistent with the district and/or the neighborhood. Building facades designed for parking shall be secondary to the residential aspect of a structure.*

2. 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. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' 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.

83 Central Avenue is an existing single story, single family home placed on an unusual lot with frontage on two streets: Central Avenue and Proctor Place. Lots are uniform in arrangement and buildings are placed in a regular pattern fronting the street. The addition of a one-room rental will not conflict with that existing residential character. Owner occupancy remains a condition. **Affirmative finding if conditioned.**

(b) Dimensional Standards and Density

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

The last approved site plan (ZP91-362) noted existing lot coverage at 35%. The subsequent installation of a handicap access ramp would not count toward lot coverage. **The 1991 approval did not include lot coverage introduced by the access easement off Proctor Place, which significantly boosts lot coverage far above what was calculated in 1991. Staff has made an attempt at assessing lot coverage utilizing the 1991 site plan, the Assessor's property database, Google Earth imagery and aerial ortho photographs to include lot coverage from the Proctor Place access. Copies of the aerial imagery series is attached. Staff has also attempted to find a**



**Adverse finding.**

**Article 8: Parking**

**Section 8.1.8 Minimum Off-Street Parking Requirements**

The property is located within the Neighborhood Parking District. The existing single family home requires 2 parking spaces. “Bed & Breakfast” uses require 1 parking space per bedroom. With one rental room and the existing single family home, 3 parking spaces are required on-site. The existing driveway is a single lane that in length. **At the DRB’s request, the applicant has offered to remove the existing ramp, exposing the existing driveway which may have been sufficient to accommodate the required 3 parking spaces. A revised plan was uploaded April 28, 2022; however the proposed driveway encroaches into a required setback and exceeds allowable width.**

Overall, and inclusive of the access from Proctor Place, lot coverage exceeds allowable limits of the zoning district. **Adverse finding.**

**Section 8.1.12 (b)**

*The maximum width for single or shared access driveways shall be 18’ except where a physical barrier taller than 6” (other than a structural column) exists along one side of the parking stall. In such cases, the maximum width may be increased by 1’.*

The proposed driveway width is 22’ and extends right up to the property line; exceeding allowable width for the access driveway.

**Adverse finding.**

**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.*

The property owner has provided an address of 83 Central Avenue, **however it does not appear she has taken occupancy of the property. The property is being rented as a whole-house rental on Air Bnb.** Owner occupancy remains a condition of approval for Bed and Breakfasts. **Adverse finding.**

**Entire home hosted by Andrea**

7 guests · 3 bedrooms · 3 beds · 2 baths



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