

## Department of Permitting and Inspections

Zoning Division

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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: April 19, 2022  
RE: 325 Flynn 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:** ZP22-110  
**Zone:** RL **Ward:** 5S  
**Date application accepted:** February 24, 2022  
**Applicant/ Owner:** Kathleen Peden  
**Request:** Rent 2 bedrooms in existing duplex as a BnB  
**Background:**

- **Zoning Permit 21-0372CA; replacement window. October 2020.**
- **Zoning Permit (n.n.),** Conditional use request to add one residential unit to duplex to create a triplex. **Denied** October 1989.

#### **Overview:**

The applicant requests renting two bedrooms in a second unit of the existing duplex as short term rentals. A check of rental registration confirms a duplex use. Owner occupancy is a requirement for Bed and Breakfast use.

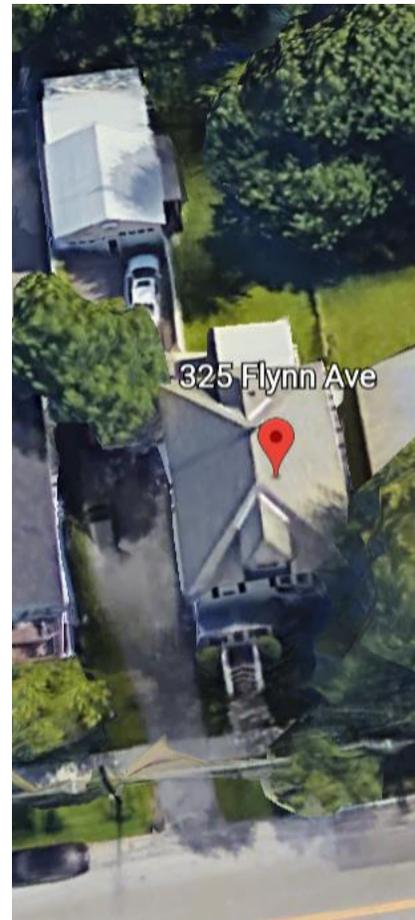
**Recommended motion: Conditional Use approval** per the following Findings and Conditions:

#### **I. Findings**

##### **Article 2: Administrative Mechanisms**

##### **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. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**



**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:*

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;*

Conversion of the two bedrooms in the 2<sup>nd</sup> unit to Bed and Breakfast use would not appreciably alter the current impacts of the existing duplex use. **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 – low density zone. The neighborhood consists of single- to four unit residential units on Flynn Avenue, within an existing residential neighborhood. The two required parking spaces (one per bedroom) is the equivalent of the parking requirement for the unit per the Neighborhood Parking District. Residential density will remain unaffected. The property remains in character with the zoning district.

**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;*

There is nothing within the application that includes a change to the existing residential structure. The use application will provide living space for guests on a short term basis. The less-than-30 day rental is not expected to generate nuisance impacts from noise, odor, dust, or similar. **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;*

Little, if any, change in traffic is expected. Short term guests will arrive and depart within established timeframes. Guests will be within easy bike or walking distance to 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.*

The bed and breakfast is not expected to produce adverse effects in need of mitigation.

**Affirmative finding.**

2. *Time limits for construction.*

No construction timeline or phasing is included in this proposal. **Affirmative finding.**

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 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;*

Any future enlargement or alteration will be reviewed under the zoning 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.*

While the driveway for 325 Flynn Avenue is very long, the parking spaces for the bed and breakfast use will likely be in tandem. The owner must provide assurance that the guests (if unrelated to the other bedroom rental) may shift their parking to allow movement of the second guest's vehicle upon demand. **Affirmative finding as conditioned.**

**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.*

1. The **Residential Low Density (RL)** 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.

325 Flynn Avenue is an existing duplex. No exterior changes are included in this application. There are no approved site plans for this lot; however there is a very long driveway with an oversized garage at its terminus. While there is ample space for the required 4 parking spaces (two for the owner's unit, and one for each of the proposed bedroom rentals), the owner must allow for the movement of guests' vehicles if tandem parking is observed.

**Affirmative finding as conditioned.**

*(b) Dimensional Standards and Density*

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

No exterior changes or changes to lot coverage are included. **Affirmative finding.**

*(c) Permitted and Conditional Uses*

The "bed and breakfast" (short term rental) use is conditional in the RL zone. Owner occupancy is required, and up to 3 rooms may be let. The applicant has provided confirmation that 325 Flynn Avenue is her primary residence. Owner occupancy is a prerequisite for consideration of a Bed and Breakfast. The bed and breakfast / short term rental will contain 2 bedrooms in the second unit. **Affirmative finding as conditioned.**

*(d) District Specific Regulations*

Not applicable.

**Article 8: Parking**

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

The property is located within the Neighborhood Parking District. Each unit requires 2 parking spaces. "Bed & Breakfast" uses require 1 parking space per bedroom. For the owner occupied unit, 2 spaces are required. For the 2 bedrooms proposed in the remaining units, 2 parking spaces (1 per bedroom) are required. The long driveway leads to an oversized garage; however even with tandem parking, the guests' vehicles may need to be moved independently.

The owner must facilitate this for the project to be workable. **Affirmative finding as conditioned.**

**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 confirmed that he lives on-site. **Affirmative finding.**

**II. Conditions of Approval**

1. This approval is predicated on continued owner-occupancy of the property for the duration of the short term rental use.
2. Guest check-ins should be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances.
3. Guests may be required to jockey their parking space to allow for movement of a second guest’s vehicle, if the guests of the two bedroom rentals are not related. The owner shall facilitate the parking assignments.
4. The short term rental must adhere to required life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont.
5. All guest parking shall be on-site and off-street.
6. Standard permit conditions 1-15.

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