

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: June 7, 2022
RE: ZP-22-184; 13 Lakeview Terrace

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.

Zone: RM Ward: 3C

Owner/Applicant: Jonathan Maguire

Request: Convert an existing duplex into 2 bed & breakfast (short term rental) units.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

Background Information:

The applicant is requesting approval to convert the existing duplex into two bed & breakfast (short term rental) units. The property owner resides in the second floor, one-bedroom unit and will short term rent when he is away. The first floor, two-bedroom unit will be utilized as a short term rental as well.

Previous zoning actions for this property:

- **Zoning Permit**; replacement front porch. Approved July 1975.
- **Zoning Permit 78-128**; new foundation. Approved October 1978.
- **Zoning Permit 03-216**; replacement shed. Approved October 2002.
- **Zoning Permit 06-406CA**; second story addition, replacement windows. Denied May 2006.
- **Zoning Permit 07-018CA**; second story addition, replacement windows. Denied August 2006.
- **Zoning Permit 07-469CA**; rear addition, replacement. Approved April 2007.
- **Zoning Permit 08-019CA**; new windows, modify deck railing. Approved July 2007.
- **Zoning Permit 10-0148CA**; replacement doors/windows. Approved August 2009.
- **Non-Applicability of Zoning Permit 10-0410NA**; rooftop solar panels. October 2009.

Recommendation: Conditional Use Approval as per, and subject to, 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. **(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;

The conversion of each unit within the duplex into bed and breakfast rental units (1st floor Unit 1, 2 bedrooms; 2nd floor Unit 2, owner occupied, 1 bedroom) has no appreciable impacts on existing or planned public utilities, services, or facilities. **(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 Medium Density (RM) zone. The surrounding neighborhood consists of a mix of single-family and duplex residential properties. The subject bed and breakfast units within the existing duplex will serve as a place for people to stay, except that it will serve occupants on a short term basis rather than long term. When the owner is away, upstairs Unit 2 will be rented on a short term basis. **(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;

As noted above, the bed and breakfast rental units within the existing duplex will serve as a place for people to stay within the neighborhood, albeit on a short term basis. It is not expected to generate nuisance impacts from noise, odor, dust, and the like. **(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 change in traffic is expected. Occasional short term guest traffic visiting the units could be compared to that of long term renters of each unit. In addition, short term guests will arrive and depart within established timeframes. **(Affirmative finding)**

5. The utilization of renewable energy resources;

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

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

The bed and breakfast use must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont. **(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) 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.

The bed and breakfast units are not expected to produce adverse effects in need of mitigation. **(Affirmative finding)**

2. Time limits for construction.

No construction timeline or phasing are included in this proposal. **(Affirmative finding)**

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

The bed and breakfast units within the existing duplex will be offered year-round. It is recommended that guest check-ins 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; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

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.

Not applicable.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(3) Residential Medium Density (RM)

The Residential Medium Density (RM) district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments.

The existing duplex is consistent with this intent. Use of the units as bed and breakfast short term rentals remains consistent with the intent of the zone. **(Affirmative finding)**

(b) Dimensional Standards and Density

Not applicable.

(c) Permitted and Conditional Uses

The “bed and breakfast” (short term rental) use is conditional in the RM zone. Owner occupancy is required, and up to 5 rooms may be let. In this case, the owner lives in Unit 2 and proposes to rent up to 3 bedrooms overall in the duplex – 2 bedrooms in the 2-bedroom Unit 1, and 1 bedroom in the 1-bedroom, owner occupied Unit 2. In total, the property will see no more than 3 bed and breakfast rental rooms. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The subject property is located within the neighborhood parking district. Within that district, duplexes require 4 onsite parking spaces (2 per dwelling unit). “Bed & Breakfast” uses require 1 parking space per rental room. For the purposes of this application, the proposed bed and breakfast can be viewed in two scenarios: when the owner is present, his 1-bedroom unit (Unit 2) will require 2 spaces, and the 2-bedroom unit (Unit 1) will require 2 spaces – thus a total of 4 spaces, which results in no increase to the existing parking demand. The other scenario, for when the owner is away and short term rents his unit, will result in 1 parking space for Unit 2 (one bedroom) and 2 spaces for Unit 1 (two bedrooms) – or 3 spaces total – less than the 4-space parking demand for the existing duplex.

The existing driveway is narrow, but long enough to accommodate two tandem parking spaces. There is an existing two-space parking nonconformity, as four spaces are required for a duplex in this parking district. However, in either short term rental scenario outlined above, the parking nonconformity will not be increased, which is acceptable. **(Affirmative finding)**

II. Conditions of Approval

1. 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. The following permit remains open and requires a Certificate of Occupancy:
 - ZP10-0148CA
2. The subject property must be, and remain, owner occupied as long as the bed and breakfast (short term rental) rooms remain in operation.
3. It is recommended that guest check-ins 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. 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.
6. 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.
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.