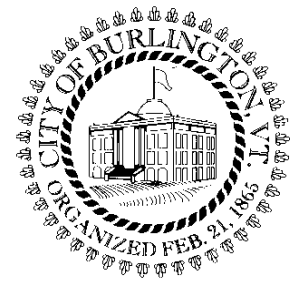


Department of Permitting and Inspections

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: March 8, 2022
RE: ZP 22-20, 42 Marble 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: ZP22-20
Zone: RM **Ward:** 5S
Date application accepted: January 10, 2022
Applicant/ Owner: Sara Alexander
Request: One room Bed and Breakfast

Background:

- **Zoning Permit 21-468;** Construct garage. July 2021.
- **Zoning Permit 20-0999CA;** Removing front porch walls and windows, adding posts and railings. Changing steps. July 2020.
- **Zoning Permit 20-0624CA;** Replacing and adding windows. January 2020.

Overview: The applicant seeks to change the use to include a one room Bed and Breakfast. Bed and Breakfast use is a Conditional Use in the RM zoning district.

As the Short Term Rental regulations have not yet advanced to adoption, applications for short term rental use less than 30 days must be reviewed as a Bed and Breakfast, Hostel, or Hotel/Motel.

Bed and Breakfast use is predicated on owner occupancy. The applicant has provided in the application that she lives onsite.

Recommended motion: Conditional Use denial per the following findings:

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 if 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 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 – Medium density zone. The neighborhood consists largely of single family homes and duplexes, with one 3 unit and one 4 unit building on the street. Structures are closely arranged; buildings are of similar scale. The lot is very small (2,813 sf) and non-conforming to lot coverage, contributing to the challenge to meet the required additional parking space on-site. Absent consideration of parking, the character of the area will remain as existing. **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. A 2021 permit approved construction of a garage with living space above it; this is the assumed location of the Bed and Breakfast use. Unless valet parking is assured for the long term, or a parking waiver is issued toward the single family parking requirement (no request has been made) the parking arrangement will not accommodate the necessary third parking space on-site. Otherwise, the additional parking demand will be pushed out onto the street (this side of the street has no-parking allowed.) Without accommodation of a third parking space onsite, the application will not meet the required on-site parking requirement for the Bed and Breakfast room rental.

The less-than-30 day room rental is would not typically generate nuisance impacts from noise, odor, dust, or similar. **Adverse finding relative to meeting parking requirement.**

- 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 cycle of different vehicles at differing intervals. While access to major arterial roads is assured, the very small lot, close proximity to neighboring structures and insufficient parking present the potential for site congestion. Although Short term guests will arrive and depart within established timeframes, the narrowness of the driveway, inadequacy of parking facilities and the relative narrowness of the street combine to test the ability to absorb the change of use.

Guests will, however, find themselves within easy bike or walking distance to the downtown and area attractions. **Adverse finding for parking requirements.**

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 if 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. Without a parking waiver or valet parking to accommodate the required 3rd parking space, the parking demand will move out onto the street which does not allow parking on this side, and is already narrow and congested.

Adverse finding for parking.



42 Marble Avenue is at center.
Notice on-street parking is prohibited on this side of the street.

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 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. **Affirmative finding if 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.*
This is at the discretion of the DRB.

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.

3. 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.

42 Marble Avenue is an existing single family home. No exterior changes are included in this application. A previous approval included construction of a garage; benefiting from the existing non-conformity of lot coverage. As approved, lot coverage is at 52%.

A Bed and Breakfast use requires one additional parking space for every room rented. With a one room rental requested, and the existing single family home requirements, three parking spaces are required on-site. With the small garage and narrow driveway, only two parking spaces can be accommodated on-site. Without valet parking to allow for vehicular rearrangement, minimum parking for the new use cannot be accommodated on-site. **Adverse finding.**

(b) Dimensional Standards and Density

Table 4.4.5-3 Residential District Dimensional Standards

No exterior changes or changes to lot coverage are included. The last approval (ZP21-468) included a revised lot coverage at 59.4% on a 2,813 sf lot. **Affirmative finding.**

(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 3 rooms may be let. A one-bedroom rental is requested. Owner occupancy is a prerequisite for consideration of a Bed and Breakfast. **Affirmative finding.**

(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. 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. This is a very small lot (2,813 sf) that is currently non-conforming to lot coverage with a narrow single lane driveway. The applicant has submitted a site plan (omitting the replacement garage permitted in 2021) with three cars stacked in the driveway. See 8.1.14, below.

Sec. 8.1.14 Stacked and Tandem Parking Restrictions

Except as otherwise provided below, all parking facilities in all Parking Districts shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle. The requirements for minimum or maximum spaces continue to apply for stacked and Tandem parking.

- (a) Stacked or valet parking may be allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation.*
- (b) Tandem Parking shall be allowed for all dwelling units (whether attached or detached). Each dwelling unit may have a pair of tandem parking spaces, however any pair of tandem parking spaces shall not serve more than one dwelling unit .Tandem parking shall also be allowed for dedicated employee-only parking where signed as such.*
- (c) Stacked parking shall be allowed for single-family detached dwelling units and Accessory Dwelling Units with no requirement for an attendant to be present.*

Stacked parking is only permissible for Single family homes and Accessory Dwelling Units (Article 8, Section 8.1.14.) This request for a change-of-use to a Bed and Breakfast eliminates consideration of stacked parking under 8.1.14 (a). The second opportunity for stacked parking is valet parking (which the owner must request, and ultimately offer a written guarantee.) For the proposed short term rental, this will require on-going observation and jockeying of cars to meet this standard.

As proposed, parking is insufficient for the requested one bedroom Bed and Breakfast use.

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’s address is 42 Marble, sufficient for demonstrating owner occupancy.

Affirmative finding.

If considered for approval; the following are recommended:

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. Stacked parking requires a written guarantee to be provided to the City assuring an attendant is present to move vehicles for the duration of the Bed and Breakfast use.
3. Guest check-ins should be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances.

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, unless the DRB approves valet parking to accommodate the third space. The owner must be on-site to move vehicles as required.
6. Standard permit conditions 1-15.

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