

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: ZP22-13, 450 North 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: ZP22-13
Zone: RL **Ward:** 7N
Date application accepted: January 6, 2022
Applicant/ Owner: Bill Lockwood
Request: Change of to use 2 Bedroom Bed and Breakfast
Background:

- **Zoning Permit 17-0713CA;** replace window. February 2017.
- **Zoning Permit 17-0621CA,** correction of site plan. December 2016.
- **Zoning Permit 11-0543CA;** construct deck and ramp at rear of building. January 2011.
- **Zoning Permit 10-0830CA,** construct residential building for duplex use. **Denied,** August 2010.
- **Zoning Permit 10-0375CA;** Conversion of creamery to single family residence; door and window changes. Approved administratively October 15, 2009.
- **Zoning Permit 10-0327CA;** Replace windows, replace vinyl siding, new doors and rebuilt front porch [post fire.]. (This is for the separate parcel fronting North Avenue.) Approved October 2009.
- **Zoning Permit 10-0212CA;** Demolition of 12x20 building, ice box and loading dock. August 2010.
- **Zoning Permit 10-0232 CA/CU;** Site and building alterations for conversion from non-conforming use (creamery) to residential (duplex) in RL zone. Application **Denied** January 20, 2010. Denial based on the incompleteness of the submission, not on the merits of the request.
- Confirmation from Miles Waite, consulting hydrogeologist, of removal of a 4,000 gallon petroleum tank from the rear of the site. Ultimately 3 USTs are removed. October 7, 2009.

- **Zoning Permit 10-0239CA**; new rubber membrane roof on the former Brigham Creamery building. Approved September 2009.
- **Zoning Non-Applicability Determination 10-0320NA**; Removal of Underground Storage Tank(s) (UST); September 2009.
- Request to expand a non-conforming use, to install a 3,500 gallon underground gasoline storage tank and gas pump; Approved November 1971.
- Application to install a 2000 gallon underground storage tank and gas pump for personal use of [Brigham Dairy] company trucks. Denied September 1965.
- Zoning request to build an addition on existing ice house; Approved June 1964.
- License for construction to build ice house; November 23, 1920.
- License for construction to build store house; August 20, 1918.

Overview: 450 North Avenue is a rear parcel, behind 448 North Avenue. A wood frame single family residential dwelling fronts on North Avenue, and 450 North Avenue is an attached steel frame masonry building. This project review is associated with the rear 450 North Avenue parcel. The site was previously the location of the Brigham Dairy facilities, and functioned as a commercial creamery.

Recommended motion: Conditional Use approval per the following findings and conditions:

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:

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 two-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 – Low density zone. The neighborhood (along the Avenue) consists largely of single family homes, with a duplex and two triplexes nearby. Structures are closely arranged; buildings range in scale. The lot is unusual, with two

connected residential structures bisected for purposes of ownership; reflecting the historic use as a dairy. A barn (location of current parking) was demolished in 2010. 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. There is a large paved area in the rear, a remnant from the earlier commercial use, that will accommodate the required parking spaces (2 for the existing single family residence, and on for each room rented.)

The less-than-30 day room rental is would not typically 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;*

A short-term rental will bring a cycle of different vehicles at differing intervals. While access to the major arterial of North Avenue, both capacity and acceptable level of service is assured. Short term guests will arrive and depart within established timeframes to minimize any disruption to area uses. Guests will be within reasonable 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.*

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. **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.*

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.

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.

450 North Avenue is a remnant from Burlington's commercial history, formerly operating as the Brigham Dairy. Despite its unusual past, it has been successfully adapted for residential use and the site retains many of the features of its earlier use. The addition of a two-room rental will not

conflict with that existing residential use. Owner occupancy remains a condition. **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. The last approval (ZP17-0621CA) noted existing lot coverage at 42.05%. **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. A two-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 two rental rooms and the existing single family home, 4 parking spaces are required on-site. There remains a large expanse of paving in the rear (east) of the deep lot which may be utilized to accommodate the required 4 parking spaces. It is possible to arrange two tandem spaces to meet the parking requirements of the single family home, with two individual parking spaces for each rental room without movement of other vehicles. **Affirmative 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 450 North Avenue, sufficient for demonstrating owner occupancy. **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/Bed and Breakfast use.
2. Guest check-ins are limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances.
3. 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.
4. All guest parking shall be on-site and off-street.
5. Standard permit conditions 1-15.

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