

Department of Permitting and Inspections

Zoning Division

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: June 7, 2022
RE: ZP-22-217, 69 Orchard 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.

File Number: ZP-22-217

Zone: RH **Ward:** 8E

Date application accepted: April 5, 2022

Applicant/ Owner: Brandon Salimi

Request: Change of use from single family home to Bed and Breakfast.

Background:

- **Zoning Permit 21-0441CA;** Building a raised patio/deck. December 2020. (Lot coverage maximized at 80 %.)
- **Zoning Permit 20-0419CA;** replace front and back doors. Replace attic window with egress window. Add habitable space in attic. Add storm windows on back of the house. Use remains a single family home. October 2019.

Overview:

69 Orchard Terrace is a five bedroom single family home. The applicant wishes to short-term rent bedrooms, including when he travels for business. Bed and Breakfast use requires owner occupancy. The limited parking area (one driveway, approximately 12' wide, leading to a single car garage) limits the opportunity for room rental, which requires one parking space for each room rented. The single family home has a two parking space obligation; with stacked parking the driveway/garage can accommodate 3 parking spaces.

Recommended motion: Conditional Use Approval, with a one bedroom rental limitation (two rooms if owner traveling) and only if an attendant is present to move cars, 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;*

Utilization of a bedroom to Bed and Breakfast use 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 – high density zone. The neighborhood consists of single- and multi-family homes within buildings of similar scale. No exterior modifications are proposed. Residential density will remain unaffected. If room rental is limited to available on-site parking, the property will remain 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 bedroom rental for guests on a short term basis. With a limitation on room rental and concomitant parking limitation, 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.*

With agreement for an attendant to move cars in the stacked arrangement, and all required parking to be located on-site, 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.*

Stacked parking will require an attendant to move vehicles as necessary, due to the constriction of parking in the driveway. **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.

5. The Residential High Density (RH) district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings placed close together. Parking is intended to be hidden either behind or underneath structures.

69 Orchard Terrace is an existing single family home. No exterior changes are included in this application. A 2000 approved site plan illustrated an existing single wide driveway with a single car garage at its terminus. Lot coverage is maximized at 80%. The requirement to provide one parking space for every bedroom rented significantly influences the number of bedrooms that may be rented: With the requirement for 2 parking spaces for the single family home, there is room only for one additional parking space if parking is stacked in the driveway. This will allow a total of three parking spaces, and the allowance for a one bedroom rental. If the applicant himself is traveling, his own room may be rented and the two parking spaces associated with the single family home utilized. The plan is reliant on attendant movement of vehicles; street parking may not be calculated toward the new use.

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 (ZP21--441CA) confirmed lot coverage at 80% on a 2,541 sf lot. **Affirmative finding.**

(c) Permitted and Conditional Uses

The “bed and breakfast” (short term rental) use is conditional in the RH zone. Owner occupancy is required, and up to 5 rooms may be let. The applicant intends to take up residency in June after completion of graduate school. Owner occupancy is a prerequisite for consideration of a Bed and Breakfast. **The bed and breakfast / short term rental must be limited to one room rental due to the limitation of on-site parking.** The owner may rent his

own room when traveling, although owner occupancy is defined as residency 50% of the year. **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. The existing driveway/garage accommodates the required 2 spaces for the single family home; it is possible to stack parking to provide for a third parking space = 1 room rental. All required parking must be on-site and off street. To achieve success with this plan, an attendant must be available to move vehicles. **Affirmative finding if 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 asserts he will take up residency in June 2022. **Affirmative finding.**

II. Conditions of Approval

- 1.** If approved, this permit shall allow one bedroom Bed and Breakfast rental conditioned upon attendant parking. The owner’s bedroom may be rented when he is traveling (must be owner occupied 50% of the year).
- 2. 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. The following permits remain open and require a Certificate of Occupancy:

ZPW-22-65 43935 – 69 ORCH...	Zoning Permit - Windows	May. 4, 2022	ACTIVE
ZP-22-217 43512 – SHORT T...	Zoning Permit	Apr. 5, 2022	ACTIVE
CBP-20-1451 20258 – PROJEC...	Building Permit	Dec. 16, 2020	ACTIVE
ZP-20-742 20258 – PROJEC...	Zoning Permit	Oct. 27, 2020	ACTIVE
CBP-20-14 33451 – PROJECT...	Building Permit	Jan. 6, 2020	ACTIVE
ZP-19-760 33451 – PROJECT...	Zoning Permit	Oct. 11, 2019	ACTIVE

3. This approval is predicated on continued owner-occupancy of the property for the duration of the short term rental use. Owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.
4. Guest check-ins should be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisances.
5. 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.
6. All guest parking shall be on-site and off-street. Stacked parking may be allowed if an attendant is present to move vehicles.
7. Standard permit conditions 1-15.

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