

**Burlington Development Review Board**  
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*Bradford L. Rabinowitz, Chair*  
*Geoffrey Hand*  
*Chase Blackstone Taylor*  
*Leo Sprinzen*  
*Caitlin Halpert*  
*Alexander J. LaRosa*  
*Brooks G. McArthur*  
*Vacant (alternate)*  
*Sean McKenzie, (alternate)*



**Burlington Development Review Board**  
**Findings of Fact**  
**Deliberative Hearing Tuesday June 7, 2022**

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**Board Members Present:** Brad Rabinowitz (Chair), Alexander LaRosa, Brooks McArthur, Chase Taylor, Caitlin Halpert, Geoff Hand, Leo Sprinzen.

**Absent:** Sean McKenzie, alternate.

**Staff members present:** Scott Gustin, Mary O'Neil, Ryan Morrison and Joseph Cava.

**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.

**Evidence Presented:**

The Board examined the materials submitted in support of this request.

**I. Findings**

**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.

**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.

**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.*

The applicant intends to rent his own room while traveling for business. With parking in a stacked arrangement, it is required to have someone immediately present to move vehicles as necessary. The applicant has offered to arrange for someone “on-call” to move vehicles within a 15 minute window, however the Board does not view this option as meeting the standard for being “present” to move cars.

**Adverse 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. The Board does not find the applicant’s offer to have someone “on call” to move cars within a 15 minutes window to meet the requirement of being “present” to facilitate valet parking of the stacked cars. **Adverse finding.**

**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; **the Board finds deficiency in the plan to provide valet movement of the stacked cars by someone off-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=-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 would have been 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. **The Board finds the applicant’s plan for moving vehicles by an off-site party failing to meet the Stacked Parking Valet requirement.**

**Adverse 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. 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. The Board finds the plan fails on the obligation to provide someone “present” to move vehicles.

**Adverse finding.**

### **Section 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.*

*(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.*

The proposal includes stacked (three in a row) parking. The request is for a change-of-use to a Bed and Breakfast, so (c) does not apply. Stacked parking requires an “attendant to be present”, which is not met in this application.

**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 asserts he will take up residency in June 2022. **Affirmative finding.**

## **II. Minutes**

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

## **III. Motion by Geoff Hand:**

In the matter of ZP-22-217, 69 Orchard Terrace, I move we **deny** the application as the applicant cannot provide assurance to meet that requirement of being present and available to move vehicles as demanded for stacked parking.

**Second:** Brooks McArthur

**Vote:** 6-1 (BR)

**Vote:** motion carried

Dated at Burlington, Vermont, this 16th day of June, 2022.

Respectfully Submitted,



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Bradford L. Rabinowitz, Development Review Board Chair

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**Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:**

**(a) Notice of Appeal: The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.)**