

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
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Brad Rabinowitz
AJ LaRosa
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Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, March 16th, 2021, 5:00 PM

PUBLIC HEARING NOTICE

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/87040817817?pwd=d2RoRnNwZmRDMHQ0bzBHeVVZM1cydz09>

Webinar ID: 870 4081 7817

Password: 842557

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833

- 1. 21-0670CU; 136 Birch Court (RL, Ward 7N) Ervina Ramic**
Request for one-bedroom bed and breakfast.
- 2. 21-0674CU; 56 Howard Street (RM, Ward 5S) Amy Magyar**
Request for two-bedroom bed and breakfast.

Plans may be viewed upon request by contacting the Department of Permitting & Inspections between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

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Agenda

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Consent**
 1. **21-0674CU; 56 Howard Street (RM, Ward 5S) Amy Magyar**
Request for two-bedroom bed and breakfast. (Project Manager: Scott Gustin)
 2. **21-0670CU; 136 Birch Court (RL, Ward 7N) Ervina Ramic**
Request for one-bedroom bed and breakfast. (Project Manager: Ryan Morrison)
- V. **Public Hearing**
 1. **21-0589CU; 19-21 Monroe Street (RH, Ward 3C) Henry Stark**
Establish short-term rental (bed and breakfast) in apartment. Convert a three-unit apartment building to a four-unit apartment building, with a parking waiver request. (Project Manager: Ryan Morrison)
- VI. **Adjournment**

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February 16, 2021

Ryan Morrison
Permitting & Inspections Zoning Division
645 Pine St Ste A
PO Box 849
Burlington, VT 05402-0849

RE: Permit No. 21-0589CU,
19-21 Monroe St – Waiver from Parking Requirements & Parking Management Plan

Dear Ryan,

With regards to our requested waiver from parking requirements at 19-21 Monroe Street, please accept this parking management plan as our demonstration that expanding the unit count to four (from the current count in zoning records of three) and zoning one unit (21 B) to be used for short-term rental can be adequately served. Furthermore, our plan more effectively satisfies the intent of Article 8.1.15 and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Parking Management Plan:

- 1) The minimum number of parking spaces required pursuant to Table 8.1.8-1 is calculated as: Eight. The property has Six spaces, we are seeking Two space parking waiver.
- 2) Currently, the property's zoned parking spaces are under-utilized. Only two of the four tenants have vehicles, totaling Three automobiles. Two of the units are generally rented to low-income, elderly or disabled individuals who, as is currently the case, do not drive themselves or have their own automobiles. They tend to travel via public transportation, ride shares, SSTA, on foot or by bicycle. I live in one of the units myself and I only have One automobile. The fourth unit rents to people who work outside of the home and rely on their Two automobiles for transportation. Therefore, only 50% of the property's permitted parking spaces are utilized.
- 3) The anticipated change in parking demand for the Zoning Permit at hand is Zero net spaces – in other words, unchanged. That's because the property has been operated as a four unit dwelling for a number of years (if not decades) and the lack of abundant parking has encouraged the units to be made available to people who do not have access to automobiles and would like to live close to downtown and public transportation. Furthermore, the short-term rental will only be in operation when I am not in my unit. Short term renters mostly come from out-of-town and either bring one car or, often times, no car (if arriving by airplane flight, for example) and explore Burlington Downtown on foot, SoBi Bike Share, taxi and public transportation. Therefore, there is no impact on additional parking due to the requested zoning of a fourth unit or the short-term rental.

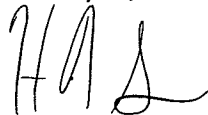
Our location alone relieves the need for an Automobile. The property is in the RH Zoning District, on the opposite side of the block from the Downtown Transition Zoning District, so much of Downtown Burlington is more easily accessible without the need (or hinderance of having to find parking) for an Automobile. The property is less than 1/3 of a mile to the top of Church Street. Battery Park is at one end of our block, and at the other end of the block there is a bus stop. Furthermore, the Cherry Street Bus Depot, with access to routes that run throughout, and beyond, Chittenden County is a five-minute walk from the property.

- 4) Strategies that we will use to reduce or manage the demand for parking into the future include:
- a. First and foremost, keep doing what we are doing to ensure tenant demand is well below the property's permitted number of parking spaces.
 - b. We hope to maintain our current tenants in order to keep automobile count low. The current average length of tenancy across the three units that are rented is seven years.
 - c. When do have tenant turnover, in advertising for the available unit and when screening prospective tenants, we will discourage single passenger automobile ownership and give preferential status to applicants who do not have a car.
 - d. We will continue to offer off-street, covered bike parking to all tenants to support alternative modes of transportation.
 - e. We will limit short-term renters to one automobile at maximum, to ensure that they do not create additional parking demand.

If our calculations with regards to minimum parking required, our narrative and analysis that outlined how the proposed parking management plan addresses the current and requested use of the property, and the parking management plan itself are satisfactory, we request that our parking waiver of two spaces be granted.

Please let us know if any additional information might aide in the consideration of our request.

Thank you,

A handwritten signature in black ink, appearing to read 'H Stark', with a stylized flourish at the end.

Henry Stark
21 Monroe St Apt B
Burlington, VT 05401

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



TO: Development Review Board
FROM: Scott Gustin
DATE: March 16, 2021
RE: 21-0674CU; 56 Howard Street

=====

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Zone: RM Ward: 5S

Owner/Applicant: Amy Magyar

Request: Establish a 2-bedroom short-term rental (bed and breakfast).

Applicable Regulations:

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

Background Information:

The applicant is requesting approval to establish a short term rental (bed and breakfast) within her 2-bedroom primary residence. The applicant is the property owner and lives onsite in the accessory dwelling unit. No site or exterior building changes are proposed.

Previous zoning actions for this property are noted below.

- 2/11/20; Approval to establish an accessory dwelling unit in detached building
- 5/7/18; Approval to convert detached garage to habitable space
- 10/6/10; Approval of chiropractic home occupation (relinquished)

Recommendation: Consent approval as per, and subject to, 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;*

Use of the single family home as a short term rental (bed and breakfast) has no appreciable impacts on existing or planned public utilities, services, or facilities. The applicant has checked with VT DEC and found that no additional permitting, including wastewater, is needed. **(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 of single- and multi-family homes within buildings of similar scale. No construction is included in this proposal, and residential density will remain unaffected. The property remains 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;*

The primary residence will remain physically unchanged. It will provide living space for guests on a short term basis. The short term rental 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, if any, change in traffic is expected. Rather than residents arriving and departing, short term guests will arrive and depart within established timeframes. Guests will be within easy bike or walking distance to area attractions. **(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 short term rental must adhere to applicable life safety standards and provide payment of 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 short term rental 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 should 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 residential property is consistent with this intent. The primary residence will be used as a short term rental, and the property will remain owner-occupied. The short term rental will not adversely impact the property's consistency with the character of this district.

(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 applicant is the owner and lives onsite. The short term rental will contain 2 bedrooms. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Single family dwellings in the Neighborhood Parking District require 2 parking spaces. “Bed & Breakfast” uses require 1 parking space per bedroom. Accessory dwelling units have no parking requirement.

The current driveway contains room for 2 parking spaces – sufficient for the single family home or the proposed short term rental. Given the nature of the short term rental – a singular unit rented whole with the host onsite – the tandem parking arrangement remains acceptable. **(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 use.
2. 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.
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. Standard permit conditions 1-15.

Amy Magyar
56 Howard Street
Burlington, VT 05401
802.777.2696
takeaimer@yahoo.com

Date: 3.3.21

Department of Permitting and Inspections
645 Pine Street
Burlington, VT 05401
Attn: Scott Gustin

RE: DRB B&B Permit # 21-0674CU

Scott,

I wanted to follow up on my application for a B&B permit for my two-bedroom, single-family, primary residence located at 56 Howard Street. There are no additional building or property changes needed for this permit change and according to Jeff McMahon, Permit Specialist at the VT Dept of Environmental Conservation, there will be no additional environmental impact to converting the property to a B&B for less than half the year.

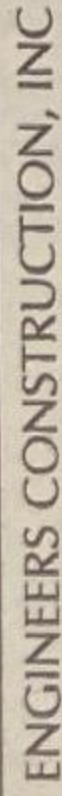
I understand that I am responsible for ensuring compliance with both city and state regulations and permitting regarding short term Bed and Breakfast type rentals, including but not limited to payment of required rooms and meals taxes. There will not be food provided in the morning like a traditional Bed & Breakfast property.

Per the requirements, I will be living in the home at least 183 days out of the year and renting it for select weekends during the year. Although the B&B city permit requires primary residency, it does not require that the property owner be on residence during the guests stay. However I will be available during their stay should the guests or my neighbors have any questions or needs.

I would also like to point out that although most of my guests will arrive in one car, there is a bus stop half a block away from my home on Howard Street and a CarShare Vermont rental car 2 blocks away should they decide to use public transport, however, due to my location being so close to the downtown corridor, as well as south end bakeries, eateries, yoga studios, farmer markets, and other tourist destinations, my guests will most likely walk or bike to those locations.

Appreciate your support in this permit process,

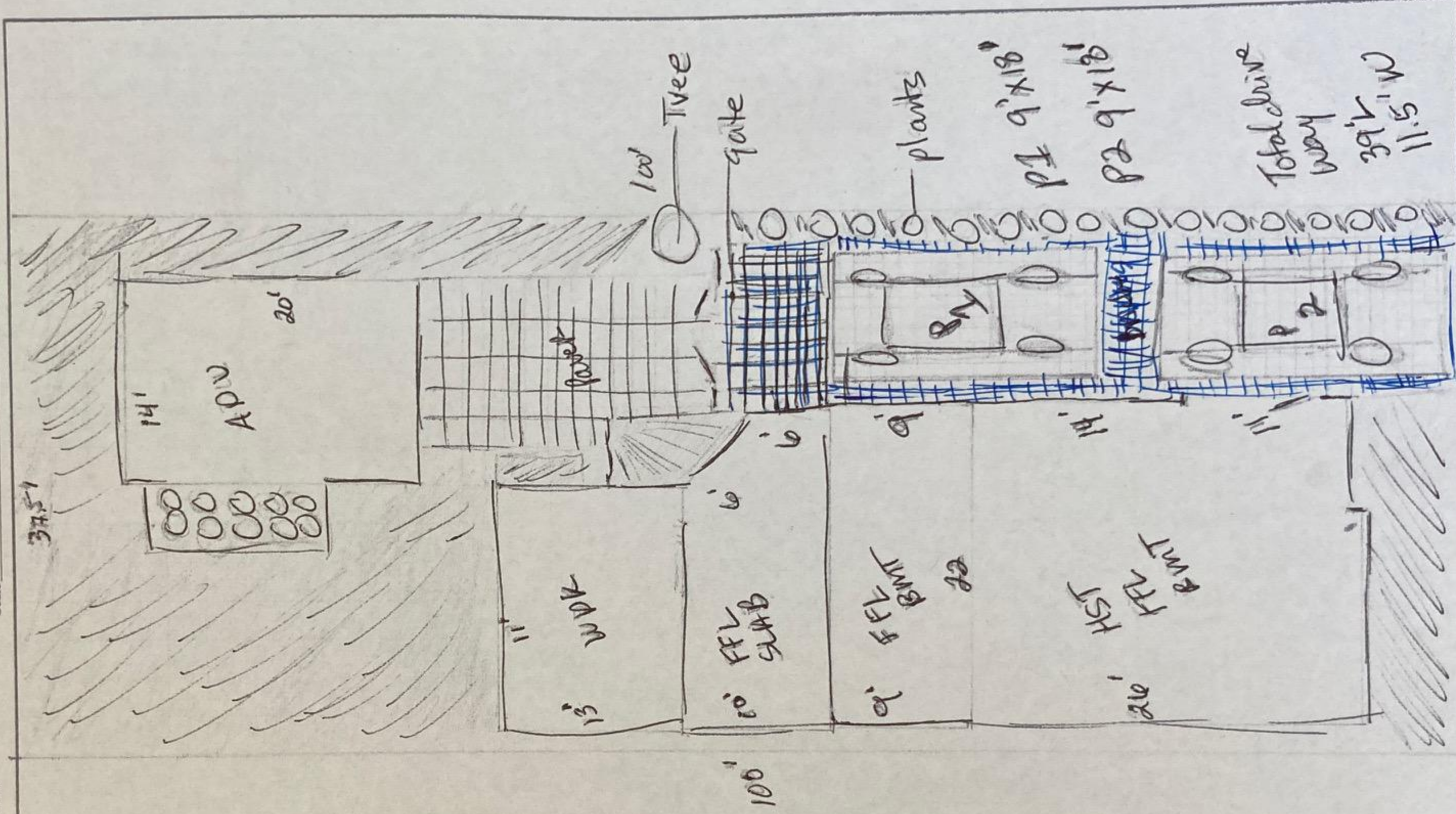
Amy Magyar

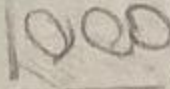
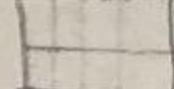


P.O. BOX 2187
SO. BURLINGTON, VT 05407
PHONE: (802) 863-6389
FAX: (802) 862-9703
Web Site: www.engineersconstruction.com

56 Howard St
site plan

lot coverage 36%



 - plants
 - green space
 - pavers
 - Bricked



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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: March 16, 2021
RE: 21-0589CA/CU; 19-21 Monroe Street

=====

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Zone: RH Ward: 3C

Owner/Applicant: Henry Stark

Request: After-the-fact conversion of a three-unit apartment building to a four-unit apartment building, establish a bed and breakfast (short-term rental) in one apartment, and request a two-space parking waiver.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 8 (Parking)

Background Information:

The applicant is requesting approval for an after-the-fact conversion of a three-unit apartment building to a four-unit apartment building, and to rent out his one-bedroom apartment as a bed and breakfast use (short-term rental) while he is away. Building permit records indicate that the property was permitted for three units in 1982. No subsequent permits, building or zoning, have been issued since 1982 to bring the unit count up to four. Rental billing records indicate that in 2007-2008, a fourth unit was added without zoning approval. The applicant now requests approval for the fourth unit. A two-space parking waiver is also requested, however a four-space waiver will be required.

Previous zoning actions for this property:

- **Zoning Permit 97-331;** installation of vinyl siding. Denied March 13, 1997.
- **Zoning Permit 03-306;** replace siding. Approved February 3, 2003.
- **Zoning Permit 03-525;** rebuild porch and construct dormer. Approved May 28, 2003.
- **Non-Applicability of Zoning Permit 07-095NA;** roof replacement. Approved August 3, 2006.
- **Zoning Permit 15-0025CA;** replacement windows. Approved July 14, 2014.
- **Non-Applicability of Zoning Permit 19-0434NA;** in-kind window replacements. Approved November 10, 2018.
- **Zoning Permit 20-0744CA;** replacement windows. Approved March 6, 2020.

Recommendation: Per an approved parking waiver, **Certificate of Appropriateness and Conditional Use approval** as per, and subject to, 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 conversion of one, 1-bedroom unit within the existing ‘four’ unit building (applicant/owner’s unit) to a short term rental use (bed and breakfast) while the owner/applicant is away has no appreciable impacts on existing or planned public utilities, services, or facilities. The applicant is advised to check with VT DEC as to whether a state wastewater permit is needed. **(Affirmative finding as conditioned)**

- 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 a mixture of residential properties of varying unit counts. The subject rental will continue to 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/applicant is traveling for work. City records indicate that this is the owner/applicant’s primary residence. **(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 short term rental will continue to serve as a place for people to stay within the neighborhood, albeit on a short term basis. The short term rental 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. The unit configuration remains unchanged. Rather than residents arriving and departing, short term guests will arrive and depart within established timeframes. Additionally, the property is well within walking distance to transit stops and the downtown core. **(Affirmative finding as conditioned)**

- 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 short term rental 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 short term rental 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.

The unit is the owner's full time residence and the short term rental is offered only when the owner is away on business. It will not be allowed to operate when the owner is present in his unit. 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

(5) Residential High Density (RH)

The Residential High Density (RH) district is intended primarily for high density attached multi-family residential development. Large buildings containing multiple dwelling units with high lot coverage are anticipated. The existing triplex (or fourplex if permitted) is consistent with this intent. Permitting the fourth unit and converting one of the units (studio apartment) to a short term rental use while the owner/applicant is away on business remains consistent with the intent of the zone. **(Affirmative finding)**

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-2: Base Residential Density

District	Maximum dwelling units per acre ¹
High Density: RH	40 units/acre
Inclusive of new streets but exclusive of existing streets, and without bonuses or any Inclusionary Zoning allowances.	

The RH zone limits density to 40 units per acre, or 1,089 sf of lot area per unit. For four units, a total lot area of 4,356 sf is required. The property is 4,368 sf in size.

$4,368 / 43,560 \text{ (acre)} = 0.1 \text{ acres}$

$4 \text{ units} / 0.1 = 40 \text{ units}$; equal with the 40 unit/acre limitation

(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. In this case, the applicant is the owner and lives onsite.

The applicant proposes to rent out his one-bedroom unit while he is away on business.

(Affirmative finding)

(d) District Specific Regulations

1. Setbacks

Not applicable.

2. Lot Coverage

Not applicable.

3. Accessory Residential Structures, Buildings, and Uses

Not applicable.

4. Residential Density

(c) Residential Occupancy Limits

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.

Each unit within the structure will be limited to occupancy by a family, including no more than 4 unrelated adults and their minor children. **(Affirmative finding as conditioned)**

5. Uses

Not applicable.

6. Residential Development Bonuses

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.2.7 Density Calculations

(a) Dwelling Units per Acre

See Table 4.4.5-2 above.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Multi-unit attached dwelling uses in the Neighborhood Parking District require 2 parking spaces per unit. “Bed & Breakfast” uses require 1 parking space per rental room. The fourplex will require 8 parking spaces, and the property currently has 6 permitted onsite parking spaces – per the 1982 building permit. However, the submitted site plan shows two single-width driveways with four stacked parking spaces each. At this point, only 6 spaces have been permitted, and the additional 2 spaces on the plans (the fourth space in each driveway) cannot be acknowledged as existing – thus the request for the parking waiver. To complicate matters further, 2 of the 6 permitted parking spaces are not compliant with today’s parking standards. Only two-tandem parking spaces in both driveways are compliant, meaning that the end result is that the property would be 4 spaces short for compliant parking, not just 2 spaces short. By permitting the fourth dwelling unit, an increase to the nonconforming parking situation will occur. So technically, the parking waiver request should be for 4 spaces, not just 2 as originally requested. For residential uses, a parking waiver of no more than 50% of the required parking count can be granted. See below.

In consideration for the 1-room bed and breakfast use in the applicant’s single bedroom apartment, the net parking requirement will drop from 8 spaces to 7 spaces at times when the applicant is away on business and the bed and breakfast use operates. **(Affirmative finding if the parking waiver is approved)**

Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans

Any waiver granted for a residential use shall not exceed fifty percent (50%) of the required number of parking spaces.

The applicant submitted a parking management plan in support of a 2-space parking waiver request, but it could also be used to support a 4-space waiver. The applicant states that the property’s existing parking spaces are under-utilized since only 2 of the 4 tenants have vehicles. Two of the units are generally rented to low-income, elderly or disabled individuals who typically do not drive or have their own vehicles.

The applicant states that there will be no change in parking demand since the property has operated as a fourplex for many years now. The lack of abundant parking has encouraged the units to be made available to people who do not have access to automobiles and enjoy living close to downtown and public transportation. And due to the proximity to downtown and public transit, the location relieves the need for an automobile. The property is within a block from transit stops on Park Street (Battery Street) and Pearl Street, as well as downtown businesses. Additionally, the Cherry Street Bus Depot is four blocks away.

The applicant has listed 5 different strategies that will be used to reduce or manage the demand for parking in the future. These include: ensuring that tenant demand remains below the property’s permitted number of parking spaces; maintaining current tenants in order to keep vehicle count low; discouraging single passenger automobile ownership when advertising for new tenants;

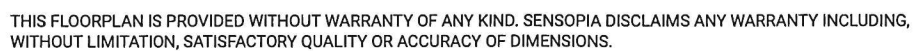
continuing to offer off-street bike parking as an alternative mode of transportation; and limiting short term renters to one vehicle at maximum.

Should the DRB find the parking waiver request appropriate, then the applicant should be prepared to report back to the Department of Permitting and Inspections each year for 3 years as to the actual onsite parking demand. **(Affirmative finding if the parking waiver is approved)**

II. Conditions of Approval

1. **Prior to the release of the zoning permit**, the applicant shall obtain a letter from the Dept. of Public Works confirming adequate water and sewer capacity.
2. The occupancy of each unit on the property shall be limited to members of a family, as defined in Article 13. No more than 4 unrelated adults and their minor children may reside in any unit.
3. A 4-space parking waiver is included in this approval. The applicant shall report back to the Department of Permitting and Inspections each year for three years to define the efficacy of the parking waiver.
4. The subject property must be, and remain, owner occupied as long as the bed and breakfast short term rental remains in operation.
5. The short term rental shall not be operated at any time when the owner is occupying the apartment unit.
6. The short term rental must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont.
7. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
8. All guest parking shall be on-site and off-street.
9. A state wastewater permit may be required. It is the applicant's responsibility to inquire with VT DEC as to whether such permit is necessary.
10. 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.
11. 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.
12. 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.
13. Standard permit conditions 1-15.

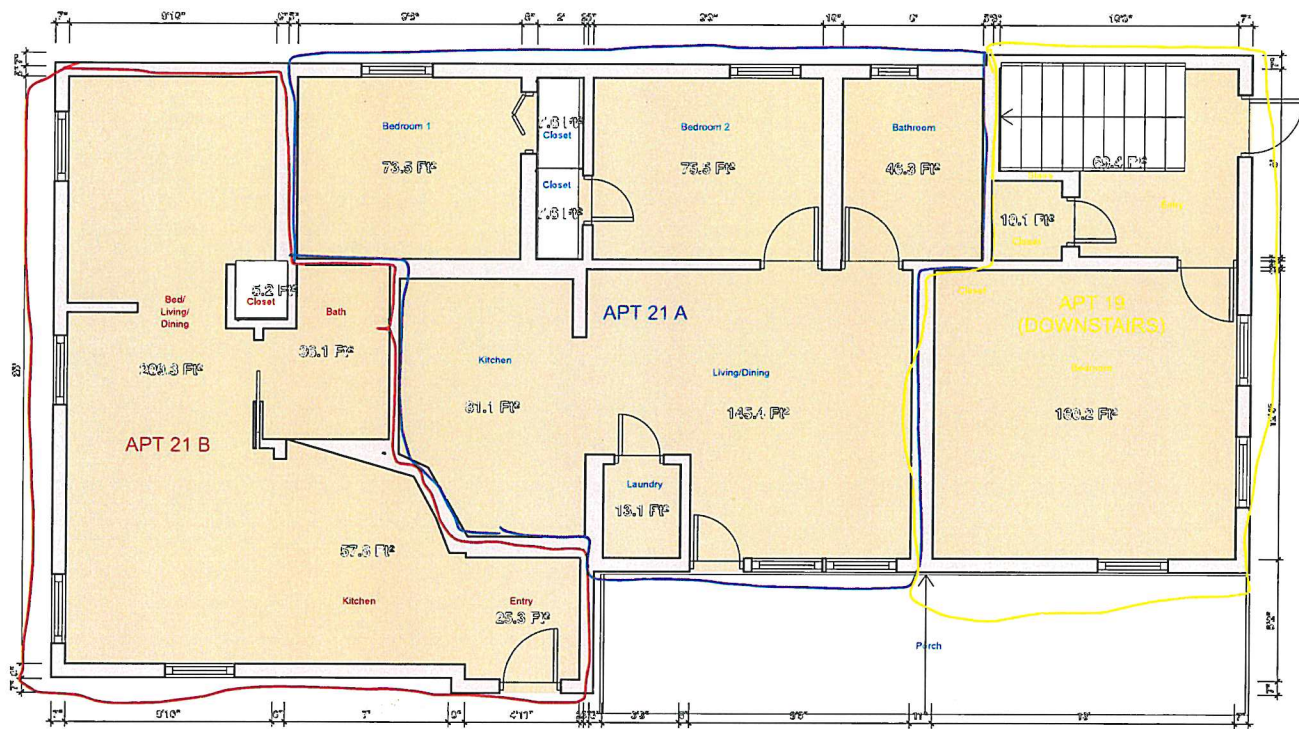
▼ Land survey



2/12/2021

Floor Plan Creator

19-21 Monroe St - 1st Floor Layout*

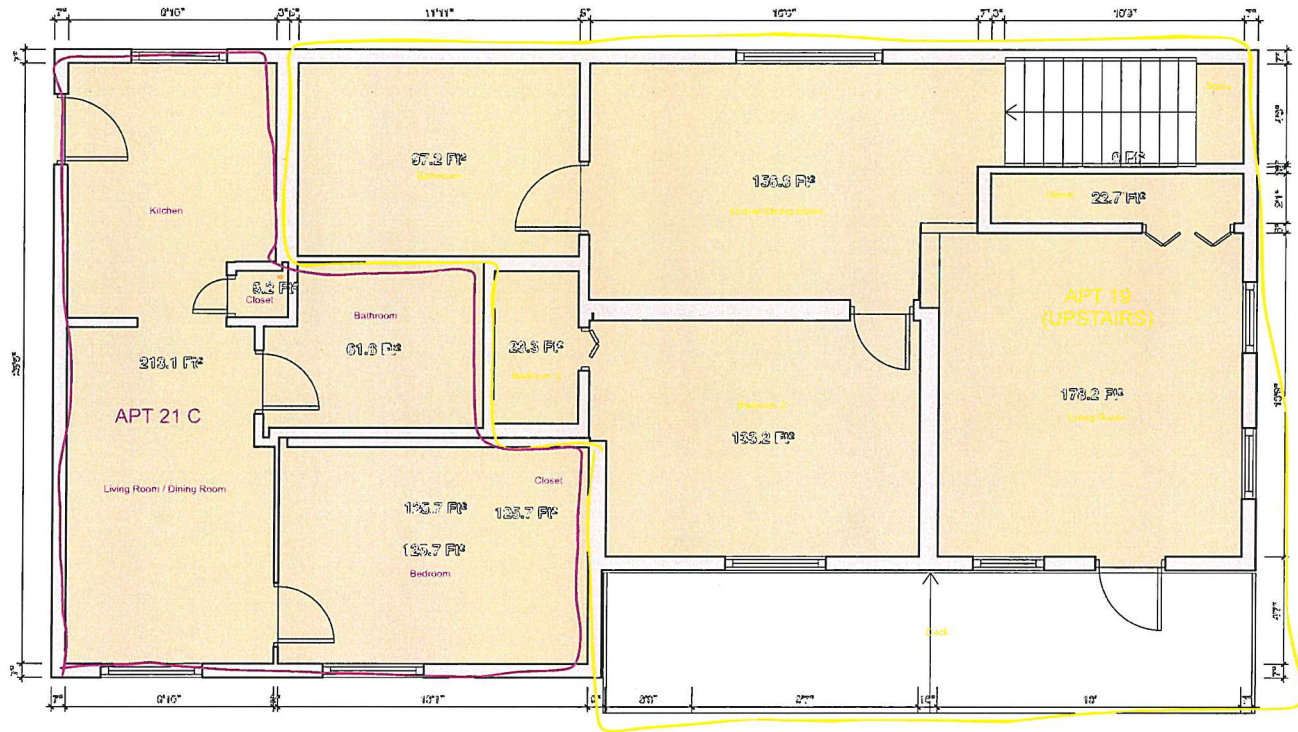


*All measures and placements are approximate for general unit layouts. Apartment access limited due to Pandemic con

2/15/2021

Floor Plan Creator

19-21 Monroe St - 2nd Floor Layout*



*All measures and placements are approximate for general unit layouts. Apartment access limited due to Pandemic

<https://floorplancreator.net/plan/edit/1407931>

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: March 16, 2021
RE: 21-0670CA/CU; 136 Birch Court

=====

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: RL Ward: 7N

Owner/Applicant: Ervina Ramic

Request: Convert the lower level in the single family home to an accessory dwelling unit and use it for a 1-bedroom bed & breakfast (short term rental).

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 8 (Parking)

Background Information:

The applicant is requesting approval to convert the lower level of the single family residence to a one bedroom accessory dwelling unit and utilize it as a bed and breakfast (short-term rental) use. The owner resides at the property.

Previous zoning actions for this property:

- **Zoning Permit 91-105;** construct a new home with an attached deck. Approved September 10, 1990.
- **Non-Applicability of Zoning Permit 12-0784NA;** replace exterior vinyl siding. Approved March 9, 2012.
- **Non-Applicability of Zoning Permit 20-1040NA;** installation of new exterior door on side of garage. Approved June 26, 2020.

Recommendation: Consent approval as per, and subject to, the following findings and conditions.

I. Findings

Article 2: Administrative Mechanisms

Part 7: Enforcement

Section 2.7.8 Withhold Permit

There is one permit associated with the property that has never been closed out, and remains 'permit indeterminate'. The applicant is tasked with closing this permit before being able to obtain any future certificates of occupancy. **(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 the lower floor within the existing single family home and using it as a bed and breakfast rental has no appreciable impacts on existing or planned public utilities, services, or facilities. A state wastewater permit will be needed and it is the applicant's responsibility to obtain. **(Affirmative finding as conditioned)**

- 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 consists of residential properties, and the subject property is located near the cul-de-sac end of Birch Court. The short term rental will serve as a place for people to stay 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 short term rental 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. Short term guests will arrive and depart within established timeframes. The property is within a short walk to North Avenue, where transit stops are available. A sidewalk exists along Birch Court, running the entire length to North Avenue. **(Affirmative finding as conditioned)**

- 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 short term rental 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.

The short term rental is 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

(1) Residential Low Density (RL)

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 neighborhood's development history.

The property consists of a single-family residence, constructed in 1990. The lower level in the home will be converted to a one bedroom accessory dwelling unit and used as a bed and breakfast use, serving short term guests. **(Affirmative finding)**

(b) Dimensional Standards and Density

Not applicable.

(c) Permitted and Conditional Uses

Accessory dwelling units are permitted uses within the RL zone. The “bed and breakfast” (short term rental) use is conditional in the zone. Owner occupancy is required, and up to 3 rooms may be let. In this case, the applicant is the owner and lives onsite. The applicant proposes to rent out the new one-bedroom accessory dwelling unit within her home to short term guests. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.4.5, Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses

Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means an efficiency or one bedroom apartment that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than two adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation.

The proposed one-bedroom accessory dwelling unit will be located in the lower level of the existing single family home. The floor plan identifies a bathroom, kitchenette, living and sleeping space. **(Affirmative finding)**

Additionally, there must be compliance with all the following:

- 1. The property has sufficient wastewater capacity as certified by the Department of Public Works; and*

The applicant will be required to secure a letter of adequate capacity from DPW for water and sewer services. **(Affirmative finding as conditioned)**

- 2. The unit does not consist of more than 900 sq. ft. or 30 percent (30%) of the gross floor area of the principal home, whichever is greater; and*

The ADU will total 720 sf in size, less than the 900 sf maximum allowance. **(Affirmative finding)**

- 3. Applicable setback and coverage requirements are met;*

Not applicable. No changes to setbacks or lot coverage are proposed.

- 4. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.*

A condition of approval will ensure this. **(Affirmative finding as conditioned)**

(b) Discontinuance of Accessory Units

Approval of an accessory dwelling unit is contingent upon owner occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner-occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

The property is owner occupied and shall continue to be so in order for the ADU, and bed and breakfast short term rental, to remain compliant. **(Affirmative finding as conditioned)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Single-family uses in the Neighborhood Parking District require 2 parking spaces. There is no parking requirement for accessory dwelling units. “Bed & Breakfast” uses, however, require 1 parking space per rental room. In this case, the home requires two spaces plus one space for the bed and breakfast room – for a total of 3 onsite parking spaces. The property has two tandem parking spaces (one space in the attached garage and one in front of the garage), and room for the third parking space to the side, within the existing driveway. **(Affirmative finding)**

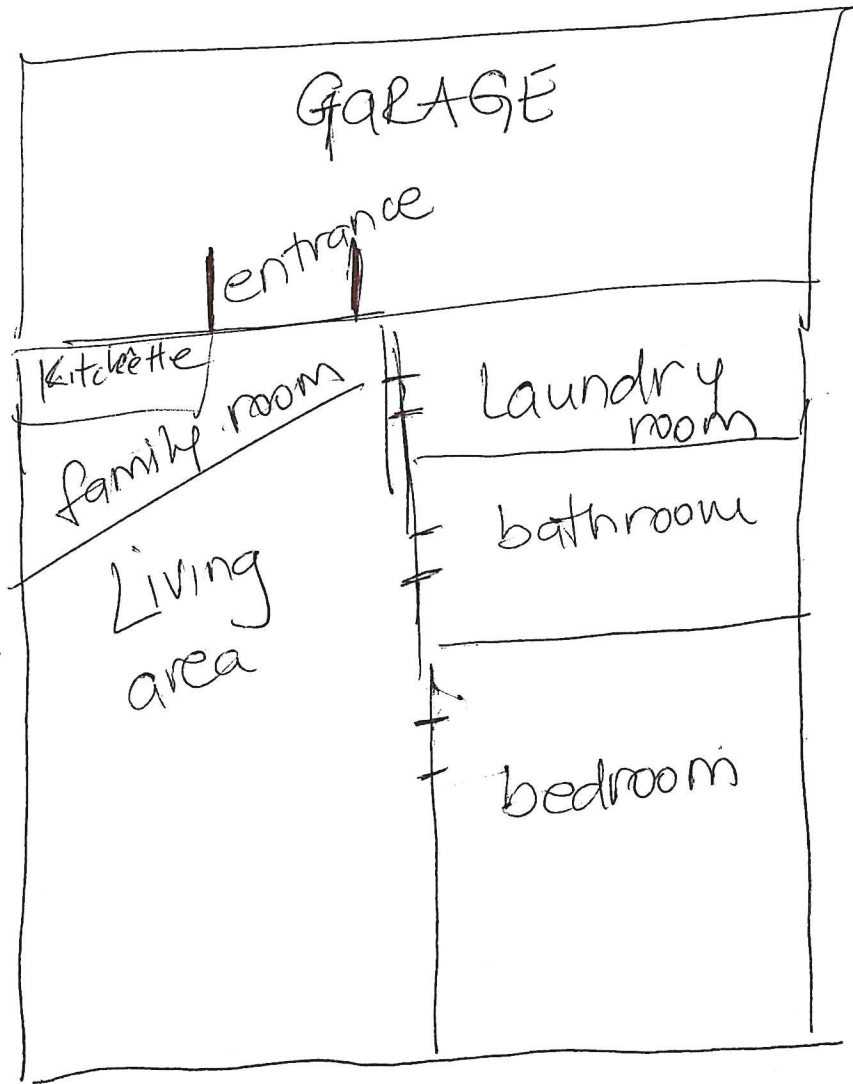
II. Conditions of Approval

1. Per **Section 2.7.8, Withhold Permit**, the applicant is required to 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.
2. **Prior to release of the zoning permit**, the applicant shall secure a letter of adequate capacity from DPW for water and sewer services.
3. The subject property must be, and remain, owner occupied as long as the accessory dwelling unit/bed and breakfast short term rental remains in operation.
4. No more than 2 adults and their minor children shall inhabit the accessory dwelling unit.
5. **Prior to the issuance of a certificate of occupancy**, a deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit. The reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy.
6. The short term rental must adhere to the life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont.
7. It is recommended that guest check-ins be limited to 7:00 am – 10:00 pm to minimize noise, traffic, and neighborhood nuisance.
8. All guest parking shall be on-site and off-street.

9. A state wastewater permit will be required, and is the responsibility of the applicant to secure.
10. 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.
11. 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.
12. 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.
13. Standard permit conditions 1-15.



driveway
parking
space
for 2 and more
car
necessary if



136 BIRCH COURT
Lower level

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BURLINGTON
PERMITTING & INSPECTIONS

Burlington Development Review Board

Department of Permitting & Inspections
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Burlington, VT 05401
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Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, March 16, 2021, 5:00 PM

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/87040817817?pwd=d2RoRnNwZmRDMHQ0bzBHeVVZM1cydz09>

Webinar ID: 870 4081 7817

Password: 842557

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833

Recorded meeting link: <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-354>

Minutes

Board Members Present: Brad Rabinowitz, Springer Harris, AJ LaRosa, Kienan Christianson, Brooks McArthur, Caitlin Halpert

Board Members Not Present: Geoff Hand, Sean McKenzie (Alt), Ravi Venkataraman (Alt)

Staff Present: Scott Gustin, Ryan Morrison, Alison Davis

I. Agenda

B. Rabinowitz: No changes to the agenda.

II. Communications

B. Rabinowitz: All communications posted online.

III. Minutes

B. Rabinowitz: Minutes from March 3rd are posted online.

IV. Consent

1. 21-0674CU; 56 Howard Street (RM, Ward 5S) Amy Magyar

Request for two-bedroom bed and breakfast. (Project Manager: Scott Gustin)

Amy Magyar appeared on behalf of item

No public appeared for item

B. Rabinowitz: Has questions. *Moves item to public hearing.*

B. Rabinowitz: Asks to clarify with Scott Gustin that a single-family home with an Accessory Dwelling Unit requires two parking spaces. Asks that when it is a Bed and Breakfast, if there is a requirement for one more space.

S. Gustin: No there is not that requirement. Explains that if that the primary single-family home was to remain as a primary single-family home, there would be two spaces, and then the BnB could require parking on top of that. Explains that in this case, the owner lives in the ADU on site, which has no parking requirement, and the primary residence would be the short-term rental (BnB).

B. Rabinowitz: Asks applicant if intention is to rent out when you are not there

A. Magyar: Explains that intention is to rent it out. There may be some times that I am busy or away for the day when it is being rented out.

The programs and services of the City of Burlington are accessible to people with disabilities.

Individuals who require special arrangements to participate are encouraged to contact the Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

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B. Rabinowitz: Asks if the short-term rental unit is in the main house.

A. Magyar: Yes, it is the house.

B. Rabinowitz: Asks Board if they have any questions.

None

B. Rabinowitz: Closes public hearing item.

2. 21-0670CU; 136 Birch Court (RL, Ward 7N) Ervina Ramic

Request for one-bedroom bed and breakfast. (Project Manager: Ryan Morrison)

Ervina Ramic appeared on behalf of item

No public provided comment

B. Rabinowitz: Explains that this is on the consent agenda. Asks if applicant has comments or concerns with Staff comments or recommendations.

None

B. Rabinowitz: Asks if there is any public to comment on item and asks Board members if there are any questions or comments for applicant.

None

C. Halpert: Motion to accept Staff recommendations and approve application.

K. Christianson: Seconds motion

6-0-0

V. Public Hearing

1. 21-0589CU; 19-21 Monroe Street (RH, Ward 3C) Henry Abbott Stark

Establish short-term rental (bed and breakfast) in apartment. Convert a three-unit apartment building to a four-unit apartment building, with a parking waiver request. (Project Manager: Ryan Morrison)

Henry Abbott Stark appeared on behalf of item

No public appeared to comment on item

B. Rabinowitz: Asks and clarifies that Staff said that applicant needs to ask for more of a parking waiver than what was asked for previously.

H. Stark: Yes, correct. Explains project and explains that the building has been four units for a long time, as far back as potentially 1983, but was never permitted. Through applying, it seemed like there is space on the lot for four units, decided to go through the process and apply for the unit.

B. Rabinowitz: Asks if it has been rented as four units.

H. Stark: Yes, it has been rented as four units.

B. Rabinowitz: Asks if the parking is tandem on both sides of the house.

H. Stark: Correct.

S. Gustin: Clarifies that the parking is stacked, not tandem, because stacked is three in a row. Explains that this property has a permit in the 80s to be a triplex, and it had a site plan that showed a driveway on either side with three spaces each. That was approved then. Fast-forward to today, we have an extra dwelling unit, with no way to stack the parking spaces four deep, hence the requested waiver. The Board needs to be aware of the property was approved in the past for the three stacked parking spaces on both sides, but that would not be approved today. Since they had a permit that was approved in the past for that parking plan, that could stay as three stacked.

B. Rabinowitz: Asks if any Board members have questions.

K. Christianson: Asks about the agreements with Airbnb guests, asks if parking expectations are clear for guests.

H. Stark: Yes.

K. Christianson: Mentions that there had been conversations in paperwork that you make clear to tenants that they do not have parking spaces or that you discourage parking spaces. Is that clear in the lease? Asks how it is tenants know that there is limited parking.

H. Stark: Explains that there are long-term tenants who do not have a vehicle and do not plan to get one. Half of the building is rented out to elderly or low-income or people with disabilities. For those leases, they naturally do not usually have vehicles, but it is also in their lease that they are not granted any parking with their unit.

B. Rabinowitz: Asks if he is planning to rent out his unit as a short-term rental when he is away.

H. Stark: Yes, correct.

B. Rabinowitz: Asks if it is common if he is away from his unit.

H. Stark: Depends if we are in a global pandemic or not. Under normal circumstances, I do travel for work on a somewhat regular basis, but recently it has been much lighter.

B. Rabinowitz: Asks to clarify which unit is being rented out.

H. Stark: It is unit 21 apt B. It is first floor rear in the building.

B. Rabinowitz: Asks if the second floor rear has its own access.

H. Stark: Correct, they have their own stairs.

S. Harris: Asks if this is where the applicant lives full-time.

H. Stark: Yes

A. LaRosa: Mentions that in the Staff comments, going from two-unit waiver to four-unit waiver, wondering if applicant has any objections to update the parking management plan to eliminate any discrepancies or questions in the future.

S. Gustin: Sure. The two nonconforming spaces were approved in the 1982 and would not comply with the current Ordinance, and we do not really recognize them, but for management plan I think it would be best to refer to four spaces.

H. Stark: It is odd to have three cars stacked in a row, especially if they are from different units. The way we are operating now is that you can get three cars on both sides, but on one side is reserved for one unit, they have two bedrooms and sometimes they do have a third car there. That is the way it has been done. Going down to five spaces, two on one side and three on the other, would be more ideal because it would be better for the people who have live there and have enjoyed having that third parking space when they need it.

B. Rabinowitz: Clarifies that that would be a three parking space waiver.

H. Stark: Yes, that would be a three parking space waiver, but it would be good for the tenants that are there now.

A. LaRosa: If you want to request less waiver that is always good. I just want to make sure that what is submitted and what we are approving line up because it will be a mess later down the road.

H. Stark: Yes, that is a good point. Asks if the parking management plan could be rewritten to accommodate five spaces if presuming that on one side it would just be one unit, not a blending of units if that waiver were to be granted.

S. Gustin: Makes sense. We do not want to over complicate it. Parking management plan needs to get to how you are managing actual parking demand with this arrangement and how the spaces are divvied up and managed.

K. Christianson: Asks to clarify if the applicant is asking for a three parking waiver or a four parking waiver.

R. Morrison: Since there was confusion between the number of parking spaces and the previously approved spaced, whether it is a three space or four space waiver, it is really whatever the Board is comfortable with. If you have two on the one side and then three spaces on the other side, as long as you meet your required number.

H. Stark: Sounds fair and fine.

B. Rabinowitz: Adds that since there was a previously approved plan for six spaces, is in support of recognizing three stacked spaces on one side and two tandem spaces on the other.

B. Rabinowitz: Asks if there is any public who has comment for item or if Board members have other questions.

None

B. Rabinowitz: Closes public hearing

VI. Adjournment

Meeting adjourned at 5:25PM



Bradford L. Rabinowitz, Chair of Development Review Board

July 6, 2021

Date



Alison Davis, Zoning Clerk

03/22/2021

Date

Plans may be viewed upon request by contacting the Department of Permitting & Inspections between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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