

## Department of Planning and Zoning

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### MEMORANDUM

To: Development Review Board  
From: Ryan Morrison, CFM, Associate Planner  
Date: May 2, 2017  
RE: ZP17-0792CA; 410 North Street

**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:** ZP17-0792CA

**Location:** 410 North Street

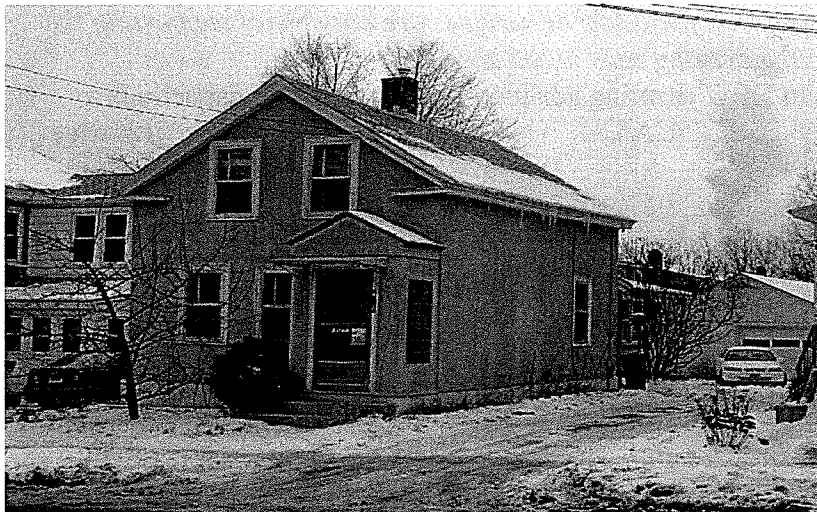
**Zone:** RL **Ward:** 1E

**Date application accepted:** February 16, 2017

**Applicant/ Owner:** Scott Goodwin / Scott Goodwin & Margaret Gayle Goodwin

**Parking District:** Neighborhood

**Request:** Construct an addition to the accessory dwelling unit.



#### **Applicable Regulations:**

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

#### **Background:**

- **Non-Applicability of Zoning Permit Requirements 15-0683NA;** interior work only, no change in the number of residential units. December 2014.

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- **Zoning Permit 16-1225CA/CU**; Finish garage interior to be accessory dwelling unit, add parking space. Approved January 31, 2017.

**Overview:**

The applicant proposes to construct a 165 sf addition onto the accessory dwelling unit in the detached garage. The 445 sf accessory dwelling unit was approved by the DRB on August 11, 2016. An appeal of the DRB decision was submitted on September 9, 2016. The appeal was heard by the Vermont Superior Court Environmental Division on January 17, 2017. On January 31, 2017, the Court affirmed the DRB’s August 11, 2016 approval of ZP 16-1225CA/CU. The zoning permit was issued March 3, 2017.

**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 and Major Impact Review**

**Section 3.5.6 Review Criteria**

**(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;*

A letter of confirmation from DPW assuring adequate water and sewer capacity is a condition of approval for ZP 16-1225CA/CU. This requirement remains. **Affirmative finding as conditioned.**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the Municipal Development Plan;*

The property is within an established residential neighborhood and a residential zoning district. The RL zoning 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. The MDP provides the following support:

- *Support the development of additional housing opportunities within the city... (MDP, Housing Plan, Page IX-1.*
- *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning. (MDP, Housing Plan, Page IX-12.)* **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;*

No greater impacts are anticipated than those other residential uses in the area.

**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;*

The proposed addition should not result in additional traffic to the property. **Affirmative finding.**

5. *The utilization of renewable energy resources;*

Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**  
*and;*

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances. ZP 16-1225CA/CU requires the applicant to secure a state wastewater permit, and any associated trades permits for interior work. The current proposal will be subject to the conditions of ZP 16-1225CA/CU. Affirmative finding as conditioned.*

### **(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;*

Not applicable.

2. *Time limits for construction.*

There is a two-year time frame to complete the project.

3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*

Typical construction hours in residential areas are Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request. No work on Sunday.

**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,*

The applicant proposes constructing a 165 sf addition to the accessory dwelling unit approved under ZP 16-1225CA/CU. Condition #2 of ZP 16-1225CA/CU states “Any

*additional physical alteration or change of use to the accessory dwelling unit will require a new zoning permit, subject to the regulations in effect at the time of permit application submittal.” See Sec. 5.4.5 (b) (2) below. **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.*  
None identified.

#### **Article 4: Zoning Maps and Districts**

##### **Section 4.4.5 Residential Districts**

###### **(a) Purpose**

*1. The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood’s development history.*

An addition to the recently approved accessory dwelling unit is proposed. **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 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W.**

**Single detached dwelling, RL Minimum 60’ frontage, RL Minimum 6,000 sq ft lot size.**

410 North Street is a long, narrow, 10,950 sq ft lot, with approximately 27 feet of frontage. The property’s frontage is considered legally existing, non-conforming. **Affirmative finding.**

###### **Table 4.4.5-2 Base Residential Density**

Not applicable per Section 5.4.5 (a) below.

###### **Table 4.4.5-3 Residential District Dimensional Standards**

Maximum Lot Coverage – 35%.

Side Yard Setback – 10% of lot width or ave. side yard setback of 2 adjacent lots on both sides.

Rear Yard Setback – 25% of lot depth but in no event less than 20’. Max required 75’.

After the proposed addition is built, lot coverage will total 34%. The addition will maintain the existing west side yard setback of the existing garage – 5 feet. The lot is 330 feet deep, resulting in a maximum setback of 75 feet. The addition will be setback approximately 170 ft from the rear property line. **Affirmative finding.**

###### **(c) Permitted and Conditional Uses**

An accessory dwelling unit to a single family residential property is a permitted use; however, new construction triggers conditional use review. **Affirmative finding.**

**(d) District Specific Regulations**

*1. Setbacks*

*A. Encroachment for residential driveways*  
Not applicable.

*B. Encroachment into the Waterfront Setback*  
Not applicable.

*2. Height*

No change. Not applicable.

*3. Lot Coverage*

*A. Exceptions for Accessory Residential Features*  
Not applicable.

*4. Accessory Residential Structures and Uses*  
Not applicable.

*5. Residential Density*

*A. Additional Unit to multi-family*  
Not applicable.

*B. Additions to Existing Residential Structures*  
Not applicable.

*C. Residential Occupancy Limits*  
Not applicable.

*6. Uses*

*A. Exception for Existing Neighborhood Commercial Uses*  
Not applicable.

*7. Residential Development Bonuses*

No bonuses are sought. Not applicable.

**Article 5: Citywide General Regulations**

**Section 5.4.5 Accessory Dwelling Units**

**(a) Accessory Units, General Standards/Permitted Uses**

*Where there is a primary 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 primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than 2 adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation.*

Zoning Permit 16-1225CA/CU was approved on January 31, 2017 to convert 445 sf of garage space into an accessory dwelling unit. The applicant currently proposes to construct a 165 sf addition on the rear of the garage to increase the size of the accessory unit.

*Additionally, there must be compliance with all the following:*

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

The applicant is working to obtain 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 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;*

The applicant has submitted detailed floor plans of the primary structure, showing habitable floor area totaling 1,467 sf. The proposed addition will bring the accessory dwelling unit to 610 sf. When combined, habitable floor area will total 2,077 sf.  $610/2,077 = 29.4\%$ . **Affirmative finding.**

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

See Table 4.4.5-3 (b) above. The addition will maintain the existing garage's 5 ft side yard setback – which exceeds the minimum setback requirement of 10% of the lot width. Lot coverage will total 34%. **Affirmative finding.**

4. *One additional parking space which may be legally allocated to the necessary unit must be provided for the accessory unit;*

The site plan shows a total of 3 parking spaces, 2 for the main residence, and 1 for the accessory dwelling unit. **Affirmative finding.**  
*and*

5. *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.*

Condition #4 of ZP 16-1225CA/CU will ensure this. **Affirmative finding.**

### **(c) Discontinuance of Accessory Units**

*Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family 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 primary unit or in the accessory unit. If either the primary unit or the accessory unit*

*is no longer 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.*

Condition #4 of ZP 16-1225CA/CU will ensure compliance with this section. **Affirmative finding.**

#### **Section 5.5.1 Nuisance Regulations**

Nothing within the application suggests non-compliance with applicable nuisance regulations and performance standards per the requirement of the Burlington Code of Ordinances.

**Affirmative finding.**

#### **Section 5.5.2 Outdoor Lighting**

A spotlight exists on the rear of the garage, above the entry door to the accessory dwelling unit. No new lighting is proposed under this application. Should the applicant wish to install new outdoor lighting, consultation with Planning and Zoning will be required to ensure compliance.

**Affirmative finding as conditioned.**

#### **Section 5.5.3 Stormwater and Erosion Control**

Not applicable.

#### **Section 5.5.4 Tree Removal**

Not applicable.

### **II. Conditions of Approval**

1. This permit is subject to the conditions of ZP 16-1225CA/CU.
2. **Prior to, or simultaneously with, issuance of a final Certificate of Occupancy,** a final Certificate of Occupancy shall be issued for ZP 16-1225CA/CU.
3. Any additional physical alteration or change of use to the accessory dwelling unit will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.
4. Construction hours shall be limited to Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request to the Development Review Board. No work on Sunday.
5. Should new outdoor lighting be proposed, the applicant shall submit a new zoning permit application to Planning & Zoning for review and approval subject to regulations in effect at the time of permit application submittal.
6. The applicant shall secure any associated trades permits for the interior work.
7. 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

8. Standard Permit Conditions 1-15.