

Ryan Morrison

From: Gayle Goodwin <gayle.goodwin01@gmail.com>
Sent: Wednesday, June 08, 2016 11:21 AM
To: Ryan Morrison; Scott Goodwin; Brian Goodwin
Subject: Scott Goodwin - 410 North Street Accessory Apartment

Ryan,

This email is to let you know that I plan to remove myself from the deed associated with the home on 410 North Street in Burlington Vermont, so that my son Scott Goodwin will be the sole owner of the home and should be able to move forward with his plans for the accessory apartment on his property.

The plan is to have this completed before any construction begins on the accessory apartment.

Please let me know if you have any further questions or concerns.

--

Thanks,

Gayle Goodwin

Ryan Morrison

From: Carl Andeer <candeer@vlct.org>
Sent: Friday, June 24, 2016 3:57 PM
To: Ryan Morrison
Subject: RE: City of Burlington - Accessory Dwelling Unit question

Hi Ryan,

Sarah forwarded me your inquiry, as I was on "phones" when you sent it in.

This zoning bylaw look like it's the city's version of Title 24, Section 4412(1)(E) of the Vermont Statutes Annotated, which is as follows:

§ 4412. Required provisions and prohibited effects

(1) Equal treatment of housing and required provisions for affordable housing.

...

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units;

(ii) a bylaw that requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:

(I) a new accessory structure;

(II) an increase in the height or floor area of the existing dwelling; or

(III) an increase in the dimensions of the parking areas.

We've always had the same interpretation as you--that it allows for another unit--without the requirement that the property owner(s) live in both the main dwelling unit and the accessory dwelling unit. Beyond the fact that neither the state statute nor the city's bylaws mandate this requirement, it would also seemingly go against the implied purpose of the statute/bylaw.

In addition, the state statute, as well as the bylaw's language, restricts the main dwelling unit as being owner occupied, but does not have a similar restriction on the accessory dwelling unit, i.e.: "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." If the bylaw/statute meant to restrict the accessory dwelling unit to being only occupied by the property owner, it would also state similar language, something like, "...one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, which shall be owner-occupied, shall be allowed..."

I hope this is helpful, let us know if you have any other questions.

Regards,

Carl Andeer, Esq.
Staff Attorney I, Municipal Assistance Center
(802) 229-9111 (p)
candeer@vlct.org

Vermont League of Cities & Towns
89 Main Street, Suite 4
Montpelier, VT 05602
www.vlct.org

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From: Ryan Morrison [<mailto:rmorrison@burlingtonvt.gov>]
Sent: Wednesday, June 22, 2016 1:10 PM
To: Sarah Jarvis
Subject: City of Burlington - Accessory Dwelling Unit question

Hi Sarah.

We are looking at a zoning permit application to add an accessory dwelling unit within an existing garage, which was heard last night at DRB, and continued to a later date based on a few factors. The following describes one of those factors. A neighbor opposed to the accessory dwelling is arguing that the owner(s) of a property are required to reside in both the primary dwelling and the accessory dwelling – which would be impossible for a 1-person owned property, and tends to go against the general intent of accessory dwelling units – at least in my experience.

Section 5.4.5 (a) CDO states *“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”.*

Then Section 5.4.5 (c) CDO - Discontinuance of Accessory Units – states *“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 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...”*

We view the sentence in Sec. 5.4.5 (a) basically as step number one – the owners must reside on the site to be able to apply for an accessory unit – basically getting their foot in the door. And that is reiterated in the 1st sentence in Sec. 5.4.5 (c). The second sentence in that section speaks for itself – after the creation of the accessory unit, all individuals on the deed must reside in the primary **OR** the accessory unit. And then the third sentence furthers that point.

The neighbor is arguing that the property owner(s) would have to reside in both the primary and accessory unit. We disagree. However, the DRB hasn't made their determination on this question. I will be looking into the history of the ordinance to see what the intent was.

412 North Street Apt 2
Burlington, VT 05401
802 777 2964
seren@together.net

July 25, 2016

DRB
Burlington

Dear Board Members:

410 North Street

I am, unfortunately, unable to attend the public hearing for this project on August 2, as I am currently out of the country.

Staff comment has not yet been posted for this project, and I will be unable to see that before the meeting, as I will be in a location where I cannot access the Internet. I write, therefore, without knowing what the staff recommendation on this project is.

I also refer you to my previous submission, for the earlier hearing of June 21, which still stands, and I attach below.

- The DRB is considering a revised plan for a proposal to add an accessory dwelling and the required parking to 410 North Street.

I do not believe that the suggested plan conforms with parking requirements, and I believe it will add considerably to congestion behind the two house, but in the event that the DRB should consider approving this plan, I wish to make the following points:

- The revised plan calls for the use of the existing garage for parking two cars.
- This will require alterations to the garage, i.e. installation of a second door, which I do not see indicted on the plan.
- A third parking place would be perched beside the house.
- The area behind 410 which is currently used for parking two cars would, presumably, be required to be left empty in order to provide turning space for the three vehicles.
- *How could this possibly be enforced?*
- If Mr. Goodwin's plan were approved there would be physical space for five cars to park: two in the garage, two in the (now illegal) parking space and one beside the house. How could this possibly be policed?
- I can see a great temptation for visitors to use the illegal space, for occupants to use the illegal space when they're home for only a short period and for occupants to use the illegal space when their garage is occupied and the City imposes a winter parking ban.
- If I, as the neighbor, saw cars parked in the illegal space, what would be my recourse? Do I call the City every time? I think that is an unreasonable burden.

- If you are inclined to approve this application, please stop and take into consideration the question of enforcement.
- I also ask you to further consider the wording of Ordinance 5.4.5, section (c) which states: *"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 . . ."*. This indicates that *both* units must be owner occupied in order to sustain the accessory use.

Thank you for your consideration,
Sincerely,

Julia Lynam

For reference, here is my previous submission:

June 16, 2016

Attn: **Development Review Board of Burlington, VT**

Dear Board Members:

Re: Zoning application # 314184 for 410 North Street

I own and occupy a house at 412 North Street. I have owned this property since June 1997. 410 North Street stands less than 20 feet away from my house, across a narrow dirt driveway which belongs to my property, 412, and over which 410 has a right of way for pedestrian and vehicular access.

I have recently received notice of a Zoning Permit Application for an accessory dwelling at 410 North Street. The current owner of the property has submitted an application to develop an accessory dwelling in the garage. He has told me that he plans to live in either the house or the converted garage, and rent out the remaining bedrooms. I object to this plan on grounds of overcrowding and parking congestion, and I question whether this use is permitted under the accessory dwelling ordinance.

The staff report points out an adverse finding in terms of parking and recommends denial. The applicant reportedly suggested that this could be addressed by habitually reversing out of the driveway: this would be extremely unsafe as North Street is busy with both vehicles and pedestrians, the mouth of the driveway is very narrow, the houses are very close to the road and lines of sight up and down the street are often obstructed by vehicles parked along the road very close to the driveway. (parking on this side of North Street is free and unrestricted and there are no parking bays delineated). Backing out would be extremely hazardous. It only ever happens when a large vehicle, e.g. an SSTA bus, drives into the driveway and can't turn around.

I believe that there is also a non-conformity to ordinance 5.4.5

Before addressing this non-conformity, I'd like to make a few other relevant points:

1. The application includes a statement that there is adequate room for three parking spaces behind 410 North Street. I question this and *I ask that you will have this measurement independently verified, and let me know the result of this verification;*
2. The proposed development would, by increasing rental occupation in a mixed area, have severe adverse impact on the quality of life of the neighborhood in general and for occupants of the adjacent house, 412, in particular;
3. The effect of this proposed development would be to convert one of the few remaining owner-occupied single family houses on the 400 block of North Street into a rental unit housing up to six unrelated individuals: four in the house, and a possible additional two occupants in the garage.
4. This conversion of use of a single family house into a rental which accommodates unrelated individuals runs directly counter to the policy expressed on page IX-2 of the Burlington Municipal Development Plan to: "Encourage the reversion to single family occupancy of properties, especially in areas with high concentrations of student rental housing, which have been converted to multi-unit dwellings". This policy indicates that the conversion of single family to rental units is undesirable.
5. Parking behind 410 is already congested and would become much worse with up to six single people, some, like the applicant, using motor cycles as well as cars, living there. This congestion adversely impinges on the use of the parking area behind 412 by occupants of that house.
6. Wear and tear on my driveway would increase considerably.
7. One of the proposed new windows in the garage looks directly into my backyard at ground floor level at a distance of less than six feet from the property line, seriously encroaching on the privacy of my backyard.

Non-conformity

Ordinance 5.4.5, section (c) states:

"Approval of an accessory dwelling unit is contingent on owner occupancy of the single family dwelling unit as a primary residence."

Throughout the ordinance a clear distinction is made between the "single family dwelling unit" and the "accessory dwelling unit", so this provision indicates that the owner is required to live in the main unit.

And

"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 . . ."

This clearly indicates that *both* units must be owner occupied in order to sustain the accessory use.

I understand that precedents exist that have ignored this provision, but the wording is very clear and I ask you to consider this point carefully.

This requirement follows directly from, and reinforces, the provision requiring that “all individuals listed on the deed to the property must reside in the primary unit or in the accessory unit.”

If I may provide an illustration of the use of the terms “either . . . or”, unconnected with this application, please consider a situation in which a statement is made: “If either the set back or the lot coverage is incorrect, the application is void.” This clearly indicates that *both* requirements must be met for the application to be approved.

In the same way, “if either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling is void” means that *both* units must be owner occupied. This is not possible with only one owner.

I suggest that this ordinance was very carefully written in order to eliminate the possibility of an investor carving out a small niche for himself from a single family property and renting out all the rest. It was written to preserve the concept of an accessory dwelling unit as an independent living space provided by a family for a family member such as an adult child or a grandparent to live independently within a single family home. While this is not explicitly stated, the provisions of the ordinance, when carefully read, dictate this situation.

Furthermore: Ownership of 410 North Street is not entirely clear as of this date. What is clear, however, is that Scott Goodwin is the only owner intending to reside there. He cannot reside in both units. If he moves into the proposed garage unit, the house itself will no longer be owner occupied, and any approval would be void.

The wording of Ordinance 5.4.5 appears to be specifically designed to prohibit exactly the sort of development being proposed by Scott Goodwin, i.e. an investor creating an independent niche for himself so that he can rent out the entire existing property.

The application submitted by Scott Goodwin for an accessory dwelling at 410 North Street does not conform to the relevant ordinance, 5.4.5, of the Burlington Comprehensive Development Ordinance, and I therefore ask the DRB to deny it.

Sincerely,

Julia Lynam
802 777 2964
seren@together.net

May peace prevail on Earth

Ryan Morrison

From: Maea Brandt <maeabrandt@hotmail.com>
Sent: Tuesday, June 21, 2016 11:53 AM
To: Ryan Morrison
Subject: Zoning Permit application for 410 North St

Hello Assistant Planner Ryan Morrison,

I'm writing to support Julia Lynam at 412 North St, who is very concerned with Mr. Goodwin's plan to turn neighboring 410 North St into a rental with an accessory dwelling, where he would live (public hearing today). I am also very concerned, as more renters here would negatively change our neighborhood. If 410 North St became a rental for individuals with 3 or 4 cars in addition to Mr. Goodwin's vehicle, it would increase the already difficult parking problems, over-run Julia's driveway, increase traffic, and we would struggle to maintain the social fabric of our block. Julia's privacy and driveway would be compromised, and if she were unhappy, she might sell, and then her house might become another rental, further compromising our neighborhood.

This happened recently across the street from us. A long-time resident died in the home where he was born, and in a short period of time it became an owner-occupied rental and incredibly busy drug house, with messengers arriving at all times of day and night to pick up deliveries. I was scared for my family. The Burlington Police Department did manage to shut down the drug traffic, the owner is in rehab, and the house is now for sale, but the house is now tainted with a history of crime and drug dealing, and that's not appealing to families with children. I hope a family buys it, but it will probably become a rental again, with people who block our driveways, stay up late partying, and who can't even imagine a neighbor kid whose bedtime is at 7:30 pm. Fireworks in the middle of the night have been a major problem, and will be again in the coming weeks.

Please understand that we are reasonable people who see our quality of life eroding in direct relation to the increase in rental houses in our immediate neighborhood. Renters and owner-occupiers can co-exist, but there needs to be a balance to maintain levels of respect for non-student living.

Please help us maintain a Burlington neighborhood to withstand deterioration by denying the transition of 410 North St. to yet another rental with an accessory dwelling.

Sincerely,

Maea Brandt
422 North Street

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JUN 21 2016

DEPARTMENT OF
PLANNING & ZONING

Ryan Morrison

From: richard hillyard <pompeyhccc@hotmail.com>
Sent: Thursday, June 16, 2016 11:02 AM
To: Ryan Morrison
Subject: Re: 410 North Street

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JUN 21 2016

DEPARTMENT OF
PLANNING & ZONING

No, no questions.

Just appreciate your feedback, Ryan. Sounds like an opportunity for lawyers ca ching,

Thanks again,

Richard

From: Ryan Morrison <rmorrison@burlingtonvt.gov>
Sent: Thursday, June 16, 2016 10:01 AM
To: richard hillyard
Subject: RE: 410 North Street

Good morning Richard. I am attaching my staff report for the zoning permit application for the accessory dwelling unit at 410 North Street. The full report packet with attachments will be available on our website later today or tomorrow. (<https://www.burlingtonvt.gov/PZ/DRB/Agendas>) If you are unable to attend the hearing next Tuesday, you may certainly submit written comments, which will be forwarded to the DRB members for their review.

Agendas and Supporting Documents | City of Burlington, Vermont

www.burlingtonvt.gov

Department of Planning & Zoning City Hall, Burlington, Vermont 05401 Phone: 802-865-7188 Fax: 802-865-7195

In response to your question below, it's really going to depend on how the shared driveway was set up – details of which would be found in the easement language or deed. But that would be between the affected property owners. I'm no land use attorney, so I wouldn't be able to comment whether or not the City could be considered an "enabler", as you describe below.

Let me know if you have any questions. Thank you.

Ryan Morrison, CFM
Associate Planner
City of Burlington
802-865-7190

From: richard hillyard [mailto:pompeyhccc@hotmail.com]
Sent: Wednesday, June 08, 2016 7:55 AM
To: Ryan Morrison <rmorrison@burlingtonvt.gov>
Subject: Re: 410 North Street

Thanks Ryan,

Just one quibble with your "maintenance costs for a shared driveway" comment: If that driveway is the abutter's property, which apparently it is, is it fair that the City might be an "enabler" in increasing the cost of its maintenance without any recourse to the owner?

Thanks again,

Richard Hillyard

From: Ryan Morrison <rmorrison@burlingtonvt.gov>
Sent: Tuesday, June 7, 2016 4:20 PM .
To: richard hillyard
Subject: RE: 410 North Street

Thank you for your comments. I will see to it that the DRB members will review your email. I feel that I can only comment on your second point below – our code requires 1 additional parking space for the proposed accessory dwelling unit, which would have to be out of the shared driveway easement. I cannot comment on the remainder of your second point. Maintenance costs for a shared driveway is between the users. I do not know about any tax credits that could be available either.

Your comments will be submitted to the DRB for their review in preparation for the June 21st public hearing. Thank you.

Ryan Morrison, CFM
Associate Planner
City of Burlington
802-865-7190

From: richard hillyard [mailto:pompeyhccc@hotmail.com]
Sent: Tuesday, June 07, 2016 2:20 PM
To: Ryan Morrison <rmorrison@burlingtonvt.gov>
Subject: 410 North Street

Thanks for inviting comments on the Permit Application for the subject property.

I have essentially two comments:

- 1).It is my understanding that windows from the proposed dwelling would be intrusive to neighboring properties and yards. This is an undesirable consequence of many "infill developments" in progress in the City and, in this case, is directly detrimental to the quality of life of long-term owner-occupier abutters.
- 2).It is not clear what the vehicular "traffic" impact will be. The driveway adjacent to the property is a private driveway, owned and maintained by a neighbor. Increased traffic and possible parking will create further

disturbance and increase maintenance costs for someone else's driveway. If that is OK, is there a reciprocal tax credit to the driveway's owner in the proposal?

In summary, it seems that this is a poorly (selfishly) thought out proposal that will directly affect the quality of life of immediate abutters. Therefore I would recommend denial of this permit application in its current form.

Richard Hillyard
43, High Grove Court

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JUN 21 2016

DEPARTMENT OF
PLANNING & ZONING

Rec @ 6-21-16
DRB Mtg.

Burlington Development
Review Board

I am a 70+ resident of
North Street. Over the
years I have witnessed
historic, single family
homes become apartment
houses and now rooming
houses for college students.
Doors and dividers are
installed into living rooms
and dining areas to make
additional bedrooms.

I am against the renovation
of the garage at 410 North
becoming a dwelling unit.
The driveway at 410 and 412
North is a single drive
and used by both residences.

Once again another driveway
can be named North St. 0
extension as tenants and
friends are in and out
of these driveways.

(over)

SUSAN G.
KOMEN. 

komen.org

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Alison Handley
Nemours of
421 Kent Street

When is the city going
to require the colleges
and university to build
housing for the students?
If we want affordable
housing in this city we
need to have students here
on campus either in
grad houses or rooms or
housing provided by their
establishments.

RECEIVED

MAY - 6 2016

DEPARTMENT OF
PLANNING & ZONING

Re: Zoning Permit Application for the change of space of 410 North Street's garage from garage space to an accessory apartment.

I recently bought 410 north Street on May 2nd, 2016 and would like to turn the existing garage with an already renovated studio space into an accessory dwelling. The current property has 2 parking spaces in addition to a garage bay. To accommodate an exterior third parking space, we would like to add 140sf of gravel on the north and south side of the parking lot. This would increase our lot coverage from 26.4% to 27.7%, a total net increase of 1.3%. We are still leaving about half of the garage bay as the accessory dwelling would exceed 30% of the allowable livable space. This plan would make the accessory dwelling 429sf which would be about 25.7% of the total livable space on the property.

We are adding three 2' wide double hung wood windows. A toilet, bathtub/shower, bathroom sink, kitchen sink, and an electric oven will be added.

If you have any questions or concerns, please do not hesitate to call me. I am also very flexible and would be very willing to adjust anything to make this work.

Sincerely,
Scott Goodwin

Attachments: Zoning Permit Application
Check for \$80
Photographs of the Garage
Site and Architectural drawings

Cc: Sagoodwi@uvm.edu (802) 922-6336



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED
MAY - 6 2016

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 410 North Street, Burlington, VT 05401

PROPERTY

OWNER*: Scott Goodwin

*If condominium unit, written approval from the Association is also required

APPLICANT: Scott Goodwin

POSTAL ADDRESS: 410 North Street

POSTAL ADDRESS: 410 North Street

CITY, ST, ZIP: Burlington, VT, 05401

CITY, ST, ZIP: Burlington, VT, 05401

DAY PHONE: 802-922-6336

DAY PHONE: 802-922-6336

EMAIL: Sagoodwi@uvm.edu

EMAIL: Sagoodwi@uvm.edu

SIGNATURE: *Scott Goodwin*

SIGNATURE: *Scott Goodwin*

I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.

Description of Proposed Project: We will be turning the existing garage into an accessory dwelling. We will be adding gravel to expand the current parking configuration into 3 parking spaces. We will be adding 3 double hung wood windows. And adding a full kitchen and bathroom.

Existing Use of Property: Single Family Multi Family: # Units Other:

Proposed Use of Property: Single Family Multi Family: # Units Other:

- Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled? Yes No
(If yes, the Vermont Residential Building Energy Standards (VRBES) apply. Visit the P&Z Office, Public Service Board or PSB website for details)
- Will 400 sq ft or more of land be disturbed, exposed and/or developed? Yes No
(If yes, you will need to submit the 'Erosion Prevention and Sediment Control Plan' questionnaire, with a site plan)
- For Single Family & Duplex, will total impervious area be 2500 sq ft or more? Yes No
(If yes, you will need to submit the 'Stormwater Management Plan' questionnaire, with a site plan)
- Are you proposing any work within or above the public right of way? Yes No
(If yes, you will need to receive prior approval from the Department of Public Works)

Estimated Construction Cost (value)*: \$ 21,000.00

(*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review. All permit approvals or denials are subject to an appeal period (15 days for administrative permit; 30 days for board permit). A building (and/or electrical, mechanical, plumbing, curb cut) permit will also be required. Contact the Department of Public Works at 802-863-9094 to inquire. Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, or visit the office in the lower level of City Hall, 149 Church Street.

Office Use Only: Zone: RV Eligible for Design Review? Age of House 1690 Lot Size 10950

Type: SN AW FC BA COA 1 COA 2 COA 3 CU MA VR HO SP DT MP

Check No. 191 Amount Paid 00 Zoning Permit # 16-1219 CA/CM

192 150

April 2014