

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: October 17, 2017
RE: 192 Elmwood Avenue, ZP18-0214CA

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: ZP18-0214CA

Location: 192 Elmwood Avenue

Zone: RM **Ward:** 2C

Date application accepted: August 23, 2017 (incomplete application; revised October 11 2017)

Applicant/ Owner: Sam Gardner

Request: Request to convert single family residence to a duplex with a two space parking waiver; associated lot line adjustment. Remove shed.

Background:

- **Zoning Permit 96-209;**
Extend wood stockade fence.
Add a curbcut to access the existing drive (previously entered through adjacent property.) Use remains single family. [Project not undertaken; permit expired.]
- **Zoning Permit 84-171;** install new window in the rear of the house. May 1984.



Overview: 192 Elmwood Avenue is a single family home with an undocumented and unpermitted second unit. Review of the permit history reveals that the parcel has received building permits to accommodate alterations for a 2nd unit (plumbing permit to rewire multi family house, 2013; electrical permit to rewire apartments, 2017.) A new owner wishes to formalize the existing 2nd unit via zoning permit approval. Although no exterior expansion is proposed, density/intensity of development limitations find the property slightly small to accommodate the second unit. As the new owner also owns the adjacent property at 196 Elmwood Avenue, he proposes a minor boundary line adjustment to provide adequate area to

192 for density requirements under Table 4.4.5-2 and 5.2.7 (a) 1. To meet parking requirements for a duplex in the Shared Use Parking District, a two space parking waiver is requested. The proposed unit is approximately 600 sf. and limited to the 2nd floor.

Recommendation: Approval, per the following findings and conditions:

I. Findings

Article 2.7.8 Withhold Permit

The applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. Affirmative finding as conditioned.

Article 4: Zoning Maps and District

Section 4.4.5 Residential Districts

3. *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.*

A two-unit residential structure is consistent with the zoning district. **Affirmative finding.**

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W

Use / Duplex (RM)	Required Lot Frontage 30' minimum	Required Lot Size (none)
192 Elmwood Ave	34'	N/A

Affirmative finding.

Table 4.4.5-2 Base Residential Density

RM Zoning District	20 Units/acre
192 Elmwood Avenue	At 4142 sf lot (.095 A), exceeds 20 units/acre (21.0) With lot line adjustment adding 236 sf: Lot size 4388 (.1A) = 20 meets 20 unit/acre limitation.

Affirmative finding as conditioned.

Table 4.4.5-3 Residential District Dimensional Standards

RM Zoning District	Max Lot Coverage 40%	Setbacks			Max Height 35'
		Front: Average of 2 adjacent lots on both sides +/- 5'	Side: 10% lot width or average of side yard setback of 2 adjacent lots on both sides	Rear: 25% of lot depth but in no event less than 20'	
192 Elmwood Avenue	Existing coverage 57.5% Proposed with lot line adjustment 57.5% No change.	No change	Setback on north increases to 3'8", lessening non conformity.	No change. Shed to be removed.	No change

Affirmative finding as conditioned.

Section 4.4.5 (c) Permitted and Conditional Uses

Duplex is a permitted use in the RM zoning district. **Affirmative finding.**

Section 4.4.5 (d)

1. *Setbacks*

See Table 4.4.5-3, above.

2. *Height*

See Table 4.4.5-3, above.

3. *Lot Coverage*

See Table 4.4.5-3, above.

4. *Accessory Residential Structures and Uses*

The shed, which is not permitted and encroaches into a required setback is proposed for removal. **Affirmative finding.**

5. *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.

Affirmative finding as conditioned.

6. *Uses*

Not an existing Neighborhood Commercial use. Not applicable.

7. *Residential Development Bonuses*

None sought. Not applicable.

Affirmative finding as conditioned.

Article 5: Citywide General Standards

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

Access will remain as existin from Elmwood Avenue.

Affirmative finding.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

192 Elmwood Avenue does not exceed 2 acres. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

(a) Dwelling Units Per Acre

At 4152 sf, 192 Elmwood Avenue is shy of the required lot area to host a duplex per Table 4.4.5-2. The applicant proposes a boundary line adjustment with the abutting 196 Elmwood Avenue, which he also owns. Adding a minimum of 204 sf, the lot will then meet the minimum area for two units. ($4356 \text{ sf} = .1A \cdot 2 \text{ (units)} / .1 = 20$: 20 units per acre Base Residential Density Table 4.4.5-2.) Revised plans for 10/11/2017 propose an increase of 236 sf. An approved boundary line adjustment(s) between the properties is a condition of this consideration.

Affirmative finding as conditioned.

Part 3: Non-conformities

Section 5.3.6 Nonconforming Lots

192 Elmwood Avenue is currently non-conforming to lot size for the intensity of use. (The existing 2nd unit is unpermitted.) The proposed lot line adjustment with 196 Elmwood Avenue will remedy that non-conformity and allow consideration of a second unit.

192 Elmwood Avenue is non-conforming for lot coverage. (57.5% existing; There are no permits that document coverage.) The applicant proposes removing an unpermitted shed, and organizing parking to foreclose any increase in the percentage of existing coverage. **Affirmative finding as conditioned.**

Article 6: Development Review Standards

Part 1: Land Division Standards

Not applicable.

Part 2: Site Plan Design Standards

Section 6.2.2 Review Standards

a. Protection of Important Natural Features

No important natural features have been identified that may be impacted by the plan.

Affirmative finding.

b. Topographic alterations

None proposed. **Affirmative finding.**

c. Protection of Important Public Views

Not applicable.

d. Protection of Important Cultural Resources

192 Elmwood Avenue is not listed on the state or National Register of Historic Resources. Not applicable.

- e. *Supporting the use of Renewable Energy Resources*
Nothing in the application precludes the use of wind, water, solar, geothermal or other renewable energy resources. **Affirmative finding.**
- f. *Brownfields Sites*
192 Elmwood Avenue is not listed on the VDEC list of brownfield sites. Not applicable.
- g. *Provide for Nature's events*
No exterior building changes are proposed. The newly assigned parking area does not disturb more than 400 sf and therefore does not trigger EPSC review. **Affirmative finding.**
- h. *Building Location and Orientation*
No change. Not applicable.
- i. *Vehicular Access*
No change. Not applicable.
- j. *Pedestrian Access*
No changes proposed. **Affirmative finding.**
- k. *Accessibility for the Handicapped*
Burlington's building inspector has jurisdiction for ADA compliance. **Affirmative finding as conditioned.**
- l. *Parking and Circulation*
A small parking area is proposed behind the structure to allow for independent circulation of each vehicle. Currently cars park in tandem in the existing driveway. The applicant requests a two space parking waiver (50% of the requirement in the Shared Use Parking District.) The existing driveway will allow for adequate back-up space for either vehicle. **Affirmative finding if parking waiver granted.**
- m. *Landscaping and Fences*
Not applicable.
- n. *Public Plazas and Open Space*
Not applicable.
- o. *Outdoor lighting*
No changes proposed. Not applicable.
- p. *Integrate Infrastructure into the design*
The applicant will need to identify the location of the 2nd mailbox. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

No exterior building changes are proposed. Not applicable.

Article 8: Parking

In the Shared Use parking district, 2 parking spaces are required for each unit. There are 2 tandem parking spaces on site, four are required for duplex use. Off-site parking is not an option per **Section 8.1.12** (*Except for single and two family dwellings...*) Tandem parking is permissible for duplexes (**Section 8.1.14, Stacked and Tandem Parking Restrictions.**) The applicant requests a 50% or 2 space parking waiver.

Section 8.1.15 Waivers from Parking Requirements / Parking Management Plans

The applicant has provided information that the dwelling has been functioning as a two-unit residential building for many years without detection (corroberated with trades permits); presenting no identifiable parking issue. His submission defines a total of 3 bedrooms (2 downstairs, one in upstairs unit.) The 2nd unit is very small at approx. 600 sf.

The applicant has learned through survey that there is an easement across a neighboring lot for parking; that at present is under investigation. Street parking is available. The submission includes supporting information that the location is close to downtown and a GMT bus goes right by the house, with a bus stop in front of the neighboring property. Given the close proximity to downtown, the availability of public transit, the limited number of bedrooms and the evidence of existing functionality, a 2 space parking waiver may be considered reasonable.

Affirmative finding as conditioned.

Appendix A: Use Table, All Zoning Districts

Attached dwellings/duplex are a permitted use in the RM zoning district. **Affirmative finding.**

II. Conditions of Approval

1. The applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations.
2. **This approval is conditioned upon approved boundary line adjustments between this lot (192 Elmwood Avenue) and 196 Elmwood Avenue; adding a minimum of 204 sq. ft to 192 Elmwood Avenue to create an adequate lot size sufficient to meet minimum density requirements for duplex use under these regulations. Said boundary line adjustment may create no new non-conformity on either lot.**
3. Any alteration to 196 Elmwood Avenue, including adjustment of stairs, ramps, shed or parking, shall require separate permitting.
4. This approval includes a 2 space parking waiver. The applicant shall report in three years' time to define any challenges and to account to the effectiveness and functionality of the granted waiver.
5. In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. All provisions of the Functional Family ordinance shall apply to both units. Not more than four unrelated adults shall occupy any unit.
6. Any requirements relative to ADA compliance are under the jurisdiction of the building inspector.

7. **Prior to release of the zoning permit**, the applicant will need to identify the location of the 2nd mailbox.
8. A State Wastewater permit will be required. It is the responsibility of the property owner to secure this and any other applicable state permits.
9. **Prior to release of the permit**, a letter confirming adequate waste and water capacity shall be forwarded from Burlington's Water Division for the 2nd residential unit.
10. Standard Permit Conditions 1-15.

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