

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: April 3, 2018
RE: ZP18-0700CA; 140 North Willard 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.

Project: ZP18-0700CA

Address: 140 North Willard Street

Zone: RL **Ward:** 1E

Date application accepted:
February 21, 2018

Applicant/ Owner: John Magnant

Request: Remove one story north addition on existing single family house, replace with two story addition; new siding, windows, roof, doors.



Background:

- **Zoning Permit 81-745;** remove existing stairs to basement and construct new ones beside existing ones. (No site plan, no coverage calculation provided.) Same owner. October 1981.
- The house is NOT listed on the state or National Register of Historic Resources, and there are no Historic Surveys that include this building.

Overview: 140 North Willard Street is a single family home with an existing one story north addition within a required (side yard) setback. The applicant requests replacement of that addition with two stories. Vertical expansion within a required setback may be considered by the DRB per Section 5.3.5 (a).

Recommendation: Consent approval, per the following findings and conditions:

I. Findings

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 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 3 Applications, Permits and Project Reviews

Section 3.4.2 Applicability

(b) Design Review

- 2. Any development subject to the provisions of Article 5, Part 3 – Non-conformities.
- 7. Any development made subject to the provisions of the Part by direct reference not otherwise noted here.

See **Section 5.2.1, Existing Small Lots; Section 5.3.5 Nonconformities (a), Changes and Modifications;** and **Article 6, Development Review Standards.**

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

Table 4.4.5-3 Residential District Dimensional Standards

RL Zoning District	Max Lot Coverage 35%	Setbacks			Max Height 35'
		Front Average of 2 adjacent lots on both sides +/- 5'.	Side 10% of lot width or average of side yard setback of 2 adjacent lots on both sides	Rear 25% of lot depth but not less than 20'.	
140 North Willard Street	Existing (with unpermitted patio and shed) 58% Proposed: 58% Removal of patio and shed: 49.28%	No change.	10" existing. 18" proposed. (Setback by averaging adjacent lots = 33".)	No change	No change.

The addition does not increase the lot coverage, but the patio and deck have been added without benefit of a zoning permit; encroach into required setbacks and increase the level of non-conformity relative to lot coverage. Their removal is a condition of this permit.

Affirmative finding as conditioned.

Section 4.4.5 (d) District Specific Regulations:

1. Setbacks

A. Encroachment for Residential Driveways

The pre-existing driveway encroaches into a required setback, and may remain. **Affirmative finding.**

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

No change.

3. Lot Coverage

A. Exceptions for Accessory Residential Features

In the RL, RL-W, RM and RM-W districts, an additional ten per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed or be used for parking:

- i. Decks*
- ii. Patios*
- iii. Porches*
- iv. Terraces*
- v. Tennis or other outdoor game courts*
- vi. Swimming pools and swimming pool aprons*
- vii. Walkways*
- viii. Window wells, and/or*
- ix. Pervious pavement designed and maintained to infiltrate the 1 year / 24-hour storm event onsite, subject to review and approval by the Stormwater Administrator.*

The submitted site plan demonstrates existing coverage (inclusive of the patio and shed) at 58%; far in excess of the 35% base lot coverage limitation and the bonus provision allowance of 45%. The removal of both patio and shed will return the small lot to a less non-conforming lot coverage of 49.28%. **Affirmative finding as conditioned.**

4. Accessory Residential Structures and Uses

A. Accessory Structures shall meet the dimensional requirements set forth in the district in which they are located pursuant to Section 4.4.5 (b) of this Article and related requirements in Article 5, Part 2.

The shed and patio have not been installed with the benefit of a zoning permit and are situated within a required rear and side yard setback. They also increase the level of non-conformity relative to lot coverage. Their removal is a condition of approval.

Affirmative finding as conditioned.

5. Residential density

A. Additional Unit to Multi-Family

Not applicable.

B. Additions to Existing Residential Structures.

No request for an addition to an existing structure shall be considered or imply approval of an additional unit, unless requested specifically on the zoning permit application form.

No change proposed. The property will remain a single family dwelling. **Affirmative finding as conditioned.**

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.

Not more than 4 unrelated adults may occupy the dwelling unit. **Affirmative finding as conditioned.**

6. Uses

No change proposed. **Affirmative finding as conditioned.**

7. Residential Development Bonuses

No bonuses are sought. Not applicable.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

A permit for any development shall require a certificate of appropriateness pursuant to the design review provisions of Article 3 and the development standards of Article 6.

With lot dimensions of 40' x 77' and area of 3,080 sf, 140 North Willard Street is an existing, developed small lot.

See Articles 3, 5 and 6.

Section 5.2.2 Required Frontage or Access

The lot is non-conforming to frontage per Article 4, Table 4.5.5-1. (In RL zoning district, minimum 60' frontage. 140 North Willard Street has 40' frontage.) See Non-conformities, Section 5.3.5.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above. **Affirmative finding as conditioned.**

Section 5.2.4 Buildable Area Calculation

Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3. Required setback on the north has been calculated utilizing the method provided in Section 5.2.5 (a) 2. **Affirmative finding as conditioned.**

Section 5.2.6 Building Height Limits

See Table 4.4.5-3. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

At .07 acres, the lot cannot accommodate any additional residential units. (See Table 4.4.5-2, Base Residential Density, RL Zone.) The property remains a single family home. **Affirmative finding as conditioned.**

Part 3: Non Conformities

Section 5.3.5 Non Conforming Structures

(a) Changes and Modifications.

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

- 1. Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.*

140 North Willard is non-conforming to setbacks; that is, the required north setback as averaged from neighboring properties is calculated at 33". The existing setback on the north is approx. 10". The applicant proposes demolition of the north, single story addition and replacement with a two story addition 18" from the property line; less non-conforming than the existing conditions. The proposed vertical expansion (adding a 2nd story) is at the discretion of the DRB, see below.

*Within the residential districts, and subject to Development Review Board approval, **existing nonconforming single family homes** and community centers (existing enclosed spaces only) that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure.*

The location of the proposed expansion is an existing enclosed space. The proposed vertical expansion does not further encroach into the setback.

Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);

See Section 4.4.5, above.

ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks;

Residential structures in the immediate area demonstrate close proximity to property lines.

and,

iii) Be compatible with the character and scale of surrounding structures.

2. Such a change or modification shall not create any new nonconformity;

No new non-conformity is introduced.

and,

3. Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.

Article 3, Part 4 makes reference to Article 6, Development Review Standards (below.)

4. When any portion of a nonconforming structure has been made conforming, it shall not be made nonconforming again except as provided for historic building features pursuant to Section 5.2.6 (b) (3).

The application does not propose alteration that returns the site to conformity. The conditions, as proposed, will lessen the level of non-conformity relative to lot coverage.

Affirmative finding as conditioned.

Sec. 5.4.8 Historic Buildings and Sites

The house is not listed on the state or National Register of Historic Resources, nor is it included in any Historic Survey. Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

The application to rebuilt and vertically expand an existing northerly addition will have no impact on natural features of the site. **Affirmative finding.**

(b) Topographical Alterations:

No change proposed. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected public views from this site. **Affirmative finding.**

(d) Protection of Important Cultural Resources:

The structure is not listed on the state or National Register of Historic Resources; nor is it included in any Historic Sites and Structures Survey. Not applicable.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application precludes the use of wind, water, solar, geothermal, or other renewable energy resources. **Affirmative finding.**

(f) Brownfield Sites:

The parcel is not listed on the Department of Environmental conservation's Brownfield website. Not applicable.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

The area of disturbance does not exceed the 400 sq. ft. minimum so as to warrant an Erosion Prevention and Sediment Control Plan.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

Building entries will remain as existing; the westerly (front) door, and the southerly (driveway side) door through a storage room to the interior. If the front entry canopy is retained, both will provide a modicum of shelter for residents and guests.

No change is proposed to the existing one-car driveway. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The building will continue to be oriented toward the street. **Affirmative finding.**

(i) Vehicular Access:

No change. **Affirmative finding.**

(j) Pedestrian Access:

No change. **Affirmative finding.**

(k) Accessibility for the Handicapped:

While not a requirement for a single family home, handicap access is encouraged. Any *visitability* or ADA standards are under the jurisdiction of the building inspector. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

No change. **Affirmative finding.**

(m) Landscaping and Fences:

No change proposed. **Affirmative finding.**

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

No changes to exterior lighting have been proposed within the application materials. If the applicant wishes to modify exterior lighting, specification sheets, fixture and lumens levels shall be submitted to staff to review for acceptability under these standards. **Affirmative finding as conditioned.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall

be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

The electric meter is illustrated on the north (existing) elevation. The site plan defines Natural Gas connection on the same elevation. The close proximity to the neighboring property and a stockade fence obscure their presence. The applicant shall define whether the fence will remain, or other screening method is to be employed.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

No mechanical equipment is proposed.

Affirmative finding as conditioned.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

The proposed 2nd floor expansion will not exceed the height of the existing structure, and will be recessed (east) from the primary frontage. **Affirmative finding.**

2. Roofs and Rooflines.

The proposed roofline is a modified hip with a skylight on the north face. The existing shed roof will be removed to accommodate the proposed addition. **Affirmative finding.**

3. Building Openings

All doors and windows will be replaced. Close proximity to property line creates some code compliance issues in terms of fire ratings and wall penetrations. The north elevation notes that “architectural panels” will be substituted for windows, but the floor plans illustrate the intended window openings. The applicant will be required to meet all building and life safety code, including egress, as defined by the building inspector. **Affirmative finding as conditioned.**

(b) Protection of Important Architectural Resources:

Not applicable.

(c) Protection of Important Public Views:

There are no important public views from this private parcel. Not applicable.

(d) Provide an active and inviting street edge:

The existing building has synthetic replacement siding, an entrance canopy and a traditionally organized primary façade. Proposed alterations will largely retain the arrangement of windows and doors, with the inclusion of new siding (Boral and fiber cement shingles), new windows and doors. The proposed 2 story addition will somewhat increase the massing of the structure, but in nearly identical footprint to the existing single story addition. The renovations will freshen the street appearance. **Affirmative finding.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Boral and fiber cement sheathing are proposed; as are replacement windows, doors and asphalt shingle roof. All are considered of acceptable durability in new construction.

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

The house is not listed on the state or National Register of Historic Resources, nor included in any Historic Sites and Structures Survey. **Affirmative finding.**

(f) Reduce energy utilization:

All construction must meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

None are proposed. Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

Development must observe all required building and life safety code as defined by the building inspector and/or fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

The Neighborhood Parking District require 2 parking spaces for each residential unit. This is a pre-existing single family home with one parking space. As pre-existing non-conforming, it may continue. **Affirmative finding.**

II. Conditions of Approval

1. Per **Section 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.
2. There is no evidence that the patio and garden shed on the submitted site plan have been installed with the benefit of building and/or zoning permits. Both encroach into required setbacks and increase the level of (non-conforming) lot coverage. The applicant has not provided evidence to support a Statute of Limitations consideration (in continuous existence for more than 15 years.) Therefore, a condition of this permit is the removal of both the patio and garden shed.
3. Occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Not more than four unrelated adults may occupy the unit.
4. Approval of the addition does not constitute an increase in the number of residential units. The house remains a single family dwelling.
5. The canopy is recommended for retention over the front (westerly) entry door.
6. The applicant shall define the method of screening for utility connections **prior to release of the zoning permit.**
7. All construction must meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy conservation, Section 8 of the City of Burlington Code of Ordinances.
8. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.