

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

<http://www.burlingtonvt.gov/PZ/>

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

*David E. White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk*



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: December 6, 2016
RE: ZP16-1262CA, 6-8 Proctor Place

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: ZP16-1262CA

Location: 6-8 Proctor Place

Zone: RL-W **Ward:** 5S

Date application accepted: November 9, 2016

Original application approval date: July 21, 2016.

Applicant/ Owner: Rebecca Grannis and Chapin Spencer

Request: Request to adjust location of replacement single family home on site to meet required setback from underground utilities. Request to consider the parcel a corner lot with front yards on Proctor Place and the northerly easement area, allowing different setbacks based on interpretation of access easement as a *front yard* rather than a *side yard*. Such an interpretation would also render the easterly boundary a *side yard* rather than a *rear yard*. New building elevations included.

Background:

- **Zoning Permit 16-1262CA;** replace existing mobile home and garage with new single family home and shed on a lot that has two existing single family dwellings. Approved July 2016.
- (6 Proctor Place – existing single family home.) **Zoning Permit ZP16-0020CA;** install replacement windows, new insulation and siding. Construct small rear addition with solar panels.

- Non-Applicability of Zoning Permit Requirements, **ZP07-563NA**, repair existing back porch. No change in size or materials (one of two single family dwellings on one lot.) April 2007.
- Permit 64-400; add 16' x16' room to house trailer. February, 1964. (“Rear of 6 Proctor Place, Mobile home.”)



Overview: 6-8 Proctor Place is a single parcel with two separate dwelling units, a garage and shed. Although fronting on Proctor Place, the buildings are oriented toward the easement north of the parcel. Residential buildings include a stick-built residence (currently under renovation), and a manufactured home with a detached garage. The DRB approved demolition of the mobile home and garage, with replacement with a new stick built home July 21, 2016, profiting from retention of existing non-conforming setbacks.

A condition of that approval:

1. *Nothing in this approval shall affect in any way whatever rights may exist relative to the easements or rights-of-way for the municipal sewer line. If the site plan needs to be altered to accommodate the sewer line, the application must come back for either DRB or staff review as appropriate.*

Since that review and approval, the location of underground utilities (and identification of new utilities) have been more accurately defined; the required utility setbacks “pushing” the area for any proposed structure further north on the lot. The applicant asserts this new information will diminish the size of the structure she could rebuild, and therefore has presented a revised site plan to staff for review. She requests that the parcel be interpreted as a “corner lot”, with the boundary line on the north deemed a *front yard*, allowing for a front yard setback rather than a side yard setback, and the easterly boundary line as a *side yard* rather than a rear yard, altering those required setbacks. This interpretation would also allow for greater building volume, as setback requirements change.

As previously reviewed, the identified front yard is that which fronts on Proctor Place (west boundary); the north and south boundaries side yards, and the easterly boundary a rear yard.

The Findings, below, reflect review of the revised site plan with the north boundary interpreted as a *side yard*. The applicant requests interpretation of the north boundary as a *front yard*, which would affect setbacks.

Recommendation: **Denial** of the reconfigured site plan, **denial** of a determination of the easement frontage a *front yard* and interpretation of the lot as a corner lot, per the following findings:

I. Findings

Article 4: Maps & Districts

Section 4.4.5 Residential Districts

(a) Purpose

2. *The Waterfront Residential Low Density (RL-W) 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 development history. This district is distinguished from the Residential Low Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.*

(b) Dimensional Standards and Density

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

This is an existing parcel with two single family dwelling units. The structural replacement of one unit will replicate existing intensity of development. Lot size and frontage (on Proctor Place and the northerly easement area) will remain as existing. **Affirmative finding.**

Table 4.4.5-2 Base Residential Density

No change to existing. **Affirmative finding.**

Table 4.4.5-3 Dimensional Standards and Density

RL-W District	Max. Lot Coverage 35%	Building setbacks			Waterfront: Min. 75' from the ordinary high water mark of Lake Champlain and the Winooski River	Max. Height 35'
		Front Ave. of 2 adjacent lots on both sides +/- 5'.	Side ³ Min: 10% of lot width, or average of 2 adjacent lots on both sides. Max 20'.	Rear Min: 25% lot depth, min. 20', max 75'		
Proposed development as amended	30.01%	No change to Proctor Place frontage. New home to be constructed east of existing dwelling as a replacement of mobile home.	No change to south setback. 10" setback on the north proposed which would meet 10% lot width requirement; however, porch encroaches into required side yard setback, and exceeds allowance afforded by ZAI 11-02. (Limited to width of structure.) Additionally, structure proposed as full 2 story at (non-conforming) garage area. See Non-conformities, below.	The revised site plan illustrates construction of 2 story dwelling within area of current garage. Although non-conformity to setback may be retained, (permissible under 5.3.5. (b.)), only the single family home may vertically expand; not the footprint area of accessory structure (garage.). See non-conformities, below. The parking area will retain the same degree of non-conformity relative to setback as the existing garage. Under requested interpretation of the easterly boundary as a side yard, there would be no rear yard.	No change.	Approx. 20' to the mid-line of the rise of the roof. Full side yard setback must be met as structure exceeds 15' in height. Porch exceeds allowance of ZAI 11-02 in width.

Footnote 4: *Additional setbacks from the lakeshore and other water features may be applicable per the requirements of the Section 4.5.4 Riparian and Littoral Conservation Overlay Zone. 6-8 Proctor Place falls within that overlay. See Section 4.5.4.*

Adverse finding.

Section 4.4.5 (c) Permitted and Conditional Uses

Single detached dwellings and Duplex are permitted uses in the RL-W zoning district, per Appendix A. This is a pre-existing lot with two single family residences. No change in use is proposed. **Affirmative finding.**

Section 4.4.5 (d) District Specific Regulations

1. Setbacks

A. Encroachment for Residential Driveways

This is an existing, developed lot with two single family homes. The mobile home has a detached garage and driveway that are proposed to be replaced with a new single family home and two parking spaces. The two parking spaces for this dwelling unit continue the same degree of non-conformity to setback that currently exists.

See Table 4.4.5-3, above.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

See Table 4.4.5 -3, above. Section 5.3.5 (a) specifically prohibits the proposed vertical expansion in the area currently the location of an accessory structure (garage). See Non-Conformities, below. **Adverse finding.**

3. Lot Coverage

A. Exceptions for Accessory Residential Features

Relates to coverage bonus for specified amenities. Proposed coverage is within allowable limits. **Affirmative finding.**

4. Accessory Residential Structures and Uses

The proposed shed remains incidental and subordinate to the principal residential use. Coverage remains within limitations of the ordinance without separate calculation of bonus features. **Affirmative finding.**

5. Residential density

A. Additional Unit to Multi-family

Not applicable.

B. Additions to Existing Residential Structures

Not applicable.

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.

This is a requirement and condition of permit approval. **Affirmative finding as conditioned.**

6. Uses

This is not a neighborhood commercial use. Not applicable.

7. *Residential Development Bonuses*

No development bonuses are sought. Not applicable.

Section 4.5.4 Natural Resource Protection Overlay (NR) District

b) Areas Affected

Riparian and Littoral Conservation Zone which consists of all surface water and a corresponding upland buffer area, and specifically includes the following areas:

A. Uplands within 250 feet of the Lake Champlain lakeshore (measured at 100-feet above mean sea level) with the exception of that portion of the shoreline between the northern extent of the Interim Development Area north of the former Moran Generating Station and the most westerly extent of Roundhouse Point described as the “Urban Waterfront” in the 2000 Open Space Protection Plan;



B. Uplands within 250 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank where the channel has access to its floodplain, of the Winooski River;

C. Uplands within 100 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank, where the channel has access to its floodplain, of Engelsby Brook, Potash Brook or Centennial Brook; and,

D. Uplands within 50 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank where the channel has access to its floodplain, of all other minor streams, or the mean shoreline of all other minor ponds.

The project area currently has approximately 1400 sf. of developed area within the “buffer” zone of the overlay zoning district. The proposal will replace approximately 1000 sf within the same buffer. As no new area is proposed to be introduced and structural area will diminish, the application does not trigger review under these standards. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.1.2 Structures

(d) Accessory Residential Structures

The applicant has provided information about the proposed new shed. **Affirmative finding.**

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

The lot has 98.30' of frontage on Proctor Place, but has deeded use of a 100' long easement for access along the northly property line. The applicant does not own the easement area, which is part of the 83 Central Avenue parcel. Deed language confirms allowance for ingress and egress within a defined easement area, which is not public. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3 above.

Section 5.2.4 Buildable Area Calculation

The lot does not exceed the 2-acre threshold. Not applicable.

Section 5.2.5 Setbacks

(a) Setbacks required.

Unless otherwise authorized or specified under the district-specific provisions of Article 4, which shall be controlling over these provisions, a setback shall be provided between any proposed structures and/or site features, and the front, side and rear yard property lines as follows: (See Art. 13 for definitions of "setback" and "yard.")

1. *Front yard. In order to maintain the existing pattern of development along a given street, both a minimum and maximum front yard setback shall be maintained where required under Article 4.*
 - A. *The minimum front yard setback for any structure shall be the average of the front yard setback of principal structures in lawful existence as of the adoption of this ordinance on the two (2) neighboring lots on either side and within the same block and having the same street frontage.*

The existing westerly home on the 6-8 Proctor Place parcel establishes the front yard setback for Proctor Place. No change is proposed there. The easement area north of this parcel is not a Front yard as it does not front on a public right of way, is privately owned, and is not public.

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- B. *The maximum front yard setback for any structure, if any is required, shall be a distance specified under the district-specific provisions of Article 4 permitted in addition to the minimum front yard setback specified above in order to allow for continued variation of the building pattern along the street.*

See Table 4.4.5-3, above. Zoning Administrative Interpretation (ZAI) 11-02 allows access to first floors to encroach within required setbacks, but not wider than the building façade. Even if interpreted as a Front Yard, the porch remains too wide to meet this setback exemption.

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- C. *Lots having frontage on more than one public street shall maintain a front yard setback on each public street **except access alleys.***

The applicants seek to identify the parcel as a corner lot, with the easement area as a front yard for purposes of setback. This lot has frontage on only one public street: Proctor Place. The easement area is not a public right-of-way, and therefore cannot be determined to be a front yard. This standard specifically excludes access alleys, which is what borders the northerly property line.

2. *Side yard.* The minimum side yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as a percent of the lot width, such width shall be measured parallel to the lot frontage. Alternatively, where provided for under Article 4, the minimum side yard setback may be the average of the correlating side yard setbacks (i.e. left or right) of principal structures in lawful existence as of the adoption of this ordinance on the four (4) neighboring lots (2 on either side) and within the same block having the same street frontage.

The northerly boundary line has been determined to be the side yard, with a required 10% lot width for a setback. Averaging cannot be utilized as this is the only parcel on Proctor Place. The setback should be minimally 9.83, increasing as the lot becomes wider moving east. See Table 4.4.5-3, above.

The applicant's interpretation of the easement area as a front yard would render the easterly boundary line a side yard; allowing greater development potential with the accompanying 10' setback requirement. Determination of the easterly boundary as a side yard would also facilitate vertical expansion of the single family house within an area previously determined to be non-conforming to setback, in turn limiting vertical expansion to the existing single family home (not accessory structure area.)

3. *Rear yard.* Minimum rear yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as percent of the lot width, such width shall be measured perpendicular to the lot frontage.

The easterly boundary line has been determined to be a rear yard (not a side yard, as suggested by the applicant.) The existing non-conforming setbacks have been allowed to continue as long as they do not increase the level of non-conformity. Specific standards apply under Section 5.3.5, below.

(b) Exceptions to Yard Setback Requirements:

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. *Abutting Building with Doors or Windows:* Where the façade of an existing adjacent principal building is within 5 feet of the common property line and has either doors or windows, a setback of 10-feet shall be required for any new development up to the height of the abutting building in any district where no setback is required.

Not applicable.

2. *Building and Site Features.* Eaves, sills, roof overhangs, cornices, steps to first floor entries, walkways, ramps for the disabled, fences, walls, and similar building and site features may project into a required yard setback.

The proposed porch on the north encroaches into a required setback which might be acceptable under ZAI 11-02; however, it exceeds the width of the façade and therefore noncompliant.

It appears that building eave lines encroach into required utility setbacks on the south; acceptable under this standard.

First floor entry steps on the east elevation encroach into the rear yard setback (by staff determination) or side yard setback (interpretation of applicant) and may be acceptable under this provision; except they also appear to hinder the required parking space identified within that area.

3. *Historic Building Features. Features of a historic building such as porches, additions, entries, bays and porticos that have been removed may be replaced and may project into required yard setbacks subject to the following:*
 - A. *The structure is listed or eligible for listing on the State or National Register of Historic Places;*
 - B. *The building feature being replaced was a character defining feature of the primary structure, can be documented to have previously existed, and is being replaced within the original footprint; and,*
 - C. *The building feature replacement is completed in accordance with the standards for historic buildings contained in Sec. 5.4.8.*

Not applicable.

4. *Accessory Structures and Parking Areas. Accessory structures no more than fifteen (15) feet in height, parking areas, and driveways may project into a required side and rear yard setback provided they are no less than five (5) feet from a side or rear property line where such a setback is required.*

The revised plans propose to continue the setback non-conformity on the east for parking. See Section 5.3.5, below.

5. *Swimming Pools. Swimming pools and related features, but not including structures, may project into a required side or rear yard setback provided that the water's edge is no less than five (5) feet, and any apron less than two (2) feet, from any property line.*

Not applicable.

6. *Shared Driveways. Common or shared driveways and walkways along shared property lines and associated parking areas do not have to meet setback requirements along the shared property line.*

The easement is not on the 6-8 Proctor Place parcel, nor does it serve another property. Not applicable.

7. *Additional exceptions for nonconforming structures under Sec. 5.3.5.*

See 5.3.5, below.

Adverse finding.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3 above.

Section 5.2.7. Density and Intensity of Development Calculations

This is an existing parcel with two single family homes. The proposal intends to duplicate that situation, with replacement of a mobile home. **Affirmative finding.**

Part 3: Non-Conformities

Section 5.3.5 Nonconforming Structures

Section 5.3.3 Continuation

Except as otherwise specific in this Article, any nonconformity which lawfully existed at the time of passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this Part.

Section 5.3.5 Nonconforming 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.*

*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. 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);*
- ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,*
- iii) Be compatible with the character and scale of surrounding structures.*

Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

The existing single family home (trailer) may continue to encroach into required setbacks AND be expanded vertically per this standard. The garage footprint may allow for replacement within that required setback to the same degree, however may not be expanded vertically as it is an accessory structure 15' in height or less, not a single family residence. The proposed plan includes development of a two story residence including vertical expansion within the existing garage footprint, which is specifically prohibited by this standard.

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

The vertical expansion of the garage footprint as part of a replacement home creates new non-conformity.

and,

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

A non-conforming residential structure may be enlarged up to the dimensional standards of the underlying zoning district, subject to review and approval by the DRB pursuant to Art. 3, Part 4 Design Review and Art. 3, Part 5 Conditional Use Review.

Adverse finding.

(b) Demolition

A nonconforming structure may be replaced by a new structure retaining the same degree of nonconformity as the original structure. This provision is limited to the existing dimensional nonconformity (i.e. setback, lot coverage, or height), and shall not expand the degree of nonconformity except as provided for in (a) above. [Vertical expansion in residential zoning districts.] The new structure shall be subject to conformance with all other dimensional requirements (i.e. setback, lot coverage, and height). Zoning permit application for the replacement structure shall be completed within 1 year of demolition of the nonconforming structure; failure to do so shall result in the loss of the ability to retain the nonconformity.

The application proposes the demolition/removal of the existing mobile home and garage. The replacement structure expands the existing non-conformity by adding 2 story habitable area within the footprint of the existing garage (accessory structure; see above.) Any replacement structure may retain the same degree of nonconformity as it relates to setbacks; but vertical expansion of accessory structures is expressed prohibited per Section 5.3.5 (a) 1., above.

The applicant requests that an interpretation be made that the parcel is a corner lot; therefore making the easterly boundary line a side yard requiring a setback 10% of lot width. Under that interpretation, the proposal is compliant.

The applicant has failed to seek alternatives with the changed circumstances: There remains the possibility of capturing the entire building footprint of the mobile home with additions, and vertically expanding in new construction. There is potential development area west of the current footprint that has not been utilized and could afford relief within the staff interpretation of front yards/setbacks.

By staff interpretation of yards and setbacks, **Adverse finding.**

Section 5.4.8 Historic Buildings and Sites

Not applicable.

Section 5.5.1 Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

Plans include a residential scale full cut-off exterior light fixture. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

An Erosion Prevention and Sediment Control Plan has been forwarded to the City Stormwater staff for review and approval. Any conditions will require compliance post construction with the approved plan prior to issuance of any Certificate of Occupancy. **Affirmative finding as conditioned.**

Article 6: Development Review Standards

Part 1, Land Division Design Standards

Not applicable.

Part 2, Site Plan Design Standards

Section 6.2.2 Review Standards

(a) Protection of important natural features

There are no identified significant natural features. **Affirmative finding.**

(b) Topographical alterations

None proposed. **Affirmative finding.**

(c) Protection of important public views

There are no important public views from or through the property. **Affirmative finding.**

(d) Protection of important cultural resources

Not applicable.

(e) Supporting the use of alternative energy

Solar panels are proposed for the southerly roof. **Affirmative finding.**

(f) Brownfield sites

The property is not listed on the Vermont DEC Hazardous Waste Site. The mobile home shall be disposed of in a safe and legal manner. **Affirmative finding as conditioned.**

(g) Provide for nature's events

A Small Project Erosion and Sediment Control Plan has been submitted and is under review by the Stormwater Engineering team. **Affirmative finding as conditioned.**

No specific areas for snow storage have been identified on the site, however the driveway termini as well as the easement area provide logical places for snow storage. **Affirmative finding.**

(h) Building location and orientation

The new home will be oriented in the same manner as the existing; toward the north easement area, where ingress and egress are permissible. **Affirmative finding.**

(i) Vehicular access

The proposal will duplicate the existing condition of vehicular access off Proctor Place onto the deeded ingress easement area to the easterly driveway. Although the garage is proposed for removal, the tandem parking area is in the same location. **Affirmative finding.**

(j) *Pedestrian access*

There are no sidewalks on Proctor Place or the easement area. This is adjacent to the Burlington Bikepath, so pedestrian access continues to be available immediately at hand. **Affirmative finding.**

(k) *Accessibility for the handicapped*

Accessibility is under the review of the building inspector. Typically, ADA access is not a requirement for single family homes. Vermont visitability standards may apply. **Affirmative finding.**

(l) *Parking and circulation*

The number of parking spaces will remain constant: There is currently one parking space for the westerly home, and two parking spaces have been associated with this residence. The proposal plans to replicate those two spaces as tandem spaces, retaining the same degree of setback as the existing garage. Confirmation is needed that the proposed entry to the first floor on the east side does not encumber the first parking space. Vehicles utilize the 20' x 100 ft. easement as noted on the LaRose Survey for access. **Affirmative finding.**

(m) *Landscaping and fences*

No information has been submitted about landscaping. Screening will be required to minimize the visibility of the Condensing unit on the west side. **Affirmative finding as conditioned.**

(n) *Public plazas and open space*

Not applicable.

(o) *Outdoor lighting*

See Section 5.5.2.

(p) *Integrate infrastructure into the design*

New utilities will be undergrounded. The location of the heat pump is identified on the west elevation; a mailbox is adjacent to the front door. The location of above ground utility connections is not visible on plans and should be. **The trash/recycling location remains visibly prominent on the westerly façade,** and will require a different location or creation of an area to adequately contain and screen the facilities. **Affirmative finding if conditioned.**

Part 3, Architectural Design Standards
Section 6.3.2 Review Standards

(a) *Relate development to its environment:*

1. Massing, Height and Scale:

At present the mobile home as a low profile; single story with several building additions. The applicant has provided a revised home design with a gable front orientation toward Proctor Avenue and eaves-front to the north and south. It is not dissimilar from the scale of the companion house to the west on the same lot, however encroaches into the easterly (rear) setback by virtue of the 2nd story. See Non-conformities, Section 5.3.5 (a), above. **Adverse finding.**

2. Roofs and Rooflines.

A gable roof plan is proposed, consistent with the existing garage and common to the companion house and other residences within the immediate neighborhood.

A porch is proposed on the north elevation which will assist in likely snowslide from the upper roof; however, the porch width exceeds the building façade and therefore in conflict with ZAI 11-02. **Adverse finding.**

3. Building Openings

Window openings shall maintain consistent patterns and proportions appropriate to the use. The window pattern should add variety and interest to the architecture, and be proportioned to appear more vertical than horizontal.

The broadest expanse of glazing is located on the south elevation which will provide the most benefit of passive solar gain. Windows are distributed around the structure, aligned more vertically than horizontally on the north and east as required by this standard. Greater consideration to the “balance” and arrangement of door and window openings across the building’s façade would calm the overall design.

The revised design has oriented the north elevation as a primary façade, when the street front is Proctor Place. That (westerly) elevation lacks an inviting presence, and includes support features (trash, recycling, condensing unit) better located in a less visible location and will require some method of screening.

Doors are provided on all four elevations.

Although the entry door on the east elevation may encroach into a required setback per ZAI 11-02, the entry stairs appear to encroach upon a required parking space. Pushing that parking space north may bump the 2nd space off the subject parcel. A scaled drawing ensuring retention of both parking spaces will be necessary to confirm compliance. **No finding possible.**

(b) Protection of Important Architectural Resources:

Not applicable.

(c) Protection of Important Public Views:

There are no public views from or through this site. Not applicable.

(d) Provide an active and inviting street edge:

The present situation is an aging manufactured home with multiple additions (one obscuring the front) and an older two car garage fronting the easement access. The proposed home will have a primary entrance clearly identifiable and welcoming from the access entrance; it will be

sheltered by a porch canopy supported by sections of tree trunk as columns. As noted, the porch may encroach into a required setback if it does not exceed the width of the façade – which it does.

The westerly elevation which does front the public right-of-way (Proctor Place) has equipment and trash/recycling deserving of relocation to a less visible location (preferred) or requiring a method of screening. **Adverse 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.

Proposed materials are Corten (metal) and cedar siding with cedar trim. Windows are proposed to be triple pane fiberglass. The roof is standing seam. All are considered of acceptable durability. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction is required to 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 if conditioned.**

New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practicable, in order to provide opportunities for the use of active and passive solar utilization.

Solar panels are proposed for the roof on the south elevation. **Affirmative finding.**

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

See 6.2.2. (p).

(i) Make spaces secure and safe:

All requirements for building and life safety code as defined by the building inspector and fire marshal shall be implemented. **Affirmative finding if conditioned.**

Article 8: Parking

Table 8.1.8-1 Minimum Off Street Parking Requirements

In the neighborhood parking district, two parking spaces are required for each dwelling unit. This is an existing, non-conforming site with the westerly residence having a single parking space, and the mobile home with two parking spaces within a garage. The garage is proposed to be removed. The two replacement parking spaces are intended to be in a tandem arrangement at

the current location of the garage. The existing number of parking spaces will be replicated in the new development; however, a first floor entry appears to be impeding one parking space. Measurements will need to be provided to assure 2 required parking spaces. **No finding possible.**

Section 8.2.5 Bicycle Parking Requirements

There is no requirement for bicycle parking for single family homes; however, provision for bicycle parking and storage for residents is broadly encouraged. Not applicable.

Article 9: Inclusionary and Replacement Housing

The dwelling unit intended for demolition will be replaced. **Affirmative finding.**

Article 13: Definitions:

Easement: *An acquired right of or upon the property of another for a specified purpose.*

6-8 Proctor Place has an easement for access across the 20' x 100' area north of that parcel. It is not open to the public, nor is it owned by the applicant or the municipality. It is a private easement for parking and access. It is not a street.

Frontage: *(see Article 5 for specific measurement calculations)*

- a. *Building: That portion of a building that faces a public street or right of way.*
- b. *Street: That dimension of the lot which abuts a public street or right of way.*

6-8 Proctor Place has a frontage on a public street, Proctor Place. There is a deeded easement to the 20' x 100' access on the north of the lot, which is not a public way.

Front Yard: *The full width of property along a street frontage and between the structure and the right of way.*

6-8 Proctor Place have a boundary line that fronts a public street (Proctor Place.) The owner holds an easement to an area to the north of the parcel which is not public. An interpretation of a Front Yard is intended to identify access to public streets, not easement areas over private property. The easement area is private, not intended for public use. This definition assumes public right-of-way.

Yard

- (a) *Yard, front: The area encompassing the full width of the lot and lying between the **street line of the lot** and the nearest line of the building.*

6-8 Proctor Place has 98.30' frontage on Proctor Place. This is the front yard. The northerly boundary line does not front on a street line; therefore not a front yard.

- (b) *Yard, rear: The area extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. A rear yard has no street frontage, but may abut an alley.*

The easterly boundary line is the rear yard, and abuts an easement area. This definition demonstrates that proximity to an alley does not constitute a front yard.

- (c) *Yard, side: The area between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either, to the front or rear lot lines. A side yard has no street frontage, but may abut an alley.*

The north and south boundary lines are interpreted as side yards (although this application proposes the north boundary as a front yard.) This definition also allows for a side yard to abut an access alley or easement without re-interpretation as a front yard.

Conditions of Approval, as approved July 21, 2016:

1. Residential occupancy limits are subject to the Functional Family definition of Article 13 and residential density provisions of the ordinance. Not more than 4 unrelated adults may occupy any unit.
2. The replacement structure shall be completed within 1 year of demolition of the nonconforming structure; failure to do so shall result in the loss of the ability to retain the nonconformity.
3. Unless specifically altered by the DRB, hours of construction are limited to M-F 7:00 am to 5:30 pm, with Saturday hours limited to interior work.
4. Information about the proposed shed shall be submitted and is subject to staff review and approval **prior to release of the zoning permit**. It shall meet a minimum 5' side yard setback. [Met 9/28/2016.]
5. An **Erosion Prevention and Sediment Control Plan** must be approved in writing by the City Stormwater staff.
6. A **landscaping plan** shall be required for review and approval by staff **prior to release of the zoning permit**. The plan shall include relocation of the trash/recycling containers to avoid conflict with the parking area and to minimize visibility; screening for the condensing unit, and any other landscaping or fencing proposed for the property. [Recommend trash and recycling areas moved to secondary façade or location out of visibility from easement area or Proctor Place; screening if appropriate.]
7. All new construction is required to 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. The existing mobile home shall be disposed of in a safe and legal manner.
9. 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.