

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
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk*



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: September 19, 2017
RE: ZP18-0143CA/CU

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: ZP18-0143CA/CU

Location: 201 Prospect Parkway

Zone: RL Ward: 6S

Date application accepted: August 8, 2017

Applicant/ Owner: Eugene Richards III / Stephen Richards

Request: Convert rear addition of garage to accessory dwelling unit.

Background:

- **Zoning Permit 18-0142CA;** window and door replacement and rearrangement on garage. August 2017.
- **Zoning Permit 87-838;** rear addition to existing garage and addition of screened porch to home. April 1988.

Overview: 201 South Prospect Street has an oversized two car garage with a permitted rear addition which is proposed to be converted to a new accessory dwelling unit.



Applicable regulations: Article 3 (Applications Permits and Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), and Article 8 (Parking.)

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

I. Findings

Article 2: Administrative Mechanisms **Section 2.7.8 Withhold Permit**

The administrative officer is authorized to deny all zoning permits or certificates of occupancy for any property with an uncorrected zoning violation (i.e. notice of zoning violation and/or municipal complaint ticket has been issued and is not under appeal). The administrative officer is also authorized to deny all zoning permits for any property with an expired zoning permit without a final certificate of occupancy.

*Instead of withholding or denying a zoning permit, the administrative officer may grant such permit **subject to the condition that the uncorrected zoning violation is corrected or the expired zoning permit is closed out with a final certificate of occupancy.** Such action(s) shall take place before the issuance of a final certificate of occupancy on the new permit.*

Affirmative finding as conditioned.

Article 3: Applications, Permit and Project Reviews

Part 5: Conditional Use

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards (as adopted by City Council 8.10.2015)

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area.*

Incorporation of an accessory dwelling unit with an existing single family home in a residential zoning district will not result in an undue adverse effect on existing or planned public facilities. **Affirmative finding.**

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

This is a residential zoning district; the proposed addition to an existing single family home to include an accessory dwelling unit is in concert with the district and the Municipal Development Plan:

- *Support the development of additional housing opportunities within the city... [MDP, Housing Plan, Page IX-1.]*
- *Encourage a wide range of housing options to meet different and changing needs of households with children, the elderly, people with disabilities and moderate and low income households. [MDP, Housing Plan, Page IX-1.]*
- *Conserve the existing elements and design of its established neighborhoods. [MDP, Historic Preservation, Page IV-1.]*
- *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning. [MDP, Housing Plan, Page IX-12.]*

Affirmative finding.

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

The addition of an accessory dwelling unit with an existing single family home will have no discernable nuisance impacts, with effects typical of other residences in the neighborhood. **Affirmative finding.**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*

The required addition of a single parking space for the accessory dwelling unit will have no measureable impact on transportation systems, street level of service or other performance measures. Prospect Parkway is an established thoroughfare; existing sidewalks are on the opposite side of the street but an existing walkway on the parcel leads to the public right-of-way via the driveway. The street is broad enough to accommodate bicycle traffic comfortably.

A new walkway is proposed from the driveway to the new ADU. As arranged, the plan may be deemed compliant. **Affirmative finding.**
and

5. *The utilization of renewable energy resources;*
No part of this application will prevent the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*
The applicant will be required to provide a letter from the Department of Public Works confirming adequate water and sewer capacity for the new accessory dwelling unit. Additionally, Withhold Permit standards (Section 2.7.8) shall require that any zoning violations be remedied and any permits issued after July 13, 1989 be closed out.
Affirmative finding as conditioned.

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*

The required third parking space can be easily accommodated in the existing driveway or garage. There are no identified impacts that would require mitigation.

Affirmative finding.

2. *Time limits for construction.*

The permit will have a two-year life from the date of approval. Reference is made to Section 3.2.9 (d). **Affirmative finding as conditioned.**

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

Residential use has no limitation on hours of operation.
 Construction shall be limited Monday-Friday 7:30- 5:30 pm, with indoor work only on Saturdays. No construction shall occur on Sundays. **Affirmative finding as conditioned.**

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*

Any enlargement will be reviewed under the zoning regulations in effect at that time.

Affirmative finding.

and

5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

Any other performance standards are at the discretion of the Development Review Board.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

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

201 Prospect Parkways exceeds the required minimum lot size of 6,000 sf (15,000 sf lot) and required lot frontage of 60' (99'). **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Waterfront	Max. Height ¹
		Front ²	Side ³	Rear			
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20'	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River		35-feet
201 Prospect Parkway	28% existing; 28.8% proposed	No change	No change.	No change.	N/A		No change

Affirmative finding.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

The subject parcel has 99’ frontage on a public road with a two car access driveway to a double garage. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

This lot does not exceed 2 acres in size. 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

The property will remain a single family home, utilizing a previously permitted structural addition to the garage as an accessory dwelling unit. For purposes of density, the property remains a single family home. **Affirmative finding.**

Section 5.3.6 Nonconforming Lots

Not applicable.

Section 5.4.5 Accessory Dwelling Units

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

Where there is a primary structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to the primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than 2 adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:

- 1. The property has sufficient wastewater capacity as certified by the department of public works;*

The applicant will be required to provide written proof of water/sewer capacity issued from the Department of Public Works. **Affirmative finding as conditioned.**

- 2. The unit does not consist of more than 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;*

616 sf. is 23.33% of 2640 sf sf; the total finished area of both the existing single family residence (2024 sf) and the proposed apartment area. This is within the 30% maximum allowance.

Affirmative finding.

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

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

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

The site plan confirms the adequacy of parking illustrating a two lane driveway leading to an oversized 2 car garage. Two cars can be accommodated in the garage, and the required third parking space behind either one in the driveway. **Affirmative finding.**

and,

5. *A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.*

This remains a condition of approval. **Affirmative finding as conditioned.**

(b) Conditional Use for Accessory Units:

If any of the following are also proposed, conditional use approval as well as development review provisions of Article 6 shall be required:

1. *A new accessory structure;*
2. *An increase in the height or habitable floor area of the existing dwelling;*
3. *An Increase in the dimensions of any parking area.*

The application proposes expanded habitable area, so Conditional Use Review applies. See Section 3.5.6 (a), above.

(c) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

Affirmative finding as conditioned.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division is proposed. Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

The project submission does not detail any proposed changes to topography. **Affirmative finding.**

(c) Protection of Important Public Views:

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

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

The property was surveyed within the 2005 Historic Sites and Structures Survey of Prospect Park, and was determined to be eligible for historic listing. There are no exterior changes proposed within this application other than a new walkway. **Affirmative finding.**

(e) Supporting the Use of Renewable Energy Resources:

No part of the application will prevent the utilization of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**

(f) Brownfield Sites:

The site is not listed on the VT ANR or DEC Brownfields list of identified sites. **Affirmative finding.**

(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.

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.

No ground disturbance is proposed so there is no requirement for an Erosion Prevention and Sediment Control Plan.

The principal entrance to the ADU is proposed on the north elevation. A walkway with an exterior light has been provided to that entrance. **Affirmative finding.**

(h) Building Location and Orientation:

Not applicable.

(i) Vehicular Access:

There is an existing driveway which presently provides site access. This right of entry will remain.

Affirmative finding.

(j) Pedestrian Access:

There remains an existing walkway to the principal residence, with a small walkway added from the driveway to the north entrance of the ADU. **Affirmative finding.**

(k) Accessibility for the Handicapped:

Accessibility is not a requirement for a single family residence, but it encouraged.

Not applicable.

(l) Parking and Circulation:

The existing driveway easily accommodates 2 parking spaces; the two car garage remains available for parking 2 cars. The required 3 total parking spaces can be accommodated without further alteration. **Affirmative finding.**

(m) Landscaping and Fences:

Not applicable.

(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.

The applicant has submitted a spec sheet of a full cut-off residential style lighting fixture; sufficient for the use and compliance with this standard. **Affirmative finding.**

(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.

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.

Utility connections are existing and not proposed for alteration. The existing garage can accommodate trash and recycling. The ADU mailbox is anticipated to be co-located with the existing mailbox for the primary residence. An exterior vent will be located on the north elevation. If any additional mechanical equipment is proposed, it, too must be identified by spec sheet and location on a plan as appropriate. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

Window and door replacement on the garage has previously been permitted. No other exterior changes are proposed. Not applicable.

Article 8: Parking

The existing single family home requires 2 parking spaces in the Neighborhood Parking District, and the proposed ADU requires 1 additional space. Three parking spaces can be accommodated in the double wide driveway and two car garage. **Affirmative finding.**

II. Conditions of Approval

1. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit **prior to the issuance of the certificate of occupancy for the unit.** Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions **including owner occupancy.** No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.
2. **Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence.** For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the

approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

3. Functional Family provisions of the ordinance remain in effect. Not more than 4 unrelated adults may occupy the single family residence.
4. No more than 2 adults may occupy the Accessory Dwelling Unit.
5. The accessory dwelling unit is limited to 30% of the habitable area of the single family residence including the ADU.
6. A letter assuring adequate wastewater and water capacity for the new unit from the Department of Public Works shall be required **prior to release of the zoning permit**.
7. Hours of construction are limited to 7:30 am- 5:30 pm Monday through Friday. Saturday construction is limited to interior work. No construction shall occur on Sundays.
8. Any additional mechanical equipment (if proposed) shall be illustrated on a site plan or building elevation as appropriate and is subject to review and approval by staff.
9. 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.
10. 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.
11. Standard Permit Conditions 1-15.

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