

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: August 15, 2017
RE: ZP18-0005CA/CU; 62 Sunset Cliff Road

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: ZP18-0005CA/CU

Location: 62 Sunset Cliff Road

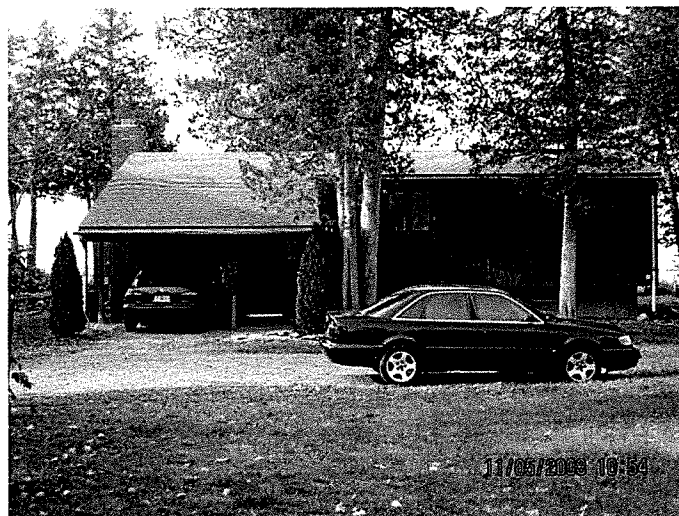
Zone: RLW **Ward:** 4N

Date application accepted: July 6, 2017

Owner / Applicant: 62 Sunset Cliff Realty LLC / Nlb Construction Consulting LLC

Request: Residential addition to a single-family residence within a Riparian and Littoral Conservation Zone. The project also includes residing the existing structure with wood clapboard siding.

Applicable Regulations: Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards)



Background: No previous zoning permits exist for the property.

Overview: The applicant seeks approval to construct an addition to the existing single-family residence. The northwest corner of the addition will be located slightly closer to the Lake

Champlain shoreline than the existing structure. As a result, the proposal is subject to Conditional Use Review as it is within the Riparian and Littoral Conservation Zone.

The Conservation Board reviewed this application on August 7, 2017 and voted 7-0 to recommend approval of the project as proposed, with a recommended condition that heavy equipment operate between the building and the bluff to the least extent possible.

Recommendation: Consent approval as per, and subject to, the following findings and conditions.

I. Findings:

Article 3: Applications, Permits, and Project Reviews

Part 5, Conditional Use & Major Impact Review

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review 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;*

The proposed addition will not increase existing demands on community utilities, facilities or services. **(Affirmative finding)**

2. *The character of the area affected;*

The subject property is in, and surrounded by, the Waterfront Residential Low Density (RLW) zone. Existing development in the area is consistent with the purpose of the zoning district, which is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is distinguished from the Residential Low Density (RL) district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff. The proposed residential addition will not change the existing use of the property, nor will it alter the character of the neighborhood. **(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;*

Nuisance impacts will remain unchanged. **(Affirmative finding)**

4. *Transportation system capable of supporting the proposed use;*

Transportion system impacts will remain unchanged. **(Affirmative finding)**

5. *Utilization of renewable energy resources;*

Not applicable.

6. *Bylaws then in effect;*

As conditioned, the project complies with all applicable bylaws. **(Affirmative finding)**

(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 proposed addition is not expected to generate offsite noise or glare. **(Affirmative finding)**

2. Time limits for construction.

The addition is planned to be constructed in a single phase within the standard 2-year time frame. Therefore, no phasing schedule or special time limits on construction are needed. **(Affirmative finding)**

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

No hours of construction are noted in the application. Days and hours of construction are limited to Monday – Friday 7:00 AM – 5:00 PM. Saturday construction within those hours may be allowed upon request to the DRB. No construction activity on Sunday. **(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; and,

Any future enlargement or alteration of the residence will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

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.

To be addressed in conditions of approval

Article 4: Zoning Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Waterfront Residential Low Density (RLW)

The subject property is located in the RLW zone. This zone is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive development pattern reflective of the respective neighborhoods' 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. The existing residential use of the subject property meets the intention of the underlying zoning district, and the proposed addition will not detract from it. **(Affirmative finding)**

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the height of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

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

Single detached dwelling, RLW Minimum 60' frontage, Minimum Lot Size – 6,000 sf

Not applicable. The property is within the RL Larger Lot Overlay District, where greater lot size and frontage requirements are required. See Table 4.5.5-1 below.

Table 4.4.5-2 Base Residential Density

Low Density: RL, RL-W 7 units/acre

Not applicable. The property is within the RL Larger Lot Overlay District, where density is calculated at a different ratio. See Table 4.5.5-1 below.

Table 4.4.5-3 Residential District Dimensional Standards

Maximum Lot Coverage – 35%

Setbacks: Front – Average of 2 adjacent lots on both sides +/- 5 feet; Side – 10% of lot width or ave. of side yard setback of 2 adjacent lots on both sides; Rear – 25% of lot depth but in no event less than 20'; Waterfront – 75' from the ordinary high water mark of Lake Champlain.

Maximum Height – 35 feet

The lot coverage will increase from 18% to 22%. The height at the roof ridge is proposed to be 16 feet.

The average front yard setback of the 2 adjacent lots on both sides of the subject property is 217.75 feet. The site plan shows a front yard building setback line in accordance with the calculated average setback. The lot has a frontage of 51 feet, and the addition is proposed to be setback a minimum distance of 5'10" from the side yard property line. To the property's rear is Lake Champlain. If there exists surrounding development on the waterfront, within 75 feet of the ordinary high water mark of Lake Champlain, then the waterfront setback can be based on the average setback to the ordinary high water mark of Lake Champlain of the 2 adjacent lots on both sides. The applicant has determined the average waterfront setback to be 34.52 feet. The proposed addition will be setback approx. 37 feet from the ordinary high water mark. See Sec. 4.4.5 (d)(1)(b) below. **(Affirmative finding)**

(c) Permitted and Conditional Uses

A single family dwelling is a permitted use per Appendix. A – Use Table – All Zoning Districts.

(d) District Specific Regulations

1. Setbacks

A. Encroachment for residential driveways

Not applicable.

B. Encroachment into the Waterfront Setback

(ii) If the waterfront setback of existing principle structures within a distance of one hundred fifty (150) feet on either or both sides of a lot is less than the required setback, the setback may be reduced to the average alignment of such structures.

The applicant has provided the waterfront setbacks of the 4 adjacent properties within 150 feet of the subject property. 52, 58, 68, and 76 Sunset Cliff Road have setbacks of 52.01', 33.36', 30.78', and 21.95', respectively. These setbacks average 34.52 ft. The applicant

proposes an approximate setback of 37 ft from the ordinary high water mark. (**Affirmative finding**)

2. *Height*

A. *Exceptions in the Waterfront RM District*

Not applicable.

3. *Lot Coverage*

A. *Exceptions for Accessory Residential Features*

Not applicable.

4. *Accessory Residential Structures and Uses*

Not applicable.

5. *Residential Density*

A. *Additional Unit to multi-family*

Not applicable.

B. *Additions to Existing Residential Structures*

A zoning permit application has been submitted for the review and approval of the proposed residential addition. (**Affirmative finding**)

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.

The residential occupancy provisions of the ordinance will continue to apply to the single family residence. (**Affirmative finding**)

6. *Uses*

A. *Exception for Existing Neighborhood Commercial Uses*

Not applicable.

7. *Residential Development Bonuses*

No bonuses are sought. Not applicable.

Sec. 4.5.4, Natural Resource Protection Overlay District:

(b) Areas Affected

1. *A 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 95.5 feet above mean sea level per National Geodetic Vertical Datum 1929) 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.*

The property is within 250 feet of the Lake Champlain lakeshore, and is therefore subject to the review criteria of Sec. 4.5.4 (c) – District Specific Regulations: Riparian and Littoral Conservation Zone. **(Affirmative finding)**

(c) District Specific Regulations: Riparian and Littoral Conservation Zone

(3) Conditional Uses

Except where otherwise noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including any construction of buildings or other structures, and roads, parking areas or any other impervious surface, may be approved only within the Riparian and Littoral Conservation Zone and its associated buffer after review and approval pursuant to the Conditional Use review provisions of Article 3 and subject to the requirements and limitations below under Subpart 4.

The property lies within the Riparian and Littoral Conservation Zone, and is subject to conditional use review. See Article 3 above. **(Affirmative finding)**

(4) Requirements

1. *Any land disturbing activities (i.e., vegetation has been removed, or the landscape has been graded or filled resulting in bare soil surfaces) shall include a stormwater management, erosion prevention and sediment control plan pursuant to the requirements of Sec 5.5.3 to be reviewed by the conservation board and approved by the city engineer.*

In making determinations and decisions required herein, the city engineer shall consider the requirements of the most recent State of Vermont Stormwater Management Rules and Guidance document. The city engineer shall require the best practicable means be used to manage stormwater, prevent erosion, and control sedimentation. The city engineer is hereby authorized to develop performance standards to ensure conformance with these state stormwater management rules;

An Erosion Prevention and Sediment Control (EPSC) Plan for the proposal was approved by the Stormwater Program Manager on July 12, 2017. The Conservation Board also reviewed the proposal on August 7, 2017, and voted unanimously to recommend approval of the project with a suggestion to limit heavy equipment activity between the building and the shoreline bluff. **(Affirmative finding as conditioned)**

2. *Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of Water Quality;*

Not applicable.

3. *Installation of any seawalls, rip-rap or other shoreland retention structures shall be submitted for review by the conservation board who shall consult with the city engineer prior to issuance of a recommendation to the DRB; and,*

Not applicable.

4. *No new stormwater outfall shall directly discharge into any surface water without approval and implementation of a stormwater management plan approved by the city engineer.*

Part of the EPSC plan includes the installation of an 84-foot long drip line infiltration trench under the eaves of the new addition, and beyond. This should result in very limited, if any, stormwater outfall into Lake Champlain. **(Affirmative finding)**

Sec. 4.5.5, RL Larger Lot Overlay District

(a) Purpose

The RL Larger Lot Overlay District is intended to maintain the existing residential development pattern of larger residential lots reflective of the neighborhoods' development history.

(b) Areas Covered

The RL Larger Lot Overlay District includes those portions of the RL Zoning District as delineated on Map 4.5.5-1 RL Larger Lot Overlay District.

The subject property and surrounding neighborhood are within the Appletree Point RL-LL Overlay District. **(Affirmative finding)**

(c) District Specific Regulations: RL Larger Lot Overlay District

1. Minimum Lot Size and Density

The density and intensity of development and dimensions of building lots in the RL Larger Lot Overlay shall be modified from the underlying RL or RL-W standards of Table 4.4.5-1 and 4.4.5-2 as follows:

Table 4.5.5-1: Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay

	<i>Minimum Lot Frontage¹ (In linear feet)</i>	<i>Minimum Lot Size (In square feet)</i>	<i>Maximum dwelling units per acre² (without bonuses or any Inclusionary Zoning allowances)</i>
Single detached dwelling	75 feet	9,900 sqft	4.4 units/acre
Duplex and above	100 feet	15,840 sqft	5.5 units/acre
<p><i>The DRB may adjust the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street. Inclusive of new streets but exclusive of existing streets.</i></p>			

62 Sunset Cliff Road is a 22,095 sq ft, pre-existing lot, with 51 feet of frontage. While the frontage is substandard, the lot fans out toward Lake Champlain to a maximum width of 89' 11".

22,095 / 43,560 (acre) = .507 acres.

1 unit / .507 = 1.97 units; well below the 4.4 unit/acre limitation. **(Affirmative finding)**

Article 5: Citywide General Regulations

Part 5: Performance Standards

Sec. 5.5.3 Stormwater and Erosion Control

All new development and redevelopment projects that require a zoning permit shall be required to demonstrate compliance with the standards in Article 3, Stormwater & Erosion Control of Chapter 26 of the City Code of Ordinances: Wastewater, Stormwater, and Pollution Control. As noted above, an EPSC plan for the project was approved by the Stormwater Program Manager on July 12, 2017. **(Affirmative finding)**

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 lake shore is an important natural feature, as identified in the Open Space Protection Plan. A bluff along the lake shoreline exists, with an approximate elevation drop of 24 feet. The property has been residentially developed, with scattered trees throughout. Within the footprint of the proposed addition are five trees that will be removed. As per the Conservation Board's recommendation and Condition # 8 below, the applicant is to be advised to limit heavy equipment activity between the lakeshore bluff and the house in an effort to protect the bluff.

(Affirmative finding as conditioned)

(b) Topographical alterations

The existing home and proposed addition are located on a relatively level portion of the property. The greatest topographical feature is the bluff along the shoreline, which will not be altered as a result of the project. No significant topographical alteration is included in the project plans.

(Affirmative finding)

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. **(Affirmative finding)**

(d) Protection of important cultural resources

The property contains no archaeologically significant site points, nor is it located within an archaeologically sensitive area. The property is of no known historical significance.

(Affirmative finding)

(e) Supporting the use of alternative energy

There is no indication that the proposed home will utilize alternative energy. Solar energy utilization is encouraged. In any event, the addition will not adversely impact the actual or potential use of alternative energies by neighboring properties. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not an identified brownfield. **(Affirmative finding)**

(g) Provide for nature's events

As noted above, the city's stormwater program manager has reviewed and approved the proposed stormwater management. The addition does not include any new entries. **(Affirmative finding)**

(h) Building location and orientation

The proposed addition will locate along the north and east side of the existing home. The addition is appropriately oriented towards the street. The finished building will be situated similarly to other homes in the neighborhood. Ample lawn and open space will continue to surround the home. **(Affirmative finding)**

(i) Vehicular access

The property will continue to have adequate vehicular access. **(Affirmative finding)**

(j) Pedestrian access

This criterion requires that a walkway connect the front doors to the public sidewalk. In this case, there is no public sidewalk along Sunset Cliff Road. There exists no front walkway on the property today, and the current proposal does not include a front walkway either. There appear to be no such walkways on the properties in the surrounding neighborhood that provide access to Sunset Cliff Road. These properties are particularly deep with long driveways. **(Affirmative finding)**

(k) Accessibility for the handicapped

No handicap accessibility is evident or required with this proposal. **(Affirmative finding)**

(l) Parking and circulation

The property currently has three spaces. No new parking spaces are proposed or required as part of the proposal. Single family uses in the Neighborhood Parking District require two spaces. **(Affirmative finding)**

(m) Landscaping and fences

The project plans do not indicate any new landscaping. As noted above, five trees located in the proposed addition's footprint will be removed. However, there will still be trees maintained to the north of the addition that will continue to provide a buffer between the home and the neighboring home to the north. **(Affirmative finding)**

(n) Public plazas and open space

No public plaza or open space is included or required in this proposal. **(Not applicable)**

(o) Outdoor lighting

Not applicable. No new exterior lighting is proposed.

(p) Integrate infrastructure into the design

No new utilities or mechanical units are included as part of the project. **(Affirmative finding)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The massing, height, and scale of the residence, after the addition is constructed, will be consistent with that of existing homes within the neighborhood. The neighborhood contains what appears to be all single family homes. The homes come in a variety of typically suburban forms and styles. Height is well under the underlying zone's 35' height restriction. **(Affirmative finding)**

2. Roofs and Rooflines

The smaller portion of the addition that essentially extends the existing structure to the north will maintain the same roofline, and end with the gable roof. The larger portion of the addition that extends toward Sunset Cliff Road will also be gabled. The overall building height will remain the same as existing. Asphalt shingle roofing material will be installed to match the existing roof material. **(Affirmative finding)**

3. Building Openings

With the exception of the addition's east wall, Integrity Wood-Ultrex double hung windows will be installed on the addition. The east wall that faces the road will consist of a centrally located window pattern consisting of fixed, panel, and double-hung windows extending from slightly above the ground level upward to within the front gable end. No new doors are proposed. Fenestration is appropriately scaled for the residence. **(Affirmative finding)**

(b) Protection of important architectural resources

There are no historically significant structures on, or near, the subject property. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

As noted above, the existing home is setback quite a distance from the road, approximately 220 feet. Approximately half of the wall facing Sunset Cliff Road will consist of windows, which will result in no large blank walls. Although the setback is large, fenestration and the roofline work successfully to provide an active and inviting street elevation. **(Affirmative finding)**

(e) Quality of materials

Siding on the existing structure is currently T1-11, which is proposed to be changed to match the wood clapboard siding proposed for the addition. Asphalt shingles will be installed to match existing. Integrity Wood-Ultrex double hung windows will be installed. The materials proposed are of acceptable quality and durability for new construction such as this. **(Affirmative finding)**

(f) Reduce energy utilization

The addition must comply with the current energy efficiency standards of Burlington and the State of Vermont. **(Affirmative finding as conditioned)**

(g) Make advertising features complimentary to the site

No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

No new utility meters or mechanical units are evident on the project plans. **(Affirmative finding)**

(i) Make spaces safe and secure

The proposed addition must comply with the city's current egress requirements. The existing building entries will continue to be used. There will be no new entries on the addition.

(Affirmative finding as conditioned)

II. Conditions of Approval

1. Days and hours of construction are limited to Monday – Friday 7:00 AM – 5:00 PM. Saturday construction within those hours may be allowed upon request to the DRB. No construction activity on Sunday.
2. The applicant is advised to limit heavy equipment activity between the lakeshore bluff and the house.
3. The applicant/property owner is responsible for obtaining all necessary Building Permits through the Department of Public Works as well as other state or federal permit(s) as may be required, and shall meet all energy efficiency codes, as well as egress codes, of the city and state as required.
4. 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.
5. Vermont Residential Building Energy Standards apply to this project. Compliance with the standards is the Owner's responsibility. Prior to requesting a Certificate of Occupancy, a copy of a completed Vermont Residential Building Energy Standards Certificate shall be submitted with a Certificate of Occupancy (final or temporary) request, and filed in the Land Records located at the Clerk/Treasurers office in City Hall (149 Church Street). For more information, see http://publicservice.vermont.gov/topics/energy_efficiency.
6. Standard permit conditions 1-15.

