

## Department of Planning and Zoning

149 Church Street

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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: October 16, 2018  
RE: ZP19-0284CA, 69 Charlotte 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:** ZP19-0284CA

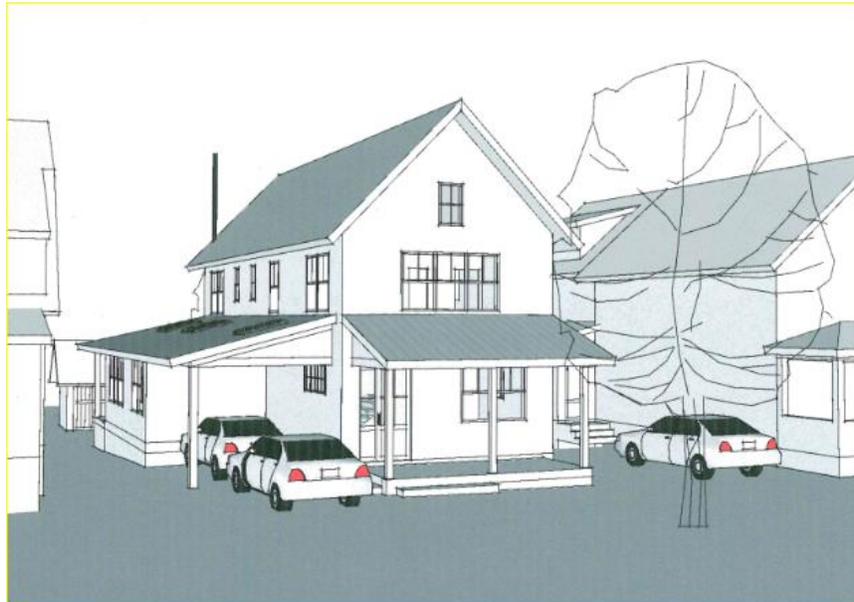
**Zoning District:** RL **Ward:** 5S

**Date application accepted:** September 24, 2018

**Applicant/ Owner:** Selin & Selin Architects / Paul and Sa Budnitz

**Parking District:** Neighborhood

**Request:** Demolish existing single family home and shed; replace with new single family home and accessory structure.



#### Background:

- ◆ **Zoning Permit 12-0886CA;** replacement of deck. April 2012.
- ◆ **Zoning Permit 12-0463CA;** replace asphalt shingle roof with new metal roof. October 2011.

- ◆ **Zoning Permit 07-707FC**; replace existing chain link fence with 6 ft. tall cedar fence. May 2007.
- ◆ **Zoning Permit 06-364CA**; replace front door with new door of same dimensions, different design. November 2005.
- ◆ **Zoning Permit 84-287**; Construct a 964 sf. addition to the rear of the existing house to be one story in height. June 1984.
- ◆ **Zoning Permit 79-584**; renovate and update existing structure and utilities, siding, windows, roof, wiring and plumbing. October 1979.

**Overview:** 69 Charlotte Street is a single family home constructed in 1921 and most likely built by a carpenter named Edward Paya. Although within the Five Sisters / New Harlem neighborhood, this structure was considered non-contributing as a historic resource due to alterations. The application proposes demolition of the house and construction of a new single family dwelling and accessory structure.

The **Design Advisory Board** reviewed the application at their October 9, 2018 meeting, and voted **unanimously to recommend approval** of the application, with encouragement to consider relocation of the condenser to the west side of the north elevation as allowable.

**Recommended motion: Certificate of Appropriateness Consent approval**, per the following findings and conditions:

## I. Findings

### 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 4: Zoning Maps and Districts

#### **Section 4.4.5 Residential Districts**

##### **(a) Purpose**

##### **1. Residential Low Density (RL)**

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes. The proposed single family home is consistent with this purpose. **Affirmative finding.**

##### **(b) Dimensional Standards & Density (Table 4.4.5-1)**

The 5,327 sf lot falls short of the minimum lot size requirement of at least 6,000 sf, but is an existing, developed lot. It has 42'6" frontage, less than the 60' standard; however, Sec. 5.2.1, *Existing Small Lots*, enables development as long as there is at least 40' frontage.

## Table 4.4.5-2 Base Residential Density

The 0.12-acre lot (5,327) currently has one dwelling unit, which is proposed to be replaced. This is non-conforming to the base residential density of 7 units/acre in the RL zoning district, but will not increase the level of non-conformity and therefore, per Section 5.3.5, may continue.

Lot coverage will drop from 48% to 47%, above the 35% limit. While lot coverage remains nonconforming, the degree of nonconformity will lessen.

The new home is currently non-conforming to setbacks, but will become conforming with new construction.

The proposed replacement home is 26' tall to the midpoint of the gable roof, well under the 35' limit. **Affirmative finding.**

### (c) Permitted & Conditional Uses

The proposed single family home is a permitted use in the RL zone. **Affirmative finding.**

### (d) District Specific Regulations

#### 1. Setbacks

None sought under this criterion. **Affirmative finding.**

#### 2. Height

No height bonuses are being sought. **Not applicable.**

### 3. Lot Coverage

#### A. Exceptions for Accessory Residential Features.

*In the RL, RL-W, RM and RM-W districts, an additional ten (10) 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 existing site is developed with a base coverage of 2,288 sf (42.95%) and bonus features totaling 256 sf (4.8%), for a total coverage of 47.75%. New construction proposes a base coverage of 1980 sf (37.16%) and bonus coverage of 520 sf (9.76%) for an overall coverage of 46.92%; a reduction in both base and total coverage for the lot. **Affirmative finding.**

### 4. Accessory Residential Structures and Uses

*An accessory structure and/or use as provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential use, including but not limited to private garages, carriage houses, barns, storage sheds, tennis courts, swimming pools, cabanas for swimming pools and detached fireplaces may be permitted as follows:*

*1. Accessory Structures shall meet the dimensional requirement set forth in the district in which they are located pursuant to Sec. 4.4.5(b) of this Article and related requirements in Art 5, Part 2;*

The proposed shed does not exceed 15' in height and meets the minimum required setback from any property line of 5'. **Affirmative finding.**

*2. Any accessory structure that is seventy-five percent (75%) or greater of the ground floor area of the principle structure shall be subject to the site plan and design review provisions of Art. 3, Part 4 and the applicable standards of Art 6;*

The proposed shed does not exceed 75% of the ground floor area of the principal structure. Not applicable.

*3. Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than seventy-five percent (75%) of the ground floor area of the principle structure;*

Not applicable.

*4. The outdoor overnight storage of commercial vehicles not otherwise associated with an approved home occupation or made available for the exclusive use of the residential occupants, or the outdoor storage of more than one unregistered vehicle, shall be prohibited. Any and all vehicles shall be stored in an approved parking space;*

Not applicable

*and,*

*5. Uncovered play structures, seasonal skating rinks, raised planting beds shall not require a zoning permit.*

Not applicable.

## **5. Residential Density**

The new home is subject to the functional family provisions of the Comprehensive Development Ordinance. **Affirmative finding.**

## **6. Uses**

No neighborhood commercial use is included in this proposal. Not applicable.

## **7. Residential Development Bonuses**

No development bonuses are being sought. Not applicable.

## **Article 5: Citywide General Regulations**

### **Section 5.2.1 Existing Small Lots.**

69 Charlotte Street reflects the subdivision of the Buell Estate in 1898, with typically small lots and parcel frontage. It does meet the minimum of 4,000 sf of area (5,327 sf) and minimum depth dimension of 40 feet (125') **Affirmative finding.**

### **Section 5.2.2 Required Frontage or Access**

69 Charlotte has existing access and frontage on a public road. **Affirmative finding.**

### **Section 5.2.3 Lot Coverage Requirements**

See 4.4.5 (d), above.

### **Section 5.2.4 Buildable Area Calculation**

The lot is not two or more acres in size. Not applicable.

### **Section 5.2.5 Setbacks**

See 4.4.5 (d), above.

#### **(b) Exceptions to Yard Setback Requirements:**

*5. Accessory Structures and Parking Areas. Accessory structures no more than fifteen (15) 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 replacement accessory structure and the driveway will both meet the minimum 5' yard setback requirement. The accessory structure will not exceed 15' in height. **Affirmative finding.**

### **Section 5.2.6 Building Height Limits**

See 4.4.5 (d), above.

### **Section 5.2.7 Density and Intensity of Development Calculations**

See 4.4.5 (d), above.

## **Part 3: Non Conformities**

### **Section 5.3.3 Continuation**

*Except as otherwise specified 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.*

69 Charlotte Street is at present non conforming to intensity of use, setbacks, lot size, frontage, and coverage.

The redeveloped site will become conforming to setbacks, with a reduction in overall lot coverage. The existing residential unit will be replaced. No change is proposed to the lot size or frontage. **Affirmative finding.**

### **Section 5.3.5 Nonconforming Structures**

**(a) Changes and Modifications**

*Nothing in this part shall be deemed to prevent normal maintenance and repair or structural repair, or moving of a non-complying structure pursuant to any applicable provisions of this Ordinance.*

*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.*

No change is proposed to the nonconforming parcel size or frontage. The replacement building(s) will be conforming to setbacks, and the degree of nonconformity to coverage will be reduced. **Affirmative finding.**

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

No new nonconformity is introduced. **Affirmative finding.**

*When any part 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).*

Although constructed in 1921, the existing building is not listed on the state or National Register and has been determined to be ineligible for historic designation. Not applicable.

**Section 5.4.8 Historic Buildings and Sites**

69 Charlotte Street was included in the 2007 Survey of the Five Sisters (New Harlam) neighborhood, and was determined to be ineligible for historic designation due to alterations to the existing structure. The building is therefore not subject to these standards. Not applicable.

**Section 5.4.9 Brownfield Remediation**

The site is not listed on the Vermont DEC Brownfield list. Not applicable.

**Part 5: Performance Standards**

**Section 5.5.1 Nuisance Regulations**

Replacement of an existing single family home does not introduce any new or harmful impacts. **Affirmative finding.**

**Section 5.5.2 Outdoor Lighting**

New lighting is identified on the porch and abutting the front door; residential in scale. There is no anticipation of light spill or negative impacts on neighboring properties. **Affirmative finding.**

**Section 5.5.3 Stormwater and Erosion Control**

As more than 400 sf of earth disturbance is proposed, a “small project erosion control” form is required, has been provided and forwarded to the Stormwater Engineering staff for review. Written approval of the Stormwater Administrator is a condition of any approval. **Affirmative finding as conditioned.**

**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:**

A mature maple in the rear yard and bushes on the north and southeast boundaries of the lot will be retained. **Affirmative finding.**

**(b) Topographical Alterations:**

None proposed. Not applicable.

**(c) Protection of Important Public Views:**

There are no protected viewed from or through this parcel. Not applicable.

**(d) Protection of Important Cultural Resources:**

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 resource. **Affirmative finding.**

**(f) Brownfield Sites:**

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.*

*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.*

The proposed open front and back porches will provide a welcome respite from inclement weather, or the heat of the sun.

There is room for snow storage next to the driveway. **Affirmative finding.**

**(h) Building Location and Orientation:**

The replacement house will front a public street and maintain the existing development pattern and rhythm of structures along Charlotte Street. The principal structure will have a main entrance clearly identifiable from the public street.

*Where a front yard setback is required, any street-facing garage wall containing garage doors shall be set back a minimum of 25' from the front property line to prevent parked vehicles from blocking the public sidewalk.*

A front setback is required and observed. The garage is set back 20' from the front property line. While this standard requires a 25' setback for garage walls containing doors; this project has no garage doors and can still provide tandem parking. Placement is therefore acceptable.

The garage does not constitute more than 50% of the width of the street facing façade of the entire structure, and does not exceed 24 feet.

The opening of the garage is not more than 10 in width.

The propose replacement accessory structure is located so as to be secondary and subordinate in scale and design. **Affirmative finding.**

**(i) Vehicular Access:**

The project will utilize the existing curb cut on Charlotte Street. The width, at 12', will not exceed the maximum of 18' allowed by this standard. **Affirmative finding.**

**(j) Pedestrian Access:**

A well defined pedestrian route has been provided from the residence to the street. **Affirmative finding.**

**(k) Accessibility for the Handicapped:**

Although not a requirement for single family homes, handicap accessibility is encouraged. "Visitability" standards may apply. The building inspector has the authority for compliance with ADA standards. **Affirmative finding.**

**(l) Parking and Circulation:**

The site plan provides for the two required parking spaces; one in the open garage and one in the driveway. **Affirmative finding.**

**(m) Landscaping and Fences:**

No additional landscaping plan has been provided. The relatively constrained site will retain a mature maple in the rear yard, and shrubs on the north and southeast of the lot. Some landscaping or screening is recommended for the HVAC unit if it remains on the south elevation which is likely to be visible from the public ROW. The DAB has suggested consideration of relocation to the north elevation on the far west of the site (at the screen porch area) which would place it on an elevation least likely to be impacted by direct solar, yet still meeting the required setback. **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.*

Modest residential scale lighting is proposed. See attached images.

**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.*



HVAC equipment is illustrated on the south elevation, observing the required setback. Screening may be appropriate due to the visibility of the unit from the public way. The location of the electric meter is on the north (side) elevation. Aerial electrical service is proposed to be maintained as the line comes from a pole across the street. The location of the mailbox has not been defined.

*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.*

Utility connections shall be undergrounded if feasible. Trash and recycling may be located either in the open garage or the new accessory structure and therefore enclosed on all sides. If within the open garage, trash shall be secured and screened from 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.*

The proposed condensing unit shall meet required setbacks so as to avoid the introduction of nuisance noise and minimize any impact to neighboring properties. **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 2 story massing is very much consistent with the character of surrounding residences and the overall neighborhood. **Affirmative finding.**

**2. Roofs and Rooflines.**

An eaves-front gable roof with shed roofed garage and porches is similarly in character with the neighborhood. **Affirmative finding.**

**3. Building Openings**

The windows are symmetrically and regularly placed around the structure. The double hung sash reflect the character and typical design feature of neighboring buildings.

The entrance door is clearly identifiable from the public street. **Affirmative finding.**

**(b) Protection of Important Architectural Resources:**

Not applicable.

**(c) Protection of Important Public Views:**

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

**(d) Provide an active and inviting street edge:**

The building façade provides interest with the shed roofed porch, posts, raised decking, steps, and a pleasing rhythm of openings. The design includes exposed rafter tails, with rake overhangs. Both visual interest and a transition from public to private space are afforded in the design. **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.*

Roofing is proposed to be 3' wide metal panels, with board and batten siding and fiberglass double hung windows. All are considered of acceptable durability for new construction. **Affirmative finding.**

*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.*

Not applicable.

**(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 as conditioned.**

**(g) Make advertising features complementary to the site:**

Not applicable.

**(h) Integrate infrastructure into the building design:**

See Section 6.2.2. (p), above.

**(i) Make spaces secure and safe:**

The project shall meet all required building and life safety code as defined by the building inspector and/or fire marshal. **Affirmative finding as conditioned.**

**Article 8: Parking**

Table 8.1.8-1 requires 2 vehicular parking spaces for every residential unit in the Neighborhood Parking District. Two tandem parking spaces are provided on-site. **Affirmative finding.**

**Part 2: Bicycle Parking**

Table 8.2.5-1 does not provide a minimum bicycle parking requirement for single family dwellings. **Section 8.2.5** informs:

*(a) Where no requirement is designated, and the use is not comparable to any of the listed uses, bicycle parking requirements shall be determined by the DRB upon recommendation of the city's bicycle and pedestrian planner based upon the capacity of the facility and its associated uses.*

The proposed accessory structure would provide ready storage for any bicycles associated with the continued (single family) residential use. **Affirmative finding.**

**II. Conditions of Approval**

1. 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.
2. Written approval of the Stormwater Administrator shall be received **prior to release of the zoning permit.**
3. Functional Family provisions of the ordinance shall apply to occupancy of the dwelling unit. Not more than four unrelated adults may occupy the unit.
4. If trash will be located within the open garage, it shall be secured from blowing.
5. The location of the mailbox shall be defined **prior to release of the zoning permit.**

6. The proposed condensing unit shall meet required setbacks so as to avoid the introduction of nuisance noise and minimize any impact to neighboring properties. If located on the south elevation and visible to the public ROW, then screening shall be provided.
7. Utilities shall be undergrounded unless continuation of aerial service is supported by Burlington Electric Department.
8. Standard Permit Conditions 1-15.

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