

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, 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
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk

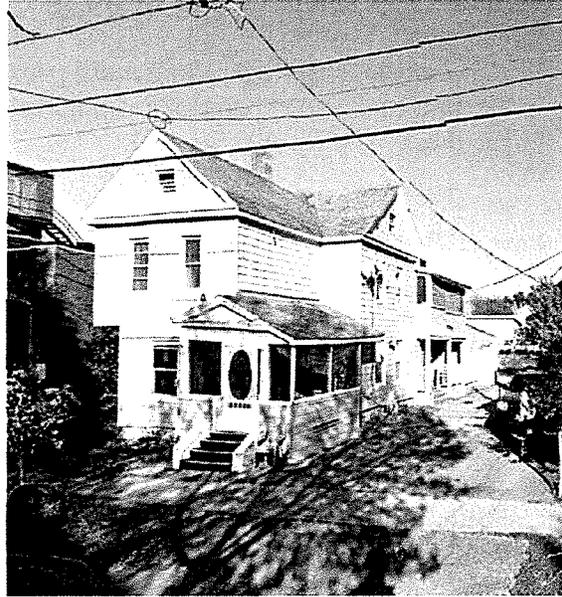


MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: October 4, 2016
RE: ZP17-0160CA/CU, 76 Rose 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.

File: ZP17-0160CA/CU
Location: 76 Rose Street
Zone: RM **Ward:** 3C
Date application accepted: August 8, 2016
Applicant/ Owner: Matthew Koch / Michael Koch
Request: Expand third apartment unit by adding a second story over existing first story in rear.



Background:

- Non-Applicability of Zoning Permit Requirements; repair/replace side deck and stairs, May 2014.
- There are no zoning permits on file.

Overview: The existing residential structure has 3 dwelling units on a 5248 sq. ft. lot. The earliest identified record of occupancy is a 1985 Assessor's card, which recorded three dwelling units.

The unit count exceeds density standards for the zoning district, but is existing non-conforming. The applicant seeks to expand the non-conformity (enlarge a dwelling unit), but does not propose to add any new units.

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

I. Findings

Section 3.2.7 Administrative Review and Approval

(a) Administrative Authority

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

10. *Simple renovations in design control districts such as door and window changes, re-siding, re-roofing, enclosing porches, adding a shed or garage, and additions no greater than 500 square feet in size that otherwise comply with all applicable dimensional standards of Article 4 and the development review criteria of Article 6.*

The proposed addition is approximately 605 square feet; greater than the limitation afforded Administrative authority. And, as the density is non-conforming, Conditional Use review for expansion of a unit is required.

Part 3: Impact Fees

Section 3.3.3 Exemptions and Waivers

(a) Exemptions

1. *Additions to existing dwelling units, provided such additions are for residential purposes.*

As the proposal is to expand an existing residential use, the project meets this exemption from Impact Fees. **Not applicable.**

Part 4: Site Plan and Design Review

(b) Design Review

2. *Any development subject to the provisions of Article 5, Part 3 – Non-Conformities.*

See Articles 5 and 6, below.

Part 5: Conditional Use (Required by Section 5/3/4/ (a) 2., below)

Section 3.5.6 Conditional Use Review Standards

(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.*

A 605 sq. ft. addition to an existing residential unit will not have a measureable impact on planned public utilities, facilities, or services. **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 medium density residential area with a fully developed neighborhood. From the Burlington Municipal Development Plan:

- *Preserve and upgrade the existing housing stock to ensure that residents do not live in substandard conditions. [MDP, Housing Plan, Page IX-1.]*
- *Build upon existing resources and infrastructure [MDP, Page V-1.]*
- *Retain its moderate scale and urban form in its most densely developed areas. [MDP, Built Environment, Page III-1.]*
- *Ensure building design...take into account Burlington's northern climate. [MDP, Built Environment, page III-2.] (The new addition will provide greater energy efficiency.)*

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 minor expansion of an already modest dwelling unit will not generate any impacts that are not already present within the existing developed residential 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;*
There is no anticipated change in demand or impact for the existing residential dwelling unit(s). The street grid and sidewalk network are in place and connected within the overall city street web. **Affirmative finding.**

and

5. *The utilization of renewable energy resources;*
Nothing within the application precludes the utilization 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 project will be subject to applicable building and life safety codes, and must secure all required trades permits. **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;*
There are no proposed changes to the building footprint or site that would require mitigation. The new addition will abut an existing brick building (former Moquin's Bakery) that sits on a property line. The rear of the lot affords a parking structure that currently serves the use. **Affirmative finding.**

2. *Time limits for construction.*

The zoning permit is valid for 2 years. The project must be completed and a Certificate of Occupancy secured within that standard time frame. **Affirmative finding as conditioned.**

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

Residential use has no hours of operation. Construction activities shall be limited to 7:00 – 5:00 pm. Saturday hours may be requested and are subject to decision by the DRB. No Sunday construction. **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,
That is currently a standard for review of alterations to non-conformities within this ordinance. Any future expansion will be subject to the regulations in effect at that time. **Affirmative finding as conditioned.**

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.
This is at the discretion of the DRB.

Article 4: Zoning Maps and Districts
Section 4.4.5 Residential Districts

Table 4.4.5-2 Base Residential Density

RM Zoning District	20 units/acre
Existing at 76 Rose Street: 3	# of units exceeds density for zoning district. See Section 5.2.7, below.

Table 4.4.5-3 Residential District Dimensional Standards

RM Zoning District	Max Lot Coverage 40% (bonus available)	Setbacks			Max Height 35'
		Front Ave of 2 adjacent lots on both sides +/- 5'	Side 10% of lot width or ave. of side yard setback of 2 adjacent lots on both sides	Rear Min. 25% of lot depth but no less than 20'	
76 Rose Street	81% existing non-conforming No change to coverage proposed.	No change	24" on north currently; 5' proposed.	Garage sits on property line. No change.	26'6"; less than the ridge height of the existing building.

Affirmative finding.

Section 4.4.5 (c) Permitted and Conditional Uses

Multi family dwellings are a permitted use in the RM zoning district Per Appendix A. Conditional Use review is required due to intensity on the lot. See Section 3.5.6 and Section 5.2.7.

Affirmative finding.

Section 4.4.5 (d) District Specific Regulations

1. Setbacks

See Table 4.4.5-3, above.

2. Height

See Table 4.4.5-3, above.

3. Lot Coverage

See Table 4.4.5-3, above.

4. Accessory Residential Structures and Uses

Not applicable for this application.

5. Residential Density

A. Additional Unit to Multi-Family.

No new units are proposed, or can be entertained per Section 5.2.7 (a), below.

Affirmative finding.

B. Additions to Existing Residential Structures

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

The applicant is not requesting, nor can an additional unit be approved per Section 5.2.7 (a). **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 Functional Family provisions of the ordinance shall apply. Not more than 4 unrelated adults may occupy any dwelling unit.

Affirmative finding as conditioned.

6. Uses

A. Exception for Existing Neighborhood Commercial Uses

Not applicable.

7. Residential Development Bonuses

A. Inclusionary Housing Requirement

B. Senior Housing Bonus

C. Adaptive Reuse Bonus

D. Residential Conversion Bonus

E. Limitation on Residential Development Bonuses

Not applicable.

Article 5: Citywide General Regulations

Part 2: Dimensional Requirements

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2. Required Frontage or Access

The property has 41' frontage on Rose Street, with vehicular access. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

The existing coverage is 81%; in excess of coverage limitations of Table 4.4.5-3. Ortho photographs demonstrate coverage consistent with what is presented as existing. It is not uncommon in the Old North End to find properties significantly over the coverage limitations of the CDO. As existing-non-conforming, it may remain. No changes to coverage are proposed within this application. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The parcel is not two or more acres. 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

(a) Dwelling Units per Acre

In the RM zoning district, 20 units/acre allowed (See Table 4.4.5-2, above.)

76 Rose currently has 3 units. Lot size 5248 / 43,560 = .1204 acres. 3 units / .1204 = 24.9 units, > **limitation of 20/acre.** Lot is non-conforming to intensity of use. See Non-conformities, Part 3.

Part 3: Non-Conformities

Section 5.3.4 Nonconforming Uses

76 Rose Street is non-conforming due to the number of residential units on the lot. Density calculations under today’s ordinance would only allow 2 units on the 5248 sf lot; there are three existing on-site.

Therefore, the requested expansion of a living unit requires review under this section.

(a) Changes and Modifications

2. Nonconforming Residential Use

A change or expansion of a non-conforming residential use may be allowed subject to conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB provided:

- A. Such an expansion does not add any additional dwelling units except as may be permitted for adaptive reuse or residential conversion bonuses approved per the provisions of Sec. 4.4.5(d)(7);*

No adaptive reuse or residential conversion bonuses are sought. No new units are proposed.

Affirmative finding.

- B. Such an expansion does not increase the degree of non-conformity of any non-conforming structure;*

The proposal will not change the degree of non-conformity of the existing structure; setbacks will be met. No change in lot coverage will occur. No new units will be added. **Affirmative finding.**

and,

- C. In such cases where the non-conforming residential use is located in a zoning district where residential uses are generally permitted, expansion of a non-conforming residential use into an existing and previously uninhabited attic or basement within the principle structure may be permitted subject to administrative review provided no additional dwelling units are created.*

The expansion is not proposed within an attic or basement, but as new construction. This is within the Medium Density Residential District, however, where residential uses are generally permitted. No additional dwelling units are proposed; an expansion of the non-conformity (extra dwelling unit) requiring Conditional Use approval. **Affirmative finding.**

Part 4: Special Use Regulations

Not applicable.

Part 5: Performance Standards

Section 5.5.2 Outdoor Lighting

A full cut off residential grade lighting fixture is proposed for the porch and the entrance. As submitted, it will meet the standard. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

No site alterations or ground disturbance are proposed. Not applicable.

Section 5.5.4 Tree Removal

Not applicable.

Article 6: Development Review Standards

PART 1: LAND DIVISION DESIGN STANDARDS

Not applicable.

PART 2: SITE PLAN DESIGN STANDARDS

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

Not applicable.

(c) Protection of Important Public Views:

There are no important public views from this site. Not applicable.

(d) Protection of Important Cultural Resources:

76 Rose Street is not listed on the state or National Register of Historic Resources. Although somewhat altered with replacement siding and multiple additions, it still reveals its late 19th century character. It retains its massing, tri-gable arrangement with molded temple front gable, embricated slate roof, and “clipped” corner on the northwest side. All are characteristic features of late 19th century Burlington residential architecture.

The new development is poised for the rear of the property, and does not impact those essential features of the existing structure. **Affirmative finding.**

(e) Supporting the Use of Renewable Energy Resources:

Where feasible, the site plan should be so designed as to take advantage of the site’s inherent potential to utilize sources of renewable energy including direct sunlight, wind, or running water. The site plan should also incorporate site planning and landscaping decisions intended to minimize energy demand such as siting buildings to maximize solar access or the use of deciduous and coniferous trees to create shade and windbreak.

Buildings should, where appropriate within the context of the neighborhood development pattern, maximize their solar exposure by being oriented to maximize natural light and heat gain during winter months, and to minimize casting shadows into ground floor living space of a building on an adjacent property.

Shadow cast is not a concern in this instance, as the building immediately abuts the former Moquins/Nabisco Bakery building to the north. There is no anticipated adverse impact to adjoining properties.

The new development will enhance the energy efficiency with new construction materials and methods to enhance the comfort and efficiency of the dwelling. Large or grouped windows stand to increase solar exposure and passive solar benefits; however the room arrangement does not exploit that advantage. The upstairs area to benefit from increased southerly sunexposure is a hallway rather than a bedroom. Bedrooms have minimal window openings and are tucked into the windowless north side. Stair reconfiguration and window rearrangement would provide for greater solar benefit to living areas.

There is nothing to prevent the use of solar, wind, geothermal, water, or other renewable energy resource. **Affirmative finding.**

(f) Brownfield Sites:

76 Rose Street is not listed on the ANR list of Hazardous Sites. Not applicable.

(g) Provide for nature's events:

As no ground disturbance is proposed, no Stormwater or EPSC plan is required.

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.

There is the illustration of a roof canopy over the south entrance door to the apartment (the other door accesses the basement), but is not clear in the east elevation. The applicant should confirm this protective shelter is proposed.

The porch entrance on the east will have an inherent roof cover. **Affirmative finding.**

(h) Building Location and Orientation:

The addition is proposed on the rear over an existing first story. The apartment entrance will be clearly discernable by the roof canopy and attendant light fixture. **Affirmative finding.**

(i) Vehicular Access:

No change is proposed to the existing access. **Affirmative finding.**

(j) Pedestrian Access:

No change is proposed to the existing pedestrian access. The apartment will be accessed by the same entrance area as currently exists. **Affirmative finding.**

(k) Accessibility for the Handicapped:

Although recommended, this is not a requirement. **Affirmative finding.**

(l) Parking and Circulation:

No change to the existing. There is a three car garage at the rear of the site, which will continue to serve the three dwelling units. **Affirmative finding.**

(m) Landscaping and Fences:

No change proposed. **Affirmative finding.**

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

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

(p) Integrate infrastructure into the design:

The applicant submits that electrical and utility connections are pre-existing on the front building. No change is proposed. Mailboxes are located on the front building, as well, and will continue to serve the third unit. **Affirmative finding.**

PART 3: ARCHITECTURAL DESIGN STANDARDS
Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity.

The following shall be considered:

1. *Massing, Height and Scale:*

The building addition maintains an overall scale similar to its host and other buildings within the streetscape. **Affirmative finding.**

2. *Roofs and Rooflines.*

An intersecting gable roof is proposed; similar to that of the main structure. **Affirmative finding.**

3. *Building Openings*

Windows and doors are grouped to reflect interior activities and spaces. Windows appear more vertical than horizontal, with the exception of the egress window above the apartment entry door. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

See Section 6.2.2. (d) above.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

The addition is poised to be at the rear of the existing structure, but will be moderately visible from the sidewalk. Its pleasant arrangement and neat disposition will enhance the site.

Affirmative finding.

(e) Quality of materials:

Sheathing is proposed to be 3 ½ reveal fiber cement board clapboard. Asphalt shingles are planned for roofing. Doors are proposed to be steel, some with lights. Windows are a name brand, energy star rated product. All are of sufficient durability to be acceptable for new construction. **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 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:

All requirements for ingress and egress, and building and fire code as determined by the building inspector and fire marshal shall apply. **Affirmative finding as conditioned.**

Article 8: Parking

Table 8.1.8-1, Minimum Off Street Parking Requirements

Multi-unit attached dwelling units in the Shared Use District require 1 parking space/unit. There are three existing units in the building. No change to the unit count is proposed.

There is a three car garage on site providing the three required parking spaces. **Affirmative finding.**

II. Conditions of Approval

1. The Functional Family provisions of the ordinance shall apply. Not more than 4 unrelated adults may occupy any dwelling unit.
2. No request for an addition to an existing structure shall be considered or imply approval of an additional unit.
3. The applicant shall confirm a roof canopy over the southerly entrance to the apartment to assure some measure of shelter from inclement weather.
4. Construction activities shall be limited to 7:00 – 5:00 pm. Saturday hours may be requested and are subject to decision by the DRB. No Sunday construction.
5. 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.
6. Standard Permit Conditions 1-15.

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