

## Department of Permitting & Inspections

Zoning Division  
645 Pine Street  
Burlington, VT 05401  
Telephone:(802) 865-7188

*William Ward, Director  
Scott Gustin, AICP, CFM, Principal Planner  
Mary O'Neil, AICP, Principal Planner  
Ryan Morrison, Associate Planner  
Vacant, Permit Technician  
Ted Miles, Code Compliance Officer  
Charlene Orton, Permitting & Inspections Administrator*



**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** December 21, 2021  
**RE:** ZP-21-541; 410 Appletree Point Road

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**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.**

Zone: WRL                      Ward: 4N

Owner/Applicant: Charlie Schmidt / Laura McCurdy

**Request:** Demolition of existing residence and construction of new single family home.

### **Applicable Regulations:**

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

### **Background Information:**

The applicant is seeking approval to demolish an existing residence and to replace it with a new single family home. The new home will be set further back from the lakeshore than the existing. The driveway will be reworked, and a "low mow" zone will be established along the lakeshore as required.

The Conservation Board reviewed this application November 1, 2021 and recommended approval of the application as presented.

The Design Advisory Board reviewed this application November 9, 2021. The Board recommended approval of the application with the recommendation that the "guest parking" be eliminated from the site plan. A revised site plan has not yet been submitted.

There are no previous zoning actions for this property.

**Recommendation:** Certificate of appropriateness approval as per, and subject to, the following findings and conditions:

### **I. Findings**

**Article 3: Applications, Permits, and Project Reviews**  
**Part 3: Impact Fees**

### ***Sec. 3.3.2, Applicability***

The new construction triggers applicability of impact fees. Impact fees must be paid on the net new square footage of the new home. **(Affirmative finding as conditioned)**

## **Article 4: Maps & Districts**

### ***Sec. 4.4.5, Residential Districts:***

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

##### ***(2) Waterfront Residential Low Density (WRL)***

The subject property is located in the WRL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The replacement single family home is consistent with this purpose.

**(Affirmative finding)**

#### ***(b) Dimensional Standards & Density***

The subject property is just over 1 acre in size and lacks frontage on a public road. Frontage is along a stem coming off of the private section of Appletree Point Road.

Residential density will remain unchanged at 1 dwelling unit.

Lot coverage will increase from 11% to 22%. It will remain below the 35% limit.

The lot is relatively deep, and the home will be set back 136' from the front property line. Waterfront properties in the WRL zone are not bound to the average front yard setback of neighboring properties beyond 50.' The proposed front yard setback is significantly less than the existing setback and is acceptable. Minimum side yard setbacks are 10% of the lot width. The proposed home complies with these setbacks. The lakeshore setback is 75' from the 100' elevation. The proposed home is compliant with this setback. A small seating terrace is proposed within the lakeshore setback and within the footprint of the existing home to be demolished. As the degree of encroachment into the waterfront setback will not increase, the location of the terrace is acceptable. The walkway to the terrace is an allowed encroachment into the waterfront setback.

The proposed home is just 18' to the peak of the roof, well below the 35' height limit.

**(Affirmative finding)**

#### ***(c) Permitted & Conditional Uses***

The replacement single family home is a permitted use. **(Affirmative finding)**

#### ***(d) District Specific Regulations***

##### ***1. Setbacks***

See Sec. 4.4.5 (b) above relative to the nonconforming waterfront setback.

##### ***2. Height***

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

##### ***3. Lot Coverage***

No lot coverage bonuses are being sought. **(Not applicable)**

##### ***4. Accessory Residential Structures and Uses***

An accessory terrace is proposed along the lakeshore. As noted above, it complies with applicable dimensional requirements. **(Affirmative finding)**

**5. Residential Density**

The dwelling is limited to occupancy by a family as defined in 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)**

**Sec. 4.5.4, Natural Resource Protection Overlay (NR) District**

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

The subject property is largely affected by the Riparian and Littoral Conservation Zone (250' width from the 100' lakeshore elevation). This overlay zone limits the clearing of vegetation and new stormwater outfalls. Limited tree removal is proposed, and several new trees will be planted. Most vegetation will be retained, and the required "low mow" zone is depicted along the property's shoreline. No new stormwater outfalls are proposed. **(Affirmative finding)**

**Article 5: Citywide General Regulations**

**Sec. 5.2.3, Lot Coverage Requirements**

See Sec. 4.4.5 (b) above.

**Sec. 5.2.4, Buildable Area Calculation**

**(Not applicable)**

**Sec. 5.2.5, Setbacks**

See Sec. 4.4.5 (b) above.

**Sec. 5.2.6, Building Height Limits**

See Sec. 4.4.5 (b) above.

**Sec. 5.2.7, Density and Intensity of Development Calculations**

See Sec. 4.4.5 (b) above.

**Sec. 5.5.1, Nuisance Regulations**

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

**Sec. 5.5.2, Outdoor Lighting**

Exterior building entries will be illuminated. An outdoor wall sconce fixture will be installed at several locations to provide this illumination. The fixture is cutoff and is acceptable.

**(Affirmative finding)**

**Sec. 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. It has not yet been provided to the city’s stormwater program staff and must be. **(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*

The subject property is located along the Lake Champlain shoreline. The shoreline is an identified significant natural area. Much of the property is affected by the Natural Resource Protection Overlay District, specifically the riparian and littoral conservation zone, which stretches inland 250’ from the 95.5’ lakeshore elevation. The new home will be set further inland than the existing residence, and much of the footprint of the existing home will be filled, graded, and converted to green space. The new home is larger than the existing home, and the total development footprint doubles from 11% lot coverage to 22% coverage. Limited tree cutting is proposed along with the installation of a variety of new trees as depicted in the landscape plan.

The redevelopment of this property exceeds 400 sf and, therefore, requires a “low mow” zone along the lakeshore proportionate in size to the redeveloped area (with a maximum depth of 50’ and maximum span of 80% of the lakeshore frontage). Redeveloped lot coverage totals approximately 8,235 sf in this proposal. The required low mow zone is depicted on the site plan. It spans the entire width of the lakeshore and may be reduced to 80% if the applicant so chooses.

**(Affirmative finding)**

*(b) Topographical alterations*

Much of the lot is flat but drops steeply towards the lakeshore along its western boundary. Existing topographic conditions will remain largely unchanged. **(Affirmative finding)**

*(c) Protection of important public views*

Distant terminal views of Lake Champlain and the Adirondack mountains will remain essentially unchanged. There are no public views associated with this property. The proposed home is modest in scale, and most mature vegetation will be retained. Its construction will not adversely affect public views from the lake towards shore. **(Affirmative finding)**

*(d) Protection of important cultural resources*

The property contains no known archaeological resources. Much of the lakeshore is archaeologically sensitive. If, during construction, artifacts are unearthed, it is the applicant’s responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance. **(Affirmative finding as conditioned)**

*(e) Supporting the use of alternative energy*

Rooftop solar panels are depicted on the proposed building elevation drawings. The proposed home is well situated to take advantage of the site’s solar energy potential. **(Affirmative finding)**

*(f) Brownfield sites*

The subject property is not an identified brownfield. **(Not applicable)**

*(g) Provide for nature's events*

An erosion prevention and sediment control plan is required and is subject to review and approval by the city's stormwater program staff. Stormwater runoff will be handled largely by infiltration into surrounding green space. The front door is sheltered under a small overhang. **(Affirmative finding as conditioned)**

*(h) Building location and orientation*

As noted above, the new home will be set further from the lakeshore than the existing residence. Like most homes in the neighborhood, it will remain far back from the street edge. While situated more than 100' from the road, the new home will have a front door facing inland towards the road.

An attached garage will be located to the side of the home and will be set back from the front line of the home. The width of the garage is compliant. **(Affirmative finding)**

*(i) Vehicular access*

An existing driveway will continue to serve the property. The driveway will be reworked to access the proposed home. **(Affirmative finding)**

*(j) Pedestrian access*

This criterion requires that a pedestrian walkway be provided from the front door to the public sidewalk or street. This section of Appletree Point Road is private. No front walkway is proposed. Consistent with past practice in such situations, no front walkway is required. **(Affirmative finding)**

*(k) Accessibility for the handicapped*

No handicap accessibility is evident or required with this proposal. **(Not applicable)**

*(l) Parking and circulation*

Parking will be provided within the attached garage and within surface parking spaces adjoining the driveway. Circulation and access is provided via the private driveway. The four surface parking spaces are located in front of the residence. This criterion calls for parking to be placed to the side or rear of the building. More specifically, the standards of Sec. 8.1.12, (b) *Front Yard Parking and Residential Driveways*, requires that parking spaces in all residential zoning districts be located to the side or rear of the principal residential structure. Sec. 8.1.9, *Maximum On-Site Parking Spaces*, limits onsite parking to 125% of the minimum requirement. In this case, 2 parking spaces are the minimum requirement for a single family home in this "neighborhood" parking district. Up to 3 parking spaces may be allowed within the 125% limit. As a result, at least 2 of the parking spaces must be deleted and the remaining spaces relocated to the side of the home or incorporated into the driveway. The Design Advisory Board recommended eliminating the two "guest parking" spaces. **(Affirmative finding as conditioned, or Adverse finding if left unchanged)**

*(m) Landscaping, fences, and retaining walls*

Much of the lakeshore is vegetated, and only limited tree clearing is proposed. A basic landscaping plan has been provided and depicts several new trees to be planted in the green space

around the home. Several low landscaping walls are depicted in the project plans, but none appear to function as retaining walls. **(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*

See Sec. 5.5.2.

*(p) Integrate infrastructure into the design*

Utility lines must be buried as part of this reconstruction. The site plan depicts overhead lines and a relocated utility pole. Relocation of the pole may be moot in light of the undergrounding requirement for the lines. Utility meter locations are not evident and must be depicted and screened. **(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 home has a substantially larger footprint than the existing home; however, it is only a single story tall, whereas the existing home is 2 stories. The proposed home is of a scale similar to neighboring homes along this stretch of lakeshore. The perceived mass of the building reads as several distinct components with recesses and projections. The proposed home projects a simple elegance. **(Affirmative finding)**

*2. Roofs and Rooflines*

The proposed home will have gable roofs that intersect in the center. Gable roofs are common in this neighborhood and on single family homes generally. **(Affirmative finding)**

*3. Building Openings*

The primary front entrance is clearly articulated and is sheltered by a small overhang. Fenestration is appropriately scaled and stylistically appropriate for the proposed building design. **(Affirmative finding)**

*(b) Protection of important architectural resources*

The existing building is not listed on the state or national historic register, nor has it been deemed eligible for listing. Its removal will have no adverse impact on Burlington's wealth of important architectural resources. **(Affirmative finding)**

*(c) Protection of important public views*

See 6.2.2 (c) above.

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

As with a number of homes in this neighborhood set far from Appletree Point Road, this home has little street presence. Although set well back from the road, the east elevation clearly reads as the home's primary façade and contains an obvious front entry. **(Affirmative finding)**

*(e) Quality of materials*

The proposed home will be clad in wooden vertical shiplap siding. Standing seam metal roofing will be installed on the roofs except for a small section of flat rubber roofing over the front entry. Clad wooden windows will be installed throughout. The materials proposed are of acceptable quality and durability for this new construction. **(Affirmative finding)**

*(f) Reduce energy utilization*

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

*(g) Make advertising features complimentary to the site*

No advertising is included in this proposal. **(Not applicable)**

*(h) Integrate infrastructure into the building design*

No rooftop mechanical equipment is depicted on the project plans. If any exterior equipment is proposed, rooftop or otherwise, it must be depicted and screened. **(Affirmative finding as conditioned)**

*(i) Make spaces safe and secure*

The proposed building must comply with the city's current egress requirements. Building entries will be illuminated. **(Affirmative finding)**

## **Article 8: Parking**

### ***Sec. 8.1.8, Minimum Off-Street Parking Requirements***

The subject property is located in the neighborhood parking district. As such, the single family dwelling requires 2 parking spaces. As noted previously, the 2 required parking spaces will be provided for within the garage and driveway. **(Affirmative finding)**

### ***Sec. 8.1.9, Maximum On-Site Parking Spaces***

See Sec. 6.2.2 (1).

### ***Sec. 8.1.12, Limitations, Location, Use of Facilities***

#### ***(b) Front Yard Parking Restricted and Residential Driveways***

See Sec. 6.2.2. (1).

## **II. Conditions of Approval**

1. **Prior to release of the zoning permit**, revised plans shall be submitted, subject to staff review and approval. Revisions shall include:
  - a. Deletion of 2 parking spaces and relocation of remaining surface parking spaces to the side of the proposed home or incorporated within the driveway;
  - b. Buried utility lines;
  - c. Utility meter locations and screening; and,
  - d. Depiction of any exterior mechanical equipment and related screening.
2. **Prior to release of the zoning permit**, the erosion prevention and sediment control plan shall be reviewed and approved by the city's stormwater program staff.
3. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.

4. In the event that artifacts are uncovered during excavation, it is the applicant's responsibility to contact the Vermont Division for Historic Preservation for further guidance.
5. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
6. Utility lines shall be buried.
7. Standard permit conditions 1-15.