

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin
DATE: May 19, 2015
RE: 15-0923CA; 465 Appletree Point 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.

Zone: WRL Ward: 4N

Owner/Applicant: Al Senecal / Brad Rabinowitz

Request: Construct new duplex and associated site improvements. Lot line adjustment included.

Applicable Regulations:

Article 3 (Applications and Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking), Article 10 (Subdivision)

Background Information:

The applicant is seeking approval to construct a new duplex, driveway, and related site improvements on a vacant property. The proposed duplex's location along the lakeshore requires "major impact" review with the Development Review Board. The proposed duplex also require conditional use review. Note that this property received variance approval from the front yard setback. Based on the average of neighboring properties, the front yard setback was nearly in the lake. That variance approval, granted July 1, 2014, resulted in a 25' front yard setback for the proposed construction. A boundary line adjustment with the neighboring 451 Appletree Point Road is also included in this application. As with the proposal at 451 Appletree Point Rd, the proposed duplex is essentially a single family home with a small accessory apartment; however, the applicant wishes to seek approval as a duplex for flexibility in ownership.

The Conservation Board reviewed this application April 6, 2015 and unanimously recommended approval as presented.

The Design Advisory Board reviewed this application April 14, 2015 and unanimously recommended approval as presented.

Previous zoning actions for this property are as follows:

- 7/1/14, Approval of front yard setback variance
- 7/26/04, Approval of 2-lot subdivision
- 1/13/04, Denial of 3-lot subdivision

Recommendation: Major Impact & Certificate of Appropriateness approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6, Review Criteria

(a) Conditional Use Review Standards

1. The capacity of existing or planned community facilities;

The proposed development will require municipal water and sewer service. A municipal water line already runs by the property. A new pump station and force main will be installed to connect to the municipal wastewater system. Review and approval by the Department of Public Works will be required. Public Works will also need to verify adequate capacity to serve the development. A State of Vermont wastewater permit has already been obtained. **(Affirmative finding as conditioned)**

2. The character of the area affected;

The property is located on the east-facing side of Appletree Point within the Waterfront Residential Low Density (WRL) zone. The subject property is presently vacant. Several homes are located along the western side of the point; however, much of the peninsula is undeveloped. As with the Residential Low Density zone, the WRL zone is primarily intended for low density residential development in the form of detached single family homes and duplexes. The WRL zone is distinguished by its close proximity to the lake and a greater consideration of public views from the lake and stormwater runoff. The proposed duplex is consistent with the intent of the WRL zone. Most of the proposed home will be set back 20' – 40' from the 100' lakeshore elevation (a rear porch will reach as close at 17'), and much of the existing vegetation along the lakeshore will be retained. Stormwater management has been reviewed and approved by the Stormwater Administrator. **(Affirmative finding)**

3. Traffic on roads and highways in the vicinity;

No traffic information has been provided; however, traffic associated with the new duplex is expected to be minimal. **(Affirmative finding)**

4. Bylaws then in effect;

The project as conditioned is in compliance with all applicable bylaws as reflected in these findings. **(Affirmative finding)**

5. Utilization of renewable energy resources;

The utilization of alternative energy has not been incorporated into this proposal. The proposed construction does not preclude such utilization in the future. **(Affirmative finding)**

6. Cumulative impacts of the proposed use;

Residential homes are allowed in the WRL zone. As a result, this criterion requires that cumulative impacts be considered negligible. **(Affirmative finding)**

7. Functional family;

There is no request to exceed 4 unrelated adults within either duplex unit. **(Not applicable)**

8. *Vehicular access points;*

The duplex will be served by a private driveway with access onto Appletree Point Road.

(Affirmative finding)

9. *Signs;*

No signs are included in this proposal.

10. *Mitigation measures;*

The proposed development is not expected to generate any noxious effects such as excessive noise, glare, or emissions. **(Affirmative finding)**

11. *Time limits for construction;*

The project is to be constructed within the standard 2-year time frame. **(Affirmative finding as conditioned)**

12. *Hours of operation and construction;*

Hours of operation do not apply to the proposed duplex. No construction schedule is proposed. Other projects with nearby residences have days and hours of construction limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday. **(Affirmative finding as conditioned)**

13. *Future enlargement or alterations;*

As with anything else, any future enlargement or alteration to the development will require zoning review under the regulations in effect at that time. **(Affirmative finding)**

14. *Performance standards;*

Performance standards relating to outdoor lighting and erosion control are addressed under Article 5 of these findings.

15. *Conditions and safeguards;*

Approval of this project will be conditioned to implement the purposes of the zoning regulations. **(Affirmative finding)**

(b) Major Impact Review Standards

1. *Not result in undue water, air, or noise pollution;*

A stormwater management plan has been submitted and approved by the Stormwater Administrator (see Sec. 5.5.3). No significant air or noise pollution is anticipated as a result of the proposed duplex. **(Affirmative finding)**

2. *Have sufficient water available for its needs;*

Sufficient municipal water service is available to serve the development. **(Affirmative finding)**

3. *Not unreasonably burden the city's present or future water supply or distribution system;*

See item 2 above.

4. *Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;*
See Sec 5.5.3.

5. *Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;*
See Sec. 3.5.6 (a) 3 for traffic information. The proposed duplex is expected to have minimal impacts on the city's transportation infrastructure. Impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

6. *Not cause an unreasonable burden on the city's ability to provide educational services;*
School age children may, or may not, live in the duplex. In any event, no unreasonable burden on the city's ability to provide educational services are expected. Impact fees will be paid to help offset what impacts there are. **(Affirmative finding as conditioned)**

7. *Not place an unreasonable burden on the city's ability to provide municipal services;*
The proposed development will generate minor additional impacts on city services; however, those impacts can be accommodated. Impact fees will be paid to help offset impacts generated. **(Affirmative finding as conditioned)**

8. *Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;*
The vacant property contains no rare or irreplaceable natural communities. The Lake Champlain shoreline is identified as a significant natural area and is protected by the Riparian & Littoral Conservation Zone (see Sec. 4.5.4 for details). Appletree Point generally is an archeologically sensitive area; however, the subject property contains no identified points of archaeological significance. Lastly, construction of a new home set behind existing lakeshore vegetation will not have an undue adverse impact on the scenic or natural beauty of the area. **(Affirmative finding)**

9. *Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;*

The proposed duplex will be constructed on a property zoned for low density residential development. The proposed construction will have no adverse impact on the city's present or future growth patterns. **(Affirmative finding)**

10. *Be in substantial conformance with the city's municipal development plan;*

The proposed development is very small in scale and "major impact" in name only. Insofar as the duplex is consistent with the intent of the WRL zone, is of a scale consistent with other homes in the area (City of Neighborhoods, pg. I-24), and will comply with the city's current energy efficiency standards (Sec. VIII), it can be found in substantial conformance with the city's municipal development plan. **(Affirmative finding)**

11. *Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location;*

The proposed duplex will provide two new housing units in an area of the city zoned for low density residential development. Its construction will have no adverse impact on the present or projected housing needs of the city. **(Affirmative finding)**

12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

Minimal impacts on the city's park and recreation needs are anticipated as a result of the duplex. Impact fees will be paid to help offset these impacts. **(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 proposed duplex is consistent with this purpose. **(Affirmative finding)**

(b) Dimensional Standards & Density

The property, with the lot line adjustment with neighboring 451 Appletree Point Rd, will have 180' of road frontage and 17,417 sf area. Both well above the 100' and 15,840 sf, respectively, needed for a duplex in the Larger Lot Overlay that affects this property.

The 2 residential units proposed on the 0.4 acre lot is acceptable. For duplexes, residential density is limited to 5.5 units per acre in the Larger Lot Overlay.

Lot coverage will come to 29.8%, well below the 35% limit permitted.

The proposed front yard setback is 25' as approved via previously granted variance. The minimum side yard setback is 18.' As proposed, the home is 30' at its closest to a side property line. There is no rear yard setback; rather, there is a waterfront setback. The standard waterfront setback requirement is 75'; however, as noted during review of the July 2014 variance request, there are exceptions as noted in (d) *District Specific Regulations*, 1 below. As proposed, the new duplex would be set back an acceptable 17' from the 100' elevation, depending on the curvature of the shoreline.

The midpoint of the roof appears to be about 25.' The very peak of the structure is 31', below the 35' height limit. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The proposed duplex is a conditional use in the WRL zone. Conditional use criteria are addressed under Article 3 above. **(Affirmative finding)**

(d) District Specific Regulations

I. Setbacks

B. Encroachment into the Waterfront Setback.

(ii) Averaging of Setbacks of Existing Structures

This criterion allows new construction to observe a waterfront setback based on the average waterfront setback of existing principal structures within 150.' In this case, the existing camp on neighboring 451 Appletree Point Rd is set back 17' from the 100' lakeshore elevation. The

proposed duplex will be set back 17.' As noted previously, this 17' setback will be for the rear porch. The bulk of the structure will be set further back (20' – 40'). **(Affirmative finding)**

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

The attached garage has a footprint of ~720 sf; less than 50% of the main home's 2,512 sf footprint. **(Affirmative finding)**

5. Residential Density

The duplex 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)**

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

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

The subject property is wholly 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. As proposed, some dead or dying trees will be removed, but most of the existing vegetation along the lakeshore will be retained. The project plans clearly depict vegetation to be removed or retained. No new stormwater outfalls are proposed. A basic stormwater management plan has been reviewed and approved by the Stormwater Administrator (see Sec. 5.5.3). As noted previously, the Conservation Board reviewed this project under this criterion and recommended project approval as proposed. **(Affirmative finding)**

(f) District Specific Regulations: Special Flood Hazard Area

This lakeshore property is partially affected by the special flood hazard area (SFHA). All areas along the lakeshore under the 102' elevation are within the SFHA. Except for a new stairway to the water, none of the proposed construction will take place within the SFHA. **(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

New outdoor lighting is proposed and mirrors that at 451 Appletree Point Road. It consists of building mounted fixtures to illuminate building entries and post and bollard fixtures to illuminate the circulation area and new stairs to the lakeshore. Locations are noted, and cutsheets have been provided. All are acceptable residential fixtures generating low levels of illumination.

(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 has been provided. A residential stormwater management plan has also been provided. Stormwater management is basic and amounts to directing runoff onto pervious surfaces for infiltration. Both have been reviewed and approved by Conservation Board and the Stormwater Administrator. Those approvals are incorporated into this permit. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards

Part 1, Land Division Design Standards

No land division is included in this proposal; however, a lot line adjustment between this property and neighboring 451 Appletree Point Road is proposed. The proposed adjustment is of the common side property boundary and will not affect any of the criteria under this section.

(Affirmative finding)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

As with neighboring 451 Appletree Point Road, this lakeshore site is lightly wooded. Some tree removal is proposed as noted on the landscape and planting plan; however, a number of the existing trees will remain. The lakeshore itself is a significant natural feature and is protected by the riparian and littoral conservation zone. This overlay limits tree clearing and also requires stormwater management. Stormwater management information has been provided. As required, the proposed construction has been reviewed and approved by the Conservation Board and the city’s stormwater program staff. **(Affirmative finding)**

(b) Topographical alterations

The property slopes gently towards the lake and then drops significantly down to the lake along the immediate shoreline. The site of the proposed duplex is generally flat and will remain so. A soils analysis has been done, and no blasting is proposed. **(Affirmative finding)**

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. This criterion is typically applied to developments fronting such corridors. An individual interested in this application has asserted that, in light of the design review considerations of the WRL zone, views of the construction from the lake should be considered. This criterion is written broadly enough that that assertion may be well based. The proposed home will indeed be visible from the lake. Virtually any construction would be. The new home will be set back and behind existing lakeshore vegetation. **(Affirmative finding)**

(d) Protection of important cultural resources

The property is within an archaeologically sensitive area; however, there are no specifically identified archaeological sites on the property. This archaeological sensitivity stems from the property's lakeshore location. 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)**

(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 home 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 total lot coverage will exceed 2,500 sf, a residential stormwater plan has been provided. All of the impervious surface associated with this project is disconnected from the municipal stormwater system, and stormwater will infiltrate into the ground as it does now. As noted above, the city's stormwater program has reviewed the proposed stormwater management.

The front entrance into the home is sheltered within an open porch, and ample room is available onsite for seasonal snow storage. **(Affirmative finding)**

(h) Building location and orientation

The proposed duplex is relatively far from existing homes on Appletree Point Road (~ 360' from 395 Appletree Point Rd and ~ 220' from 440 Appletree Point Rd). It will be set 25' from the road – the same front setback as that of the to-be-built neighboring home at 451 Appletree Point Road. Its main entrance faces the road and is clearly identifiable. The open front porch provides an obvious and welcoming entry into the home. The secondary entrance (into the 2nd unit) is also within the front porch but oriented towards the north. The attached garage faces north, to the side. It is not oriented towards the road. **(Affirmative finding)**

(i) Vehicular access

A private driveway will provide adequate access to the duplex. It will access the two-bay attached garage. A turn-around is provided within the driveway and is set to the side of the home. **(Affirmative finding)**

(j) Pedestrian access

A stone front walkway is proposed and will connect to the private road. **(Affirmative finding)**

(k) Accessibility for the handicapped

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

(l) Parking and circulation

Four parking spaces are provided; two in the driveway and two in the attached garage. These spaces meet the minimum parking requirement of 2 spaces per dwelling unit. Circulation is simple with access provided to the garage and surface parking spaces. **(Affirmative finding)**

(m) Landscaping and fences

Clearing limits are depicted. Much of the existing vegetation will be retained. New landscaping is proposed and consists of a variety of shrubs and two new cherry trees on either side of the driveway. As with the neighboring property to the north, much of the new landscaping is proposed along the roadside and will provide some buffering between the new home and the road. No new fencing is proposed; however, a boulder wall will be installed along a portion of the lakeshore. Topographic information indicates the bottom of this wall will be above the 102' elevation and out of the lake's flood zone. New concrete stairs will provide access to the lakeshore. **(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

New utility lines must be buried. No mechanical equipment is depicted on the plan; however, the applicant has noted that an AC compressor will be located behind the building. This item must be depicted on the site plan. **(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 massing, height, and scale of the proposed duplex are consistent with that of existing homes along Appletree Point Road. The proposed home is larger than that proposed at 451 Appletree Point Road but remains within the scale established by existing waterfront homes along Appletree Bay. The proposed gross floor area (GFA) is 3,659 sf. Some nearby homes include 395 Appletree Point Rd at 3,432 sf GFA, 440 Appletree Point Rd at 3,989 sf GFA, 490 Appletree Point Rd at 3,831 sf GFA, and 554 Appletree Point Rd at 4,724 sf GFA. The proposed shingle style home faces the road with a well-defined front entry. Varying rooflines, dormers, and distinct building sections serve to articulate separate volumes within the overall structure. **(Affirmative finding)**

2. Roofs and Rooflines

Gable roofs are proposed, albeit on different plans. Several dormers project from the upper roofs. The proposed roof forms are appropriately residential. **(Affirmative finding)**

3. Building Openings

The primary front entrance is clearly articulated and is sheltered by an open front porch. Fenestration is appropriately scaled and placed in consistent rhythm throughout the building. **(Affirmative finding)**

(b) Protection of important architectural resources

There are no historic structures on the subject property or nearby. Construction of the proposed duplex will have no adverse impacts on Burlington's historic structures. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

The front entry to the proposed home is clearly articulated and faces the road. There are no large blank walls or expanses of roof. Fenestration, roof variations, and architectural detailing work successfully to provide an active and inviting street elevation. **(Affirmative finding)**

(e) Quality of materials

The proposed home will be clad in cedar shingles with tongue-and-groove siding accents. Painted white AZEK trim is noted. Asphalt shingles will be installed on most of the roofs; however, standing seam metal will be installed on the dormers. Combination fiberglass and wood windows will be installed. A natural stone veneer will be installed along the base of the attached garage. The materials proposed are of acceptable quality and durability. **(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 as conditioned)**

(g) Make advertising features complimentary to the site

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

(h) Integrate infrastructure into the building design

Utility meters will be appropriately located on a side elevation near the entrance to the apartment. **(Affirmative finding)**

(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 duplex requires 4 parking spaces (2 per dwelling unit). All four parking spaces will be provided onsite; 2 in the garage and 2 within the driveway. **(Affirmative finding)**

Article 10: Subdivision

No subdivision of land is included in this proposal; however, a lot line adjustment with neighboring 451 Appletree Point Rd is included. A boundary line adjustment plan clearly depicts the proposed boundary adjustment. The required endorsement block for the Administrative Officer's signature per Sec. 10.1.5, *Lot Line Adjustments*, (a) is missing. All of the signature blocks provided relate to subdivisions and should be deleted (except for the surveyor's endorsement). **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. Revised plans shall depict:
 - a. The proposed AC compressor; and,
 - b. The required Administrative Officer's signature block per Sec. 10.1.5.
2. **Prior to release of the zoning permit**, the new pump station and force main shall be reviewed and approved by the Department of Public Works. Verification of wastewater capacity to serve the proposed duplex shall also be obtained from Public Works.
3. This permit incorporates the EPSC and Stormwater Management approvals issued by the Stormwater Administrator on April 3, 2015.
4. Days and hours of construction shall be limited to Monday-Friday 7:00 am – 6:00 pm. Limited work may extend outside this schedule to extend to Saturday 9:00 AM – 5:00 PM only after obtaining approval from the Development Review Board through correspondence rather than a scheduled hearing. No construction on Sunday
5. 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.
6. 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.
7. 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 new square footage of the proposed development.
8. Standard permit conditions 1-15.