



City of  
Burlington, Vermont  
645 Pine Street

## Zoning Permit - COA Level III – Reasons for Denial

ZP #: 21-0923LL

Tax ID: 057-1-027-000

Issue Date: April 28, 2021

Decision: Denied

Property Address: 78-80 HARRISON AVENUE

**Description:** Lot line adjustment with 68-70 Conger Ave

**Reasons for denial:**

1. This property is presently nonconforming as to lot size (5,760 sf whereas 6,000 is the minimum lot size in the W-RL zone, wherein the property is located). The proposed lot line adjustment would make the lot even smaller (4,959 sf). The lot line adjustment would increase the degree of nonconformity.
2. Lot coverage data is not specified in the survey plat; however, current LIDAR data indicates ~3,173 sf lot coverage (55.1%). Up to 35% lot coverage is allowed in the W-RL zone. An additional 10% lot coverage is allowed for open air amenities such as walkways and open porches. This property is nonconforming as to lot coverage. The lot line adjustment would increase the degree of nonconformity with a resultant lot coverage of 64%.
3. Sec. 5.3.6, *Nonconforming Lots*, prohibits alterations to a nonconforming lot if the dimensional requirements and standards of the underlying zoning district are not met. As noted above, dimensional requirements and standards as to minimum lot size and lot coverage will not be met. As a result, the zoning application cannot be approved.



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645 Pine Street

## Zoning Permit - COA Level III – Reasons for Denial

ZP #: 21-0922LL

Tax ID: 057-1-024-000

Issue Date: April 28, 2021

Decision: Denied

Property Address: 68-70 CONGER AVENUE

**Description:** Lot line adjustment with 78-80 Harrison Ave

**Reasons for denial:**

1. This property is presently nonconforming as to lot size (5,150 sf whereas 6,000 is the minimum lot size in the W-RL zone, wherein the property is located). The proposed lot line adjustment would make the lot larger (5,950 sf) and less nonconforming. However, the lot line adjustment would make the other property involved in this lot line adjustment (78-80 Harrison Ave) smaller and more nonconforming than it already is (see zoning denial 21-0923LL).
2. Lot coverage data is not specified in the survey plat; however, current LIDAR data indicates ~2,757 sf lot coverage (53.5%). Up to 35% lot coverage is allowed in the W-RL zone. An additional 10% lot coverage is allowed for open air amenities such as walkways and open porches. The lot line adjustment would decrease the percentage of lot coverage (46.3%) and lessen the degree of nonconformity. However, the lot line adjustment would make the other property involved in this lot line adjustment (78-80 Harrison Ave) smaller and increase the degree of its nonconforming lot coverage (see zoning denial 21-0923LL).
3. Sec. 5.3.6, *Nonconforming Lots*, prohibits alterations to a nonconforming lot if the dimensional requirements and standards of the underlying zoning district are not met. As noted above, this lot line adjustment will necessitate increases in the degree of nonconformity as to dimensional requirements and standards for the other property (78-80 Harrison Ave). As a result, the zoning application cannot be approved.

The Burlington Developmental Review Board,

Description of the decision under appeal: We are appealing the administrative decision denial for ZP # 21-0922L and ZP # 21-0923LL.

Description of the property subject to the appeal: Requested a boundary line adjustment for two properties that my brother and I own, 78-80 Harrison Ave and 68-70 Conger Ave. Both are pre-existing small lots. These properties have been in our family since the queen city cotton company mapped out the land in the 1930's. We are trying to move the property line between the 2 properties to accommodate for a garage that was permitted and approved by the city of Burlington 41 years ago (1980); which means it falls under a "grandfather clause" or variance and it does not have to come down. The land records show a 480 sf garage as part of 68-70 Conger NOT 78-80 Harrison and the garage was never used, intended for use, nor accessed by 78-80 Harrison Avenue.

Reference the regulatory provisions applicable to the appeal: According to Article 5 section 3.6 of the Comprehensive Development Ordinance, the lots are considered non-conforming and therefore we are being told the boundary line adjustment cannot happen. However, according to 5.2.1 these lots were non-conforming pre-dating 1973. According to this section the lots cannot be any less than 4,000 sf. Therefore as you can see in our site survey, 68-70 Conger will go from 5,180 sf to 5,950 sf and 78-80 Harrison will go from 5,760 sf to 4,959 sf. Both still in accordance to section 5.2.1 for pre-existing small lots. Neither of them will be less than 4,000 sf. According to article 4 and article 5, the lot sizes were never going to be the "appropriate" size to conform to today's standards.

Relief requested by the appellant: Move the property lines as annotated in the survey attached with the permit application. This will enable 68-70 Conger to continue to own and use the garage without the need for an easement and will enable us to put 78-80 Harrison back on the market without the need for legal battles or title problems due to a temporary easement. Failure to approve this adjustment would mean that both pieces of property would have to be sold together to the same buyer and will only push this problem on to the next property owners.

Alleged grounds why such requested relief is believed proper under the circumstances: Section 5.2.1 annotates these lots were already small pre-1973 and therefore cannot be less than 4,000 sf. The garage is staying according the variance of being permitted and built 41 years ago. We are trying to make the boundary line adjustment as minimal as possible under the constraints of Burlington and to accommodate an approved structure for 68-70 Conger Ave. As mentioned above the properties have been in our family since the beginning when the land was owned by Queen City Cotton Company. Burlington used to do land use maps according to land usage at the time. We have a copy of the map from 1937 when the queen city cotton company drew a map showing properties. In that map it shows 78-80 Harrison with the bigger lot. The only reason that map was drawn up that way was because of land usage at the time. Our grandfather owned 68-70 Conger. The family that lived in 78-80 Harrison had a bigger family and needed a bigger garden so they used part of my grandfather's lawn. However, back when the lots were originally mapped out in 1937 the requirement of minimum lot size did not exist. (Example: you can see by the existing lot in between; 74-76 Conger Ave— it has almost zero land) Now we are being forced to uphold a standard of lot size or not diminish an already non-conforming lot due to regulations that were never in place when the original lines were drawn.

We don't feel that moving the lines between these two properties is going to put further strain on the land, land use, nor create any further environmental impacts. If you look at the survey we are really not asking for very much.

We respectfully request to be physically present for the DRB decision so we can plead our case in person. We feel we have tried to do the right thing throughout this entire process and we really are not asking for much in the grand scheme of things. We are just trying to do the right thing for our land that our family has owned for generations.

V/R,

Michele Bushey and Andrew Gelinis