

## Department of Permitting and Inspections

Zoning Division  
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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: July 21, 2020  
RE: ZP20-0939CA/CU; 6 Catherine 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:** ZP 20-0939CA/CU

**Location:** 6 Catherine Street

**Zone:** RL **Ward:** 5S

**Date application accepted:** May 20, 2020

**Applicant/ Owner:** Nancy Hejna

**Request:** Demolish existing one car garage/shed; replace with new garage in same location.



**Background:**

- **Zoning Permit 20-0886CA;** Replacing brick foundation with new poured concrete, replacing deck, replace concrete steps and landing on side entry. Remove driveway and replace with tire tracks. Replace fence along rear boundary line. May 2020.

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- There are no earlier zoning permits on file.

**Overview:** 6 Catherine (Katherine) Street was constructed in 1915, and was included within the Five Sisters (New Harlam) Historic Sites and Structures Survey of 2007 which determined it to be eligible for historic designation. That survey work (attached) identifies a one bay garage as a related structure on-site. This application proposes to demolish that accessory structure, and to build a new garage on the lot. Demolition of historic structures requires Conditional Use Review, per Section 5.4.8 (d) of the Comprehensive Development Ordinance.

**Recommendation: Consent approval,** per the following findings:

**I. Findings**

**Conditional use review required by Section 5.4.8 d) 2:**

**2. *Standards for Review of Demolition.***

*Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review*

**Article 3 Applications, Permits and Project Reviews**

**3.5.6 (a) Conditional Use Review Standards**

*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;*

There is no change proposed to the existing use on the site. The property will remain a single family residence. **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 an existing, developed residential area. The replacement accessory structure will be similar in size to the one proposed for demolition. No significant change will be perceived within the neighborhood to alter its character.

**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;*

There are no anticipated changes or impacts from noise, odor, dust, heat or vibration in reconstructing an accessory garage. **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;*

The replacement of a failing garage will have no impacts on the municipal transportation system. **Affirmative finding.**

*and,*

5. *The utilization of renewable energy resources;*

Not applicable.

*and,*

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.*

The condition of the existing accessory building may be subject to warnings from the building inspector for its state of failure. Repair and/or replacement are logical responses to this condition. **Affirmative finding.**

**(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.*

Screening is not required for the replacement garage. Its appearance will contribute and strengthen the character of the residential neighborhood. **Affirmative finding.**

2. *Time limits for construction.*

The permit will have a typical three-year life in which to complete the replacement. **Affirmative finding.**

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

There are no hours of operation for residential use. Hours of construction shall be limited to 7:00 am – 5:30pm Monday through Friday, with no construction on Sunday. Saturday construction hours may be considered by the DRB if specifically requested.

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions;*

Any future work will be considered under the regulations in effect at the time of application. **Affirmative finding.**

*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.*

See conditions of approval.

**Article 4: Zoning Maps and Districts**

**Table 4.4.5-3: Residential District Dimensional Standards**

Zoning District	Max. Lot Coverage <sup>1</sup>	Setbacks <sup>1, 3, 4, 5, 6</sup>				Max. Height <sup>1</sup>
		Front <sup>2</sup>	Side <sup>3</sup>	Rear	Waterfront	
RL; WRL	35%	<b>Min/Max:</b> Ave. of 2 adjacent lots on both sides +/- 5-feet	<b>Min:</b> 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides <b>Max required:</b> 20-feet	<b>Min:</b> 25% of lot depth but in no event less than 20'  <b>Max required:</b> 75-feet	<b>Min:</b> 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet
6 Catherine Street	No change	No change	<b>As existing</b>	<b>As existing</b>	Not applicable	16' to ridegeline

**Affirmative finding.**

**(c) Permitted and Conditional Uses:**

There is no proposed change to the use. The property remains a single family home.

**(d) District Specific Regulations:**

*The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.*

**1. Setbacks**

**A. Encroachment for Residential Driveways**

Not applicable.

**B. Encroachment into the Waterfront Setback.**

Not applicable.

**2. Height**

**A. Exceptions in the Waterfront RM District.**

Not applicable.

### **3. Lot Coverage**

There is no proposed change to lot coverage. ZP20- 0886CA approved 44.4% lot coverage.

#### **Affirmative finding.**

#### **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.*

*With the exception of the additional lot coverage allowances provided for under Inclusionary Zoning, requirements such additional lot coverage shall not be permitted for any development where bonus provisions of this ordinance are applicable.*

The approved lot coverage included bonus amenity items. **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:*

- A. *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 [Dimensional Standards and Density] and related requirements in Art 5, Part 2; See 4.4.5-3, above.*
- B. *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; Not applicable.*

C. *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; A one-stall garage is proposed. **Affirmative finding.***

D. *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;*

No commercial vehicles or unregistered vehicles are proposed to be associated with the replacement garage. **Affirmative finding.**

*and,*

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

## **5. Residential Density**

### **A. Additional Unit to Multi-Family.**

*One additional unit may be added to structures located in the RL district which legally contained two or more units as of January 1, 2007, if approved in advance as a conditional use, by the DRB.*

Not applicable.

### **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 replacement of an accessory structure in this application does not include any new living space or additional residential units. **Affirmative finding.**

### **C. Residential Occupancy Limits.**

No additional units or occupancy limit is part of this request. Not applicable.

## **6. Uses**

### **A. Exception for Existing Neighborhood Commercial Uses.**

Not applicable

## **7. Residential Development Bonuses.**

No bonuses are sought. Not applicable.

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

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

This is an existing, developed lot. **Affirmative finding.**

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

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

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

See Section 4.4.5 (3) above.

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

Not applicable.

### **Section 5.2.5 Setbacks**

See Section 4.4.5-3 above.

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

See Section 4.4.5-3 above.

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

There is no change to density. The property remains a single family home. **Affirmative finding.**

## **Part 3: Non-conformities**

### **Sec. 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.*

The replacement garage will continue the non-conformity to setback (west, north) at the same degree as the existing garage. **Affirmative finding.**

*Within the residential districts, and subject to Development Review Board approval, existing nonconforming single family homes and community centers (existing enclosed spaces only) that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further*

*into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:*

- i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);*
- ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,*
- iii) Be compatible with the character and scale of surrounding structures.*

*Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.*

The replacement garage will not exceed 15' to the mid-line of the rise of the roof; directions for calculation of building height. **Affirmative finding.**

- 2. Such a change or modification shall not create any new nonconformity; and,*
- 3. Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*

*When any portion of a nonconforming structure has been made conforming, it shall not be made nonconforming again except as provided for historic building features pursuant to Sec. 5.2.6(b)(3).*

*A non-conforming residential structure may be enlarged up to the dimensional standards of the underlying zoning district, subject to review and approval by the DRB pursuant to Art. 3, Part 4 Design Review and Art. 3, Part 5 Conditional Use Review. Adaptive reuse or residential conversion bonuses may allow a greater expansion than the underlying zoning district allows approved per the provisions of Article 4.*

**(b) Demolition:**

*A nonconforming structure may be replaced by a new structure retaining the same degree of nonconformity as the original structure. This provision is limited to the existing dimensional nonconformity (i.e. setback, lot coverage, or height), and shall not expand the degree of nonconformity except as provided for in (a) above. The new structure shall be subject to conformance with all other dimensional requirements (i.e. setback, lot coverage, and height). Zoning permit application for the replacement structure shall be completed within 1 year of demolition of the nonconforming structure; failure to do so shall result in the loss of the ability to retain the nonconformity.*

Replacement of the building retaining the same degree of non-conformity to setback shall be conditioned upon a one-year timeline. **Affirmative finding as conditioned.**

*In all other cases, a nonconforming structure that has been demolished or moved shall not be re-built or relocated in any way other than in full conformance with the provisions of this ordinance. Structures or any portion thereof that are structurally unsound, and are required to be removed by order of the building inspector, may be replaced within the original footprint provided both the requirement to demolish the building is not the result*



*of demolition by neglect and the replacement shall not expand the degree of nonconformity.*

The building will be conditioned upon replacement within one year of demolition. There has been no determination of Demolition by Neglect. **Affirmative finding as conditioned.**

#### **Sec. 5.4.8 Historic Buildings and Sites**

##### **(d) Demolition of Historic Buildings:**

*The purpose of this subsection is:*

- . To discourage the demolition of a historic building, and allow full consideration of alternatives to demolition, including rehabilitation, adaptive reuse, resale, or relocation;*
- . Provide a procedure and criteria regarding the consideration of a proposal for the demolition of a historic building; and,*
- . To ensure that the community is compensated for the permanent loss of a historic resource by a redevelopment of clear and substantial benefit to the community, region or state.*

##### **1. Application for Demolition.**

*For demolition applications involving a historic building, the applicant shall submit the following materials in addition to the submission requirements specified in Art. 3:*

*A. A report from a licensed engineer or architect who is experienced in rehabilitation of historic structures regarding the soundness of the structure and its suitability for rehabilitation;*

The applicant included an architect's report with submission materials. See attached.

*B. A statement addressing compliance with each applicable review standard for demolition;*

See attached Memorandum from Hinge Architecture/Missa Aloisi.

*C. Where a case for economic hardship is claimed, an economic feasibility report prepared by an architect, developer, or appraiser, or other person experienced in the rehabilitation and adaptive reuse of historic structures that addresses:*

*(i) the estimated market value of the property on which the structure lies, both before and after demolition or removal;*

No claim of economic hardship has been made.

The garage/shed is an accessory structure to a single family home. As the existing garage is in failed condition (as determined by Missa Aloisi, registered architect and supported by submitted photographs), it's condition would adversely affect the market value of the overall property. A replacement structure will likely increase the market value of the overall property. **Affirmative finding.**

*and,*

*(ii) the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;*

See architect's report for conditions review and recommendations.

*D. A redevelopment plan for the site, and a statement of the effect of the proposed redevelopment on the architectural and historical qualities of other structures and the character of the neighborhood around the sites;*

The applicant proposes construction of a new garage, in the same location. **Affirmative finding.**



*and,*

*E. Elevations, drawings, plans, statements, and other materials which satisfy the submission requirements specified in Art. 3, for any replacement structure or structures to be erected or constructed pursuant to a development plan.*

Plans are enclosed. See attached. **Affirmative finding.**

## **2. Standards for Review of Demolition.**

***Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review and in accordance with the following standards:***

*A. The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure;*

The applicant is a new owner, purchasing from owners that had lived in the home for 65 years. There are no zoning permits prior to this year, obtained by this applicant.

**Affirmative finding.**

*or,*

*B. The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district;*

The architect's report determines the existing structure not suitable for use or occupancy due to its failed condition. **Affirmative finding.**

*or,*

*C. The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.*

These early garage sheds provide a specific point-in-time when residents were acquiring automobiles and needed shelter for them. Rare building permit records from this time period illustrate the popularity of adding a garage shed to properties in this time period. Its loss will be regrettable, but understandable. Photos of the structure, kept in the zoning file, will provide a photographic record for future use.

Certainly the construction of a new accessory structure will be useful to the property owners, and remove a failing building on-site. In that manner, coupled with the information about the existing garage shed, there is a greater community-wide benefit.

**Affirmative finding.**

*And all of the following:*

*D. The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;*

Photo documentation would provide a minimal amount of mitigation. **Affirmative finding as conditioned.**

*E. All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington's architectural history;*

See D. above.

*and,*

*F. The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).*

*(i) Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;*

*(ii) Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project; and,*

*(iii) The time between demolition and commencement of new construction generally shall not exceed six (6) months.*

The applicant proposes an immediate replacement structure, to be used for both a garage and storage. As submitted, the new storage building will complement the existing house and character of the area. **Affirmative finding.**

*This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.*

There has been no such deed restriction proffered; nor is it warranted. **Affirmative finding.**

### ***3. Deconstruction: Salvage and Reuse of Historic Building Materials.***

*The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.*

The applicant shall be encouraged to deconstruct using the safest method possible, minimizing exposure to lead paint and any other potential public safety issue. What material may be salvaged is encouraged for sale or reuse if managed with a regard for public safety. **Affirmative finding as conditioned.**

## **Article 8: Parking**

Table 8.1.8-1 requires 2 parking spaces for every residential unit in the Neighborhood Parking District. Although the garage/shed no longer can accommodate a motor vehicle, it has counted toward satisfaction of their parking requirement. The submitted site plan defines an existing lengthy driveway that leads to the garage. A recent permit approval allowed for the removal of

driveway pavement and a reserved parking space in front of the garage. As provided and illustrated in the site plan, the site will still meet the 2 space parking requirement of this article.  
**Affirmative finding.**

**II. Conditions of Approval**

1. Photodocumentation submitted with the application of the existing building shall be included in the zoning permit file for future information and reference.
2. Sale, relocation, deconstruction for salvage or reuse is encouraged.
3. All materials shall be disposed of in a safe and legal manner.
4. The building shall be constructed within one year of demolition of the existing structure. Failure to rebuild within one year forfeits the opportunity to reclaim the non-conformity of the existing building.
5. Standard Permit Conditions 1-15.

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