

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/PZ/Boards/Development-Review-Board

Phone: (802) 865-7188

Fax (802) 865-7195

Brad Rabinowitz
AJ LaRosa
Austin Hart
Alexandra Zipparo
Geoffrey Hand
Springer Harris
Samantha Tilton
Jim Drummond (Alt.)
Zoraya Hightower (Alt.)



Burlington Development Review Board

Findings of Fact

Deliberative Hearing Tuesday, October 2, 2018

In RE: 19-0001CA/CU; 50 Clymer Street (Ward 6S, RL) (Tax Lot No. 058-1-032-000)

Owner/Applicant: Eric Avildsen & Faith Ingulsrud

Request: Demolish a fire damaged garage.

Members Present:

Brad Rabinowitz
AJ LaRosa
Alexandra Zipparo
Springer Harris
Samantha Tilton
Jim Drummond

Evidence Presented:

The Board examined the materials submitted in support of this request.

I. FINDINGS

Background Information:

The garage at 50 Clymer Street suffered severe fire damage in May, 2018. The 11,000 sf property is developed residentially with a single family residence. The detached 2 car garage is included in the State Register of Historic Structures, noted for its *'single story, two bay hipped roof structure with hinged wooden doors and clapboards'*. The City's building inspector visited the property in June and determined that while the damaged garage did not appear to be at the level of a 'dangerous building requiring immediate removal', it did need to be secured to prevent unauthorized persons from entering it. Photo evidence of the damaged structure make it quite clear that the structure is beyond reparation.

Previous zoning actions for this property are listed below:

- July 20, 2017 – ZP18-0029CA, approval to remove the existing back porch and replace with a one-story addition; add 220 sf open porch to the west wall of the house with a roof connected to the kitchen addition; new deck.
- April 20, 2018 – ZP18-0919CA, approval to add a window to the 2nd story of the north elevation; add larger deck approved under ZP18-0029CA.

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 Review Criteria

(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;

The garage is not connected to municipal utilities, and there will be no changes to the property's existing utility services as a result of garage demolition. **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;

The property is located within an established residential neighborhood in the low density residential (RL) zoning district. The RL zone is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. The demolition of the garage will not conflict with the purpose of the underlying zone, nor the character of the neighborhood. In fact, removing the fire damaged structure will improve the property's appearance in the neighborhood. The applicant intends to replace the garage in the near future under separate permit. **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;

It is expected that there will be some impacts from noise, odor and vibrations during the short demolition process. However, the end result will be void of these impacts. **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 will be no impacts to the transportation system as a result of this proposal. **Affirmative finding**

5. The utilization of renewable energy resources;

This proposal has no impact on utilization of renewable energy resources. **Affirmative finding**

and,

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

City building codes will apply as conditioned. **Affirmative finding as conditioned**

(b) Major Impact Review Standards

Not applicable.

(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.

Garage demolition will not require these mitigation measures. **Affirmative finding**

2. Time limits for construction.

The applicant notes that demolition is anticipated this fall. Plans are still in the conceptual mode for the replacement structure, and the applicant expects to commence construction of the replacement garage in the next building season. **Affirmative finding**

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

Not applicable. Hours of operation are not applicable to this residential use.

Demolition hours are not noted in the application. Typical work construction hours are Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No construction activity on Sunday. **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; and,

Not applicable

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 the recommended conditions. **Affirmative finding**

Article 4: Zoning Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(3) Residential Low Density (RL)

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single family detached dwellings and duplexes. The proposal entails removing a freestanding, fire damaged garage. The single family residence will still remain on the property. Consistency with the intent of the zone will continue after the garage is demolished and after its replacement is constructed. **Affirmative finding**

(b) Dimensional Standards & Density

The existing lot coverage is 23.8%. After removal of the garage, lot coverage will decrease to 20.2%, well below the 35% maximum allowance for the zone. Setbacks and building height do not pertain to the proposed demolition. **Affirmative finding**

(c) Permitted & Conditional Uses

Accessory structures are permitted uses within the RL zone. This one will be demolished.

Affirmative finding

(d) District Specific Regulations

1. Setbacks

No setback encroachments are sought. **Not applicable**

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 existing accessory structure will be removed. **Not applicable**

5. Residential Density

A. Additional Unit to multi-family

Not applicable

B. Additions to Existing Residential Structures

No additions are proposed. **Not applicable**

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.

Not applicable

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**

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. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

The garage at 50 Clymer Street, built ca. 1910, is listed on the State of Vermont Register of Historic Structures. These standards, therefore, apply. **Affirmative finding**

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

The garage was constructed c. 1910, and the home was constructed ca. 1930. The garage remained from an earlier structure that was replaced by the current dwelling. The applicant proposes no changes to the home. Due to the extensive fire damage to the garage, the applicant is proposing to demolish it, and rebuild in the next building season – spring 2019. Photographs,

as well as correspondence between the applicant and the city's building inspector, provide adequate evidence that the structure is in need of full replacement. Under Sec. 5.4.8 (d) 2 F, the applicant is tasked with agreeing to redevelop the site after demolition pursuant to an approved redevelopment plan. The applicant notes, however, that they are not yet ready with redevelopment plans, but are eager to remove the charred structure from their property. For the time between demolition and redevelopment, they plan to grade and grass the site. In order to ensure that the structure is replaced, issuance of a certificate of occupancy for this permit should be dependent upon the redevelopment of the garage. **Affirmative finding as conditioned**

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

The only way to preserve the property is to demolish the fire damaged garage and rebuild in a manner consistent with the historic characteristics of the property. **Affirmative finding**

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

The garage is unsalvageable and should be removed from the property. There is no need to try to replicate it with the new garage. **Affirmative finding**

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

Not applicable

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

Not applicable

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.

Given the current state of the garage, complete demolition is warranted. **Affirmative finding**

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

Not applicable

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

No archaeological resources have been identified at this address. If any work associated with the project uncovers any archaeological remains or resources, proper authorities shall be contacted for appropriate recovery, assessment and disposition. **Affirmative finding**

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*
The historic materials and features of the garage have already been destroyed by the fire. Demolition is warranted. **Affirmative finding**

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*
The proposal involves the full demolition of the historic structure. **Affirmative finding**

(c) Demolition by Neglect:

No owner of a historic building, or lessee who is obligated by lease to maintain and repair such a structure (other than the interior), shall allow, cause, or permit the structure to suffer or experience demolition by neglect. Examples of such disrepair and deterioration include, but are not limited to, the following:

1. *Deterioration of walls or other vertical supports; walls, partitions or vertical supports that split, lean, list, or buckle, thus jeopardizing structural integrity;*
2. *Deterioration or inadequate foundations that jeopardize structural integrity;*
3. *Deterioration of roofs, ceilings, or other horizontal members;*
4. *Deterioration of fireplaces or chimneys;*
5. *Deterioration or crumbling exterior stucco or mortar;*
6. *Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;*
7. *Lack of weather protection that jeopardizes the structural integrity of walls, roofs, plumbing, electricity, or overall structural integrity, including lack of paint, lack of adequate heating, and lack of adequate ventilation;*
8. *Vandalism caused by lack of reasonable security precautions; and/or*
9. *Deterioration of any feature so as to create a hazardous condition that could require demolition for public safety.*

In such cases, the building inspector shall notify the property owner of any violation of this section. Such person shall have sixty (60) days to remedy any such violation. In the event the violation is not corrected within sixty (60) days of notification, the city shall be authorized to perform all repairs necessary to correct the violation and to place a lien on the property for the costs of such repairs and reasonable administrative and legal fees incurred.

There is no reason to suspect that the garage was the subject of neglect. **Affirmative finding**

(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;*

See the email correspondence between Brad Biggie (City Building Inspector and the applicant). While the garage was not considered to be at the level of a dangerous building requiring an order for immediate removal, the damage was significant enough to warrant Mr. Biggie's request that the garage be secured to prevent unauthorized persons from entering. He was of the impression that the garage would be removed and replaced. The damage to the garage is quite evident, and requiring the applicants to hire an engineer or architect to confirm the damage would be excessive. **Affirmative finding**

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

The applicants are still in the planning phase for the replacement structure. The new design will be subject to design review upon submittal of a zoning permit application. **Affirmative finding**

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

Not applicable. There is no claim for economic hardship.

- 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; and,*

The applicants are currently exploring redevelopment plans. In the meantime, they would like to remove the burnt garage from the property. Sec. 5.4.8 (d) 2 F (iii) places a general timeframe of 6 months between demolition and redevelopment. The applicants are currently exploring redevelopment plans, but in the meantime, they would like to remove the burnt garage from the property as it is an eyesore. **Affirmative finding**

- 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.*

Not applicable. Plans for the replacement garage have not yet been furnished.

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; or,*

There is no reason to suggest that the garage was not sound prior to the fire. Now, after the damage, the garage is unsound. **Affirmative finding**

- 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; or,*

Photographs of the damage show extensive fire damage to the roof, the upper clapboards, and the doors. The City's building inspector confirmed that structure needed to be secured, and understood that it would be removed and replaced. **Affirmative finding**

- 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.*

Redevelopment of the structure would provide a community wide benefit. The structure is clearly of no use any longer, and given its charred remains, it could be considered an eyesore within the neighborhood. **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;*

While the applicants have no redevelopment proposal yet, they confirmed that they will rebuild a garage in the near future (in Spring 2019). **Affirmative finding.**

- 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; and,*

The existing structure is documented in the State Register of Historic Structures as a '1 story, 2 bay hipped roof garage with original hinged wooden doors and clapboards. Garage/shed remained from an earlier structure that was replaced by the present dwelling.' Photos of the garage are also included with this application. **Affirmative finding**

- 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;*

The applicants acknowledge that they will have to replace the structure. The architectural character of the neighborhood will need to be retained with the new construction. **Affirmative finding**

(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,*

The applicants note that they expect to rebuild in the next building season (Spring 2019). **Affirmative finding**

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

As noted above, the applicants are still in the planning stages for the replacement structure. They are proposing demolition prior to a finalized redevelopment plan to remove the charred structure. With the building season coming to an end soon, they are planning to construct the replacement garage in the next building season (spring, 2019). **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.

Not applicable

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The parking requirement for a single family residential use in the Neighborhood Parking District is 2 spaces. The driveway is 74 ft deep before it reaches the garage, and is long enough to adequately handle 2 tandem parking spaces. **Affirmative finding**

II. MINUTES

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

III. MOTION

Motion: Alexandra Zipparo

I move that the Board approve the request to demolish the fire damaged garage as proposed and adopt staff findings and recommendations for 50 Clymer Street, based on the findings in Section I above and subject to the following conditions:

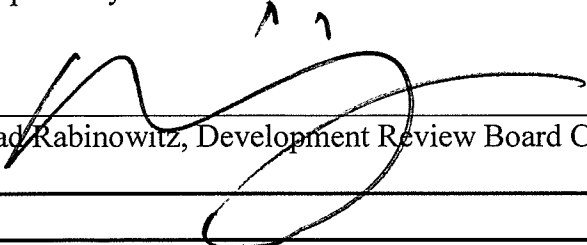
1. **Prior to issuance of a certificate of occupancy**, a zoning permit application for a replacement garage shall be submitted and approved by staff of the Planning and Zoning Department.
2. Construction of the replacement structure shall commence by June, 2019.
3. Construction hours shall be limited to Monday – Friday from 7:30 AM – 5:30 PM. No construction activity on Saturday or Sunday.
4. 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.
5. Standard Permit Conditions 1-15 shall apply.

Seconded: AJ LaRosa

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this 9TH day of October, 2018.

Respectfully Submitted,



Brad Rabinowitz, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. (Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person

may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. The appeal shall be taken in such a manner as the supreme court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board's decision.