

Department of Permitting and Inspections

Zoning Division

149 Church Street

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 7, 2020
RE: 225 Elmwood Avenue; ZP20-0858CA

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: ZP20-0858CA

Location: 225 Elmwood Avenue

Zone: RM **Ward:** 3C

Parking District: Shared Use

Date application accepted: May 6, 2020

Revised Plans submitted: June 29, 2020

Applicant/ Owner: Green Mountain Habitat for Humanity

Request: Demolish existing single family home, rebuild new single family home.



Background:

- Zoning Permit 10-1086NA; replace roof. June 2010.

Overview:

225 Elmwood Avenue is a small dwelling, estimated to be constructed prior to 1869 (it appears on the Beers Atlas Map of 1869, at right). The application submission gives detail of material and structural failure. Asbestos analysis and abatement have been completed. A replacement single family, two story home is proposed.

As there is documentation of human remains discovered in the immediate vicinity, (215 Elmwood), the applicant has been informed that the potential for human remains (potentially associated with the 1812 burial ground) extends into this neighborhood.

The **Design Advisory Board** reviewed the application at their May 26, 2020 meeting, and voted unanimously to move the project forward to the DRB with a recommendation for approval.

An entirely new plan set was submitted June 29 and 30, 2020.



Applicable Regulations:

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), and Article 9 (Inclusionary and Replacement Housing.)

Recommended motion: Certificate of Appropriateness **Consent Approval**, per the following finding and conditions:

I. Findings

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

3. *The Residential Medium Density (RM) district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments.*

The application, to replace an existing single family home with the same, is in concert with the purpose of the zoning district. **Affirmative finding.**

(b) Dimensional Standards and Density

There will be no change in density. The existing single family home will be replaced with another single unit. The existing home is conforming to lot frontage but non-conforming to setbacks, which may be continued subject to provisions of **Section 5.3.5, Non-conformities**. The front yard setback will be adjusted in the new construction to be consistent with the calculations for the average of two adjoining parcels on each side and become conforming.

Existing lot coverage is 30.38% (including what is now overgrown driveway area); proposed is 27.21%; compliant for the zoning district.* (40% allowable.)

*IF the DRB approves a driveway to accommodate 2 spaces in tandem (Section 4.4.5 (d) 1. A). If the DRB only recognizes one existing parking space, the coverage will be adjusted. **Affirmative finding.**

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Residential districts shall be as defined in Appendix A – Use Table.

A single family home is a permitted use in the RM zoning district. **Affirmative finding.**

(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

*For purposes of allowing existing, developed, nonconforming lots containing single family homes to create a driveway and provide a maximum of two tandem parking spaces, driveways may encroach into a required sideyard setback up to the property line **with DRB approval.***

Such approval shall be based on demonstrated necessity on the part of the property owner as well as unique physical circumstances of the lot, conditional use criteria and findings that there shall be no undue adverse impact on all of the following items of concern: drainage, safety, protection of neighboring side yard, light and air. In addition, the lot shall be found to have dimensions that are smaller than the existing standards for lot size or frontage. The maximum relief from the 5' minimum setback shall be the minimum necessary for the purposes of creating such a driveway and parking spaces and shall be allowed only after a finding that driveway and parking configuration cannot be otherwise located on the lot. With such approval by the DRB, the lot shall not be considered nonconforming due to the decreased setback for the creation of the driveway and parking spaces.

The lot is narrow at 34', with no other place to locate parking with access to the street. The existing conditions and ortho photographs suggest the earlier use of the south yard as parking, but is now overgrown. The applicant has provided a revised site plan illustrating two tandem parking spaces; permissible under this standard with DRB approval. The additional coverage for providing a second parking space, if approved, is still within allowable limits for the zoning district. (26% vs 27.21%) **Affirmative finding.**

B. Encroachment into the Waterfront Setback.

2. Height

Not applicable.

A. Exceptions in the Waterfront RM District.

Not applicable.

3. Lot Coverage

A. Exceptions for Accessory Residential Features.

The applicant is not seeking any bonus provisions, as the proposed calculation is within the coverage limitations of Table 4.4.5-3. **Affirmative finding.**

4. Accessory Residential Structures and Uses

The application includes the removal of existing accessory structures and installation of a shed, meeting the minimum required setback from property lines. **Affirmative finding.**

5. Residential Density

A. Additional Unit to Multi-Family.

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.

No additional units are requested. The property will remain a single family home. **Affirmative finding.**

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.

This will be a condition of approval. **Affirmative finding as conditioned.**

6. Uses

A. Exception for Existing Neighborhood Commercial Uses.

Not applicable.

7. Residential Development Bonuses.

Not applicable.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

This existing, developed lot is proposed for redevelopment to the same intensity. **Affirmative finding.**

Section 5.2.2 Required Frontage or Access

The lot has a frontage of 34', greater than the minimum 30' frontage requirement for the zoning district. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See 4.4.5 (b), above.

Section 5.2.4 Buildable Area Calculation

Not applicable.

Section 5.2.5 Setbacks

See 4.4.5 (b), above.

Section 5.2.6 Building Height Limits

The proposed building will be two story, 24' 4 ½ "to the ridgeline and therefore compliant to the 35' height limitation of the zoning district. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

The replacement will be consistent with the previously existing density (1 unit) on the parcel. **Affirmative finding.**

Part 3: Non Conformities

Sec. 5.3.3 Continuation

Except as otherwise specified in this Article, any nonconformity which lawfully existed at the time of passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this Part.

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.*

*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.

- 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).

The replacement building will change the existing nonconformity to front yard setback to conforming; and continue the existing non-conforming setback on the north with a vertical expansion not to exceed the existing degree of non-conformity. The replacement shed will conform to required setbacks. **Affirmative finding as conditioned.**

(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.

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 existing structure is non-conforming to setback on both the north, south, and east. The Front Yard setback will be brought into conformity; however the existing setback on the north and south are proposed to be retained to the same level as existing. Vertical expansion of the single-family home within a required setback is allowable with DRB approval per Section 5.3.5 (a), above. Expansion of the driveway is permissible per Section 4.4.5 (d) 1. A, above.

Affirmative finding as conditioned.

Sec. 5.4.8 Historic Buildings and Sites

Not applicable.

Section 5.4.9 Brownfield Remediation

225 Elmwood Avenue is not listed on the DEC website for known Brownfields. Not applicable.

Part 5: Performance Standards

Section 5.5.2 Outdoor Lighting

The proposal includes installation of low intensity can lights within the porches. As proposed, they are acceptable for this application. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

The application shall be subject to review and approval of an Erosion Prevention and Sediment Control Plan by the Stormwater Engineering Division. **Affirmative finding as conditioned.**

Section 5.5.4 Tree Removal

Zoning permit requests for tree removal are subject to DRB review per the following criteria.

(a) Review criteria for zoning permit requests for tree removal.

1. Grounds for Approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or

greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

- A. Removal of dead, diseased, or infested trees*
- B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices*
- C. Removal of trees that are a danger to life or property; or*
- D. As part of a development with an approved zoning permit*

A large Pine tree on the north property line, as well as three trees < 8” caliper are proposed to be removed from the back yard. Their removal is part of this overall application, and therefore allowable. **Affirmative finding.**

2. Grounds for Denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

- A. Providing a significant privacy or aesthetic buffer or barrier between properties*
- B. Providing stabilization on slopes vulnerable to erosion*
- C. Located within a riparian or littoral buffer*
- D. Provide unique wildlife habitat*
- E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program; or*
- F. A significant element of, or significantly enhances, an historic site*

The application does not include the number or caliper of trees that trigger this review; the remainder of these criteria do not apply to this application. Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division is proposed. Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

The site is relatively flat. A pine tree along the northeast corner of the property and three in the back yard are proposed to be removed as part of this redevelopment. **Affirmative finding.**

(f) Brownfield Sites:

None identified at this location. Not applicable.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

The plan provides for both a front and back porch; both satisfactory for sheltering residents and visitors from inclement weather. There is adequate room for snow storage at the end of the driveway.

An Erosion Prevention and Sediment Control Plan will be required subject to review and approval by the Stormwater Engineering Program. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The replacement home is oriented toward the street and situated to replicate the street setback of neighboring properties. Moving the replacement building closer to the street will bring the home within the required front yard setback as calculated based on neighboring properties. **Affirmative finding.**

(i) Vehicular Access:

There is an existing curb cut and (mostly grown over) driveway south of the residence. This is in close proximity to the property line. The applicant has originally only requested a single parking space, but 2 spaces in tandem may be allowed with DRB approval per Section 4.4.5 (d) 1. A. the revised site plan submitted 6.30.2020 reflects an area for 2 cars in tandem. **Affirmative finding.**

(j) Pedestrian Access:

There is a public sidewalk along the west side of Elmwood Avenue. The site plan has been revised to illustrate a walkway connecting the sidewalk to the new residence. **Affirmative finding.**

(k) Accessibility for the Handicapped:

ADA access is administered by the building inspector's office. Although not required, access is encouraged, even if only by Vermont Visitability Standards. **Affirmative finding.**

(l) Parking and Circulation:

Two parking spaces are required for a single family home. While only one was originally requested, two may be permitted by the DRB under 4.4.5 (d) 1. A. As the driveway is

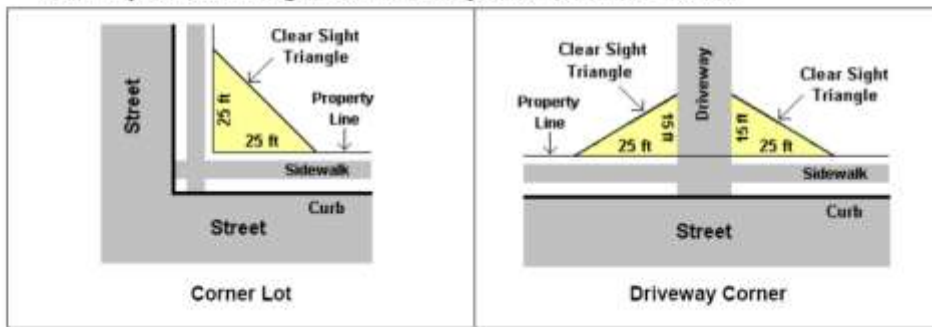
overgrown, it is not clear what the previous conditions were. The site plan of 6.30.2020 illustrates the desire for two spaces; discretionary by the DRB under Section 4.4.5 (d) 1. A. **Affirmative finding.**

(m) Landscaping and Fences:

A 6' stockade fence will be installed along the northerly property boundary. The Clear Site Triangle must be observed.

(c) Clear Sight Triangle

1. Fences placed within a clear sight triangle along driveways and at street intersections, or between an existing building and the front property line, whichever is less, shall be limited to 3-feet in height above the curb in order to provide safe sight distances for pedestrians and vehicles.



Affirmative finding as conditioned.

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

Can lights are proposed for both the front and back porches. The light is of small, domestic intensity and acceptable for the application. **Affirmative finding.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

Electrical and cable conduit will be undergrounded. The electric meter and gas service will be introduced on the south (secondary) elevation. A shed is proposed in the southwesterly corner of the rear yard. A minimum 5' setback is required and met. **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:

As a two story, gable front residence with attached open porches is consistent with the immediately neighborhood. **Affirmative finding.**

2. Roofs and Rooflines.

The gable front structure will feature shed roofed porches; a common combination on Elmwood Avenue. **Affirmative finding.**

3. Building Openings

The new home will feature both single and paired double hung windows. Entries are available at both the east and west elevations. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Not applicable.

(c) Protection of Important Public Views:

There are no protected public views from or through this property. Not applicable.

(d) Provide an active and inviting street edge:

The open front porch, with an illuminated entry will provide a welcoming introduction to the street. A walkway has been included to connect the front entry to the public sidewalk.

Affirmative finding.

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Vinyl siding and windows, with an asphalt shingle roof are proposed. The shed sheathing is similarly proposed.

All are acceptable for new construction. **Affirmative finding.**

(f) Reduce energy utilization:

The replacement home will be built to meet Efficiency Vermont standards.

All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

Any signage will require a separate zoning permit. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

Redevelopment is subject to all applicable building and life safety codes as defined by the Burlington's Building Inspector and the Fire Marshal. **Affirmative finding as conditioned.**

Article 8: Parking

The existing parking area is overgrown; however, the driveway apron demonstrates encroachment within a required setback. Section 4.4.5 (d) 1. A. allows two parking spaces in tandem within a required setback with DRB approval. The project will then be able to meet the 2 parking space requirement for a single family home. **Affirmative finding.**

Article 9: Inclusionary and Replacement Housing

Part 2: Housing Preservation and Replacement/Demolition and Conversion

The application proposes replacing the existing single-family home with another single family home. There will be no net loss of housing. **Affirmative finding.**

II. Conditions of Approval

1. The provisions of Section 5.3.5, Non-conformities, apply to this project. There shall be no introduction of any new non-conformity in the replacement dwelling. Vertical encroachment into a required setback is allowed per Section 5.3.5. (a) 1. And (b).
2. The replacement dwelling 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 any nonconformities.
3. Residential occupancy limits apply. The occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Not more than four unrelated adults may occupy the residential unit.

4. With DRB approval, the driveway may be expanded to provide 2 parking spaces in tandem as allowed by Section 4.4.5 (d) 1. A: *Encroachment for Residential Driveways*.
5. The fence shall meet the Clear Site Triangle.
6. The shed shall be set back a minimum of 5' from the property line.
7. If any archaeological resources are discovered during excavation, work shall immediately stop until appropriate authorities are notified allowing for identification, assessment, and appropriate disposition of the resources.
8. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
9. Any signs, if proposed, will require a separate zoning permit.
10. **Prior to release of the zoning permit**, the “small project erosion control” plan shall be approved by the Stormwater Program Manager.
11. Construction hours shall be limited to Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request to the Development Review Board. No work on Sunday.
12. It is the applicant’s responsibility to work with the Vermont Department of Environmental Conservation either to determine exemption from the Waterwater Program Rule, or to secure the appropriate Wasterwater permit for the replacement dwelling.
13. Vermont Residential Building Energy Standards apply to this project. Compliance with the standards is the Owner’s responsibility. Prior to requesting a Certificate of Occupancy, a copy of a completed Vermont Residential Building Energy Standards Certificate shall be submitted with a Certificate of Occupancy (final or temporary) request, and filed in the Land Records located at the Clerk/Treasurers office in City Hall (149 Church Street). For more information, see http://publicservice.vermont.gov/topics/energy_efficiency.
14. Standard Permit Conditions 1-15.

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