

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Alison Davis, Planning & Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison
DATE: February 19, 2020
RE: 20-0646SD/CA; 49 Fletcher Place

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: RM Ward: 1E

Owner/Representative: Nancy Reid / Lewis Creek Company

Request: Combined preliminary & final plat review to subdivide existing lot into two lots, and construct a new single family residence and associated site improvements on the new lot.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 10 (Subdivision Review)

Background Information:

The applicant is seeking combined preliminary and final plat approval to subdivide an existing lot into two lots. The 14,810 sq ft property contains a single family residence with an attached single-car garage, and several small outbuildings that will all relocate to the future Lot 1. Lot 1 will be 7,840.8 sf in size, and Lot 2 will be 6,969.6 sf in size. As part of this application, the applicant proposes a new, 2-story single family residence to be built on Lot 2. The home will also have a partially finished basement.

The proposal has been forwarded to the City Engineer's office, to the Burlington Fire Marshal, to the Director of the Parks & Recreation Department, to Burlington Electric, and to the Burlington School District as required. Comments from the Fire Marshal have been received.

The Fire Marshal provided the following comments:

- Fletcher Place meets the NFPA 1 Chapter 18 definition of a Fire Department Access Road, and an existing fire hydrant is located in front of 34-36 Fletcher Place, approximately 285 feet linear distance from the proposed subdivision according to Google Earth.
- Future construction shall comply with the codes, standards, and ordinances in effect at the time of design and construction.

Previous zoning actions for this property are noted below.

- **Zoning Permit 08-587CA**; replacement windows and siding. Approved March 27, 2008.
- **Zoning Permit 09-898CA**; replacement window. Approved June 10, 2009.
- **Zoning Permit 15-0736CA**; establish a home day care with up to 6 children. Approved January 23, 2015.
- **Zoning Permit 16-1399LL**; lot line adjustment for 49 Fletcher Place, 80 Colchester Ave, and 27 Fletcher Place. Approved September 23, 2016.
- **Zoning Permit 18-0103CA**; create new single lane driveway; install paver patio in rear; acknowledge shed, decks, and patio; and remove unpermitted parking areas. Approved September 6, 2017.

Recommendation: Preliminary and Final Subdivision and Certificate of Appropriateness Approval as per, and subject to, the findings and conditions below:

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. Immediate review indicates there is one zoning permit that hasn't received a Certificate of Occupancy. See attached list for guidance on the open permit. **Affirmative finding as conditioned**

Article 3: Applications, Permits and Project Reviews

Part 3, Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.

Impact fees shall apply. The fees will be based on the net new square footage of the building. The total living space of the proposed home is 2,392 sf. **Affirmative finding as conditioned**

Section 3.3.8 Time and Place of Payment

(a) New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof. **Affirmative finding as conditioned**

Article 4: Zoning Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Residential Medium Density (RM)

The RM district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments.

The property is located in the RM zone. The subdivision will result in the existing single family residence and its accessory structures situating on Lot 1, and a new single family residence situating on Lot 2. Lot 1 will total 7,840.8 sf in size (0.18 acres) and Lot 2 will total 6,969.6 sf in size (0.16 acres). Both lots will be large enough to accommodate the density requirement for a single dwelling unit. **Affirmative finding**

(b) Dimensional Standards & Density

The RM zone has a minimum frontage requirement of 30 ft, but no minimum lot size requirement. Frontage for Lot 1 will be 79 ft, and frontage for Lot 2 will be 96 ft. The maximum density for properties within the RM zone is 20 units per acre.

Lot 1:

$7,840.8 / 43,560$ (acre) = 0.18 acres

1 unit / 0.18 = 5.55 units; less than the 20 units/acre limitation

Lot 2:

$6,969.6 / 43,560$ (acre) = 0.16 acres

1 unit / 0.16 = 6.25 units; less than the 20 units/ acre limitation

Building setbacks of the RM zone require: a front yard setback to be the average of 2 adjacent lots on both sides, +/- 5 feet; a side yard setback of 10% of lot width; and a rear yard setback of 25% of lot depth. The average front yard setback for Lot 2, based on the neighboring 2 homes to the south (49 & 43 Fletcher Place) is 10'. This results in a front yard setback range of 5' – 15'. The front wall of the proposed home on Lot 2 will have a front yard setback of 13 ft. Also proposed is a 6 ft wide, covered front porch which will be setback 7 ft from the front property line. While there are special exceptions for unenclosed, single story front porches to extend a certain amount into a front yard setback, both the proposed home and front porch will comply with the 5'-15' front yard setback requirement. No changes are proposed to the existing home on Lot 1, which results in no concern for its front yard setback. Based on a lot width of 79 ft, Lot 1's side yard setbacks will be 7.9 ft. The existing home will comply with the side yard setback requirements. Lot 2's frontage totals 96 ft, meaning a minimum side yard setback of 9.6 ft; compliance here will be met as well. No change will occur with respect to Lot 1's rear yard setback. Lot 2 has a maximum depth of 93.90 ft, meaning a minimum rear yard setback of 23 ft; compliance with this rear yard setback will be met.

Lot coverage for Lot 1 will total 27.2%, and coverage for Lot 2 will total 24.4% - both less than the 40% maximum allowance. With the condition to extend the driveway on Lot 1 at least 7 ft to comply with the minimum parking standards of Article 8 (see below), lot coverage will go up slightly, but will still be below the maximum allowance.

The building height of the proposed residence on Lot 2 will be 30' to the peak of the gable roof, well below the 35 ft limit. **Affirmative finding**

(c) Permitted & Conditional Uses

Single family dwellings are permitted uses in the RM zone. **Affirmative finding**

(d) District Specific Regulations

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

A. Exceptions for Accessory Residential Features

Not applicable

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...

Not applicable. No new accessory structures are proposed.

5. Residential Density

Not applicable

6. Uses

Not applicable

7. Residential Development Bonuses

Not applicable

Article 5: Citywide General Regulations

Sec. 5.2.2, Required Frontage of Access

The existing lot has 175 ft of frontage on Fletcher Place. After the subdivision, both lots will continue to have frontage on Fletcher Place, both far exceeding the 30 ft minimum requirement. Both lots will have direct driveway access off Fletcher Place. The applicant will have to obtain a curb cut permit from DPW for Lot 2’s proposed access. **Affirmative finding as conditioned**

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable. The existing lot is 14,810 sq. ft. (less than 2 acres).

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 constitute a nuisance under this criterion. **Affirmative finding**

Sec. 5.5.2, Outdoor Lighting

Lighting fixture spec sheets have been provided, and the elevation drawings show the location of the proposed fixtures. The fixtures comply with the lighting standards of this section. **Affirmative finding**

Sec. 5.5.3, Stormwater and Erosion Control

An Erosion Prevention and Sediment Control Plan was submitted to the Stormwater Program Manager. Prior to release of this permit, the plan must be approved. **Affirmative finding as conditioned**

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

Sec. 6.1.2, Review Standards

(a) Protection of important natural features

The subdivision itself will have no impact on important natural features. **Affirmative finding**

(b) Block size and arrangement

Not applicable.

(c) Arrangement of Lots

The proposed subdivision will split the existing lot lengthwise into two lots. Both lots will front on Fletcher Place. Lot sizes along the street vary widely in size and shape. **Affirmative finding**

Interior lot lines extending from a street should be perpendicular or radial to the street right-of-way line to the greatest extent possible.

The new lot line extends perpendicularly from the street right-of-way line. **Affirmative finding**

(d) Connectivity of streets within the city street grid

Not applicable

(e) Connectivity of sidewalks, trails, and natural systems

A sidewalk exists on the same side of Fletcher Place as the subject property, however it ends at the driveway next door (43 Fletcher Place). Even though Fletcher Place is a dead-end street, development beyond it is extremely unlikely due to the presence of a ravine just several feet beyond Fletcher Place's end. **Not Applicable**

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

The property is generally flat up front in the development area. A ravine exists in the back half where the elevation drops significantly. Although not documented on the City's Natural Resource Protection Overlay District map, the applicant notes that there are wetlands at the base of the ravine and the site plans show a 50 ft buffer from those wetlands. No development is proposed to occur within this state wetland buffer. The applicant notes that 2 trees will be removed to make way for the new home on Lot 2. **Affirmative finding**

(b) Topographical alterations

The property has a slope at the rear (elevation ranges from approx. 314 ft at the street level to approx. 290 ft in the back). The proposed development on Lot 2 will locate at the front of the lot,

in and around elevations of 312-314 ft. No significant topographical alteration is included in the project plans. **Affirmative finding**

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. **Affirmative finding**

(d) Protection of important cultural resources

The property contains no archaeologically significant site points, nor is it located within an archaeologically sensitive area. The property is of no known archaeological significance.

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

A residential stormwater plan has been provided. As noted above, the city's stormwater program manager is reviewing the proposed stormwater management.

The front and rear entries are sheltered, and ample room is available onsite for seasonal snow storage. **Affirmative finding**

(h) Building location and orientation

The proposed single family residence is appropriately oriented towards the street. The building will be situated on the lot similar to other homes in the neighborhood. Ample lawn and open space will surround the home. **Affirmative finding**

(i) Vehicular access

The driveway access to Lot 1 will remain as existing. The new driveway serving the proposed home on Lot 2 will be of a conforming size to accommodate the 2 required parking spaces, and will appropriately setback from the side property line (5' minimum). **Affirmative finding**

(j) Pedestrian access

While the sidewalk ends just to the south of proposed Lot 1 (at 43 Fletcher Place), the proposal includes a front walkway extending to Fletcher Place from the new home. An encumbrance permit through the Department of Public Works will likely be required to construct the portion of walkway that lies within the street right-of-way. **Affirmative finding as conditioned**

(k) Accessibility for the handicapped

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

(l) Parking and circulation

See Article 8 below. For Lot 1, the existing driveway will need to be extended to adequately accommodate the 2 required onsite parking spaces. The site plan identifies a driveway serving Lot

2 that will be of an adequate dimension to accommodate the 2 required parking spaces. Circulation is simple with access provided to the surface parking spaces. **Affirmative finding**

(m) Landscaping and fences

Landscaping is not indicated on the plan but, in accordance with this section, it is required. The site plan will need to be updated to show landscaping for the new home on Lot 2. **Affirmative finding as conditioned**

(n) Public plazas and open space

Not applicable. No public plaza or open space is included or required in this proposal.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

Above ground power lines exist along the length of Fletcher Place and will provide power to the new home. While the elevation drawings do not show utility meters, they will need to locate in a manner so as not to be easily seen from the public street – ideally on the side of the home and screened from view. The site plan will need to be revised to show the location of the trash/recycling area. This area is required to be screened from view from the public street as well. **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 residence is consistent with that of existing homes along Fletcher Place. The homes come in a variety of typically suburban forms and styles. The proposed residence will have a covered front porch entry, which will provide for a clear distinction between the first and second floor. Building openings on the front façade will break up any possibility of a blank wall. The overall height of 30' is consistent with several homes in the neighborhood. **Affirmative finding**

2. Roofs and Rooflines

The new home will have a gable roof line, which is common in the neighborhood. **Affirmative finding**

3. Building Openings

The front door will be protected under the front porch roof. Fenestration is appropriately scaled and placed in consistent rhythm throughout the building. **Affirmative finding**

(b) Protection of important architectural resources

There are no historically significant structures on the subject property. **Affirmative finding**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

The front doorway is clearly articulated. There are no large blank walls or expanses of roof. Fenestration and roof variations work successfully to provide an active and inviting street elevation. **Affirmative finding**

(e) Quality of materials

The new home will be clad in cedar texture lap siding and trim. The gable ends will be sided with cedar texture shake siding. The proposed windows are crafted using a mix of aluminum, vinyl and wood materials. Metal standing seam will be installed for the roofing. **Affirmative finding**

(f) Reduce energy utilization

The proposed home 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

Not applicable. No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

Utility meters are not indicated on the plans and will need to be shown on revised plans. They will need to be screened. **Affirmative finding as conditioned**

(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

Table 8.1.8-1 requires 2 parking spaces per single family dwelling in the Neighborhood Parking District. The new development on Lot 2 will provide a driveway with a depth of 38 ft on site, enough to accommodate 2 tandem parking spaces. The existing driveway on Lot 1 was permitted in 2017 to be 38 ft in length, and that permit received its Certificate of Occupancy. However, the current plans show a driveway length of 29 ft on the property, an insufficient length to accommodate 2 onsite tandem parking spaces. This driveway will have to be extended 7 ft (min.) to adequately fit two 18 ft tandem parking spaces – a total of 36 ft.

Table 8.1.11-1 – Minimum Parking Dimensions – requires an 18 ft minimum parking space depth. Under the 2017 zoning permit (ZP18-0103CA), the approved site plan shows a driveway 38 ft in length, and the permit received its Certificate of Occupancy. However, the current site plan shows the onsite portion of the driveway with a depth of 29 ft, 7 ft short of the minimum depth requirement. As a result, parking for Lot 1 would be considered non-compliant, which would be reason enough to recommend denial. However, as there appears to be adequate space to extend the driveway in a compliant manner (with regard to both lot coverage and side yard setback concerns), it is feasible to recommend permit approval with a condition requiring the physical extension of the driveway before the zoning permit can be released. **Affirmative finding as conditioned**

Article 10: Subdivision Review

Sec. 10.1.7, Combined Preliminary and Final Plat

For subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11, the applicant may request,

and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.

In such cases, the submission requirements for final subdivision plats pursuant to Sec. 10.1.9 shall be met at the time of application, and decisions by the DRB shall be based on the project's conformance with the review criteria for both preliminary (Sec. 10.1.8(d)) and final plats (Sec. 10.1.9(d)).

The proposed subdivision is for two lots and thus qualifies to be considered in a combined hearing.

Affirmative finding

Sec. 10.1.9, Final Plat Review

(a) Final Plat and Construction Detail Submission Requirements

6. Final Plat Specifications

This criterion requires that the final plat plan be drawn at a scale of 1" = 40', and be on sheets sized 24" x 36" with one inch margins on three sides and a two inch margin on the side to be bound. The plan is scaled at 1" = 20' and will have to be changed. The final plat plan will need to meet the margin size requirements. **Affirmative finding as conditioned**

(d) Review Criteria

1. The requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in Article 4

See Article 4 of these findings.

3. The requirements of Article 5 with regard to Special Uses and Performance Standards as applicable

See Article 5 of these findings.

4. The land division and site development principles and design standards in Article 6.

See Article 6 of these findings.

Sec. 10.1.11, Recording of Final Plats

(a) Certifications and Endorsement

Prior to recording the mylar plat plan, all of the required endorsement blocks listed in Sec. 10.1.11 must be depicted on the plan itself and signed by the appropriate individuals. The submitted plan has the endorsement block for a lot line adjustment – that block shall be removed. **Affirmative finding as conditioned**

II. Conditions of Approval

1. **Prior to the release of the zoning permit**, the site plan shall be revised to include:
 - a. A driveway on Lot 1 being a minimum depth of 36 feet within the property.
 - b. The location of trash and recycling storage.
 - c. All landscaping proposed around the new home on Lot 2.
2. **Prior to the release of the zoning permit**, updated lot coverage calculations shall be provided to take into account the driveway extension on Lot 1.
3. **Prior to the release of the zoning permit**, the applicant shall obtain a curb cut permit from the Dept. of Public Works for the new driveway access serving Lot 2 off Fletcher Place.

4. **Prior to the release of the zoning permit**, the applicant shall secure a letter of adequate capacity from DPW for water and sewer services.
5. **Prior to the release of the zoning permit**, the EPSC plan shall be reviewed and approved by the Stormwater Program Manager.
6. **Within 180 days of the date of final approval**, the subdivision plat mylar, with all applicable endorsement signatures, shall be filed with the City Clerk per Sec. 10.1.11 of the Comprehensive Development Ordinance. Failure to do so shall render void the final plat approval.
7. **Prior to filing the mylar** in the city land records, the driveway on Lot 1 shall be physically extended so that the onsite portion of the driveway meets the minimum depth requirement of 36 ft to accommodate two tandem parking spaces.
8. **Prior to filing the mylar** in the city land records, the subdivision plat shall be revised to reflect the following:
 - a. The scale on the subdivision shall be changed to 1" = 40'.
 - b. Sheet size of 24" x 36" with one-inch margins on three sides and a two-inch margin on the side to be bound.
 - c. Obtain signatures for all certifications and endorsements required under Sec. 10.1.11 (a) of the Comprehensive Development Ordinance. These signature blocks shall be included on the final plat plan.
 - d. The lot line adjustment signature block shall be removed.
 - e. Verify the first portion of Lot 2's frontage along Fletcher Place. 36.55 ft appears to be inaccurate.
 - f. The driveway on Lot 1 being a minimum depth of 36 ft within the property.
9. **Prior to filing the mylar**, the garage spanning the proposed property line shall be removed from the site.
10. **Prior to the issuance of a certificate of occupancy**, the footprint of the removed garage shall be restored to a lawn or landscape area.
11. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Department of Permitting & Inspections impact fees as calculated by staff based on the net new square footage of the proposed development.
12. All permits issued after July 13, 1989 shall be closed out with issuance of Final Certificates of Occupancy prior to request for a FCO for this development. See attached list for guidance on the open permit.
13. It is the applicant's responsibility to obtain an encumbrance permit with the Dept. of Public Works for the portion of walkway serving the development on Lot 2 that lies within the street right-of-way, should one be required.
14. Construction hours shall be limited to Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No construction activity on Sunday.
15. The occupancy of the new dwelling unit is limited to members of a family as defined in Article 13.
16. A state wastewater permit will be required, and is the responsibility of the applicant to secure.
17. Any additional physical alteration or change of use will require review and approval under regulations in effect at that time.
18. 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.

19. Standard permit conditions 1-15.