

Department of Permitting and Inspections

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: April 6, 2021
RE: ZP21-0358CA/CU, 40 Kingsland Terrace

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: ZP21-0358CA/CU

Location: 40 Kingsland Terrace

Zone: RL **Ward:** 6S

Parking District: Neighborhood

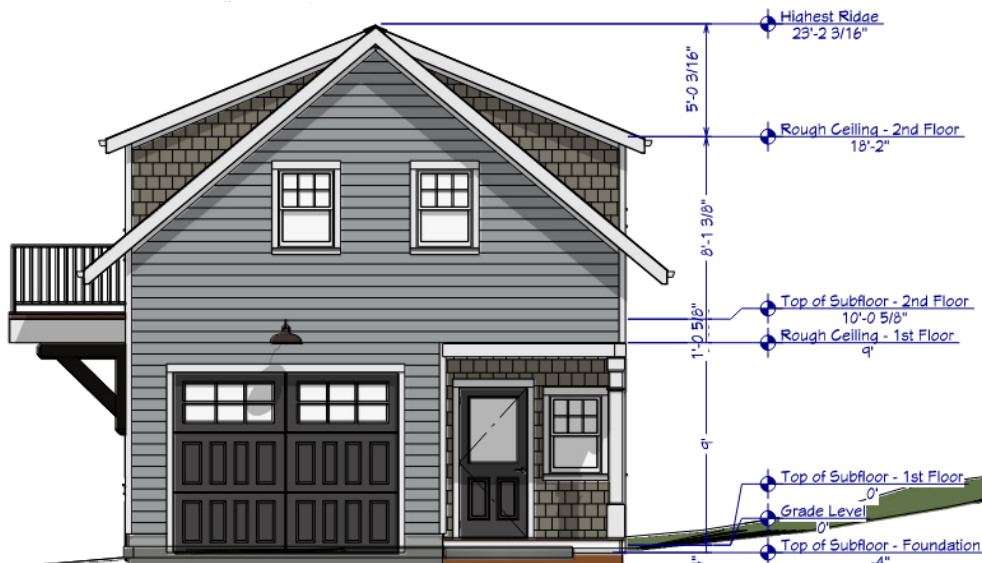
Date application accepted: October 1, 2020

Design Advisory Board review: October 27, 2020, November 24, 2020, and February 23, 2021

Revised Plans submitted: February 1, 2021

Applicant/ Owner: Lewis Creek Design (Emily Morse) / Katie Menson, Kellen Brumsted

Request: Demolish existing garage; construct new 660 sf. garage with Accessory Dwelling Unit (ADU.)



Background:

- **Zoning Permit 20-0762FC**; fencing. Approved March 2020.
- **Zoning Permit 19-0905CA**; install garage door. Approved May 2019. Application withdrawn.
- **Zoning Permit 09-173CA**; two storey rear addition, rear decks and patios to be removed. Approved September 2008.
- **Zoning Permit 90-085**; construct kitchen and deck addition. Approved March 1990.
- **Request to the ZBA for a variance from the side yard setback** for the purpose of constructing a greenhouse. Hearing dates October 28, November 18 and December 2, 1982. Variance request **denied** by ZBA, January 1983.
- **Zoning Permit 81-498**; stockade fence. Approved May 1981.
- **Zoning Permit 79-497**; take in 2 persons to fill existing two bedrooms as roomers. Approved August 1979.
- **Zoning Permit (n.n.)**; install driveway gate. Approved May 1978.
- **Zoning Permit (n.n.)**; erect stockade fence in rear yard. Approved May 1977.

Overview: The applicants propose to demolish an existing garage (listed within the South Union Street Historic District, on the National Register of Historic Places) and replace it with a new garage/ADU. As demolition of an historic building is included, the project is subject to Conditional Use review by the Development Review Board.

The application originally requested a variance from a required (rear yard) setback. With revised plans that show compliance with the required rear setback, the variance request is no longer necessary.

The **Design Advisory Board** reviewed the application at the October 27, 2020, November 24, 2020 and February 23, 2021 meetings. At each meeting, the DAB tabled the application and requested some modification.

The applicants feel they have adequately responded to the DAB recommendations, but the changing attendance at DAB provided somewhat inconsistent direction. The expense of redesign at every juncture now spurs the applicant to forge ahead for DRB review.

Recommended motion: Certificate of Appropriateness and Conditional Use approval per the following Findings:

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

Article 3: Applications, Permit and Project Reviews

Part 5: Conditional Use

Section 3.5.6 Review Criteria

(a) **Conditional Use Review Standards** (required due to request for demolition of a listed historic structure)

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.*

A replacement garage accessory with an accessory dwelling unit associated with an existing single family home in a residential zoning district will not result in an undue adverse effect on existing or planned public facilities. **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 a low density residential zoning district; the street listed in its entirety within the South Union Street Historic District on the National Register of Historic Places. The proposed replacement garage to include an accessory dwelling unit is typically of little consequence; but the request to demolish a listed property must satisfy the conditions of Section 5.4.8 (d).

Plan BTV defines the goal of meeting the demand for housing and offering many kinds of housing types

- 8.1 Enable the development of additional housing at all income levels consistent with the regional Building Homes Together targets and the city's Housing Action Plan by reducing regulatory barriers and disincentives to development, and encouraging infill and redevelopment of underutilized sites. (*PlanBTV, Burlington as a Dynamic City.*)
- Utilizing a range of policies, programs, and funding sources to expand housing opportunity, fill gaps in the housing tenure ladder, ensure perpetual affordability, and increase the overall supply and inclusiveness of housing. (*PlanBTV, Burlington as an Inclusive City.*)

Plan BTV also emphasizes the protection of the city's historic and cultural resources (2019 *PlanBTV*, p.24, 30)

- *New development [should be] integrated within and complementary to the unique, historic design characteristics of each neighborhood. (p.33)*
- *The city also has a legacy of rich architectural heritage, moderately-scaled buildings, and high quality urban design. Burlington's rich and varied archaeological, historic, and architectural legacy is illustrated in many significant places which remain a vital link to the city's history and sense of place and time. As identified in the Burlington Survey Plan, protecting historic structures isn't just about a single building or site, but rather is part of a larger endeavor to conserve the elements and design characteristics that are at the heart of the city's neighborhoods and commercial areas, while also ensuring their continued function in serving the needs of residents and the economy. (p.35.)*

Affirmative finding, if DRB concurs with Findings of 5.4.8 (d).

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;*

A replacement garage including an accessory dwelling unit will have no discernable nuisance impacts greater than typically generated by other residences in the neighborhood. **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 garage and inclusion of an accessory dwelling unit will have no measureable impact on transportation systems, street level of service or other performance measures. Kingland Terrace is an established residential public street; existing sidewalks are on both sides of the street along the public right-of-way. The site plan defines a parking space placed within the new garage, and a second space within the expanded existing driveway. An ADU no longer requires a parking space. As arranged, the plan may be deemed acceptable. **Affirmative finding.**

and

5. *The utilization of renewable energy resources;*

No part of this application will prevent the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**

and

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

The applicant will be required to provide a letter from the Department of Public Works confirming adequate water and sewer capacity for the new accessory dwelling unit. An EPSC plan has been forwarded to the Stormwater engineer for review; his approval a condition of any decision. A state wastewater permit will also be required; and remains the responsibility of the applicant to secure.

Affirmative finding as conditioned.

(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;*

There will not be a separate meter for the ADU. No mechanical equipment is illustrated on the site plan or building elevations. The applicant shall define any additional mechanical equipment as appropriate, and illustrate on plans.

Any new electric service shall be undergrounded.

Affirmative finding as conditioned.

2. Time limits for construction.

The permit will have a three-year life from the date of approval. Section 5.4.8 (d) 3. requires that construction commence within 6 months of building demolition. **Affirmative finding as conditioned.**

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

Residential use has no limitation on hours of operation.

Construction shall be limited Monday-Friday 7:30- 5:30 pm, with indoor work only on Saturdays. No construction shall occur on Sundays. **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,

Any enlargement will be reviewed under the zoning regulations in effect at that time.

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.

Any other performance standards are at the discretion of the Development Review Board.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W

40 Kingsland Terrace exceeds the required minimum lot size of 6,000 sf and required lot frontage of 60'. **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}			Waterfront	Max. Height ¹
		Front ²	Side ³	Rear		
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width or ave. of side yard setback of 2 adjacent lots on both sides	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet

			Max required: 20'			
40 Kingsland Terrace	Existing 29.86% Proposed 36% with additional bonus (porch, walkway) coverage allowance. 32.79% as base coverage; < 35%.	No change	Greater than 10% property width.	Structure location corrected to meet 25% rear setback requirement. (37'3")	N/A	23'2 3/16" to ridgeline < 35' limitation

Affirmative finding.

Section 4.4.5 (d) 2. Lot coverage

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 .

The base coverage remains under the 35% limitation (32.79%), while the open porches and walkways fall within these exceptions for residential features; allowing for the proposed 36% coverage. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

This is an existing developed parcel with a single family home and accessory garage.

Affirmative finding.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

(b) Exceptions to lot coverage

10. The DRB may grant an exemption from maximum lot coverage limits for up to 650 sq.ft., of the lot area occupied by an ADU. To grant such an exemption, the DRB must find that the existing lot coverage has been lawfully created, and that the proposed location, site design, and improvements will enable on-site management of the first one inch of stormwater runoff from the lot area of the ADU exceeding the applicable lot coverage limit, and will not have undue adverse impact on public rights of way based on the review of the DPW Stormwater Program Manager.

The applicants requested an allowance of an additional 287 sq. ft. of lot coverage for the purpose of creating an Accessory Dwelling Unit. The existing lot coverage has been lawfully created.

The lot coverage, however, is below the 35% maximum when bonus amenities are extracted (open porches, walkways.) See Section 4.4.5 (d) 2, above. Those amenities fall within the 10% bonus allowance that would allow for the proposed lot coverage.

There is no need to request the DRB approval for additional lot coverage. Not applicable.

Section 5.2.4 Buildable Area Calculation

This lot does not exceed 2 acres in size. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

The property will remain a single family home, but with an accessory dwelling unit. For purposes of density, the property remains a single family home. **Affirmative finding.**

Section 5.3.6 Nonconforming Lots

Not applicable.

Section 5.4.5 Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses:

Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means ~~an efficiency or one bedroom~~¹ {an}

¹ This has been struck with adoption of Act 179.

apartment that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. ~~No accessory unit shall be inhabited by more than 2 adult occupants.~~² An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:

1. *The property has sufficient wastewater capacity as certified by the Department of Public Works;*

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

and

2. *The unit does not consist of more than ~~800~~ 900 sq.ft³, or 30 percent (30%) of the Gross Floor Area of the principal home, whichever is greater;*

The ADU is proposed to be 660 sf., excluding the entry foyer. **Affirmative finding.**

and

3. *Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10;*

Setbacks are met (see Table 4.4.5-3, above.) Lot coverage falls within allowable range, including the 10% bonus allowance for open amenities. **Affirmative finding.**

and

*A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice. **Affirmative finding as conditioned.***

(b) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent upon owner-occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner-occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval.

² This limitation has been eliminated by the Vermont Legislature under Act 179

³ Ibid.

Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

Affirmative finding as conditioned.

Section 5.2.5 Setbacks

Setbacks between buildings and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street.

a) Setbacks Required

3. Rear yard. Minimum rear yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as percent of the lot width, such width shall be measured perpendicular to the lot frontage.

Plans have been revised to correct the rear yard setback, eliminating the need for the Variance request. See Table 4.4.5-3, above. **Affirmative finding.**

b) Exceptions to Yard Setback Requirements:

Not applicable.

Section 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.

40 Kingsland Terrace (home and garage, Resources 28 and 28A) are within the South Union Street Historic District on the National Register of Historic Resources. See attached narrative. Therefore, the following standards apply:

(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.

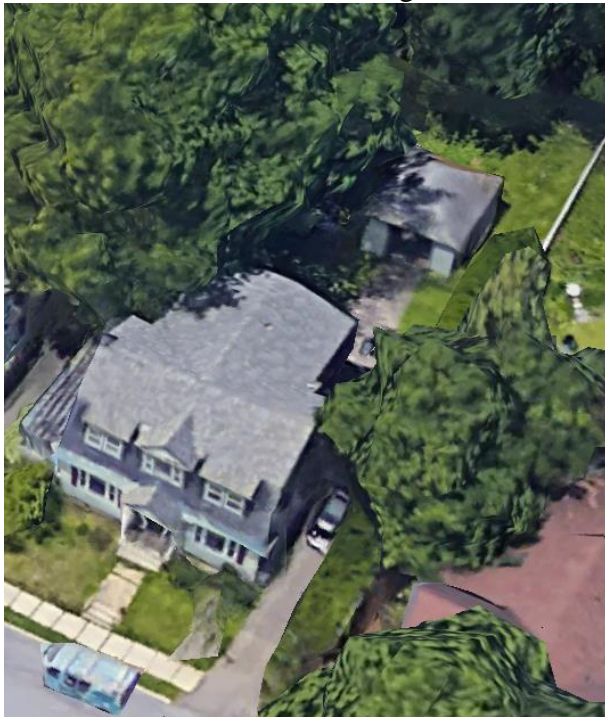
1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

No alterations are proposed to the principal structure within this application. The rear garage, constructed c. 1923, will be demolished and replaced with a much larger structure. Although the new building will also serve as a garage, the demolition of the original is a loss of original materials, features, spaces and spatial relationships that characterize the property.

The DAB has voted to be in support of the project with evidence from Roland VanDyk, PE. detailing foundation failure and wacking.



PHOTO 1: South Side - Note slight wacking of building to the left (west) side



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 principal building will remain as existing. The application proposes demolition of an accessory structure. Demolition of any historic building is subject to discretionary review by the DRB.

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 existing, small scale accessory structure is distinctly an element of its period of construction. (Photos of the garage are within the VanDyk report.) The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment. See Section 5.4.8 (d).

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

Whether constructed at the same time or after the house, the garage retains its significance in relationship to the context of the house. Quite generally, demolition is contrary to retention and preservation. The Design Advisory Board has supported consideration of a replacement building due to the failed foundation of the existing structure. The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment.

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

The existing garage is a pyramidal-hipped roof, one bay garage with aluminum siding and asphalt shingled roof. While the location, design, association and style are still extant, external sheathing materials are not original.

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.*

The proposal is not based in repair or replacement of deteriorated historic features, but wholesale building removal and replacement with a larger structure. The submitted report of Roland Van Cyk, PE, identifies the failure of the garage's foundation.

The DAB has opined support for the demolition of the existing garage based on submission materials that defined the lack of structural integrity of the existing building, coupled with the benefit of creation of a new dwelling unit.

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.*

Demolition is the greater caliber of destructive physical treatment. The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment.

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 location. If discovery is made during the redevelopment, construction will cease while appropriate authorities are notified and resources are evaluated, assessed, and appropriate disposition determined.

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.*

New construction proposed here is grounded in the removal of a listed historic structure that has a relationship to the principal structure. The replacement building, as located in the rear of the

lot and accessory to the primary structure continues that relationship. Although larger than the existing garage, its scale, proportion and massing are deferential to the existing home. The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable

based on the greater value to the community of the redevelopment.



PHOTO 2: West Side - Note buckled siding and vertical crack in foundation/slab

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.

A new accessory structure behind the principal building at 40 Kingsland Terrace will not diminish the historic integrity of that residential structure; but will eliminate the essential form and integrity of the existing accessory garage. The project may only be deemed reversible via rehabilitation or reconstruction matching its form, details and location. Photo documentation can be used to catalog the appearance of the structure if demolition is supported.

Affirmative finding only with DRB Affirmative Findings of 5.4.8 (d), below.

(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 attached memorandum from Roland VanDyk, PE. **Affirmative finding.**

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

The applicant's representative has discussed the standards with the DAB. See responses, below.

- 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;*

The applicant has not claimed economic hardship; but a comparative analysis has been provided by the contracting firm for foundation repair and design services. See Preliminary/viability estimate from Lewis Creek Builders.

Affirmative finding.

- 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 purpose of this application is redevelopment of the site. Due to its location, the replacement building will have no visual or adverse historic impact on neighboring properties within this historic district. The Vermont Legislation has recently eliminated *character of the area* as a reason to deny Conditional Use applications (Act 179.) **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.*

Elevations, drawings, and plans were submitted February 1, 2021 and revised March 18, 2021 further defining the intended replacement structure.

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 submitted engineer's report confirms foundational failure and structural deflection. There are no building permits on file for structural work on the

garage. A zoning permit application to replace the garage door was withdrawn in 2019. **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 condition of the existing garage impedes rehabilitation and reuse of the existing structure. The application did not explore structural relocation which would be unlikely on this site due to lot coverage. The basis of the application is to replace the building with another that will accommodate parking as well as a new accessory dwelling unit. **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.*

The DRB will be tasked with analyzing the existing structure versus a proposal to create a new dwelling unit in a replacement detached structure to ascertain whether there is a substantial community-wide benefit that outweighs the significance of the existing building. **Affirmative finding if DRB concurs with benefit.**

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;*

There will be no impact to the existing primary structure on the site. The location of the proposed replacement building, behind the primary structure and at the end of a cul-de-sac, minimizes if not eliminates any visible impact to existing properties on this street and those within this historic district. The adjacent property to the east (2 Tower Terrace) sits higher topographically. The replacement building will not impact the historical importance of that home, listed within the South Willard Street Historic District as resource #91A, *Loomis Carriage House*. **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;*

While the existing garage may not rise to the requirement of HABS recordation, photodocumentation of the existing building will need to be provided for the zoning record. **Affirmative finding as conditioned.**

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;

The proposed replacement building is appropriately scaled and detailed to companionably coexist on the site with the principal structure. The designers have attempted to reflect fenestration pattern and detailing to assure compatibility without conflict. **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;

Any approved zoning permit will carry a timeline for completion, and will run simultaneous to the standard, below. **Affirmative finding as conditioned.**

and,

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

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



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.

The applicant has not offered to deed-restrict the property for open space or recreational uses. If supported by the DRB, the six month time limit for new construction shall apply.

Affirmative finding as conditioned.

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.

Salvage and reuse of building materials is encouraged where public safety allows.
Affirmative finding.

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:

There is a landscaping hedge to the east, and (from aerial images) a mature tree to the west of the development site. The application does not include any tree removal or regrading of the site.

Affirmative finding.

(b) Topographical Alterations:

No topographical alterations are included within the application plans. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected important public views from or across the site. Not applicable.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application would preclude the use of wind, water, solar, geothermal, or other renewable energy resources. **Affirmative finding.**

(f) Brownfield Sites:

40 Kingsland Terrace is not listed on the Department of Environmental Conservation's list of Brownfield sites. 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.

An EPSC plan (as revised) has been forwarded to the Stormwater engineering division for review. Their written approval will be a condition of any permit. *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.*

A door on the west elevation is sheltered by an overhanging second story deck. The south entrance is within a small entry alcove; both providing shelter to residents. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The proposed replacement building is situated behind the primary residence; consistent with accessory structures. The principal entrance faces the front (south). The building has been relocated on the revised site plan to respect the required rear setback of 25% lot depth.

Affirmative finding.

(i) Vehicular Access:

Vehicular access is proposed to continue as existing; from Kingsland Terrace. **Affirmative finding.**

(j) Pedestrian Access:

The plan assumes pedestrian access from the parking space in the driveway or from within the garage. A discrete pathway from the ADU to the public sidewalk shall be identified.

Affirmative finding as conditioned.

(k) Accessibility for the Handicapped:

ADA jurisdiction is with the building inspector. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

The existing driveway will remain, albeit widened at the point to connection to the new garage/ADU. The required 2 parking spaces will be met with one in the new garage and one in front of it. Zoning Amendment 20-03 eliminated the requirement for an additional parking space for the ADU. **Affirmative finding.**

(m) Landscaping and Fences:

The applicant has provided an intended planting schedule with photos of the existing fencing.

Affirmative finding.

(n) Public Plazas and Open Space:

There is no requirement for a public plaza with this application. The rear yard will provide reasonable open space for the enjoyment of the residents. **Affirmative finding.**

(o) Outdoor Lighting:

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

Recessed lighting is proposed for the entryway porch, under the westerly deck and at the 2nd story door. Modeled images and elevations show a gooseneck style lamp over the garage door. All are of residential character and will downlight the immediately area. **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.

The applicants propose combined mail delivery to the principal building, as the intended ADU tenants will be relatives. The ADU will not have its own meter. All utilities must be undergrounded.

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.

There are no identified nuisance impacts that might emit heat, vapor, fumes, vibration, or noise. **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 proposed gable roofed building is larger than the existing single story garage it proposes to replace. The location behind the single family home and at the end of a dead-end street reduces the visual impacts of the larger structure. **Affirmative finding.**

2. Roofs and Rooflines.

The gable roof with dual shed dormers reflects a different style from the original submission, but is consistent with common accessory structures. **Affirmative finding.**

3. Building Openings

Windows are either double hung or transom with muntin patterns recalling the principal home. The garage doors look to resemble paired carriage house doors. **Affirmative finding.**



Principal structure, 40 Kingsland Terrace

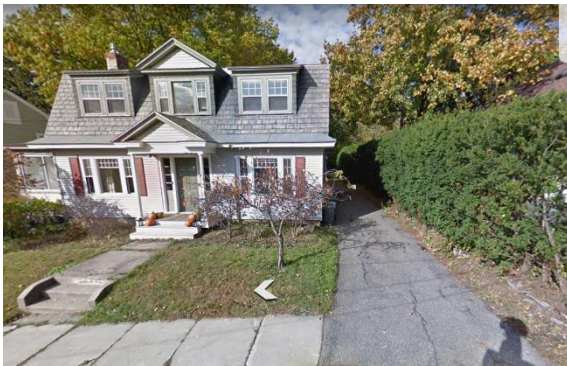
(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings. See Section 5.4.8.

(c) Protection of Important Public Views:

There are no protected important public views from this location. Not applicable.

(d) Provide an active and inviting street edge:



There is no visibility (from Google images) of this replacement structure from the public right-of-way. (See image, left.) **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.

Sheathing and trim are proposed to be an engineered wood strand product called LP SmartSide. Specification information has been provided for both cedar texture lap and smooth finish lap, with smooth finish trim. Windows are aluminum clad. The deck will feature a cable guardrail with wood cap. **Affirmative finding.**

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

This is a replacement building for one listed on the National Register of Historic Resources; but it is not a reconstruction. It is entirely new design and fabrication that does not intend to replicate the original building. See Section 5.4.8, below.

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Efficient Construction per 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:

No signage is included with this application. Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

New construction must meet all applicable building and life safety code as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

The existing single family home requires 2 parking spaces in the Neighborhood Parking District, and the proposed ADU has no parking requirement. **Affirmative finding.**

Article 12: Variances and Appeals

As the plans have been revised to show compliance with a required rear setback, the request for a Variance is not longer necessary. Not applicable.

Recommended Conditions of Approval:

1. Written approval of the Erosion Prevention and Sediment Control Plan will be required **prior to release of the zoning permit.**
2. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit **prior to the issuance of the certificate of occupancy for the unit.** Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions **including owner occupancy.** No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.
3. **Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence.** For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.
4. Functional Family provisions of the ordinance remain in effect. Not more than 4 unrelated adults may occupy either unit.

5. The accessory dwelling unit is limited to 30% of the habitable area of the single family residence or 900 sf., whichever is greater.
6. A letter assuring adequate wastewater and water capacity for the new unit from the Department of Public Works shall be required **prior to release of the zoning permit.**
7. A State Wastewater Permit is required, and is the responsibility of the owner to secure.
8. Hours of construction are limited to 7:30 am- 5:30 pm Monday through Friday. Saturday construction is limited to interior work. No construction shall occur on Sundays.
9. A separate pedestrian walkway between the parking area/garage to the public right-of-way or sidewalk is required. This shall be illustrated on a revised site plan, and coverage amended if necessary.
10. Prior to demolition, the accessory structure shall be photo-documented for the zoning record and as an update to the Historic District narrative.
11. Construction must commence within six months of building demolition per Section 5.4.8 (d) 3.
12. All new construction is required to 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.
13. Any new electric service shall be undergrounded.
14. If any exterior mechanical equipment is proposed, it shall be included on elevations and/or site plans as appropriate and meet all required setbacks.
15. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.