

## Department of Permitting & Inspections

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**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** December 7, 2021  
**RE:** ZP-21-677; 27 Lakeview Terrace

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**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: 3C

Owner/Applicant: James & Susan Fayette

**Request:** Construct retaining wall along rear boundary and install patio and gas fire pit.

### **Applicable Regulations:**

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards)

### **Background Information:**

The applicant is seeking approval to install a 3 ft. tall concrete block retaining wall along the western (rear) property boundary. A small patio and gas fire pit are also proposed in the rear yard.

The property's rear boundary abuts city-owned land and sits atop a steep slope. Construction of the retaining wall within 2 ft. of the property line is permissible but triggers Development Review Board review. Location atop the steep slope warrants a geotechnical analysis.

Previous zoning actions for this property are noted below:

- 11/10/21, Approval for replacement garage doors.
- 1/5/21, Construct retaining wall along rear property line (*withdrawn*).
- 4/10/17, Approval for accessory apartment over the garage and install one window.
- 9/30/11, Approval for accessory apartment over the garage and install window (*expired*).
- 10/5/95, Approval for window changes.
- 8/24/90, Approval to demolish cottage and construct new single family home.

**Recommendation:** Certificate of appropriateness approval as per, and subject to, the following findings and conditions:

### **I. Findings**

#### **Article 4: Maps & Districts**

##### **Sec. 4.4.5, Residential Districts:**

##### **(a) Purpose**

***(3) Residential Medium Density (RM)***

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. No change in use from the existing single family home is included in this proposal.

**(Affirmative finding)**

***(b) Dimensional Standards and Density***

Residential density remains unchanged at 1 dwelling unit (and one accessory apartment).

Lot coverage is presently 40%. As proposed, it will increase slightly to 42.7% due to the patio construction. The proposed retaining wall is 15” wide and, therefore, does not affect lot coverage. The increase in lot coverage is acceptable, as the patio falls within an extra 10% lot coverage (over the standard 40% limit) for open-air amenities.

The front yard setback will remain unchanged. The application indicates that the fire pit patio will be set back at least 5’ from the property lines; however, that is not clear in the site plan. The patio must be set back at least 5’ from the side and rear property lines. Adjustment of the site plan may be necessary to depict this setback. The bottom of the retaining wall will be set at the rear property line and will taper inward ~ 1’ as it rises in height to 3.’ Note that the subsoil base of the wall must also be set within the subject property rather than encroach onto adjacent city property. This detail should be depicted in the retaining wall cross section. Encroachment into the city property would require a license subject to City Council approval and annual fees in addition to consent by the Vermont Housing and Conservation Board that holds a conservation easement on the property.

The proposed retaining wall will be an acceptable 3’ in height. **(Affirmative finding as conditioned)**

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

The permitted single family home use remains unchanged. **(Affirmative finding)**

***(d) District Specific Regulations***

***2. Lot Coverage***

As noted above, the patio is acceptable within the extra 10% lot coverage afforded to open-air amenities. **(Affirmative finding)**

**Article 5: Citywide General Regulations**

***Sec. 5.2.3, Lot Coverage Requirements***

See Article 4 above.

***Sec. 5.2.4, Buildable Area Calculation***

Not applicable to the subject property.

***Sec. 5.2.5, Setbacks***

***(b) Exceptions to Yard Setback Requirements***

***3. Retaining Walls***

Although the retaining wall is only 3’ tall, it comes within 2’ of a property boundary. Therefore, Development Review Board review and approval is required. See development standards under Article 6.

***Sec. 5.2.6, Building Height Limits***

See Article 4 above.

***Sec. 5.2.7, Density and Intensity of Development Calculations***

See Article 4 above.

***Sec. 5.5.1, Nuisance Regulations***

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

***Sec. 5.5.2, Outdoor Lighting***

**(Not applicable)**

***Sec. 5.5.3, Stormwater and Erosion Control***

As more than 400 sf of earth disturbance is proposed, a “small project erosion control” form has been provided. The city’s stormwater program staff has reviewed and approved this plan.

**(Affirmative finding)**

**Article 6: Development Review Standards**

***Part 1, Land Division Design Standards***

**(Not applicable)**

***Part 2, Site Plan Design Standards***

***Sec. 6.2.2, Review Standards***

***(a) Protection of important natural features***

The subject property contains no important natural features as identified in the Open Space Protection Plan. **(Affirmative finding)**

***(b) Topographical alterations***

The proposed retaining wall is intended to level the grade of the back yard for more usable outdoor space. Topographic changes are modest, as the proposed retaining wall is only 3’ tall.

Given the proposed wall’s location atop a steep slope, geotechnical analysis has been performed. The analysis finds that this relatively small-scale project will not adversely affect the overall stability of the existing slope, provided that it is constructed in accordance with several recommendations as to construction, foundation, and drainage. Those recommendations are incorporated into conditions of approval. Review of the geotechnical analysis and comment by the City Engineer has been requested. Any comments received will be conveyed to the applicant and the Board. **(Affirmative finding as conditioned)**

***(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 has no historic structures and contains no archaeologically significant site points, nor is it located within an archaeologically sensitive area. **(Affirmative finding)**

*(e) Supporting the use of alternative energy*

No part of this proposal involves the use of alternative energy. The proposed construction will not adversely impact the actual or potential use of alternative energies by this property or neighboring properties. **(Affirmative finding)**

*(f) Brownfield sites*

The subject property is not an identified brownfield. **(Affirmative finding)**

*(g) Provide for nature's events*

See Sec. 5.5.3 for stormwater management.

*(h) Building location and orientation*

**(Not applicable)**

*(i) Vehicular access*

**(Not applicable)**

*(j) Pedestrian access*

**(Not applicable)**

*(k) Accessibility for the handicapped*

**(Not applicable)**

*(l) Parking and circulation*

**(Not applicable)**

*(m) Landscaping, fences, and retaining walls*

Some additional landscaping is included in the project plans; however, it is not the focus of the application. The proposed retaining wall is to be constructed of interlocking cultured stone blocks and capped with slightly wider flat cultured stone blocks. The wall is relatively small at just 3' tall and set along the rear property boundary. Public view of the wall will be from the bottom of the slope below Lakeview Terrace. As proposed, the wall is appropriately scaled and constructed for this residential application. No new fencing is proposed. **(Affirmative finding)**

*(n) Public plazas and open space*

**(Not applicable)**

*(o) Outdoor lighting*

**(Not applicable)**

*(p) Integrate infrastructure into the design*

**(Not applicable)**

***Part 3, Architectural Design Standards***

**(Not applicable)**

**II. Conditions of Approval**

1. **Prior to release of the zoning permit**, revised project plans shall be submitted, subject to staff review and approval. Revised project plans shall depict the proposed patio set back at least 5' from the side and rear property lines and the entirety of the retaining wall construction within the 27 Lakeview Terrace property.
2. This permit includes the recommendations of the December 1, 2021 geotechnical analysis by Sanborn Head:
  - The MSE retaining wall should be constructed with an approved modular block facing and uniaxial geogrid with a minimum ultimate tensile strength of 3,500 psf. Soils in the reinforced zone should consist of granular structural fill compacted in lifts of no more than 8-inch thickness.
  - The bottom of the wall should be constructed with an embedment of 18 inches below the existing grade at the face of the wall. The bottom block should be placed on a 6-inch thick leveling pad, consisting of compacted structural fill or ¾ inch crushed stone placed over competent native sand subgrade.
  - A 4-inch PVC perforated drainage pipe should be placed across the length of the wall behind the bottom block. The drainage pipe should daylight at a location downslope of the face of the wall. The drainage pipe should be enveloped with a minimum of 12 inches of ¾ inch crushed stone wrapped in non-woven geotextile fabric (e.g., Mirafi 140N).
3. 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, and shall meet all energy efficiency codes of the city and state as required.
4. Standard permit conditions 1-15.