

Department of Permitting & Inspections

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

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Joseph Cava, Permit Technician
Ted Miles, Code Compliance Officer
Charlene Orton, DPI Administrator*



TO: Development Review Board
FROM: Scott Gustin
DATE: September 20, 2022
RE: ZP-22-488; 245 Loomis Street

=====

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: RL Ward: 1E

Owner/Applicant: Caitlin Halpert

Request: Install two exterior compressors for ductless heating/cooling, including one within a side yard setback.

Applicable Regulations:

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The proposed work is small in scale and involves installation of two exterior heat pumps. Normally, such an application would be reviewed administratively; however, one of the heat pumps will be installed within a side yard setback and requires Development Review Board approval per Sec. 5.3.5 of the CDO.

Prior zoning permit actions for this property.

- 7/16/21, Affirmative determination as to pre-existing habitable attic space
- 6/2/21, Approval for addition and replace top story gable windows
- 11/26/19, Approval for replacement windows
- 5/14/19, Approval to install new double-hung window
- 5/7/18, Approval to replace garage and entry doors
- 11/5/13, Approval for pence
- 4/10/12, Approval to construct new 2nd floor deck

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

(1) Residential Low Density (RL)

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes. The use of the property for a single family residence will remain unchanged. **(Affirmative finding)**

(b) Dimensional Standards & Density

Residential density remains unchanged at 1 dwelling unit.

Lot coverage is 40.2%, including just slightly under 35% standard lot coverage. The slight increase in coverage associated with the heat pumps is permissible within the 35% standard lot coverage limit for RL zone properties.

The property is a corner lot and, as such, has two front yards and two side yards. One of the heat pumps is acceptably placed along the Mansfield Avenue frontage behind the front yard setback. The other heat pump will be placed within the eastern side yard setback. The property is ~ 42' wide where the heat pump will be installed and requires a ~4.2' side yard setback. As proposed, the heat pump will be set back ~2.5' from the side property line and will encroach slightly into the required minimum setback. Such encroachment is permissible subject to Sec. 5.3.5 as noted below.

Building height remains unchanged. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The existing single family home is a permitted use. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

There is no waterfront setback. **(Not applicable)**

2. Height

No height bonuses are being sought. **(Not applicable)**

3. Lot Coverage

No lot coverage bonuses are being sought. **(Not applicable)**

4. Accessory Residential Structures and Uses

No accessory buildings or uses are proposed. **(Not applicable)**

5. Residential Density

The dwelling is limited to occupancy by a family as defined in the Comprehensive Development Ordinance. **(Affirmative finding)**

6. Uses

No neighborhood commercial use is included in this proposal. **(Not applicable)**

7. Residential Development Bonuses

No development bonuses are being sought. **(Not applicable)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Part 3: Non-Conformities

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);*

As noted in Article 4 above, the application is compliant with all other dimensional requirements. (Affirmative finding)

- ii) *Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,*

The proposed encroachment is slight. The heat pump is small and will be separated from the neighboring home by an existing driveway. (Affirmative finding)

- iii) *Be compatible with the character and scale of surrounding structures.*

The proposed encroachment will be effectively imperceptible from the public street. It will leave the form and scale of the existing home unchanged. (Affirmative finding)

Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

Within all districts, and subject to the Development Review Board approval, structures for the purpose of creating an ADU may be constructed on lots with legally non-conforming lot coverage per Sec.5.2.3 (b) 10.

2. *Such a change or modification shall not create any new nonconformity; and,*

Location of the heat pump as proposed will not create any new nonconformity. It will be placed within an existing side yard setback encroachment only. **(Affirmative finding)**

3. *Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*

See Article 6 below.

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 **(Not applicable)**

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

(d) Protection of important cultural resources

The residence is included within the Vermont State Register of Historic Places. No alterations to the building are proposed, other than piping associated with the heat pump. **(Affirmative finding)**

(p) Integrate infrastructure into the design

Both of the heat pumps are small and will be screened by existing building features and landscaping. They are an unobtrusive addition to the site. **(Affirmative finding)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(Not applicable)

II. Conditions of Approval

1. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Permitting & Inspections as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state.
2. Standard permit conditions 1-15.