

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: October 5, 2021
RE: ZP-21-645; 130 Mansfield Avenue

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: I Ward: 1E

Owner/Applicant: CSC Mcauley LLC / David Valyou

Request: Request approval to remove up to 13 trees on the property.

Applicable Regulations:

Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking approval to remove up to 13 trees from within the developed property. Specifically, the applicant notes 11 dead/dying black locust trees and 2 elm trees to be removed. No new development is proposed, and this application is reviewed under the Tree Removal standards of Article 5 of the Comprehensive Development Ordinance.

Previous zoning actions for this property:

- **Zoning Permit 02-200**; install fencing. Approved October 26, 2001.
- **Zoning Permit 17-0090CA**; install a gazebo in the backyard. Approved July 27, 2016.
- **Non-Applicability of Zoning Permit 18-0416NA**; replacement roofing. Approved October 19, 2017.
- **Zoning Permit 20-0401CA**; relocate existing playground and add a new walkway. Approved October 17, 2019.

Recommendation: Certificate of Appropriateness approval as per, and subject to, the following findings and conditions.

I. Findings

Article 5: Citywide General Regulations

Sec. 5.5.4, Tree Removal

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

(1) Grounds for approval

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

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

A. Removal of dead, diseased, or infested trees;

The applicant has provided a quote from DJ's Tree Service that includes the following note:

Highly recommend removal of these trees because they are half dead and losing limbs which make them very dangerous.

The photos provided by the applicant show leafless treetops among otherwise healthy, fully leaved trees. Staff visited the property and observed these trees and concurs that they appear to be a threat to life and/or property. Additionally, the city arborist stated that he has no concerns about the removal of the trees since they present a potential hazard to the residents and property in their current state. **(Affirmative finding)**

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices;

(Not applicable)

C. Removal of trees that are a danger to life or property; or,

As the applicant notes, there are 11 dead/dying black locust trees and 2 diseased elm trees. Photos provided show leafless treetops among other healthy trees, thus supporting their dead/dying/diseased status. The quote from DJ's Tree Service provides additional confirmation of the health of these trees. Clearly, these trees are susceptible to falling over/apart and becoming a danger to life or property. **(Affirmative finding)**

D. As part of a development with an approved zoning permit.

No new development is proposed. **(Not applicable)**

(2) Grounds for denial

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

A. Providing a significant privacy or aesthetic buffer or barrier between properties;

As the site plan (aerial photo) shows, the location of the trees proposed for removal are well within the property, and will not open up any sort of view corridor between the property itself and neighboring properties. **(Not applicable)**

B. Providing stabilization on slopes vulnerable to erosion;

(Not applicable)

C. Located within a riparian or littoral buffer;

(Not applicable)

D. Provide unique wildlife habitat;

(Not applicable)

**E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program; or,
(Not applicable)**

**F. A significant element or, or significantly enhances, an historic site.
(Not applicable)**

II. Conditions of Approval

1. Standard permit conditions 1-15.