

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Scott Gustin
DATE: June 15, 2021
RE: 21-394; 15 Myrtle 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: RM Ward: 3C

Owner/Applicant: Andrew B. Feltus

Request: Replace existing detached garage with new detached accessory dwelling unit.

Applicable Regulations:

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

Background Information:

The applicant is requesting approval to demolish a detached single-bay garage and to replace it with an accessory dwelling unit (ADU) in the same location. The proposed ADU has a larger footprint than the garage but will remain an accessory structure below 15' tall. The application includes a request to exceed the standard lot coverage limit per the standards of Sec. 5.2.3, *Lot Coverage Requirements*.

Previous zoning actions for this property are noted below.

- 7/19/19; Approval to replace front stoop overhang
- 6/10/08; Approval of PUD to construct 2nd detached single family home (relinquished)
- 12/17/79; Approval of lawyer's office home occupation

Recommendation: Consent 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. The residential property is consistent with this intent. The primary residence will

remain, and the apartment will be accessory thereto. The new ADU will not adversely impact the property's consistency with the character of this district. **(Affirmative finding)**

(b) Dimensional Standards and Density

Residential density remains unchanged. Accessory dwelling units specifically do not count towards allowable residential density per Sec. 5.4.5, *Accessory Dwelling Units*.

Lot coverage is presently conforming at 38.4%. As proposed, lot coverage would increase to 43.8%. Exceeding the standard 40% limit is permissible per Sec. 5.2.3 (b) below.

The proposed ADU will be located in the rear yard. The existing garage sits just 2' from the rear property line and 4' from the nearer side property line. The 2' rear yard setback is nonconforming and will be retained with the new ADU, except that the ADU will jog forward to comply with a 5' rear yard setback where the new building is wider than the existing. The ADU will comply with a 2' minimum required side yard setback. This setback is acceptable based on the 2' average side yard setbacks of neighboring properties as evidenced in the application setback table.

The existing detached garage is just a single story and less than 15' tall. The proposed ADU remains under 15' tall as well. **(Affirmative finding)**

(c) Permitted and Conditional Uses

The existing single family home is a permitted use, and the apartment is accessory to it. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 5: Citywide General Regulations

Part 2: Dimensional Requirements

Sec. 5.2.3 Lot Coverage Requirements:

(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 exception, 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 RM zoning district limits lot coverage to 40%. The submitted plans indicate an existing lot coverage of 38.4% (1,426 sf). The proposed construction will increase lot coverage to 43.8% (1,626 sf), a net increase of 200 sf. All of this increase is related to the new ADU structure and is less than the 650 sf limit enabled by this criterion.

The applicant has submitted an Erosion Prevention and Sediment Control plan and a stormwater plan to the City's Stormwater Program Manager. As of June 7, 2021, the plans have been reviewed and are pending approval upon resubmission through the new online permitting portal. **(Affirmative finding as conditioned)**

Sec. 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 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 two adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation.

The proposed ADU has an open floor plan with without a clearly defined kitchen or sleeping space. Those items should be clarified. The bathroom is clearly defined. **(Affirmative finding as conditioned)**

Additionally, there must be compliance with all the following:

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

The applicant will be required to secure a letter of adequate capacity from DPW for water and sewer services. **(Affirmative finding as conditioned)**

2. *The unit does not consist of more than 900* sq. ft. or 30 percent (30%) of the gross floor area of the principal home, whichever is greater; and [*VT statute has increased the upper limit to 900 sf or 30%]*

The ADU will total 512 sf in size, less than the 900 sf maximum allowance. **(Affirmative finding)**

3. *Applicable setback and coverage requirements are met;*

See Table 4.4.5-3 and Sec. 5.2.3 (b) (10) above. **(Affirmative finding)**

4. *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.*

A condition of approval will ensure this. **(Affirmative finding as conditioned)**

Sec. 5.5.1 Nuisance Regulations

No potential nuisances are evident in the application materials. **(Affirmative finding)**

Sec. 5.5.2 Outdoor Lighting

The application contains specification sheets for two outdoor lighting fixtures. A motion-sensor flood light is proposed for the north (facing the driveway) entry, and a recessed canister fixture is proposed for the west entry. The canister fixture is acceptable. The floodlight is not. A shielded spot light may be acceptable if motion-sensor, or a different fixture altogether may be possible. A different fixture for the north elevation is needed. **(Affirmative finding as conditioned)**

Sec. 5.5.3 Stormwater and Erosion Control

See Sec. 5.2.3.

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

Sec. 6.1.2, Review Standards

Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

There are no significant natural areas on or near the subject property. Photographs of existing conditions suggest that one or two trees may be removed in order to construct the new ADU. Any existing trees to be removed need to be depicted on the site plan. **(Affirmative finding as conditioned)**

(b) Topographical alterations

The property is flat and will remain so. No significant topographic alterations are included in this proposal. **(Affirmative finding)**

(c) Protection of important public views

There are no identified view corridors near the subject property. The proposed construction will have no impact on the city's regulated view corridors. **(Affirmative finding)**

(d) Protection of important cultural resources

The subject property is not listed on an historic register, nor has it been surveyed to determine eligibility. The property is not located within an identified archaeologically sensitive area, nor does it contain any archaeologically significant site points. The proposed garage demolition and ADU construction will not adversely affect Burlington's historic or cultural resources.

(Affirmative finding)

(e) Supporting the use of alternative energy

No alternative energies are incorporated into the project design. Construction of the project will have no adverse impact on potential use of alternative energies onsite. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not included on the Vermont DEC Hazardous Site List. **(Affirmative finding)**

(g) Provide for nature's events

See Sec. 5.2.3 for stormwater and erosion control.

A small overhang will provide shelter for those entering the side doorway into the proposed accessory apartment. **(Affirmative finding)**

(h) Building location and orientation

(Not applicable)

(i) Vehicular access

The existing driveway will be shortened as part of this project. At 40' long, it will remain sufficient for two parking spaces in tandem arrangement. These two spaces are adequate for the single family home. No parking spaces are required for the ADU. **(Affirmative finding)**

(j) Pedestrian access

A public sidewalk runs across the property's street frontage. The driveway will butt up against double doors on the north of the proposed ADU. No walkway is proposed to the ADU's side door and is recommended. A walkway would increase lot coverage but would be permissible under the additional 10% lot coverage afforded to open air amenities like walkways, decks, and patios. **(Affirmative finding as conditioned)**

(k) Accessibility for the handicapped

Not applicable.

(l) Parking and circulation

See criterion (i) above.

(m) Landscaping and fences

No new landscaping or fencing are proposed. There is some mature landscaping onsite consisting of trees and shrubs. A couple of raised garden beds sit alongside the driveway. Most of this landscaping will remain. As noted above, one or two trees will likely be removed to enable construction of the ADU and need to be noted on the site plan. **(Affirmative finding as conditioned)**

(n) Public plazas and open space

Not applicable.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

No exterior mechanical equipment is included in this proposal. An above-ground utility line is depicted serving the proposed ADU. Any new utility lines must be buried. **(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 ADU is a simple single story, gable-roofed structure located in the rear corner of the property. Outbuildings set in the rear yard are fairly common in this neighborhood. While the ADU has a larger footprint than the garage it will replace, it is clearly subordinate in scale to the primary residence at the front of the property. The ADU has a basic unified mass broken up with fenestration. Height remains below 15.' **(Affirmative finding)**

2. Roofs and Rooflines

As noted above, the ADU will have a gable roof. Gable roofs, with or without dormers, are common in this, and other, residential neighborhoods. **(Affirmative finding)**

3. Building Openings

The primary entrance faces the street and is uniquely emphasized with a set of double doors. A sheltered side entrance will be provided as well. Fenestration is appropriately scaled and stylistically appropriate for the basic building design. **(Affirmative finding)**

(b) Protection of important architectural resources

The existing garage is not listed on the state or national historic register, nor has it been deemed eligible for listing. Its removal will have no adverse impact on Burlington's wealth of important architectural resources. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

The street edge of the property is defined by the primary residence out front. Like the existing garage, the proposed ADU will be set to the rear of the lot. Its location at the end of the driveway mirrors that of the existing garage and will have little perceptible impact on the property's street presence. **(Affirmative finding)**

(e) Quality of materials

The proposed ADU will be clad in wooden board and batten siding and standing seam metal roofing. Note that no corner boards are depicted in the elevation drawings. If any are proposed, they must be depicted in the elevation plans. The proposed windows appear to be vinyl, but clarification is needed. The materials proposed are of acceptable quality and durability for this new construction. **(Affirmative finding as conditioned)**

(f) Reduce energy utilization

The proposed building 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

No advertising is included in this proposal. **(Affirmative finding)**

(h) Integrate infrastructure into the building design

No exterior mechanical equipment or utility meters are depicted on the exterior of the proposed ADU. If any is proposed, it must be depicted and 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)**

II. Conditions of Approval

1. Prior to release of the zoning permit, the following items shall be provided, subject to staff review and approval:

- a. Clarification of bedroom and kitchen in the ADU floor plan;
 - b. Wastewater capacity letter from the Dept. of Public Works;
 - c. Compliant outdoor light fixture for the north building entry;
 - d. Depiction on the site plan of trees to be removed and a walkway to the west entry;
 - e. Removal of site plan reference to an above-ground utility line (all new utility lines shall be buried);
 - f. Window material details; and,
 - g. Depiction and screening of any exterior mechanical equipment or utility meters and related screening.
2. Prior to release of the zoning permit, final review and approval of the stormwater plan and EPSC shall be received from Burlington stormwater program staff.
 3. 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.
 4. 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.
 5. Standard permit conditions 1-15.