

## Department of Planning and Zoning

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### MEMORANDUM

To: Development Review Board  
From: Mary O'Neil, AICP, Principal Planner  
Date: January 5, 2016  
RE: 934 North Avenue; ZP16-0591CU

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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.**

**File:** ZP16-0591CU

**Location:** 934 North Avenue

**Zone:** RL **Ward:** 7N

**Date application accepted:** November 9, 2015

**Applicant/ Owner:** William G. Forsyth

**Request:** Eliminate funeral home use; add one residential unit for a total of four residential units.

#### **Background:**

- Zoning Permit 14-1254CU; change use from funeral services to general office. Existing residential apartment to remain. Permit **Denied**, July 2014 as General Office not a permitted use in the RL zoning district. Appealed to VEC; appellant's motion for summary judgment **denied**. The conditional use application was **denied** (judgment in favor of the City) September 2015.
- Zoning Permit 12-0332CA; replace windows. October 2011.
- Zoning Permit 11-0698CA; replace asphalt roofing on portico and addition low slope roofs with rubber membrane. April 2011.
- Zoning Permit 01-459; enlarge the basement window of the existing residential unit. May 2001.
- Zoning Permit 78-70, replace deteriorated wood trim, re-roof porch, install vinyl siding. October 1978.
- Zoning Permit 78-133; remodeling of historic building to include exterior siding, interior insulation in basement and ceiling, roof areas, repair to sagging porch roof and floor. October 1978.
- Appeal to Zoning Board of Adjustment to remove the stipulations laid down by the Planning Commission in its approval of the Certificate of Appropriateness issued on

September 20, 1974. ZBA grants appeal and strikes stipulations set by PC, which it determines go beyond its jurisdiction and authority under the Burlington Zoning Ordinance. FOF dated November 1974.

- Certificate of Appropriateness approval to Ready Funeral Home, issued August 1974. (COA was conditioned upon the requirement that parking, traffic circulation, and landscaping designs must follow dictates of the Commission.)

**Overview:** 934 North Avenue is a mixed use building with a funeral home and three residential apartments. The building was constructed approximately 1866; the funeral home use has been present since 1973. The application proposes to remove the commercial (funeral home) use, and add one new residential unit for a total of four units. The building is within the RL zoning district.

**Recommendation: Consent approval,** per the following findings and conditions:

## **I. Findings**

### **Article 3: Applications, Permits and Project Reviews**

#### **Section 3.5.6 Review Criteria**

**(a) Conditional Use Review Standards** (as adopted by City Council 8.10.2015)

*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.*

The replacement of a funeral home with a new residential unit will have negligible impact on existing or planned public utilities, facilities or services. **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 an existing residential zoning district. The conversion of a pre-existing commercial use (funeral home) to a residential use will be more consistent with the specified zoning district. **Affirmative finding.**

*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;*

No additional impacts relative to noise, odor, dust, heat, and vibrations are anticipated with the addition of one new residential unit. **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 property fronts North Avenue with access to the parking lot from Saratoga Avenue. There are attendant pedestrian sidewalks, and the parcel is on the CCTA bus route. This is existing access, and adequate parking for the proposed use. **Affirmative finding.**

*And*

*5. The utilization of renewable energy resources;*

No part of the application will prevent the utilization of alternative or renewable energy resources. **Affirmative finding.**

*and*

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

All rental units will be required to meet the limitations relative to functional family and definition of family per the Comprehensive Development Ordinance. A State Wastewater permit may be required. **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;*

No areas of remediation or mitigation are identified within the project proposal. **Affirmative finding.**

*2. Time limits for construction.*

All alteration to effect the change of use will occur on the interior. The zoning permit has a two year life; all work will need to be completed within that timeframe. **Affirmative finding as conditioned.**

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

Residential use does not have limitations to hours of operation. Not applicable.

*4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*

This is a statutory requirement; however Section 4.4.5.(d)5. A. limits the request for new residential units to one. Any further or future request will be reviewed under 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.*

None identified. Any new conditions will be at the discretion of the Board.

## **Article 4: Zoning Maps and Districts**

### **Section 4.4.5 Residential Districts**

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

*The Residential Districts are intended to control development in residential districts in order to create a safe, livable and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors.*

*1. The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history.*

The existing building, formerly known as the Hurley House or Goodrich place, was constructed as a residential dwelling unit associated with a farm c. 1866. It has retained its original residential use with the three existing apartments; the application is to convert the funeral home use to another dwelling unit. Although a multi-family residential use in the RL zoning district is generally not a permitted use per Appendix A, there is an allowance to add one additional dwelling unit by Section 4.4.5 (d) 5. A. See below.

#### **Section 4.4.5 (b) Dimensional Standards and Density**

Required frontage is 60' in the RL zoning district. The parcel frontage on North Avenue is 152.5', on Saratoga Avenue 175'.

Minimum lot size is 10,000 sf. for a duplex or above; lot size is 27,913 sf. **Affirmative finding.**

**Table 4.4.5-2, Base Residential Density** in the RL district is 7 units per acre. As proposed (4 units),  $4/.65A$  (lot size) = 6.25, or < 7 units per acre limitation. **Affirmative finding.**

#### **Table 4.4.5-3 Residential District Dimensional Standards**

No change. Not applicable.

#### **Section 4.4.5 (c) Permitted and Conditional Uses**

One additional unit may be added to structures located in the RL district which legally contained two or more units as of January 1, 2007 if approved in advance as a Conditional use by the DRB. See Section 4.4.5 (d) 5, below. **Affirmative finding as conditioned.**

#### **Section 4.4.5 (d) District Specific Regulations**

*1. Setbacks*

Not applicable.

*2. Height*

Not applicable.

*3. Lot Coverage*

No change. Not applicable.

*4. Accessory Residential Structures and Uses*

No change. Not applicable.

*5. Residential Density*

A. *Additional Unit to Multi-Family*

*One additional unit may be added to structures located in the RL district which legally contained two or more units as of January 1, 2007 if approved in advance as a Conditional use by the DRB.*

The property currently has 3 residential units which have been in place prior to January 1, 2007. The request is to add a residential unit, and eliminate the funeral home use. See Conditional Use review standards in Article 3, above. Based on these standards, the application meets the criteria for consideration of one new residential unit. **Affirmative finding.**

B. **Additions to Existing Residential Structures**

*No request for an addition to an existing structure shall be considered or imply approval of an additional unit, unless requested specifically on the zoning permit application form.*

The request is specifically for one new residential unit, replacing the existing funeral home use. **Affirmative finding.**

C. **Residential Occupancy Limits**

*In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. **Affirmative finding as conditioned.***

6. *Uses*

Multi-unit residential uses are generally not a permitted use in the RL zoning district per Appendix A; however Section 4.4.5 (d) 5. gives an allowance for one additional unit if reviewed as a Conditional Use and approval is sought prior to establishment. The applicant is making the request prior to installation of the fourth unit, and proposes to eliminate the funeral home use. **Affirmative finding.**

7. *Residential Development Bonuses*

None are sought. Not applicable.

**Article 5: Citywide General Regulations**

**Section 5.2.7 Density and Intensity of Development**

*(a) Dwelling Units per Acre:*

Per Table 4.4.5-2, the maximum number of dwelling units per acre is 7 in the RL zoning district. This standard provides the method of calculation: the number of residential units divided by the lot area in acres must be less than 7. For 934 North Avenue, 4 proposed units / .64 (lot area in acres) = 6.25 (< 7.) **Affirmative finding.**

**Section 5.4.8 Historic Buildings and Sites**

934 North Avenue is listed on the State of Vermont Register of Historic Resources.

**(b) Standards and Guidelines:**

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.*

The house was originally residential, and has retained a residential component for more than 100 years. The proposal will return the entire structure to residential use.

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.*

Most renovations will be interior to the property. No exterior changes are proposed with this application.

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.*

No conjectural features are proposed. Not applicable.

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

Not applicable.

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

Not applicable.

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.*

Not applicable.

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.*

Not applicable.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

Not applicable.

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.*

Not applicable.

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.*

None proposed. Not applicable.

**Affirmative finding.**

**Article 6: Development Review Standards**

**Section 6.2.2. (d) Protection of Important Cultural Resources**

See Section 5.4.8, above.

**Section 6.3.2 (b) Protection of Important Architectural Resources**

See Section 5.4.8, above.

**Article 8: Parking**

934 North Avenue is within the Neighborhood Parking District, which requires 2 parking spaces per residential unit. The parking lot in the rear (east) of the property can accommodate approximately 30 cars. The required 8 parking spaces can be met by existing conditions.

**Affirmative finding.**

**Appendix A**

*Attached dwellings – Multi-family 3 or more* is not a permitted use in the RL zoning district. Section 4.4.5 (d) 5. A, however, offers the opportunity to add one additional unit to structures located in the RL district which legally contained two or more units as of January 1, 2007 if approved in advance as a Conditional Use by the DRB. The building contained 3 residential units prior to January 1, 2007 (with a commercial use, which is proposed to be eliminated.) See Article 3 for Conditional Use criteria and standards for review. This application reflects the effort to request the increase from three units to four in advance. **Affirmative finding.**

**II. Conditions of Approval**

1. Any future enlargement or alteration of the use must return for review to the DRB to permit the specifying of new conditions.
2. All units are subject to the requirements and limitations of the Functional Family ordinance; not more than 4 unrelated adults may occupy any unit.
3. The applicant is responsible for seeking any additional local or state permits, which may include a state wastewater permit.
4. Standard Permit Conditions 1-14.

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