

Burlington Development Review Board

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Burlington Development Review Board

Findings of Fact Deliberative Hearing Tuesday, January 8, 2019

In RE: 19-0395CA/CU; 65 Oakledge (Ward 5S, WRL) (Tax Lot No. 056-2-013-000)

Owner/Applicant: 65 Oakledge Trust / Birdseye (Brian Mac)

Request: Construct new single family home, associated site improvements included.

Members Present:

Brad Rabinowitz
AJ LaRosa
Austin Hart
Samantha Tilton
Geoff Hand
Zoraya Hightower

Evidence Presented:

The Board examined the materials submitted in support of this request.

I. FINDINGS

Background Information:

The applicant is seeking approval to construct a new single family home on a presently vacant waterfront lot. The prior home was demolished this past summer under separate permit. The existing boathouse will be added onto, and the driveway will be reworked. An accessory dwelling unit (AKA “nanny suite”) is also included. The ADU, as new construction, is subject to conditional use review. The parcel is largely affected by the lakeshore’s Riparian & Littoral Conservation Zone, and it has a small unmapped wetland onsite.

The Design Advisory Board reviewed this application November 13, 2018. The Board unanimously recommended approval of the project subject to the following conditions:

1. Correct the application to include accessory apartment (i.e. the nanny suite) and related conditional use review.
2. The “guest” parking spaces must be relocated in compliance with the front yard parking standards of Sec. 8.1.12 (c).

3. No exterior signage, or related lighting, is included in this approval.
4. All exterior mechanical equipment, if proposed, must be included on the plans and screened. Utility meters also must be noted and screened.
5. With respect to the garage, the DAB feels that the spirit of Sec. 6.2.2 (h) is satisfied. The garage doors do not face the street, and the requirement for street facing elements such as windows and other elements has been satisfied in addition to the living space above.

The application has been revised to expressly include the accessory dwelling unit. The applicant has clarified that no signage is included in the application. Only a street address is proposed. Revised plans depict utility meter location and generator location with screening. The applicant prefers to retain the parking configuration as originally proposed, and (with the DAB's concurrence) wishes to keep the garage as originally proposed as well.

The Conservation Board reviewed this application December 5, 2018. Substantial discussion focused on the proposed blasting for the new building foundation and basement area. Ultimately, the Board unanimously recommended approval of the project with the following conditions:

1. Conduct a phase 1 environmental site assessment for pollutants in and under the soil.
2. Conduct a radon survey in neighboring dwellings pre- and post-blasting.
3. Assess potential blast influence on terrestrial and aquatic wildlife.

The Conservation Board noted that if there's a "red flag" as to any of these conditions, the project is to return to the Conservation Board for additional review.

Items have been submitted to address each of the Conservation Board's conditions.

Previous zoning actions for this property are noted below:

- 5/4/18, Approval to demolish existing home
- 12/5/17, Approval of lot line adjustment
- 7/9/09, Approval to replace boathouse roof with flat deck and railing
- 5/10/90, Approval to construct a duplex and related site improvements

Article 3: Applications, Permits, and Project Reviews:

Sec. 3.3.2, Applicability

The proposed home is subject to this criterion per the provisions of *Part 3: Impact Fees* of Article 3. As the new home is larger than the prior home, impact fees due will be based on the net increase in square footage. (**Affirmative finding as conditioned**)

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

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 property is served by municipal utilities. Sufficient water and sewer service are available. A State of Vermont wastewater permit will be required. A capacity letter issued by the Dept. of Public Works will be required prior to issuance. **(Affirmative finding as conditioned)**

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;*

The property is located within an established residential neighborhood in the waterfront low density residential zoning (W-RL) district. The W-RL zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The proposed accessory dwelling unit is consistent with this intent. The MDP provides the following support:

- Support the development of additional housing opportunities within the city... (MDP, Housing Plan, Page IX-1.
- Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning. (MDP, Housing Plan, Page IX-12.) **(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;*

The proposed apartment is not expected to generate nuisance impacts from noise, odor, dust, and the like that may be more typically associated with industrial uses. **(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;*

No traffic analysis has been provided or is required for this application. The proposed accessory apartment is expected to generate minimal additional traffic. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

The proposed home and apartment will utilize geothermal heating and cooling. Solar energy has also been considered but has not yet been included. **(Affirmative finding)**

and,

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

City building and energy efficiency codes will apply as conditioned.

(b) Major Impact Review Standards
Not applicable.

(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.

The proposed apartment is not expected to produce offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. Time limits for construction.

No construction timeline or phasing are included in the project plans. The standard 2-year timeframe for zoning permits will apply. **(Affirmative finding)**

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

Hours of operation are not applicable to this residential use.

Construction hours are not noted in the application. Typical construction hours are Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request. No work on Sunday. **(Affirmative finding as conditioned)**

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

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

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.

See the recommended conditions.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Waterfront Residential Low Density (W-RL)

The subject property is located in the W-RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The proposed single family home with ADU is consistent with this purpose. **(Affirmative finding)**

(b) Dimensional Standards & Density

The 1 residential unit on the 1.7 acre lot is acceptable and far below the 7 units/acre density limit. The ADU does not count towards residential density.

Lot coverage will increase to 24% but will remain below the 35% limit.

The lot is irregularly shaped. It has a front yard setback facing Oakledge Drive and a waterfront setback along the lake. The rest of the property lines are sides for the purposes of setbacks. The home is set back 75' from the front property line. The front yard setback/build-to line is ~ 130' +/- 5'. The prior home; however, was set back just 55' from the front property line. As a result, the proposed 75' setback is acceptable as a lessened degree of nonconformity. The site plan notes a 200' front yard setback but scales correctly to 75.' This item is in need of correction. The minimum required side yard setback of 10% of the lot width (up to 20') varies with the irregular parcel boundaries. The site plan depicts a uniform 20' side yard setback which is sometimes more than the minimum required but is compliant in any event. The standard lakeshore setback is 75;' however, there is provision for allowing encroachment up to the average of neighboring homes (see subsection d, 1, B below). The proposed home is set well beyond 75.' The addition to the boathouse and some site improvements utilize the average lakeshore setback of 27.'

The proposed home is between 30' and 31' as measured to the midpoint of the roof rise. This height is below the 35' height limit. **(Affirmative finding as conditioned)**

(c) Permitted & Conditional Uses

The proposed single family home is a permitted use in the W-RL zone. The ADU is subject to conditional use review. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

B. Encroachment into the Waterfront Setback.

(ii) Averaging of Setbacks of Existing Structures

This provision allows new construction to encroach into the standard waterfront setback based on the average setbacks of neighboring homes within 150.' In this case, onsite survey data result in an average setback of 27.' As noted above, the boathouse addition and some site improvements observe this lessened setback requirement. **(Affirmative finding)**

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

C. Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than 75% of the ground floor area of the principle structure.

The attached garage contains room for three parking spaces. The proposed home appears to have 7 bedrooms, including the ADU, guest quarters, and the primary dwelling. **(Affirmative finding)**

5. Residential Density

The home shall be occupied 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)**

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District

(c) District Specific Regulations: Riparian and Littoral Conservation Zone

The subject property is largely affected by the Riparian and Littoral Conservation Zone (250’ width from the 100’ lakeshore elevation). This overlay zone limits the clearing of trees over 6” caliper and new stormwater outfalls. Of 69 trees over 6” caliper within the overlay zone, 16 will be removed. This extent is within the permissible 25% limit. No new stormwater outfalls are proposed; however, new onsite stormwater management is proposed. A series of catch basins and a new rain garden are proposed for the collection and attenuation of stormwater runoff. The Conservation Board reviewed the proposal and expressed no concerns. Final review and approval by city stormwater program staff is required. **(Affirmative finding as conditioned)**

(f) District Specific Regulations: Special Flood Hazard Area

This lakeshore property is partially affected by the special flood hazard area (SFHA). All areas along the lakeshore under the 102’ elevation are within the SFHA. No part of the proposed construction is located within the SFHA. **(Affirmative finding)**

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.

Sec. 5.4.5, Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses

Where there is a primary 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 primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than 2 adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation.

The proposed apartment is accessory to the primary single family dwelling and is laid out as a single bedroom unit. **(Affirmative finding)**

Additionally, there must be compliance with all the following:

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

The applicant shall obtain a letter of adequate capacity from DPW for wastewater.
(Affirmative finding as conditioned)

2. *The unit does not consist of more than 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;*

The accessory dwelling unit will be 662 sf. An exact total area of the primary residence is not provided, but it is on the order of 10,000 sf. The apartment is ~ 6.5% of the total area. **(Affirmative finding)**

3. *Applicable setback and coverage requirements are met;*
See Article 4.

4. *One additional parking space which may be legally allocated to the necessary unit must be provided for the accessory unit;*

One onsite parking space will be provided for the accessory apartment. **(Affirmative finding)**
and

5. *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.*

This provision will be included as a condition of approval. **(Affirmative finding)**

(c) Discontinuance of Accessory Units

Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that,

after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

As with A. 5 above, this provision will be included as a condition of approval. **(Affirmative finding)**

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

New outdoor lighting is included in the project design. Building entries, walkways, and circulation areas will be illuminated. Two landscaping accent lights will be installed within two trees. The noted “sign” light at the top of the driveway is to illuminate the address numbers on the accent wall. This illumination is acceptable; however, it must be adjusted to be down-lit rather than up. Acceptable LED lantern fixtures will be used in all cases. **(Affirmative finding as conditioned)**

Sec. 5.5.3, Stormwater and Erosion Control

A stormwater management plan and an erosion prevention and sediment control plan have been submitted as required. Both are subject to final review and approval by city stormwater program staff. **(Affirmative finding as conditioned)**

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 property contains a mix of open and wooded areas. Mature trees are concentrated along the lakeshore. Shrubs and additional trees help to define the side property lines. Almost the entire property is affected by the riparian and littoral conservation zone. This overlay restricts tree clearing and also requires stormwater management. Limited tree clearing is planned, and substantial new plantings are proposed. The stormwater management plan has been provided to the city’s stormwater program staff.

An assessment of blasting effects on aquatic and terrestrial wildlife has been performed. Not surprisingly, most of the available literature focuses on large scale blasting activities such as that related to mining. The proposed blasting is small in scale by comparison. While blasting procedures are addressed under Department of Public Works' standards, it bears noting that the applicant proposes to limit vibration, noise, and debris with limited charges and use of blast mats. According to the assessment provided, the proposed measures will limit effects on nearby terrestrial and aquatic wildlife. **(Affirmative finding)**

(b) Topographical alterations

The property slopes gently towards the lake. No significant topographic alterations are proposed. The new home will be situated approximately where the prior home had been.

While site topography will remain largely as is, blasting is proposed in order to make room for a proposed basement. Since review by the Conservation Board, the size of the basement has been substantially reduced, thereby reducing the amount of blasting necessary. As noted above, the Department of Public Works' drilling and blasting standards will apply. As recommended by the Conservation Board, pre- and post-blasting surveys of neighboring homes should include radon assessment. **(Affirmative finding as conditioned)**

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. The proposed home is relatively large; however, it is set far back from the nearest public road. Mature lakeshore vegetation will remain in place and will lessen the home's visibility from the lake. **(Affirmative finding)**

(d) Protection of important cultural resources

The property is within an archaeologically sensitive area; however, there are no specifically identified archaeological sites on the property. This archaeological sensitivity stems from the property's lakeshore location. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance. **(Affirmative finding as conditioned)**

(e) Supporting the use of alternative energy

Geothermal heating and cooling is incorporated into the project design. The proposed home will not adversely impact the actual or potential use of alternative energies by neighboring properties. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not an identified brownfield. Given the proposed blasting and its potential impact on the hydrology of the site, the Conservation Board recommended that a phase 1 environmental site assessment be conducted. Such assessment has been completed and submitted for review. There is no evidence indicating the presence of any recognized environmental condition (i.e. contaminants). **(Affirmative finding)**

(g) Provide for nature's events

As total lot coverage will exceed 2,500 sf, a residential stormwater plan has been provided. All of the impervious surface associated with this project is disconnected from the municipal stormwater system. Onsite management measures include new catch basins with related piping to direct runoff into a new rain garden. A small portion of green roof is also proposed. As noted above, the city's stormwater program will review the proposed stormwater management.

The front entrance into the home is sheltered, and ample room is available onsite for seasonal snow storage. **(Affirmative finding as conditioned)**

(h) Building location and orientation

As noted above, the new home, although substantially larger than the home it replaces, is set in approximately the same location as the prior home. The primary façade faces the private Oakledge Drive with a clearly identifiable front entrance.

The garage is set back more than the minimum required 25' from the road; however, it is not set behind the front plane of the home as required. Although the DAB felt that the layout is acceptable, the wording of this standard is mandatory rather than optional: "A parking structure – either attached or detached – shall be setback from the longest street-facing wall of the principal structure and be deferential yet consistent in character and design." Adjustment is necessary. The garage doors do not face the street. Therefore, limitations as to width do not apply. **(Affirmative finding as conditioned)**

(i) Vehicular access

A private driveway will continue to provide adequate access to the home. It will access the attached garage and surface parking to the side. **(Affirmative finding)**

(j) Pedestrian access

This criterion requires provision of a walkway connecting the front entry to the public sidewalk. In this case, there is no public sidewalk or public road to connect to. Given that Oakledge Drive basically ends as the driveway to the new home, provision of a walkway in any event may prove unwarranted. **(Affirmative finding)**

(k) Accessibility for the handicapped

No handicap accessibility is evident or required with this proposal. **(Affirmative finding)**

(l) Parking and circulation

The attached garage contains sufficient space for the two parking spaces required for the single family home. The "nanny suite" requires its own parking space and may be accommodated within the proposed parking configuration. Two additional surface parking spaces for guests are proposed. **(Affirmative finding)**

(m) Landscaping, fences, and retaining walls

Clearing limits are depicted, and a tally of existing trees and those to be removed has been provided (69 and 16, respectively). Most mature vegetation will be retained. Extensive new plantings are proposed and include a variety of new trees and shrubs along with perimeter

gardens and a new rain garden. The proposed landscaping helps to define spaces within the property and to enhance the visual appeal of the proposed home.

An existing seawall will be retained and refinished. Two new retaining walls along the northern and southern property lines will be installed and enhanced with associated plantings. Several “boardform” concrete accent walls are also proposed. **(Affirmative finding)**

(n) Public plazas and open space

No public plaza or open space is included or required in this proposal. **(Not applicable)**

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

New utility lines must be buried. The site plan notes an exterior generator set to the side of the home and within a landscaped area. Two buried propane tanks will fuel the generator. No ground-mounted mechanical equipment such as AC condensers are proposed. Utility meters are noted and are appropriately located back from the front faced of the building. **(Affirmative finding)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The proposed home is significantly larger than the home it replaces. Compared to its neighbors, the prior home was relatively small. The surrounding built environment consists of fairly large single family homes on large lots. The new home will be one of the larger homes in the neighborhood. Overall massing of the structure is broken into several distinct sections, thereby diminishing the perceived mass of the building. Fenestration and differing exterior finishes add further dimension to the building’s otherwise sleek, uniform design. Building height is compliant at ~ 30 - 31’.

Note that the existing boathouse will be expanded with a small rear addition. Its scale remains clearly subordinate to the primary residence and massing remains simple and rectangular. **(Affirmative finding)**

2. Roofs and Rooflines

Roof forms are generally gable. Several minor roof sections are flat. The gable roof form is common among residential structures, including the homes within this neighborhood. **(Affirmative finding)**

3. Building Openings

The fenestration is clean and simple. Style is consistent throughout the building. Some variation is achieved with installation of wooden “screens” in front of some windows. Not surprisingly, glazing is most concentrated along the home’s lakeshore elevation. **(Affirmative finding)**

(b) Protection of important architectural resources

The new home is to be constructed on a vacant lot. It will not adversely impact Burlington's wealth of historic buildings. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

As noted previously, the front entry to the proposed home is clearly articulated. The building design is intentionally uncluttered. Fenestration and variation in cladding preclude large blank walls or expanses of roof. While there is little in the way of street frontage for this property, the south-facing façade successfully presents an active and inviting primary elevation. **(Affirmative finding)**

(e) Quality of materials

The proposed home will be clad entirely in wooden board siding. Variation in finish, orientation, and configuration are proposed. Metal-framed windows will be installed throughout. **(Affirmative finding)**

(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.

(h) Integrate infrastructure into the building design

Utility meters are noted. Mechanical equipment will be located within the building interior. **(Affirmative finding)**

(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 as conditioned)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The property is located in the Neighborhood Parking District. As such, two parking spaces are required (2 spaces per dwelling unit) for the primary dwelling unit. The accessory dwelling unit requires 1 more space for a total of 3 spaces. As noted previously, the garage and driveway contain sufficient space for the required parking spots. **(Affirmative finding)**

II. MINUTES

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

III. MOTION

Motion: Brad Rabinowitz

I move that the Board grant certificate of appropriateness and conditional use approval to construct a new single family home with accessory dwelling unit and related site improvements at 65 Oakledge based on the findings in Section I above and subject to the following conditions:

II. Conditions of Approval

1. **Prior to release of the zoning permit**, revised plans shall be submitted, subject to staff review and approval. Revised plans shall address the following:
 - a. A wastewater capacity letter must be obtained from the Department of Public Works;
 - b. The garage must be set behind the front plane of the home's southern façade;
 - c. The front yard setback notation shall be corrected; and,
 - d. Illumination of the street address on the accent wall at the top of the driveway shall be revised so as to be from above rather than from below.
2. At least **seven (7) days prior to issuance of a certificate of occupancy**, impact fees based on the net new residential square footage shall be paid to the Department of Planning & Zoning.
3. Permitted days and hours of construction are Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request. No work on Sunday.
4. The accessory dwelling unit shall be occupied by no more than 2 adults.
5. 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.
6. Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.
7. Pre- and post-blasting surveys of neighboring homes shall include radon assessment.

8. Any and all blasting activities shall adhere to the standards in the Department of Public Works' drilling and blasting procedures manual dated March 21, 2000.
9. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance.
10. Final approval of the EPSC and post construction stormwater management plans from the city's stormwater program staff is required.
11. No exterior signage is included in this approval.
12. A State of Vermont wastewater permit shall be obtained.
13. 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.
14. Standard permit conditions 1-15.

Seconded: Zoraya Hightower

Vote: 4-1-1, motion carried

Dated at Burlington, Vermont, this ____ day of January 2019

Respectfully Submitted,

Brad Rabinowitz, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. (Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. The appeal shall be taken in such a manner as the supreme court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board's decision.