

Department of Permitting and Inspections

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: December 21, 2021
RE: ZP 21-759, 77-79 Pine 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.

File Number: ZP21-759

Zone: FD6 **Ward:** 3C

Date application accepted: October 29, 2021

Applicant/ Owner: Grace Ciffo, Nedde Pine LLC

Request: Reconsideration of condition #22 "*Rooftop mechanicals shall be screened*", for ZP21-118OG, previously known as ZP21-0927CA.

Background:

(Address is sometimes recorded as 2 Burlington Square. Parcel is 77 Pine Street.)

- **Zoning Permit 21-0728SN;** install 1 wall sign, illumination included. April 2021.
- **Zoning Permit 21-0722SN;** install replacement signs for People's United Bank. March 2021.
- **Zoning Permit 21-0082CA;** adding rooftop terrace adjacent to existing mechanical penthouse. Solar panels, mechanical equipment and sun shades included. July 2020.
- **Zoning Permit 20-0681CA;** site changes relative to reestablishing greenspace and removal of access from 1 Burlington Square into 2 Burlington Square. February 13 2020.
- **Zoning Permit 20-0453CA;** consolidation of bank use; drive through reduce from 3 to 2 lanes, creation of 50 residential units; reorganization of circulation/parking; stormwater infiltration, revised landscaping and lighting, replacement windows, stained brick, metal clad canopy. November 2019.
- **Zoning Permit 18-0336CA;** removal of existing masonry façade and windows. Replacement with insulated wall assembly with rain screen ceramic façade system and new windows. October 2017. Permit expired.
- **Non-applicability of Zoning Permit Requirements 17-0502NA;** remove and replace same in kind concrete sidewalk, concrete step and landing with same handrail. October 2016.

- **Non-applicability of Zoning Permit Requirements 17-0328NA**; change out existing ATMs to newer models and set to ADA compliance. September 2016.
- **Zoning Permit 13-0538CA**; replace existing entry door with larger handicapped accessible doorway. November 2012.
- **Zoning Permit 11-0111SN**; replace two existing nonconforming parallel signs with new nonconforming parallel signs. September 2010.
- **Zoning Permit 10-0972SN**; replace two nonconforming parallel signs with two new nonconforming parallel signs. July 2010.
- **Zoning Permit 10-0971SN**; change face of three existing signs (two freestanding and one parallel). No change in dimensions or placement. No illumination for the freestanding signs. Internal illumination for the parallel sign. May 2010.
- **Non-applicability of Zoning Permit Requirements 09-036NA**; removal and replacement of concrete walls, stair and sidewalks replaced to match existing design. July 2008.
- **Zoning Permit 07-398SN**; replace face of existing parallel sign for Chittenden Bank. December 2006. Superseded by 10-0971SN.
- **Zoning Permit 09-034CA**; install new railings. July 2008.
- **Zoning Permit 99-606**; construction of an emergency generator enclosure adjacent to the existing drive up teller station. June 1999.
- **Non-applicability of Zoning Permit Requirements**, antennae placed on the rooftop. March 1995.
- **Zoning Permit 92-171**; installation of internally illuminated parallel sign above drive up ATM. November 1991.
- **Zoning Permit 92-172**; removal of teller operated drive-up bank window with drive-thru ATM unit. No change to circulation or overall use. November 1991.
- **Zoning Permit 81-255**; construct two vestibules on entrance ways for energy efficiency purposes. November 1980.
- **Zoning Permit 81-232**; enclose presently elevated loading dock area and extend out the platform being enclosed. October 1980.

Overview: ZP21-0927CA (Amanda database) or 21-118 (Open Gov) was approved June 2, 2021 with conditions. Condition #22 states “Rooftop mechanicals shall be screened.” The applicant requests to have that condition removed, citing the greater visibility of the required screening, and the observation of unscreened rooftop equipment in the vicinity of this project.

Recommended motion: Certificate of Appropriateness Denial, based on the following findings:

I. Findings

Article 5: Citywide General Regulations

Part 2: Dimensional Requirements

Section 5.2.6 Building Height Limits

(b) Exceptions to Height Limits

4. *Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.*

Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building. Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.

Article 14 (below) directs review to the standards of Section 5.2.6, where exposed mechanical equipment is required to be fully screened on all sides. While the applicant asserts the equipment will not be seen from the street level, this regulation is two-part (“*and positioned on the roof to be unseen from view at the street level*”). The requirement for screening is prefaced with “shall”.

Adverse finding for eliminating screening required by this standard.

Article 14: Plan BTV Downtown Code

Section 14.1.3 Applicability

The Form Code (Article 14) direct us to the applicability of the following standards:

To the extent applicable, and not otherwise in conflict with this Article 14-planBTV Downtown Code, the following sections of the Burlington Comprehensive Development Ordinance (CDO) shall also continue to apply:

- a) Article 1 - General Provisions*
- b) Article 2 - Administrative Mechanisms;*
- c) Article 3 - Applications, Permits and Project Reviews, Parts, 1, 2, 3, 5 and 6;*
- d) Article 4 - Zoning Maps and Districts, Parts 1, 2, 3, and Part 5 Sec. 4.5.4;*
- e) Article 5 - Citywide General Regulations, Parts 1, 2, 3, Sec. 5.4.7, Sec. 5.4.8, and 5;*
- f) Article 7 - Signs*
- g) Article 9 - Inclusionary and Replacement Housing;*
- h) Article 10 - Subdivision Review;*
- i) Article 12 - Variances and Appeals; and,*
- j) Article 13 - Definitions.*

In each case, the standards and requirements applicable to the Downtown and Waterfront District Regulating Plan and this Article 14 shall take precedence without limitation over any duplicative or conflicting provisions of the other Articles of the Burlington Comprehensive Development Ordinance (BCDO).

If there is any conflict between the provisions of this Article 14 and any provisions of any other existing City codes, ordinances, regulations or standards (the “Existing Local Codes”), the provisions of this Article 14 shall take precedence over such conflicting provisions except for City and state Building, Fire, Health and Safety Codes.

Section 14.1.3 (e) guides the review to include Part 2 of Article 5, relative to building height limits. See that standard and requirements, above.

The examples of unscreened rooftop equipment provided by the applicant are buildings that were permitted under different regulations.

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