

Department of Permitting and Inspections

Zoning Division

645 Pine Street

Burlington, VT 05401

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MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: August 2, 2022

RE: ZP-22-398; 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: ZP-22-398

Location: 79 Pine Street

Zone: FD6 **Ward:** 3C

Parking District: MMMU

Date application accepted: June 27, 2022

Applicant/ Owner: Nedde Pine LLC, Grace Ciffo CAO

Request: Alternative Compliance for rooftop screening, required by Condition #22 of ZP21-118OG / ZP21-0927CA, *"Rooftop mechanicals shall be screened."*

Background:

(Both the Former Peoples United Bank and this structure sit on the 77 Pine Street parcel. Address is sometimes recorded as 2 Burlington Square.)

- **Zoning Permit 21-759**, reconsideration of condition #22 "Rooftop mechanicals shall be screened". **Denied** December 2021.
- **Zoning Permit 21-0927CA (Amanda database) or Zoning Permit 21-118 (Open Gov)**; construction of 49 unit apartment building. June 2, 2021.
- **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 ZP21-118 (Open Gov) was approved June 2, 2021 with conditions. Condition #22 stated “Rooftop mechanicals shall be screened.” The applicant now requests Alternative Compliance under Article 14 to meet the requirement by consideration of the existing, designed building as a partial screen, to avoid the greater visibility of rooftop structure introduced by the required screening, and the substantial expense of the installation.

The Design Advisory Board reviewed this request at their July 12, 2022 meeting, and voted unanimously to **support the request** for Alternative Compliance.

Recommended motion: **Consent approval** for Alternative Compliance under Article 14.

Applicable standards:

Article 5: Citywide General Regulations

Part 2: Dimensional Requirements

Section 5.2.6 Building Height Limits

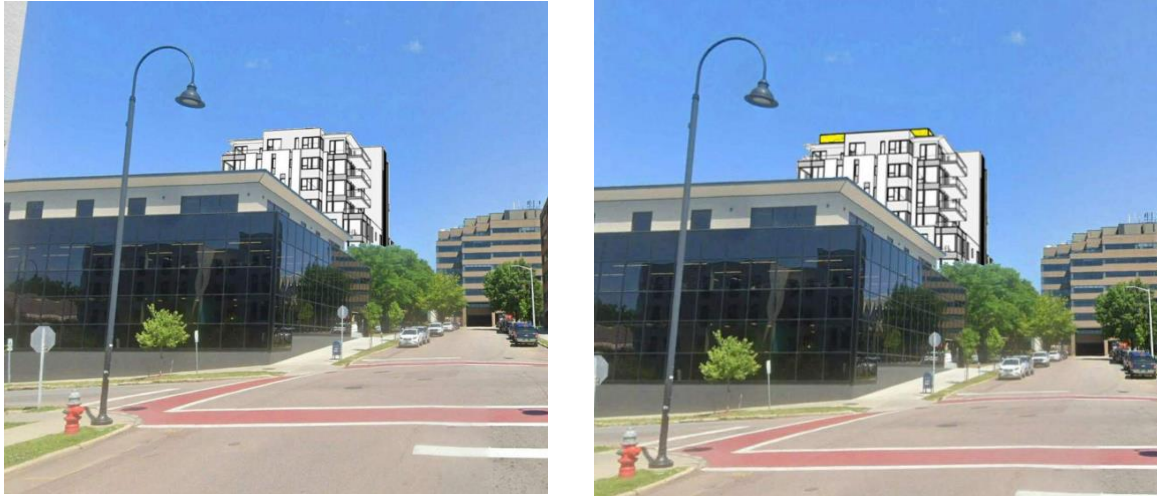
(b) Exceptions to Height Limits

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.

In a previous request for reconsideration of Condition #22, the DRB denied the request based on this standard from Article 5. The Applicant now requests Alternative Compliance, citing the increased visibility and physical / structure of rooftop additions with the required screen, coupled with location of mechanical equipment centralized on the roof, and building design that minimizes the visibility of the equipment. The applicant asserts that the location of the

equipment itself has minimized its visibility; but the condition requiring screening in fact increases the visibility with the addition of additional structure on the roof.



Reference is made to the submitted roof plan, and additional examples of images and photo.

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 demonstrates 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 applicant asserts that the addition of the required screening, in fact, increases the visibility of the rooftop structure, and adds a substantial cost to construction.

The applicant therefore seeks consideration under Alternate Compliance of the Form Code to allow consideration of the building’s intentional design and roof structure itself to act as a screen.

Article 14: The Form Code

Section 14.7.3 Variation from the Form, DRB Alternative Compliance

(b) i. DRB Alternative Compliance: *Relief from any non-numerical standard, and any numerical standard by no more than 20% of such requirement or an additional 10% beyond any Administrative Relief permitted above, may be granted by the Development Review Board after review and recommendation by the Design Advisory Board and a Public Hearing.*

Decisions by the DRB regarding any Alternative Compliance granted shall be made in writing and upon affirmative findings that:

- A. *the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;*

The building construction is well underway. The applicant’s architect has provided illustrations demonstrating the building as designed, and the visual impact of adding the rooftop screening required by Condition #22 of the original permit. The increase in visibility of rooftop structure introduced by the required screening, the careful siting of

roof top equipment, the inability to see the rooftop equipment from the street, and the substantial installation cost are all cited as reasons for DRB consideration of Alternative Compliance.

B. the relief if granted is the minimum necessary to achieve the desired result;

The request is limited to the removal of the Condition for rooftop screening, which is demonstrated to increase visibility of rooftop structure rather than obscure it.

C. the property will otherwise be developed consistent the purpose of this ordinance, the intent of the Form District, the intent and purpose of the section that the relief is being sought, and all other applicable standards;

The property is under construction with an anticipated completion date of late fall. Architectural renderings demonstrate increased visibility due to the screening, rather than the careful design of rooftop installation and proposed roof structure.

D. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties;

The requested Alternative Compliance for removal of the rooftop screening condition will have no adverse burden on existing or future development of adjacent properties. A neighboring Homeowners' Association has submitted communication in support of the request for Alternative Compliance, specifically citing the increase of rooftop "stuff" with the addition of the screen.

E. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

The applicant has demonstrated the increased visibility of non-design features (screening) that in fact create greater visual structure than the equipment that it is intended to shelter. The building has been designed with carefully placed rooftop equipment, the equipment will not be visible from the pedestrian way, and the proposed building itself screens the equipment from streetview. The applicant's request for Alternative Compliance is a reasoned one; particularly when consideration is given to its substantial cost (\$93,000), the roof punctures required for the installation of the screening, and its performance failure by introducing more rooftop clutter. Removal of the screening will therefore provide better compliance with the intent of the standard being relieved.

Affirmative finding upon concurrence by the DRB.

Recommended Conditions of Approval

1. Any conditions imposed by Zoning Permit 21-0927CA (Amanda database) or Zoning Permit 21-118 (Open Gov) not specifically altered by this decision.
2. Standard Permit Conditions 1-15.

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