

Department of Permitting & Inspections

Zoning Division
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MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: June 1, 2021
RE: 21-0910CA; 125 South Cove Road

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: RLW Ward: 5S

Owner/Applicant: David M Boardman / Peregrine Design Build

Request: Demolish and replace the existing single family home, and associated site improvements.

Applicable Regulations:

Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking)

Overview:

The applicant proposes to demolish and replace the existing single family residence at 125 South Cove Road. The existing driveway will also be removed and a new one will locate in a different location on the site.

The property, located along the shore of Lake Champlain, is within several overlay zoning districts: Riparian and Littoral Conservation Zone, the RL Larger Lot Overlay District, and the VT Shoreland Protection Buffer. The proposal is also subject to the new shoreline low-mow zone requirement of the Riparian and Littoral Conservation Zone – Sec. 4.5.4 (c).

This application was heard by the Conservation Board on May 3, 2021, and they recommended approval of the project with the condition that the current lakeshore buffer ordinance, as to the low-mow zone, be complied with.

The Design Advisory Board reviewed this application at their May 25, 2021 and recommended that the application be tabled until revised plans addressing staff comments be provided. Those revised plans include: 1) revising the building design so that the garage is setback behind the front wall of the new home; 2) revising the driveway so that it is no wider than 18 ft in its entirety within the front yard setback; and 3) satisfactorily addressing/removing any portion of the rear deck and the stonedust terrace that encroaches closer to the shoreline than existing development.

Recommendation: Denial as per the following findings:

I. Findings

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) 2. *The Waterfront Residential Low Density (RL-W) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods’ development history. This district is distinguished from the Residential Low Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.*

The proposal is to demolish an existing single family home and replace it with a new single family home. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.5-1 Minimum Lot Size and Frontage

See Section 4.5.5 RL Larger Lot Overlay District, below.

Table 4.4.5-2 Base Residential Density

See Section 4.5.5 below for modified density provision. Proposed units: 1 / (22,106 lot size / 43,560 acre) or 1/ .5075 = 1.97; < 4.4 unit per acre limitation (see **Section 4.5.5, RL Large Lot Overlay**, below.). The proposal complies with base residential density of the Large Lot Overlay.

Affirmative finding.

Table 4.4.5-3 Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20’ Max required: 75-feet	Min: 75’ feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet
125 South Cove Road	31%	The average front yard setback of neighboring homes is 65.5 ft. The new home will have a front yard setback of 60.5 ft.	Based on a lot width of 100 ft, minimum side yard setbacks are required to be 10 ft. The new home will meet this requirement.	N/a – the waterfront setback takes precedence here.	Existing is 85’; proposed is 75’ which conforms to this requirement. However, Sec. 4.5.4 (c) (4) will require larger setback. (see below)	31’ 10 3/8” to roof top.

Affirmative finding

(c) Permitted and Conditional Uses

A single family detached dwelling is a permitted use in the RL-W zoning district. **Affirmative finding.**

(d) District Specific Regulations

1. *Setbacks*

No setback encroachments are proposed or sought. **Not applicable.**

2. *Height*

No height exception is proposed or sought. **Not applicable.**

3. *Lot Coverage*

No exceptions to lot coverage are included or sought. **Not applicable.**

4. *Accessory Residential Structures and Uses*

The garage is integrated into the design of the home, and is subject to applicable standards of Section 6.2.2 (h), below. **Affirmative finding.**

5. *Residential Density*

The occupancy of the dwelling unit is limited to members of a family as defined in Article 13. Any divergence from the limitations of functional family and occupancy of more than four unrelated adults is subject to Conditional Use Review and approval by the DRB. **Affirmative finding as conditioned.**

6. *Uses*

There is no Neighborhood Commercial Use at this location. **Not applicable.**

7. *Residential Development Bonuses*

No development bonuses are included or sought. **Not applicable.**

Section 4.5.4 Natural Resource Protection Overlay (NR) District

(b) Areas Affected

This overlay district consists of all areas delineated on Map 4.5.4-1-Natural Resources Protection Overlay (NR) District and is divided into four (4) subparts.

1. ***A Riparian and Littoral Conservation Zone*** which consists of all surface water and a corresponding upland buffer area, and specifically includes the following areas:

- A. *Uplands within 250 feet of the Lake Champlain lakeshore (measured at 95.5 feet above mean sea level per National Geodetic Vertical Datum 1929) with the exception of that portion of the shoreline between the northern extent of the Interim Development Area north of the former Moran Generating Station and the most westerly extent of Roundhouse Point described as the “Urban Waterfront” in the 2000 Open Space Protection Plan;*

The property is within 250 ft of Lake Champlain, and is subject to these provisions. **Affirmative finding.**

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

3. Regulated Uses

Except where otherwise noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including any construction of buildings or other structures, and roads, parking areas or any other impervious surface, may be approved only within the Riparian and Littoral Conservation Zone and its associated buffer after review and approval pursuant to the requirements and limitations below under Subpart 4.

The proposal is a permitted use in the RLW zone and is therefore subject to the requirements and limitations of Subpart 4 below. **Affirmative finding.**

4. Requirements

1. *Any land disturbing activities (i.e., vegetation has been removed, or the landscape has been graded or filled resulting in bare soil surfaces) shall include a stormwater management, erosion prevention and sediment control plan pursuant to the requirements of Sec 5.5.3 to be reviewed by the conservation board and approved by the city engineer.*

In making determinations and decisions required herein, the city engineer shall consider the requirements of the most recent State of Vermont Stormwater Management Rules and Guidance document. The city engineer shall require the best practicable means be used to manage stormwater, prevent erosion, and control sedimentation. The city engineer is hereby authorized to develop performance standards to ensure conformance with these state stormwater management rules.

For properties with frontage along Lake Champlain or the Winooski River, development that includes 400 square feet or more of new or redeveloped lot coverage shall establish a low-mow zone along the shoreline. A low-mow zone is a new or existing vegetated area that is not mowed more than once per year and allows vegetation to grow and mature. (Refer to Shoreland Best Management Practices established by Vermont Department of Environmental Conservation.). A low-mow zone shall be at least 15 ft. wide as measured inland from the 100 ft. elevation and shall be of a size equivalent to, or greater than, the new or redeveloped lot coverage, except that in no event shall a low-mow zone be required to extend more than 50 ft. wide as measured inland from the 100 ft. elevation or extend along more than 80% of a property's shoreline frontage.

For properties with frontage along Lake Champlain or the Winooski River, development shall be located no closer to the shoreline than existing development wherever reasonably possible;

The site plan includes a low-mow zone between the new home and the shoreline. Existing lot coverage is 7,737 sf, and after the project is complete, lot coverage decreases to 7,074 sf. In accordance with this provision, the low-mow zone must be equivalent in size to the redeveloped lot coverage, which appears to not be the case here. However, as this provision further allows, in no event shall the low-mow zone be required to extend more than 50 ft wide as measured inland from the 100 ft elevation or extend more than 80% of the property's shoreline frontage. The plans indicate a low-mow zone extending 50 ft back from the 100 ft elevation, and extending across the entirety of the shoreline frontage. As a result, the low-mow zone as indicated on the site plan will comply with this provision, even though it occupies less area than the redeveloped lot coverage. Technically, this zone could be reduced in size to the 80% mark, which the applicant may wish to do to provide a path to the shoreline and existing deck at the water's edge.

Additionally, for properties subject to this provision, development can be no closer to the shoreline than existing development wherever reasonably possible. The applicant submitted a plan showing the existing and proposed building footprints. The proposed footprint shows an attached deck and stonedust terrace locating closer to the shoreline than an existing deck, which is in conflict with

this requirement. While there is an existing detached deck located at the shoreline, it does not count as the foremost, lakeside development for purposes of this requirement. **Adverse finding.**

2. *Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of Water Quality;*

Not applicable.

3. *Installation of any seawalls, rip-rap or other shoreland retention structures shall be submitted for review by the conservation board who shall consult with the city engineer prior to issuance of a recommendation to the DRB; and,*

No such development is proposed. **Not applicable.**

4. *No new stormwater outfall shall directly discharge into any surface water without approval and implementation of a stormwater management plan approved by the city engineer.*

An Erosion Prevention and Sediment Control (EPSC) plan has been submitted to the Stormwater Engineering team for review and approval. Construction will not be able to commence without this approved EPSC. **Affirmative finding as conditioned.**

Section 4.5.5 RL Larger Lot Overlay District

(a) Purpose

The RL Larger Lot Overlay District is intended to maintain the existing residential development pattern of larger residential lots reflective of the respective neighborhoods' development history.

(c) District Specific Regulations: RL Larger Lot Overlay

1. Minimum Lot Size and Density

The density and intensity of development and dimensions of building lots in the RL Larger Lot Overlay shall be modified from the underlying RL or RL-W standards of Table 4.4.5- and 4.4.5-2 as follows:

Table 4.5.5-1: Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay

	Minimum Lot Frontage¹ <i>(In linear feet)</i>	Minimum Lot Size <i>(In square feet)</i>	Maximum dwelling units per acre² <i>(without bonuses or any Inclusionary Zoning allowances)</i>
Single detached dwelling	75 feet	9,900 sqft	4.4 units/acre
125 South Cove Road	100' frontage	22,106 sq. ft.	4.4 units/acre on a 22,106 sf lot = 1.97 units. 1 dwelling unit is proposed.

Affirmative finding.

Article 5: Citywide General Standards

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The parcel is not greater than 2 acres. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

See Section 4.5.5-1, above. **Affirmative finding.**

Section 5.4.9 Brownfield Remediation

Not applicable.

Section 5.5.1 Nuisance Regulations

None identified. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

The front elevation drawing shows the location of wall mounted and hanging light fixtures. The other elevation drawings show no other light fixtures and will need to if there are any proposed on the sides and rear of the new home. Additionally, fixture spec sheets have not been submitted and will need to be for staff review and approval. **Affirmative finding as conditioned.**

Section 5.5.3 Stormwater and Erosion Control

An Erosion Prevention and Sediment Control plan has been prepared and submitted. Prior to the start of construction, the plan shall receive approval from the Stormwater Engineering team.

Affirmative finding as conditioned.

Section 5.5.4 Tree Removal

(a) Review criteria for zoning permit requests for tree removal.

1. Grounds for Approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

- A. Removal of dead, diseased, or infested trees*
- B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices*
- C. Removal of trees that are a danger to life or property; or*
- D. As part of a development with an approved zoning permit*

The plans do not specifically call out trees that will be removed. The footprint of the replacement home will be very similar to the existing home's footprint. The plans do show two trees to be protected. The project will also see considerable new landscaping as well. **Affirmative finding.**

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 fronts on Lake Champlain. The proposed development is subject to the requirements of the Riparian and Littoral Conservation Zone and VT Shoreland Protection Buffer requirements. These preservation overlays require the new building footprint to not encroach any closer to the shoreline as the existing development, and a low-mow zone. Based on the 'Plan Overlays' plan, a portion of the new rear deck and a stonedust terrace will encroach closer to the shoreline than the existing development – which would create noncompliance with Sec. 4.5.4 (c). The plans will need to be revised so that there is no additional infringement toward the shoreline. Lastly, the site plan shows a low-mow area, which appears to cover more area than required. **Adverse finding.**

(b) Topographical Alterations:

The property has a gentle east-west downslope toward the lake. No significant topographical alterations are proposed. **Affirmative finding.**

(c) Protection of Important Public Views:

While this lakefront area has views of Lake Champlain and the Adirondack Mountains to the west, the site is not within an identified view corridor. The proposed 2 ½ story home is replacing a 2 story home, and is well within the height allowance for structures in the RLW zoning district. **Affirmative finding.**

(d) Protection of Important Cultural Resources:

The existing structure is not listed as historic resource on either State or National Historic Registries. **Not applicable.**

(e) Supporting the Use of Renewable Energy Resources:

No part of the application will preclude the use of wind, water, solar, geothermal or other renewable energy resource. **Affirmative finding.**

(f) Brownfield Sites:

The property is not listed as a Brownfield Site. **Not applicable.**

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

The applicant has submitted an Erosion Prevention and Sediment Control plan and a stormwater plan to the Stormwater Program Manager for review and approval.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

As proposed, the main front entrance (porch) will be covered. Covered entries off the rear deck will also be provided. There is ample room for snow storage on the property. **Affirmative finding.**

(h) Building Location and Orientation:

Given the deep lots in this neighborhood and existing development, the homes are setback a fair amount from the street. The replacement home will have a similar alignment to the street frontage with neighboring structures.

Principal buildings shall have their main entrance facing and clearly identifiable from the public street.

As proposed, the replacement home will have a clearly defined front entrance.

A parking structure – either attached or detached – shall be setback from the longest street-facing wall of the principal structure and be differential yet consistent in character and design.

While the attached garage is consistent in character and design with the new home, it is not setback from the longest street facing wall of the home, and it must be. While there are examples of garages that are the foremost feature of many nearby homes, this requirement was not present at the time when those homes were constructed. The garage must be setback from the longest street-facing wall of the principal structure, and it is not. **Adverse finding.**

(i) Vehicular Access:

The proposal will remove the existing driveway along the north property line. A new driveway will be constructed in the southern half of the property, accessing the property directly from South Cove Road. The footprint of the removed driveway will be converted to yard/landscaping space. Also included with the new driveway is a turnaround area in front of the garage. Driveways are limited to 18 ft in width within the front yard setback area, and the presence of this turnaround area brings the driveway width to more than 18 ft within the front yard setback area. **Adverse finding.**

(j) Pedestrian Access:

There are no public sidewalks on this side of South Cove Road, and there is no evidence of properties on this side of the road having walkways to the street. The plans do not include a pedestrian walkway, consistent with previous DRB decisions where there is no public sidewalk to connect with. **Affirmative finding.**

(k) Accessibility for the Handicapped:

The building inspector has jurisdiction over ADA requirements. Single family residences do not trigger ADA requirements. **Not applicable.**

(l) Parking and Circulation:

Included in the proposal is an attached 2-car garage, which would fulfill the standard 2 parking space requirement for single family residences in the Neighborhood Parking District. The driveway off of South Cove Road will be the only means of circulation within the property. **Affirmative finding.**

(m) Landscaping and Fences

The plans do not indicate any new fencing. A landscape plan has been submitted that includes a shrub row along the front of the property, and a variety of deciduous tree types located throughout the front yard. Based on the plan, the new home will have a certain amount of screen from the street. Additional plantings at the rear of the home are also proposed, consisting of a variety of ornamental grasses, perennials, and shrubs. Finally, the plans identify two existing trees and existing cedars that will remain in place at the rear and sides of the new home. **Affirmative finding.**

(n) Public Plazas and Open Space:

Nor applicable.

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

The front elevation drawing shows wall mounted fixtures on the front of the garage, and a hanging fixture under the front porch roof. The elevation drawings for the other sides of the home do not include fixtures and will need to, wherever proposed. While the fixtures shown on the front façade appear to be typical residential fixtures that normally comply with the lighting standards of Sec. 5.5.2, the applicant will have to provide spec sheets to verify compliance. **Affirmative finding as conditioned.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

Utilities will need to be placed underground. Underground utilities appear to serve the existing home. The plans will need to be updated to show the location of electric and gas meters. It is expected that trash and recycling will be kept in the garage. If not, the plans will need to be updated to show the location of trash/recycling containers. If there are any other mechanical units proposed, they will need to be shown on revised plans. Additionally, the location of the mailbox needs to be included on the site plan. Lastly, mechanical units, meters, trash/recycling containers, etc. will have to be screened from view from the public street. **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:*

Neighboring residences along South Cove Road range between 1 and 3-story homes. The replacement home will be similar in height to the existing home. Given the lot size and surrounding development, the proposal will not create a structure with unordinary massing, height and scale. **Affirmative finding.**

2. *Roofs and Rooflines.*

There are a variety of roof styles in this neighborhood, but the most common would be gable. The main portion of the new home will have a gable roof/roofline that runs parallel with the street. In contrast, the attached garage and front dormers will have gable roofs as well, but will run perpendicularly to the street. Roofing on the main roof sections will be asphalt shingle, with standing seam metal roofing on the rear porch roof, cupola, and at the base of the street-facing main roof. **Affirmative finding.**

3. *Building Openings*

There is a mix of double-hung, casement, awning and fixed windows proposed throughout the home in what appears to be consistent and appropriate locations. Doors will locate at the main front entrance and out to the rear porches. **Affirmative finding.**

(b) Protection of Important Architectural Resources:
Not applicable.

(c) Protection of Important Public Views:
See 6.2.2 (c) above.

(d) Provide an active and inviting street edge:

Building facades shall be varied along the street edge by the integration of architectural features, building materials, or physical step-backs of the façade along its length. ..This may be accomplished by incorporating fenestration patterns, bays, horizontal and vertical façade articulations, the rhythm of openings and prominent architectural features such as porches, patios, bays, articulated bases, stepping back an elevation relative to surrounding structures, and other street level details. The use of traditional façade components such as parapet caps, cornices, storefronts, awnings, canopies, transoms, kick plates, and recessed entries are highly encouraged. In areas where high volumes of pedestrian traffic are desired, the use of architectural recesses and articulations at the street level are particularly important in order to facilitate the flow of pedestrian traffic.

The new home will be setback from the street similarly to neighboring homes. The front façade offers a variety of articulations with window placement, street-facing dormers, a front porch and a 2-bay garage. The front yard will be landscaped extensively as well. **Affirmative finding.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

The new home will have semi solid stain cedar shingle siding with painted cedar trim. Roofing will consist of asphalt shingles, with copper metal accents. Standing seam metal roofing will be used on the cupola and rear porch roof. Wood doors and windows with grilles are proposed throughout. The chimney will be stone with a bluestone cap. The porches/decks will be constructed with IPE deck boards and cable rail systems between cedar posts. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2 (p), above.

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit.

New construction shall conform to all building and life safety code as defined by the building inspector and the fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

Per Table 8.1.8-1, single family dwellings require 2 parking spaces in the Neighborhood Parking District. The integrated garage and driveway will provide all required parking for the use.

Affirmative finding.

Reasons for Denial

1. Per the adverse findings above.

In the event that the DRB determines that approval is warranted, the following conditions are recommended.

2. **Prior to the release of the zoning permit**, the applicant shall update the elevation drawings to show the location of all exterior light fixtures, and fixture spec sheets shall be submitted to staff for review and approval.
3. **Prior to the release of the zoning permit**, the plans shall be revised to address the following:

- All new development (decks, terraces, etc.) located closer to the shoreline than existing development shall be revised/removed so that they do not encroach any closer to the shoreline than existing development. Walkways and retaining walls may encroach.
 - All portions of the driveway/turnaround area within the front yard setback must be reduced in width to a maximum of 18 ft.
 - The garage shall be revised so that it is set back behind the front elevation of the residence.
 - All proposed exterior mechanical equipment units, utility connections, etc. shall be included, with adequate screening.
4. **Prior to the start of construction**, the associate Erosion Prevention and Sediment Control plan shall be approved by the Stormwater Engineering team.
 5. The low-mow zone, as indicated on the site plan, shall not be mowed more than once per year.
 6. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
 7. The single detached dwelling may be occupied only by a “family” as defined in Article 13 of the Comprehensive Development Ordinance.
 8. New utility lines must be buried.
 9. The proposed building must comply with all building and life safety code as defined by the building inspector and fire marshal.
 10. Standard Permit Conditions 1-15.