

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone:(802) 865-7188

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Joseph Cava, Permit Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: October 18, 2022
RE: ZP-22-520; 175-177 South Prospect Street

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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.

Zone: RL Ward: 6S

Owner/Applicant: Lanahan Eleanor A Trustee / Bob Duncan

Request: Convert existing living space within the existing duplex structure into a third dwelling unit.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 8 (Parking)

Overview:

175-177 South Prospect Street is currently developed as a duplex property. The original structure, constructed in the 1930s, is listed as a contributing resource on the Vermont State Register of Historic Resources. In 1991, approval was granted to convert the structure into a duplex. In 2008, a zoning permit was granted to construct an addition, connected to the primary structure via an enclosed overhead walkway. The applicant proposes to convert that addition into a third residential unit. No new construction or exterior alterations are proposed.

Previous zoning permit action:

- **Zoning Permit 19-0006FC**; new fence. Approved July 16, 2018
- **Zoning Permit 17-0282CA**; replacement window. Approved September 2, 2016
- **Zoning Permit 09-045CA**; duplex addition and replacement window. Approved September 9, 2008
- **Zoning Permit 91-441**; change of use from single family home to duplex with construction of second parking area accessed through existing non-utilized curb cut. Approved June 21, 1991.
- **Zoning Permit 87-032**; Replacement window. Approved 1987
- **Zoning Permit 83-270**; construct rear deck. Approved 1983

Recommendation: Certificate of Appropriateness Approval as per the following findings:

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. ZP 19-0006FC needs to be closed out with a Certificate of Occupancy before this application can be closed. **Affirmative finding as conditioned.**

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review

Section 3.5.6 Review Criteria

(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 proposal will have minimal impact on public utilities, facilities and services. The applicant will have to secure a letter from the Department of Public Works verifying that there is adequate water and sewer capacity for the new duplex. A state wastewater permit will be required.

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 within an established residential neighborhood and a residential zoning district. The Residential Low Density (RL) zoning 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. The property already contains a duplex and the applicant proposes adding a third unit, which is allowable under Sec. 4.4.5 (d) (4) below. Conformance with the city's municipal development plan will be met. The proposal complements the Comprehensive Plan in the following areas:

- Creating new opportunities for mixed-use infill and redevelopment in the most densely developed areas consistent with the city's scale and urban form, while conserving and strengthening adjacent residential neighborhoods. [CP pg. 37]*
- Re-evaluate the zoning regulations and development standards for low and medium density residential districts to ensure standards allow for existing development patterns, design character, scale and mass that are desired to be maintained, while also enabling some evolution of these properties to meet the changing needs of households [CP pg 40, 3.2]*

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 greater impacts are anticipated than other residential uses in the area. **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;*

This parcel is located along a residentially developed section of South Prospect Street. The University of Vermont (Institutional zoning district) exists across the street. The property has two driveways that provide vehicular access to six onsite parking spaces. Main Street is within walking distance, and transit stops are located at the corner of Main Street and South Prospect Streets, and at the corner of South Prospect Street and Maple Street. The proposal is not expected to create adverse impacts on the existing transportation system. **Affirmative finding.**

5. *The utilization of renewable energy resources;*

Nothing within the application prevents the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and;

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

The third residential unit will be subject to applicable life safety and building standards. **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;*

The application is strictly to convert existing habitable space into a third residential unit within a residential neighborhood. The property is already well screened from the street with hedgerows. **Affirmative finding.**

2. *Time limits for construction.*

Standard time limits for construction are as follows: construction must commence within one year from the date of zoning permit issuance, and after that, an additional two years is available to finish the project. **Affirmative finding.**

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

Standard construction hours are 7:00 AM to 5:30 PM, Monday – Friday. Saturday construction hours may be allowed upon request to the Development Review Board. 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,*

Should the applicant wish to alter the use, such alteration will require review and permitting under regulations in effect at that time. **Affirmative finding as conditioned.**
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.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) 1. *The Residential Low Density (RL) 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.*

The property already contains a duplex, and the applicant proposes adding a third unit within existing habitable space. While multifamily dwellings (3+ units) are not permitted uses in the RL zone, Sec. 4.4.5 (d) (4) allows for one additional residential unit for existing structures that legally contained two or more units as of January 1, 2007. The existing duplex use was permitted in 1991.

Affirmative finding.

(b) Dimensional Standards and Density

Table 4.4.5-1 Minimum Lot Size and Frontage

The RL zone requires a minimum lot size of 10,000 sf for *duplex and above*, and at least 60 ft of street frontage. The subject property is 23,843 sf in size, and has approx. 155 ft of frontage.

Affirmative finding.

Table 4.4.5-2 Base Residential Density

Proposed unit total: $3 / (23,843 \text{ lot size} / 43,560 \text{ acre})$ or $3 / .5474 = 5.48$; < 7 units per acre limitation. The proposal complies with base residential density of the RL zoning district.

Affirmative finding.

Table 4.4.5-3 Residential District Dimensional Standards

No changes to lot coverage, setbacks, or building height are included in this application. **Not applicable.**

(c) Permitted and Conditional Uses

Duplexes on minimum 10,000+ sf lots are permitted uses in the RL zoning district. Sec. 4.4.5 (d) (4) allows for one additional unit in certain cases. See below. **Affirmative finding.**

(d) District Specific Regulations

1. Setbacks

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

2. Lot Coverage

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

3. Accessory Residential Structures and Uses

No new accessory structures or uses are proposed. **Not applicable.**

4. 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 existing structure was permitted to be a duplex under Zoning Permit 91-441, approved June 21, 1991. The two units legally exist and pre-date January 1, 2007. As a result, a third residential unit can be allowed, subject to Conditional Use Review and approval by the DRB. **Affirmative finding.**

B. Additions to Existing Residential Structures
Not Applicable.

C. Residential Occupancy Limits

The occupancy of all units on the property 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.

5. *Uses*

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

6. *Residential Development Bonuses*

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

Article 8: Parking

Currently there are no minimum parking requirements because an amendment eliminating the minimum parking requirements of Article 8, *Parking*, is under review by the City Council and is technically in effect. The property has 6 existing parking spaces that will be retained. **Affirmative finding.**

I. Conditions of Approval

1. **Prior to the release of the zoning permit**, the applicant shall obtain a letter from the Dept. of Public Works confirming adequate water and sewer capacity.
2. **Prior to issuance of a certificate of occupancy** for this zoning permit, prior zoning permit 19-0006FC shall be closed out with a final certificate of occupancy.
3. 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.
4. Residential occupancy limits apply. The occupancy of all dwelling units is limited to members of a family as defined in Article 13. Not more than four unrelated adults may occupy any dwelling unit.
5. Should the applicant wish to alter the use, such alteration will require review and permitting under regulations in effect at that time.
6. The new unit must comply with all building and life safety code as defined by the building inspector and fire marshal.
7. A State of Vermont wastewater permit is required.
8. Standard Permit Conditions 1-15.