

## Department of Permitting & Inspections

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### MEMORANDUM

**TO:** Development Review Board  
**FROM:** Ryan Morrison, Associate Planner  
**DATE:** June 15, 2021  
**RE:** 21-0785CA/CU; 57 South Williams 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.**

Zone: RH      Ward: 1E

Owner/Applicant: Vermont Organization for Jewish Education Lubavitch / Eliyahu Junik

**Request:** Convert existing dormitory space and one apartment within the second floor of the Chabad of Vermont religious facility to a primary school use.

#### **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)

#### **Background Information:**

The applicant is requesting approval to convert portions of the second floor of the main front building of the Chabad of Vermont religious facility to a primary school use. As of ZP10-1016, existing uses within the second floor proposed for conversion include one apartment and four 1-bed dorm rooms.

While no exterior changes are proposed, the main front building (constructed in 1884) is listed in both the State and National Register of Historic Places. It is listed as a contributing resource in the Main Street – College Street Historic District (National Register).

In December, 2016, zoning permit approval was issued to construct a two-level building addition to the rear of the Chabad Jewish Community Center, with additional off-street parking, landscaping, and erosion prevention. The building addition consisted strictly of religious facility uses (sanctuary and supporting ancillary uses). This project is still under construction today.

Previous zoning actions for this property are noted below.

- **Zoning Permit 91-407;** Installation of sorority letters as signage on front façade of structure. Letters to measure 3'x6' overall. To be placed no higher than 12' above grade or the ceiling of the first floor, whichever is less. Approved June 5, 1991.

- **Zoning Permit 94-219;** Change of use from a 44 bed sorority to a membership club/church house. No exterior changes or signage included in this proposal. Approved November 9, 1993.
- **Zoning Permit 96-019;** Installation of a non-illuminated parallel sign, measuring 2.5H x 5.5L, for the existing fraternity. Approved July 18, 1995.
- **Zoning Permit 97-598;** Construction of a rear addition behind the rehabilitated former fraternity for a total of 26 residential units. Approved July 10, 1997.
- **Zoning Permit 97-071MA;** Review under Major Impact Development and Inclusionary Housing for a residential project consisting of 26 units. Approved June 16, 1997.
- **Zoning Permit 99-008CU;** Conditional use to convert an existing non-conforming use into a dormitory. Approved November 16, 1998.
- **Zoning Permit 99-046;** Conversion of the existing fraternity into a dormitory with a religious component. Proposal includes renovations to the existing structure. Any additions to the structure are under a separate permit. Approved July 23, 1998.
- **Zoning Permit 99-008A-CU;** Amend conditions of approval of November 2, 1998 to allow for an expanded parking area for the approved uses. Approved September 11, 2000.
- **Zoning Permit 00-656;** Amend previously approved phase 1 site plan to include construction of a handicapped access ramp on the south side of the existing dormitory with a religious component. Approved June 27, 2000.
- **Zoning Permit 09-573CA;** Rebuild entry railing, steps and porch floor, to amend previous permit. Approved June 4, 2009.
- **Non-Applicability of Zoning Permit 10-0298NA;** Interior work, no change of use. Approved September 23, 2009.
- **Zoning Permit 10-0306CA;** Replace existing sidewalk and railings, add lighting. Approved October 21, 2009.
- **Zoning Permit 10-1016CA;** Convert some dorm space to an apartment. Also install dryer and hood vents on outside wall. No site changes proposed. Approved June 11, 2010.
- **Non-Applicability of Zoning Permit 13-0931NA;** Addition of three bathrooms, interior work only. Approved April 11, 2013.
- **Zoning Permit 17-0455CA;** Two level addition, new off-street parking, landscaping and erosion prevention. Approved December 15, 2016 (subject of this re-application)
- **Zoning Permit 20-0136CA;** Addition of deck, new door, revisions to previously approved window fenestration. Approved August 26, 2019.
- **Zoning Permit 21-0255CA;** Ramp and deck alteration. Approved September 11, 2020.
- **Zoning Permit 21-0424CA;** Temporary tent. Approved November 6, 2020.
- **Zoning Permit 21-0462CA;** Re-apply for previously approved 17-0455CA; two-level rear building addition. Approved December 15, 2020.

**Recommendation:** Certificate of Appropriateness and Conditional Use Approval as per, and subject to, the following findings and conditions.

## **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. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

## **Article 3: Applications, Permits, and Project Reviews**

### **Part 3, Impact Fees**

#### **Section 3.3.2 Applicability**

*Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.*

Impact fees apply to this permit. Fees are based on the square footage of each residential/dormitory room being converted to the primary school use. The applicant will have to provide these calculations to staff for impact fee assessment. **Affirmative finding as conditioned.**

#### **Section 3.3.8 Time and Place of Payment**

*(b) Existing Buildings: Impact fees must be paid... if a building permit is required, within thirty (30) days of issuance of the building permit. **Affirmative finding as conditioned.***

### **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 change of use. A state wastewater permit may also be needed.

**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 high-density residential zoning district. The Residential High Density (RH) zoning district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings placed close together. Parking is intended to be hidden either behind or underneath structures. The use table of Appendix A, CDO, specifically includes 'School – Primary' as a conditional use within the RH zoning district. **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 high density developments and other allowed 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 property is located along South Williams Street, a street with high density residential and institutional development. The property will maintain its driveway and parking area to serve the religious facility and the proposed primary school. Sidewalks line both sides of the street, and there are transit stops well within walking distance on College Street and Pearl 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 primary school use 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;*

No exterior alterations are proposed, and the new primary school use within the existing facility should not result in any new nuisances. **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 7:30 AM to 5:30 PM, Monday – Friday. Saturday construction hours may be allowed upon request to the Development Review Board. No work on Sunday. As noted above, there are no structural alterations proposed to the building's exterior, and interior renovations will be minor in nature. A building permit will be required for the change of use and any other interior structural alterations that may occur. The school use is expected to operate during normal daytime school day hours, with occasional evening activities. **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 or structure(s), 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 & Districts**

##### ***Sec. 4.4.5, Residential Districts:***

###### ***(a) Purpose***

###### ***(5) Residential High Density (RH)***

*The Residential High Density (RH) district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings located close together. Parking is intended to be hidden either behind or underneath structures.*

The subject property is located in the RH zone. A ‘School - Primary’ use in the RH zone is listed as a conditional use in Appendix A – Use Table – All Zoning Districts. Seeing as the amount of floor area devoted to the proposed primary school use, combined with other ancillary uses within the religious facility (day-care), exceeds the 25% allowance for accessory uses, the proposal must be reviewed as a separate use of the property, which in this case is a conditional use. **Affirmative finding.**

###### ***(b) Dimensional Standards and Density***

*The density and intensity of development, dimensions of building lots, the height of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:*

##### **Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W**

Footnote 2: *There are no minimum lot size or frontage requirements in the RH District.*

**Not applicable.**

##### **Table 4.4.5-2 Base Residential Density**

###### **High Density: RH 40 units/acre**

Based on ZP10-1016CA, there is one existing dwelling unit on the property – the second floor apartment proposed for conversion to the primary school use. The zoning ordinance does not assign a density application to dormitories – regardless of the number of rooms. Technically there is just one dwelling recognized on the property. Sec. 5.2.7 below addresses non-residential density equivalents that will apply to the property. See below. **Affirmative finding.**

##### **Table 4.4.5-3 Residential District Dimensional Standards**

No changes to the site or building are proposed. **Not applicable.**

###### ***(c) Permitted & Conditional Uses***

‘School - Primary’ is listed as a conditional use in the RH zoning district. **Affirmative finding.**

###### ***(d) District Specific Regulations***

Not applicable.

#### **Article 5: Citywide General Regulations**

##### ***Sec. 5.2.3, Lot Coverage Requirements***

No change. **Not applicable.**

**Sec. 5.2.4, Buildable Area Calculation**  
**Not applicable.**

**Sec. 5.2.5, Setbacks**  
No change. **Not applicable.**

**Sec. 5.2.6, Building Height Limits**  
No change. **Not applicable.**

**Sec. 5.2.7, Density and Intensity of Development Calculations**

**(a) Dwelling Units per Acre**

*In accordance with the district-specific provisions of Article 4, the calculation of density shall be measured as follows in such cases where the density is measured on a dwelling unit per acre basis:*

- 1. Density Calculation: The total number of dwelling units provided on a lot or lots, or portion of the lot(s) where split by a zoning district boundary, shall be divided by the net area expressed in acres calculated to the nearest fractional tenth (i.e. to a single decimal point). The net area of the lot(s) shall account for buildable area where applicable (see Sec. 5.2.4). In calculating the number of dwelling units permitted, fractional units of less than five-tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five-tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation.*

With the loss of the only dwelling unit (second floor apartment), there will no longer be dwelling units on the property to base a density calculation on. Therefore, the nonresidential density equivalent, outlined in (2) below, applies to the gross floor area of the existing building.

**Affirmative finding.**

- 2. Density Equivalent, Nonresidential Uses: For purposes of density calculations, each one thousand, five hundred (1,500) square feet of nonresidential gross floor area shall be counted as one dwelling unit.*

Given a nonresidential gross floor area of 22,233 sf, the property yields 15 dwelling units.

$59,626 / 43,560 \text{ (acre)} = 1.368 \text{ acres.}$

$15 \text{ units} / 1.368 = 10.96 \text{ units per acre; well below the 40 unit/acre requirement.}$  **Affirmative finding.**

**Sec. 5.5.1, Nuisance Regulations**

Nothing in the proposal appears to constitute a nuisance under this criterion. **Affirmative finding.**

**Sec. 5.5.2, Outdoor Lighting**

There are no new exterior lights proposed, nor are there any alterations to existing light fixtures proposed. **Not applicable.**

**Sec. 5.5.3, Stormwater and Erosion Control**  
**Not applicable.**

**Article 8: Parking**

***Sec. 8.1.8, Minimum Off-Street Parking Requirements***

The property is located in the Neighborhood Parking District. Parking requirements for dormitories are 1 space for every 2 beds, and dwelling units (apartment) require 2 spaces per unit. With there being 1 bed in each of the 4 dorm rooms, plus one apartment, a total of 4 parking spaces can be credited toward the four new classrooms. Primary schools require 1.5 spaces per classroom, which in this case requires 6 parking spaces. The applicant is requesting a 2-space parking waiver to comply with these parking requirements. **Affirmative finding if the parking waiver request is approved.**

***Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans***

Parking waivers cannot exceed 90% of the required number of spaces. A 15-space parking waiver was approved as part of ZP17-0455CA for the rear building addition. That permit identified 51 parking spaces required, but as a result of the parking waiver approval, a 36-space parking lot is being developed as part of the ongoing construction. The current proposal raises the overall minimum parking requirement to 53 spaces, to which the applicant requests an additional 2-space waiver. Pending approval of this request, a total of 17 spaces will be waived for the overall property. This represents a 32% waiver, far below the 90% maximum allowance for such waivers.

The applicant has provided a parking management plan to support the parking waiver request. Many of the children in the classrooms have younger siblings that attend the onsite pre-school, thus resulting in little increase to existing traffic to and from the property. The sanctuary services, which draw the greater parking requirements, operates on the weekends, thus there would be no conflicts with parking demand on the weekdays that the school will operate.

The applicant further notes that drop off and pick up times for the school use have a wide window – between 7:30 and 9:00 am, and then between 4:00 and 5:30 pm. There will not be a time when the entire school body is picked up and dropped off at one time.

Given the shared parking availability of the school uses (pre-school and primary) and the religious facility, weekdays versus weekends, there should be no overlap in parking demand. Additionally, public transportation is also available too, located within walking distance to Pearl and College Streets. **Affirmative finding if the parking waiver request is approved.**

***Sec. 8.2.5, Bicycle Parking Requirements***

As part of the ongoing development (additional sanctuary space in the rear building addition – ZP17-0455CA), a 12 space bike rack is being installed onsite. This will be able to handle the weekday school use requirement of 2 short term spaces per classroom (totaling 8 spaces). Long term spaces are required at 1 space per 20,000 sf of classroom floor area, plus 1 space per 10 students. The four classrooms are significantly less than 20,000 sf in area, and the student count will not exceed 25. Based on this, the number of long term spaces needed totals 4. Long term bicycle parking space will be located in the storage areas of the basement – which also handles the long term parking requirements for the religious facility. **Affirmative finding.**

**II. Conditions of Approval**

1. **Prior to the release of the zoning permit**, the applicant shall submit gross floor area calculations of the residential/dormitory room areas being converted to the primary school use for impact fee assessment.

2. **Prior to the release of the zoning permit**, the applicant shall secure a letter of confirmation from the Department of Public Works verifying that there is adequate water and sewer capacity for the change of use.
3. **Within 30 days of issuance of the associate building permit**, impact fees based on the net square footage of converted floor area shall be paid to the Department of Permitting and Inspections or to the Clerk / Treasurer's Office.
4. A State of Vermont wastewater permit may be required and it is the responsibility of the applicant to procure.
5. Standard construction hours are 7:30 AM to 5:30 PM, Monday – Friday. Saturday construction hours may be allowed upon request to the Development Review Board. No work on Sunday.
6. It is the applicant's responsibility to comply with all applicable ADA requirements.
7. It is the applicant's responsibility to obtain all necessary trades permits for the change of use and any other interior structural alterations.
8. 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.
9. Any signage will require a separate sign permit.
10. Standard Conditions 1-15.