

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
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



TO: Development Review Board
FROM: Scott Gustin
DATE: October 20, 2020
RE: 21-0287CA/CU; 119 Spruce 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: Chris Khamnei

Request: Remove garage and pantry addition on rear of structure. Install garden shed. Remove aluminum siding, replace and install window.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations)

Background Information:

The home at 119 Spruce Street was constructed circa 1895 and is included in the Vermont Register of Historic Places. The detached garage, which has been demolished, was not part of the original construction. It first shows up in the 1942 Sanborn Map and also appears in early aerial imagery dating to 1962. The historic listing notes construction circa 1920. Construction in the 1940's is consistent with the applicant's assertion that it was built some 50 years following construction of the residence. The age of the pantry is unclear; however, it appears in the first Sanborn map of the area dating to 1919.

This application follows a similar previous application for more extensive work that was denied due to insufficient project plans. This current application is after-the-fact to demolish the garage and rear pantry addition. The aluminum siding has already been removed as well. A garden shed is to be installed where the detached garage stood, and a new window will be installed in the home while an existing window is to be removed and infilled.

The demolition work occurred in or around June 2020. Demolition of historic structures requires Conditional Use Review, per Section 5.4.8 (d) of the Comprehensive Development Ordinance.

Previous zoning actions for this property are noted below:

- 9/4/20, Denial to remove garage and pantry addition and construct new garage and driveway
- 5/14/20, Approval of boundary line adjustment and driveway reconfiguration
- 2/22/16, Approval for window replacement and dormer construction

Recommendation: Certificate of appropriateness and conditional use approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (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 demolition and new construction will have no effect on this criterion. **(Affirmative finding)**

2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;

This is a low density residential district; the loss of a characteristically small detached garage located in the backyard will not result in a loss of residential units or overall character of the zoning district. Replacement with a garden shed of similar scale in the same location will retain the primary/secondary relationship between the home and the detached garage. Removal of the rear pantry will not affect the use of the residence as a single family home. **(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;

Demolition and replacement included in this application is not expected to generate nuisance impacts from noise, odor, dust, and the like. **(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;

There is no anticipated change to traffic. **(Affirmative finding)**

5. The utilization of renewable energy resources;

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

6. Any standards set forth in existing City bylaws and city and state ordinances;

Building permits are required for the work included in this application. **(Affirmative finding as conditioned)**

(b) Major Impact Review Standards

Not applicable.

(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.

Demolition and replacement work will not produce adverse effects in need of mitigation.

(Affirmative finding)

2. Time limits for construction.

No construction timeline or phasing are included in this proposal. A shortened 1-year timeframe will apply for the zoning permit, as it addresses a violation (demolition without first obtaining a zoning permit). **(Affirmative finding as conditions)**

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

Hours of operation are not applicable for use of the private accessory garage.

Construction hours are not specified. Typical construction hours in residential areas are Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. 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; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

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.

Not applicable.

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(1) Residential Low Density (RL)

The Residential Low Density (RL) district is intended primarily for low density residential development in the form of single family detached dwellings and duplexes. In this case, the existing use as a single detached dwelling will not change. **(Affirmative finding)**

(b) Dimensional Standards and Density

Residential density remains unchanged at 1 dwelling unit.

The most recent zoning permit for the property, for a lot line adjustment, driveway removal, and new driveway installation, noted 23% resultant lot coverage. The only thing in this new application that affects lot coverage is the new shed. Given its size similar to the garage it will replace, minimal change in lot coverage is expected. The site plan notes a reduction from 19% to

16.5% lot coverage. This reduction seems unlikely. Lot coverage information needs to be confirmed.

The proposed garden shed must be set back at least 5' from the side and rear property lines. Side yard setbacks appear compliant. The proposed rear yard setback appears to be 4' and needs to be adjusted slightly to a full 5.'

The proposed garden shed is ~12' tall to the midpoint of the rise of the gable roof. **(Affirmative finding as conditioned)**

(c) Permitted and Conditional Uses

The permitted single family home use remains unchanged. **(Affirmative finding)**

Article 5: Citywide General Regulations

Part 4: Special Use Regulations

Sec. 5.4.8 Historic Buildings and Sites

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

The residence at 119 Spruce Street is listed in the National Register of Historic Places. Therefore, the following standards apply to the proposed alterations.

(b) Standards and Guidelines:

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

The residence is a single detached dwelling. The use will remain unchanged. **(Affirmative finding)**

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The aluminum siding wrapping the structure has been removed to expose the original wooden clapboard siding. The clapboards will be repaired as needed. Removal of the rear pantry will be imperceptible from the street. **(Affirmative finding)**

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

No conjectural features are proposed. **(Affirmative finding)**

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

The garage was not part of the original construction of the residence but is included in the historic register. See item (d), *Demolition of Historic Structures*, below.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

The un-original aluminum siding has been removed, and the wooden clapboard siding underneath has been revealed and repaired as needed. Minimal alteration to fenestration is proposed. A single window on the south (rear) elevation will be removed and infilled with siding to match. One new window will be installed on the south (side) elevation. The proposed window is acceptable clad wooden construction with factory-adhered exterior/interior muntins with pattern to match the adjacent window. **(Affirmative finding)**

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

Except for the rear pantry to be removed, no historic features are proposed to be removed or replaced. **(Affirmative finding)**

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

None are identified in submission materials. **(Affirmative finding)**

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

The property is of no known archaeological significance. **(Affirmative finding)**

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

Minimal alteration to the residence is proposed. One window will be removed and infilled, and another window will be installed as noted above. **(Affirmative finding)**

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

See above.

(d) Demolition of Historic Buildings:

2. Standards for Review of Demolition.

Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review and in accordance with the following standards:

A. The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure;

See criterion B below.

or,

B. The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district;
The demolished garage was fairly small as a single bay, one story structure. The applicant asserts that the concrete foundation had failed and has provided photographs that show substantial cracking and disintegration. The applicant also asserts that the tin roof leaked and lead to structural damage of the wooden framing underneath. The applicant opted to demolish the garage following removal of the shared driveway approved under previous permit. Without a driveway, the structure became unusable as a garage. This new application includes a proposed garden shed to replace the garage.

Similarly for the pantry, the applicant asserts that the roof leaked, and wood rot was evident. The pantry was a small rear appendage to the residence and is not specifically mentioned as character defining feature in the historic listing for the property. **(Affirmative finding)**
or,

C. The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.
See criterion B above.

And all of the following:

D. The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;

Demolition of the detached garage does not substantially impact the historic home. It was located relatively far behind the home in the backyard. Its significance was as a typical example of an “automobile shed” of the immediate post-war years. No unique architectural features of the garage are included in the listing. A photo of the garage about to be demolished has been provided for documentation.

Similarly, removal of the pantry has little impact on the residence. It was a small, single story feature located in the rear and could not be viewed from the street. Photo documentation has been provided as a minimal amount of mitigation. **(Affirmative finding)**

E. All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington’s architectural history;
See D. above.

and,

F. The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).

- (i) Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;*
- (ii) Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project; and,*

(iii) The time between demolition and commencement of new construction generally shall not exceed six (6) months.

The applicant proposes a garden shed as a replacement for the demolished detached garage. Its placement in the same location and its similar scale to the garage reflects the long-standing development pattern on this property. **(Affirmative finding)**

This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.

There has been no such deed restriction proffered; nor is it warranted. **(Affirmative finding)**

3. Deconstruction: Salvage and Reuse of Historic Building Materials.

The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.

Demolition has occurred. The opportunity for salvage or reuse has passed. **(Not applicable)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, proposed lot coverage % shall be confirmed, subject to staff review and approval.
2. Construction hours in residential areas are Monday – Friday from 7:30 AM – 5:30 PM. Saturday construction may occur for interior work only. No work on Sunday.
3. All work included in this permit shall be complete within 1 year of the date of approval.
4. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
5. Standard permit conditions 1-15.