

There is an on-going property line dispute with a westerly neighbor about the location of the shared property line. Two sets of development plans have been submitted; the last in an effort to avoid encroachment over an asserted property line. The applicants have not provided an authoritative land survey to settle the dispute; however a recent decision by the Development Review Board (ZP20-0506CA, as appealed) supported the boundary line as defined by a civil survey for 4-8 Strong Street, placing the structure at 14 Strong Street encroaching over the shared boundary line. The applicant has pointed to a recorded survey dated 14 March, 1986 by land surveyor Gordon Harlow, recorded in Burlington Land Records 0162:58. While both define 14 Strong Street as 35' wide and 50' deep, the shared boundary with 4-8 Strong Street diverges significantly between plans.

The boundary dispute remains unresolved at this time.

The **Design Advisory Board** reviewed the application at their December 22, 2020 meeting.

Motion by Matt Bushey:

I move that the project submission be approved as submitted, pending resolution of the ongoing property line dispute with the westerly abutter, with the following recommendations:

1. In response to the property line dispute, the deck railing on west and north elevations shall not be built, until such time that the property line dispute can be resolved.
2. If the columns at the front porch are to be replaced, they shall be replaced with round columns, not square, to replicate the existing.
3. There is an apparent error in the Historic Sites & Structures Survey. The glass transom over the picture window on the south elevation is painted, not stained glass. Replacement of this window is supported. The horizontal muntin with upper transom should be maintained.
4. New lap siding shall have the same exposure as the siding on the existing building.

2nd – Jay White

Vote 5-0.

Motion carries

Recommended motion: Assuming the veracity of approved site plan of ZP20-0506CA (4-8 Strong Street), **Certificate of Appropriateness and Conditional Use Approval** per the following Findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 5: Conditional Use and Major Impact Review (Required by 5.3.5 (a) 1.)

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 application proposes an expansion over an existing first floor of the single family home. The ordinance anticipates consideration of this allowance in Section 5.3.5 (a). No measureable impact to existing or planned public utilities, facilities or services is anticipated. **Affirmative finding.**

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;*

From planBTV: Comprehensive Plan 2019 Update:

- *Create 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 (p. 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. (Sec. 3.2, p. 40.)*

Zoning Amendment 14-01 allowed consideration of setback encroachment of vertical expansion over existing enclosed single stories. **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;*

This is a proposed expansion of a single family home; a use common to this zoning district. No nuisance impacts are anticipated. **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 will be no increased demand on area transportation systems. **Affirmative finding.**

and,

5. *The utilization of renewable energy resources;*

Nothing within the application will preclude the use of wind, water, solar, geothermal or other renewable energy resources. **Affirmative finding.**

and,

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

The expansion of habitable area does not imply approval of an additional unit. No change to the number of residential units or occupancy is included within this review. The residence must continue to comply with Functional Family standards; not more than four unrelated adults may occupy the unit.

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.*

Although the ownership of the mature plantings west of the residence is in dispute, they are not proposed to be removed. No other mitigation standards are identified.

Affirmative finding.

2. *Time limits for construction.*

The permit will have a three year life, which should be sufficient for completion of the project. **Affirmative finding as conditioned.**

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

Residential use has not limitation on hours. Construction shall be limited to 7:30 am to 5:30 pm Monday-Friday. Saturday construction shall be limited to interior work. No construction shall occur on Sundays. **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;*

Any future enlargement or alteration of the use will be reviewed under the standards in effect at the time of application. **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.*

This is at the discretion of the DRB.

Article 4: Zoning Maps and Districts

Section 4.4.5 (a) Purpose 3. Residential Medium Density district

The RM district is intended primarily for medium density residential development in the form of single family detached dwellings and attached multi-family apartments.

No change to the existing residential use is proposed. **Affirmative finding.**

(b) Dimensional Standards and Density

The property is within the RM zoning district which limits lot coverage to 40%; and up to 50% with bonus amenities. The lot is currently non-conforming at 62.8% lot coverage. The application proposes removal of an existing walkway to the enclosed porch, and replacement coverage for an exterior door/stoop on the east. Coverage is proposed to be reduced to 62.6% with these changes. See Section 5.3.5 (a) for further discussion of changes to existing non-conformity.

The second story addition will be over existing first floor footprint, and introduce no new lot coverage. The opportunity for vertical expansion over existing finished single story additions that encroach into a required (rear and side) setback is addressed under Section 5.3.5 (a) 1. Structural height is limited to 35'. The proposed new expansion will not exceed that height.

No change to density is proposed. The property will remain a single family residence.

Affirmative finding as conditioned.

(c) Permitted and Conditional Uses

Single family homes are a permitted use in the RM District. **Affirmative finding.**

(d) District Specific Regulations:

1. Setbacks

A. Encroachment for Residential Driveways

Not applicable.

B. Encroachment into the Waterfront Setback

Not applicable.

2. Height

A. Exceptions in the Waterfront RM District

(This section has been eliminated by ZA20-09.)

3. Lot Coverage

A. Exceptions for Accessory Residential Features

14 Strong Street has already exhausted any allowance for any bonus coverage provisions.

The existing coverage is existing non-conforming to the ordinance. See Section 5.3.5 (a).

4. Accessory Residential Structures and Uses

Not applicable.

5. Residential Density

No changes to existing density are proposed. Not applicable.

6. Uses

No changes to existing use is proposed. Not applicable.

7. Residential Development Bonuses

Not applicable.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

Not applicable.

Section 5.2.2 Required Frontage or Access

No change. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See Section 4.4.5 (b) and 5.3.5 (a) i.

Section 5.2.4 Buildable Area Calculation

The parcel does not exceed 2 acres in size. Not applicable.

Section 5.2.5 Setbacks

See Section 4.4.5 (b), above, and Section 5.3.5 (a) 1., below.

Section 5.2.6 Building Height Limits

See Section 4.4.5 (b), above.

Section 5.2.7 Density and Intensity of Development Calculations

No change in the density of the existing, developed lot is proposed. **Affirmative finding.**

Part 3: Non Conformities

Section 5.3.5 Non-Conforming Structures

(a) Changes and Modifications

Nothing in this Part shall be deemed to prevent normal maintenance and repair or structural repair, or moving of a non-complying structure pursuant to any applicable provisions of this Ordinance.

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. *Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.*

*Within the residential districts, and subject to Development Review Board approval, **existing nonconforming single family homes** and community centers (existing enclosed spaces only) **that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure.** Such expansion shall be of the existing nonconformity (i.e. setback) and shall:*

- i) *Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);*
 - ii) *Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,*
 - iii) *Be compatible with the character and scale of surrounding structures.*
2. *Such a change or modification shall not create any new nonconformity; and,*
 3. *Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*

When any portion of a nonconforming structure has been made conforming, it shall not be made nonconforming again except as provided for historic building features pursuant to Sec. 5.2.6(b)(3).

A non-conforming residential structure may be enlarged up to the dimensional standards of the underlying zoning district, subject to review and approval by the DRB pursuant to Art. 3, Part 4 Design Review and Art. 3, Part 5 Conditional Use Review. Adaptive reuse or residential conversion bonuses may allow a greater expansion than the underlying zoning district allows approved per the provisions of Article 4.

14 Strong Street is non-conforming to lot coverage and setbacks.

The application proposes re-arrangement of lot coverage (remove duplicate walkway to the public sidewalk, add door and stoop to the east) that reduces the level of non-conforming lot coverage. Additionally and subject to DRB Conditional use review is the proposed vertical expansion over an existing, enclosed single story structure for the purpose of expanding habitable living space for the single family home. The existing single story additions encroach into required setbacks on the side (west) and the rear (north.) Per this standard and subject to DRB Conditional Use review, such expansion may be considered. There is no creation of new non-conformity, and the addition is consistent with the character and scale of the surrounding neighborhood.

The submitted site plan is based on the property line acknowledged under ZP20-0506CA (as appealed) wherein 14 Strong Street physically encroaches a westerly property line, and allows for a vertical expansion over the existing single story north addition as noted in A.01 with existing encroachment over the north (rear) required setback.

Affirmative finding as conditioned.

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of 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.

14 Strong Street was included within the 2006 Historic Sites and Structures Survey work, and determined to be eligible for historic designation within the context of Strong Street. Therefore, the standards of Section 5.4.8 apply.

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

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.*

14 Strong Street was constructed c. 1927 as a single family home; a use that continues.

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.*

This Queen Anne/Colonial Revival side hall plan will retain its characteristics that make it eligible for historic designation. The new additions will be clearly recognizable. **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. As long as there is a break in the ridgeline between the original structure and the proposed addition, it will be possible to discern old from new.

Affirmative finding.

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

The side (now enclosed) porch is an important component of the overall building. The proposal to construct a shed-roofed addition atop will be readable as new. **Affirmative finding.**

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

None identified that are to be altered. **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.

There is no proposed replacement of missing features. Not applicable.

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.*

Not applicable.

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

There are no identified archaeological resources at this location. Not applicable.

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.*

The essential form and spatial characteristics of the property will remain. The new additions are clearly discernable, are set back from the existing building plane and include sheathing compatible to the historic structure. The awning windows and the roof attachment of the easterly addition define the building mass as a modern addition. **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.*

While unlikely, it is possible to consider the reversibility of the project. **Affirmative finding.**

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

The expansion of an existing single family home within a residential zoning district proposes no adverse impacts. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

The applicant proposes a residential-style lighting fixture by the new easterly door.

Affirmative finding.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division is proposed; however there remains an unresolved boundary line dispute with the neighbor abutting to the west.

Not applicable.

Part 2: Site Plan Design Standards
Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

Not applicable.

(c) Protection of Important Public Views:

There are no important or identified public views warranting protection. Not applicable.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

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

(f) Brownfield Sites:

14 Strong Street is not listed on the Department of Environmental Conservation's list of Brownfield sites. 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

Other than removal of a small walkway, no ground disturbance is proposed.

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.

A small canopy is illustrated over the newly introduced exterior door on the east, providing shelter to residents. **Affirmative finding.**

(h) Building Location and Orientation:

There is no change to the existing building location or orientation. **Affirmative finding.**

(i) Vehicular Access:

No change. Not applicable.

(j) Pedestrian Access:

A pedestrian walkway on the east is proposed to be eliminated; however the principal entrance will continue to connect to the public sidewalk. **Affirmative finding.**



Walkway to be removed

(k) Accessibility for the Handicapped:

This is not a requirement for a single family home, although always encouraged. Not applicable.

(l) Parking and Circulation:

No change is proposed to existing conditions. **Affirmative finding.**

(m) Landscaping and Fences:

Not applicable.

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

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

See 5.5.2, above.

(p) Integrate infrastructure into the design:

Not applicable.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

The proposed addition remains below the ridgeline of the existing roof, while the easterly bump-out over an enclosed porch is not uncommon to add additional space and light to upper floors.

Affirmative finding.

2. Roofs and Rooflines.

Asphalt shingle roofing is proposed over the new rear gable roof and shed roof addition on the east. **Affirmative finding.**

3. Building Openings

The plan proposes square, awning style windows on the shed roof addition, differing in appearance and size from the existing double hung windows on the original home. A new exterior door and landing are proposed on the east, which will allow use of the side (east) yard.

Plan A.20 illustrates a door and outdoor deck area on the 2nd floor. If the property line recognized by the DRB in ZP20-0506CA is correct, this will enable encroachment over a property line and cannot be considered. Under those circumstances a window is recommended in this westerly elevation, and abandonment of the proposed roof deck. Revised building elevations will be required to confirm elimination of this rooftop exit/deck. **Affirmative finding as conditioned.**

(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

See Section 5.4.8.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

Plans provide for clapboard siding on the new additions. The existing upper story of the home is shingled, with the first floor clapboarded. Although a secondary walkway to the porch will be removed, there remains a pedestrian walk between the public sidewalk and the front door.

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.

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

Clapboard is an acceptable exterior sheathing material, and consistent with existing materials. Asphalt shingles will match existing conditions. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction shall 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. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

Not applicable.

(i) Make spaces secure and safe:

Development is subject to all building and life safety codes as defined by the building inspector and the fire marshal. **Affirmative finding.**

Article 8: Parking

No change to the existing parking is proposed. Driveway dimensions are consistent with the approved site plan of 4.30.1996. **Affirmative finding.**

II. Conditions of Approval

1-4 as recommended by the Design Advisory Board:

1. In response to the property line dispute, the deck railing on west and north elevations shall not be built, until such time that the property line dispute can be resolved. A revised westerly elevation drawing shall be provided **prior to release of the zoning permit**, eliminating the proposed roof-top deck and door access. The assumed property line as acknowledged under ZP20-0506CA illustrates structural encroachment of a westerly property line; creation of an outdoor deck in this area would increase the level of non-conformity that currently exists and result in new development over a property line; therefore not permissible.
2. If the columns at the front porch are to be replaced, they shall be replaced with round columns, not square, to replicate the existing.
3. There is an apparent error in the Historic Sites & Structures Survey. The glass transom over the picture window on the south elevation is painted, not stained glass. Replacement of this window is supported. The horizontal muntin with upper transom shall be maintained.
4. New lap siding shall have the same exposure as the siding on the existing building.
5. Construction shall be limited to 7:30 am to 5:30 pm Monday-Friday. Saturday construction shall be limited to interior work. No construction shall occur on Sundays.

6. The expansion of habitable area does not imply approval of an additional unit. No change to the number of residential units or occupancy is included within this review.
7. The residence must continue to comply with Functional Family standards; not more than four unrelated adults may occupy the unit.
8. All new construction shall 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 future enlargement or alteration of the use will be reviewed under the standards in effect at the time of application.
10. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.