

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Scott Gustin & Garret King
DATE: April 4, 2023
RE: ZP-23-9; 98 Sunset Cliff Road

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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: WRL Ward: 4N

Owner/Applicant: Keye & Lucy Wong / Elizabeth Herrmann

Request: Demolish existing single family residence and replace with new single family residence.

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:

The applicants are looking to demolish the current single family home and to build a new single family residence. The project plans show sensitivity to the lakeshore by setting the new home further back from the water's edge than the existing home and by establishing a front yard meadow and the required lakeshore low mow zone.

The proposed site plan also shows a new pedestrian path down to the existing sea wall with the addition of new steps that will reach into the flood zone. A revised site plan adjusts these steps to be entirely on the subject property (rather than extending onto the neighboring property). Except for these steps, no changes will be made to the existing sea wall. As required, project plans for this small encroachment into the flood zone have been sent to VT Agency of Natural Resources for review and comment. The Agency has recommended confirming that all materials within the flood zone are constructed of flood resistant materials and are anchored in place. The applicant has confirmed the steps will be concrete. Potential wooden treads would be anchored to the concrete.

The Conservation Board reviewed this application February 6, 2023 and again March 6, 2023. At their initial review, the Board recommended continuation of review to a future date to allow the applicant additional time to conduct soils analysis as to stormwater infiltration potential. By March 6, that analysis had been done and provided for Board review. At their February 6 meeting, the Board unanimously recommended project approval.

The Design Advisory Board reviewed this application February 14, 2023 and unanimously recommended approval as proposed.

The Development Review Board reviewed and approved this application March 7, 2023. Within the 30-day appeal period, several neighbors requested that the Board re-open review of the application. Mailed meeting notice had not been provided to them as required. Therefore, they had not participated in the March 7 DRB meeting. On March 21, 2023, the Board voted to re-open review of the application. This report is updated to include ANR flood zone comment, Conservation Board recommendation, and adjustment of the lake access steps onto 98 Sunset Cliff.

Prior zoning permit actions for this property.

- 5/15/2011, Approval for replace a 20`x8`x10” sea wall section
- 6/29/1988, Approval for repair by replacement of 20` section of concrete sea wall
- 7/26/1984, Approval for demolition of existing single family home and to construct a new single family home with attached garage
- 9/13/1976, Approval to erect a 6`x40` stockade fence
- 5/28/1975, Approval to replace 8`x100` concrete sea wall
- 5/12/1975, Approval to erect single family house and remove existing house

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

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Applicant will be required to pay impact fees set forth and calculated by the Impact Fee Administrative Regulations based on the net new square footage of the proposed residence. There is a net new square footage of 3,398 sf as compared to the existing home. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Waterfront Residential Low Density (RL-W)

The property is in the RL-W zone and is subject to the development standards of this zone. The district is intended primarily for low density development in the form of single-family detached dwellings and duplexes. The proposed construction of a new home fits within the district’s purpose. **(Affirmative finding)**

(b) Dimensional Standards & Density

Residential density will remain unchanged at one residential unit for the 27,000sf lot.

Prior/Current lot coverage is 23.22%, and proposed lot coverage will be 33.8% as calculated on project plans. The proposed increase in lot coverage complies with the 35% maximum permissible in this zone.

The home's setback from the road will be beyond 50.' At this distance, averaging of neighboring front yard setbacks is not required. Side setbacks will be 14ft which is slightly greater than the district requirement of 10% of lot width (13.5` side setback). The lakeshore setback is greater than the minimum required 75' from the 100` elevation mark.

The tallest point of the proposed home is noted at 25` 10 61/64” and is under the 35' maximum permitted height. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The replacement single family home is a permitted use in the RL-W zone. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

See above

2. Lot Coverage

See above

3. Accessory Residential Structures and Uses

Connected porches as accessory uses are permitted in the RL-W zone. **(Affirmative finding)**

4. Residential Density

No change of density to previous permitted use, and the single family home is still limited to occupancy by a family as defined in Article 13 of the Comprehensive Development Ordinance. **(Affirmative finding)**

5. Uses

Not applicable

6. Residential Development Bonuses

Not applicable

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District

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

The property is subject to the *Riparian and Littoral Conservation Zone* as it is within the 250` of Lake Champlain lakeshore. Almost all existing trees will be retained, and several new trees will be planted. As required, a low mow zone will be established between the residence and the existing retaining walls. Note the calculated size of the low mow zone is 5,386.39 sf and complies with the area requirement relative to the size of redevelopment.

The proposed lot coverage exceeds 2,500 sf, so a residential stormwater management plan will be needed, subject to review and approval by the stormwater administrator. The project plans depict a bioretention area on the lakeside of the proposed home that will collect and attenuate stormwater runoff. The Conservation Board recommended approval of the project. Stormwater management is subject to final review and approval by the stormwater administrator. **(Affirmative finding as conditioned)**

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District

(a) District Specific Regulations: Special Flood Hazard Area

(7) Special Review Criteria

A. The danger to life and property...

The current sea wall and proposed steps pose no danger to life and protects the property from shoreline erosion. The addition of stairs alongside the current sea wall will cause no changes to lake behavior. **(Affirmative finding)**

B. The danger that material may be swept onto other lands...

The current sea wall is solid reinforced concrete, and the addition of concrete stairs will not cause pieces to dislodge from the wall or cause pieces to end up on other properties. **(Affirmative finding)**

C. The proposed water supply and sanitation systems...

The proposed plans show that there will be connection to the existing sewer line. **(Affirmative finding)**

D. The susceptibility of the proposed facility and its contents to flood damage...

The current sea wall was made to protect the shoreline against flooding and erosion, and additional access stairs will not change the effectiveness of the wall. **(Affirmative finding)**

E. The importance of the services provided...

New steps allow for access to the water's edge. **(Affirmative finding)**

F. The availability of alternative locations...

In order to provide the intended access, the steps must descend into the floodplain. **(Affirmative finding)**

G. The compatibility of the proposed use with existing development...

The current sea wall and proposed stairs fit with current and adjacent properties. Seawalls with lakeshore access are a common element along the city's shoreline. **(Affirmative finding)**

H. The relationship of the proposed use to the Municipal Development Plan

The construction of new stairs conforms to current uses and does not conflict with the Municipal Development Plan. **(Affirmative finding)**

I. The safety of access to the property in times of flood of ordinary and emergency vehicles.

The construction of new stairs will not affect emergency vehicle access to the property. **(Affirmative finding)**

J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site

The new steps will not affect water levels or associated flood effects of the lake. **(Affirmative finding)**

K. Conformance with all other applicable requirements of this ordinance

The construction of new stairs will conform to all requirements of this ordinance. **(Affirmative finding)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

The applicant is not seeking additional lot coverage. **(Not applicable)**

Sec. 5.2.4, Buildable Area Calculation

The lot is not subject to the steep slope overlay and is not over 2 acres in size so it does not qualify for buildable area calculation. **(Not applicable)**

Sec. 5.2.5, Setbacks

See above.

Sec. 5.2.6, Building Height Limits

See above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See above

Sec. 5.5.1, Nuisance Regulations

The proposed project will not create any nuisance, as the land use will not change. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

Outdoor lighting fixture specifications have been provided. Lighting locations are shown in the elevations drawings. Fixtures include: Type 1 (Recessed 700 lumen output), Type 2 (Decorative sconce 100 lumen output), Type 3 (Discreet wall sconce 701 lumen output). All proposed outdoor lighting fixtures utilize low output lamps and are acceptable for this residential installation.

(Affirmative finding)

Sec. 5.5.3, Stormwater and Erosion Control

See Sec 4.5.4 (c) for stormwater management.

Over 400sf of land disturbance is proposed, so and Erosion Prevention and Sediment Control plan is required. This plan is subject to final review and approval by the stormwater administrator.

(Affirmative finding as conditioned)

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 subject property is located along the Lake Champlain shoreline north of Appletree Point. The shoreline is an identified significant natural area. Much of the property is affected by the Natural Resource Protection Overlay District, specifically the riparian and littoral conservation zone, which stretches inland 250' from the 95.5' lakeshore elevation. A new low-mow area will be established along the property's lakefront as required. The only work being done in the flood zone

is the construction of new stairs that will grant pedestrian access to the water's edge. **(Affirmative finding)**

(b) Topographical alterations

Much of the lot slopes gently towards the lake but drops steeply nearest the lakeshore. Existing topographic conditions will remain largely unchanged. **(Affirmative finding)**

(c) Protection of important public views

Distant terminal views of Lake Champlain and the Adirondack mountains will remain essentially unchanged. There are no public views associated with this property. The proposed home is modest in scale, and most mature vegetation will be retained. Its construction will not adversely affect public views from the lake towards shore. **(Affirmative finding)**

(d) Protection of important cultural resources

The property contains no known archaeological resources. Much of the lakeshore is archaeologically sensitive. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance. **(Affirmative finding as conditioned)**

(e) Supporting the use of alternative energy

There is no indication that the proposed home will utilize alternative energy. Solar energy utilization is encouraged. In any event, the home will not adversely impact the actual or potential use of alternative energies by neighboring properties. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not an identified brownfield. **(Not applicable)**

(g) Provide for nature's events

See Sec. 4.5.4 (c) for stormwater.

The project plans depict a sheltered entry for the front entryway as well as over the front of the garage. **(Affirmative finding)**

(h) Building location and orientation

The location of the proposed home will be shifted inland as compared to the existing home. It will be set essentially in the middle of the lot. The new home will have an open front entryway facing inland towards the front yard and private road beyond.

As required, the attached garage is set behind the front of the house. **(Affirmative finding)**

(i) Vehicular access

The existing driveway will be reconstructed and reconfigured to serve the proposed home. Sight lines at the driveway's intersection with the road remain essentially unchanged. **(Affirmative finding)**

(j) Pedestrian access

This criterion requires that a pedestrian walkway be provided from the front door to the public sidewalk or street. This property is along a private road without sidewalks. No front walkway is

proposed. Consistent with past practice in such situations, no front walkway is required. Convenient access between the driveway and side and front entries is proposed. **(Affirmative finding)**

(k) Accessibility for the handicapped

No handicap accessibility is evident or required with this proposal. **(Not applicable)**

(l) Parking and circulation

Parking will be provided within the attached garage and the driveway. Parking spaces are dimensionally compliant. Circulation and access is provided via the private driveway.

Residential driveways are generally limited to 18' in width but are allowed to widen as they approach the garage. Such is the case in this proposal. There is a turn-around that causes the driveway to reach ~ 32' width. This problem has been remedied in revised plans that depict the turn-around area with concrete pavers to contrast with the gravel driveway. This solution is similar to others in the past used for turn-around areas. **(Affirmative finding)**

(m) Landscaping, fences, and retaining walls

A complete landscaping plan has been provided and notes that most of the current trees will be retained. As noted above, a low-mow zone will be established along the property's lakeshore with additional shrubs planted to soften the edge with the existing seawall. The proposed landscaping plan depicts a variety of new plantings to accent the building and its front entrance. Some landscaping will provide screening. Proposed species are not invasive and appear to be acceptable. **(Affirmative finding)**

(n) Public plazas and open space

No public plaza or open space is included or required in this proposal. **(Not applicable)**

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

Existing electric lines appear to be aboveground. This new construction will require buried electrical service as confirmed by the applicant. Utility connections to the house are shown on the plans as well as locations of all applicable utility lines and pipes. Locations of mechanical equipment is noted and will be screened with material to match the siding of the house.

(Affirmative finding)

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The proposed home, along with its accessory porches, is similar in size and mass to the current home. The mass of the house will be defined by straight lines and square edges that clearly define the individual components of the house. It appears to have a symmetrical appearance when viewed from the front with two floors in the center and lower single stories extending off to the right and left sides. The proposed structure will be two stories just like the current building. The scale of the home is similar to nearby properties on the street including the

additional attached porches. The reduced setback from the road is less than adjacent properties which pulls the new build away from the lakeshore. **(Affirmative finding)**

2. Roofs and Rooflines

The roof will be a dark colored flat membrane roof squared off with parapets matching the building siding that conceal the roof deck. This style is different from the more common hip and gable type roofs on the adjacent properties. The proposed roof design; however, is consistent and matches the modern style of the building. **(Affirmative finding)**

3. Building Openings

The windows and doors are of matching style to the rest of the home's contemporary design. The windows appear as single pane windows without muntins and sit in unadorned frames. Overall, large amounts of glazing will be present with the majority on the lakeside portion of the house to provide views of the lake for the residents. **(Affirmative finding)**

(b) Protection of important architectural resources

The existing building is not listed on the state or national historic register, nor has it been deemed eligible for listing. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

As with most other homes along Sunset Cliff Road, the proposed home is set back relatively far from the road. There is little perceptible streetscape in this neighborhood. As proposed, several trees and a row of flowering shrubs will stretch across the majority of the property's frontage. Behind this landscaping, the proposed home incorporates a readily identifiable front entrance facing the street. At the entrance to the house, there is a covered walkway to the main door along with pavers to the front lawn and porch. **(Affirmative finding)**

(e) Quality of materials

The color and material for the new construction will mainly consist of dark charred wooden siding. The parapet extending above the flat roof deck will be clad in the same material. Accent siding for the covered entry and porch will be a stained wooden material. The aluminum clad wooden windows will be a black/dark color to match the siding of the house. The materials proposed are of acceptable quality and durability for this new construction. **(Affirmative finding)**

(f) Reduce energy utilization

The proposed building must comply with the current energy efficiency standards of Burlington and the State of Vermont. **(Affirmative finding as conditioned)**

(g) Make advertising features complimentary to the site

No advertising is included in this proposal. **(Not applicable)**

(h) Integrate infrastructure into the building design

All mechanical equipment for the structure will be attached to the building and screened to merge with the siding of the rest of the structure. **(Affirmative finding)**

(i) *Make spaces safe and secure*

The proposed building must comply with the city's current egress requirements. Building entries will be illuminated. (**Affirmative finding**)

Article 8: Parking

Sec. 8.1.9, Maximum On-Site Parking Spaces

The construction of the new home will conform to the maximum limit of 3 parking spaces for single family homes in neighborhood districts. (**Affirmative finding**)

II. Conditions of Approval

1. **Prior to release of the zoning permit**, both the erosion prevention and sediment control plan and the stormwater management plan shall be reviewed and approved by the stormwater administrator.
2. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.
1. Per Sec. 4.5.4, (f) 8, construction within the Special Flood Hazard Area is subject to the following conditions:
 - C. All development:
 - (i) New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:
 1. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
 2. Constructed of materials resistant to flood damage;
 3. Constructed by methods and practices that minimize flood damage; and
 4. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (ii) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
 - (iii) All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
 - (iv) All new construction and substantial improvements that have fully enclosed areas below the lowest floor shall:
 1. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 2. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings of two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
 - (v) All necessary permits shall be obtained from those governmental agencies

from which approval is required by federal or state law.

- D. Residential Development:
 - (i) Not applicable.
 - E. Non-Residential Development:
 - (i) Not applicable.
 - F. Water Supply Systems:
Not applicable;
 - G. On-Site Waste Disposal Systems:
Not applicable;
 - H. Recreational Vehicles:
 - (i) Not applicable.
3. If, during construction, artifacts are unearthed, it is the applicant's responsibility to stop earthwork and to contact the Vermont Division for Historic Preservation for further guidance.
 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.
 5. Standard permit conditions 1-15.