

Department of Permitting & Inspections

Zoning Division
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MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: December 15, 2020
RE: 21-0464CA; 24 Sunset Cliff Road

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-W Ward: 4N

Owner/Applicant: Jack & Kim Kane

Request: Demolish an existing single family home and construct a new single family home.

Applicable Regulations:

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

Overview:

The project is to demolish an existing single family home and construct a replacement single family home. A recent zoning permit was issued for a rear addition to the existing home, and since that time, the project was revised to demolish the home in its entirety and reconstruct, while incorporating the footprint of the approved addition, which requires this new application. No other site changes are proposed.

The property fronts on Lake Champlain, and as a requirement for the addition permitted (ZP20-1033CA), the Conservation Board reviewed that proposal on September 14, 2020, and due to the extremely limited building envelop (as detailed below), no recommendation was made as far as recommending approval or denial of the application since the front yard setback pushes the building setback closer to the lakefront rather than to Sunset Cliff Road. The motion:

The Conservation Board does not make a recommendation one way or the other. We find it unfortunate and unproductive to have a setback forcing development closer to the lake against conservation principles.

Because the Conservation Board did not recommend against the lakeside building addition, ZP20-1033CA was issued on September 16, 2020. The footprint of the approved addition is incorporated into this new application.

Previous zoning actions for this property are noted below.

- **Zoning Permit 97-140**; renovations to the existing home including a two story addition to the east side. September 1996.
- **Zoning Permit 98-314**; install two windows, modify existing windows, add a landing and walkway. January 1998.
- **Zoning Permit 00-408**; addition to the home. March 2000.
- **Zoning Permit 04-391**; replacement shed. March 2004.
- **Zoning Permit 16-0330CA**; install awning over patio. September 2015.
- **Zoning Permit 20-1033CA**; rear building addition to home, extend water/sewer to existing shed. September 2020.

Recommendation: Consent Approval as per the following findings:

I. Findings

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 any new non-residential buildings square footage are subject to impact fees.

Impact fee credit is given for the existing residential gross floor area. The area of additional residential gross floor area will be subject to impact fees. Per the submitted plans, an estimate of the fees is:

SF of Project 1,194

Department	Residential	
	Rate	Fee
Traffic	0.200	238.80
Fire	0.226	269.84
Police	0.045	53.73
Parks	0.759	906.25
Library	0.470	561.18
Schools	0.981	1,171.31
Total	2.681	\$ 3,201.11

The applicant shall submit a final calculation of gross square footage to make final an Impact Fee assessment. **Affirmative finding as conditioned.**

Section 3.3.8 Time and Place of Payment

Impact fees must be paid to the city’s chief administrative officer / city treasurer according to the following schedule:

- a) *New buildings: Impact fees must be paid at least seven days prior to occupancy of a new building or any portion thereof.*

Affirmative finding as conditioned.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) 2. *The Waterfront Residential Low Density (RL-W) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods’ development history. This district is distinguished from the Residential Low Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.*

A single detached dwelling is proposed. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.5-1 Minimum Lot Size and Frontage

See Section 4.5.5 RL Larger Lot Overlay District, below.

Table 4.4.5-2 Base Residential Density

See Section 4.5.5 below for modified density provision. Proposed units: 1 / (30,891 lot size / 43,560 acre) or 1/ .7091 = 1.41; < 4.4 unit per acre limitation (see Section 4.5.5, RL Large Lot Overlay, below.). The proposal complies with base residential density of the Large Lot Overlay. **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}			Waterfront	
		Front	Side	Rear		
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20'	N/A	75' from the ordinary high water mark of Lake Champlain...	Height: 35-feet
24 Sunset Cliff Rd	19.1%, based on a lot size of 30,891 sf.	The average front yard setback based on the adjacent properties (2 on both sides) is 128 ft. The application proposes to retain the existing setback of 80 ft – permissible as per Sec. 5.3.5 (b).	The site plan identifies an accurate building envelope based on the irregular lot shape. However, the existing, non-compliant building footprint will be maintained, while the new footprint (rear addition) will comply with required setbacks.	N/A	60' based on the average waterfront setback of adjacent homes within 150 ft on either side of the subject property. See Sec. 4.4.5 (d) (1) (B) below.	31' to the roof peak.

As noted in the table above, and as permissible under Sec. 5.3.5 (b), the replacement home will maintain the footprint of the existing home where setbacks are currently noncompliant. See below. The additional building footprint (the rear addition previously permitted under ZP20-1033CA) will comply with current setback requirements. **Affirmative finding.**

(c) Permitted and Conditional Uses

A single family detached dwelling is a permitted use in the RL-W zoning district. **Affirmative finding.**

(d) District Specific Regulations

1. *Setbacks*

B. Encroachment into the Waterfront Setback

(ii) Averaging of Setbacks of Existing Structures

If the waterfront setback of existing principal structures within a distance of one hundred fifty (150) feet on either or both sides of a lot is less than the required setback, the setback may be reduced to the average alignment of such structures.

The average waterfront setback of adjacent principal structures is 60 ft. The application proposes a waterfront setback of 60 ft. **Affirmative finding.**

2. *Height*

No height exception is proposed or sought. **Not applicable.**

3. *Lot Coverage*

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

4. *Accessory Residential Structures and Uses*

The garage is integrated into the design of the home, and is subject to applicable standards of Section 6.2.2 (h), below.

5. *Residential Density*

The occupancy of the dwelling unit is limited to members of a family as defined in Article 13. Any divergence from the limitations of functional family and occupancy of more than four unrelated adults is subject to Conditional Use Review and approval by the DRB.

Affirmative finding as conditioned.

6. *Uses*

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

7. *Residential Development Bonuses*

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

Section 4.5.5 RL Larger Lot Overlay District

(a) Purpose

The RL Larger Lot Overlay District is intended to maintain the existing residential development pattern of larger residential lots reflective of the respective neighborhoods' development history.

(c) District Specific Regulations: RL Larger Lot Overlay

1. Minimum Lot Size and Density

The density and intensity of development and dimensions of building lots in the RL Larger Lot Overlay shall be modified from the underlying RL or RL-W standards of Table 4.4.5- and 4.4.5-2 as follows:

Table 4.5.5-1: Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay

	Minimum Lot Frontage¹ <i>(In linear feet)</i>	Minimum Lot Size <i>(In square feet)</i>	Maximum dwelling units per acre² <i>(without bonuses or any Inclusionary Zoning allowances)</i>
Single detached dwelling	75 feet	9,900 sq ft	4.4 units/acre
24 Sunset Cliff Road	215' frontage	30,891 sq. ft.	4.4 units/acre on a 30,891 sf lot = 1.41 units. 1 dwelling unit is proposed.

Affirmative finding.

Article 5: Citywide General Standards

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The parcel is not greater than 2 acres. **Not applicable.**

Section 5.2.5 Setbacks

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

See Section 4.5.5-1, above. **Affirmative finding.**

Section 5.3.5 Nonconforming Structures

b. Demolition

A nonconforming structure may be replaced by a new structure retaining the same degree of nonconformity as the original structure. This provision is limited to the existing dimensional nonconformity (i.e. setback, lot coverage, or height), and shall not expand the degree of nonconformity except as provided for in (a) above. The new structure shall be subject to conformance with all other dimensional requirements (i.e. setback, lot coverage, and height). Zoning permit application for the replacement structure shall be completed within 1 year of demolition of the nonconforming structure; failure to do so shall result in the loss of the ability to retain the nonconformity.

The house was constructed in 1955, and the existing footprint is considered noncompliant with regard to front and side yard setbacks. The application is to replace the home on the same footprint, including where it encroaches into the front and side yard setbacks. The expanded footprint however (what was recently permitted as a rear addition under ZP20-1033CA), will comply with all required setbacks. In order to comply with this section, this zoning permit must be completed within 1 year from the date of the demolition. No demolition has occurred yet, and completion and release of this permit will be required in order to commence with the demolition, thus rendering the demolition and rebuild compliant with this section. **Affirmative finding.**

Section 5.4.9 Brownfield Remediation

Not applicable.

Section 5.5.1 Nuisance Regulations

None identified. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

The applicant has submitted exterior light spec sheets which meet these standards, and the elevation drawings show their locations. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

An Erosion Prevention and Sediment Control plan has been prepared and submitted. Prior to the release of this zoning permit, the plan must be approved by the Stormwater Program Manager. **Affirmative finding as conditioned.**

Section 5.5.4 Tree Removal

(a) Review criteria for zoning permit requests for tree removal.

1. Grounds for Approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

- A. Removal of dead, diseased, or infested trees*
- B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices*
- C. Removal of trees that are a danger to life or property; or*
- D. As part of a development with an approved zoning permit*

As noted in the September 14, 2020 Conservation Board meeting minutes, one pine tree will be removed in order to accommodate the project. **Affirmative finding.**

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 property is already residentially developed. The replacement structure, including the expanded footprint, will not disturb the lake shore given its 60 ft setback. As noted above, one pine tree will be removed to accommodate the construction. **Affirmative finding.**

(b) Topographical Alterations:

While there is a very slight slope in and around the building footprint, there will be no notable topographic alterations. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected public views from this site. **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).

There are no historic structures or sites on this parcel. **Not applicable.**

(e) Supporting the Use of Renewable Energy Resources:

There is nothing within the application to preclude the use of wind, water, geothermal, solar or other alternative energies. **Affirmative finding.**

(f) Brownfield Sites:

None identified. **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.

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.

The applicant has submitted an Erosion Prevention and Sediment Control plan which must be approved by the Stormwater Program Manager prior to the permit's release. The building design provides several sheltered entrances for resident comfort and shelter from inclement weather. The large lot and driveway configuration provide ample area for snow storage. **Affirmative finding.**

(h) Building Location and Orientation:

The new home will have a clearly defined front entrance with a covered front porch. The attached garage on the existing home is the foremost portion of the structure, and will continue to be the foremost portion of the structure after the rebuild. The street side wall of the garage will have windows to present a friendlier streetscape. While the garage doors will not face the street, they are no wider than the 10' maximum width allowance. **Affirmative finding.**

(i) Vehicular Access:

The existing vehicular access off Sunset Cliff Road will continue to be used. The driveway is long, and will be slightly expanded in area in front of the house to accommodate maneuverability for

vehicles entering and exiting the garage. However, portions of this driveway expansion (all within the front yard setback) exceed 18 ft in width and must be reduced so that there is no portion wider than 18 ft. **Affirmative finding as conditioned.**

(j) Pedestrian Access:

There is no sidewalk along Sunset Cliff Road and thus no need for a walkway to be constructed. However, it is recommended that a walkway between the home and the street edge be installed. **Affirmative finding.**

(k) Accessibility for the Handicapped:

This is not a requirement for a single family home. **Affirmative finding.**

(l) Parking and Circulation:

For a single family residence, 2 parking spaces will be required. The application proposes a two car garage, and the driveway can accommodate additional parking. **Affirmative finding.**

(m) Landscaping and Fences:

No new landscaping or fencing is proposed. Existing landscaping will continue to provide attractive front and side yards. Additionally, a large cedar hedgerow exists along the front property line, and will continue to act as a screen for the property. **Affirmative finding.**

(n) Public Plazas and Open Space:

None are required from this private parcel. **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 Section 5.5.2, above. **Affirmative finding.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

The plans show an electric meter and gas service on the sides of the home, and existing underground utility lines. There are no exterior mechanical units indicated on the plans, and if they are proposed,

the plans will need to be revised to show their locations. Trash and recycling will be located within the garage. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards
Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

In low and medium density residential districts, the height and massing of existing residential buildings are the most important consideration when evaluating the compatibility of additions and infill development.

The replacement structure will be 2 stories, consistent in height and scale with the existing structure. The massing of the building is broken into smaller segments, with alternating planes within each façade; recesses, projections, and visual interest to avoid monotony. **Affirmative finding.**

2. Roofs and Rooflines.

The replacement structure will maintain similar gable-styled rooflines with that of the existing structure. **Affirmative finding.**

3. Building Openings

Windows are rhythmically placed, aligned between floors and consistent in size within the building volume. Doors are illustrated on several facades, providing access to living space. **Affirmative finding.**

(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.

Not applicable.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

While significantly setback from Sunset Cliff Road, the arrangement, design and appearance of the home provides an active and inviting street edge. The principal entrance is clearly discernable. The front porch provides a comfortable area to greet guests or take shelter from the summer sun or winter snowfall. **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.

The applicant has defined vinyl cedar shake siding and vinyl trim material; roofing will metal standing seam. Vinyl clad wood windows are proposed throughout. All doors are proposed to be of a wooden material. **Affirmative finding.**

(f) Reduce energy utilization:

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.

New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practical, in order to provide opportunities for the use of active and passive solar utilization.

Ample fenestration will exploit passive solar opportunities on the site. No impact from shadow cast is anticipated, as these residences are situated on large lots with substantial distances between them. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is proposed. **Not applicable.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

The proposed building must comply with all building and life safety code as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

Per Table 8.1.8-1, single family dwellings require 2 parking spaces in the Neighborhood Parking District. The integrated garage and driveway will provide all required parking for the use.

Affirmative finding.

I. Conditions of Approval

- At least 7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the City Treasurer’s Office or Planning and Zoning office impact fees as calculated by staff based on the net new square footage of the proposed development. The applicant shall submit a final calculation of gross square footage to make final an Impact Fee assessment. As submitted, estimated Impact fees are:

SF of Project 1,194

Department	Rate	<u>Residential</u>	Fee
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Traffic	0.200	238.80
Fire	0.226	269.84
Police	0.045	53.73
Parks	0.759	906.25
Library	0.470	561.18
Schools	0.981	1,171.31
Total	2.681	\$ 3,201.11

2. **Prior to the release of the zoning permit**, if there are exterior mechanical units, etc. proposed, they shall be identified on a revised site plan, with applicable screening if within view from the street.
3. **Prior to the release of the zoning permit**, the associate Erosion Prevention and Sediment Control plan shall be approved by the Stormwater Program Manager.
4. **Prior to the release of the zoning permit**, the site plan shall be revised so that all portions of the driveway have a maximum width of no more than 18 ft.
5. 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.
6. Hours of construction are limited to Monday-Friday 7:00 am to 5:30 pm; Saturday construction hours are limited to interior work unless specific allowances are granted by the DRB. Construction is not permitted on Sundays.
7. The single detached dwelling may be occupied only by a “family” as defined in Article 13 of the Comprehensive Development Ordinance.
8. New utility lines must be buried.
9. The proposed building must comply with all building and life safety code as defined by the building inspector and fire marshal.
10. A State of Vermont wastewater permit may be required and shall be applicant’s responsibility to obtain if necessary.
11. Standard Permit Conditions 1-15.