

Department of Planning and Zoning

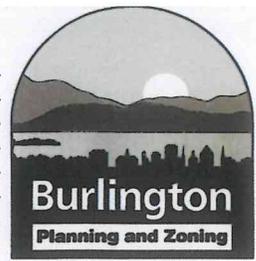
149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz

Phone: (802) 865-7188

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David White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board
From: Ken Lerner
Date: June 3, 2014
RE: 14-0556CA; 287-289 South Winooski Avenue

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.

File: 14-0556CA

Location: 287-289 South Winooski Avenue **Zone:** RM **Ward:** 5

Date original application accepted: December 12, 2013

Applicant/ Owner: Todd Volitis/Steve Kelson

Request: Appeal of ZP#14-0556CA to demolish historic garage, construct new garage of same size in existing footprint.



Background:

- Since at least 1993 the current owner has owned the property.
- 2008 – 2010 Minimum housing inspection not made; inspection occurred after complaint received, including that the garage roof was caving in.
- February 10, 2012 Exterior inspection by Minimum Housing revealed several violations of minimum housing code. After several missed or re-scheduled inspections the violations were corrected as of July 12, 2012. Except that “the garage is still untouched, and owner says he is pursuing that with Planning and Zoning to get permission to take it down”.

- January 14, 2013. Complaint received that garage was collapsing.
- After inspections and several emails the owner indicated on January 15, 2013 that “*The garage is a PRIORITY of mine, and will work on getting all the permits from zoning prior to spring arriving.*”
- March 19, 2013 staff verified that the garage is included on the Vermont State Register Survey (1977) for this property and that it is individually listed on the Burlington Register of Historic Resources (2000-2001).
- April 14, 2013 Notice of Violation issued: “*Alterations to building (garage roof has been severely damaged) without zoning approval. Demolition by neglect; deterioration to roof of an historic structure.*”
- No Dangerous Building Order Inspection Report & Order issued.
- May 1, 2013. Subject Zoning Permit request filed to demolish historic garage, install fence and new parking area. Request withdrawn June 14, 2013.
- June 14, 2013. Non-applicability issued to repair and replace original building in kind.
- November 17, 2013 subject application filed; determined incomplete due to lack of full fee payment; December 12, 2013 balance of fee paid application complete.
- February 18, 2014 DRB continued public hearing to April 1, 2014 to allow the applicant an opportunity to hire an engineer to evaluate the subject structure.
- February 25, 2014 Engineer’s report submitted in response to DRB request from February 18 deliberative reopening of hearing.
- March 25, 2014 Order to demolish dangerous building issued by building inspector based on engineer’s report.
- April 1, 2014 zoning permit issued to replace garage with same materials, design and in the same location as demolished structure.
- April 14, 2014 zoning permit appealed to DRB.

Findings:

The subject building is a 23’ x 18’ timber framed hipped roof two-car garage with clapboard siding. It was listed on the State Historic Sites and Structures Survey in 1977 and on the Burlington Register of Historic Resources, prepared under a Certified Local Government Grant, in 2000-2001. The principle structure was the home of William W. Lamoureux, a contractor builder. It was constructed circa 1925. The deterioration of the garage was the subject of a complaint first filed in 2011 according to the more recent complaint.

As noted the garage deteriorated to such an extent that it was ordered demolished due to dangerous situation.

This demolition specifically is exempt from both the requirements of the ordinance and is not required to obtain a zoning permit as per *Sec. 3.1.2 Zoning Permit Required, Except for that development which is exempt from a permit requirement under Sec. 3.1.2(c) below, no development may be commenced within the city without a zoning permit issued by the administrative officer including but not limited to the following types of exterior and interior work:*

(c) Exemptions:

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

9. *Where temporary stabilization is not reasonably available the emergency demolition of any structure, site, or building feature required to address an unsafe or dangerous condition which poses an imminent threat to public safety pursuant to an order of the same issued under the written authority of the city*

building inspector and with the written concurrence of the city engineer. This exemption does not extend beyond the required demolition, clearing of debris, securing or filling cellar holes, and related erosion control and stormwater management.

Thus, the demolition of the building did not require a zoning permit. Now with a vacant area the owner's permit request for a new garage was approved as would any other garage on a residential parcel. The difference is that as a non-conforming structure it could be placed in such a manner as allowed by *Sec. 5.3.5*

Nonconforming Structures (a) 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.

Based on this provision (approved as a Zoning Amendment 13-05) siting the garage in the same footprint and at the same height and with the same lot coverage is a reasonable and permissible solution to replacing the demolished structure.

The appellants position is that under Section 5.3.5 (b), once a non-conforming structure has been demolished it “*shall not be re-built in any other way other than in full conformance with this ordinance.*” It appears that the appellants were not aware of ZA 13-05 which allows a non-conforming structure to retain its non-conformity. Further, they note a prohibition of demolition by neglect and that it should not be circumvented by going to the building inspector. Unfortunately, the ordinance does provide for such a situation by exempting dangerous buildings from requiring a zoning permit and from requirements of the zoning ordinance, thus allowing demolition to proceed outside of zoning regulations. They contend that the structure could have been shored up rather than demolished. No documentation is provided to support that position. A complaint made to Code Enforcement regarding the garage was that it was collapsing. The engineer's report written after a detailed on-site inspection by a PE recommends “that the structure be demolished as soon as possible”. The City building inspector concurred.

The appeal recognizes that this is a historic structure, and staff is in agreement with this fact. However, the demolition is exempt from the need for zoning permit and from the requirements of the ordinance. As indicated, the result, after the order to demolish, is a vacant area that contained the historic garage and the only consideration is that a new garage using the non-conformity provisions of *Sec. 5.3.5 (b)* is requested and has been considered under the zoning permit. Not allowing a replacement garage would make parking become more non-conforming as the garage (despite the poor condition) technically and in the past included two parking spaces. Thus, if not replaced the property would lack the two spaces.

Recommendation: Uphold Approval of ZP#14-0556CA, as conditioned, for a new replacement garage on the same footprint, per *Section 3.1.2(c) 9. and Section 5.3.5 (b)*, as amended.

Conditions of Approval

1. Based on the issuance of a “Dangerous Building Report & Order” by the City Building Official and the City Engineer the demolition of the existing garage does not require a zoning permit. This zoning permit is for the construction of a new garage.
2. **Prior to release of the zoning permit**, written approval of the Erosion Prevention and Sediment Control (EPSC) Plan shall be obtained from the City Stormwater Administrator.
3. There shall be no changes to the driveway other than to replace the current driveway using a consistent hard surface such as asphalt, concrete, or pavers, with edging around that area to prevent encroachment onto greenspace.
4. No additional lot coverage is included in this permit. Approval is for garage replacement only within the existing footprint repaving is limited to the existing driveway.
5. A lighting plan is required if any outdoor lighting proposed; it shall meet the requirements of Sec. 5.5.2, prior to release of the zoning permit.
6. The Applicant/Property Owner is responsible for obtaining all necessary permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes as required.

7.

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.



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
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APR 14 2014

DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 287-289 So. Winski Ave.

Subject Property Owner: Steve Kolson

Appellant: Residents Neighbors on attached list

Agent/Representative: Norman Williams

Mailing Address: 310 Gravel & Shea PC, 76 St. Paul St.

City, St, Zip: Burlington VT 05401

Day Phone: 658-0220 Email: nwilliams@gravelshoa.com

Appellant Signature: Norman Williams Date: 4/11/14

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- The Appeal fee of \$250;
- Description of the decision under appeal;
- Description of the property subject to the appeal;
- Reference to the regulatory provisions applicable to the appeal;
- Relief requested by the appellant;
- Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 1988 Amount Paid \$250 Zoning Permit # 14-0556

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APR 14 2014

DEPARTMENT OF
PLANNING & ZONING

April 9 2014

Austin Hart, Chair
Burlington Development Review Board
City Hall
149 Church Street
Burlington, VT 05401

Re: 287-289 South Winooski Ave.

Dear Mr. Hart:

The residents listed below object to the administrative zoning permit approving Applicants' request to construct a new garage of the same size in the existing footprint of the garage demolished. As the Staff Comments to the original zoning application noted, the former garage is listed on the 1977 State Historic Sites and Structures Survey and on the Burlington Register of Historic Resources. As the Comments also noted, a Notice of Violation was issued on April 14, 2013, for "demolition by neglect: deterioration to roof of an historic structure." In addition, several violations of the Minimum Housing Code were noted after an inspection by Minimum Housing on February 10, 2012. Such violations were never corrected.

The undersigned believe the demolished garage was a nonconforming structure. It appears to have violated both current setback and lot coverage requirements. Under Sec. 5.3.5.(b), once a nonconforming structure has been demolished it "shall not be re-built in any other way other than in full conformance with this ordinance." While structures which are unsound and required to be removed by order of the building inspector may be replaced within the original footprint, that exception does not apply to demolition by neglect.

Section 5.3.5.(b) and other provisions of the CDO reflect a strong policy prohibiting demolition by neglect. The policy should not be circumvented by going to the building inspector when, as in this case, the structure could have been shored up rather than demolished.

Thank you for your consideration.

Very truly yours,

Jerrold Manock, 14 Kingsland Terrace

Mary Ellen Manock, 14 Kingsland Terrace

Austin Hart, Chair

April 9, 2014
Page 2

Abby Manock, 14 Kingsland Terrace

Liisa Reimann Rivera, 24 Marshall Drive

Marge Allard, 361 South Union Street

Tom Simon, 118 Spruce Street

Jack Menten, 462 South Willard Street

Peg Menten, 462 South Willard Street

Dan Goltzman, 119 Caroline Street

Ron Wanamaker, 462 South Willard Street

Norman Williams, 381 South Union Street

Lucy Totten, 381 South Union Street

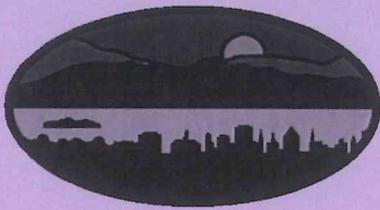
Sandy Wynne, 137 Mansfield Ave.

Constance Kent, 248 North Ave.

Matt Viens, 516 St. Paul St.

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APR 14 2014

DEPARTMENT OF
PLANNING & ZONING



**ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 11/07/2013

Appeal Expiration Date: 04/16/2014

Project Location: 287-289 SOUTH WINOOSKI AVENUE

District: RM

Owner: Steven J. Kelson

Ward: 5

Address: 35 CHERRY ST #203
BURLINGTON VT 05401

Tax ID: 049-4-154-000

Project Type: Residential - Demolition and New Construction

Project Description: Construct new garage of same size in existing footprint of garage ordered demolished.

Construction Cost:	\$43,000	Lot Size (Sq Ft):	4,969
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 14-0556CA/CU

Decision By: Administrative

Level of Review: 2

Decision: Approved w/ Pre-Release Conditions

See Requirements for Permit Release

Decision Date: April 1, 2014

Project File: 14-0556CA/CU

Zoning Administrative Officer

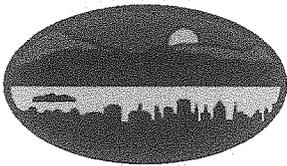
Combined Review: Conditional Use

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on April 16, 2014.

Fee Type	Amount	Paid in Full	Balance Due: \$193.50
Application Fee:	\$998.00	Yes	Date Paid: _____
Development Review Fee:	\$193.50	No	Check # _____
Impact Fee:	<i>Not Applicable</i>		

Building Permit Required: **Yes**

Permit Received by: _____ Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA and Conditional Use – Conditions of Approval

ZP #: 14-0556CA/CU

Tax ID: 049-4-154-000

Issue Date: April 1, 2014

Decision: Approved w/ Pre-Release Conditions

Property Address: 287-289 SOUTH WINOOSKI AVENUE

Description: Construct new garage of same size in existing footprint of garage ordered demolished.

Project Permit Conditions:

1. Based on the issuance of a “Dangerous Building Report & Order” by the City Building Official and the City Engineer the demolition of the existing garage does not require a zoning permit. This zoning permit is for the construction of a new garage.
2. **Prior to release of the zoning permit**, written approval of the Erosion Prevention and Sediment Control (EPSC) Plan shall be obtained from the City Stormwater Administrator.
3. There shall be no changes to the driveway other than to replace the current driveway using a consistent hard surface such as asphalt, concrete, or pavers, with edging around that area to prevent encroachment onto greenspace.
4. No additional lot coverage is included in this permit. Approval is for garage replacement only within the existing footprint repaving is limited to the existing driveway.
5. A lighting plan is required if any outdoor lighting proposed; it shall meet the requirements of Sec. 5.5.2, prior to release of the zoning permit.
6. The Applicant/Property Owner is responsible for obtaining all necessary permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes as required.

Standard Permit Conditions:

1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions.
Note: All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from Department of Public Works-Inspection Services Division (DPW-ISD). All construction permits must be closed out by way of approved inspections by DPW-ISD before issuance of a Unified Certificate of Occupancy (UCO) by the Code Enforcement Office as per Condition 3, below.
2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced by **April 1, 2014**. The owner shall complete the approved project and obtain a UCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) by **April 1, 2015**, or be subject to enforcement actions.

These time limits are binding upon the owner unless one of the following apply: a) longer or

shorter time limits are specifically imposed by a condition of approval; or b) the time limits are tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).

3. **Unified Certificate of Occupancy (UCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a UCO.

If the project is partially completed, meets “prior to issuance of a UCO” conditions of approval, meets all health and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final UCO from the Code Enforcement Office (located at 645 Pine Street). Additional information on how to request and obtain this UCO is available at this office. **Failure to obtain a certificate of occupancy** places the property in violation of the CDO and is subject to enforcement.

In addition, **Failure to obtain a UCO within the time limits above is subject to** “after the fact” fees ranging from \$75 - \$1500 (in addition to the UCO fee).

4. **Project Modifications.** The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the administrative officer. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final UCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.
10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to two hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.

11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City. If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.
13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.

RECEIVED

JAN 03 2014

DEPARTMENT OF PLANNING & ZONING

CLASS A ASPHALT/FIBERGLASS SHINGLES
F. IMBERLINE BY GAF (OR EQUAL)
ON 5/8 OSB
TO CONFORM TO 1 HR
FIRE RATED REQTS

6" NOM FASCIA ED

6" WD CORNER ED

3 1/2" WD SHIP LAP SIDING (TYP)

8x7 OH DOORS

GRADE

PROPERTY LINE

EXIST CURB

12#
9

CONC RETAINING WALL SCALE 1/4" = 1'-0"
WEST ELEVATION

GRADE VALVES
3'-5"

EXIST RETAINING WALL

SECTION 13

2 EAST ELEVATION
22'-0"
SCALE 1/4" = 1'-0" EQ

FROST WALL
18" CONC FTG

TYPX GRD CONT ON WEST WALL

ROOF DRIP LINE

5/8 GYP TYPE X (1 HR RATED)

6" CONC SLAB ON GRADE

30x30 FIXED WINDOW
C 36" AFF

30x30 FIXED WINDOW (EXISTING)

GRADE

18'-0"

EQ

EQ

EXIST CURB

4 SOUTH ELEV (NORTH SIM)

NOTE

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS
REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION.
ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE
FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

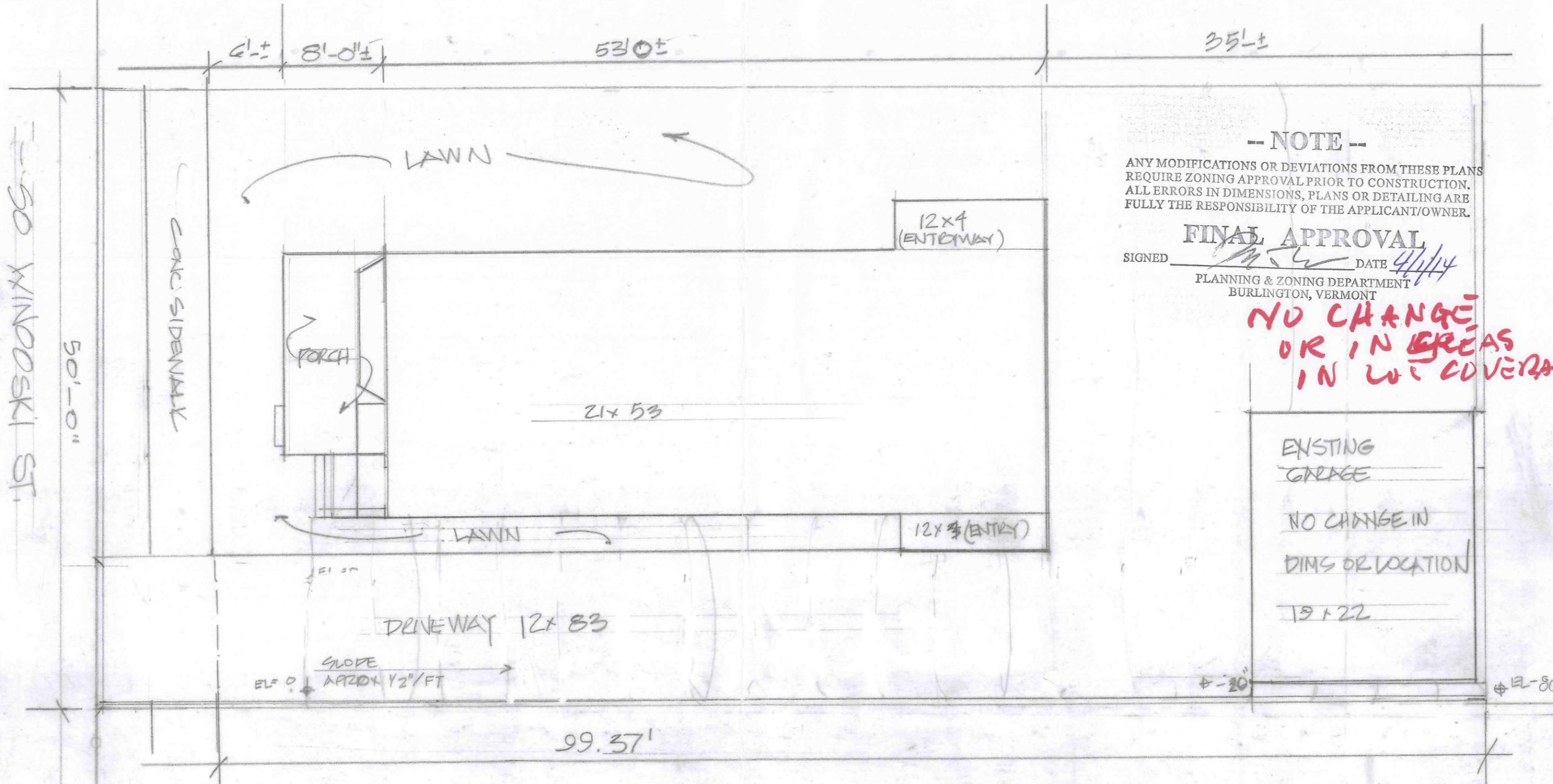
FIXED APPROVAL

DATE 1/1/14

SIGNED

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

NOTE: WINDOWS - FROM EXISTING STRUCTURE
8x7 OH DOORS BY OH DOOR CO.



-- NOTE --

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED *[Signature]* DATE 4/1/14
 PLANNING & ZONING DEPARTMENT
 BURLINGTON, VERMONT

**NO CHANGE
 OR IN AREAS
 IN LOT COVERAGE**

EXISTING
 GARAGE
 NO CHANGE IN
 DIMS OR LOCATION
 13x22

287 SOUTH WINOOKSI AVE
 BURLINGTON, VT
 SITE PLAN 1/8" = 1'-0" SHEET



CITY OF BURLINGTON
645 Pine Street

DEPARTMENT OF PUBLIC WORKS
Burlington, VT 05402-0849

802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

www.dpw.ci.burlington.vt.us

S. Chapin Spencer
DIRECTOR OF PUBLIC WORKS
CITY ENGINEER

Norman J. Baldwin, P.E.
CITY ENGINEER, ASSISTANT
DIRECTOR- TECHNICAL SERVICES

Ned H. Holt, Building Official
CITY OF BURLINGTON PUBLIC WORKS

Dangerous Building Report & Order

CERTIFIED MAIL

March 25, 2014

Steven Kelson
83 Floral Street
South Burlington, Vermont 05403

Re: 287-289 South Winooski Avenue

Photos & Engineering Report attached.

I. APPLICABLE LAW

This inspection (survey) report and order is issued pursuant to Article III, § 8-45 of Chapter 8 of the Burlington Code of Ordinances ("BCO") and is based upon the inspection conducted.

II. FINDINGS OF FACT & CONCLUSIONS

A. I, Ned H Holt, City Building Official for the Department of Public Works (DPW) in the City of Burlington. DPW administers the City's Vacant & Dangerous Building Inspection Program, pursuant to Article III of BCO Chapter 8. I have been delegated responsibility by the Department of Public Works Director to enforce the dangerous structures requirements of the ordinance, pursuant to BCO § 8-44. BCO § 8-45 obligates me to inspect a building upon receiving information that the building violates building, fire prevention and public safety ordinances or is otherwise in such unsafe condition that the public safety is endangered.

B. This office received an engineer's report by (KCE) Knight Consulting Engineers, Inc., dated on February 25, 2014 providing information on a one story square 1900's building located at 287-289 South Winooski Avenue. The engineer's report provides their fact findings of the dilapidated structure to include that the structure cannot be salvaged and their recommendation that the structure be demolished as soon as possible.

III. ORDER OF ABATEMENT

BCO § 8-45 (a) states in pertinent part: "A building or structure or part thereof that is or becomes dangerous or unsafe shall be made safe and secure. If the building cannot be made safe or secure, the owner shall take down and remove the building."

With regard to this Order, BCO § 8-45 (a) states in pertinent part;

An owner of such a dangerous or unsafe building or structure who would make safe or would take down and remove a such building or structure pursuant to this section shall comply with all applicable building, fire prevention, zoning ordinances and codes, including Article 15 of the zoning ordinance, the Housing Replacement Ordinance, and any other applicable code or ordinance.

Pursuant to Code of Ordinances § 8-45 and in support of the conditions found on February 24, 2014 KCE's Report, this departments conclusion is that the building **be removed and area secured**; I hereby ORDER the Owner; **Steven Kelson** to abate the dangerous conditions on the property as outlined below. This order includes submitting to this office with the items indicate in "B" below within 10 days of the date of this order or no later than the end of the work day on April 3, 2014:

A) IMMEDIATELY MAKE SAFE & SECURE THE HAZARDS AS DIRECTED BELOW;

B) DEMOLISH & REMOVE:

➤ **SECURE & PREP THE AREA:**

- Secure a Building Permit for demolition from the Department of Public Works Inspection Services Division
 - Submit Zoning Application to the Zoning Department
 - Devise an erosion control plan that contains soils and water run off onsite and is acceptable by the Storm Water Administrator
 - Provide Dig-Safe Confirmation number
 - Submit asbestos and lead survey to the City Building Official prior to any demolition.
 - Secure the site within zone of concerned/dangerous area
 - Contaminated materials, i.e., asbestos, lead, etc., must be removed and disposed of as approved by State of Vermont Environmental Laws.
 - Secure Right of Way permits through the Department of Public Works when & where required
 - Cut & Cap all utilities serving the structure

- Remove the structure and all associated materials from the property to approved locations.
- Dust control measures must be in place and kept in place at all times during demolishing of the structure.
- Fill areas with clean top soil, seed and return to grass.
- Exception: concrete slabs on grade may remain fully in tacked and as approved by the Zoning Department.

C) COMPLETION DATE OF ORDER: All work binding by this order and as indicated in A & B above must be completed no later than sixty (60) days from the date of issuance of this order.

IV. STATEMENT OF PROCEDURAL RIGHTS

Pursuant to BCO § 8-45 (f), if Owner's Steven Kelson is aggrieved by this Inspection (Survey) Report & Order, they may appeal to the Public Works Board of Appeals by requesting such appeal in writing to the Director of Public Works, 645 A Pine St., Burlington VT to include the following;

Submittals for appeals need to in a timely manner and within 10 days of the issued date of this order, define what order or decision being appealed and provide legal argument or bases of the appeal.

The Public Works Commission acts as the Board of Appeals and as a rule meet every third Wednesday of the month. This office will be in contact with the appellant to confirm dates, times and location where the case will be held and heard upon receipt and review of the appellant's documentation supporting their appeal.

Dated this March 25, 2014, in Burlington, Vermont, all work carried out needs to comply with all applicable sets of Federal laws and permit conditions as adopted and administered in City of Burlington and State of Vermont.

Sincerely,



Ned H. Holt, Building Official
City of Burlington Department of Public Works

Date 3-25-14



City Engineer, P.E.
City of Burlington Department of Public Works

Date 3/25/14

CC: Norm Baldwin, P.E., Assistant Director of Public Works, City Engineer
Eugene Bergman, Assistant City Attorney
David E. White, Director of Planning & Zoning
Kimberlee J. Sturtevant, City Attorney
Barry Simays, City of Burlington Fire Marshal
Bradley Biggie, City Building Inspector
File



February 25, 2014

Steve Kelson
35 Cherry Street, #203
Burlington, VT 05401
Via Email: stevekelson@burlingtoncars.com

RECEIVED
FEB 25 2014
DEPARTMENT OF
PLANNING & ZONING

Re: 287/289 South Winooski Avenue

Dear Mr. Kelson:

On February 20, 2014 I visited the property located at 287/289 South Winooski Avenue in Burlington, VT. The purpose of my visit was to determine whether the existing structure could be repaired. You were present during the visit. The observations and conclusions in this letter are based on the evidence readily available at the time of the visit and upon information you provided.

1. The circa 1900, two car garage is located on a slope, behind a 3 unit apartment building. The south bay of the garage has stored construction debris and water damaged storage (photo #7). These items were placed in the garage by a tenant, when he was clearing out the flooded basement of the apartment building.
2. The garage has a hip roof. The roof has several broken rafters and holes in it (photos #1-2 and #6-7), which is damage that resulted from a tree falling on the roof approximately two years ago.
3. The rear wall of the garage has severe deteriorated rot in the sill beam below the garage floor (photos #8-10). The rot is so severe that pieces of wood break off with even light pressure.
4. The south foundation wall is composed of horizontal metal sheeting braced by vertical metal struts (photos #12-15). The base of the vertical metal struts is not visible, however based upon leaning (photo #15), it appears that the struts were sheared off at the base by lateral soil pressure. The struts and the horizontal metal channel at the top of the wall are severely corroded and the sheeting is displaced (photos #13-15).
5. The north foundation wall appears to be composed of two courses of boulders, reinforced at the west end with wood sheeting. The boulders are undermined and the sheeting has failed (photo #16). The floor joists have been supported with a supplementary line of beam and posts, however the failing foundation wall is kicking out the base of the posts, and could cause them to collapse.
6. The floor of the garage is a wood structure supported by 2x8's at 16" on center spanning approximately 11'. The floor joists are supported on a 6 1/2"x8" wood beam with 2 spans of approximately 9'. The center beam, appears to have been reused from another structure because of the deep mortises chiseled in the bottom (photo #17). The center beam has failed in shear and flexure at the west end (photo #19). The east end of the center beam appears to have rotted off and due to the rot, it appears that there is no support at the east foundation wall (left side of photo #11 and #18). I was not able to verify this with a close examination because the conditions were unsafe. The center beam is supported by one leaning timber on a concrete base (photo #20). A supplementary timber post, with precariously stacked 2xshims, has been added under the south bay floor joists (photo #18).

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Date: February 25, 2014

Re: 287/289 South Winooski Ave, Burlington, VT

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PLANNING

It is my opinion, based upon the available evidence, that the wood garage structure is extensively damaged and cannot be salvaged. The damage consists of both long-term deterioration of the sill plate and center beam, and shorter term deterioration due to the hole in the roof and the gaps and holes in the siding and walls. In addition to deterioration, the wood center beam has failed in flexure and shear. Furthermore, even if the center beam was replaced, neither the floor joists or the center beam are adequate in terms of size, to safely support vehicle weight.

It is also my opinion, based upon the available evidence, that the foundation is failing and that it should be replaced in its entirety. The north and south foundation walls are failing, and a collapse could occur. Additionally the interior pier supports are not stable and the west wall is deteriorated and inadequate.

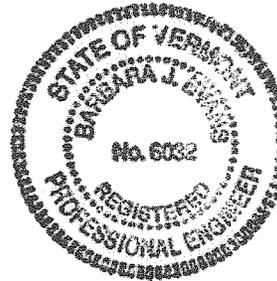
I recommend that the structure be demolished as soon as possible, and that until that time, both the structure and the surrounding area be barricaded to prevent entry into the structure, and to protect passersby.

If you have any questions regarding this matter, please feel free to call.

Sincerely,



Barbara J Evans, P.E.
Knight Consulting Engineers, Inc.
Attachments: Photos #1-21



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Photo #4 - Rear (West) Elevation



Photo #1 - Front (East) Elevation

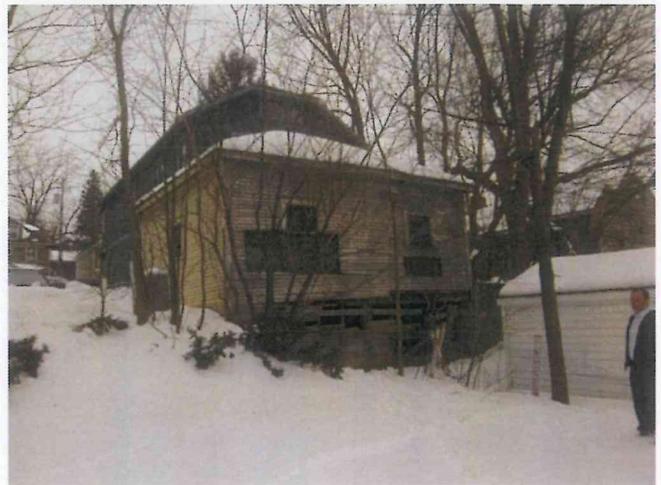


Photo #5 - Northwest Corner



Photo #2 - South Side Elevation



Photo #3 - North Side Elevation



Photo #6 - Roof Damage, South Side



Photo #9 - West wall, rotted sill beam



Photo #7 - Roof Damage, South Side



Photo #10 - West wall, rotted sill beam, breaks away with light pressure from key



Photo #8 - West wall, rotted sill beam

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Photo #11 - Southeast corner



Photo #14 -South wall corroded top horizontal channel



Photo #12 - South wall with failed vertical metal struts, metal sheeting and top horizontal channel



Photo #15 -South wall displaced metal sheeting and vertical struts leaning, probably sheared off at the base



Photo #13 -South wall corroded top horizontal channel, and displaced metal sheeting

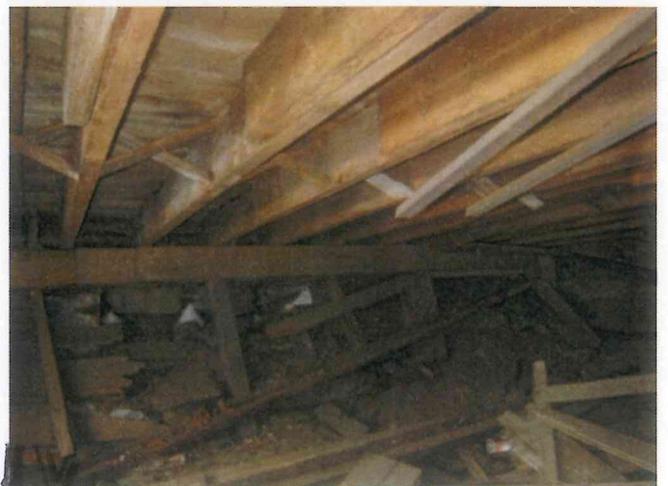


Photo #16 - North wall failed wood sheeting

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Photo #17 - Northeast corner



Photo #18 - East wall, and timber post with shims



Photo #19 - failed center beam supporting floor joists

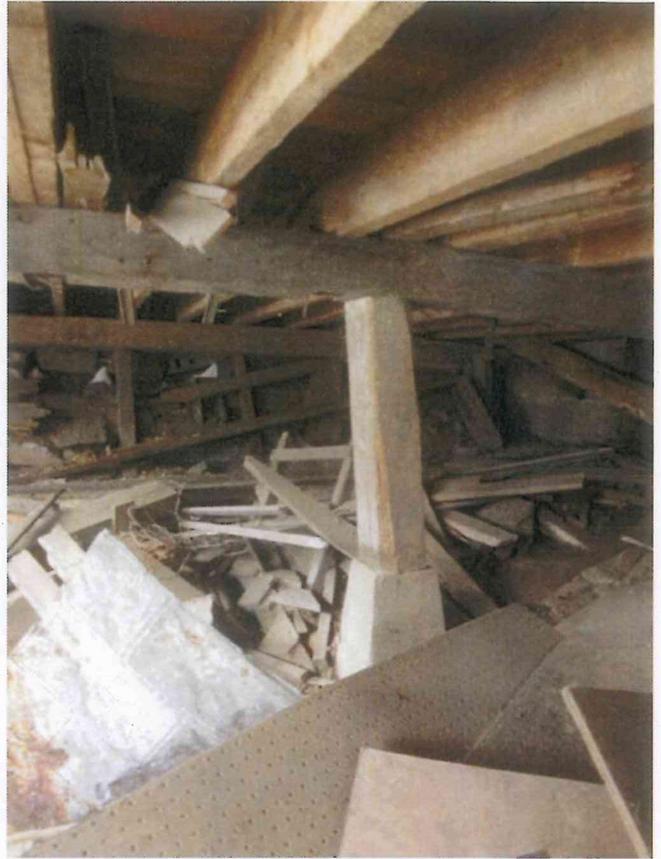


Photo #20 - leaning timber post under center beam



Photo #21 - West wall

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35'±

52'0"

21'±



12x4 (ENTRWAY)

50'-0"

21'±

12x4 (ENTRWAY)

LAWN

DRIVEWAY 12x8'

GRADE ACTION 1/2"/FT

99.57'

EXISTING GARAGE

NO CHANGE IN DIMS OR LOCATION

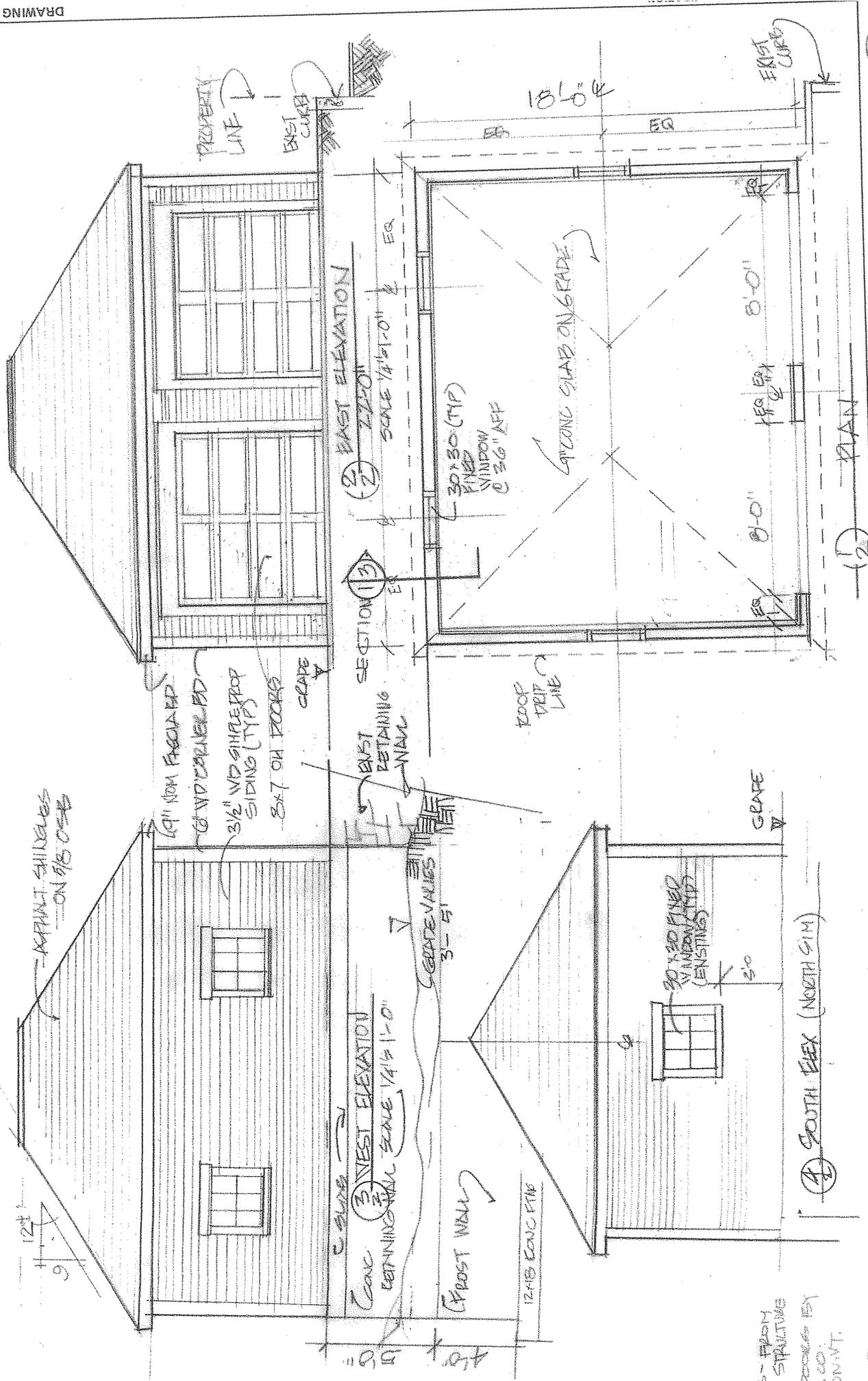
15'±

± 15'-0"

± 15'-0"

287 SOUTH WINDOOSKI AVE
 BURLINGTON, VT
 SITE PLAN 1/8" = 1'-0" SHEET (

50 WINDOSKI ST.



PAINT SHINGLES ON 5/8 OSB

1 1/2" NOM FACIATED
6" WD CARNELED
3 1/2" WD SINGLE PEP SIDING (TYP)
8x7 OH DOORS

EAST ELEVATION
SCALE 1/4" = 1'-0"

SECTION (1/3)
E

EAST RETAINING WALL
ANAL

WEST ELEVATION
CONC BATTENING WALL SCALE 1/4" = 1'-0"

FROST WALL

12" TH CONC FTNG

30x30 (TYP) FINEST WINDOW
0 3/4" AFF

CONC SLAB ON GRADE

ROOF TRIM LINE

GRADE

30x30 FINEST WINDOW (TYP) (SENSING)

4 SOUTH EXX (NORTH SIM)

PLAN

(1/2)

5' FROM STRAIGHTING
2006/6/6 EX
J.C.C.
D.V.M.T.

PROPERTY LINE

EXIST CURB

18' 0"

EQ

EQ

EXIST CURB

EQ

CITY OF BURLINGTON

ORDINANCE 4.01
Sponsor: Planning Department,
Planning Commission

In the Year Two Thousand Thirteen

Public Hearing Dates 07/15/13

First reading: 04/29/13

Referred to: Ordinance Committee

Rules suspended and placed in all stages of passage: _____

Second reading: 07/15/13

Action: adopted

Date: 07/15/13

Signed by Mayor: 07/15/13

Published: 07/24/13

Effective: 08/14/13

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Nonconforming Structures Demolition
ZA 13-05

It is hereby Ordained by the City Council of the City of Burlington, as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 5.3.5, Nonconforming Structures, thereof to read as follows:

Sec. 5.3.5 Nonconforming Structures

(a) As written.

(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.

In all other cases, a nonconforming structure that has been demolished or moved shall not be rebuilt or relocated in any way other than in full conformance with the provisions of this ordinance. Structures or any portion thereof that are structurally unsound, and are required to be removed by

order of the building inspector, may be replaced within the original footprint provided both the requirement to demolish the building is not the result of demolition by neglect and the replacement ~~does~~ shall not expand the degree of nonconformity.

* Material stricken out deleted.

** Material underlined added.

CITY OF BURLINGTON

ORDINANCE 3.03: 5.0
Sponsor: Planning Commission

Public Hearing Dates 11/08/10

First reading: 09/27/10

Referred to:

Rules suspended and placed in all stages of passage 09/27/10

Second reading:

Action: adopted

Date: 11/08/10

Signed by Mayor:

Published: 11/17/10

Effective: 12/08/10

In the Year Two Thousand Ten

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE--
Emergency Demolition Exemption
#ZA 11-02

It is hereby Ordained by the City Council of the City of Burlington, as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Section 3.1.2(c) thereof to read as follows:

Sec. 3.1.2 Zoning Permit Required

Except for that development which is exempt from a permit requirement under Sec. 3.1.2(c) below, no development may be commenced within the city without a zoning permit issued by the administrative officer including but not limited to the following types of exterior and interior work:

(a) As written.

(b) As written.

(c) Exemptions:

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1. through 7. As written.

8. The temporary stabilization and securing of any structure, site, or building feature required to address an unsafe or dangerous condition which poses an imminent threat to public safety

33 An Ordinance in Relation to

34 COMPREHENSIVE DEVELOPMENT ORDINANCE--
35 Emergency Demolition Exemption
36 #ZA 11-02
37

38 pursuant to a ~~certification~~written order of the same issued under the authority of ~~by~~ the city
39 building inspector ~~or fire marshal~~.

40 9. Where temporary stabilization is not reasonably available the emergency demolition of any
41 structure, site, or building feature required to address an unsafe or dangerous condition which
42 poses an imminent threat to public safety pursuant to a order of the same issued under the written
43 authority of the city building inspector and with the written concurrence of the city engineer. This
44 exemption does not extend beyond the required demolition, clearing of debris, securing or filling
45 cellar holes, and related erosion control and stormwater management.

46 (d) *As written.*

47
48 * Material stricken out deleted.

49 ** Material underlined added.
50