

CITY OF BURLINGTON

ORDINANCE 4.02
Sponsor: Planning Department,
Planning Commission
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

In the Year Two Thousand Thirteen

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Residential Side/Rear Yard Setback Encroachments
ZA 13-08

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, 4.4.5, Residential Districts and 5.2.5, Setbacks, thereof to read as follows:

Sec. 5.3.5 Nonconforming Structures

(a) Changes and Modifications:

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

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

1. Such a change or modification ~~should seek to~~ may reduce the degree of nonconformity and shall not increase ~~expand the degree of~~ nonconformity except as provided below;

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

- i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development):

COMPREHENSIVE DEVELOPMENT ORDINANCE—
Residential Side/Rear Yard Setback Encroachments
ZA 13-08

- ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and.
- iii) Be compatible with the character and scale of surrounding structures.

Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

Balance of 5.3.5 as written.

Sec. 4.4.5 Residential Districts

(a) As written.

Map 4.4.5-1 As written.

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1 As written.

Table 4.4.5-2 As written.

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width, but in no event less than 5-feet <u>Or ave. of side yard setback of 2 adjacent lots on both sides</u> Max	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
			required: 20-feet			
RM	40%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width, but in no event less than 5-feet <u>Or ave. of side yard setback of 2 adjacent lots on both sides</u> Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet
WRM	60%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width, but in no event less than 5-feet <u>Or ave. of side yard setback of 2 adjacent lots on both sides</u> Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet (60-feet under Sec. 4.4.5(d)2A)
RH	80%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width, but in no event less than 5-feet <u>Or ave. of side yard setback of 2 adjacent lots on both sides</u> Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet

ZA 13-08

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
<p>1. An additional ten per-cent (10%) lot coverage may be permitted for accessory residential features per (d)3A below. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5.</p> <p>2. Average front yard setback of the principal structures on the 2 adjacent lots <u>on both sides</u> within the same block having the same street frontage. See Sec. 5.2.4.</p> <p>3. In no event shall the side yard setback be required to exceed 20-feet, or the rear-yard setback be required to exceed 75-feet.</p> <p>4. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of the Sec 4.5.4 Riparian and Littoral Conservation Overlay Zone.</p> <p>5. <u>The side yard setback shall be calculated based on the 4 adjacent properties (2 on each side of the subject property). The right side yard setback is the average of the right side yard setback of the principal structures on these 4 properties. The left yard setback is the average of the left side yard setback of the principal structures on these 4 properties. The adjacent properties shall be within the same block having the same street frontage as the subject property. See Sec. 5.2.5.</u></p> <p>6. <u>Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the setback shall be 10% of the lot width.</u></p>						

(c) and (d) As written.

Sec. 5.2.5 Setbacks

Setbacks between buildings and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street.

(a) Setbacks Required:

Unless otherwise authorized or specified under the district-specific provisions of Article 4, which shall be controlling over these provisions, a setback shall be provided between any proposed structures and/or site features, and the front, side and rear yard property lines as follows: (See Art. 13 for definitions of “setback” and “yard.”)

1. As written.

An Ordinance in Relation to COMPREHENSIVE DEVELOPMENT ORDINANCE—
Residential Side/Rear Yard Setback Encroachments
ZA 13-08

2. Side yard. The minimum side yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as a percent of the lot width, such width shall be measured parallel to the lot frontage. Alternatively, where provided for under Article 4, the minimum side yard setback may be the average of the correlating side yard setbacks (i.e. left or right) of principal structures in lawful existence as of the adoption of this ordinance on the four (4) neighboring lots (2 on either side) and within the same block having the same street frontage.

3. As written.

(b) Exceptions to Yard Setback Requirements:

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. – 6. As written.

7. Additional exceptions for nonconforming structures under Sec. 5.3.5.

* Material stricken out deleted.

** Material underlined added.

AN ORDINANCE IN RELATION TO

COMPREHENSIVE DEVELOPMENT ORDINANCE
Residential Side/Rear Yard Setback Encroachments
ZA 13-08

Introduced by

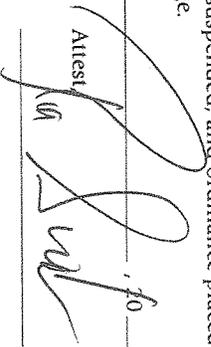
~~Bobbielof~~ Planning Department, Planning Commission

Read in City Council first time

April 29, 2013

Attest, , Clerk.

Rules suspended, and ordinance placed in all stages of passage.

Attest, , Clerk.

Read in City Council second time

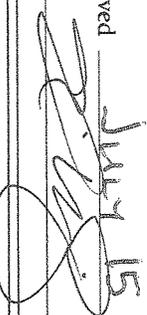
July 15, 2013

Attest, , Clerk.

Passed in City Council at meeting held

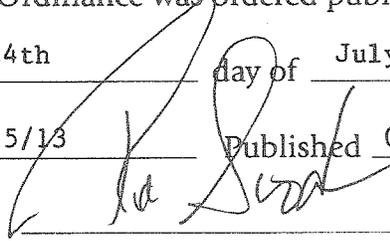
July 15, 2013

Attest, , Clerk.

Approved  July 15, 2013, Mayor.

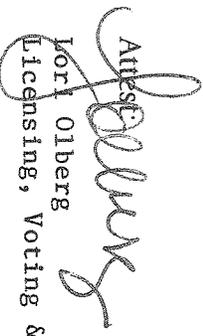
I, ACAO Goodwin, ~~City Clerk~~ of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for Wednesday day, namely the 24th day of July, 2013.

Adopted 07/15/13 Published 07/24/13 Effective 08/14/13

ACAO, ~~City Clerk~~

Distribution

I hereby certify that this Ordinance has been sent to the following department(s)
ON
P & Z Director White
Asst. City Attorney Sturtevant

Attest, 
Lori Olberg
Licensing, Voting & Records Coordinator

* * * * *