

Department of Planning and Zoning

149 Church Street

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: **Wednesday**, March 7, 2018
RE: ZP18-0603CA; 141 North Willard Street

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.

Project: ZP18-0603CA

Address: 141 North Willard Street ("Momos Market")

Zone: RM **Ward:** 2C

Date application accepted: January 3, 2018

Date of Decision: January 16, 2018

Date of Appeal: January 31, 2018

Applicant/ Owner: Yellow Dog Management LLC (Erin Malone)

Appellants: Autumn and Jeff Spencer

Request: Appeal of administrative approval of kitchen hood vent and rooftop screening at the former Willard Street Market, now Momos.

Background:

- **Zoning Permit 16-1104CA;** install window and exterior door and ramp. April 2016.
- **Non Applicability of Zoning Permit Requirements 16-1206NA;** new membrane on first floor roof above kitchen. Replacement in kind. May 2016.
- **Zoning Permit 16-0172CA;** replace four existing windows, add new entry door. August 2015.
- **Non Applicability of Zoning Permit Requirements 16-0175NA;** replace old stairs and railings with new. August 2015.
- **Zoning Permit 03-139;** Finish roof and walls enclosing staircase on SE corner of building, install 2 windows on south wall, install door at entrance and add 1 window on east wall. September 2002.
- **Zoning Permit 93-281;** installation of a three pane window on the front (North Willard façade) of the existing mini-mart. Signage located where the window will be placed will be eliminated from the building. No new signae proposed. December 1992.
- **Non Applicability of Zoning Permit Requirements;** relocating existing deli operation within existing convenience/grocery store in order to accommodate new walkin cooler.

Removing five coolers, to be replaced with new walk-in. No change in use. No exterior changes proposed. Any change in use and/or exterior changes will require the necessary zoning permit(s). May 1996.

- **Zoning Permit 88-091**; construct staircase on rear to provide secondary means of egress. September 1988.
- **Zoning Permit 76-465**; Erect two 90” wide by 40” high x 8” deep signs flat against the front and side of the Willard Street Market. Install three fluorescent lights. October 1975.
- **Zoning Permit 76-937**; erect a 24’ x 14’ structure (16’ x 12’ x8’ structure to be moved to 141 North Willard Street and attach at rear.) April 1976.
- **Zoning Permit** to enlarge the floor area of store 8’ x 10’ and to install a new walk in cooler on the south side of existing building. Approved October 1968.

Overview: 141 North Willard Street is a pre-existing Neighborhood Commercial Use, formerly known as the Willard Street Market and now Momo’s. The applicant requested approval of a rooftop fan/vent system; originally proposed to emerge from the rear addition at the south elevation and progressing up to the rooftop for exhaust. Staff questioned compliance with required side yard setbacks, which spurred the applicant to move the unit for direct rooftop penetration more central to the rear addition. As the ordinance requires it, rooftop screening is included. This appeal is from the immediate neighbor to the south, and was filed in a timely manner on the 15th day of the appeal period.

Recommendation: Uphold administrative Certificate of Appropriateness approval per the following findings and conditions:

I. Findings

Article 4: Zoning Maps and Districts

Table 4.4.5-3, Residential District Dimensional Standards

Height is limited to 35’ in the RM zoning district, setbacks are 10% of the lot width.

The proposed rooftop hood/vent is proposed to be located on a one story rear addition, will project approximately 27” from the roof and will therefore not exceed the 35’ height limitation.

The applicant was not certain of her property boundaries so could not confirm compliance with the required side yard setback for the initially proposed installation. As a result, the application was revised to relocate the proposed vent to emerge from the existing rear roof. **Affirmative finding for height and setback standards.**

Section 4.4.5 (d) District Specific Regulations

6. Uses

A. Exception for Existing Neighborhood Commercial Uses

(vii) all building height and setback requirements for the underlying residential district shall apply, and lot coverage shall not exceed 60%.

See setback and height information in Table 4.4.5-3, above. No changes to existing coverage are proposed. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.3 Lot Coverage Requirements

No change proposed. 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.**

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

*All applications for a zoning permit shall be required to demonstrate compliance with the applicable nuisance regulations and performance standards pursuant to the requirements of the **Burlington Code of Ordinances**. All such standards shall be met and maintained for all uses, except for agriculture and forestry, in all districts, as determined or measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.*

Burlington Code of Ordinances

Chapter 21; Offenses and Miscellaneous Provisions

21-13 Noise control ordinance.

(a) Purpose. The purpose of this section is to preserve the public health, safety, and welfare by prohibiting excessive and disturbing noise and to prevent noise which is prolonged or unsuitable for the time and place and which is detrimental to the peace and good order of the community. It is the goal of this section to allow all residents of our city to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.

(b) Prohibited noise offenses:

(1) General prohibition. It shall be unlawful for any person to make or cause to be made any loud or unreasonable noise. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of another or when it endangers the health, safety or welfare of the community. Any such noise shall be considered to be a noise disturbance and a public nuisance.

The proposed kitchen hood is anticipated to have a noise level of 68 dBa measured at 5' distance; equal to that of a vacuum cleaner.¹ Given its proposed installation on an existing

¹ Noise Center of the League; *Noise Levels in our Environment Fact Sheet*, p. 2. Online: <http://chchearing.org/noise/common-environmental-noise-levels/>.

Neighborhood Commercial Use and location at the rear of the building, the projected audible output is not unreasonable.

(2) *Express prohibitions. The following acts, which enumeration shall not be deemed to be exclusive, are declared to be noise disturbances:*

a. *Radios, television sets, musical instruments, phonographs and similar devices.* Not applicable.

b. *Motor vehicle sound equipment.*
Not applicable.

c. *Parties and other social events.*
Not applicable.

d. *Machinery. The operation or permitting or directing the operation of any power equipment or machinery outdoors between the hours of 9:00 p.m. and 7:00 a.m. except in emergency situations.*

The proposed rooftop vent is not construction machinery.

The vent will be in operation during the use of the deli and therefore while food service is in operation. The applicant indicates the hood will be running only when the store is open which is M - F 7am - 12pm and S - S 8am - 3pm. Weekend hours will be reduced in the summer when the spring semester ends through the start of the fall semester.

e. *Construction noise.*
Not applicable.

f. *Loudspeakers.*
Not applicable.

Affirmative finding.

Article 6: Development Review Standards

Part I: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Section 6.2.2 (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.

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 5 Performance Standards.

The applicant has located the mechanical equipment on a rear roof and screened from public view. The method of screening the proposed rooftop equipment was provided as part of the submission.

See Article 5, Part 5 above.

Affirmative finding.

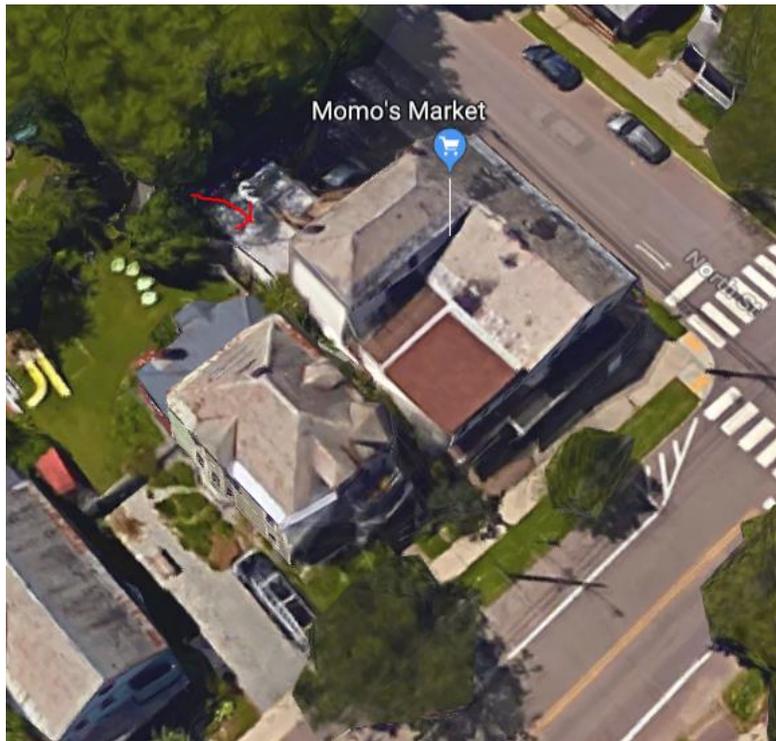
Part 3: Architectural Design Standards

Section 6.3.2

(a) Relate development to its environment

1. Massing, Height and Scale

The proposed roof vent will rise approximately 27" above the single story addition in the rear. The applicant's information indicates that the surrounding screen will not rise vertically as high as the submitted image. The mechanical equipment will be significantly less in height than the existing front building, and installed behind the multi-story structure which fronts North Willard Street. **Affirmative finding.**



2. Roofs and Rooflines

No change is proposed to the existing roofline. **Affirmative finding.**

3. Building Openings

Not applicable.

(b) Protection of Important Architectural Resources

141 North Willard is not listed on the state or National Register of Historic Resources. Not applicable.

(c) Protection of Important Public Views

There are no protected important public views from this parcel. Not applicable.

(d) Provide an active and inviting street edge

The proposed vent will not be visible from North Willard Street. Its location will be screened from North Street.

Affirmative finding.

(e) Quality of materials

The proposed screen is lattice in a wood frame; acceptable for its purpose.

Affirmative finding.

(f) Reduce energy utilization

Not applicable.

(g) Make Advertising features complementary to the site

Not applicable.

(h) Integrate infrastructure into the building design

Exterior machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory features 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.

Rooftop mechanicals, including heating and cooling devices and elevator equipment, should be incorporated into the structure's design, and shall be arranged to minimize their visibility from the street level. Such features, in excess of one foot in height, shall be either enclosed within the roof structure, outer building walls, or parapets, or designed so that they are integrated into the overall design and materials of the building.

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



Location of proposed vent installation
View from North Street

The applicant relocated the proposed location of the vent/hood to increase the distance from the southerly property line. A screen has been provided to minimize its visibility from the street level. The screen is likely to minimize any perceivable auditory impact on neighboring properties.

(i) Make spaces secure and safe

The equipment must be installed with the appropriate trades permits to assure compliance with building and life safety codes. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. All conditions defined as the administrative decision shall remain in effect unless specifically altered by the DRB.
2. Standard Permit Conditions 1-15.

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