

Burlington Planning Commission

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MEMORANDUM

TO: Burlington City Council
FROM: Burlington Planning Commission
DATE: Thursday, July 11, 2013
RE: **ZA-13-08 Residential Side/Rear Yard Setback Encroachments**

At our meeting on 9 July, the Planning Commission reviewed modifications to the proposed zoning amendment **ZA-13-08 Residential Side/Rear Yard Setback Encroachments** made by the Council's Ordinance Committee at their meeting on 26 June. As a result we would like to offer the following comments, and respectfully request that the Council **not take action to adopt this amendment as currently proposed.**

The Planning Commission strongly agrees that the amendment as currently before the Council goes too far to unnecessarily, unfairly and arbitrarily restrict the ability of owners of multi-family and non-residential properties in residential areas to make very modest and sensible modifications to existing properties. Instead, we would request that the Council warn a new hearing and take action to approve the version of this proposed amendment as originally and unanimously approved by the Council's Ordinance Committee on 13 June.

City land use policy and plans have long strived to find better ways to support and enhance the existing development pattern in our residential neighborhoods. At the same time we recognize, and often are confronted with the fact, that some of the dimensional requirements (setbacks, lot coverage and in some cases building heights) found in our zoning regulations run counter to this aim given that they often bear no relationship to what has actually taken place on the ground prior to the enactment of zoning. As a community we also want to allow more minor modifications with minimal obstructions that will enable property owners to adapt and evolve the use of their properties. Often this is to create additional living space that may make it possible for them to stay in their current home or place of business rather than be forced to move.

Unnecessarily forcing property owners to abide by a side and rear setback when they want to add additional living space above an existing side or rear yard setback encroachment creates very costly and architecturally awkward results for no corresponding public purpose or benefit. By example, these situations may take the form of a single story rear addition to a 2-2.5 story structure where both encroach into a setback. In order to create the new second story, the additional space is required to conform with the current regulations and therefore must be setback some minor distance (sometimes only a few inches or a couple of feet) from the existing wall plane. The result is additional structural supports, a smaller usable space, and an awkward building design. The original proposal from the Commission was proposed to eliminate this problem and vastly improve the functionality of the property and reduce the cost and complexity of construction.

As you know, the community has just completed an extensive visioning process intended in-part to help us find better ways to accommodate and facilitate infill development that is in keeping with our scale and pattern of development. The Commission feels the most recent changes to the proposed amendment run counter to what we have said we are trying to achieve in this regard.

In summary, the Commission recommends that the Council **not take action to adopt this amendment as currently proposed.** and instead take action to approve the version of this proposed amendment as originally and unanimously approved by the Council's Ordinance Committee at their 13 June meeting.

Thank you for your consideration.