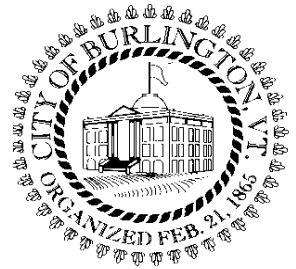


Department of Permitting and Inspections

Zoning Division
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Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
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Celeste Crowley, Permit Administrator
Theodore Miles, Zoning Specialist
Charlene Orton, DPI Administrator



MEMORANDUM

To: The Design Advisory Board
From: Mary O'Neil, AICP, Principal Planner
RE: ZPW-22-62; 187 Pearl Street
Date: May 24, 2022

File: ZPW-22-62

Location: 187 Pearl Street

Zone: FD6 **Ward:** 3C

Parking District: Multi Modal Mixed Use

Date application accepted: April 28, 2022

Applicant/ Owner: Chris Mason

Request: Request for Alternative Compliance under the Form Code: Restore historic masonry openings and install windows at (3) locations abutting alleyway.

Background:

- **Zoning Permit 20-0608CA;** window replacements. January 2020.
- **Zoning Permit 11-0540CA;** intake and exhaust vents for new interior boilers. January 2011.
- **Zoning Permit 05-100SN;** sign change, only name change using same sign, FU DA Chinese Restaurant. October 2004.
- **Zoning Permit 04-580;** change of use from cosmetology school to restaurant. May, 2004.

Overview: 187 Pearl Street has a commercial space on the first floor, and 8 apartments on the upper floors. The owner wishes to re-open some closed window penetrations on the south (rear) of the building to enhance the apartments under renovation. With the adoption of the Form Code, there is a provision that prevents introducing building openings on a side or rear property line to *prevent unnecessary limitations on the development of adjacent property*. This parcel fronts a privately owned access alley, of which the owner is included by title in rights-of-way. The Form Code does not provide a measurement of setback that would allow building openings, and does not specifically define measures if the alley is privately owned and applicant has limited use. The applicant is seeking *Alternative Compliance* in an effort to secure approval for the installation of three new windows in previous window openings.

Applicable standards:

Article 5: Citywide General Regulations

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Section 5.2.5 Setbacks

(b) Exceptions to Setbacks

4. Historic Building Features. Features of a historic building such as porches, additions, entries, bays and porticos that have been removed may be replaced and may project into required yard setbacks subject to the following:
 - A. The structure is listed or eligible for listing on the State or National Register of Historic Places;
 - B. The building feature being replaced was a character defining feature of the primary structure, can be documented to have previously existed, and is being replaced within the original footprint; and,
 - C. The building feature replacement is completed in accordance with the standards for historic buildings contained in Sec. 5.4.8.

187 Pearl Street is listed on the National Register of Historic Places within the Pearl Street Historic District. Here is the narrative:

63. Vermont College of Cosmetology (187 Pearl Street); 1916

This four-story, brick building, originally the home of the American Phonograph Company Store, is a handsome example of early twentieth century Classical-style commercial architecture in Burlington. Its symmetrical facade is divided into two bays by brick piers. Each bay contains paired windows with modern, one over one sash and granite sills. The second and third story windows are topped by segmental arches, with keystones picked out in granite. The fourth story openings are more elaborate, with semi-circular arches rising from granite imposts. A corbeled, brick cornice rises to a flat roof. The building is ten bays deep, with irregular fenestration on the side walls.

A long, rounded vertical sign, reading "Vermont College of Cosmetology" extends from the facade. At street level, central, double glass doors are flanked by large display windows. The walls are covered with pinkish permastone, a 1959 modernization. A small doorway to the left (east) leads to the upper floors.

The window openings can be clearly documented to have existed, as the masonry outlines and rough openings are visible evident. The owner wishes to install appropriate window replacements, consistent with the replacement sash more recently installed in the building.

Affirmative finding, with DRB concurrence.



South elevation, photo taken from parking lot south of the alley. Note three windows infilled on the right.

Article 14 (Form Code)

Section 14.3.4 FD6

14.3.4-C- Lot Occupation & Building Placement

Rear Setback:

- *Principal Buildings* 0-ft min. or 15-ft from a rear public Alley centerline

In the Form Code, 187 Pearl Street has a 0 Rear setback. The access alley behind the building is not a *public alley*, but a private access drive. The 15' setback therefore does not apply.

See Section 14.4.13 (e), below on specific requirements for improvements to buildings with 0 setback.

Section 14.4.13 (e) Walls

v. *New buildings, additions, or significant improvements to existing Buildings placed on a side or rear property line where no setback is required shall contain neither doors nor windows along such elevation in order to prevent unnecessary limitations on the development of adjacent property.*

The Form District 6 has no rear setback requirement.

The existing building is set back approximately 2'9" from the rear property line. There are existing windows in the south elevation, but three window openings that have been masonry infilled which the applicant wishes to reopen.

Immediately behind the 187 Pearl Street parcel is a 12' private right-of-way that acts as a delivery access drive for 181 Pearl (Three Needs). The 187 Pearl Street parcel shares in the access agreement with 191 Pearl.

There is included in this conveyance the use of the twelve (12) foot right of way for pedestrians and vehicular traffic but not for parking, which is south of the brick building herein conveyed and said right of way runs from the west line of South Winooski Avenue south of the Shell Station and south of the brick building here conveyed. The use of the right of way herein granted to be used in common with such other parties as have record title to said right of way.

The Shared

Right-of-Way, the narrow width, and the functional need for rear access and egress from parcels fronting on Pearl Street render the alley highly unlikely to be redeveloped. As the applicant holds a limited title to the ROW, the alley acts as access and egress for those with recorded title for use, and the windows are a historic feature of the listed historic building, the request to reopen the three windows is both reasonable and may be considered under Section 5.2.5 (b) 4. of the regulations, and under 14.7.3.(b) *Alternative Compliance* of the Form Code.

Upon consultation with the Building Inspector, he concurs that there is no building code prohibition to the request (email from Brad Biggie, 5.10.2022):

Mary,

There is no section in the code that would prevent them from installing window units in the existing opening on the rear (south side) of this existing building. If you need anything further regarding this let me know.

Affirmative finding with DRB concurrence.



South Winooski Avenue on the bottom. 187 Pearl Street identified, access drive annotated.

Article 14.7.3 (b) Alternative Compliance (Relief) Granted by the Development Review Board

Additional relief from the prescribed standards may be granted by the Development Review as provided below:

- i. **DRB Alternative Compliance: *Relief from any non-numerical standard*, and any numerical standard by no more than 20% of such requirement or an additional 10% beyond any Administrative Relief permitted above, may be granted by the Development Review Board after review **and recommendation by the Design Advisory Board and a Public Hearing.****

The Form Code does not define on an allowable setback for building openings when abutting another property; nor does it contemplate the abutting feature to be a privately owned access alley.

The applicant therefore seeks consideration under Alternate Compliance of the Form Code to allow for re-opening the 3 windows.

Decisions by the DRB regarding any Alternative Compliance granted shall be made in writing and upon affirmative findings that:

A. the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;

The applicant sees an opportunity to reopen the windows to enhance and add bedrooms to the 8 residential units currently being remodeled. The historic building originally had the windows, prior to installation of a fire escape.

B. the relief if granted is the minimum necessary to achieve the desired result;

The request is limited to insertion of three new windows in previous window openings; confirmed to have originally been present in the building. Such action will significantly enhance the residential units under rehabilitation.

C. the property will otherwise be developed consistent the purpose of this ordinance, the intent of the Form District, the intent and purpose of the section that the relief is being sought, and all other applicable standards;

The property is under renovation in concert with appropriate trades permits, and is seeking the allowance for re-insertion of windows subject to Alternative Compliance from the DRB.

D. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties;

The applicant's property fronts a private access alley, which multiple property owners share limited title. At 12' in width, it is unlikely that this narrow connection to the rear of Pearl Street properties will be developed. With development unlikely, the insertion of windows will not introduce an adverse burden on the abutting property, to which the applicant holds partial title.

E. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

The Form Code defines a 0 rear setback within FD6. At present, there is approximately 2'9" setback between the existing building and the 12' alley. Upon DRB concurrence, the introduction of 3 new windows will allow the enhancement of residential units at 187 Pearl Street (consistent with the historic appearance of the building) with no negative impact to abutting properties.

Affirmative finding upon concurrence with the DRB.

Recommended Conditions of Approval

1. Standard Permit Conditions 1-15.

Burlington Design Advisory Board

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Phone: (802) 865-7188

Matthew Bushey
Ron Wanamaker
Emily Morse
Jay White
vacant
Kathleen Ryan, Alt
Vacant, Alt



DESIGN ADVISORY BOARD Tuesday, May 24, 2022 3:00 PM

Remote and In Person (at 645 Pine Street) Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81569486329?pwd=NEdJZEEd6NmtGME5yM1ZjTis0cXNhUT09>

Webinar ID: 815 6948 6329

Passcode: 686452

Or Telephone: US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or
+1 253 215 8782 or +1 346 248 7799

Agenda

Session I – 3:00 PM – 3:30 PM

ZPW-22-62; 187 Pearl Street (FD6, Ward 3C) 187 Pearl Street LLC / Chris Mason

Request for alternative compliance under the form code: restore historic masonry openings and install windows at three locations abutting alleyway. (Project Manager, Mary O'Neil)

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Burlington Design Advisory Board

Department of Permitting and Inspections

645 Pine Street

Burlington, VT 05401

<http://www.burlingtonvt.gov/DPI/Boards/Design-Advisory-Board/>

Telephone: (802) 865-7188

*Matt Bushey, Chair
Ron Wanamaker
Emily Morse
Jay White
Kathleen Ryan, Alternate
Vacant, Alternate*



DESIGN ADVISORY BOARD

Tuesday May 24, 2022 3:00 PM

Minutes

Present: Matt Bushey (Chair), Ron Wanamaker (Vice Chair), Jay White, Kathleen Ryan (alternate)

Absent: Emily Morse

Staff present: Mary O'Neil

Guests: Chris Mason

Agenda

Session I – 3:00 PM – 3:30 PM

ZPW-22-62; 187 Pearl Street (FD6, Ward 3C) 187 Pearl Street LLC / Chris Mason

Request for alternative compliance under the form code: restore historic masonry openings and install windows at three locations abutting alleyway. (Project Manager, Mary O'Neil)

Motion by Jay White: I move that common sense prevail, and we recommend consideration of Alternative Compliance and approve installation of 3 windows in former window openings of 187 Pearl Street.

2nd – Ron Wanamaker

Vote 4-0.

Motion carries.

Adjournment 3:12 PM.