

# Burlington Development Review Board

149 Church Street, City Hall  
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Austin Hart  
Michael Long  
Jonathan Stevens  
Brad Rabinowitz  
Bob Schwartz  
Kevin Stapleton  
Jim Drummond  
Alexandra Zipparo (Alt.)  
Vacant (Alt.)



## BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, May 7, 2013 - 5:00 p.m., Contois Auditorium, City Hall, 149 Church Street, Burlington, VT MINUTES

**Present:** Austin Hart (Chair), Jonathan Stevens (Vice Chair), Michael Long, Brad Rabinowitz, Kevin Stapleton, Jim Drummond (late – 5.21), Bob Schwartz

**Staff:** Ken Lerner, Nic Anderson, Scott Gustin

**Absent:** Alexandra Zipparo (Alt.), Mary O’Neil

### I. **Agenda**

No changes.

### II. **Communications**

Five items. Two for 199 South Union St, two for 70 Appletree Point Ln and one other business item for 204 South Willard St. Accepted by the board.

### III. **Minutes**

None.

### IV. **Consent**

1. **13-0922CA: 97 LOCUST STREET (RCO-RG/RL, Ward 5) Parks and Recreation Dept.**  
Replace irrigation system, import new topsoil, overall site grading and swales. (Project Manager: Ken Lerner)

Applicants J. Adams Kollitz and Jen Francis. Jack Myers from Stantech.

A. Hart - Due to mistake in staff comments being posted on the web, would like to treat as public hearing. Sworn in applicants. No public present to speak.

J. Myers - detailed application. Instead of cross slope it would have a crown and would import top soil and compost.

A. Hart asked what would be the design later. Would it essentially look the same?

J. Myers - Yes, but would be an improvement in terms of weathering storm events etc.

Replacing existing. No new buildings.

B. Rabinowitz asked about topsoil.

Closed Public Hearing

Motion by J. Stevens to adopt staff recommendations and findings

Seconded by B. Rabinowitz

Vote: In favor 7-0 against.

Motion Carried.

2. **13-0833CA/CU & 13-0942CA/CU: 3169 & 3166 NORTH AVENUE (RL-W, Ward 7) Bill Charash**

Conditional use to install crushed stone driveway at 3169 North Avenue and demolish two structures at 3166 North Avenue. (Project Manager: Scott Gustin)

Applicant Bill Charash present. No public present to speak.

S. Gustin noted it has been approved by Conservation Board with a condition asking that any disturbed areas be seeded and mulched immediately.

B. Charash - Has received staff comments and has no problems or any problem with Conservation Board condition.

Motion by J. Stevens to adopt staff recommendations and findings including condition by Conservation Board.

Seconded by B. Schwartz

Vote: In favor 7-0 against.

Motion Carried.

**3. 13-0915CA & 13-0916CA: 39 BRADLEY STREET & 71 HUNGERFORD TERRACE (RH, Ward 2) Emily Lee & Ponds End Corporation**

Construction of new driveway within side yard setbacks of 39 Bradley Street and 71 Hungerford Terrace. (Project Manager: Scott Gustin)

Applicants not present. No objections to treat as consent item by Board. No public present to speak.

A. Hart asked S. Gustin about easement requirements

Motion by B. Schwartz to adopt staff recommendations and findings.

Seconded by B. Rabinowitz

Vote: In favor 7-0 against.

Motion Carried.

**V. Public Hearing**

**1. 13-0863AP: 199 SOUTH UNION STREET (RH, Ward 6) Chris Khamnei**

Appeal of Notice of Violation #234023 for setbacks, coverage and parking. (Project Manager: Jeanne Francis/Ken Lerner)

Appellant C. Khamnei present. Code Enforcements Jeanne Francis and Bill Ward present.

A. Hart asked about hearing Code Enforcement first.

C. Khamnei - Objected and would prefer to go first.

J. Francis noted B. Ward is not present as he has to speak at another hearing right now.

Sworn in.

A. Hart asked why C. Khamnei wanted to speak first.

C. Khamnei - Wants to go home and not waste time. Detailed previous appeal for another property which is similar to this situation. Anomalies to the site plan. Detailed violation. Noted photographs are in peak of mud season. Noted ruts from garbage truck, not parking.

A. Hart - Issue is the same if it's a car or garbage truck.

C. Khamnei noted problem has been resolved by using totes instead. Noted items have been cleaned up. Noted concrete under mud pile and parking is on concrete not grass.

A. Hart noted site plan from 2006. Code Enforcements position is to enforce that.

C. Khamnei - Will discuss site plan. Handed out packet of papers. Detailed warranty deed and title opinion noting no zoning violations in 2007. Noted disclaimer but believes that the site plan was prior to this, which should have been picked up. Noted zoning permit was denied that was associated with site plan. Site plan he was provided (April 2006) seems to be close to the current condition. Curve on plan is where ruts were. Objects to site plan.

A. Hart asked if close to current.

C. Khamnei asked about zoning permit and has not seen any documentation and was not aware of any environmental court proceedings.

A. Hart asked applicant to go back to what improvements were made.

C. Khamnei - 12 unit building and only 6 units have a car. Has parking problem with others parking on the property, not his tenants and not given permission. Put up barrier which was torn down. Put up rocks as a temporary measure. Continued to get run over. Planned to get bigger rocks in spring. Last week put new boulders in place with non-applicability from K. Lerner. Rut has been corrected. No garbage trucks now so doesn't

foresee it in the future. Noted photograph in Notice of Violation showing muddy area at front that looks the same as all other properties down street. Is green now. Compression of grass is from walking not driving or parking. Trailer has been moved around. Will not be kept on site. Asked for leniency on timeframes to improve the property. Purchased property 7 years ago and this is the first he has heard about the site plan.

B. Rabinowitz noted 2006 plan is impossible.

K. Lerner noted permit was for demolition of garage and didn't look at rest of site plan. Should remedy by re-doing site plan and site to best utilize the site without going over lot coverage. No approved plan stamp on the plan because it was for only limited scope.

C. Khamnei - Doesn't want to do that right now. Left hearing.

B. Ward - Handed out copies of photographs for board. Detailed efforts to demonstrate case. Detailed timeline of photographs and locations of barriers and vehicle parking. Long history of photographs and parking in areas that were grass/mud. Noted lack of effort or action to remedy. Noted stones on Saturday but still concerned about the time that it took to get to that result. Met with C. Khamnei today and re-iterated that the best result would be to amend site plan.

J. Francis - This took over 12 months. Noted today on site that some items have been remedied. Photos from mud season aren't to show mud but to show the tire marks of constant parking.

A. Hart asked if a barrier is needed or what she is looking for.

J. Francis - Yes would need to speak with Planning and Zoning but a barrier is needed. Seeding is already blowing away so concerned how much it will catch. No barriers in back yard seeding area. Little circulation potential after space 6 without encroaching the green space. Grass seeded area will not be able to be maintained. Cars would need to back all the way out. Need to adjust site conditions. Noted vehicle use in area at back of house. No barriers.

A. Hart asked about site plan.

J. Francis - noted three options from that permit. Stipulation agreement noted application was part of project. Even if concrete it needed to be restored to green space. Best option would be for him to come in and get a permit to reconfigure it.

M. Long asked about coverage.

K. Lerner - coverage was approximately 66% coverage based on site plan. Appellant contended that it is close to the on site conditions.

A. Hart asked about concrete area of removed garage.

B. Rabinowitz noted setback issues. Can the DRB ask for a revised site plan?

J. Francis noted parking has erosion issues at bottom of property.

J. Stevens - confused on reference to site plan. No plan was ever approved.

A. Hart - settlement of Environment Court appeal noted site plan. A court order is a permit.

K. Lerner - permit was for demolition and replacement with grass. Apparently concrete remained.

B. Ward asked DRB to uphold violation as it was not addressed within timeframes. Prefer to have new site plan that has a permit to remedy this. Still in violation today. Would like permit for barrier and a site plan that works and can be approved and the property owner can live with.

J. Francis suggested that he applied for a permit with 15 days and if it cannot be done, an agreement could be struck.

W. Ward - Code Enforcement has spent a lot of staff time on this violation.

J. Stevens asked if the DRB has authority to require a zoning permit.

A. Hart - can deliberate on that.

K. Lerner - remedy listed in violation to be enacted could be done.

J. Francis asked for a time limit on the decision.

A. Hart closed public hearing.

2. **12-1138PD: 70 APPLETREE POINT LANE (RL-W, Ward 4) Staniford Farms, LLC**  
Amend final plat approval. Relocate existing farmhouse, modify private drive, reduce number of new building lots, and delete construction of new homes. (Project Manager: Scott Gustin)

Opened public hearing 5.05pm for Tom Papp to speak as he had to leave.

B. Schwartz recused.

J. Stevens recused.

All members of public sworn in.

T. Papp - President of Strathmore Homeowners Association. Read email that had been provided in communications packet. Based on applicants engineer it is noted that there will be no negative impact. Requested condition that it be reviewed by Strathmore's engineers prior to release.

A. Hart asked if it could be done before deliberation. Asked if T. Papp could contact zoning staff as soon as information is received.

T. Papp - Will definitely contact staff.

Adjourned 5.12pm until later. Resumed regular agenda.

Resumed item 6.12pm.

Applicant E. Farrell present.

B. Schwartz and J. Stevens recused.

Additional public sworn in.

E. Farrell - Detailed approved plan. Have state stormwater permit. Detailed new plan.

Will not build homes. Detailed lots and layout. Four less units. State stormwater permit and Army Core permit do not need to be revised as it is less impact. Detailed Wick Homestead move.

B. Rabinowitz asked about setbacks.

S. Gustin - PUD can establish its own setbacks.

B. Rabinowitz asked about service lane for Townsend.

Townsend – Happy parking in garage and walking in. Service lane will not be main entrance.

E. Farrell - Has given Strathmore all the information. Stormwater was approved last year and doesn't think they have foundation for concern.

A. Hart - This design has less impact on Strathmore than prior approval.

E. Farrell - Didn't have any impact on Strathmore previously and will have less now. His concerns are not timely but will fully co-operate. Doesn't think its appropriate to delay action for this as it has been previously approved.

Member of public asked about building beside retention ponds.

A. Hart would suggest he discuss details with E. Farrell later.

Kathy Connolly – Very concerned about location of access road. Will create a huge safety issue. Would have liked larger lots for high end houses which would help to increase tax base.

A. Hart - Noted no changes to roading or curb cut and reduction of lots. Closed public hearing.

#### VI. **Other Business**

K. Lerner detailed liquor license situation with Bed and Breakfast. Asked board for feedback.

#### VII. **Adjournment**

Adjourned at 6.30pm.

Deliberation held immediately.

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A. Hart - Chair, Development Review Board

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Date

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Nic Anderson, Zoning Clerk