

Department of Planning and Zoning

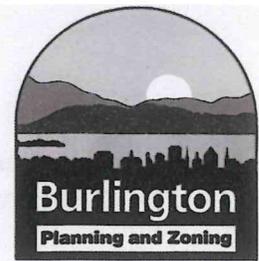
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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner *Monie*
Date: November 19, 2013
RE: ZP 12-0393CA 83-85 Harrison Avenue

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.

File: ZP 12-0393CA

Location: 83-85 Harrison Avenue

Zone: RL-W **Ward:** 5

Date application accepted: October 29, 2013

Applicant/ Owner: Rene Kirby, Jon Kirby

Request: One year time-extension to complete two story addition at rear of building.

Applicable Regulations:

Article 3 (Applications, Permits and Project Review)

Background:

- **Zoning Permit 12-0393CA;** two story rear addition on existing duplex. Approved November 17, 2011.
- **Zoning Permit 12-0153CA;** Rebuild front porches, reside three side of house with fiber cement board, replace five windows with new wood double hung units. Supersedes permit 08-877CA. Approved August 15, 2011.
- **Zoning Permit 08-887CA;** rebuild front porches, reside three sides of house with fiber cement board, replace five windows with new wood double hung units. Approved July 2008.
- **Zoning Permit 08-586CA;** Install replacement windows, aluminum clad wooden units of same style. No change in number or size of windows. Approved April 2008.
- **Zoning Permit 07-793FC,** 4' chain link fence. Approved June 2007.



- Request to erect a greenhouse 10' x 36' to be used for commercial purposes. Approved by the Zoning Board of Adjustment December, 1964.

Overview: The applicant was approved for the construction of a two story rear addition to the existing duplex in November 2011. The permit is about to expire; the applicant requests a one-year time extension to complete the remaining work.

Recommendation: Consent approval for a one year time extension, as per and subject to the following findings:

I. Findings

Article 3: Applications, Permits and Project Reviews

Section 3.2.9 (d) Time Limit on Zoning Permits

A zoning permit shall become invalid unless the work or action authorized commences within one (1) year after the date of final decision. All work or action authorized there under shall be completed, and a Final Zoning Certificate of Occupancy received, within two (2) years of the date of decision unless a written extension of time not to exceed one (1) year is granted in advance by the administrative officer. Extensions of time for a zoning permit issued in connection with a conditional use or variance shall require approval by the DRB after a public hearing.



The project has been underway although not anticipated to be complete by the two-year mark. The applicant has requested in writing an extension not to exceed one year. The request was received prior to the two-year time limit on the zoning permit.

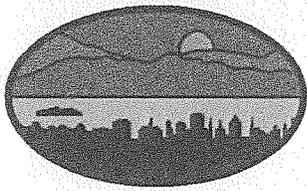
The time extension cannot be granted by the Zoning Administrator as this was a Level II Zoning Permit request which required approval by the DRB. Hence, the DRB is the appropriate body to extend the permit expiration date. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. This time extension is for one year; all work considered within this permit application shall be complete by November 17, 2014.
2. All other conditions of ZP 12-0393CA, unless herein altered, shall remain in effect.

3. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.



**ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 9/23/2011

Appeal Expiration Date: 12/15/2011

Project Location: 83-85 HARRISON AVENUE

District: RL-W

Owner: Jon T. Kirby
Address: 85 Harrison Avenue
Burlington, VT 05401

Ward: 5

Tax ID: 057-1-029-000

Project Type: Residential - Addition/Expansion

Project Description: Construct two story addition with full basement at rear of building.

Construction Cost:	\$100,000	Lot Size (Sq Ft):	18,760
Net New Habitable Sq Ft:	1333.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	28.00	Existing # of Parking Spaces:	4
Proposed % Lot Coverage:	28.21	Proposed # of Parking Spaces:	4
Net New % Lot Coverage:	0.21	Required # of Parking Spaces:	4

Zoning Permit #: 12-0393CA

Decision By: Development Review Board

Level of Review: 2

Decision: Approved w/ Pre-Release Conditions
See Requirements for Permit Release

Decision Date: November 15, 2011

Project File #: 12-0393CA

Zoning Administrative Officer

An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division until 4 pm on December 15, 2011.

Fee Type	Amount	Paid in Full	Balance Due:	\$0.00
Application Fee:	\$310.00	Yes	Date Paid: _____	
Development Review Fee:	\$450.00	Yes	Check # _____	
Impact Fee:	Not Applicable			

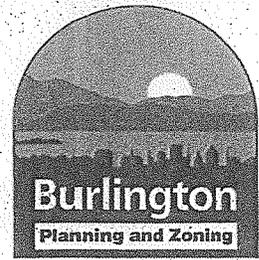
Building Permit Required: **Yes**

Permit Received by: _____

Date: _____

Burlington Development Review Board
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Austin Hart, Chair
Jim Drummond
Michael Long
Brad Rabinowitz
Kevin Stapleton
Jonathan Stevens
Bob Schwartz
Oscar Hernandez, (alternate)
Andrew Strauss, (alternate)



Burlington Development Review Board
Findings of Fact
Deliberative Hearing Tuesday, November 15, 2011

Board Members Present: Michael Long, Brad Rabinowitz, Jonathan Stevens, Andrew Strauss, Oscar Hernandez, Kevin Stapleton.

Staff members present: Ken Lerner, Scott Gustin, Mary O'Neil.

: ZP 12-0393CA

Location: 83-85 Harrison Avenue

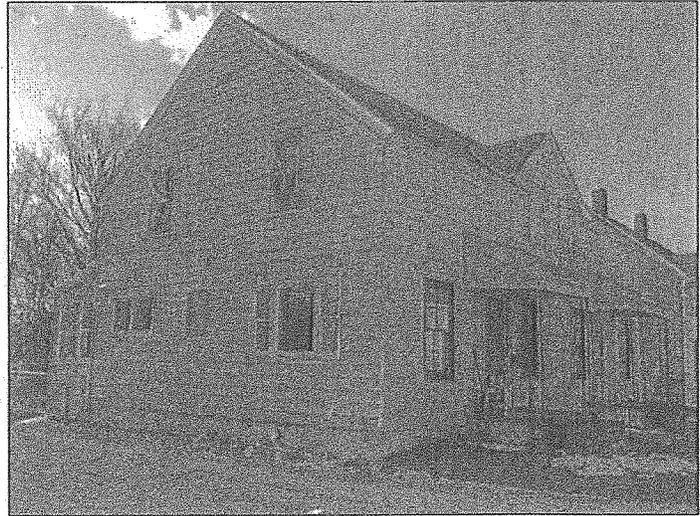
Zone: RL-W **Ward:** 5

Date application accepted: September 23, 2011

Revised Plans received: October 14, 2011.

Applicant/ Owner: Jon Kirby and Rene Kirby

Request: Two story rear addition on existing duplex.



Background:

- **Zoning Permit 12-0153CA;** Rebuild front porches, reside three side of house with fiber cement board, replace five windows with new wood double hung units. Supersedes permit 08-877CA. Approved August 15, 2011.
- **Zoning Permit 08-887CA;** rebuild front porches, reside three sides of house with fiber cement board, replace five windows with new wood double hung units. Approved July 2008.
- **Zoning Permit 08-586CA;** Install replacement windows, aluminum clad wooden units of same style. No change in number or size of windows. Approved April 2008.
- **Zoning Permit 07-793FC,** 4' chain link fence. Approved June 2007.
- **Request to erect a greenhouse 10' x 36' to be used for commercial purposes.** Approved by the Zoning Board of Adjustment December, 1964.

Overview: 83-85 Harrison Avenue was constructed 1899-1900 as company housing for the Queen City Cotton Company. The parcel is immediately abutting the Vermont Rail property (tracks to the east.) It is listed on the National Register of Historic Places within the **Lakeside Historic District**. The applicants propose a two story rear addition to the existing duplex.

The Design Advisory Board reviewed the application at their October 11, 2011 meeting, and voted unanimously to recommend approval with the following conditions and revisions:

1. Addition to be stepped back at least 1' on either side of the main structure.
2. Four additional windows shall be added to the south elevation.
3. Porch will be added to the south side; remove pavement at the rear.
4. Small project plan shall be provided for Stormwater Administrator review and approval.
5. Landscaping plan to be submitted.
6. Lighting info to be submitted.
7. Roofline as revised – hip style.
8. Meter boxes enclosed per drawing.*

*The applicant notes that he may be able to move the utility meters to the south elevation at the “setback” location of the addition. He would like the flexibility to do that, if the board agrees; (they do.) Provision included for allowance to move the meters to the rear if possible, rather than enclosing them at the existing location.

Revised plans were received October 14, 2011 reflecting these changes.

Motion by Jonathan Stevens:

I move the board approve the application and adopt the following findings and conditions:

I. Findings

Article 3: Applications, Permits, and Project Reviews

This is a Level II project (estimated construction cost is greater than \$23,000.) In some instances, Level II projects may be reviewed administratively. See below of the reasons this project does not meet the criteria for Administrative Action.

Sec. 3.2.7 Administrative Review and Approval

(a) Administrative Authority

9. *Additions to single family houses in a design control district located 200 feet or more from the lakeshore and that are 50% or less of the existing gross floor area of the principal structure.*

This is not a single family home, but a duplex. Administrative authority may not be considered per this standard.

10. *Simple renovations in design control districts such as door and window changes, re-siding, re-roofing, enclosing porches, adding a shed or garage, and additions no greater than 500 sq. feet in size that otherwise comply with all applicable dimensional standards of Article 4 and development review criteria of Article 6.*

The proposed addition measures 645 sq. feet, and is in excess of the 500 sq. feet limitation; therefore administrative authority cannot be exercised. DRB review is required.

Article 4: Maps and Districts

Table 4.4.5-3, Residential District Dimensional Standards

WRL zoning district	Max Lot Coverage 35%	Required Setbacks			Max Height 35'
		Front: Average of 2 adjacents	Side: 10% of lot width, not less than 5'	Rear: 25% of lot depth	
83-85 Harrison Avenue	30% existing 30% proposed	No change	8' west, 17' east	25% of 278.48 = 69'. Proposed addition is approximately 194' from rear property line, or > 25% of lot depth.	Same as existing.

Affirmative finding.

Article 5: Citywide General Regulations

Sec. 5.4.8 Historic Buildings and Sites

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

83-85 Harrison Avenue is listed on the National Register of Historic Places within the **Lakeside Historic District**.

(b) Standards and Guidelines:

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

The property was and continues to be residential.

- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The historic structure is not proposed to be altered, with the exception of the rear area where the new addition will connect. Traditionally, new rear additions are given greater latitude in review.

- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

No conjectural features or false history are proposed. These buildings within the district have accumulated various porches and additions over the last 100 years. The existing enclosed rear one-story porch is proposed to be removed and replaced with a two story addition.

- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

Although the rear porch has been in place for many years, it is not of such merit to require its retention.

- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

The siding, windows, and front porch are undergoing replacement at present. The most intact feature of the property is its location, massing, association and design configuration.

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

~~The application is not intended to repair or replace any existing feature, but is a new structural component.~~

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

Not applicable.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

None have been identified at this site; however this may be considered as a condition of approval.

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

The historic structure will remain intact, with only the area of attachment impacted by the proposal. The existing aluminum siding, however, is in the process of removal and replacement with 4" exposure fiber cement board. The new addition is proposed to be clad in fiber cement board as well. The windows are proposed to match the replacement windows installed on the original house. Revisions to the originally proposed addition have diminished its massing, minimizing the visual impact.

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

Although unlikely, the future removal of the proposed addition will leave the integrity of the historic building intact.

Affirmative finding.

Sec. 5.5.2 Outdoor lighting

The applicant has submitted spec sheets for recessed can and adjustable eyeball lighting to be installed in the rear porch area. For residential lighting, the proposed lighting fixtures are appropriate for the site.

Affirmative finding.

Sec. 5.5.3 Stormwater and Erosion Control

The applicant has submitted a Small Project Sediment and Erosion Control plan which was forwarded to the City Stormwater Administrator. Preliminary review as noted in an October 2, 2001 email has been favorable. Final approval of the plan shall be a condition of approval. **Affirmative finding as conditioned.**

Article 6: Development Review Standards

PART 2: SITE PLAN DESIGN STANDARDS

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

None evident.

(b) Topographical Alterations:

The site is flat and appears to be dirt. No changes to topography proposed.

Affirmative finding.

(c) Protection of Important Public Views:

There are no public views from this property.

Affirmative finding.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

83-85 Harrison Avenue is within the Lakeside Historic District. See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application prohibits or prevents the use of renewable energy resources. The applicants have agreed to the recommendations of the Design Advisory Board to add additional windows to the south elevation to maximize passive solar benefits. **Affirmative finding.**

(f) Brownfield Sites:

None identified.

(g) Provide for nature's events:

The applicant/owners have completed a Small Project Sediment and Erosion Control Form, and are seeking approval from the city Stormwater administrator as they are disturbing more than 400 sq. ft. of soil. **Affirmative finding as conditioned.**

The applicants have revised their plans to include a southerly (rear) entrance porch to provide shelter and comfort to the residents. **Affirmative finding.**

(h) Building Location and Orientation:

The proposal is for an addition to an existing structure. The roofline does not exceed that of the existing building, and will have a southerly exposure. **Affirmative finding.**

(i) Vehicular Access:

The submitted site plan illustrates existing vehicular access on both sides of the duplex, with a wider (18') driveway on eastern side. No additional curb cuts are proposed. **Affirmative finding.**

(j) Pedestrian Access:

The site plan shows existing pavement surrounding the rear of the building. The proposed rear porch will permit residents to exit the driveway area immediately to the shelter of the structure. The applicants have proposed removal of excess pavement currently existing on-site. **Affirmative finding.**

(k) Accessibility for the Handicapped:

This is not a requirement, but is always encouraged to allow unhindered access to the dwelling units. The applicant has expressed to the Design Advisory Board that he does not wish to include an access ramp to the new addition. **Affirmative finding.**

(l) Parking and Circulation:

Parking shall be laid out to provide ease in maneuvering of vehicles and so that vehicles do not have to back out onto city streets. Dimensions of spaces shall at a minimum meet the requirements as provided in Article 8. The perimeter of all parking areas shall be designed with anchored curb stops, landscaping, or other such physical barriers to prevent vehicles from encroaching into adjacent green spaces.

Parking areas greater than 720sf (4 parking spaces) shall include shade trees of a minimum caliper size of 2.5"-3" and canopies sufficient to shade a minimum of 30% of the cars and/or impervious surface to reduce the effect on the local microclimate.

The submitted existing site plan scaled illustrates an easterly driveway 18' in width and 84' in length; expanding to 28' in width behind the building. On the westerly side of the building, existing pavement 8' wide and 70' is noted. There is a 20' x 24' garage on site as well. The applicants have proposed reducing this substantial amount of pavement with construction of the addition, and removal of some blacktop. The existing parking spaces for the duplex are proposed to remain.

The applicants have noted that there are existing trees to the east that provide substantial shade for the easterly driveway. Although the trees are not on the subject property but on the railroad parcel, 83-85 Harrison Avenue benefits from the mature canopy which shades the wider of the two driveways. (The easterly driveway immediately abuts the property line, so there is no opportunity for the applicant to plant shade trees on that portion of the site.) There are other trees on the subject parcel, but do not contribute toward the shading requirement due to site location.

There are the required number of parking spaces (2 per unit) existing on-site.

Affirmative finding.

(m) Landscaping and Fences:

The submitted site plan notes cedars at the rear of the lot, with mature butternut, sumac, and other shade trees behind the structure. A dumpster is noted on the east property line, which will need to be relocated to meet the required 5' side yard setback, and screened from public visibility. This will be a condition of approval. **Affirmative finding as conditioned.**

(n) Public Plazas and Open Space:

There is no public plaza on the site.

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

See Sec. 5.5.2, above.

(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. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

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 4 Performance Standards.

There is a garage on site, presumably where trash and recycling are stored (although this has not been defined by the applicant.) The dumpster identified on the site plan will need to be relocated to meet the required 5' setback from property lines, and screened from public view. The location of the dumpster and method of screening shall be provided to staff prior to release of the zoning permit. The applicant also seeks to enclose meters within boxes; however has requested that if possible they would like to relocate the meters to the setback area where the addition meets the existing structure, on the east side. The DAB has supported this suggestion. **Affirmative finding as conditioned.**

PART 3: ARCHITECTURAL DESIGN STANDARDS

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity.

The following shall be considered:

1. Massing, Height and Scale:

Greater flexibility has always been afforded for rear additions. This proposed 42' x 20' addition has been proposed for the back of the existing structure, where there is limited visibility from the street. The reconfigured roofline (now hipped) does not exceed that of the existing building. **Affirmative finding.**

2. Roofs and Rooflines.

The roof, originally proposed to be a gable roof, and has been revised to be a hip roof with an attached open southerly porch. The reconfigured roofline will minimize the likely rain and shed snow directly onto the adjacent driveways (and vehicles.) As the addition is proposed for the rear, there is little impact or visibility from the street. **Affirmative finding.**

3. Building Openings

Two exterior doors are proposed on the south elevation to service the separate dwelling units. Windows are arranged symmetrically, and will provide significant sunlight and passive solar exposure for energy resource gain. East and west elevations illustrate fenestration placement respectfully of the existing pattern. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

See Section 5.4.8 above.

(c) Protection of Important Public Views:

There are no public views from this site.

(d) Provide an active and inviting street edge:

The proposed addition is at the rear, and not easily viewed from the public ROW. **Affirmative finding.**

(e) Quality of materials:

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

The applicant/owners have not submitted any information from an architectural historian; however fiber cement board has previously been permitted as a replacement material on the original structure. (See Zoning Permit 12-0513CA) and has been approved for rehabilitation as a replacement for earlier substitute siding. **Affirmative finding.**

(f) Reduce energy utilization:

New structures should incorporate the best available technologies and materials in order to maximize energy efficient design. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practicable, in order to provide opportunities for the use of active and passive solar utilization.

Installation of windows broadly across the south façade will maximize potential solar gain and minimize the need for additional energy use for both lighting and heating the addition. All construction will be required to meet energy efficiency standards as defined by Burlington Electric Department. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is proposed.

(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.

See Sec. 6.2.2. (p) above.

(i) Make spaces secure and safe:

All development shall be required to meet building and life safety code as defined by the building inspector and the fire marshal.

Article 8: Parking

83-85 Harrison Avenue is within the Neighborhood parking district: 2 parking spaces are required per dwelling unit. As is customary with these duplex structures in Lakeside, there are dual driveways to serve

both units. At present, there is adequate on-site parking to meet the parking requirement for the two existing dwelling units. No other residential units are proposed, or assumed to be included within this review. **Affirmative finding.**

II. Conditions of Approval:

1. The dumpster shall be relocated to meet the required minimum 5' side yard setback, and screened from public view. **Prior to release of the zoning permit**, the location and method of screening will be submitted to staff for review and approval. [Applicant notifies staff that dumpster will be removed after construction. Roll-off totes will be used, and stored in the existing garage.]
2. **Prior to release of the zoning permit**, the Small Project Plan shall be approved by the City Stormwater Administrator. [Approval received by Planning staff 11/16/2011 via email.]
3. All development shall be required to meet building and life safety code and energy efficiency requirements as defined by the building inspector, the fire marshal, and Burlington Electric.
4. Standard Permit Conditions 1-18.

Second: Brad Rabinowitz

Vote: 6-0

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:

(a) Notice of Appeal: The appeal shall be taken in such a manner as the supreme court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Received by:

Sign Jon Kirby

on 17 November 2011

Findings of Fact Print Name Jon Kirby