

Burlington Development Review Board

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Austin Hart
Michael Long
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Brad Rabinowitz
Bob Schwartz
Jim Drummond
Missa Aloisi
Alexandra Zipparo (Alt.)
Israel Smith (Alt.)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, November 5, 2013 - 5:00 p.m., Conference Room 12, City Hall, 149 Church Street, Burlington, VT MINUTES

Present: Jonathan Stevens (Vice Chair), Michael Long, Bob Schwartz, Jim Drummond (late 5.23), Alexandra Zipparo (Alt.), Brad Rabinowitz, Missa Aloisi, Israel Smith (alt.)

Staff: Ken Lerner, Mary O'Neil, Nic Anderson, Scott Gustin

Absent: Austin Hart (Chair)

I. **Agenda**

Request by a member of public to comment on one item first. Assured would be just the one person commenting and would not open the whole item. Board approved.

II. **Communications**

Six communications for 121 North Willard St. Accepted by the board.

III. **Minutes**

One set of minutes from October 15, 2013.

IV. **Consent**

1. **14-0375CA/CU: 188 N. PROSPECT ST (RL/NAC-R, Ward 1) Ohavi Zedek Synagogue**
Construct new addition to existing synagogue building. New parking lot in rear. (Project Manager: Scott Gustin)

Applicant Peter Pelaia present. Received staff comments and has no concerns. No public present to speak. No board questions.

Motion by B. Schwartz to approve and adopt staff findings

Seconded by B. Rabinowitz

Vote: 7-0-0

Motion Carried

2. **14-0383CA/CU: 203 SOUTH WILLARD STREET (I, Ward 6) Champlain College Inc.**
Construct addition at rear of Whiting Hall for stair tower and elevator. Reconstruct existing common area at rear of building. Total number of residential rooms to decrease from 44 to 41 beds. (Project Manager: Scott Gustin)

Applicant J. Caulo present. No public present to speak on application. No board questions. No concerns regarding staff comments.

Motion by B. Rabinowitz to approve and adopt staff findings

Seconded by M. Long

Vote: 7-0-0

Motion Carried

3. **14-0427CA: 194 SAINT PAUL STREET (DT, Ward 6) Champlain College Inc.**
Demolish existing Eagles Club building, site excavation and improvements. Also see 1 Browns Court. (Project Manager: Scott Gustin), **AND**
14-0428CA: 1 BROWNS COURT (DT, Ward 6) City Of Burlington

Site excavation and improvements in association with demolition of Eagles Club building at 194 Saint Paul St. (Project Manager: Scott Gustin)

John Caulo present. Public present to speak. J. Stevens will open as public hearing. Public and applicant sworn in.

J. Caulo gave summary of application. Splitting up project into two projects. This application is for demolition only.

K. Lerner noted condition that notes it is for demolition only.

J. Gault. Facility director at Flynn. Concerned about losing parking at Browns Court.

Susan Hurd. Owns house closest to demolition at 10-12 Browns Court. Concerned about tenants and impact. Would like to know hours of operation, dust, noise. Concerned about losing resident only parking on street.

Katherine Keinath. Owns property on corner of Browns Court. Shocked there will be a high rise blocking view of lake. Concerned about losing tenants. Concerned about noise and impacts of construction. Parking if lost would be a detriment to them.

M. Long asked where parking is located.

C. Kynath. No public input on loss of City lot as of tonight.

Daniel Trahan - Has legal ROW through Eagles Club parking lot to access property at 205-209 Church St. Concerned about management of his tenants ingress and egress while demolition is happening. Since being purchased the parking lot has been unmanaged. Cars have been dismantled on the site. There are campfires and sleeping on site. Contacted Champlain College and spoke with Public Safety and have been told it is being monitored.

M. Long asked about which portion of site.

D. Trahan – Submitted pictures of vehicles. Taken August 8th and today.

B. Rabinowitz noted site plan shows access drive being maintained.

D. Trahan – Still concerned about management. When building is demolished, how will it be continually monitored and cleaned up.

Timothy Grannis – Co-Owns 10-12 Browns Ct. Concerned about excavation depth and if project doesn't happen what would be done to mitigate Browns court falling into hole and integrity remained.

Brian Pine – Community and Economic Development Office. Gave context of why City has supported this project and the sale. Apartment style housing is preferred by Colleges currently. Administration feels that commitment to house students is preferred and is supported.

M. Long asked about containment of spread of campus.

B. Pine - detailed the changes the college has undergone. Sensible solution to help relieve the use of extra properties by students. Champlain College are required to ask City Council prior to any purchasing of properties outside of the campus.

B. Rabinowitz asked about parking.

B. Pine – Agreement to buy land required that public parking be retained.

Susan Hurd – Asked if Champlain is going to make it mandatory to live in student housing.

J. Stevens asked about resident only parking. Are plans to alter the status?

J. Caulo – No. Doesn't know if it's resident only parking. Application doesn't contemplate any use of Browns Court. Responsibility of construction manager to mitigate dust and will use those strategies. ROW for D. Trahan will continue to be honored.

Construction fencing will be around site. Sheet piling will hold back land. Stone will be laid for access and to reduce dust.

J. Stevens asked about current security.

J. Caulo – Vacant building leads to antisocial behavior. Has taken down large hedge to expose property. Security attends on a nightly basis. Have contacted Police Department on a number of occasions. Will follow up with Public Security.

J. Stevens asked about depth of excavation and stabilization.

J. Caulo – Plan shows topography. Will have approximately 15ft cut that will have sheet piling which will protect public streets from excavation. Will be professional excavation team.

J. Stevens asked how long before a building will be built.

J. Caulo – Will submit application for buildings by the end of the year. Campus housing memorandum of understanding with City in 1994 was very regulatory. Since then the City has adopted an ordinance that addresses conditions. In 2007 the College adopted its own master plan with all stakeholders. Discussed on and off campus housing, academic buildings, parking etc. All the goals and objectives of the master plan are shown here. It discussed requiring 600 beds off campus. Purpose of plan was to relieve pressure on neighborhoods. Location of Eagles Club works well.

B. Schwartz asked about timeline of demolition.

J. Caulo – Demolition of building would be 3 weeks. Piling and excavation would be 6-8 week project.

B. Rabinowitz – Unusual to have demolition without a plan for a new building. Should it not proceed, would like to see better plan for what would be done to manage site.

M. Long – Asked about purchase of properties on Browns Ct.

J. Caulo – Contacted owners to inform and ask if they would like to sell. Have bought one.

J. Stevens closed Public Hearing and allowed public to submit written comment.

J. Caulo – Would use typical construction timeframes. Champlain College has made in the master plan a commitment to house up to 90%. There are others that may live at home etc. Will not mandate.

Closed at 5.40pm

V. Public Hearing

1. **14-0044CA: 500 SOUTH PROSPECT STREET (I/RL, Ward 6) Owner: UVM, Applicant: Redstone, Appellants: Pike Porter & Ashley Adams**

Re-opened hearing for appeal of administrative permit approval to relocate existing fence along southern boundary with associated landscape changes. (Project Manager: Scott Gustin)

Appellants P. Porter and A. Adams present. Members of public present to speak. All public sworn in.

J. Stevens noted B. Schwartz and himself undertook a site visit.

P. Porter – Today UVM has planted trees to comply with Order. Fence doesn't need to be moved. Read portion of S. Gustin's staff comments. Read comments from written testimony (submitted to Board tonight).

B. Rabinowitz asked if he would like fence to stay where it is and comments regarding conditions.

Bernard St Ray - P. Porter is son in law. Has personally witnessed the trash on the other side of the fence. Noise is amazingly loud. This activity crowds out residents. Moving the fence moves the problem close to the home.

Ashley Adams - Pike Porters wife and property owner. Read statement that is to be submitted to board.

Mother of A. Adams - Known property since mid 60's. Used to be quiet. Now very different. Continued to read Ashley Adams statement. Simply want fence to remain and for a substantial hedge to be installed. Can't see reason it cannot be done here.

S. Gustin commented on the statement noted in the written testimony. Noted quote was false and outlined comments that were made previously.

Applicants Attorney John Collins and Applicant Larry Williams present.

J. Collins – Noted that there have been many settlement options which have not been approved. A lot of resistance. Noted decision did not require plantings, but to maintain. Problems with insurance/indemnity. Moving fence will eliminate possible problems with tenants or owners being on their land. Will allow some plantings that were done by appellants. Order does not state where fence is required. Can provide paperwork that shows that there was no specific location of the fence. Have Chief Toomey present that can comment on safety. Nothing in the Ordinance that doesn't allow this fence. Noted decision that notes it is 'reasonable' to move fence. Submitted comments from Krebs and Lansing regarding stormwater. Berm installed last year to also help alleviate concerns. Not a spite fence. Thinks there will be less trash. If fence further from parking lot, it will reduce likelihood of trash being thrown over fence. Never been removal of trees from university.

L. Williams – Moving fence allows for ability to plant more trees and allow more substantial growth. Can do this without taking out existing trees.

J. Stevens noted on site that trees were scraggly. Asked about trees on north side of fence receiving less light and 1992 materials noted sand/no salt policy.

L. Williams – Required to use sand, not salt unless there is an unusual condition. Noted year that plantings were done, there was excess flooding on trees from South Prospect Street. Trees received too much water in that first season. Straggly trees will grow up to be substantial.

J. Stevens asked about trash accumulation and possibility of accepting a condition of approval for patrolling and collecting accumulated trash.

L. Williams – Haven't done a good job of keeping that property line clean but are comfortable with being required to patrol more.

J. Stevens asked if willing to patrol that portion of their land (within the 2ft between fence and boundary).

L. Williams – Yes. Noted history regarding shielding. Also noted efforts to be good neighbors.

J. Collins – Have adjusted maintenance schedules to ensure not done on weekends such as lawn mowing. Noise from development is not part of this issue. Fence will help protect the University.

B. Schwartz asked about length of fencing and types.

L. Williams - noted materials. Moving just the stockade fence. Reusing that fence.

M. Long asked if originally installed where the property line was assumed. Is liability an issue?

J. Collins – Yes, absolutely.

J. Stevens asked S. Gustin about setback requirement.

L. Williams – Proposed 2ft so that it can be maintained.

A. Zipparo asked about management proposal.

L. Williams – Detailed ground lease and buildings. Leases stipulate codes of conduct. Has onsite manager during the day. No-one is on site at night.

A. Zipparo asked about allegation of parking lot being enlarged.

J. Collins – Built out spots on day one but did not pave them until later.

A. Zipparo asked if chain link fence would be repaired.

J. Collins – Yes. When they know about problems, they get fixed.

J. Stevens asked about ownership and L. Williams role.

B. Schwartz asked if University would consider a higher and more decorative fence?

J. Collins – Could but would be concerned about negotiations. Would be reluctant to go down that road.

J. Stevens asked arborist about planting trees on North Side of fence.

Arborist - Several locations on Campus where plantings on North are doing fine. The distance from pavement, heat, compaction from plows is more of a problem. Will still get light. Can tolerate shade.

J. Stevens closed public hearing. Gave opportunity to submit further written testimony by Friday.

2. 14-0414AP: 85 CRESCENT ROAD (RL, Ward 6) Frederick Tiballi

Appeal of Code Enforcement determination. (Project Manager: Jeanne Francis)

F. Tiballi noted City has burden of proof. Public and appellants sworn in.

J. Francis – Code Enforcement. Noted history of complaint and action. Noted location of complaint. At 62 Crescent Terrace.

J. Stevens asked how boundary lines were determined.

J. Francis – Not a surveyor. Measured from edge of building foundation back to retaining wall.

J. Stevens asked if they measured the front property line.

J. Francis – Assumed foundation is in correct place. Noted nothing happening on 85 Crescent Terrace.

B. Rabinowitz asked about location of retaining wall.

J. Drummond easy to measure wall of house.

J. Stevens asked if conversation was had with appellant.

J. Francis – No. Spoke with contractor. Noted photo taken last week which will be submitted. Basic review. Noted no violation. Construction coincides with site plan approved on 62 Crescent Terrace. No retaining wall on 85 Crescent Rd.

F. Tiballi – Appellant. Filed original complaint. Asked if Staff Report is considered evidence. Noted attachments to staff comments. Noted Code Enforcement office attached photographs to reports.

J. Stevens asked why Code Enforcements decision was not correct.

F. Tiballi – The wall is on 85 Crescent Terrace. If on 62 it would be over coverage. City's exhibits show location of concrete wall for new construction. Distributed photographs that are copies of the City's photographs.

J. Drummond asked for location of photographs.

F. Tiballi – Retaining wall on site plan is not built currently. There is another one.

M. Long asked where wall that is complained about shows up on site plan.

F. Tiballi – The wall is not shown on the plan. Is about 3ft from the property boundary on 85 Crescent Rd's side. Photographs show retaining wall. Wall is 15ft to the east from the concrete foundation. All of retaining wall is on 85 Crescent Rd.

J. Stevens asked if what exists is inconsistent with drawing.

F. Tiballi – Absolutely. Showed photograph 8 of 9 and noted concrete marker and wall location. Submitted photograph showing small concrete bump on wall extends to property line. Property line show in photographs is not silt fence or yellow tape and is shown on photo 7 of 9. Rock wall is east of line.

J. Stevens doesn't see how this is a zoning violation.

F. Tiballi – Any structure requires a zoning permit and building permit. If wall is more than 18inches it is also lot coverage. No zoning permit on 85 Crescent Rd. That is the zoning violation. City assumed it was ok and it has never been measured. Asking to direct Code to stipulate the boundary or measure.

S. Musty – Owner of property. Project not finished. When done, there will be no changes on 85. Will be no change to 85 Crescent Rd. No visible surface. Not finished yet. Any work on 85 will be minimal.

B. Rabinowitz asked if there could be an as-built plan submitted by GVV at the end of the project.

S. Musty – Of course. Will have multiple inspections at the end. Following the letter of the law.

J. Drummond asked if wall is on 62 Crescent Terrace.

S. Musty – Will be on 62 and back of wall will go onto 85 temporarily. Will not have any visual part of wall on surface. No surface changes on 85.

A. Rose – Property abuts 62 Crescent Terrace. Confirmed that along line, wall is on 85 Crescent Rd. This appeal is not about 62 Crescent Terrace. Retaining walls on 62 have not been built yet. Wall that is built is a major structure. Looking along line to north, the wall hooks to the left onto 85 Crescent Rd. City's response was that the wall was on 62 not 85 because a contractor showed them a caution tape which is not a property line.

J. Francis – Assumed silt fence and yellow marker was property line but location of retaining wall was based on measuring from foundation and this wall is in the right location based on site plan. General contractor's assumption was that it was the line was the silt fence. Not a surveyor.

F. Tiballi – Measurement from Code Enforcement was for wall that was not in question. There is another rock wall that goes east to the property line from foundation. Major wall is on 85. Wall complained about was wall on 85.

J. Stevens closed Public Hearing 7.06pm

F. Tiballi submitted summary of testimony after Public Hearing closed.

VI. Certificate of Appropriateness

1. 14-0405CA: 121 NORTH WILLARD ST (RM, Ward 2) Joshua C. Tyrowicz-Cohen

Convert second floor of existing carriage house to one bedroom residential unit. Parking waiver request for one space. (Project Manager: Mary O'Neil)

Candice Page – Lives at 20 Henry Street. Asked to not approve parking waiver. Neighborhood besieged by parking problems with chronic illegal parking. Waiver would exacerbate the problem and make the neighborhood unlivable

Applicant J. Tyrowicz-Cohen present. Public present to speak. Sworn in.

J. Drummond asked about previous application.

M. O'Neil noted new application includes a parking waiver.

J. Tyrowicz-Cohen – Not asking for a variance, asking for a waiver. Noted building will only be 1 bedroom. Plenty of parking on street available. Asking for one space parking waiver. Detailed application.

B. Rabinowitz asked M. O'Neil about parking numbers.

M. O'Neil – Two existing, one proposed. One waived.

M. Long asked where two existing spaces are?

J. Tyrowicz-Cohen – In garage.

M. O'Neil – Acknowledged error in staff comments.

J. Drummond asked about location of third space.

J. Tyrowicz-Cohen – Application allows independent movement of all three vehicles. Would require reversing which is pre-existing condition.

J. Stevens asked if planning on limiting to single person occupancy.

J. Tyrowicz-Cohen – No but would require lease to only have one car.

M. Long asked about existing cars for single family house.

J. Tyrowicz-Cohen – Reality right now is that one parks in driveway and two park in street.

M. Long questioned entry to right side of garage and making corner to third space. Concerned about it being a sharp turn.

J. Tyrowicz-Cohen not a sharp turn. Adequate room to maneuver.

M. Long asked staff about side setback for parking.

M. O'Neil setback is averaged from the neighboring properties and thus the setback is 0. Recently passed amendment.

M. Long questioned lot coverage. Driveway is a parking space. Thinks it is lot coverage. Doesn't see how the numbers work.

J. Tyrowicz-Cohen proposing to not park in driveway. Existing does not matter as it is being proposed. Driveway is not a parking space.

M. Aloisi – Currently driveway is paved.

J. Drummond asked about width of grass space between tire tracks.

M. O'Neil noted previous reviews required parking areas to be all coverage but not if a driveway. Ordinance has minimum widths of the strips but not the strip in between.

Meredith King – Lives at 20 Booth. Spoke about neighborhood makeup and community. Detailed history of purchasing house and involvement in community.

J. Stevens asked about comment on the parking waiver.

M. King – Does not support parking waiver. It is a myth that there is parking on a street. Lots of problems already with parking from existing properties. Have problems with flooding. People are not walking and biking, they still have and use their cars. Unit on N. Willard which has 10 units and 1 parking space. Granting parking waivers doesn't make sense. Tipping point of the neighborhood. Doesn't want to live in house with apartment overlooking her house. Families being forced out by students. Need balance. Booth street could become all college students also. Fine with accessory apartment and owner occupancy.

Kevin Worden – Neighbor and City Councilor. Comments from last meeting still relevant. Commented on density concerns. Density table indicates RM is 20 units per acre maximum. To have two units, it is not big enough by 711 sq ft. If big enough would have more buffer. Doesn't see in ordinance where you can round up. Can have accessory unit on this property. Would be supported. Would allow higher density without the cost. Side setback encroachments refers to primary structures to extend to setback.

Commented on driveway encroachments for single family homes but otherwise have 5 ft minimums. Should not be allowed to be in 5ft minimum. Section 4.4.5d1a. Key point is zoning amendment applies to principal structures, not parking.

J. Stevens so wouldn't apply.

M. O'Neil responded. Density is allowed to be rounded up in Sec 5.2.7(a). 2 is allowed based on 1.67 being rounded up. Two single family residences are proposed so would allow consideration for exemption for driveways and parking.

A. Zipparo asked who KW represents.

K. Worden – Ward 1 councilor but lives around corner.

B. Rabinowitz – Never enough parking.

K. Worden – Not opposed to waivers but would require more management.

A. Zipparo asked about comment about affordability.

Julia Boynton – Lives at 76?? Booth St. Small backyards. No parking on Booth St. Concerned about neighborhood becoming more like School Street with all backyards being parking lots. Will make big impact on neighborhood.

J. Tyrowicz-Cohen – Response. Doing what they can with what they have to work with. Noted parking management plan could have parking space off site. Public transport available. Haven't had a problem parking on street. Currently dilapidated barn that

would be much more attractive if residential unit. Is an investment property. Incentive is to have unit in barn.

J. Stevens closed public hearing 7.43pm.

VII. Other Business

1. 2014 Meeting Schedule - for review at deliberative session

VIII. Adjournment

Adjourned at 7.43pm.

Deliberative held immediately.

A. Hart - Chair, Development Review Board

Date

Nic Anderson, Zoning Clerk