

Burlington Development Review Board

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Jim Drummond
Missa Aloisi
Alexandra Zipparo (Alt.)
Israel Smith (Alt.)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, November 19, 2013 - 5:00 p.m., Conference Room 12, City Hall, 149 Church Street, Burlington, VT MINUTES

Present: Austin Hart (Chair), Jonathan Stevens (Vice Chair), Brad Rabinowitz, Bob Schwartz, Jim Drummond, Alexandra Zipparo (Alt.)

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

Absent: Michael Long, Missa Aloisi, Israel Smith (Alt.)

I. **Agenda**

Using amended agenda which includes 97 Dunder Rd.

II. **Communications**

Five communications. Accepted by board.

III. **Minutes**

One set of minutes from November 5, 2013.

IV. **Consent**

1. **14-0492MP: 1-7 CHURCH STREET (D, Ward 3) One Church Street Partnership, LLC**
Master sign plan for whole building. (Project Manager: Scott Gustin)

Applicant Jeff Nick present.

J. Stevens has questions. Doesn't think it needs to be opened as a Public Hearing.

J. Nick has received comments and does not have any concerns.

J. Stevens asked S. Gustin about submissions in packet.

S. Gustin – Submissions showing signs were for typical looks only. Any sign requires a separate permit.

J. Stevens asked if Church Street Marketplace has given approval.

J. Nick – Can provide the Marketplace approval. Was approved about a year ago.

B. Schwartz motion to approve and adopt staff findings.

B. Rabinowitz seconded.

Vote: 6-0-0

Motion Carried.

2. **12-0393CA: 83-85 HARRISON AVENUE (RL-W, Ward 5) Jon & Rene Kirby**
Time extension request to construct two story addition with full basement at rear of building. (Project Manager: Mary O'Neil)

Applicant Jon Kirby present. No members of public to speak. Board members ok with treating as consent item.

J. Stevens motion to approve and adopt staff findings.

B. Schwartz seconded.

Vote: 6-0-0

Motion Carried.

V. **Public Hearing**

1. **14-0005CA/HO: 110 HYDE ST (RM, Ward 2) Estate of James Byrd/Andrew Rianhard**

Conditional use home occupation for auto detailing within garage. Associated site and garage improvements. (Project Manager: Scott Gustin)

Applicant A. Rianhard present. Applicant and member of public sworn in.

A. Rianhard commented on condition 3. Noted some vehicles may take up to 5 days to work on so would like to be there longer than the condition. Will be upholstery work only. No detailing. Condition about trim on garage. Asked if allowed to keep vinyl on garage to match house.

A. Hart asked S. Gustin if staff would have a comment on vinyl siding.

S. Gustin has discussed with applicant. Historically significant garage which is listed on State Register so would not accept vinyl.

A. Hart asked when.

S. Gustin - Should be removed regardless. If denied, it would be followed up with Code Enforcement.

B. Rabinowitz asked about siding on house.

A. Hart asked about parking off site. Do they have capacity and is there an agreement. Typically look for long term lease.

S. Gustin – Have a lease example that they could use. Looks like spaces may be available.

A. Rianhard – Have discussed with owner and he is ok with a lease. Have a document signed by both parties that can be submitted. If there is more than one car and the off site space is not available he would cancel the next appointment.

S. Gustin – Copy of that lease agreement is in packet.

Mary Ann Scruggs lives next door at 116 Hyde St. Concern is amount of traffic coming to and from site. Concerned about safety.

A. Hart noted that could only be approved with one car on site at one time. Asked if that condition would be any comfort?

M. Scruggs – Concerned about enforcement of that one car requirement.

A. Hart – Would be up to Code Enforcement or neighbors.

A. Rianhard – Asked if a car could be parked in the driveway for tenants.

S. Gustin – Limitation is coverage. Strips are OK but if parked on, the whole space is counted towards coverage. Cannot do any permit for the lot coverage being over.

Cannot approve any car parking in front of the garage. Only access strips to the garage bays.

A. Rianhard asked about minimum strip width. Asked if he could recalculate strips and come up with a spot.

S. Gustin doesn't see how it could work. Cannot use in front of garage for a parking spot. Public Hearing closed 5.23pm.

2. 14-0407HO: 292 SOUTH PROSPECT STREET (RL, Ward 6) Adam Buchwald

Modification to approved home occupation to use all of garage and have customers visit the property. (Project Manager: Ken Lerner)

Applicant Adam Buchwald present. Applicant and member of public sworn in.

A. Buchwald – Have a letter of support from neighbor to submit. Read statement about application.

J. Stevens and B. Rabinowitz asked for clarification of application.

A. Buchwald – Continued to read statement. Have letter to submit from previous employee about B. Hedrick's character.

B. Hedrick's attorney Mark Sperry objected to letter being read.

A. Hart – Asked for continuation of reading of statement, not letter.

A. Buchwald – Continued statement.

A. Hart – Asked about previous off site space. Asked if there is any other change other than customers coming to the site.

J. Stevens – Asked about customers coming to the site.

A. Buchwald – Doesn't have people coming by all day. By appointment only. Cars seen are typically friends and family.

J. Stevens noted location of street number on house could help customers coming to site. May be better to be more prominent.

Mark Sperry – Representing B. Hedrick. Letter submitted previously. Issue of noise. Went through K. Lerner staff report. Disagreed with comments. Noise is issue so finding that there will be no impact is incorrect. Noted provision of zoning that home occupation cannot create any noise. Asked if approved that hours be limited for customers to come to the site. Previous findings said no customers. Findings are incorporated into the conditions. Finding re: noise not possible to be mitigated. If approved, noise should be limited. Exterior evidence would be noise. If approved would like hours limited. Parking cannot be stacked for the customer. Asked for condition that his cars get stacked and customers don't so that there isn't a constant moving of cars.

B. Hedrick – Showed photograph that board have in packet. Took photograph to Russell Supply and was quoted that the machines are at least 220V. If the applicant can prove Voltage it would be good. Table saw is loud. Cannot sit in sunroom because of noise from mechanical equipment. Shop is 35ft from house.

A. Hart asked how frequent.

B. Hedrick - 4 days out of 5. Some days its 8 hours per day. Made complaint to Code Enforcement. Ken Lerner contacted permit holder and informed that noise and customers aren't allowed. Took 4 months to apply. In September the warning of a notice of violation was what made him apply for a modification. Application and testimony was that you would not notice it. You can. Increase in size of garage use means that there can be more tools. Using whole garage means its closer to her. It is a commercial wood working shop.

J. Stevens asked about compressor.

B. Hedrick – Uses compressor outside to clean items daily. Very loud.

B. Schwartz asked K. Lerner about noise. Does that mean NO noise?

K. Lerner – Standard used is normal residential use not commercial equipment. No decibel limits in ordinance.

B. Hedrick – Detailed what is shown in photographs. Customers come with guitars. Have more than one at a time. Very visible compared to just guests. Using full garage since at least December 2012. Within three months of getting permit using all of garage. A lot of wood and noise.

Lauren Shannard. Neighbor on Henderson Terrace. On any day of the week there is noise. Feels that this may not be the right situation for a wood working shop.

A. Hart asked how far away she is. Does she hear the power tools?

L Shannard – No. Have walked by and heard noise but didn't think anything of it.

David Jenkins. Lives diagonally down the street. Asked applicant why he needed more space? Why closed shop on waterfront? Asked if applicant sells new instruments? Asked how he would control appointments? Asked when he knew customers would come and when they started? Other side of Henderson Terrace. Protected from noise because of distance and relation to house. Concerned about the nature.

J. Stevens asked if observed customers.

D. Jenkins – Have not seen.

Tim Stickle – Lives at 15 Robinson Pkwy. Adjacent to both properties. Next closest neighbor to garage or shop. Not aware of any noise from the shop. Never noticed it particularly.

J. Stevens asked for location.

T. Stickle about 70ft or so.

J. Drummond – Asked if at home during the day.

T. Stickle – UVM Professor who works at home occasionally and during reading and writing has not had any problems of noise. Is close and doesn't hear any noise more than consider to be normal neighborhood noise.

D. Birchard – Here to speak on B. Hedrick's character. Won't speak if comments on character are not being heard.

Ben Rinchart. Lives at 393 S. Prospect St. Knows socially and neighbor. Have been to site to visit shop and has always had to text applicant to find out if he's home. Couldn't tell if there is noise. Operation small. Gets photos every 3-4 weeks of guitars. Doesn't have capacity to do a lot. Very social couple so have a lot of guests. Doesn't see that there is any high volume of customers. Very small craftsman shop, not a large scale woodworking shop.

Barbara Parker – Concerned about home occupation. Conditions been broken. Already had customers, already making noise, already using garage.

A. Hart asked if she has heard noise.

B. Parker – heard on Sunday but does not hear often or periodically.

A. Hart asked for answer to questions.

A. Buchwald – Doesn't need additional space but is just using all of it that are movable while car is not in the shed.

J. Stevens – Asked if all of garage was being used for business.

A. Buchwald – Yes. Selling instruments. Custom orders of hand built. 95% get shipped out of state. Also does repairs.

J. Stevens asked how many customers.

A. Buchwald – 2-20. Every month is different. At the moment has 3. Very high end repair work which can take a lot of time. Air compressor is in basement. When plumbing was done there was pipe put in for the compressor to the garage. Spray sawdust off areas and clothing. Table saw is 110V not any more. Everything is 110V. Even if 220V it wouldn't be bad. Have filter in ceiling for ambient dust. Have two shop vacs and small blower. No central system that does not blow outside.

J. Stevens asked why shop was closed.

A. Buchwald – Used friends shop for security knowing that he could continue business. Friend moved and so had to move out. Honestly believed that customers were allowed. Did not get a letter from Code. Came down to zoning and applied. Spent a lot of money already.

J. Stevens asked how customers are controlled.

A. Buchwald – Appointment only. No-one stops by. Posted on website and everyone knows.

B. Schwartz asked if a number of pieces of equipment are on at a time.

A. Buchwald – One at a time. That machine and dust collector. Never 8 hours a day. Made 12 instruments this year.

A. Hart closed Public Hearing 6.19pm

VI. Certificate of Appropriateness

1. 13-1262CA/MA: 256-258 and 260-262 NORTH WINOOSKI AVENUE (NMU, Ward 2) 256-262 N. Winooski, LLC

Amend ZP#13-1262CA/MA for window design and arrangement; siding changes for building elevations where buildings face each other. (Project Manager: Mary O'Neil)

Applicants present. Sworn in. Eric Hoekstra. Gave history and detailed communication from M. Gooding. Detailed current application.

J. Stevens asked about window operation.

K. Lerner asked about other parts of building.

E. Hoekstra – No change. Windows only. Detailed proposal.

A. Hart asked if energy efficiency is the same as before.
 E. Hoekstra – What was proposed was Marvin Fiberglass clad wood window. Proposal is for Marvin Fiberglass window. No wood. Not as energy efficient as touted but still well above other developments.
 B. Rabinowitz asked about garage doors. Noted energy efficiency wasn't what was considered but was nice.
 E. Hoekstra – Picture windows will be more modern and inside will feel more spacious. Detailed change to windows on inside elevations. Opposite each other on the two buildings so proposing staggered so that bedrooms aren't looking directly at each other.
 A. Hart asked if changing floor plan.
 E. Hoekstra – No change.
 B. Schwartz asked what type of Marvin window.
 E. Hoekstra detailed window.
 A. Hart asked about siding change.
 E. Hoekstra – No siding change per se, just where windows have moved.
 B. Alvarez. Nice modern building. Buildings evolve and this is a good building.
 Public Hearing closed 6.36pm.

VII. Other Business

1. 13-1098CA: 97 Dunder Rd (WRL, Ward 5) Donald & Carroll Albertson

Review of construction schedule per Condition 2 of zoning permit to continue renovation of single family home based on previously expired zoning permit 10-0576CA. (Project Manager: Scott Gustin)

Applicant not present. N. Anderson noted agenda sent directly to applicant.
 B. Rabinowitz asked S. Gustin for clarification.
 S. Gustin gave history. Schedule is for more than 6 months. Option is to approve or reject schedule. Code Enforcement is here.
 A. Hart noted previous hearing.
 J. Stevens asked what is being reviewed.
 S. Gustin – Schedule.
 Public and W. Ward sworn in.

Ralph Yarnell – 110 Dunder Rd. Construction site for last 8 years since he has lived there. Construction schedule is unrealistic. Has had vagrants previously. Been better since being on Codes Vacant Building register. Reading submission is frustrating. Intentions are not accurate. Needs better enforcement so that he can either sell it or be fined to push him to finish.

A. Hart – Noted that factual information is ok but need suggestions on how to clean the place up.
 R. Yarnell – No financial disincentive.
 A. Hart – Been paying vacant building fees and taxes.
 R. Yarnell – Paying high taxes himself. Thinks there should be more financial disincentive.

William Ward – Code Enforcement Director. Property is in limbo, Need decision of the board. Next step is to go to court with enforcement action.

A. Hart asked what options court would have.
 W. Ward – Court cant impose for it to be fixed. Courts want it to be resolved. Want sides to find resolution. Not lack of enforcement but lack of enforcement tool. Courts is the next logical step. Takes some time. Permit picked up and so a building permit extension was approved by the City Building Official. Albertsons may feel that they have a valid permit.

B. Rabinowitz asked how this would be resolved by the court.

W. Ward – Financial restraints could force him to act. \$500 per quarter is vacant building fee. Not necessarily a financial disincentive. Courts could best determine the steps.

J. Stevens asked if building poses any health or safety issues.

J. Drummond if it has ever been occupied.

W. Ward – No. Conditions have been improved since previously with new roof and other features. Thinks the property needs to be reassessed for value. Hard to determine what the best intentions are. When discussed, it was noted to applicant they could have gotten building permit straight away but they haven't. Two months later and the impression is that there is no drive or action to finish. Still talking about a finish date in 2015 even though they knew of 6 month condition in their Vacant Building application.

B. Rabinowitz asked if zoning permit could be invalidated.

S. Gustin – Not invalid. Has a valid permit that is in violation.

B. Schwartz asked if building safe and weather tight.

W. Ward – Yes, weather tight

Neighbor – Unknown name. Lives over road.. Noted interior work on the schedule until next year which has been pushed back. The things put on the schedule are all exterior which cannot be done this time of year. Asked for action to continue to court and have financial penalties. No discussion between neighbors because he is not an active neighbor. Concerned about another excuse coming in next week.

Marie St Amand – 96 Dunder Rd. Would like to enforce that this is not a renovation of a single family home. No-body has ever been lived in. Started construction in 1969.

Joanne Yarnell – 110 Dunder Rd. Huge tree just fell from property. Landed on neighbors car. Doesn't believe this is a safe property.

J. Stevens asked about the tree details.

J. Garnell – Construction debris is outside. It is not safe.

Albert St. Amand – 96 Dunder Rd. Lived three houses down until 1989 and now lives over the street. Construction started in 1969. Hobby project for owner as he is an architect. Just a project. No incentive to finish.

Patricia McShane – 115 Dunder Rd. Next door. Not only neighbors but also the appellants. Was not at last meeting due to personal reasons. Thanked staff for information previously obtained. Resident since 2007. 47 years old. This project was started when she was 9 months old. Packet of information to submit. Detailed information. Applicant not attending is disrespectful. Would like to exercise authority to forward to appropriate court. Chronic nature of excuses and requests for extensions/variances. Note staff can issue Notice of Violation. There was already 2. Staff do not have authority to assess fines unless a court of law assesses those. Packet provided details from City files that had not been previously submitted. Chronic nature of disregarding direction. 54 days before schedule was provided, not 41. Certified mail was received 20th July. Conditions were disregarded. Would like to hear Ned Holt speak in front of the board. Should be required to speak and explain what is not required of the applicant. Neighbors come to hearings, applicants are not.

A. Hart - happy to accept packet of information.

P. McShane – Taxes are less for the owner. Applicant describes it as a project. Can share information tomorrow. Haven't been paying storm drain fees.

A. Hart – Will set a deliberation date.

Item closed 7.16pm

VIII. Adjournment

Adjourned at 7.16pm.

Deliberative to be held Monday December 2nd.

A. Hart - Chair, Development Review Board

Date

Nic Anderson, Zoning Clerk