

Burlington Development Review Board

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Jonathan Stevens
Brad Rabinowitz
Bob Schwartz
Kevin Stapleton
Jim Drummond
Andy Strauss (Alt.)
Oscar Hernandez (Alt.)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, July 19, 2011 - 5:00 p.m., Contois Auditorium, City Hall, 149 Church Street, Burlington, VT MINUTES

Present: Austin Hart (Chair), Michael Long (Vice Chair), Kevin Stapleton, Brad Rabinowitz, Jim Drummond, Jonathan Stevens, Bob Schwartz, (*Oscar Hernandez (Alt.) Andy Strauss (Alt.) Attended for Annual Organizational Meeting*)

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

Absent: None

I. **Agenda**

Request to hear 1251 North Avenue earlier due to childcare concerns. Board agreed to bump up agenda to be heard earlier.

II. **Communications**

Packet with 5 items. Three communications for 366 Colchester Avenue, two items for 26 Summit St.

III. **Minutes**

Two sets from June 7 and June 21. Will review and discuss at deliberative.

IV. **Public Hearing**

4. **11-1080CU: 1251 NORTH AVENUE (RL, Ward 4) ST. MARKS PARISH/TIFFANY BERGERON**

Large day care (up to 30 children, ages six months to five years) within convent. (Project Manager: Mary O'Neil)

K. Stapleton recused. Applicant T. Bergeron present. Public sworn in...one person.

A. Hart would like to hear about replacement housing.

T. Bergeron. Doesn't have an answer.

A. Hart doesn't know what relief is requested.

T. Bergeron. Never public housing. Convent keeping that space. Asking for full relief.

A. Hart would be good to have convent speak.

T. Bergeron. Currently vacant. Concerns raised about signage. Understands will address as a different permit.

B. Rabinowitz asked if occupying both floors.

T. Bergeron no. One floor.

B. Rabinowitz would like site plan to show parking and play areas.

T. Bergeron can submit before deliberation. Bricked in courtyard will be for play ground. Door directly to it. Really safe.

A. Hart would like site plan before deliberation.

A. Hart asked M. O'Neil what can be given for relief from housing replacement.

M. O'Neil staff brought up issue. Space would be split and not be residential use. Not open housing. Don't consider it loss of housing unit. Appropriate to suggest relief due to specific nature and use.

A. Hart can it be considered exempt from definition.

J. Drummond more akin to a dormitory.

Father...gave history.

A. Hart asked how conversion would affect ability to use housing.

Father...housing would not be available. Don't plan to make it available. No changes to the bedrooms...just the ground floor.

K. Lerner pointed out an owner occupied residence could be considered exempt.

T. Bergeron asked for clarification what was needed for site plan. No problem providing.

Closed public hearing 5.20pm.

1. 11-0985SD: 366 COLCHESTER AVENUE (RL, Ward 1) TENASONE INVESTMENTS, LLP

Subdivide vacant lot into two lots. (Project Manager: Scott Gustin)

Applicant D. Bostwick present.

A. Hart noted S. Bushor wished to speak first. Public sworn in.

S. Bushor submitted supplemental communication. Hoping action will be delayed as a lot of questions need to be answered. Subdivision would open door to further issues. Didn't see engineer signoff. Topography a concern. Location on corner could have visibility issues. Current road may be made smaller on other side from another project. Pedestrian safety a concern. Stability of bank needs to be looked at. City engineers should review first.

D. Bostwick. Concerns raised are for things that are not being applied for at this time. Lots meet zoning regulations. Doesn't think R. Gore has concerns. Discussed driveway location. Are not close to existing driveways. No reversing into Colchester avenue is proposed. Will have turnaround. Have services approval. State has approved services. Discussed with M. Moir and doesn't apply until structures proposed.

A. Hart noted no development proposed. Asked S. Gustin about development.

S. Gustin any proposed development would be non-design review. Looking at site plan. Need to meet low bar of dimensional requirements.

B. Rabinowitz seems like going in circles. Would like confirmation that two driveways are ok.

J. Drummond asked about road narrowing.

S. Gustin doesn't know of this. Didn't hear back from DPW on plan that was submitted to them.

A. Hart asked about state permit for wastewater.

D. Bostwick applied for max use with the intent that it could be reduced easier.

A. Hart asked about tree removal condition.

D. Bostwick. Not proposing removing trees. Would like to leave that to development.

S. Gustin this is the boards only chance to address tree removal.

K. Lerner noted ordinance requires street cross sections and prior approval by City Engineer.

S. Gustin that's for public infrastructure.

K. Lerner continued reading.

A. Hart understood it to be public infrastructure requirements.

K. Lerner driveway will be within ROW.

A. Hart mentioned topography.

D. Bostwick noted plan indicates top of bank. Area can accommodate a building without being near the bank.

A. Hart noted condition which would show building envelope back from bank.

D. Bostwick. Not applying for development or building.

N. Kirby. Lives at 339 Colchester Ave across the road. Will be sidewalk in front of Cemetery. Kept track of real estate listings. Noted two lots advertised with two buildings. Unstable lot. Steep slope to Riverside Avenue. Tree fell over last year. Current support on north side is not sufficient (tires and railroad ties). Doesn't understand how there can

be two driveways there. Traffic study should be done. Engineer should be hired. Asked why buildings have been advertised. Very apposed to this. Should have appealed the original subdivision. First subdivision was a mistake. Has two letters and photos to submit to board.

L. Hoenigsberg and N. Governale. Owners of condos at 352 Colchester Ave. Splitting of lots raises issues with development even though not being proposed. Concerned with stability of hill. Concerned about maximum of people that could live there. Concerned about property value. Would like to see plan before the subdivision is approved.

Would like to comment on what will be built.

Biggest concern is safety on hill for stability.

A. Hart asked about access and safety. Do they currently have issues with turning into the property.

Yes...concern at present. Exiting driveway is already hard.

Jason Stuffle. Owner at 316 Colchester. Concerned about embankment stability. Soil is very loose. Concerns about construction vehicles and soil stability. Traffic safety a concern. Confirms blind corner and road will be reduced. No curb at present. Pedestrian safety. Will have a house on it and this should be addressed before approval.

D. Bostwick reply. Marketing doesn't have anything to do with application. Cant build a duplex. Can only have single family. Not asking for variance. Issues raised could be due to vacant issue. With development it would address concerns and manage them more effectively. More driveways does not change speeding driver behavior. More driveways may slow down drivers. Proper development could be positive benefits. Good infill lot for city due to location.

M. Long asked about marketing.

D. Bostwick. Marketed as potential for development. Never told someone it had already been done. Had builders give potential plan show what could be possible.

K. Lerner clarified that this is a building lot now and the application is for an additional.

Closed Public Hearing 6pm.

2. 08-137PD: 451 ETHAN ALLEN PARKWAY (RL, Ward 7) TIMOTHY ALLES/BILL ELLIS

Preliminary plat review of 9-unit planned residential development with 3 detached structures and associated driveway and parking. (Project Manager: Scott Gustin)

Applicants representatives present and sworn in. Jon Anderson and Doug Hensen – Engineer representing clients.

J. Anderson gave history. Location has addressed design as suggested by B.

Rabinowitz at last hearing. Met with Conservation Board twice recently. Buildings have been designed to be setback from Ethan Allen Parkway 20 feet with porches 15ft.

Recommendation from Conservation Board is fine. Will come back for final.

D. Hensen asked if recap needed.

A. Hart no.

D, Hensen buildings are in fact set back 20 feet. Would like to eliminate guest spaces which will allow them to alter grading. Would reduce buffer impact.

JA parking available at the school.

D. Hensen if people parked in front of garages there will not be impacts on other vehicle access. Retaining wall requested by Conservation Board would be 16-18 ft high and have large footings. Could retain with gabions which would allow for vegetation.

A. Hart asked if need revised CU determination from the State.

J. Anderson...yes will need to go back to the State. Verbal feeling was that there is less impact than before so no reason to approve again.

A. Hart discussed stormwater outflows and asked for clarification.

D. Hensen doesn't want to touch Moore Drive outfall as it would make more impact. Ethan Allen outflow would be eliminated. Would lay new pipe and new catchbasin and outfall.

J. Anderson will be fixed and improved in different location.

B. Rabinowitz asked about grading plan.

D. Hensen south location is relatively flat.

B. Rabinowitz asked about greenbelt.

D. Hensen street was built with no room for greenbelt between sidewalk and road. City will need easement for maintenance for parts of sidewalk on private property.

J. Stevens asked about visitor parking.

D. Hensen. Has two parks per unit in garage. Two extra spaces per unit for visitors.

W. Flender...vice chair of Conservation Board. Reviewed concerns and addressed each point from the CB report. Potential for easements to City for parkland should be deferred to Parks and Recreation. Supportive of pervious pavement with maintenance plan.

A. Hart thanked W. Flender for coming. Noted would maybe come back to Conservation Board for final plat.

Steven Stone...at 16 Moore Drive. Hasn't seen new plans. Brings a lot of new questions for him. Road not wide enough to fit parking on one side at that portion. Parking at school requires special permission, not just turn up. Detailed road length and steepness. Concerned about retaining wall. Concerned about camper and boat use and fitting within parking spaces. Cant tell people they cant have pleasure craft.

A. Hart noted all plans are at the Planning and Zoning office and on the web. This is preliminary and have a chance to discuss at final plat also.

Maura Brennan. Lives at 437 Ethan Allen Pkwy. Parents own property. First time they have been notified since owning since November. Wooded area. Peaceful property. Would change nature of house and neighborhood. Concerned about traffic and parking. Will park right in front of house. Parking lot at school is where kids park their bikes. Snow reduces width of road. Increase in car numbers will have impact. Work from home. Would increase noise. Concerns of water and impact on land with development. Handed out letter.

Vincent Dober. Ward 7 Councillor. Neighbors are tired of the project and that's why many aren't there. Curbs are high and when there is snow, the road narrows. Project too large for property. 9 units too much in congested area. Current parking on the street is an issue. Reducing parking lot would not help neighborhood. Neighbors asked him to look into it wisely.

J. Anderson responded. Notices were sent by the applicant to all neighbors who appeared and abutters and did not get any response from anyone. Detailed 3 unit building on the other side of the road of a similar design. South there is a neighborhood of 'fourplexes'. Wouldn't get approval if fire access isn't provided. Legal analysis of wetlands provided. Believes they satisfy all City and State wetland rules. Guest parking is not required by the regulations. It is a balancing act.

A. Hart noted trail easement and dedication of land. Asked if discussions have been had with Parks and Recreation.

J. Anderson happy to do both and have not contacted them.

A. Hart would like to have this for final plat.

J. Anderson promises will have that discussion. Happy for punch list of things to do for final. 9 units on 7 acres. Far less dense than every property in the neighborhood.

J. Stevens noted objections are to do with architecture of space.

J. Anderson proposing projects required by the law.

S. Gustin fire marshal not formally weighed in.
D. Hensen Grading for fire access discussed.
Closed Public Hearing 6.57pm

3. 11-1065CA/CU: 26 SUMMIT STREET (RL, Ward 6) MIKE JOHNSON/STEEVGUILD DESIGN

Change of use of front building from single family to duplex. Existing duplex at rear for a total of four units on the property. Expanded parking. Conditional Use review for addition of another unit within the RL zone; Conditional Use review for waiver request from Functional Family provision of the Comprehensive Development Ordinance. (Project Manager: Mary O'Neil)

Applicants M. Johnson and S. Guild present. M. Johnson current owner with E. Hainley. M. Johnson detailed proposal. Not the intention to have a defacto dorm. Discussed parking. Addressed all of staff concerns. Management plan not submitted. Submitted lease that outlines tolerances. Lease has teeth. Owns 15 units in the City. Wants to maximize use of property. Area has a lot of institutional housing.

K. Lerner asked if ever considered having an on site manager.

J. Johnson very local and very responsive. Don't tolerate damage to property.

A. Hart cant put too much weight on current owners as new owner may not be as conscientious.

J. Johnson that's why they have Code Enforcement inspectors. Management Plan request was based on defacto dorm fear. Bedrooms are already there.

J. Stevens doesn't understand why there cant be more common area rooms.

J. Johnson the kids spend 90% of the time in their rooms on their computers.

J. Stevens asked about lease and party definition.

J. Johnson party is any more than double the occupants.

B. Rabinowitz asked what use of house is.

J. Johnson single family house. Was actually a dorm that was always there. Bathroom design was to break it up.

B. Rabinowitz noted kitchen and living room is minimal for 6 bedrooms. Having more common areas would make more space.

J. Johnson...compete with universities for quality of size of bedrooms.

B. Rabinowitz noted no landscaping proposed.

J. Johnson open to suggestions on landscaping. Everything is mature and well maintained.

J. Stevens noted waiver of functional family requirement. Will have to wrestle with concern of lack of family.

J. Johnson fits neighborhood demographics with majority of institutional use. Haven't met maximum use of property.

M. O'Neil commented that all three staff persons participated in writing. Received phone call from Fire Marshall and have requested that no decision be made and would like to review for fire safety for congregant living. No changes were proposed for the house except for expansion of the parking area.

M. Long asked staff about functional family criteria. Seems like they cannot be approved by them.

A. Hart just have to satisfy the criteria.

S. Gustin there are provisions to apply for functional family. There is another section of ordinance that allows for conditional use approval for above the functional family numbers.

K. Lerner house size easily meets criteria.

A. Hart noted staff comments on 'no findings possible' re: management.

J. Johnson confirmed that this matter has been met and staff is happy.

A. Hart still need management plan.

J. Johnson would be able to give management plan but may not have as much teeth as a lease. Happy to provide but thinks that it wouldn't be as effective as lease.

A. Hart first time there has been a waiver of functional family rule. Need to ensure goal of rule is met. Need convincing that the goals are accomplished.

E. Hainley. Owns other properties. Manage places well.

A. Hart asked if they have any other properties that have more than 4.

E. Hainley yes in RH.

J. Johnson. Isn't sure staff isn't happy.

J. Stevens asked about FF criteria.

K. Lerner they are not requesting that. They are asking for condition use to waive. This would be in perpetuity. Would not have to live as a FF.

M. O'Neil asked if any units would be owner occupied.

E. Hainley no.

M. O'Neil asked if any other properties have stalls in the bathroom.

J. Johnson no. Can break it up. Existing facilities have no stalls. No changes proposed for numbers. Can make three bathrooms.

E. Hainley in 1960's and 1970s it was rented to Champlain College students.

J. Johnson will do anything that the Fire Marshall requires.

J. Drummond asked why they can't add more units.

K. Lerner can only add one more...not more than that based on ordinance.

J. Drummond asked where it is.

J. Johnson three off of main street. Others being discussed for sale to institutions.

K. Stapleton asked how the number of persons per bedroom could be codified.

J. Johnson lease could restrict that.

A. Hart could put condition on that and hard to enforce.

M. O'Neil who will enforce numbers?

Ty Danco at 42 Summit St. Neighbor. Been there 20 years. Last time was here for issues of numbers of students. Will be moving. Doesn't understand comment of use vs maximization. Previous owners lived there so was different. Has 6 bedrooms in his house. If this is allowed, should just re-zone the block instead of piecemeal. Will become a zoo and enforcement could be an issue. Would much rather it be institutional as apposed to any dorm. Having stalls etc shows its intended to maximize profit. Management would be a problem. Would never sell to use like that. Can't have mixed residential and institutional.

J. Stevens asked about dorms ownership.

T. Danco. Champlain College Dorm next door. He has three people living in 6 bedrooms. Next door is subject property. Then 4 person house, then Kahmene property. Would much rather see the neighborhood for office institutional not dorms. Intended to have 20 kids for the 10 bedrooms.

J. Drummond asked about moving.

T. Danco not selling right now. Impetus for looking was because of neighborhood pushes with dorms. Half residential and half dorms on block right now. Requested no decision in next 7 days.

J. Johnson should be institutional but it is not. Would like it but that is done by the City of Burlington. Would consider himself in violation of any more than was approved.

T. Danco more than that on property with existing duplex.

B. Rabinowitz asked difference between this and dorm.

J. Johnson ownership and standards for packing kids into each room. Maximizing the space. Property needs maintenance.

A. Hart asked about parking space size.

K. Lerner new plan in supplemental communication.

A. Hart Closed hearing 7.43pm.

V. Other Business

Annual Organizational Meeting

DRB Clerk - Nic Anderson 8-0

Chair – Motion for A. Hart
Vote 7-0

Vice Chair – Motion for M. Long
Vote 7-0

Long Range Planning – Motion for K. Stapleton
Vote 7-0

Ordinance Committee – Motion for J. Stevens
Vote 7-0

VI. Adjournment

Adjourned at 7.51pm.

Deliberative scheduled for Monday 25th at 5pm.

A. Hart, Chair, Development Review Board

Date

Nic Anderson, Planning and Zoning Clerk