

Burlington Development Review Board

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Jonathan Stevens
Brad Rabinowitz
Geoff Hand
Israel Smith
A.J. LaRosa
Alexandra Zipparo
Jim Drummond (Alt.)



BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, July 21, 2015, 5:00 p.m.
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
Minutes

Board Members Present: Austin Hart, Jonathan Stevens, Brad Rabinowitz, A.J. LaRosa, Geoff Hand, Israel Smith

Board Members Absent: Alexandra Zipparo, Jim Drummond

Staff Present: Scott Gustin, Mary O'Neil, Anita Wade

Meeting commenced at 5:01pm

- I. **Agenda;** No changes
- II. Communications; Supplemental materials accepted for 193 St Paul Street
- III. **Minutes;** Packet of July 7th minutes will be reviewed at next Deliberative Meeting
- IV. **Consent Items:**
 1. **14-005CA/HO; 110 Hyde Street (RM, Ward 2C) Andrew Rianhard**

Time extension for conditional use home occupation for auto upholstery work within garage. Associated site and garage improvements.

A.Hart; has applicant received report and staff recommendations.
A.Rianhard; confirmed.
B.Rabinowitz; made motion to approve the project.
J.Stevens; seconded the motion.
Board vote was 6-0-0.
 2. **15-1375CU; 820 North Ave (RCO, Ward 7N) WVPD**

Convert classroom into small daycare within existing small museum (Ethan Allen Homestead). No construction proposed.

A.Hart; has applicant received report and staff recommendations.
N.Warner; responded in affirmative.
B.Rabinowitz; asks Board to adopt staff findings and recommendations.
J.Stevens; moves to adopt staff approve the project.
G.Hand; seconds the motion.
Board vote was 6-0-0.
 - Public hearing:**
 3. **15-1234CA; 18-20 Weston Ave (RL, Ward 1E) Charles Burns**

Re-opened appeal of zoning violation # 279187.

B.Hehir; submits new plans to board.

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A.Hart; explains about the decision to reopened the public hearing. Reopened for additional evidence to review new site plan and to specifically redefine parking area that has been used for more than 15 years.

B.Ward; presents photo from 1988 not avail previously, which was given to staff. Gives clarity on the burden of proof being on the appellant, who has not proven that parking has always been present for the last 15 years. Actual measurements of the property are key point showing that 4 cars cannot be parked there. The 1988 aerial photos show that no cars parked were regularly parked. Google earth confirms this.

A.Hart; asked for an explanation of measurements of the lot.

B.Ward; measured driveway and garage. Used Amanda data base to obtain frontage, lot coverage, and drainage.

A.Hart; what is the source of Amanda records.

B.Ward; information is based on aerial photos.

S.Gustin; demonstrates lot coverage.

J.Stevens; who uses data base.

B.Ward; this is a shared data base for the City to view any property. Asked if Meagan Moor could look at additional spaces pertaining to storm water coverage.

A.Hart; not sure this is relevant for now.

B.Ward; it was helpful for clear observations.

B.Rabinowitz; asked for clarity.

B.Ward; the property owner believes he has four parking spaces.

A.Hart; asks Kim for interpretation.

K.Sturtevant; the violation increases the parking without permits place. The burden shifts to the property owner to demonstrate that the use is continuous from 15 yrs ago.

B.Herir; plan handed out tonight is same as the one from May. Reminds Board of the owner's testimony.

K. Long; made reference to the photo.

S.Gustin; believes this is photo from Morris Mahoney.

B.Hehir; objected to Morris Mahoney's photo.

K.Long; not just one person who testified but a lot of people testified.

S.Bushor; thanked Board for reopening hearing. Had heard feedback about burden of proof and glad the Board clarified their decision. Parking packet supports testimony of neighbors.

A.Hart; looking for new information or summaries.

J.LaPierre; lives across street. Met with Scott Riley about noise in 1988 and was told space wasn't to be used and that his fence would be fine. Felt the fence was being pushed occasionally by use of spaces.

J.Stevens; how was it determined whether green space was being used for parking.

J.LaPeirre; it wasn't going to be used and not much concern. He was not taking pictures because Reilly kept saying it was an exception.

A.Hart; what's the time period.

J.LaPeirre; since 1997 they were having conversations and more in 2000. Concerned with the overflow.

J.LaPeirre; the garage and parking on green space would interfere with use of the garage.

M.Long; resident on Henry Street appreciated the clarity from Bill Ward that the appellant did not provide the burden of proof and that parking spaces were inadequate to meet the zoning code.

B.Herhir; said he does not have new evidence.

Public hearing was closed at 5:50pm.

- 4. 15-1318AP; 193 St. Paul Street (RH, Ward 5) Stratos Condominium Association**
Appeal of a Code Enforcement decision that a zoning violation regarding parking does not exist.

J.Stevens; the burden of proof was on the City.
S.Gustin; burden of proof is mentioned in Section of the code.
G.Hand; gave disclosure regarding his work with the law firm representing Champlain Housing Trust, but not involving the current party.
B.Ward; received complaint from appellant as a result of a parking space. Gave a chronology of complaint. Met with applicant on June 1st to go over the measurement of the space referring to space 306 and the oddity of the space. Reference to map and photo, and diagram. Decision that space is not a violation.
A.Hart; is the parking obstructed by the pillar.
B.Ward; not if car pulled up far enough.
AJ.LaRosa; can the rear driver side door be opened.
B.Ward; yes, but it is tight.
B.Rabinowitz; it's normal for things to impinge upon parking spaces.
B.Ward; this is smaller than it should be, but it does not create a violation.
I.Smith; are parking spaces tight and would re-stripping would make a difference.
B.Ward; this was possible but not an issue of a zoning violation.
G.Vandooris; said his daughter cannot open rear door. The neighbor hedges over to the right to help out. Disagreement with the Condo Association regarding the way it was drawn and being an illegitimate space to use. Cannot fit car in space because it is not a standard space.
A.Hart; questions the Board about the remedy.
G.Vandooris; there could be a number of options and solutions with spaces outside garage, inside, placement of bike racks all of which were not addressed in 2014. In January was identified as a city problem and filed a violation. Discussed with the Board about possible options.
I.Smith; could this be an as built condition? Were there condo drawings represented during the sale.
G.Vandooris; a declaration of plans was presented but not final drawings. Condo Assoc presented page 8 regarding compact car parking. No final drawings from Condo documents. Regulations for as built provided by Mr. Gustin.
A.Hart; were as built were in packets.
S.Gustin; mentioned exhibit 3 as the full size.
A.Hart; questioned as built.
B.Rabinowitz; questioned whether columns were interfering with other spaces.
G.Vandooris; spot 306 is not representative of other spaces having round columns.
G.Hand; garage door opener and question of how big is space.
D.Reilly, atty; there should be a disclosure for non-confirming space for something not full car space. This may be deterrent to buying/selling the unit because the parking space is smaller than a regulation compact space. If it is a matter of a foot plus this is not seen as diminus. How big the violation is doesn't matter. Glen did not receive the garage door opener to see the garage until after the closing.
Andrew Mininiski; received letter from VonBerniwitz indicating his displeasure with the space measurements. This is a too little too late situation and the city got it right calling it a diminus situation.
J.Stevens; asked about the testimony with garage construction and no stripped spaces.
A.Miniski; according to my client he said he could have taken look at and inspected the space.
B.Ward; reviewed photos with Final Occupancy in 7/2014. Mentioned that some items are in different spaces around the garage.
Public Hearing was closed at 6:22pm.

Certificate of Appropriateness

1. 15-1314CA; 495-497 Colchester Ave (C, Ward 1) Brisson Properties

Raise building in place, insert additional story, and remove rear porch. Retain 4 dwelling units and establish cafe.

G.Hand; discloses he had previously represented adjoining land owners in a dispute regarding land issues with this property.

A.Hart; still have five Board members if there was to be a vote and he needs to recuse.

S.Gustin; the staff report pertains only to the rear porch not the front porch.

J.White; architect and his client R.Brisson decided not to follow preliminary proposal or do the front porch. Intend to lift building 8; to allow for handicap ramp within right of way and access to 1st floor apartments. The historic part of building is buried and only the 2nd floor is above grade. First floor has basement apartments. Inserting new ground floor to include café less than 200ft and remodeled apartments. Metal grade stairway will be installed from Colchester Ave into backyard o property. Have acquired written approval from State and Federal level for historic standards. Received positive feedback from staff and DAB.

A.Hart; disappointed that front porch is not being restored.

J.White; front porch would be in the right of way. Looking to rebuild front porch from historic pictures in the future, though not required to rebuild porch. May consider removing rear porch to restore original façade. DPW may change intersection for safety reasons. Do not need to add or take away parking.

J.Stevens; questioned if the café does require parking.

S.Gustin; code requirements for off street parking in the shared use parking district does not require off street parking spaces.

J.White; the two levels together are less than 200sq ft.

B.Rabinowitz; questioned floor plans and if they were submitted with application.

S.Gustin; entire submission of 101 photos were in packet.

J.White; leaving photos with Board and those on website.

Further discussions by the Baord and applicant continued about the 1st floor apartments, windows, lighting, side porch, and access.

S.Gustin; they comply.

R.Brisson; would like to get permit to proceed on project hopefully in June. Wondered if it was possible to approve tonight.

Steve and Sharon, identified as residents of 45 Colchester Ave, said the revisions on the project are confusing. Identified a problem with the sump pump running constantly.

S.Gustin; there is no zoning permit at the present time and noted it is not in a flood plain.

R.Brisson; problem is that the building is buried in ground. Giving lift to building to put in new concrete veneer and fix stone work will provide new concrete slab and vapor barrier making the building completely dry.

Sharon; affects the area where we park with the level of parking space being lower.

A.Hart; expressed concerns about flooding.

Steve; doesn't want water problems coming back into area.

Sharon; there is a discrepancy on who owns alley way and where the marker is placed.

A.Hart; is this on land you own.

Sharon; said they were owners of some portion of that courtyard.

B.Rabinowitz; asked if the property was surveyed.

Sharon; said no.

Steve; feels there is a problem with café having seatings in range of 40 to 45 people with parking for patrons and staff. Questioned whether residents will be able to find parking in the winter.

Sharon; the condensers outside building are noisy.

A.Hart; is building adjacent to your property.

Sharon; yes, they had to take out condensers on their property for their tenants.

Sharon; what is height to top of roof; 35 ft to midpoint.

A.Hart; 35ft height accord to zoning code.

Steven; contractor said it may be unsafe to raise building. Does the City have codes.

A.Hart; yes city DPW has codes.

Sharon; asks about consistency.

S.Gustin; different elevations can change drainage and grading around lot. Main entrance will not block right of way.

Steve; most important issue is parking and the tenants.

Sharon; where is electrical cable going. Said there were many unknowns and things keep changing many times. Questioned the zoning.
A.Hart; asks applicant to respond.
R.Brisson; café is under 200 sq ft and not in need of parking.
A.Hart; where is parking for tenants.
J.White; needs separate application for this to protect the rest of area for building and café/nightlife. It is unlikely people will make it a destination by car. There is no zoning permit because there is no application yet. Lower area sump pump needs to be accessible. Not changing grading and catch basin to catch all water. The consultants cross consult found stakes and determined where wall is leaning. Do not intend to build anything on property. Brisson owns building's south porch. Di survey this past spring with grades to ensure not creating any runoff to any other property.
Condensers are very quiet kept under the porch, not heat pumps not. Top of roof will be 8' higher than now; utility lines keep existing lines same spot as now above ground; moving gas meters east side on Mill Street. Bulk of the ditch is owned by Bisson Properties.
BRabinowitz; is there a need for a storm water plan?
S.Gustin: no
BRabinowitz; for a drainage basin?
J.White; will be a city drainage.
Sharon; asked deed question.
A.Hart; we are not addressing a property line dispute. This is not a zoning issue. A good reliable survey is fine.
S.Gustin; there is a site plan with application and waiting for a copy of the survey.
A.Hart; is the site plan is consistent with survey?
J.White; shows the display.
A.Hart; just need to submit the survey.
J.Stevens; this moves the project closer to the Public Hearing.
J.White; expressed concern about the application.
A.Hart; we have your application.

Public Hearing closed at 7:10pm.
DRB meeting was adjourned.

Deliberative Session took place after the meeting.

- V. Adjournment**
- VI. Other Business**

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential.

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/drbb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

A.Hart, Chair Development Review Board

Date

A.Wade, Planning and Zoning Clerk