

## Burlington Development Review Board

149 Church Street, City Hall  
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Austin Hart  
Brad Rabinowitz  
Jonathan Stevens  
Alexandra Zipparo  
Israel Smith  
AJ LaRosa  
Geoff Hand  
Wayne Senville, (Alternate)  
Jim Drummond, (Alternate)



### BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday April 19, 2016, 5:00 PM

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT

#### Minutes

**Board Members Present: Austin Hart, Jonathan Stevens, Brad Rabinowitz, Israel Smith, A.J.LaRosa, , Wayne Senville**

**Board Members Absent: Geoff Hand, Jim Drummond, Alexandra Zipparo**

**Staff Present: Mary O'Neil, Anita Wade**

#### I. **Agenda**

#### II. **Communications**

Two emails pertaining to 451 Ethan Allen Parkway.

Neighbor's response to 75 Grant St.

M.ONeil – appellants for 75 Grant Street and 124 Sunset Cliff Road request a deferral.

#### III. **Minutes**

#### IV. **Consent Agenda**

##### 1. **15-0339VR; 31 North Ave (RM-W, Ward 3) Cynthia W Smith**

Time extension on a variance from a front yard setback. Property fronts Depot Street. (Project Manager, Scott Gustin)

A.Hart - Swears in applicant. Board members accept item as a consent. Staff has looked through application and provided recommendations for Board approval.

Applicant – did receive staff recommendations.

A.Hart – asks if anyone came to speak. None.

B.Rabinowitz – motion to approve and adopt staff findings and recommendations.

A.J.LaRosa – seconds the motion.

Board Vote: 5-0-0

Motion carried.

##### 2. **15-0922CA/CU; 451 APPLETREE POINT ROAD (RL-W, Ward 4N) Cheryl L Senecal**

Amendment for demolition of existing structures, construct new single family home with accessory apartment and associated site improvements. Lot line adjustment included. (Project Manager, Scott Gustin)

##### 3. **15-0923CA/CU; 465 APPLETREE POINT ROAD (RL-W, Ward 4N) Cheryl L Senecal**

Amendment to construct single family home with accessory apartment and associated site improvements. Includes lot line adjustment. (Project Manager, Scott Gustin)

A.Hart and B.Rabinowitz recused from item.

J.Stevens – chairs item. The project will be a public hearing instead of consent item. Swears in applicant and interested parties for public hearing.

B.Rabinowitz – explains the negotiations and final agreement. 451 Appletree Pt Rd was reduced by 5 percent and 465 Appletree Pt Rd by 65 percent. Both were pushed back

from the street 5 feet having 30 foot setbacks. Change in the application is from duplex to accessory apartment, which is why we are back before the DRB.

AJ.LaRosa – review of settlement agreement. Asks if the City participated.

K.Sturtevant – the city was present.

L.Larsen – representative of the Larsen Land Trust and appellants of this case.

This has been trying for neighbors and appellants to go through numerous processes and mediation. This project is grossly outsized for the area. Would have preferred to see a smaller area. Would ask for the DRB and Planning Commission to be certain that all conditions and permits are met. Want to be certain no amendments or changes happen moving forward.

J.Stevens – did look at the project site.

L.Larsen – feels it is incumbent upon the City and DRB members sitting on the DRB during their tenure to be careful when offering their services.

J.Stevens – asks if there are questions from applicant or the Board.

W.Senville - did not get packet in advance and did not have opportunity to go to site. Asks if this could be continued.

AJ.LaRosa – this would be inappropriate considering there is a signed mediation agreement.

L.Larsen – we went through the process and agreed we had to stop the appeal and go to mediation. We have been fighting this for 10yrs on a subplot division for something that should not have been done.

J.Stevens - closed public hearing.

## **V. Public Hearing**

### **1. 14-1181CA/CU; 8 College Street (RL-W, Ward 4) City of Burlington**

Amendment for bike Path rehabilitation, including phase 1 from Perkins Pier to North Beach. Also, improvements to Waterfront Park, including replacement lighting, potable water improvements, boardwalk renovation, and landscaping improvements.

(Project Manager, Scott Gustin)

A.Hart - swears in applicant.

J.Bridges – describes the amended permit for next phase of bike path reconstruction through Perkins pier. This ties into waterfront park and waterfront north through urban reserve to just south of south beach into the waterfront access. Changes to bike path, reorienting dog park, steps down to access to water, change to five percent grade to path, plantings and creating new minipark. Will be enhancing stormwater and shoreline protection on the site. Trail to north beach will have a wider path.

A.Hart – questions regarding Penny lane.

J.Bridges – spoke to waterfront park and where bike crosses Penny Lane where it is almost completed. There are no changes on Penny Lane.

B.Rabinowitz – questions the chance of intersection of bike path and pedestrian path towards skate park.

J.Bridge – bike path is multiple use facility and always the dominant feature on path.

AJ.LaRosa - does project cover area of Texaco beach where erosion creates an unstable slope?

J.Bridges – this is the former Burlington College site with 12 acres just purchased from Eric Farrell on easterly path to Lakeview. The downslope was addressed in 2012. Trying to fix on the north side for this spring though not part of this project, where there is new parkland on easterly side. The downhill side will not address the slope failure. Need to look at north side with engineers.

A.Hart – will you be improving connections near Burlington College?

J.Bridges – finish buying it first; this is a priority for accessibility. Path will continue through meadow and woods will be formalized with 7% grade as next phase.

A.Hart – no members of public to speak. Closed public hearing.

**2. 16-0845AP; 75 Grant Street (RH, Ward 2C) Priscilla R Toomey**

Notice of Appeal of zoning violation #301663 relative to parking.  
(Project Manager, Jeanne Francis)

A.Hart – this is a request for a date certain. No one is present to speak for this item. May defer or continue.

M.O'Neil – applicant has requested to be placed on the agenda for May 3<sup>rd</sup>.

A.Hart - motion to defer hearing to date certain on May 3<sup>rd</sup>.

I.Smith – seconds the motion.

Board Vote: 5-0-0

**3. 16-0870AP; 124 Sunset Cliff Road (RL, Ward 4N) Joseph Kroger**

Appeal of Notice of Zoning Violation #298627 relative to a second unit in a single family home. (Project Manager, Jeanne Francis)

A.Hart – this is an appeal of a notice of violation.

M.Stern – attorney representing Joseph Kroger. This was an after the fact zoning permit for a conditional use. Trying to resolve the condition with DPW and would like to continue to work this out.

A.Hart – there are both zoning and building issues. The NOV was due to a failure to obtain a zoning permit. The appeal period has expired, but you have an approved zoning permit. Not sure what condition needs correction.

M.Stern – DPW is looking at this as a duplex that may require tearing down. Concerned about trying to meet this condition and then not sure if the zoning permit will be valid.

A.Hart - confusion with zoning issues and building issues. There is no current zoning violation. May need to work out with building department for building issues but not sure why this involves DRB.

M.Stern – the permit is not valid if conditions are still outstanding.

A.Hart – asks about staff attorney's thoughts on this. Can we accommodate the owner?

K.Sturtevant – there was a notice of violation, application made and approval was made for an extra unit. No appeal taken for an action that already occurred which makes the zoning NOV mute.

A.Hart - do not want to leave applicant without a remedy. Would you come back to us?

M.Stern - the nature of the appeal was that it was a grandfathered use. Understanding it was grandfathered and better if we continue the appeal and maintain opportunity to come back to DRB if we need to in case we continue to have problems.

A.Hart - part of the NOV was that it was there beyond the statute of limitations and want to preserve duplex without appeal. Question on the issue of grandfathering.

K.Sturtevant - they have approval for extra unit now.

M.Stern - we do not know if DPW will require more.

A.Hart - not sure why we would shut door on preserving your rights.

AJ. LaRosa - how far along are you with DPW?

M.Stern - we are requesting 30 days to work this out.

A.Hart – Board would like to accommodate and give additional 30 days. The issuance of a new zoning permit in the interim will not cut off grandfathering.

K.Sturtevant - if continued, this is still open.

AJ.LaRosa – best to get resolved with all parties.

J.Stevens - issues and facts involve another department and does not affect the DRB.

A.Hart - grandfathering does affect the applicant; continue hearing on appeal for 30 days

Motion to continue public hearing on NOV to May 17<sup>th</sup>. Not making any decision on the merits of grandfathering for the owner or the City. We will take this up on May 17<sup>th</sup>.

B.Rabinowitz – seconds the motion.

Board Vote: 5-0-0.

**VI. Other Business**

**VII. Adjournment**

A.Hart - meeting is adjourned at 5:48pm.

Deliberative session was conducted after this meeting.

\_\_\_\_\_  
Austin Hart, Chair of Development Review Board

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Date

\_\_\_\_\_  
A.Wade, Planning & Zoning Clerk

\_\_\_\_\_  
Date

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/drb/agendas](http://www.burlingtonvt.gov/pz/drb/agendas) or the office notice board, one week before the hearing for the order in which items will be heard.