

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/pz/DRB
Telephone: (802) 865-7188
Fax (802) 865-7195

Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Wayne Senville
Jim Drummond, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday July 19, 2016, 5:00 PM Contois Auditorium, City Hall, 149 Church Street, Burlington, VT Minutes

Board Members Present: Austin Hart, Brad Rabinowitz, Geoff Hand, A.J.LaRosa, Wayne Senville, Alexandra Zipparo, Israel Smith
Board Members Absent: Jim Drummond (Alt)
Staff Members Present: Scott Gustin, Mary O'Neil, Anita Wade

I. Agenda

Mary O'Neil recommends 66 Vest Haven for consent agenda.

II. Communications

Board Accepts communications submitted in the supplemental packet.

III. Minutes

Board will review minutes at the next deliberative meeting.

IV. Public Hearing

1. **16-1175CU; 66 Vest Haven Drive (RL, Ward 7N) Bruce Bergman**
Expansion of existing accessory dwelling unit by creating new habitable area.
(Project Manager, Mary O'Neil)

Changed to consent item.

A.Hart: asks applicant if they have reviewed staff comments.

B.Bergman: applicant affirms this.

B.Rabinowitz: makes a motion to approve item.

W.Senville: seconds this motion.

Board vote: 7-0-0

2. **16-1318CU; 120-132 North Willard Street (RL, Ward 1E) Tioli Properties, LLC**
Request to allow 5 unrelated adults within a dwelling unit.
(Project Manager, Scott Gustin)

A.Hart: applicant and interested parties sworn in.

J.Pizzagalli: purchased property in 2012. Has operated the property in the same manner as the previous owner from 2001. Filed application for conditional use. Staff expressed affirmation for the project except for parking.

A.Hart: questions attic space.

S.Gustin: need to know total square footage third floor, attic, and parking.

J.Pizzagalli: property went through renovation on 3rd floor. Does comply with 2500sq ft. Presented Board with 1st and 2nd floor plans.

S.Gustin: received plans from applicant for the Board.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).
Printed on 100% Recycled Paper

A.Hart: questions attic as living space.

J.Pizzagalli: describes living space minus the slope portion, which meets 2500 sq. ft.

A.Hart: are there 3 rooms in the attic?

J.Pizzagalli: there are four.

A.Hart: one looks bare, was this previously occupied?

J.Pizzagalli: to my knowledge.

A.Hart: CE for space?

J.Pizzagalli: when property was purchased.

W.Senville: where is the fifth bedroom?

J.Pizzagalli: 4th bedroom is on second floor.

B.Rabinowitz: is the entry through a bedroom to get to the other bedroom?

J.Pizzagalli: no

A.Hart: parking spaces?

J.Pizzagalli: 6 spaces

A.Hart: concerns about 4 unrelated persons presents more noise and behavior issues. What can you tell us as to whether it could become a nuisance?

J.Pizzagalli: I sdinherited tenants. I do not do short term rentals. They are well vetted. This house is an example of historic place and tenants expressed an interest to share this.

G.Hand: mentioned to applicant that inadvertently residents sent a letter to him. They may not have known I am on the DRB.

S.Gustin: this property contains two primary structures one with one unit and another with 4 units. This is adding one parking, which helps but need a minimum requirement. Ten spaces are minimum. They need 5 more.

J.Pizzagalli: can get 11 spaces.

A.Zipparo: appreciate what the landlord is doing, but this is discriminating against students, which is not fair. Maybe this should be addressed.

J.Pizzagalli: acknowledged.

C.Page: resides at 26 Henry St with a clear view from backyard and shared fence line. Several people asked to add names to letter originally given to Board. The issue is the parking. Parking on Henry St is inadequate. Many times it's an unsafe situation when cars parked on both sides of street. The neighborhood feels allowing 5 people with additional cars should not be allowed. In the residential low density district, there should be no more than 4 unrelated people. Noise has been an occasional pattern. At one time tents were out in the backyard during the summer. The former barn had a workshop and vehicles were parked on the grass. The driveway extends well into the backyard with additional impervious surface added, but do not see a way for more than 4 cars. Asks the Board not to make exception and to keep balance between owner occupied and rental properties in the city.

S.Wensel: spent 2 years trying to pass the 4 unrelated persons amendment. Staff makes comment under #2 about being compatible with the area, but for us this lot is not in character.

J.Mentes: involved with area and lived here since mid-1990's. Do not know why City doesn't encourage owner occupancy. Not seeing enough options for this. Use of dining rooms for a bedroom or two. Mentioned article in Free Press on ways to encourage. Wondered the percentage of owner occupancy was here in Burlington and found out it amounts to 15 or 20% of the homes are owner occupied. People who work and live in the community may not want to.

M.Long: live on Henry St. All around are mixed demographics for many years. Investors renting to undergraduate students. This application does not meet the minimum threshold of square footage. Parking is inadequate and cannot approve application if it is in violation of the ordinance.

K.Long: zoning is a promise to the community. Staff approved keep this single family house with a bedroom downstairs that was a dining room.

S.Gustin: mentioned square footage needing to be 2750 sq. ft.

K.Long: please save our neighborhood and the single family unit.

S.Bushor: looking at the application, I would like to understand why the parking does not meet the threshold. Support staff's recommendation based on parking, concerns with attic space, but this doesn't mean it is okay as livable space. I do not support 5 unrelated people to live in a space/unit.

K.Maciejowski: understand the house she has lived in for several years in is under review and asks to read a statement to the Board. Feeling part of a community knowing neighbors by name, and socialize as professionals living respectfully. The five residents care for and maintain the house. There is never an issue of parking with everyone working 9-5 jobs. Has statements from neighbors saying residents of this house are model citizens who care about the community. They shop and support local businesses.

Neighbor: If property isn't zoned to include all the residents, the rents will go up and we will all have to leave.

A.Hart: there are 6 off street parking spaces for 2 buildings. Do you have cars?

K.Maciejowski: we never pull up on the lawn and we all have cars. When was this lot put in?

S.Gustin: in November, 2000.

J.Pizzagalli: heard excellent representation of board discussions and opinions in town. Regulations need to work out parking for the third floor livable space feeling the application meets the requirements. The parking can be solved by not cramming or parking on the grass.

A.Hart: can make a decision but parking is still a problem. Do you want to amend the application?

JPizzagalli: can make 2 additional spots.

WSenville: the total number being at least 10. So are you saying there is no way to provide this?

J.Pizzagalli: I will look at it.

W.Senville: under ordinance the attic can be converted.

S.Gustin: directly under roof is attic space and still attic if converted.

J.Pizzagalli: described the area being used and measurements taken.

A.Hart: closed public hearing at 5:57pm

3. 16-0859CU; 616 South Willard Street (RL, Ward 6S) RJL South Willard, LLC / Majestic Car Rental Group

Request to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church. (Project Manager, Scott Gustin)

A.Hart: applicant and interested parties are sworn in.

B.Rabinowitz: describes use of parking at church and asks applicant whether it is an option.

M.Fitzgerald: yes it is and asks to comment.

A.J.LaRosa: should limit discussion to parking management plan only.

M.Fitzgerald: based on staff's comments need amendment for 50 parking vehicles.

B.Rabinowitz: correct, this in the presentation.

M.Fitzgerald: explains the parking management plan with the church for 30 spots. They only need 20 and have 10 extra spots. The Church needs need to sign off on this. Staff mentioned concerns that the allotted number of spaces is unclear. Majestic would be able to use the 10 extra spaces only which are needed only on weekends. Then there is no need for a parking waiver. This has been going on for years with never a complaint from the neighbors.

B.Rabinowitz: is parking limited to 10 spaces on your property on Saturdays?

M.Fitzgerald: we move cars occasionally off site

GHand: are cars moved to other locations?

M.Fitzgerald: yes, they go to South Burlington and Williston where we shuffle cars to open up the lot and be respectful of the church property. Nothing is happening in the residential area.

A.Zipparo: asks about the returns.

A.J.LaRosa: are cars left overnight?

M.Fitzgerald: maybe.

BRabinowitz: is it unusual for 2 or 3 cars to be parked on the side each year?

M.Fitzgerald: never had 30 cars. This may fluctuate.

B.Rabinowitz: maximum number of cars?

M.Fitzgerald: have been shuffling cars for 9 years.

K.Godule: attorney for J.Noll, said being sandwiched between Church and Majestic doesn't work for neighbors.

J.Noll: I feel I have commercial property around my house having problems with noise, traffic, pollution and debris. When vehicles come back Sunday night they make noises with each door closure. One vehicles' alarm went off and woke up my grandchildren. Made quite clear to Holly Farrington that when I bought this house in 1985 I did not have this problem.

A.Hart: talking about the use for church parking lot as opposed to Majestic's use.

K.Godule: comment on distance where park cars and big panel trucks, which is less than 20 ft. from my client. Cannot run a fleet of 40 to 50 vehicles and ask the neighborhood to endure this. Majestic parking plan does not meet what the area is zoned for. Thousands of vehicles are parked there all the time.

J.Noll: not right for City to allow this

K.Godule: they were denied parking, but they continue to do this every day. There's been no code enforcement by the City. The City has to say no, now.

A.Zipparo: do they have acceptable site plan?

S.Gustin: on site conditions are approved.

A.Zipparo: are the vans close to the property?

S.Gustin: they got a permit in 1983.

A.Zipparo: conforming now?

G.Hand: this is not before us.

S.Gustin: agrees with this.

B.Rabinowitz: must stay with the plan.

J.Noll: the plan is a stalling technique.

W.Senville: how do you distinguish when car share takes spaces in the other location?

S.Gustin: this is Neighborhood and Mixed use zone and car share has always been part of parking management plan.

K.Godule: We have protested to Majestic for years. They've had lots of complaints.

S.Compaste; disappointed that new information was asked for, but is not specified as to the number of cars and overflow parking on the street. As someone who walks the streets, I often see Majestic vehicles park on and across the street. This is not random use. Sometimes they fill their own lot. One van is extended over the lot despite a high volume of traffic in the circle. It seems like the church is operating as a business. The neighborhood is against this.

M.Fitzgerald: worked with Scott on the issues. We were only allotted 11 spots. There never was an issue in 9 years. Church has allowed us to work this out. Understand businesses work together.

G.Hand: why can't parking be at other two spaces?

M.Fitzgerald: problem is when they return, there are a limited number of people to assist with the returns. People often return using the church space.

G.Hand: you could move them.

M.Fitzgerald: not always feasible.

A.Zipparo: this may not be the right space for this business.

A.Hart: what percent of bus use is from local use?

M.Fitzgerald: a lot of neighborhood are walking in?

A.Hart: vans?

M.Fitzgerald: summer camps are using our vans.

A.Zipparo: questions inventory.

A.Hart: closed public hearing.

4. 13-0650CA/MA; 110 Riverside Ave (NAC/R, Ward 1) Sisters & Brothers Investment Group, LLC

Request for a 2nd one-year extension for proposed 57 unit residential building with associated underground parking, approved July 2, 2013.
(Project Manager, Mary O'Neil)

A.Hart: swears in applicant and interested party.

J.Matosky: things are taking longer with State permitting process and therefore, asking for an extension.

A.Hart: we need to guard against approval of extensions and then people shelving projects. Why did this go on so long?

J.Matosky: permit was approved in June, 2013. We did not apply to Act 250 until 2 years later, which is what all other permits are based on.

A.Hart: what is the status of all permits now?

J.Matosky: water and waste water held up with the Act 250 this month. Received all state permits Project hasn't changed.

A.Hart: we need to preserve integrity of the process and will be tough on this. When will you start?

J.Handy: starting construction April, 2017. Things like asbestos and preconstruction will be done beforehand.

W.Senville: why the delay with Act 250?

J.Handy: other projects delayed it, such as a spill in the building that needed cleanup.

A.Hart: we're uncomfortable about granting an extension on a project we approved 4years ago.

J.Matosky: the process of preparation and getting permits is complex.

J.Handy: remember the State was unsure if we needed Act 250 and it took 6 months to do this.

S.Bushor, city councilor of Ward 1. Supports this project, but concerned about the hiatus. Two issues here: One, there is a fair amount of change and alterations with erosion and stability issues on the bank. Is it possible to stay away from the bank and what would this look like?

Two: at the time we were trying to get pedestrian crossing activated and it was turned down. This looks differently now. Want to see the project move forward according to the City's position.

A.Hart: I know we discussed this and may decide if we don't want to renew the extension. The applicant and people above may want to know the stability of the bank.

J.Matosky: if we get approval through Act 250, the zoning permit process and building are next. Not aware any changes with stability. Thought we agreed to sidewalk crossing and activated crossing on Riverside Ave.

A.Hart: closed public hearing.

5. **16-1378CA/CU; 75 Orchard Terrace (RH, Ward 8E) Laura and Liam Murphy**
Amend Zoning Permit 83-539 (Convert building into one apartment and a boarding house for no more than four persons) to apartment with boarding house for not more than 2 persons; relief of condition identifying 18 Bradley Street at site of two off-site parking spaces; request for 1 space parking waiver.
(Project Manager, Mary O'Neil)

A.J.LaRosa: recused from this item.

A.Hart: swears in applicant

L.Murphy: practicing lawyer in Burlington. Lived in Charlotte for nine years. He and his wife would like to move back into the City. Came across this house next to City Market. It has been student rental for 20 years. Upon change of ordinance, it could not use as single family house in residential high density district. There is a history of approval in 1983 with parking. In 1993, this property changed to single family rental. The house is on the national register. Met with staff and found out for the first time about the approval in 1983 and change in zoning not being able to use as single family dwelling. This property was always registered as dwelling with 4 rental units. The argument is when the boarding house ceased and the parking condition of the permit was not met, it reverted back to single family, although staff disagreed. In May, a final email from staff was about compliance with extra two parking spaces.

The comprehensive development ordinance of 2008 did not allow for a single family.

It seems either a duplex or boarding house is a possible designated use. Offsite parking is difficult because things change.

Looking for a boarding house designation with one offsite parking and asking Board to waive the space. Staff recommendations were against the waiver. We are renting to people who will not have cars, but we think the waiver is reasonable. Staff asked for a parking management plan. For people who do not have cars, we would give two bikes, pay for car share, or give a bus pass. This is an imposition more than other properties.

The YMCA has a parking waiver of 300 spaces. If we had a choice, we would not have a boarding house. Other houses on Orchard Terrace were excluded from the downtown transition and downtown parking district. The number of bedrooms will be four, which is what there is now. Our goal was to find a nice downtown house and bring it back.

A.Hart: questions staff if boarding house needs to be owner occupied.
M.O'Neil: under 2008 ordinance, boarding house does have a condition to be owner occupied.
L.Murphy: if you approve it now we would have to sell, but this would change if it can be owner occupied.
A.Hart: can the Board give a waiver up to 50%?
S.Gustin: in relation to the YMCA, it is existing for adaptive reuse.
M.O'Neil: got reduced parking requirement and came in under the warning.
L.Murphy: the way the lines were drawn is arbitrary. It puts properties in difficult situation.
B.Rabinowitz: asked staff about modification of existing permit.
A.Hart: more comfortable to have requirement to have boarding house and owner occupied.
L.Murphy: would like to maintain the use and ask not to impose it immediately. We are trying to find a path to compliance to keep this house. We would rent for a year then sell our house.
G.Hand: have you tried to find offsite parking?
L.Murphy: funeral home next to our property is not interested. The space has to be within 600 ft. of the site and doesn't reach across the street. Offsite spaces are difficult to monitor.
Laura Murphy: said was it was impressive all the hard work involved with this project. She was struck by the homeowner who spoke regarding a prior project who said owner occupancy was only 15% in Burlington. The City tries to be a livable community and we are working really hard to be part of Burlington. The way people are living is changing. Who previously had heard of car share and bike lanes? We're trying to come up with solutions. We think these rules don't always mesh and urge you to support people who want to make Burlington a great place to live.
L.Murphy: we know people in Charlotte who want to move into town. It is a shame this house cannot be made into a single family house. It reflects well on other houses in the City.
A.Hart: closed public hearing.

V. Other Business

Administrative review of replacement homes at North Avenue Coop

M. O'Neil introduced a proposed DRB bylaw change to enable administrative zoning permit review of replacement mobile homes at North Avenue Coop. The item was deferred to the next deliberative meeting.

Annual Reorganization

DRB Clerk – Anita Wade

Chair – Austin Hart

Vice Chair – Brad Rabinowitz

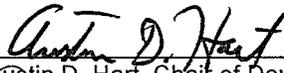
Ordinance Committee representative – Wayne Senville

Long Range Planning Committee representative – AJ LaRosa

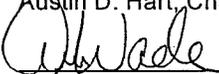
All votes were unanimous.

VI. Adjournment

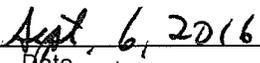
The meeting adjourned at 7:30 PM.



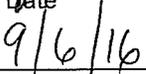
Austin D. Hart, Chair of Development Review Board



A.Wade, Planning & Zoning Clerk



Date



Date