

Burlington Development Review Board

Department of Permitting & Inspections
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Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
vacant
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday August 4, 2020, 5:00 PM Remote Meeting

Zoom: <https://us02web.zoom.us/j/81648212473?pwd=V2NxNTk3N1Y0aDBiUmh2cGJQUS9HUT09>

Webinar ID: 816 4821 2473

Password: 842557

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Minutes

Board Members Present: Brad Rabinowitz, Geoff Hand, Brooks McArthur, Kienan Christianson, AJ LaRosa, Springer Harris, Ravi Venkataraman (Alt), Sean McKenzie (Alt)
Staff Present: Scott Gustin, Ryan Morrison, and Alison Davis

I. Agenda

AJ LaRosa: No changes to the agenda

II. Communications

AJ LaRosa: No additional communications

III. Minutes

AJ LaRosa: There are several minutes to review

IV. Public Hearing

1. 20-0914CA/AP; 4-8 Strong Street (RM, Ward 3C) Alan Bjerke

Appeal of zoning permit #20-0914CA. Restore gravel driveways to same dimension; modify entry stairs to 8 Strong Street. No change to coverage. (Project Manager: Mary O'Neil) Appellant: Melissa J. Aloisi

Applicant: Alan Bjerke

Appellant: Missa Aloisi

M. O'Neil: Gives history of permit administrative approval and appeal. Mentions that staff found appeal request after appeal period due to short staff during quarantine period, but needs to be decided by Board if appeal request is timely. Burlington Telecom confirmed a voicemail for appeal request was left during appeal period. Appeal is regarding issue with property lines.

B. Rabinowitz: Asks for details about the application and appeal

M. O'Neil: Appellant is questioning the accuracy and validity of the site plan that was provided and disagrees with the location of the property lines. Clarifies that the substance of the appeal is that the abutting neighbor has a conflicting survey with the applicant's site plan.

G. Hand: Asks to clarify how the Board and zoning deals handles property line disputes and what boundaries they have for their consideration.

M. O'Neil: DRB is not inclined to take on property boundary disputes

G. Hand: Asks if there is a factual dispute about where a property boundary is, and the location of that boundary might reflect on Board's ability to approve or deny the request

AJ LaRosa: Mentions previous similar DRB item where a condition requires a survey and work towards resolution

M. Aloisi: Speaks on timeliness of submitting appeal. Applicant gave appellant copy of permit application before submittal. Fence setback would be 5' from property line, no issue with that proposal. Issue with application is that the previously approved site plan that was submitted with current application shows incorrect property lines. Provided applicant/neighbor with surveyed drawing, showing the correct property lines. Drawing was corrected, but property line was not corrected, but updated with new dimensions. Provided email communication with appeal. Describes timeliness of appeal submittal.

AJ LaRosa: Asks to clarify issue with approval being based on the previously approved site plan.

M. Aloisi: Provides details about history of property. Details about site plan and parking space issues. In appeal application, there was a land surveyed site plan showing record of pin locations. Speaks on issues with previous approval of site plan and driveway dimensions. Multiple and multi-layered issues with application and site plan.

S. Harris: Talks through Google maps street view of driveway and photos provided by applicant, looks like there was a gravel area where grass had grown through, gravel appears to align with curb cut and driveway apron where it connects the sidewalk to the road

M. Aloisi: Explains driveway has not been used as a four-car driveway, but as a two-car driveway. Last summer, redid driveway portion from sidewalk to the road, but previously, the width of that space was for one-car wide driveway. Explains issues with driveway location in respect to distance to her property and building. Explains history of granite monument.

AJ LaRosa: Concerns that this is a property line dispute, which is outside of Board's jurisdiction.

A. Bjerke: Speaks on issue of timeliness of appeal. Appeal was not submitted within the appeal period, so should not be admissible. Believes due diligence was not taken to submit appeal. Regardless of property boundary dispute, there is a preexisting nonconforming use of four-car driveway. Has been in place since 1982. When property was purchased, found gravel on site. Property lines have been unchanged since they were first created. Speaks on Google maps and photos about driveway apron. No evidence that survey is reliable. Believes it is a preexisting nonconforming use that has been in place for 25 years and is allowed to continue and cannot be abandoned because it is a requirement, and survey that raised the dispute about the property boundary is inaccurate and limited.

G. Hand: Asks about site plan and the notation of 5' setback to west side of driveway

A. Bjerke: Correct, if you use previous site plan, it would be 5.5' away from property line. Issue is that appellant does not believe that is the line that the 5' measurement applies to. Submitted original plan, communicated and worked with Mary O'Neil to create a drawing that could be approved. Believed that a 5' setback was required from the new property line and it was concluded that that was not the case.

G. Hand: Asks about driveway dimensions and reflection on site plan

AJ LaRosa: Closes public hearing

2. 20-0971CA/CU; 362 South Union Street (RL, Ward 6S) William Fellows and Tshen Shue

Demolish detached garage. Construct garage with attached dwelling unit for conversion to duplex. (Project Manager: Ryan Morrison)

Applicant: Tshen Shue

Public: Alice Suitor, Gilbert Suitor, Travis Rousseau, John Hall

T. Shue: Walks through project presentation. Gives brief history of property. Explains site plan.

A. Suitor: Has questions about parking, but sees that lot of the issues she had have been addressed. Mentions driveway easement dimension. Questions about snow removal, solutions still do not seem adequate. Questions about pool dimensions. Stormwater drainage of concern. Also worried about construction parking

T. Rousseau: Concerns with project looking more modern and not as historical

J. Hall: Extremely modern building located in the Hills Section, which relies on historic preservation. This project is different than surrounding buildings. Worries about lot coverage and removal of greenspace. Issues about height of building.

T. Shue: Wants to compromise with abutting neighbor, Alice Suitor, about concerns for project and construction of project. Gives details about pool dimensions. Speaks on modern rendition for historic structure.

R. Morrison: Warranty deed explains the shared driveway easement. Use of shared drive is for single family use

AJ LaRosa: Not sure if we can interpret deeds. It is good information, but do not want to discuss for public hearing item.

S. Harris: Speaks to height of building.

AJ LaRosa: Closes public hearing

3. 20-0854CA/CU; 266 Queen City Park Rd (ELM, Ward 5S) Burton Corporation

Conditional use application to create 11,560 SF Performing Arts Center use within an existing 85,000+ SF structure; proposed façade improvements to existing building exterior. *Continued review.* (Project Manager: Scott Gustin)

Continued from July 17 meeting. Geoff Hand recused from item

Applicant: Burton Corporation, Higher Ground

Public: CRZ Group; Laurie Smith, Almy Landauer, Lori Hayes, Doug Goodman, Les Blomberg, Gregory Tocci, Janice Ellis, Sharon O'Neill, Laura Waters, David Geddes, Michael Turner

Brendan Bush, Kyle Creason, Al Margulius, Elisa Nelson, Gabe Arnold, Colin McNeil, Tim Barrett, Sharon Bushor, Ben Traverse, Kerry Anderson, Seth Mobley, Stephanie

AJ LaRosa: Left off after applicant presentation. Next steps are to hear from the public. Public comment limited to three minutes per speaker. Applicant will have opportunity in the future to respond to public comment and DPW comment.

CRZ Group-

A. Landauer: Self-introduction, also there on behalf of Lori Hayes. Reads letter to Board on behalf of Lori Hayes. Concerns about the size, scale, and scope of the project, concerns about tailgating, security, police response.

L. Smith: Introduction, gives information about property location and opinions about application. Worries about transportation and safety.

D. Goodman: Gives concerns about application and impacts on surrounding area. Concerns about impacts on South Burlington and Burlington police force.

L. Blomberg: Noise ordinance expert. Burlington's Noise Ordinance is typical, but critical especially because of college town. Explains reasonable testing and audible testing in noise ordinance.

AJ LaRosa: Asks for further details and explanation about audible test in noise ordinance. Speaks on plainly audible standard vs decibel standards. Asks what standards Board should follow.

L. Blomberg: Plainly audible ordinance is only applicable at night.

G. Tocci: Speaks on environmental sounds and noise standards/baselines. Worries about other noises that should be taken into account that RSG report did not include.

AJ LaRosa: Asks if G. Tocci agrees with RSG perspective about what sound levels are harmful

G. Tocci: Feels like limits are too high corresponding with audible sound levels. Would be worth for RSG to determine how the proposed sound levels will compare to the current sound levels in the area.

J. Ellis: Concerns with possible noise issues from proposed project.

S. O'Neill: Concerns with safety, noise and traffic. Asks about police response and security plan. Asks about smoking area, issues with smell and sound. Concerns with current infrastructure of roads and transportation systems.

L. Waters: Speaks on April 23rd traffic impact study. Lists flaws and deficiencies about study. Concerns about intersections and traffic delays.

D. Geddes: Addresses data in traffic study report. Expresses concerns about traffic patterns, especially with lack of Champlain Parkway. At least five points about traffic study that should be taken into consideration.

M. Turner: Introduces Queen City Park neighborhood and demographic. Explains navigating neighborhood and surrounding area. Concerns with lack of pedestrian and bicycle infrastructure. Explains concerns with one-lane bridge.

L. Smith: Concludes CRZ Group presentation. Asks that applicant provides raw data to noise experts. Ongoing disturbances will occur if these issues are not addressed or resolved.

B. Bush: In full support of project. Concerns about sidewalks, one-lane bridge. Concerns about safety. Concerns with suggestions that unwanted communities, artists with a "disruptive following", are going to cause problems. Believes reduction in police force will not change police response. Concerns with what DRB reviews/approves vs the amount of information and issues they are being presented with. Concerns with data that was presented does not accurately reflect traffic patterns at the times of concern, which would be late at night after a concert is over (kids walking home from school, truck traffic).

K. Creason: Speaks on traffic study and traffic impact concerns on Home Avenue. Concerns about late night traffic. Concerns with timing of concertgoers arriving at concert and safety of neighborhoods with children.

A. Margulius: Concerns with disruption and safety. Concerns reflect many others who spoke prior.

E. Nelson: Concerns with traffic, police, noise issues. Concerns reflect other who spoke prior.

G. Arnold: Positive points, supports project and is exciting for addition to South End. Believes project will raise the quality of life to this neighborhood.

C. McNeil: Here on behalf of City of South Burlington. Also with Colin is, SB City Councilor, Tim Barrett. Submitted concerns about noise, traffic, parking, safety, protection of Red Rocks Park, and staffing levels.

S. Bushor: Asks to clarify if staff would help with people and cars leaving the venue. Concerns with sound and noise. Asks and recommends exploring satellite parking off Pine Street. Could be a solution for noise and traffic issues.

B. Traverse: Concerns with traffic and lack of traffic calming measures. Many of the issues brought up are outside of Burton's control (Champlain Parkway, infrastructure). Concerns with noise at Pine St and Home Ave intersection when cars are backed up. Believes there need to be conditions regarding the Champlain Parkway being built.

K. Anderson: Concerns with noise mitigation and traffic.

S. Mobley: Concerns with children safety, noise, traffic. Concerns with lack of pedestrian protection. Concerns with amount of traffic during lack of Champlain Parkway. In support of development of neighborhood, just need infrastructure support.

S. Herrick: Concerns with façade improvement and outdoor socialization areas.

AJ LaRosa: Motion to continue public hearing to August 18. Wants applicant to be prepared to respond to address update submissions, DPW comments, and public comments and concerns.

B. Rabinowitz: Seconds motion

Motion passed.

V. Certificate of Appropriateness

1. **20-0522CU; 75 Cherry Street (FD6, Ward 3C) BTC Mall Associates, LLC**
Amend ZP 17-0662CA/MA phasing schedule. *Applicant has requested 3-month time extension for application review.* (Project Manager: Scott Gustin)

Geoff Hand recused from item

B. Rabinowitz: Motion for three-month extension

S. Harris: Seconds motion

Motion passed.

VI. Adjournment

Meeting adjourned at 8:30pm

 Bradford L. Rabinowitz, Chair of Development Review Board	Feb 2, 2021 Date
 Alison Davis, Zoning Clerk	11/23/2020 Date

Plans may be viewed upon request by contacting the Department of Permitting & Inspections 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 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/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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