

Burlington Development Review Board

Department of Permitting & Inspections
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Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, October 20, 2020, 5:00 PM REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/86710891787?pwd=YVF0TjAzNkF6bkhFalZndVFHUTZFdz09>

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Minutes

Board Members Present: Brad Rabinowitz, AJ LaRosa, Springer Harris, Brooks McArthur, Kienan Christianson, Geoff Hand, Sean McKenzie (Alt)

Board Members Absent: Caitlin Halpert, Ravi Venkataraman (Alt)

I. Agenda

B. Rabinowitz: No changes to agenda

II. Communications

B. Rabinowitz: Nothing other than what is in the packet

III. Minutes

B. Rabinowitz: Last meeting's minutes included in packet

IV. Consent

1. 21-0319CU; 77-79 Buell Street (RH, Ward 8E) Ellis McArdle

Establish bed and breakfast use. (Project Manager: Scott Gustin)

Moved to public hearing item

Jamie Sharpe and Ellis McArdle appeared on behalf of the application

Public: Anne Brena

B. Rabinowitz: Explains that application is recommended for approval as a consent item and there are recommended conditions of approval. Asks if applicant has reviewed staff report and staff recommendations, and if they have any disagreements with them.

J. Sharpe: No disagreement

B. Rabinowitz: Asks if any members of the Board object to treating this item as consent.

No objections

B. Rabinowitz: Asks if there is anyone from the public who has comments for application.

Item moved to public hearing

A. Brena: Abuts property. Questions how rental will be managed. Hopes neighborhood will stay quiet and clean.

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J. Sharpe: Have owned the property since Fall 2018 and have been renting it out periodically it since then. Asking for the legal permit for this use.

B. Rabinowitz: Confirms if the property owner resides on the property.

J. Sharpe: Correct

B. Rabinowitz: Confirms there are conditions regarding time constraints to when people can arrive and check-in.

J. Sharpe: Correct

B. Rabinowitz: Asks about neighborhood etiquette

E. McArdle: They have found that the AirBnB guests are highly incentivized to have good behavior. Have found that short-term rental guests add value to neighborhoods

B. Rabinowitz: Asks if any Board members have questions about application

G. Hand: Asks to confirm that it is only one of the units that is being used as a short-term rental.

E. McArdle: Correct

S. Harris: Asks if this application is because of a recent violation warning for running the bed and breakfast without the permit.

J. Sharpe: Received a notice that it was unpermitted this summer.

B. Rabinowitz: Asks if public has any more questions

None

2. 21-0291SD; 90 Cottage Grove (RL, Ward 4N) Marc and Jessica Valin

Combined preliminary/final plat review of 2-lot subdivision. (Project Manager: Scott Gustin)

Marc Valin appeared on behalf of application

No public appeared to speak on application

B. Rabinowitz: Explains that application is recommended for approval as a consent item and there are recommended conditions of approval. Asks if applicant has reviewed staff report and staff recommendations, and if they have any disagreements with them.

M. Valin: No disagreements.

B. Rabinowitz: Asks if any members of the Board object to treating this item as consent.

No objections

B. Rabinowitz: Asks if there is anyone from the public who has comments for application.

No public

S. Harris: Motion to pass the application and adopt staff findings

K. Christianson: Seconds

7-0-0

V. Public Hearing

1. 21-0287CA/CU; 119 Spruce Street (RL, Ward 6S) Chris Khamnei

Demolish garage and replace with garden shed. Siding alteration. Remove and replace one window. (Project Manager: Scott Gustin)

Chris Khamnei appeared on behalf of application

Public: Ken Hampel (354 South Union Street)

B. Rabinowitz: Explains that staff is recommending approval for application. Asks about current condition of site

C. Khamnei: Gives brief overview of what is going on at property. Explains neighbor submitted application to remove driveways and garages. Neighbor did not include in application to remove 119 Spruce St garage. Garage was listed as historical, needs a replacement garage if demolishing the existing garage. Driveway had already been permitted to be removed. Proposing shed to replace garage, with proper setbacks.

B. Rabinowitz: Asks if there is no new garage at this time

C. Khamnei: Correct

B. Rabinowitz: Asks which driveway is in use or if it's currently being built

C. Khamnei: Partially being used because they are able to drive on it and work on the house, but no curb cut has been made. Notices that site plan is incorrect. Submitted wrong site plan. The East boundary is in the incorrect location.

S. Gustin: Would have to be a separate application for a boundary line adjustment.

B. Rabinowitz: Package seems clear for what you want to do. The boundary line issue will have to wait until the permit is approved.

S. Harris: Asks to confirm if the work has been happening without the issuance of the permit

C. Khamnei: The garage has been demolished, but nothing else has been built.

B. Rabinowitz: Asks if applicant is planting grass. Referring to pictures

S. Harris: Pictures show that a lot is going on at the site. Asks to clarify

B. Rabinowitz: Does not look like driveway currently exists. Asks what the driveway is made out of.

C. Khamnei: Nothing right now, just dirt.

B. Rabinowitz: Clarifies that the driveway on site plan is not constructed yet.

C. Khamnei: Correct. Project is in transition, driveway is not constructed yet

K. Christianson: Has questions regarding public comments. Asks about people living in the home and if work is being done on Sundays.

C. Khamnei: Not aware of rule for construction to not be done on Sundays without permission. Not aware if crew was working on Sundays.

K. Hampel: Yard is set up like a work area. Four or five hoop houses and trailer on property. Driveway work is not allowed to start until stormwater plan is approved, not sure if that has been submitted. Property has a lot of construction vehicles there, no construction really happening, excavation has happened over one month ago. Crew members living in house.

B. Rabinowitz: We do not have jurisdiction about if people are living in the house or not, but we are concerned with where people are parking on the site.

C. Khamnei: Project is stale because we are waiting for permits to move forward.

B. Rabinowitz: You have approval for the driveway, you can move forward with that.

C. Khamnei: Thought stormwater plan is needed. Explains excavation work that was done

B. Rabinowitz: No reason for people to be parking on the site without the driveway. Asks if there are any other questions for applicant from the Board.

Closes public hearing

2. 19-0980CA/MA; 110 Riverside Ave (NAC-RC, Ward 1E) Sisters & Brothers Investment Group LLP

57-unit apartment building with underground parking. (Project Manager: Scott Gustin)

Steve Guild, Joe Handy, and Brian appeared on behalf of application

Public: Sharon Bushor, Jason Stuffle (316 Colchester Ave), and Bob Butani

S. Gustin: Explains that the original application for this project was in ~2013, timed out with extensions, went to court, there was a settlement a few years ago that applicant could reapply with no additional fee. This is a continuation of the most recent review from February and then most recently deferred to Oct 20. This is the second and final 3-month time extension runs out.

B. Rabinowitz: Asks to recap that this is focused on the retainage and shoring of bank behind this building. Looking for engineering verification and City review of that.

S. Gustin: Three items were needed when the Board last took action on item to reopen hearing. 1) City Engineer's approval of retaining wall and associated easement of neighboring property, 2) Stormwater management plan, and 3) Tree retention and protection along bank. Everything has been addressed except for the stormwater item. Oddity is that we have stormwater remaining as outstanding item, but applicant wishes to defer again and we cannot.

B. Rabinowitz: Asks for applicant to explain current situation

S. Guild: Main issue was communicating with neighbors. City approved shoring for retaining wall, but neighbors not cooperating with easement. Asked for extension to try and communicate and find agreement with neighbors. Since they could not get easement from neighbors, they thought best option would be to scale the building down. Asking for an extension to revise application to reduce size of building to not have to deal with shoring and easements.

B. Rabinowitz: Asks if stipulation between City and applicant relates to the time duration of the review

K. Sturtevant: Relates to when they can apply again and have the same fee. Intent of stipulation was to give a time limit for when they are able to come in and still have the same fee. Had to do that by June of 2019, and they did that, and then the clock starts once it's applied for.

B. Rabinowitz: If they are coming back with a revised building plan, which means it will be different stormwater, parking, shoring, everything, what is the advantage to not having a new application?

S. Guild: Applicant does not want to have to pay another application fee. Want to use the same fee because of the same use and site, but just new reduced building

G. Hand: Asks if applicant agrees that the City will have to go through the entire review process with the new building and if that will take time and/or effort.

S. Guild: Smaller building and reducing the parking, trying to eliminate any shoring. Trying not to lose the application fee.

G. Hand: Challenge is that the Ordinance is not written to give Board discretion to extend the application longer than today's meeting

A. LaRosa: Asks if they have to act on the application or if they have to hear it and then go into deliberation. We can't continue the public hearing.

S. Gustin: Board needs to close the public hearing and either approve or deny

B. Rabinowitz: Board asking for more information would not mean the application is not complete

S. Gustin: Difference between complete and compliant

S. Guild: Not a new application, just a revised application that does not include shoring for retaining wall.

K. Christianson: Asks about time limit flexibility regarding covid

S. Gustin: In addition to the Board extensions, there was a 90-day covid extension for timelines including this application.

S. Guild: Site is not in great condition, applicant is looking to improve conditions. Asking for extension to remodel the building and keep the application fee.

S. Harris: Asks applicant if a new site plan is submitted, if they feel like the City resources used to review that plan should be associated with a new fee.

S. Guild: No, it would be a revised application. Don't know why the old fee wouldn't cover that

G. Hand: Asks Kim Sturtevant if the Board can take this under advisement and allow revision within construct of our deliberation. Public hearing would need to be reopened. Asks if there is any avenue in Ordinance that allows them to extend beyond what is provided in that section.

K. Sturtevant: Can close the hearing and deliberate. That section was added in the Ordinance because of applications that take too long and when people are asking for more and more time.

B. Rabinowitz: With a new submission, there is a lot of work that goes into the review of the application by City departments that would be involved, which the fee covers.

G. Hand: Wants to clarify that there were also issues with stormwater for this project

S. Gustin: Correct

B. Rabinowitz: Asks if Board has any other questions for applicant.

None

J. Stuffle: Appreciates the willingness to update plan to smaller building that does not impact the hill. There has been considerable amount of time and effort reviewing application. Long process of being drawn out, application needs to be submitted again as a new submission. New people live here that did not live here in 2013, we need their public input as a new project.

B. Butani: Asks if applicant has reviewed geological survey done for Riverside Ave

B. Rabinowitz: Applicant has had extensive engineering review

S. Bushor: Reading staff comments, outstanding issue was stormwater. Needs stormwater review, erosion is an issue with this property location. Supports this project, but application and review has not been completed, hopes it does not receive approval. From 2013-today, stormwater management has changed, would be detrimental to apply standards from seven years ago.

S. Gustin: Standards change over time, that is why permits applications have time limits. Two significant in CDO since original changes would be inclusionary standards and parking standards.

B. Rabinowitz: Closes public hearing

3. 21-0076CA/CU; 400 North St (RL, Ward 1E) William McKenna

Continued hearing to remove garage; construct accessory dwelling unit in backyard; driveway and parking reconstruction. (Project Manager: Ryan Morrison)

Will McKenna appeared on behalf of application

Public: Joseph Cleary

B. Rabinowitz: Explains that this is something that has been reviewed before. There were two issues, access of driveway from street and what topography is like, and how stormwater was going to be dealt with on the backside of the property.

W. McKenna: Met with James Sherrard for stormwater and were able to come to consensus that problem on street is that it was designed to flow into catch basin on Dan's Court, but is not functional. Problems with stormwater run-off is because the catch basin is not working properly. Asks what needs to be done to satisfy the City. Explains note from James Sherrard.

B. Rabinowitz: Asks if there is a way to do this building and not add stormwater to the rear of the adjacent property. A gutter on the shed roof would take the water and not place it on the neighbor's property.

A. LaRosa: Explains that there is a need for EPSC approval before they can approve the zoning application.

G. Hand: Need EPSC approval and more detail on what driveway is proposed to look like.

S. Harris: We can defer and give you more time to find a solution

B. Rabinowitz: Asks if public has anything to add

J. Cleary: Attending meeting to see if plans that were requested were submitted. Concerns with Dan's Court. Asks if there has been permission for a curb-cut.

W. McKenna: No permission yet.

J. Cleary: Concern with runoff. There are ways with engineering to mitigate stormwater. Concerns with catch basin condition.

K. Christianson: Motion to defer action until December 1st.

S. Harris: Seconds

7-0-0

VI. Adjournment

Meeting adjourned at 7:02pm

Bradford L. Rabinowitz, Chair of Development Review Board

Date

Alison Davis

11/9/2020

Alison Davis, Zoning Clerk

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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