

Burlington Development Review Board

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Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Zoraya Hightower
Brooks McArthur
Kienan Christianson
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday November 6th 2019, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT Draft Minutes

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

Board Members Absent: Springer Harris, Ravi Venkataraman (Alt.)

Staff Present: Scott Gustin, Mary O'Neil, Alison Davis

I. Agenda

B. Rabinowitz: Asks if any changes are needed for the agenda.

S. Gustin: Confirms no changes to agenda, and adds 75 Briggs project is recommended for consent.

II. Communications

B. Rabinowitz: Clarifies Board has received updated parts of Comprehensive Development Ordinance that has been adopted by City Council.

S. Gustin: Confirms that these updates are from early as June, and some updates from October. There will be an agenda item soon to provide an overview of what the updates include.

III. Minutes

B. Rabinowitz: Have minutes from October 15th to review, asks anyone who has comments or corrections to please let him know.

IV. Consent

1. 20-0360CA; 111 Intervale Rd (EAE, Ward 2C) City of Burlington Fire Department Installation of fire training structures (Project Manager: Mary O'Neil)

Troy Ruggles and Aaron Collette appeared on behalf of project

No one from public provided testimony

G. Hand not present

B. Rabinowitz: Asks if applicants have reviewed staff recommendations and if any members on Board if they object to the item being on the consent agenda.

T. Ruggles: Accepts staff comments and recommendations.

B. Rabinowitz: Recommends Board makes motion to approve.

K. Christianson: Motion.

Z. Hightower: Seconds motion.

6-0-0

2. 20-0367CA; 27 Colchester Ave (I, Ward 1E) University of Vermont

Addition to Torrey Hall for improved ADA accessibility. Landscaping, walkways, and replacement on site of 11 parking spaces that will be displaced as a result of project and reconfiguration of two additional parking spaces (Project Manager: Mary O'Neil)

Gail Henderson King appeared on behalf of project
No public provided testimony
G. Hand not present

B. Rabinowitz: Asks if applicants have reviewed staff recommendations and if any members on Board if they object to the item being on the consent agenda.
G. Henderson King: Accepts staff comments and recommendations.
B. Rabinowitz: Recommends Board makes motion to approve.

A. LaRosa: Motion
B. McArthur: Seconds motion
6-0-0

V. Public Hearing

1. 18-1208CA/MA; 75 Briggs St (ELM, Ward 5S) Petra Cliffs

Time extension request for 18-1208CA/MA; Construct a new health club/climbing center. Includes a new building and site improvements (Project Manager: Scott Gustin)

Stephen Charest appeared on behalf of project
No one provided public testimony
G. Hand not present

B. Rabinowitz: Explains item is recommended for staff approval. Asks if applicants have seen the staff report and if it is acceptable for applicants.
S. Charest: Asks about expiration date of permit
S. Gustin: Explains the date that applicant is referring to pushes the date out by one year
S. Charest: Understands and accepts staff recommendations.
B. Rabinowitz: Asks members of Board if anyone is opposed to item being treated as consent. Recommends Board makes motion for approval.

Z. Hightower: Motion to approve and adopt staff findings and recommendations.
A. LaRosa: Seconds motion
6-0-0

2. 20-0166CA/VR; 15 Conger Ave (RL/W, Ward 5S) Patrice A. Stratmann

Demolish existing structure and construct new single family home and related site improvements (Project Manager: Scott Gustin)

Patrice Stratmann appeared on behalf of project
No public provided testimony

P. Stratmann: Provides board with three items and documents that include updated information about project; architectural design concept, site plan and elevation drawings, spec sheet for light, updated site plan
B. Rabinowitz: Asks what information is updated.
P. Stratmann: Explains that one is a smaller version of the original plan that was approved but is now expired or soon-to-be expired. Explains documents have been updated per DAB recommendations for light fixture and exit for rooftop plan. Explains original plan represented a design for a building that was significantly large for a single family home, but the plans have changed over the years, want smaller sq footage. Thought about redesigning, another buyer came along and had their own

design. Applicants started to work with interested buyers late last year into 2019, and then by early summer the interested buyers decided that they could not go forward. Applicants submitted a redesigned plan, and that is what they are here now tonight.

B. Rabinowitz: Confirms that applicant submitted old site plan so Board can compare with updated plan when reviewing.

P. Stratmann: Explains that new plan does not increase non conformities but decreases the overall non conformity. Now there will be small backyard.

A. LaRosa: Confirms the reconfiguration of property and asks about the sq footage difference of the new and original plans.

P. Stratmann: Previous plan was 4,000 and the proposed is 1,800.

A. LaRosa: Asks if carport is open or closed.

P. Stratmann: Open carport.

Z. Hightower: Asks about new 2nd floorplans, asks if plan is still 2 bedroom-2 bath.

P. Stratmann: Confirms.

B. Rabinowitz: Question about proposed plan overlaid on the existing plan and parking location.

P. Stratmann: Explains it was gravel belt across front of the building.

B. Rabinowitz: Asks about sidewalk and greenbelt location, explains site plan is not very sufficient.

B. Rabinowitz: Refers to comment in staff reports about color and natural cedar.

P. Stratmann: Explains cedar location and reason.

B. Rabinowitz: Explains he asked about color because he is curious.

Asks Board if there are any remaining questions.

A. LaRosa: Likes that it is smaller.

B. Rabinowitz: Nice to see the site repurposed.

P. Stratmann: Asks for time extension to get this done because of the weather and worried about time.

S. Gustin: It is a new application so you will have a new three-year time frame.

P. Stratmann: Good, wanted to confirm.

S. Gustin: You have a year to start.

B. Rabinowitz: Worried about when you are able to start or able to finish?

P. Stratmann: Both, but really worried if had to start next week.

B. Rabinowitz: Closes public hearing

3. 20-0350AP; 38 Greene St (RM, Ward 2C) Leon L Beliveau

Appeal of NOV 372003; Occupying structure with more than 4 unrelated adults in a Residential-Medium Density zone, inconsistent with the Family Definition of the Comprehensive Development Ordinance Article 13 (Project Manager: Ted Miles)

Ted Miles and Kim Sturtevant appeared on behalf of the City
No public provided testimony

T. Miles: Explains violation and history of property relationship with Department of Permitting and Inspections. Explains there were 7 unrelated adults living on the property. Revisited in May because of turnover of tenants. L. Beliveau does not deny the fact that there are 7 unrelated adults living at this property. Requests that the Board upholds violation with the condition that they uphold what the City is requesting.
K. Sturtevant: Adds that this property is not in compliance with the occupancy requirements, and have been cited so City is requesting for violation to be upheld.

A. LaRosa: Asks why situation is not talking about the last 15 years/statute of limitations and enforcement.

T. Miles: That was given as an option with the notice of violation which was sent to the owner but appellee did not seek that route, and decided to go this route.

K. Sturtevant: Has been no claim or request for determinations 15 years or grandfathering or anything of the sort.

B. Rabinowitz: Clarifies that no action was taken with the last notice of violation.

T. Miles: Explains that there was no notice of violation before the one they are addressing, but it was a zoning complaint in 2015 with no action taken on it.

B. Rabinowitz: Welcomes appellee to come up.

Leon Beliveau appeared on behalf of appeal

L. Beliveau: Introduces himself and explains that he is questioning the City's authority to enforce the no more than four unrelated adults zoning bylaw. Explains was watching it get approved back in 1999. Done a lot of research and documents. Explains he can only find so much information and has limited research.

B. Rabinowitz: Explains that appellee has an advantage over the Board because the Board looks at items that come before them in light of the (Comprehensive Development Ordinance) CDO. Explains that is appellee has a problem with the CDO, he is not sure that is something that Board has ability and jurisdiction to evaluate. Asks if appellee believes the City is at fault.

L. Beliveau: Asks if there is any evidence that the renters are unrelated.

Z. Hightower: Number of names is an indicator although is not proof.

L. Beliveau: Has the City submitted the lease as proof to show the names?

S. Gustin: You would need to seek approval of functional family status through Department of Permitting and Inspections.

A. LaRosa: Asks if renters are related. You have the information so you should be able to tell us if they are related.

L. Beliveau: It is up to the tenants to present.

A. LaRosa: No, it is not.

L. Beliveau: Explains he is not expecting to win and is planning on appealing decision.

A. LaRosa: It is a fair question, are they related or not?

L. Beliveau: They are not living as a single non-profit housekeeping unit.

K. Christianson: Are any of the renters here in the audience?

L. Beliveau: Does not know if renters are in audience. Says Code Enforcement has copy of lease. Does not know why they are not presenting it as evidence.

A. LaRosa: So you do not know if they are related or not.

L. Beliveau: I do know.

A. LaRosa: Asks if renters are related or not.

L. Beliveau: No, they are not.

A. LaRosa: Asks about argument and validity of the four unrelated adult provision in the statute.

L. Beliveau: The statute calls it a bylaw.

A. LaRosa: Asks why appellee thinks it is unenforceable.

L. Beliveau: That answer is in the documents that I presented to you.

A. LaRosa: Understands, but wants appellee to explain it to him.

L. Beliveau: Explains he deals with contracts and is in real estate. Purchase sale contract, two people sign it, buyer-seller can only sign that contract and amend it. 1961 Comprehensive Report for the Future of Burlington Contract, which was agreed to by the Planning Commission and City Council and Legal Board, why is the City Council uni-laterally amending the no more than four unrelated bylaw to that?

A. LaRosa: Your argument is that when City Council amended the bylaws in 1999, they did not follow proper procedure.

L. Beliveau: They amended it to a zoning law, not a zoning bylaw.
 A. LaRosa: Confirms he is saying that every other amendment after 1999 would also be invalid.
 L. Beliveau: The contract is valid, what are they doing amending it when they say the contract is not valid, they amended to it.
 B. Rabinowitz: Clarifies that appellee is referring to the CDO as a contract.
 L. Beliveau: Referring to the 1961 Comprehensive Plan Report for the Future Development for the City of Burlington contract.
 B. McArthur: Clarifies that appellees position is that he understands the CDO and that you have to comply with that, you anticipate losing and then you are going to appeal the Boards' decision and take it to the next level.
 L. Beliveau: Explains he is presenting what his research is showing.
 B. McArthur: Clarifies that his goal is to ultimately get in front of a judge with the case.
 K. Christianson: Clarifies that tenants are not related and that appellee is not claiming functional family status.
 L. Beliveau: Not related and not claiming functional family status.
 B. Rabinowitz: Clarifies that appellee is claiming that the CDO is not valid.
 L. Beliveau: If presented information is correct, then yes, CDO is not valid.
 L. Beliveau: Asks when residential districts were established.
 S. Gustin: Clarifies that 1947 code (City's first Zoning Code) included residential districts.
 L. Beliveau: Asks if 1947 mentions zoning laws.
 S. Gustin: Confirms.
 L. Beliveau: Asks if there were density zoning laws included.
 S. Gustin: Just included a residential zone, no medium vs low vs high.
 B. Rabinowitz: Invites City back to testify.
 T. Miles: Clarifies that Code Enforcement has not seen copy of lease.
 B. McArthur: Asks if the City Attorney has a problem with the legitimacy of the Comprehensive Development Ordinance.
 K. Sturtevant: No, City feels confident it has been adopted through the planning process for a number of years, my research shows they followed the correct process.
 B. Rabinowitz: Closes public hearing.

VI. Adjournment

The meeting was adjourned at 5:40 PM.

Bradford L. Rabinowitz, Chair of Development Review Board

Date

Alison Davis, 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 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/dr/ agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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