

Burlington Development Review Board

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Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, May 18th, 2021, 5:00 PM REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/89490816875?pwd=YTZqTXB6bUdxVWFvM0k2NEFmaEJmdz09>

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Agenda

Board Members Present: Brad Rabinowitz, AJ LaRosa, Springer Harris, Kienan Christianson, Caitlin Halpert, Brooks McArthur, Geoff Hand

Board Members Not Present: Sean McKenzie (Alt)

Staff Present: Scott Gustin, Ryan Morrison, Alison Davis

I. Agenda

S. Gustin: 57 South Williams St zp#21-0785CA/CU has requested deferral to hearing on June 15th. There is also an Other Business item that is new at the end of the agenda for the Oakledge Park bike path.

II. Communications

B. Rabinowitz: All communications posted on website.

III. Minutes

B. Rabinowitz: Previous meeting minutes posted under meeting packet online.

IV. Consent

1. **21-0816SN; 65 Main Street (FD5, Ward 3C) 65 Main Condo Association, Inc.**
Install three signs and seek alternative compliance for proposed directory sign. (Project Manager: Scott Gustin)

Meg McGovern appeared on behalf of item

B. Rabinowitz: Explains that this item is recommended for consent. Asks if applicant has seen staff recommendations for this application and if they agree with them.

M. McGovern: Agrees

B. Rabinowitz: Asks if anyone on board disagrees to treating this as consent.

None

B. Rabinowitz: Asks if there is any public to speak on item.

None

S. Harris: Motion adopt staff findings and approve the application

C. Halpert: Seconds motion.

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5-0-0 Brooks McArthur, abstention—technical problems, Geoff Hand absent for item

V. Public Hearing

1. 21-0361CU; 41 Pine Place (RM, Ward 5S) Sam Catalano

Request for three-bedroom short-term rental (bed and breakfast) and two-bedroom boarding house within duplex. No construction proposed. (Project Manager: Scott Gustin)

Sam Catalano and Alec Slater appeared on behalf of item

B. Rabinowitz: Asks if this is a rare situation for grandfathering.

S. Gustin: Explains that problem is that the structure is not very big.

S. Catalano: Measured this morning. Is a bit of an odd shape but the majority of it is 48ft wide and longest part is 48ft long. The majority fits within the 38 x 40 ft and then there is a triangle that is also out there.

B. Rabinowitz: At this point, you are grandfathered in and you are not requesting any other changes, correct?

S. Catalano: Correct

S. Gustin: Virtually presents picture of property. Shows property lines and the space of unpermitted yard parking. Most of the parking is actually in the City right-of-way.

S. Catalano: Explains that he found a mistake in the Staff Report about article 8 parking section. Clarifies number of parking spaces. When we first started talking, it was discussed that there were two spaces in each garage and then two tandem in front of the garage, so am not asking for four spaces but just two additional. That was what was in the original site plan.

S. Gustin: With the measurements of that space, it is too short to be considered tandem parking spaces. But correct, part of our original conversation looked like it had four spaces.

B. Rabinowitz: Asks if there is confirmation on where the property lines are.

S. Catalano: Have not had the property surveyed.

A. Slater: There is ample space between the front of the garage and the actual right-of-way. Right-of-way curves off to the left. You can see on the upper left hand corner, the right of way is not near where the parking spaces will be.

B. Rabinowitz: Between what you are calling the right-of-way and the property line, is that not City property?

A. Salter: Not sure, it is a right of way, but it is not an accepted street.

S. Gustin: Had a conversation with Laura Wheelock from Dept of Public Works and she said that this is an odd case wherein, it is a public right-of-way but the street was never accepted because it was not built to city standards.

A. Salter: Not sure if the property owners of Pine Place have collective interest in this. We have asked all the owners of the parcels on Pine Place, and all consented to that signed easement.

B. Rabinowitz: Still does not clarify whether you have the ability to do that.

S. Gustin: The tax map that is displayed is the close approximation to what the boundaries are, but still not a survey, and also the original site plan is also a close approximation but it is not a survey. The original plan shows more distance to the front property line, which is still too short for parking space, and the tax map shows less distance. Maybe worth it to get a survey done and see where the property lines actually are. Talking about the tandem parking space arrangement has limitations. Is acceptable for a single family dwelling and a duplex, but when you start going beyond that, we cannot count tandem spaces.

B: Asks who owns the right-of-way for Pine Place and whether it is privately owned.

S. Gustin: Answer clear from DPW that it is publicly owned. Just the street was not accepted as a city street.

S. Catalano: Walks through site picture. Explains that where you see the pavement starts to deteriorate, from that location up to Saint Paul Street, is completely unmaintained by the City. When talking to all the neighbors, the biggest issue was that there is unregulated parking, so there are people that will park their cars there.

B. Rabinowitz: Going to be hard to make a decision about approving the parking without confirming who owns that land. It seems like its city land.

A. Slater: Worth mentioning that there would not be a change in status quo of the area.

B. Rabinowitz: One would say you are proposing a more intense use at this point for going to short term rentals compared to long term.

S. Catalano: Would disagree with that because it has been set up like this for a year and a half, and there are fewer people that typically park there. Bedrooms are not rented separately; it is a three bedroom unit. Many times, it is a family coming up to visit their kid at school or having a group of friends coming up to ski. Short-term rental side, it is 1 to 2 cars consistently.

A. LaRosa: Asks about the parking spots that are labeled as unpermitted yard parking. We need to come up with 6 spaces. Asks to clarify number of spaces and locations.

S. Gustin: Two spots are unquestionable, one space in each garage. There is a question of if the front property line is far enough away from the building that it can be approved as a tandem spot in each driveway.

A. LaRosa: And the unpermitted parking space was grandfathered for two cars?

S. Gustin: Not grandfathered, under the 15-year statute of limitations as parking "area". The dimensions are too small for a single parking spot.

A. LaRosa: So the determination was not that for a 15-year determination, it was for a determination that it constituted two parking spaces.

S. Gustin: Correct.

A. LaRosa: May be four spaces short.

S. Gustin: Correct.

S. Catalano: Explains that this is the first time that he has heard that this property only has two parking spaces. Has been under the impression that we have one in each garage and then two out front. Technically thinks for the zoning that he is asking for, he will only need five total. 1 per bedroom for the short-term rental (total of 3) and then 1 for every 2 bedrooms in the long-term rental, which is 2 spaces since there are 3 bedrooms.

B. Rabinowitz: Asks about the boarding house use.

S. Catalano: Explains that was the terminology that was recommended for the proposed use. Plan to have 1-2 roommates on a yearly lease within the same unit as myself.

B. Rabinowitz: Asks if that would just be an apartment.

S. Gustin: In the Code, this is what would fall under Boarding house.

B. Rabinowitz: Asks what structure is next to the house.

S. Catalano: Explains that it was from the previous homeowner but is no longer there.

A. Slater: Explains that if this has been approved as a duplex, it would have previously been approved with four parking spaces. Does not think it would not been approved with only two spots for the entire building.

A. LaRosa: Asks if we have the previous approval.

S. Gustin: Screen shares previous site plan. Again, recommends applicant get a property survey done to see exact dimensions.

A. Salter: Asks if the displayed site plan is the only plan for the original construction.

S. Gustin: Yes, this is the approved plans for the original construction.

S. Harris: Asks what prevents the applicant from seeking a parking waiver.

S. Gustin: They can seek a waiver but it is not worth the time until we get into the 50% threshold. And you can grant a waiver for up to half the parking spaces. There are limitations to the applicability to tandem spaces. We can count a tandem space for a single family home and a duplex but that is it. 40% coverage is the limit for this property and it is close to it.

B. Rabinowitz: We are at a point where we can deliberate on this, or you can ask us to table this until you have more reassurance to where your property line really is.

S. Catalano: Yes, would prefer to keep working on the project and come back with more information.

S. Harris: Asks if he knows why he had or wanted to apply.

S. Gustin: Started a long time ago as a complaint with the code enforcement division. We received a complaint back in October about the unpermitted AirBnB. We never went as far with a zoning violation because he turned around and applied, and now it is just the parking that is holding up the application.

S. Harris: Good, clarifies that the complaint was not about the parking, but about the unpermitted AirBnB. Wanted to make sure that it was not the parking that was an issue involved in the complaint.

S. Catalano: Explains what happened with history of needing a zoning permit.

K. Christianson: Thinks it would be beneficial for the applicant to get a survey done so that there can be confirmation to where his property lines are.

S. Gustin: Mentions that because of the timing, there will need to be an extension granted if they need to come back to the Board.

B. Rabinowitz: Asks if there is anyone from the public to speak on project.

None

C. Halpert: Motion to grant extension to another meeting date uncertain and that the applicant bring additional information about the property lines.

K. Christianson: Seconds motion

7-0-0

~~2. **21-0785CA/CU; 57 South Williams (RH, Ward 1E) Chabad of Vermont**~~

~~Change of use from residential apartments to elementary school. (Project Manager: Ryan Morrison) Deferred Hearing to June 15, 2021~~

VI. Certificate of Appropriateness

1. 21-0788CA; 85 Archibald St (NMU, Ward 2C) Archibald Street Housing and Champlain Housing Trust

Removal and replacement of nine trees. (Project Manager: Scott Gustin)

Geoff Hand recused

Pete Fisher, Joanne Bottger

Sharon Bushor provided public testimony

P. Fisher: Reason trees are being replaced is because they are shadowing the roof we have needed to replace the roof, trees have been limbed up so much over the years it would be a good idea to start over.

B. Rabinowitz: Asks if there is any moss on roof.

P. Fisher: Not currently, because we replaced the roof.

C. Halpert: Asks if there have been any studies done to see if there is evidence of being diseased or unhealthy. Asks if there has been an arborist who has looked at them.

P. Fisher: No, I have not.

B. Rabinowitz: Asks about the trees that are the proposed replacements.

P. Fisher: These trees have a narrow growth pattern.

J. Bottger: What is currently there are Norway maples that are very tall and very wide, they shadow and shed the roof and hold moisture and create rotted materials, siding, trim. Too big and too close to the building. We are replacing with ginkgo trees. They are narrower so they are not going to be creating issues with the building

B. Rabinowitz: Asks if the greenbelt is too small to plant trees.

J. Bottger: Yes.

C. Halpert: Asks if there has been feedback from residents in the building about benefits or problems with the trees. Imagine that the trees are keeping the apartments quite cool.

J. Bottger: Yes, has been working close with companies working with. They really want to keep trees on south side, which are red oaks, and that is fine to stay there and be trimmed. Because they are not too close to the building and not too wide.

C. Halpert: Confirms that all 8 trees are on the north side of the building.

B. Rabinowitz: Asks about the height of a mature ginkgo.

J. Bottger: 20-30 feet.

B. Rabinowitz: There are those trees around the city but they are not very big. Asks if there are other questions from the board.

None

B. Rabinowitz: Asks if there are members from the public wanting to speak.

S. Bushor: Had called in to ask if there had been any studies done about the health of the trees, but that question was already asked. And the answer was no they have not gotten any studies done. Comments that the piece that is troubling is that Archibald is low with trees and the elimination of 8 trees on a street that has almost no foliage. Wanted to ask if the applicant had consider phasing the replacement of the trees. Thinks that they are on the north side, so they are not getting direct sun but do believe that trees provide a lot of shade in the summer and they are a habitat for birds and other species.

K. Christianson: Going back to getting a tree study, asks staff that in the staff report it says that the trees are unhealthy because of repeated limbing, but other than that the report says that the trees were not a danger to life or property. Asks if there was consideration made about the impacts of the trees on the building itself.

S. Gustin: Mentioned in the staff report, there is nothing in the application that speaks to the adverse effects on the building. Pretty shallow substantiation about the repeating limbing effecting the trees help. For me, I spoke to the city arborist, who pointed out that Norway maples are classified as an invasive and you cannot buy anymore in Vermont. Ginkgos are not native, but they are not invasive. From our point of view, part of a landscaping plan in the 90s and they are changing the species, and they are removing an invasive. They are fairly mature at this point and a concern for the public, but that is why we have the Board.

C. Halpert: Visited the site and it does provide nice shade and are pretty much the only trees in this section of the street.

B. Rabinowitz: Pretty small trees that are being proposed.

S. Harris: Asks about the tenant reaction to project.

J. Bottger: It is approved by the board of the co-op and there are 16 units there and 7 tenants on the board, so it is pretty representative and it has been in the works for at least one year. So it's clear, even though the roof is new, because of the size of the trees, if they stay there they will have adverse effects on the building. It is low-income housing, it did take a substantial grant to have money for repair work to the building. Without removing these trees, not sure how well the building and co-op is going to do. We do understand that these are the only trees on Archibald and we are willing to take other suggestions for replacement trees. They are the wrong tree in the wrong place. It is the placement and size that is problematic for us.

B. Rabinowitz: Mentions the trees that is at the juncture of the build at the access, those trees are not quite in front of the building. Asks if they cause a problem too and if they could be left and maybe just replace the other six. Asks if there are other questions from the board, applicant or public

None

B. Rabinowitz: Closes public hearing

2. 21-0667CA; 90 Ethan Allen Parkway (NAC, Ward 7N) Rolf Danielson

Request for four-unit hotel/bed and breakfast; install fencing, pergola, landscaping, expand driveway and resurface with gravel, move garage. *Continued review.* (Project Manager: Ryan Morrison)

Rolf Danielson appeared on behalf of item

B. Rabinowitz: Explains that they are continuing review of walkway access.

R. Danielson: There is now a path marked out at the north side and there is one removed parking spot at the end.

B. Rabinowitz: There is fencing around the perimeter? Against the walkway and are there fences on both sides of walkway?

R. Danielson: Correct

B. Rabinowitz: Asks if the fence is needed on the south side of walkway.

R. Danielson: Wanted to make it pet friendly and have a fenced in yard.

B. Rabinowitz: Makes the walkway a long path.

R. Danielson: Thought about maybe having a seat behind the garage because it is such a long path.

B. Rabinowitz: Asks if the landscaping is all the same as what was presented.

R. Danielson: Updated the plantings and the lighting against the walkway.

C. Halpert: Asks about the width of path.

R. Danielson: Right now, the space between the fence and the house is 8 ft and then the fence and unit #4 is about 4 ft. Thought that a three-foot walkway is suffice.

B. Rabinowitz: With people walking and carrying things, it needs to be wider than 3 feet..

R. Danielson: Yes, plan can be tweaked.

B. Rabinowitz: Asks if there are other questions/comments.

None

B. Rabinowitz: Closes public hearing

3. 21-0677CA; 184-186 North Winooski Ave (NMU, Ward 2C) North Winooski Avenue 184 LLC

Remove garage and construct a four unit building; add parking, dumpster enclosure and bike shelter. *Continued Review.* (Project Manager: Ryan Morrison)

Missa Aloisi appeared on behalf of project

B. Rabinowitz: Explains that there was a revised site plan that was submitted which had to do with the access off the sidewalk and parking area to the porch.

M. Aloisi: Correct.

B. Rabinowitz: Looks like you meet ADA requirements.

M. Aloisi: Yes. We have ramp access from the parking lot with an ADA parking spot and off sidewalk as well. Also have updated landscaping plan.

B. Rabinowitz: Looks like that was all we were looking for. Asks is there are any other questions or comments from anyone.

None

B. Rabinowitz: Closes public hearing

4. 21-0874CA; 0 Flynn Ave (RCO-RG, Ward 3C) Burlington Parks, Recreation, and Waterfront

Reconstruct greenway through Oakledge Park. (Project Manager: Scott Gustin)

Geoff hand recused

Sophie Sauv  (Burlington Parks & Rec) appeared on behalf of application

B. Rabinowitz: Explains that this is about Reconstruction of the recreation path and issues with access of providing access during construction.

S. Sauv : options are to consider whether board wants to consider this, if you decide to consider, you can go to future meeting, or you can do it all tonight.

B. Rabinowitz: Asks if there is any preference from the board. Would be okay taking it up tonight.

S. Sauv : Explains how circulation around Oakledge happens around Oakledge during construction. Walks through plan which is screenshared. Project is divided into three different sections so the use of the park can be enabled. For an estimated four weeks, the work would start at Austin Dr to the south west of the upper pavilion and that area would be closed. The entrance at Austin Dr would be closed and the southwestern corner or parking lot would be effected. Explains other accesses. Shows accesses to the different amenities of the park. Keeping in mind that the beach access that is going to be construction is to improve what is there now and upgrade to universal accessibility.

B. Rabinowitz: Asks if the different sections would be completed before the next one starts.

S. Sauv : Correct. The plan would be to close the bike path and do the top coat of asphalt as one. Reduced edges in between each top coat. Explains Oakledge is still accessible and where.

A. LaRosa: Asks by doing the phase three part towards the end, if there is a delay, is that going to remain closed throughout the winter or will there be a winter access plan.

S. Sauv : The goal is that the sections only would be opened when deemed feasible to start and complete.

A. LaRosa: Wants to understand about phase 3 and the predicted timing.

S. Sauvé: Yes, would have to be next year if not done in this 2021 construction year.

B. McArthur: What would next year mean? Would Blanchard Beach be open?

S. Sauvé: If we have to go into the section 3 next year, the goal would be to get it started as soon as it is viable. We would already have someone under contract so as soon as the ground thaws; we would be able to continue the construction.

A. LaRosa: Asks about access from Proctor Place and the large seawall and how people will navigate that to get down to the beach.

S. Sauvé: currently there is not a ramp but just old stairs but we can look into provided a more accessible temporary infrastructure.

S. Harris: Asks approximate date for weeks 12-18 on plans.

S. Sauvé: If we are working back from Dec 1st, we are looking at Sept-Oct potentially, but we need it to happen in the early parts of Sept for the concrete pour and the temperatures to be added.

S. Harris: Asks what stage they are in for hiring the contractors.

S. Sauvé: The bids are due this Friday.

S. Gustin: Staff supports the requested reconsideration here. This is a municipal project with limited purview. We can consider traffic, but in our zoning code, the traffic criteria pertained to conditional use or major impact projects.

B. Rabinowitz: This does seem to meet the goal of what we wanted.

A. LaRosa: The core of the DRB was concerned with maintaining access to a public resource during construction.

A. LaRosa: Motion to approve the request for reconsideration and modify our findings and conclusions as to incorporate proposed phasing schedule and access schedule titles Burlington Greenway Phase 3B South Proposed Construction Sequencing.

B. McArthur: Seconds motion

6-0-0

VII. Adjournment

Meeting adjourned 6:22pm

July 6, 2021


Bradford L. Rabinowitz, Chair of Development Review Board

Date



6/3/2021

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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