

Burlington Development Review Board

Department of Permitting & Inspections
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Brad Rabinowitz
AJ LaRosa
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Brooks McArthur
Kienan Christianson
Caitlin Halpert
Chase Taylor
Sean McKenzie, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, September 21, 2021, 5:00 PM

Minutes

Physical location: 645 Pine Street, Front Conference Room, Burlington VT 05401

and

Zoom: <https://us02web.zoom.us/j/83300424626?pwd=NWtya0ZqbEUrUSStjZW1aYks1TG12Zz09>

Password: 798731

Webinar ID: 833 0042 4626

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Board Members Present: Brad Rabinowitz, AJ LaRosa, Caitlin Halpert, Brooks McArthur, Geoff Hand, Sean McKenzie (Alt)

Board Members Not Present: Chase Taylor, Kienan Christianson

Staff Members: Scott Gustin, Mary O'Neil, and Ryan Morrison

I. Agenda

B. Rabinowitz: No changes.

II. Communications

B. Rabinowitz: All communications posted online.

III. Minutes

B. Rabinowitz: No minutes attached to this packet.

IV. Public Hearing

1. ZP-21-577; 63 North Avenue (RM-W, Ward 3C) Joseph Piscotty

Variance request to place a garbage shed within required setbacks. (Project Manager: Ryan Morrison)

Joseph Piscotty and Ken Axelson appeared on behalf of item
Joe Mitros provided public testimony.

B. Rabinowitz: The plans are not especially clear. S. Gustin shared screen with DRB.

J. Piscotty: The proposed shed is located further into the site than the prior site. R. Morrison: Pointed out the prior shed was installed without zoning permit. He noted that the "red" on the plan shows the proposed location and "blue" shows prior parking space.

J. Mitros: The proposed shed location will prevent him from backing out.

B. Rabinowitz: Who is applying for the shed? J. Piscotty: The condo association is applying for it.

AJ LaRosa: Who is the applicant? J. Piscotty: He and Ken Axelson are the applicants.

AJ LaRosa: Who signed the application? R. Morrison: Joseph Piscotty signed the application. AJ LaRosa: Is there a current notice of zoning violation? R. Morrison: no. Ted Miles did a site visit in response to a complaint. The proposed location will require a variance.

B. McArthur: Is there a location people will be happy with? Joe Mitros: Yes, at the south end of the property.

R. Morrison: The prior location was partially within the street right-of-way.

B. Rabinowitz: The DRB doesn't have authority to allow it within the street ROW. He's not sure what to do here.

AJ LaRosa: The condo association needs to figure out where it should go. J. Piscotty: The association has decided a location. AJ LaRosa: We need a plan depicting where exactly it will go. J. Piscotty: We'd like to keep it as proposed, but Mr. Mitros objects to it.

B. Rabinowitz: There's a lot of confusion going on. Does the photo show where the shed is now? J. Piscotty: Yes. B. Rabinowitz: The current location is not proposed. J. Piscotty: He'd like to keep it here.

K. Axelson: The shed in this photo is exactly where it is now. The garage door behind it is to Mitros' garage. The shed is on the property line.

J. Mitros: The shed in its present location is a fire hazard.

AJ LaRosa: He doesn't want to be the party negotiating a dispute among association members.

AJ LaRosa: Motion that the hearing be continued for 30 days until October 19 and hopefully the parties will come back to us with a clear idea of what exactly is proposed.

B. McArthur: Seconds motion.

Discussion:

G. Hand: The association needs to come with a site plan showing clearly where the shed is proposed. Then DRB will hold a hearing to evaluate the proposed shed location.

Vote: 6-0-0, motion carried.

2. ZAP-21-13; 240-242 Pearl Street (RM, Ward 2C) John Dubie

Appeal of ZPS-21-5, an administrative denial of a replacement sign. (Project Manager: Ryan Morrison)

John Dubie appeared on behalf of this item.

M. O'Neil overviewed the item. The building was destroyed by fire July 2020. June 5, an application for the replacement sign was filed. The application fee was not paid until July 29. The 1-year retention of nonconformity expired. This is a residential district. Prior signs were nonconforming. The 1-year to retain the nonconformity

expired before the application was complete. Any sign now must conform to the ordinance.

B. Rabinowitz: Was the applicant awaiting feedback from the city while the fee was pending? M. O'Neil: Applications don't make it to project managers until the fee is paid.

G. Hand: In context, when did the online permit system come into effect? M. O'Neil: May 1, 2021. G. Hand: The applicant said they weren't informed the fee was due until late July 2021. M. O'Neil: The system has a series of action steps. One is the application fee. It's not an additional fee – just the application fee. The applicant may have also filed a building permit application and paid that fee. G. Hand: So they possibly paid for the wrong permit. Is that possible? M. O'Neil: It may have been a building permit application.

C. Halpert: Have there been significant adjustments for applicants since the launch in May? M. O'Neil: staff determine how a permit is routed. The first review is by administrative staff, then by project managers. C. Halpert: Who gets the initial questions? Have they been adjusted since May 1? M. O'Neil: Building applications and zoning applications are parallel but independent.

S. Gustin explained the concurrent applicant process in the permit system.

G. Hand: Is there anything that tells an applicant that zoning needs to be approved before building? S. Gustin: I think so but cannot say 100%.

M. O'Neil: Building permit fees were paid twice.

C. Halpert: Is a less nonconforming sign acceptable – if the timing issue was off the table? M. O'Neil: For the DRB to consider, it needs to be in substantially greater compliance. She's not analyzed the difference.

J. Dubie: He was very confused by the process. The July 1 deadline was unknown to him. He could not apply to meet it. He had the bad luck that, of the 6 signs on the building, only his was painted onto the side of the building. The sign company said we don't do that anymore. The sign will be on different material and affixed to the side of the building. He said the first application wasn't filed with Burlington, VT. He was informed of the new online system. He and his wife submitted the application. As soon as he was aware of the fee, he paid it. He said his first communication through the new system was a request for fence detail. He thought he was all set after the building inspector came by. He was confused by the zoning denial that referred to the pharmacy. The proposed sign is similar, but a bit smaller than the prior sign – 2" narrower. It's going in the same place. If he had known about the July 1 deadline, he would have met it.

C. Halpert: Was the sign destroyed in the fire or removed later? J. Dubie said it was damaged due to the fire. He said a zoning permit was needed because the material changed – not an identical replacement.

B. McArthur: When was the application filed? M. O'Neil: June 5, 2021. B. McArthur: Is there anything on the application that says what the fee is and when? M. O'Neil: Staff initially review and determine zoning permit type, then the fee is billed.

B. Rabinowitz: Lakeside Pharmacy replaced their sign, right? J. Dubie: They've been replaced. B. Rabinowitz: Do you know anything about them? M. O'Neil: Not aware

of them. The size of the sign is higher, but the length is less than the original sign. She wouldn't call it substantially greater compliance.

Close the public hearing.

V. Certificate of Appropriateness

1. ZP-21-627; 6 Alexis Drive (RL-W, Ward 4N) David Cohen

Construction of new one story, single family home of approximately 2,300 sf with 3 bedrooms and 2 ½ bathrooms. (Project Manager: Ryan Morrison)

David Cohen appeared on behalf of item

B. Rabinowitz noted recommend for consent approval.

D. Cohen: The suggestion from staff was to move the garage back 1" – 2". He would rather avoid another plan set. The portico out front makes the garage look set back. This is the 3rd plan set.

B. Rabinowitz: What about the prior revisions? D. Cohen: The lot is curved along the street. He is trying to minimize the footprint of the house a preserve open space. In the prior rendition, the garage was set forward.

B. Rabinowitz: What is the relevant provision in the CDO? R. Morrison read Sec. 6.2.2 (h) with the pertinent language.

D. Cohen: It would need to be completely redone for the sake of an inch. S. McKenzie: Is the overhang over the garage the same plane as the front porch? D. Cohen: No.

S. Gustin explained the intent of the code – that garages present as secondary to the primary residential use of the building. What's discretionary is the degree of setback, not that the garage be set back from the longest street-facing wall of the residence.

D. Cohen: He's worked with the zoning office and has not heard of any issues until this past week. He'd like to get financing, but he can't get it until permits are obtained.

Close the public hearing.

VI. Deliberative Session

Motions recorded separately in project findings.

VII. Other Business

1. Article 8- Overview

Transportation Demand Management Plan (TDM) with David White.

D. White provided context for the parking changes. He noted Yale professor Donald Shupe. He noted many communities nationally are taking action to eliminate onsite parking requirements in all or part of their communities. The common link is to remove unnecessary barriers and expenses for new development. He noted South Burlington and Williston have eliminated their parking requirements. He noted parking history in Burlington. None were required until 1962 but even then, the downtown was exempt. In 1986, parking was required citywide. Since 2008, 7,000 new parking spaces have been created in Burlington. Much of the city's developed

land is parking. The amendment creates a new “mixed use multi-modal parking district.” It enables modification of existing onsite parking requirements via administrative permit. It exempts several uses from any minimum parking requirement. Dimensional standards for parking spaces have been updated and made more flexible. An increased portion of compact spaces is now allowed. Maximum onsite parking standards were lowered.

C. Halpert: Asked about the 0 maximum requirement. How does a 100% maximum apply? D. White: He’d have to look at the shared use standards – you can’t have 125% of 0 – it’s still 0. The intent is that the shared use standards are the basis for maximum parking in the multi-modal district.

D. White pointed out the TDM standards and applicable thresholds. If parking is built onsite, there is no minimum requirement. We expect that most of the time, onsite parking will be constructed. When done, an annual utilization study needs to be done for the first 10 years. The intent is to understand whether the parking is necessary or not and to what degree. He noted premium spaces are reserved for carshare and car pool / van pool. He noted ongoing analysis requirements. No permit or CO can be granted without an approved TDM in place.

C. Halpert: What parts are covered by 10-years versus not? D. White: Onsite parking utilization study and TDM benefits are 10 years.

D. White: The DRB’s role remains in project review and determining whether applicant is compliant or not. There’s not much discretion in the standards. Discretion still plays a role in parking management plans and in consideration of dimensional requirements.

B. Rabinowitz: Basically all parking requirements for ADU’s are eliminated. D. White: Yes. B. Rabinowitz: What about existing ADU’s? D. White: An amendment to the permit could be sought and approved administratively to eliminate the parking requirement. He noted that Councilor Hansen has submitted a proposal to eliminate parking minimums citywide.

VIII. Adjournment

Meeting adjourned at 6:35 pm

Bradford L. Rabinowitz, Chair of Development Review Board

Date

Scott Gustin, Zoning Manager

Date