

Burlington Development Review Board

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Sean McKenzie, (Alternate)
Vacant, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, April 4, 2023, 5:00 PM MINUTES

In Person (at 645 Pine Street) Meeting

Board Members Present: AJ LaRosa, Caitlin Halpert (5:30), Sean McKenzie, Brad Rabinowitz, Leo Sprinzen, and Chase Taylor

Board Members Absent: Geoff Hand and Brooks McArthur

Staff Members Present: Mary O'Neil, Garret King, and Joseph Cava

I. Agenda II. Communications III. Minutes IV. Public Hearing

1. ZP-22-640; 294-296 North Winooski Avenue (NMU, Ward 2C) Irene Hinsdale / Samuel Nelis Change of use from mixed-use restaurant to bar. (Project Manager, Garret King)

AJ LaRosa: There was a written request submitted to defer this item to a future DRB meeting to be determined. Mary, does this need to be deferred to a date certain?

Mary O'Neil: No, but it must be rescheduled six months from the date of the original warning.

AJ LaRosa: Motioned to defer to a date to be determined, Brad Rabinowitz 2nd. Vote 5-0. Motion carried.

V. Certificate of Appropriateness

1. ZP-23-56; 326 College Street (RH, Ward 8E) Jannef Holdings, LLC / Skip McClellan Building and parking lot improvements for stormwater collection/disposal including demolition and replacement of accessory structure and replacement of retaining walls. (Project Manager, Mary O'Neil) Mark Farrell, owner, present.

AJ LaRosa: Can you tell us about this project?

Mark Farrell: We're adding underground chambers to collect and manage stormwater runoff for this site and abutting properties. The existing accessory structure is deteriorating and needs to be taken down.

Mary O'Neil: Mark, is there a plan you'd rather us project on the screen for reference?

Mark Farrell: No, the existing plan adequately addresses the site and abutting parcels.

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AJ LaRosa: What is the need for a retaining wall, which is outlined in the plans?

Mark Farrell: There is an existing retaining wall, which holds up the site grade, which has deteriorated.

Brad Rabinowitz: Will this be a granite retaining wall?

Mark Farrell: Yes, concrete remainder block, with granite.

Chase Taylor: Is the accessory structure being replaced?

Mark Farrell: Yes, the accessory structure will be replaced by a slightly larger building with a community room on the second floor.

AJ LaRosa: Mary, is this project just for this parcel at 326 College Street?

Mary O'Neil: No, this is a comprehensive plan for stormwater improvements encompassing 328 College Street, 332-348 College Street, 87-89 South Willard Street, and 91-93 South Willard Street. The applicant owns all involved properties.

AJ LaRosa: Are there any additional questions from the board? Hearing none, are there any questions from the public? Hearing none, I move we close the public hearing on this item and we will deliberate later on.

- 2. ZP-23-9; 98 Sunset Cliff Road (RL-W, Ward 4N) Keye & Lucy Wong / Elizabeth Herrmann**
Demolish existing single-family residence and construct new single-family residence with associated site improvements. (Project Manager, Scott Gustin)
Elizabeth Herrmann, Bill Sorrell, Chris Roy, Claudine Safar, Dr. Lance Willis, Bonnie Ferro, Gail Anderson, Jeremy Grant, Evan Dick, Daniel Dudek: Sworn in.

AJ LaRosa: I am recused on this item. Brad Rabinowitz acts as Chair.

Elizabeth Herrmann: I am the architect and I have a correction to note. The stair proposed in the plans is already existing. We plan to leave the existing concrete retaining walls in place. Access to the shore is through a subterranean tunnel.

Chris Roy: To piggyback off Elizabeth, this is the best use of the existing landscape features.

Brad Rabinowitz: Can you clarify what is proposed?

Chris Roy: The stairs will be a mixture of concrete and metal stairs to reach the shoreline.

Elizabeth Herrmann: There will also be beautification measures taken to pull the house site away from the lake. Other property improvements include landscaping and a pickle ball court that conforms to the existing City regulations.

Chris Roy: I am the attorney representing the Wong's. This is a permitted residential use and does not violate the residential/recreational uses of this district. The neighbors feel strongly about the potential for noise in relationship to the pickle ball court. I'd like to clarify that this is outside the DRB's review.

Brad Rabinowitz: No lighting is proposed, so that would have been my question.

Claudine Safar: I am the attorney representing an adjacent property owner, Bonnie Ferro, whose residence is roughly 50-feet from the proposed pickle ball court. To clarify, we don't oppose the

proposed residence. Compared to tennis, which utilizes a softer ball and racket, pickle ball uses a hard paddle and ball. The hard ball creates a popping noise upon impact with the paddle or ground. Accessory uses are allowable as long as they aren't in violation to the existing ordinance. The proposed pickle ball court would create a violation of the existing noise ordinance. It would also be a nuisance to the surrounding property owners. I'd like to introduce an expert on this subject, Dr. Lance Willis, whose background is important to this case. Lance has extensive background in research on the impacts of noise generated from pickle ball.

Brad Rabinowitz: In light of these evening's long meeting agenda, we'd like to hear from Lance.

Dr. Lance Willis (remote): We use a national standard that projects the methodology to analyze the popping noise generated by this sport.

Claudine Safar: Have you provided noise abatements for neighbors abutting pickle ball courts?

Lance Willis: Yes, pickle ball bylaw amendments are being adopted by municipalities as part of their noise ordinances.

Claudine Safar: What is the national standard for addressing pickle ball courts in residential neighborhoods?

Dr. Lance Willis: There has been no formal adoption of a national standard, but we follow the ANSI standards for noise exposure.

Claudine Safar: What experience do you have with the proximity of siting pickle ball courts with residential neighborhoods?

Dr. Lance Willis: The recommended distance between pickle ball courts and residences is 100 ft.

Claudine Safar: What is the estimated decibels using the previously mentioned range?

Dr. Lance Willis: 60 DBA within 100 ft.

Claudine Safar: Can people still hear it inside their homes at this range?

Dr. Lance Willis: Yes, people have reported interruptions to ZOOM meetings and other indoor activities.

Claudine Safar: What measures are recommended to mitigate noise?

Dr. Lance Willis: The recommended distance between a pickle ball court and abutting residence should be at minimum 150 ft. to mitigate noise.

Claudine Safar: Is there anything that the DRB should know?

Dr. Lance Willis: Most cases where a noise complaint is being lodged, is for the conversion of tennis courts to pickle ball courts.

Claudine Safar: Would this constitute a violation of the Burlington noise ordinance?

Dr. Lance Willis: I am unsure. Noise is still recorded past the 150 ft. mark. When siting a pickle ball court, a sound wall should be incorporated, but the sound wall can only do so much.

Claudine Safar: No wall is proposed in this application.

Dr. Lance Willis: I can see something in the plans, but even a 10 foot high wall is insufficient.

Claudine Safar: If the board approves this plan, then the DRB will be enabling a violation of the noise ordinance and would ultimately lead to the removal of the proposed pickle ball court if built.

Brad Rabinowitz: Dr. Willis, how does the noise output of pickle ball compare to other sports like basketball?

Dr. Lance Willis: Basketball does not create the same level of noise output as pickle ball.

Brad Rabinowitz: Where was the study for municipal changes conducted?

Dr. Lance Willis: Park City, Utah. This includes the 150 ft. buffer previously mentioned.

Brad Rabinowitz: What are the average lot sizes for Park City, Utah?

Claudine Safar: I do not have that information.

Brad Rabinowitz: This information would be helpful. Are there any additional questions?

Bonnie Ferro: Though there are houses meeting the recommended 150 ft. distance, there are some houses within 35 ft. of this project. Homes across the lake will receive the echo caused by pickle ball. We moved here to enjoy the peace and quiet that this neighborhood provides. This is the first project of its type proposed in a residential neighborhood in Burlington and it will set the stage for holding this neighborhood hostage to noise.

Gail Anderson: I was in support of this project until I learned of the noise that the pickle ball court will cause. We pride ourselves on the peace and tranquility that this neighborhood provides. I am concerned that the proposed house and pickle ball court will take away from this peace. The noise attributed from pickle ball is equivalent to three way traffic.

Brad Rabinowitz: To clarify, we have heard from the experts on this, but if the complaints are on noise, we have heard about this already and future comments should be contained to other agitating circumstances.

Jeremy Grant, from Primmer Pipe Eggleston & Cramer; attorney representing a neighbor. I won't belabor this further, but the applicant has not addressed the concerns raised by neighbors about noise. These is also an issue with the lot coverage calculation. Under my calculations, the proposed structure and pickle ball court would exceed the 35% lot coverage maximum.

Evan Dick: I live on Sunset Cliff Road, and we would regret any noise that disrupts the peaceful nature of the neighborhood.

Brad Rabinowitz: Mary, do the neighbors have to sign in to have standing?

Mary O'Neil: They must sign in to participate. This does not necessarily assure standing.

Marcia Hemley (remote): We feel this project disregards the character of the neighborhood and for someone new to come in and change the character without regard to others is outrageous.

Gail Anderson: We, the neighbors of Sunset Cliff Road, have nothing personal in our objections, but there is a difference between the noise outputs of tennis versus pickle ball.

Lucy Wong (remote): From my experience of living near an existing pickle ball court, there is very little difference between the noise generated by tennis and pickle ball. I'd like to thank our neighbors for the warm welcome to the neighborhood.

Daniel Dudek: Have you visited this site Dr. Willis?

Brad Rabinowitz: A reminder that questions should concern the nature of proposed project itself. We have more testimony that we can digest at this time. Mary, can you clarify the best way to move forward?

Mary O'Neil: We can leave this item open to continue receiving written public comment.

Caitlin Halpert: Motioned to keep the hearing open for seven days to accept additional feedback, Chase Taylor 2nd. Vote 5-0. Motion carried.

3. **ZP-23-49; 21 Morse Place (RL, Ward 5S) Rieley Properties, LLCC / Silken Kershner**
Proposed construction of tenant parking including six regular and one ADA parking spaces. (Project Manager, Garret King)
Silken Kershner: Sworn in.

AJ: I proposed we treat this as a consent agenda item. Have you had a chance to review the staff report?

Silken: Yes, and I have no issues.

AJ LaRosa: Motioned to approve and adopt staff recommendations, Brad Rabinowitz 2nd. Vote 6-0. Motion carried.

VI. Sketch Plan

1. **ZSP-23-1; 179 Queen City Park Road (E-LM, Ward 5S) Zoo Holdings, LLC / Martin Courcelle**

Sketch plan review of proposed 65,000 square foot addition to the existing Rhino Foods facility including associated access, parking, utility, and stormwater modifications. (Project Manager, Scott Gustin)

Ted Castle, Martin Courcelle, Matt Greer, Alex Demoly, Susan Mason Lazarev: Sworn in.

Ted Castle: We're very excited for this project for Rhino. This is a huge expansion and we want to know what is within our parameters.

Martin Courcelle: Showing the site plan, the building on the right is existing, and the building shown on the left is what is proposed. The project proposes a new curb cut to efficiently move traffic for delivery and employee parking.

AJ LaRosa: Will the existing stormwater pond be retained or modified?

Martin Courcelle: The stormwater pond will be changed.

AJ LaRosa: Part of the question for this is in response to the proposed parking lot plan including mitigation to retain the plantings created by the existing stormwater pond.

Martin Courcelle: We are proposing two gravel wetlands in front of the proposed parking and side lot connecting deliveries. As part of the expansion, we need the existing building to conform with the new building for the flow of production.

Leo Sprinzen: Is the south exit the only exit for the truck deliveries and pickups?

Ted Castle: The parking arrangement and flow of traffic as proposed makes sense for the turnaround process to get trucks in and out.

AJ LaRosa: This would be a discussion for DPW, but how could the traffic flow be addressed to impact surrounding businesses?

Ted Castle: We are ferrying raw materials in and out of the warehouse, and this plan maximizes the existing site.

Martin Courcelle: The shift differentiation also reflects the proposals for parking and traffic flow.

Brad Rabinowitz: Are you proposing the solar panels on the rooftop as shown?

Ted Castle: We would, but the project has grown too expensive.

Brad Rabinowitz: Would the construction of the Champlain Parkway include any additional access points?

Martin Courcelle: Yes.

Leo Sprinzen: Is there a bus stop proposed?

Ted Castle: Yes, there are two existing bus stops.

AJ LaRosa: Did you have to do a wetlands delineation?

Ted Castle: Yes, we completed a wetlands delineation for the small addition completed five years ago to address wildlife, shielding, and noise.

Sean McKenzie: I would recommend landscaping for shielding and shading.

Martin Courcelle: This is only sketch plan, so we'll have additional detail in the future for landscaping and shading.

AJ LaRosa: The entrance proposed in the conceptual drawing is nice, but are there any other proposals that stems beyond the traditional industrial grey scheme?

Ted Castle: Yes, we're proposing a large break room with gardens to add color.

Susan Mason Lazarev (remote): Rhino's been a good neighbor over the years and I have concerns about noise, traffic, and light. Can you go into more detail about this?

Ted Castle: The noise you're hearing is the deliveries of liquid nitrogen. Nothing about this will be changing. The warehouse has room for expansion but, we aren't proposing future expansion at this time beyond warehouse space.

Susan Mason Lazarev: How many truck bays?

Ted Castle: There are three existing, but we're proposing ten in total.

AJ LaRosa: I'd like to clarify that this is sketch plan and the questions surrounding impacts are better reserved for future meetings.

Martin Courcelle: Most of the equipment will be on the interior of the building but we will take this under advisement.

AJ LaRosa: I encourage more landscaping; you will need some trees in the new parking lot and I suggest you add some to the existing parking lot as well.

Ted Castle: We originally had trees there, but they all died within 3 years.

Brad Rabinowitz: I suggest considering a different species.

AJ LaRosa: So you will bring us back more information on landscaping, truck traffic, circulation, and scheduled deliveries. Hearing no additional questions, I move we close the public hearing on this item.

Brad Rabinowitz: This is a good use for this industrial parcel.

VII. Adjournment

Hearing closed at 6:45 PM.

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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