

## Burlington Design Advisory Board

149 Church Street, City Hall

Burlington, VT 05401

[www.burlingtonvt.gov/PZ/DAB](http://www.burlingtonvt.gov/PZ/DAB)

Phone: (802) 865-7188

Fax: (802) 865-7195

Matthew Bushey  
Ron Wanamaker  
Sean McKenzie  
Steven Offenhartz  
Chris Alley  
Philip Hammerslough, Alt.  
Jeremy Gates, Alt.



**DESIGN ADVISORY BOARD**  
**Wednesday November 9, 2016 at 3:00 PM**  
**Conference Room 12, City Hall, Burlington, VT**  
**Agenda**

**Session I - 3:00pm – 3:30pm**

1. **17-0479CA; 79 Lakeside Ave (RL-W, Ward 5S) Rebecca A. Schwarz**  
Renovation and expansion of second story. (Project Manager, Mary O'Neil)

**Session II – 3:30pm – 4:00pm**

2. **17-0455CA; 57 South Williams (RH, Ward 1E) Vermont Organization for Jewish Education - Lubavitch**  
Two level addition, 5500 sq. ft. to west side of existing building. New worship sanctuary on upper level with supporting spaces on lower level; new off street parking, landscaping and erosion prevention. (Project Manager, Ryan Morrison)

*The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).*



STATE OF VERMONT  
 Division for Historic Preservation  
 Montpelier, VT 05602

HISTORIC SITES & STRUCTURES SURVEY  
 Individual Structure Survey Form

SURVEY NUMBER:  
 28 Pine

NEGATIVE FILE NUMBER:  
 77-A-199

UTM REFERENCES:  
 Zone/Easting/Northing

U.S.G.S. QUAD. MAP:

PRESENT FORMAL NAME:

ORIGINAL FORMAL NAME:

PRESENT USE: dwelling  
 ORIGINAL USE: dwelling

ARCHITECT/ENGINEER:

BUILDER/CONTRACTOR:

PHYSICAL CONDITION OF STRUCTURE:  
 Excellent  Good   
 Fair  Poor

THEME:

STYLE: Italianate

DATE BUILT: ca. 1870

COUNTY: Chittenden  
 TOWN: Burlington  
 LOCATION:  
 28 Pine St.  
 COMMON NAME:

FUNCTIONAL TYPE: dwelling  
 OWNER: Dorothy L. Ploff  
 ADDRESS: 198 W. Winooski Ave., Burl.

ACCESSIBILITY TO PUBLIC:  
 Yes  No  Restricted

LEVEL OF SIGNIFICANCE:  
 Local  State  National

GENERAL DESCRIPTION:

Structural System

- Foundation: Stone  Brick  Concrete  Concrete Block
- Wall Structure
  - Wood Frame: Post & Beam  Balloon
  - Load Bearing Masonry: Brick  Stone  Concrete  Concrete Block
  - Iron  d. Steel  e. Other:
- Wall Covering: Clapboard  Board & Batten  Wood Shingle  Shiplap  Novelty  Stucco  Sheet Metal  Aluminum  Asphalt Shingle  Brick Veneer  Stone Veneer  Bonding Pattern: Other:
- Roof Structure
  - Truss: Wood  Iron  Steel  Concrete
  - Other: rafter
- Roof Covering: Slate  Wood Shingle  Asphalt Shingle  Sheet Metal  Built Up  Rolled  Tile  Other:
- Engineering Structure:
- Other:

Appendages: Porches  Towers  Cupolas  Dormers  Chimneys  Sheds  Ells  Wings  Other:

Roof Style: Gable  Hip  Shed  Flat  Mansard  Gambrel  Jerkinhead  Saw Tooth  With Monitor  With Bellcast  With Parapet  With False Front  Other:

Number of Stories: 1 1/2

Number of Bays: 3 x 3 Entrance Location: side

Approximate Dimensions: 16 x 20 (without side wing)

THREAT TO STRUCTURE:  
 No Threat  Zoning  Roads  Development  Deterioration  Alteration  Other:

LOCAL ATTITUDES:  
 Positive  Negative  Mixed  Other:

**ADDITIONAL ARCHITECTURAL OR STRUCTURAL DESCRIPTION:**

House is oriented with gable end to street. 2nd floor gable windows are round arched. Door contains lights with round arches and etched glass.

**RELATED STRUCTURES: (Describe)**

**STATEMENT OF SIGNIFICANCE:**

This modest Italianate house is noteworthy for its contribution to the cohesive nature of this residential street.

This house does not appear on the 1869 Beers map, but is shown in the 1877 Birdseye. Its history is not recorded until 1900, when it was a rental property; a high turnover of tenants worked on the waterfront or downtown is the same pattern which the surrounding houses went through as well.

**REFERENCES:**

Sanborns, directories

**MAP: (Indicate North In Circle)**



**SURROUNDING ENVIRONMENT:**

Open Land  Woodland   
Scattered Buildings   
Moderately Built Up   
Densely Built Up   
Residential  Commercial   
Agricultural  Industrial   
Roadside Strip Development   
Other:

**RECORDED BY:**

Adele Cramer

**ORGANIZATION:**

VT Division for Historic Preservation

**DATE RECORDED:**

6/15/77



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
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DEPARTMENT OF PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 28 Pine Street

Subject Property Owner: Chris Khamnei

Appellant: Chris Khamnei

Agent/Representative:

Mailing Address: 82 Overlake Pk.

City, St, Zip: Burlington, VT 05401

Day Phone: 802-777-6007 Email: chris@rentinvt.com

Appellant Signature: [Signature] Date: 09-26-16

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- The Appeal fee of \$250;
Description of the decision under appeal;
Description of the property subject to the appeal;
Reference to the regulatory provisions applicable to the appeal;
Relief requested by the appellant;
Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 6648 Amount Paid \$250. Zoning Permit # 17-0189CA

## Appeal of Zoning Permit Application

- 1) Subject property owner is appealing the denial of his zoning permit request to change the use of the single-family residence located at 28 Pine Street from "mixed-use" (residential and commercial) to residential only.
- 2) The property is a 4-bedroom single-family detached residence.
- 3) The applicable regulatory provisions are the Comprehensive Development Ordinance, Article 4, Section D (District Specific Regulations) and Comprehensive Development Ordinance Appendix A – Use Table. The Ordinance specifically says "Historic buildings originally designed and constructed for residential use shall be exempt from these use restrictions." We believe there is also statutory support for the proposition that a historic structure can be at least minimally used for its original constructed purpose. There is also a large body of case law governing zoning ordinances, non-conforming uses, and unconstitutionally depriving an owner of use of their property.
- 4) The relief requested is to approve the permit application to change the use of 28 Pine Street to single-family detached residence.
- 5) There is a provision in the zoning code which states "Historic buildings originally designed and constructed for residential use shall be exempt from these use restrictions." 28 Pine Street was clearly historically designed and used as a single detached residence. Its designated "use" was changed from that to an office in 1983, but it underwent no significant structural changes that would prevent it from being used again as a single-family. In every construction respect, the building is a single-family residence.

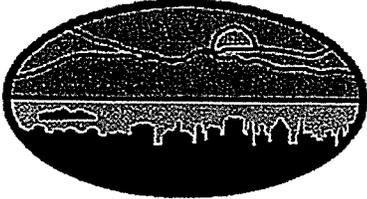
The building was a failure previously as "commercial only" and now also currently as "mixed use." The designated commercial portion (essentially the 4th bedroom) has sat vacant and unwanted for at least 4 years now. We've not found any residential tenant keen on the idea of sharing the building so closely with a commercial tenant, nor vice versa (noise issues, pedestrian traffic and visitor issues, personal expression, pets, etc. being incompatible between residential and commercial use).

Considering the City's residential housing crisis... taking the position that a 4th bedroom in a single-family residence *must* be converted to and used as commercial space and that the building is not allowed to exist in its historical, intended, and natural state is producing an unjust and absurd result. I doubt the public at-large or a court of law would take the City's side here (and other than your "Appendix A - Use Table" which gives no context to its intent, there is nothing in code or statute to support the absurd result the City is creating at this property). We're prepared to appeal the denial of our zoning application to the Vermont Superior Court, and beyond, if needed.

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DEPARTMENT OF  
PLANNING & ZONING



**ZONING REQUEST DENIAL  
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont  
Department of Planning and Zoning

Application Date: 08/15/2016

Appeal Expiration Date: 09/27/2016

Project Location: 28 PINE STREET

District: D

Owner: 28 Pine Street LLC

Ward: 3C

Address: 82 OVERLAKE PARK  
BURLINGTON VT 05401

DEPARTMENT OF  
PLANNING & ZONING

Tax ID: 044-2-011-000

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Project Type: Mixed Use - Change of Use

Project Description: Change of use to single family residence.

Construction Cost:	\$0	Lot Size (Sq Ft):	1,442
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	78.70	Existing # of Parking Spaces:	2
Proposed % Lot Coverage:	78.70	Proposed # of Parking Spaces:	2
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	2

Zoning Permit #: 17-0189CA

Decision By: Administrative

Level of Review: 1

Decision: Denied

See Reasons for Denial

Decision Date: September 12, 2016

Project File: NA

Zoning Administrative Officer

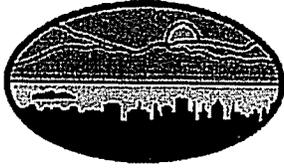
*An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on September 27, 2016.*

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$80.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	<i>Not Applicable</i>		

Building Permit Required: **Not Applicable**

Received by: \_\_\_\_\_

Date: \_\_\_\_\_



City of  
Burlington, Vermont  
149 Church Street

## Zoning Permit - COA Level I – Reasons for Denial

ZP #: 17-0189CA

Tax ID: 044-2-011-000

Issue Date: September 12, 2016

Decision: Denied

Property Address: 28 PINE STREET

**Description:** Change of use to single family residence.

**Reasons for Denial:**

The subject property has most recently been permitted (zoning permit 13-0393CA) and used as a mixed use commercial/residential building. The proposed conversion to a single detached dwelling unit cannot be approved. *Appendix A – Use Table – All Districts* of the Comprehensive Development Ordinance notes that single detached dwellings are not allowed in the D zone, wherein the subject property is located.

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SEP 27 2016

DEPARTMENT OF PLANNING & ZONING

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 28 Pine Street

PROPERTY OWNER\*: Chris Khamnei

\*If condominium unit, written approval from the Association is also required

APPLICANT:

POSTAL ADDRESS: 82 Overlake Park

POSTAL ADDRESS:

CITY, ST, ZIP: Burlington, VT 05401

CITY, ST, ZIP:

DAY PHONE: 802-222-6080

DAY PHONE:

EMAIL: david@rentinv.com

EMAIL:

SIGNATURE:

SIGNATURE:

I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.

Description of Proposed Project: Convert from present mixed use (3-bedroom residential apt and 1 room office) and return to building's original historic designation and use as a 4-bedroom single-family residence.

No changes to structure. No additional lot coverage. Parking garage will be used for parking until ZP #14-0195CA

Existing Use of Property: Single Family Multi Family: # 1 Units Other: 1 room office

Proposed Use of Property: Single Family Multi Family: # Units Other:

- Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled?
Will 400 sq ft or more of land be disturbed, exposed and/or developed?
For Single Family & Duplex, will total impervious area be 2500 sq ft or more?
Are you proposing any work within or above the public right of way?

Estimated Construction Cost (value)\*: \$ 0.00

(\*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review.

Office Use Only: Zone: Eligible for Design Review? Age of House Lot Size
Type: SN AW FC BA COA 1 COA 2 COA 3 CU MA VR HO SP DT MP
Check No. Amount Paid Zoning Permit #

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SEP 27 2018  
Article Last Updated: 2018, 2014

**Article 4: Zoning Maps and Districts**

- DEPARTMENT OF PLANNING & ZONING
- 1 Floor area ratio is defined and described in Art 5. Bonuses for additional FAR where available are described in section (d)6 below. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
  - 2 Structures shall be setback along any property line that abuts a residential zoning district pursuant to the requirements of (d)6 below.
  - 3 Minimum building height shall be 30-feet and 3 stories. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height where available are described in section (d)6 below. Any portion of a building over 45-feet in height shall be setback from the front property line pursuant to the requirements of (d)4 below.
  - 4 All structures shall be setback a minimum of 50-feet from the shoreline of Lake Champlain unless an encroachment is authorized under (d)5 below.
  - 5 All structures shall be setback 12-feet from the curb on a public street except as otherwise allowed by the DRB for development along the following streets: both sides of Center Street; both sides of Pine Street between Cherry and Pearl Streets; the east side of Pine Street between Bank and Main Streets; the west side of Pine Street between College and Main Streets; and South Winooski Avenue between Bank and College Streets. The DRB may order a wider setback in any case under its review if it should determine that the application cannot be approved under applicable criteria without such additional setback.

**(c) Permitted and Conditional Uses:**

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Downtown Mixed Use districts shall be as defined in Appendix A – Use Table.

Further limitations regarding permitted, or conditionally permitted uses within the Downtown Waterfront – Public Trust District are defined under (d)(2) below.

**(d) District Specific Regulations**

**1. Use Restrictions**

The following restrictions regarding the location and overall percentage of residential and nonresidential uses within the Downtown Mixed Use districts shall be as follows:

**A. Ground Floor Residential Uses Restricted:**

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted on the ground floor of any structure as follows:

- i) in the Downtown (D) and Downtown Waterfront (DW) districts.
- ii) any structure fronting on Pearl, So. Winooski and Main streets in the Downtown Transition (DT) district.
- iii) any structure fronting on Battery Street in the Battery Street Transition (BST) district.

Historic buildings originally designed and constructed for residential use shall be exempt from these use restrictions.

**2. Public Trust Restrictions:**

These regulations set forth the permitted uses, identified by the Vermont General Assembly, associated with those parcels within the Downtown Waterfront – Public Trust District (DW-PT), and designated as “filled lands” along the

ZONING PERMIT RECEIVED  
Burlington, Vermont

Permit # 33-222 203

SEP 27 2016

PROJECT LOCALE 23 Pine Street ZONE CRD

Applicant/owner L. Randolph Amis DEPARTMENT OF PLANNING & ZONING  
Address P.O. Box 1335

Existing use of property single family Telephone No. 658-0888  
Estimated Cost \$5,000.00

DESCRIPTION To convert existing single family home to professional office.  
No exterior modifications except for the addition of an exterior  
fire escape and a sign. No additional lot coverage.

TECHNICAL	lot size	sq. ft	bldg. size	sq. ft	% lot coverage
	parking and drive		sq. ft	addition	
PARKING	exist	proposed	required	sq. ft	N/A X
	front	side	rear		N/A X
SIGNS	type	height	area		N/A
	linear frontage		illuminated		N/A
DECISION	approved	denied	referred to ZBA		
	denial reason				

APPEALS An interested person may appeal the decision of the Zoning Administrator within 15 days of final action.

APPLICATION DATE 6/10/83 APPEAL EXP. DATE 6/25/83

SIGNATURES APPLICANT L. Randolph Amis  
ZONING ADMINISTRATOR [Signature]

CERTIFICATE OF APPROPRIATENESS

EVEL OF REVIEW	I <input checked="" type="checkbox"/>	II <input type="checkbox"/>	III <input type="checkbox"/>
YPE OF REVIEW	siteplan <input type="checkbox"/>	design <input checked="" type="checkbox"/>	subdivision <input type="checkbox"/>
COMPLETE APPLICATION	<u>June 2, 1982</u>	fee <u>N/A</u>	
ISTRICIT	historic <input type="checkbox"/>	innercity <input checked="" type="checkbox"/>	regional core <input type="checkbox"/> waterfront <input type="checkbox"/>

ECISION DATE June 9, 1983 DENIED  APPROVED   
APPROVED WITH CONDITION that applicant use the parking garage for parking.

PEALS An interested person may appeal a decision of The Planning Commission to the Superior Court of the County in which is located the property at issue in the decision.

GNATURE Planning Director [Signature]