



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

TO: Development Review Board

FR: Jeanne Francis, Assistant Zoning Administrative Officer, Code Compliance and Enforcement

DT: June 7, 2016

RE: Report on Appeal #16-1086AP; Appeal of a Administrative Officer's Zoning Notice of Violation (ZV # 312280) issued on March 28, 2016, for Unpermitted parking area in close proximity to the northwest corner of house, for Premises Located at 41 South Willard St, Burlington, Vermont

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Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Location: 41 So. Willard, Burlington, Vermont

Tax Lot # 045-2-251-000

Appellant: Soon Kwon, Owner, Vista Properties, LLC

Applicable Regulations: CDO Articles 2, 3, 5, 12 and VSA §4551 **Appeal #** 16-1086AP

Appeal: Sec. 12.2.2 Appeals of Administrative Officer Decisions

- Appeal filed at the Planning/Zoning office on April 11, 2016, addressing all 5 requirements outlined under Sec. 12.2.2

Name and address of appellant:

Soon Kwon, PO Box 9492, So Burlington, VT 05407-9492

Brief description of the property with respect to which the appeal is taken

Zoning Compliance Officer confuses "parking violation" with "zoning violation".

Reference to the regulatory provisions applicable to that appeal

No references provided.

Relief requested by the appellant

No relief requested.

Alleged grounds why such requested relief is believed proper under the circumstances

Appellant believes parking north of the house is a "parking violation" and not a "zoning violation".

Appellant Submittals

- Notice of Appeal
- Written Response to Appeal
- Photo indicating “No Parking” signs on north elevation of structure
- Copy of March 28, 2016 Notice of Violation and attachments

City's Submittals

- Notification Letter Dated March 22, 2016: Expansion of parking area on the northwest corner of house
- Notice of Violation dated
- Photo of area in question dated July 29, 2003
- Photo of area in question dated September 21, 2006
- Photos of area in question dated prior to and after March 28, 2016 (NOV)

Background Information:

- December 5, 1997 – Notice of Violation: Increased parking area (ie. front yard parking. Violation cured with Appellant issuing written notices to tenants..
- July 29, 2003 photo of area in question with green space.
- 2003 parking and overcrowding issues.
- 2004 parking violations, including area in question.
- 2005 parking and overcrowding complaints at property.
- October 27, 2006 notice of violation issued for an increased parking area without an approved zoning permit. Violation cured.
- ZP 16-0918CA: Expansion of above ground landing at rear of building.
- March 18, 2016 complaint regarding an expansion of parking on the north side of building.
- March 28, 2016 Notice of Violation mailed to Owner for expansion of parking ...
- ZP 16-1026CA to replace four existing windows, ground level.
- April 12, 2016 appeal of Notice of Violation received.

State Statutes

24 V.S.A. § 4451 Enforcement Penalties

No action may be brought under this regulation unless the alleged offender has had warning of at least seven days' to cure the violation.

Notification letter mailed on March 22, 2016 and a Certified Notice of Violation was mailed on March 28, 2016; certified letter described violation and outlined options in which to cure the violation.

Comprehensive Development Ordinance (CDO)

Article 2. Enforcement

Sec. 2.7.5 Observation or Complaints of Violations

... that have been taken.

The observation of a violation on the part of the administrative officer shall be considered an investigation, and the alleged violator may be issued a notice of zoning violation or a municipal civil complaint ticket. *"Notice of Illegal Parking" Tickets were issued to vehicle owners.*

Article 3. Applications, Permits, and Project Review

Sec. 3.1.2 Zoning Permit Required

Except for that development which is exempt from a permit requirement under Sec. 3.1.2(c) below, no development may be commenced within the city without a zoning permit issued by the administrative officer including but not limited to the following types of exterior and interior work:

(a) Exterior Work:

1. Additions to existing buildings ...
3. Change of use or expansion of use...
5. Alterations, changes, or modifications to building lots or sites related to site improvements including, but not limited to, increased lot coverage.
6. Excavation or fill related to site improvements...
12. New or expanded parking areas, driveways, and walkways. Including paving existing gravel surfaces...
16. Site improvements...
20. ...

Article 5 Citywide General Standards

Sec. 5.2.3 Lot Coverage Requirements

Where a maximum lot coverage is specified pursuant to the requirements of Article 4, no building or part of a building or impervious surface or other form of coverage shall exceed such maximum allowable except as specifically authorized by this ordinance.

Expansion of parking along the north side of building contributes to lot coverage under the Comprehensive Development Ordinance. Zoning permit is required to increase lot coverage. To date, Appellant has not submitted a zoning permit request to increase the lot coverage for parking north of the building.

Sec. 5.2.5 Setbacks

Setbacks between buildings and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street.

Parking along the north side of building encroaches into setbacks required by the Comprehensive Development Ordinance.

Article 12. Appeals, Conditional Uses, Variances

Sec. 12.2.2 Appeals of Administrative Officer Decisions

Any interested person may take an appeal from any final order or decision of the administrative officer to the DRB within fifteen (15) days after the date of decision or act appealed from as follows...

Owner disagrees with Administrative Officer's decision to issue a Notice of Violation (ZV # 16-1086) and has enacted his appeal rights.

Findings

An increase in parking has been problematic for this property, as indicated in City records, since at least 1997. Owner would remedy the parking issues and after a period of time, parking would be initiated again.

In March 2016 the Code Enforcement Office received an "expansion of parking along the north side of building" complaint. Complaint was verified by inspectors. Illegal Parking tickets were issued. Owner attached "No Parking" signs to the building, however, parking north of the building continued.

A notification letter was mailed to Owner on March 22, 2016 informing him of a parking complaint (pictures were attached). Owner was given the opportunity to refute the allegations within 10 days from date of letter.

A notice of violation was issued to Owner on March 28, 2016, allowing Owner to cure the violation within 7 days from receipt of notice; violation was not cured within the allotted seven days. Owner opted to exercise his rights and appeal the notice of violation before the Development Review Board.

Summary

Appellant is not refuting there is a violation north of the structure. In his response to Jeanne Francis dated April 3, 2016, paragraph 8, Appellant says he "... will apply for a zoning permit, ... place about 5 boulders ... along the edge of the driveway or install ... pressure treated wood columns in order to protect this green area from further illegal parking". Appellant has also placed five (5) "No Parking" signs along the north side of structure.

History shows parking issues north of the building in 2003 which was cured (see attached photo dated July 29, 2003) parking complaint again in 2004 until 2006 when Appellant installed a barrier and restored the green space (see attached photo dated September 21, 2006). Currently area north of building is rutted with no green space (see attachment photos from 2016).

To date, property north of the building remains in violation of the Comprehensive Development Ordinance. Although our office has not witnessed parking north of the building since March 25, 2016, Appellant has not restored the area damaged by the violation to its original state.

Although front yard parking was not included in the March 28, 2016 notice of violation, it is strongly suggested Appellant restore the front yard while restoring the area to the north of building. See photo dated May 9, 2016.

Recommendation

Uphold administrative decision that an “Unpermitted parking area in close proximity to the northwest corner of house” exists and condition: (1) Owner shall construct a resilient barrier that prevents access to the area north of building to be used for parking. Proposed barrier shall be submitted to Planning/Zoning staff for zoning consideration via zoning permit application, within 10 calendar days from date of Board’s decision. Barrier shall be erected within five (5) calendar days from appeal date, unless permit is appealed. Should the permit be appealed, Owner shall work with Code Enforcement Staff for temporary measures to prohibit vehicles from parking north of the building, and find a permanent barrier solution. (2) Barrier shall be maintained. Any damage or removal of the barrier shall be replaced/repared within five (5) calendar days from date of removal. (3) Within 10 days from Board’s decision, Owner shall restore grass/soil in a manner consistent with the draft 2016 Vermont Storm water Manual Soil Depth and Quality specifications (copy available at Code Enforcement Office and attached to this report). (4) Owner shall maintain green space along the northern side of house as shown in attached photo “A”. (5) Owner shall remove all five “No Parking” signs attached to north side of house. (6) Standard permit conditions 1-15.

Development Review Board Staff Comments
AP 16-1086AP: 41 So Willard Street]
Appeal of ZV # 312280

North side of building. Parking plus coverage and setback issues without zoning approval.



Development Review Board Staff Comments
AP 16-1086AP: 41 So Willard Street]
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Development Review Board Staff Comments
AP 16-1086AP: 41 So Willard Street]
Appeal of ZV # 312280

North side of building. Coverage and setback issues without zoning approval.



Development Review Board Staff Comments
AP 16-1086AP: 41 So Willard Street]
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Photo taken September 21, 2006. North side of building. Lawn area with barriers. Owner strung caution tape from post to post but were damaged at time of photo.



Development Review Board Staff Comments
AP 16-1086AP: 41 So Willard Street]
Appeal of ZV # 312280

Photo Taken July 29, 2003. Northeast of building looking west.



Development Review Board Staff Comments
AP 16-1086AP: 41 So Willard Street]
Appeal of ZV # 312280

Photo Taken July 29, 2003. Northwest of building looking east to South Willard



John Vickery

Subject: Amanda - governance, users group
Location: Pine Front CR

Start: Tue 5/31/2016 3:00 PM
End: Tue 5/31/2016 4:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Beth Anderson
Required Attendees: Jay Appleton; Scott Duckworth; Ned Holt; John Vickery; William Ward; Patricia Wehman; Barry Simays; Norm Baldwin

Sorry for moving the time, this looks free for everyone. We'd like to start a regular discussion of the Amanda stakeholders to talk about how we use Amanda, share information, discuss standards, etc.

I wanted to forward a brief agenda for next week's meeting:

1. Discuss what we want the group to be/do (10 mins)
2. Best practices around: (20 mins)
 - a. Modifying people records
 - b. Managing manual processes/work arounds
3. Explore who using which version (web v desktop) (10 mins)
4. Land Records update (5 mins)
5. Next steps, schedule, future topics (10 mins)
 - a. Ideas include documenting workflows, clarifying what is public and open data, using reports/metrics

Have a good holiday in the meantime.

Beth

Beth Anderson
Chief Innovation Officer, City of Burlington
(802) 865-5357



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

March 22, 2016

VISTA K PROPERTIES LLC
PO BOX 9492
SOUTH BURLINGTON VT 05403

RE: 41 South Willard Street Burlington, Vermont

Dear Owners,

According to our records, you are the owner of record of the above-referenced property. This letter is to inform you that the Code Enforcement Office has received the following complaint(s) regarding this property:

- **Expansion of parking area on the northwest corner of house**
- **Parking expansion to the southwest parking area; and**
- **Structural changes. All without Zoning approval.**

Our office has initiated an investigation regarding the complaint(s), however, as of this date; a final determination has not been made. Should you have any information that you believe will be useful to us during our investigation, please submit it to the Code Enforcement Office, **in written form, within the next ten (10) business days**.

This is your opportunity to provide information to refute the allegation(s) prior to our issuance of a formal determination and possibly a Notice of Violation. Information that may be helpful includes, but is not limited to, the following:

- Permits which document that the alleged to be in violation has been approved by the City; or
- Photographs of the property and/or other documents (both current and historical with verifiable dates) that demonstrate the alleged violation has been remedied.

Please note, while any information from you as the property owner is useful, the investigation will occur with or without the information. This letter is intended to give you notice of the alleged complaint(s) against your property and to provide you an opportunity to refute the allegation prior to a formal determination being issued.

Should you have questions, please don't hesitate to call me at 863-0442.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Francis".

Jeanne Francis, Zoning Specialist

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 865-7121 or (802) 863-0450 TTY.
An Equal Opportunity Employer



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

NOTICE OF ZONING VIOLATION (NOV)

March 28, 2016

VISTA K PROPERTIES LLC
PO BOX 9492
SOUTH BURLINGTON VT 05403

Mailed Certified Mail 7013 3020 0001 6717 7018
And FIRST CLASS MAIL

NOTICE OF VIOLATION AT:
41 SO WILLARD STREET, BURLINGTON, VT
TAX LOT #045-2-251-000

Zoning Violation# 312280

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 41 South Willard Street.

Description of Violation: Unpermitted parking area in close proximity to the northwest corner of house. See attached photos.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 12, and 24 VSA §4451 and 4470.

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars (\$200.00) for each day that a violation continues. You may submit an application to attempt correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

This correspondence serves as a formal notice of a zoning violation pursuant to 24 V.S.A. §4451. You have seven (7) days from receipt of this notice to cure the referenced violation. Additional warnings for the violation are not required and will not be forthcoming. In the event that the violation is not cured or remedied as provided for in this notice, the City will pursue enforcement of the violation as provided for by law.

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV March 28, 2016, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by **4 pm on April 12, 2016**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call me at (802) 864-8518.

Sincerely,

Jeanne Francis
Zoning Compliance Officer

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 045-2-251-000

VIOLATION DETAILS

LOCATION: 41 SOUTH WILLARD STREET

DECISION DATE: March 28, 2016

VIOLATION DESCRIPTION: Unpermitted parking area in close proximity to the northwest corner of house and along north side of house. See attached photos.

- FINDINGS:**
- On February 18, 2016, Code inspector observed vehicle parked in close proximity to the northwest corner of house; ticket issued; - see attached photo.
 - On March 18, 2016, Code inspector observed vehicle parked in close proximity to the northwest corner of house; ticket #63230 issued.
 - On March 18, 2016, Code inspector observed vehicle parked in close proximity to the northwest corner of house; ticket #63228 issued.
 - On March 21, 2016, Code inspector observed vehicle parked in close proximity to the northwest corner of house; ticket 363230 issued ; - see attached photo
 - On March 22, 2016, Code inspector observed vehicle parked in close proximity to the northwest corner of house; ticket #63234 issued.
 - On March 22, 2016, Code inspector observed vehicle parked in close proximity to the northwest corner of house; ticket #63233 issued.
 - On March 22, 2016 Code Enforcement notified Owner, in writing, of the unpermitted parking.
 - On March 25, 2016, Code inspector observed two vehicles parked in close proximity to the north and northwest corner of house; ticket #63238 issued; - see attached photo.

REMEDY OPTIONS: Within seven (7) days from receipt of this notice you may cure the violation by:

1) – Prohibiting repeated unpermitted parking that has been occurring in close proximity to the northwest corner of house (see attached photos) by (a) placing barriers around area in question – to be reviewed and approved by Code Enforcement; permit may be required from the Department of Planning/Zoning; (b) restoring the Premises to its prior state (ie. grading, mulching, seeding), and (c) informing the Code Enforcement Office that the violation has been removed so our office may verify compliance; or

2) - Obtaining approval from the City's Department of Planning and Zoning for after-the-fact parking expansion in close proximity to the northwest corner of house; (permit application fee is doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus \$75 per hour of Code Enforcement staff time (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. **PLEASE NOTE:** If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or request an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; or

3) - Entering into an Agreement with the City of Burlington to extend deadlines in which to come into compliance with the City's ordinance (**administrative fees required**).

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on April 12, 2016.** Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CITATION: CDO Article(s): 2, 3, 5, 12 and 24 VSA §4451



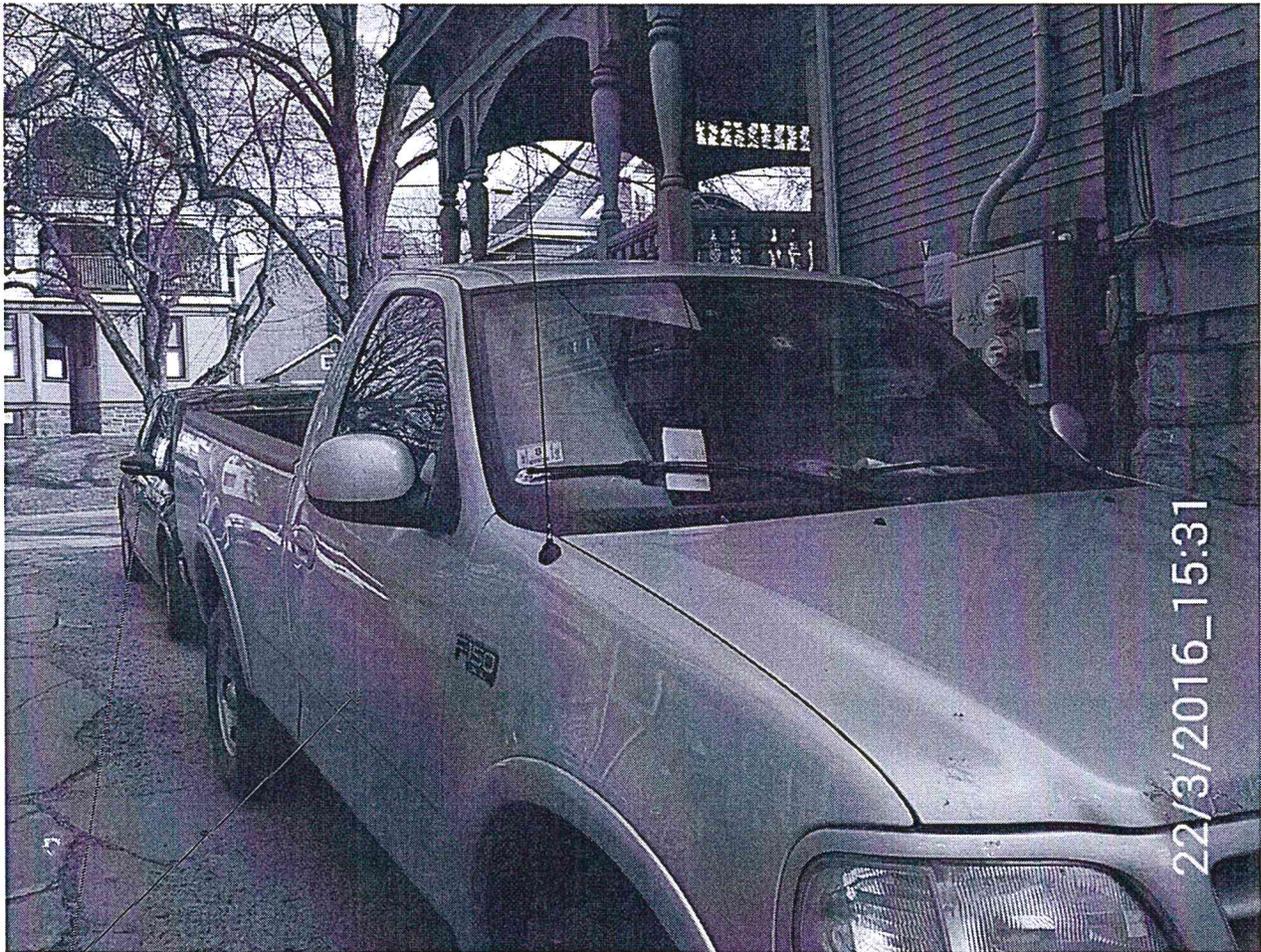
Northwest corner of house.



Northwest corner of house. /



First vehicle parked in unpermitted expanded parking area northwest corner of house.



Two additional vehicles parked in unpermitted expanded parking area, northeast corner of house for a

3-18-16

NOTICE OF ILLEGAL PARKING
POLICE DEPARTMENT
CITY OF BURLINGTON, VERMONT
(802) 540-2380

RECORD COPY

Location: On S. Willard St Corner #471

At #471

VIOLATION
 METER VIOLATION
 NON-METER VIOLATION

Violation: YARD PARKING
off pavement

FINE: \$ 75.00

Officer No. 1729

Date Issued: 3-21-16 Time: 10:35 AM Registration No.: 25624RA Color: Brown

Location: S. Union

At #471

VIOLATION
 METER VIOLATION
 NON-METER VIOLATION

Violation: Yard Parking

Officer No. 1729

NOTICE OF ILLEGAL PARKING
POLICE DEPARTMENT
CITY OF BURLINGTON, VERMONT
(802) 540-2380

