



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)

January 22, 2016

Mailed Certified Mail 7013 3020 0001 6717 8091
And FIRST CLASS MAIL

PRISCILLA R. TOOMEY
44 MERRIAM PLACE
BRONXVILLE, NY 10708

CITY TRUST OF
BRIDGEPORT CT
44 MERRIAM PL
BRONXVILLE, NY

NOTICE OF VIOLATION AT:
75 GRANT STREET, BURLINGTON, VT
TAX LOT #044-4-121-000

Zoning Violation# 301663

Dear Owners,

It has come to the attention of this office that zoning violations exist at above address.

Description of Violation: Expansion of parking area without an approved zoning permit See attached photos.

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

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars (\$200.00) for each day and each violation that a violation continues. You may attempt correction of violations by submitting a zoning application, however, application and filing fees are subject to a fee increase (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 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 January 22, 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 February 6, 2016 (offices are closed on the 6th so appeal will be accepted on the 8th)** 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
Assistant Zoning Administrative Officer/
Code Compliance and Enforcement
Enclosures: Violation Details

Cc: Land Records for Tax Lot # 044-4-121-000

VIOLATION DETAILS

LOCATION: 75 GRANT STREET

DECISION DATE: January 21, 2016

VIOLATION DESCRIPTION: Expansion of parking area without an approved zoning permit See attached photos.

- FINDINGS:**
- June 24, 2015, Planning/Zoning Office issued a Non-Applicability Zoning Permit to “repair porch and side bay windows, replace rotted wood, replace end gable with same trim, replace cellar entrance same, replacing in-kind”. Attached photos show no gravel or parking along the porch (north of existing driveway) where parking is occurring now and gravel has replaced the grass (hereinafter referred to “area in question” and noted in photos below).
 - July 22, 2015, site visit to property revealed no gravel or parking in area in question.
 - September 21, 2015, site visit to property revealed no gravel or parking in area in question.
 - November 16, 2015, site visit to property revealed gravel and parking in area in question.
 - Aerial photos from 2000, 2004, 2013 and (May) 2015 do not show any gravel or parking in area in question (with the exception of 2000 there is one car). 2015 Aerial does show some evidence of grass in area in question.
 - City records do not show issuance of any permit to replace grass area with gravel or to make area in question a parking lot; parking lot is located in the rear.
 - November 17, 2015 Code Enforcement Office issued Owner a notification letter informing them of a possible zoning violation – *expansion of new parking area without an approved zoning permit*; Owner never responded to the notification letter.
 - As of today, property remains in violation. Gravel has not been removed, parking continues in area in question without zoning approval.

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

- 1) – Removing the gravel and parking noted above, restore the lawn, and placing a installing a barrier (to be reviewed and approved by Planning/Zoning Office) around area in question. **Owner MUST inform the Code Enforcement Office upon completion so our office may verify compliance; or**
- 2) - Obtaining approval from the City’s Department of Planning and Zoning for an after-the fact project of adding gravel to area in question and permitting parking in area in question (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 bring property 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 February 6, 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



July 22, 2015 area in question, north of existing driveway.



Area in question; north of existing driveway.



Area in question; north of existing driveway.

SHEEHEY FURLONG & BEHM

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

DAVID T. AUSTIN
R. JEFFREY BEHM
DEBRA L. BOUFFARD
IAN P. CARLETON
ARLINE P. DUFFY
MICHAEL G. FURLONG
KEVIN A. LUMPKIN
DIANE M. McCARTHY
OWEN J. McCLAIN
RENEE L. MOBBS
CRAIG S. NOLAN
JAMES W. SPINK
PETER H. ZAMORE

GATEWAY SQUARE
30 MAIN STREET
POST OFFICE BOX 66
BURLINGTON, VERMONT 05402
TELEPHONE (802) 864-9891
FACSIMILE (802) 864-6815
www.sheeheyvt.com

PAUL D. SHEEHEY (1919-2004)

Via Hand Delivery
February 8, 2016

City of Burlington
Department of Planning and Zoning
149 Church St
Burlington, VT 05401

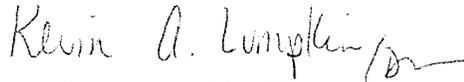
Re: Zoning Violation # 301663

To Whom it May Concern:

Please find enclosed a Notice of Appeal in the above-referenced matter, together with a check in the amount of \$250.00, representing this applicable filing fee.

Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Kevin A. Lumpkin, Esq.

Enclosure

RECEIVED
FEB 08 2016

DEPARTMENT OF
PLANNING & ZONING

**CITY OF BURLINGTON
DEVELOPMENT REVIEW BOARD**

**In re Appeal of
75 Grant Street NOV**

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Zoning Violation # 301663

NOTICE OF APPEAL

Pursuant to 24 V.S.A. § 4452 and Sections 2.7.11 and 12.2.2 of the Burlington Comprehensive Development Ordinance (CDO), Appellant Priscilla Rassin Toomey, trustee of the Isabel Rassin Revocable Trust under trust agreement dated February 3, 1989, with an address of 44 Merriam Place, Bronxville, New York hereby appeals the Notice of Zoning Violation issued on January 22, 2016 for the property located at 75 Grant Street in Burlington, Vermont (Zoning Violation # 301663.)

The notice of violation alleges “[e]xpansion of parking area without an approved zoning permit” in violation of CDO Articles 2, 3, 5, 12, and 24 V.S.A. § 4451. The parking area refers to area adjacent to the side porch on the west side of 75 Grant Street. That area has been used for parking continuously and openly, without change, moderation, enlargement, or discontinuation, for almost thirty years. Thus, any alleged violation is unenforceable under 24 V.S.A. § 4454(a) and CDO § 5.3.2.

The notice of violation also makes reference to gravel that was recently laid over the parking area; that gravel is in the process of being removed.

Dated at Burlington, Vermont this 8th day of February, 2016.

SHEEHEY FURLONG & BEHM P.C.

By: Kevin A. Lumpkin / 
Kevin A. Lumpkin, Esq.
30 Main Street, 6th Floor
Burlington, VT 05401
(802) 864-9891
klumpkin@sheeheyvt.com

Attorneys for Appellant