

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Scott Gustin
DATE: November 6, 2019
RE: 18-1208CA/MA; 75 Briggs Street

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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.

Zone: ELM Ward: 5S

Owner/Representative: Meraki Realty Holdings, LLC/Andrea Charest

Request: Time extension request for zoning permit 18-1208CA/MA to construct a new health club/climbing center, including a new building and related site improvements.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews)

Background Information:

The applicant is seeking a time extension for a major impact and certificate of appropriateness zoning permit approved by the Development Review Board on September 12, 2018. The zoning permit enabled construction of a new building and related site work for a new health club/climbing facility on a largely vacant parcel next to the new City Market. Within the ELM zone, health club is a conditional use subject to public hearing.

No changes are included in this proposal. Only a time extension is sought.

Previous zoning actions for this property are as follows:

- 9/12/18, Approval to construct new building and related site improvements for a health club/climbing center
- 10/24/14, Approval of variance from front yard setback
- 12/18/97, Application for, and subsequent withdrawal of, permit to construct home

Recommendation: Consent approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews

Section 3.2.9 Zoning Permits

(d) Time Limit on Zoning Permits

Notwithstanding (e) and (f) below, a zoning permit shall become invalid unless the work or action authorized commences within one (1) year after the date of final decision. All work or action authorized there shall be completed, and a Final Zoning Certificate of Occupancy received, within three (3) years of the date of decision unless a written extension of time not to exceed one (1) year is granted in advance by the administrative officer. Extensions of time for a zoning permit issued in connection with a conditional use or variance shall require approval by the DRB after a public hearing. Extensions of time may be granted only when the work or action authorized under the zoning permit remains compliant with the current zoning regulations. Up to two (2) time extensions may be granted.

The application for a time extension is subject to review by the Development Review Board as a conditional use. The request for an extension was filed in a timely manner, and is eligible for consideration under this standard. Note that this criterion has been amended since the zoning permit was granted. Zoning permits now come with a 3-year timeframe as opposed to the 2-year period associated with this project's zoning permit. The initial 1-year timeframe to start construction remains. The start date of the zoning permit has been adjusted per subsection (f) below. The project remains permissible under the present zoning standards. As requested, a 1-year time extension may be granted. **(Affirmative finding)**

(f) Exceptions to Permit Time Limits

Except for projects subject to additional state or federal permitting jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Sec. 3.2.9(d) and (e) unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.

For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority. For projects under appeal pursuant to the requirements of Article 12, the date of decision shall be deemed to be the date of the decision adjudicating such appeal.

Due to onsite soil contamination, this project required a Corrective Action Plan as issued by the VT Department of Environmental Conservation. This approval was issued by DEC on July 15, 2019. As a result, the effective date of the zoning permit is adjusted to this same date. The initial period to commence construction spans 1 year from this date. **(Affirmative finding)**

II. Conditions of Approval

1. Except as modified in this 1-year time extension, all conditions of approval of the original zoning permit shall remain in effect.
2. This 1-year time extension adjusts the permit expiration date to July 15, 2022.