



Miscellaneous Appeal - Enforcement – DRB Staff Comments

ZP #: 15-0830AP

Tax ID: 045-1-236-000

City of Burlington, Vermont 149 Church Street

Application Date: February 17, 2015 Appeal reopened at request of Code Enforcerr

Property Address: 18/20 Weston Street

APPEAL PUBLIC HEARING CODE ENFORCEMENT OFFICE REPORT

Table with 2 columns: Field (TO, FROM, DATE, RE) and Value (Development Review Board, William Ward, July 14, 2015, Report on request for reconsideration...)

Description: request for reconsideration and reopen the hearing to invite the property owner and City of Burlington representatives or witnesses back to provide additional testimony and evidence as necessary to clarify the parking dimensions and specific number that the DRB intends to approve based on their findings.

APPELLANT: Charles and Cynthia Burns Represented by Brian Hehir, Attorney at Law

APPLICABLE REGULATIONS: Article 2, 3, 5, 8, 12; 24 V.S.A. §4454(a) and §4470

RELIEF REQUESTED BY APPELLANT: Appellant contends the parking lot in question has existed continuously for over 15 years and therefore, the City is barred from enforcement.

APPLICANT’S APPEAL SUBMITTALS

- Appeal
□ February 12, 2015 Letter from Jeanne Francis: RE: Parking at Premises, Storage within Garage of Premises, and Occupancy of Residential Structural
□ Notice of Violation # 279187 Dated February 12, 2105
□□ Green space along southern boundary of property used as a Parking Lot ...
□□ Replacing green space with additional parking ....
□□ Change of accessory use: ... storage in garage
□□ Placement of trash receptacles ...
□□ Exterior Storage along the boundary of property...

## CITY'S APPEAL SUBMITTALS

- Note to File: 3/31/2005, Mrs. Mahoney, 51 Henry St (complaint # 128416), complaint of parking at Premises; lived at property for 30 years and will testify the parking has increased over the years.
- May 31, 2005 —Show Cause Letter
- 1988 Aerial photograph
- Dimensional sketch from Code Enforcement

## BACKGROUND:

- Pursuant to City Assessor records, Appellant purchased this 2-family 5,634 sf c.1915 structure in 2002. A detached garage is included on the property. As currently configured, one unit has 4 bedrooms, one unit has 5 bedrooms.
- March 31, 2005 Owner of property located at 51 Henry Street, abutting on the northeast corner of Premises, complained that Appellant increased the rear parking area; complainant stated —she had lived at her property for 30 years and will testify the parking had increased over the years”.
- May 31, 2005 Code Office mailed a —Show Cause Letter (currently referred to as a —Notification Letter) to Appellants, informing them of a potential parking violation. Appellant contacted Code Office on June 7, stated he could not produce sufficient documentation to prove parking had existed for a consistent period of 15+ years (24 V.S.A. § 4454(a)). Code Enforcement staff met Appellant at Premises on June 10 and discussed (1) location of dumpster, (2) parking along the southern boundary, (3) parking along the northern boundary, (4) use of the garage for storage, and (5) need for so much parking— Appellant identified 9 tenants, however, ordinance only requires four parking spaces for a duplex use and there is a 6-space garage on site.
- Appellant requested —grandfathering for the parking so Code revisited City records (aerial photos, statements, etc.), and concluded, based on the information available, it was reasonable for the City to recognize 4-exterior parking spaces on the northern property boundary, one exterior parking space on the southern boundary (not 8 as requested by Appellant) and a six-car garage at Premises. An informal plan was drawn up showing parking recognized by the City; Appellant did not argue. Appellant placed barriers and shrubbery around the recognized parking area, no further parking complaints were received at the Code Office until 2014.
- November 2014 Code complaint regarding parking concerns at Premises. Notification letter sent to Appellant. Met with Appellant on Premises, reviewed concerns, found violations, and issued a formal Notice of Violation; notice appealed.

## FINDINGS:

- (1) November 12, 2014 site visit to Premises with Appellant present; discussed parking and garage issues. Appellant noted two of the three vehicles parked along the southern boundary belonged to his tenants at 12 Weston Street. Parking for the six-car garage was replaced with storage owned by Appellant, Appellant's daughter, two units for maintenance storage and repair shop for all of Appellant's properties, and two units were being used for tenant storage.
- (2) November 21, 2014 site visit to Premises revealed: (a) 3 vehicles parked along the southern boundary; (b) exterior storage along the southern boundary in excess of 16 sf; (c) green space within the green space

destroyed by illegal parking; (d) garage bays used for storage rather than parking; and (e) relocation of trash receptacles.

(3) November 24, 2014 site visit to Premises revealed: (a) 1 vehicle parked along the southern boundary; (b) knocked on doors to each unit, nobody was home; (c) spoke with 2 tenants at 12 Weston Street, reviewed living and parking scenarios for tenants at 12 Weston Street. Interview concluded parking is allocated to one space in driveway, and along Weston Street, no parking at 18-20 Weston Street.

(4) February 11, 2015, met with Appellant at Premises; there were three vehicles parked along the southern boundary of Premises and 4 in the northern parking area.

(5) April 7, 2015 – Development Review Board hearing was held and the hearing was continued on May 5, 2015 at the request of the appellant. The DRB met Monday, May 18, 2015 in deliberative session and had a finding of an unenforceable violation for “Replacing green space with additional parking without zoning approval, an increase in lot coverage”.

(6) June 02, 2015 the Development Review Board heard and approved a request to re-open from Code Enforcement on the issue of reconsideration of 15-0830AP 18-20 Weston St.

#### DETERMINATION:

- (1) Green space along southern boundary of property used as intermittent parking for tenants of 18/20 Weston Street and 12 Weston Street. The site plan submitted by the appellant showing 4 parking spaces on the southern boundary is inaccurate based on dimensions and not supported by clear record of 4 cars having used the spaces continuously for 15 years.

#### RECOMMENDATION:

Uphold the determination and require the property owner to submit a site plan to clarify the parking dimensions and specific number of parking spaces that meet the dimensional requirements of the CDO and are recognized as having existed for greater than 15 years.

