

Scott Gustin

From: Joseph Campanella Cleary <campanella.cleary@gmail.com>
Sent: Monday, July 19, 2021 9:55 AM
To: Scott Gustin
Subject: Re: DRB 7/20/21, 164 N Willard St.

[WARNING]: This email was sent from someone outside of the City of Burlington.

For Submission to the Development Review Board hearing 7/20/21

We support the determinations of the Zoning Staff; that Mr. Purvis' violations, having been previously heard by the Environmental Court and Vermont Supreme Court, are beyond appeal, and that his current appeal lacks both merit and timeliness (further grounds for dismissal).

We oppose Mr. Purvis' and Ms. Tamulonis' proposal to defer the 7/20/21 Public Hearing on 164 N. Willard.

Mr. Purvis has been in violation of City Code since 2014, and has lost his (previous) appeal at the Vermont Supreme Court. He has had 7 years to make an appeal without success, and I urge the board to conduct the hearing with or without the Appellant. Mr. Purvis has been given ample opportunity to plan for this hearing, and should not be allowed further delay. Margaret Tamulonis received the same notification/postcard warnings of the hearing that we did, and has previously participated, at DRB and in the courts, on this issue *since 2015*.

The merits of Mr. Purvis' current appeal are zero—lacking coherence or clear understanding of the situation. The factual record, prior litigation and failed appeals all support the determination that his lawn parking continues to be in violation of City Code. At the same time, the bar for remedying the violation is extremely low with no cost—all he has to do is remove a single vehicle, a broken-down truck parked on grass.

Ms. Tamulonis, for her part, has enabled Mr. Purvis' bad faith negotiations and appeals for years. Instead, perhaps its time for her to encourage Mr. Purvis to live his best life with his family, remedy his violation, and submit a clean permit application to the City. A good neighbor might help him realize that it is time recognize reality and move on.

We appreciate the Board's attention to this matter. With a 4th DRB hearing and after more than 7 years dealing with this issue, we urge the City to use all of the tools at its disposal to finally resolve the violation at 164 N. Willard.

Sincerely,

Joseph and Tree Cleary
158 N. Willard

RE: Margaret Tamulonis

Ms. Tamulonis, a neighbor, has been **aware** of the violation, and/or **participated** at the DRB, and in Environmental Court appeals, since 2015.

The statement that she has submitted, regarding a lack of “opportunity to participate”, is plainly false, when examined vs. the Public Record:

She states:

”I have never had the opportunity to participate in a determination about the gravel structure to the south of his driveway.

As a near 20 year resident I would like to have this opportunity and am unable to participate on 7/20.”

Zoning staff has noted that Mr. Purvis' attempt to redefine the yard-parking violation/area as a “structure” is not accepted by the City.

Now Ms. Tamulonis has adopted this language as well. Additionally, the application of the 60 day abandonment test was upheld when

Appellant’s Motion for Summary Judgment was DENIED at the Environmental Court during his first appeal. That appeal ended, with

the Vermont Supreme Court upholding the original order of the DRB to return the parking area “to green space”. Without further appeal

(to the United States Supreme Court) this decision should be considered FINAL.

The public record shows that Ms. Tamulonis has had ample opportunity to participate in DRB hearings since 2015. She has both testified

before the DRB on the subject of Parking Violations at 164 N Willard, and joined Mr. Purvis’ Appeal of the Board’s as an Interested Person.

Since our original complaint to Code Enforcement in 2014 about Mr. Purvis’ expansion of Parking at 164 N Willard St., there have

a total of three (3) DRB hearings (previous to this one) that addressed his zoning violation/lawn parking either directly or indirectly.

1) Margaret Tamulonis attended the original DRB appeal hearing on 04/07/2015 but did not testify. Her presence

may be confirmed by the Public Record, and later (video recorded) testimony.

2) Margaret Tamulonis submitted a letter, dated 10/15/18, in support of Mr. Purvis’ appeal of our bathroom permit,

on the basis that his parking (violation) pre-empted our lot-coverage calculation. Ms. Tamulonis’ letter spoke to parking and land usage.

The public record shows that Margaret Tamulonis had ample opportunity to participate at this time.

3) Margaret Tamulonis attended a DRB hearing on 5/21/19, an appeal of Zoning Determinations regarding violations at

164 N Willard St. <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-313#> Ms. Tamulonis can be seen raising her

right hand to swear in at 00:05:00 on the video, and can be seen testifying at 00:45:40. Ms. Tamulonis also submitted an affidavit

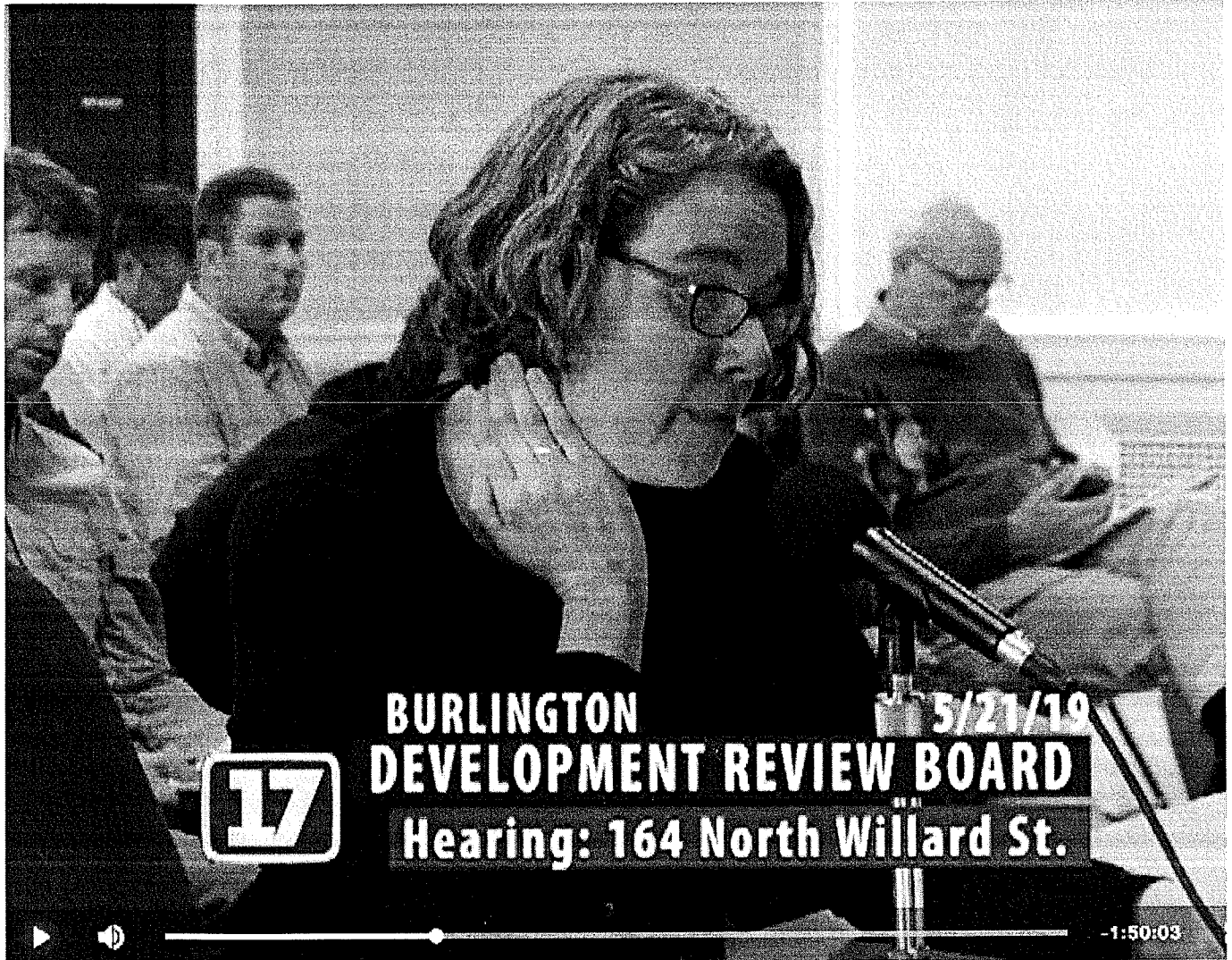
to the Board, which can be found in the public record.

In the Screenshot attached below, Ms. Tamulonis can be seen along with Mr. Purvis at 5/21/19 DRB Hearing, giving her testimony in front of the board.

4) Finally, Margaret Tamulonis joined Mr. Purvis' appeal of the DRB's 2019 decision to the Environmental Court (88-7-19 Vtec). She participated as an "Interested Person" as evidenced by the screenshot below, showing her name attached to the Court's denial of Mr. Purvis' Motion for Summary Judgement.

Since 2015, Margaret Tamulonis has been informed of Mr. Purvis' violation(s) and appeal(s). She has participated at several opportunities, in DRB hearings, and Environmental Court cases. The evidence above and below shows that Ms. Tamulonis' claim; "I have never had the opportunity..." is FALSE.

BURLINGTON DEVELOPMENT REVIEW BOARD



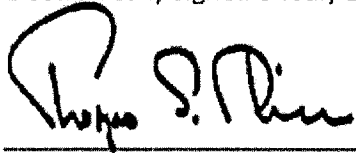
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Conclusion

For the foregoing reasons, we conclude that neither 24 V.S.A. § 4412(7)(A)(i) nor the CDO require a showing of intent to abandon a nonconforming use or unenforceable zoning violation. Mr. Purvis has not demonstrated that he is entitled to judgment as a matter of law. Therefore, his Motion for Summary Judgment is **DENIED**. See V.R.C.P. 56(a); V.R.E.C.P. 5(a)(2).

So Ordered.

Electronically signed on July 23, 2020 at Newfane, Vermont pursuant to V.R.E.F. 7(d).



Thomas S. Durkin, Superior Judge
Environmental Division

Notifications:

Hans G. Huessy (ERN 1813), Attorney for Appellant Luke Purvis

Kimberlee J. Sturtevant (ERN 4778), Attorney for the City of Burlington

Interested Person Margaret Tamulonis

