



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195

www.burlingtonvt.gov/pz

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AUG 28 2013
DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 135 Hayward Street

Subject Property Owner: Andrew + Daniel Rowan

Appellant:

Agent/Representative: Liam Murphy, Jeff Wick, Chris Micciche, Mike Rainville

Mailing Address: 39 Grove Street

City, St, Zip: Burlington, VT 05401

Day Phone: (802) 734-6791 Email: rowan.daniel87@gmail.com

Appellant Signature: [Signature] Date: 8/26

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- The Appeal fee of \$250;
Description of the decision under appeal;
Description of the property subject to the appeal;
Reference to the regulatory provisions applicable to the appeal;
Relief requested by the appellant;
Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:
Check No. 1026 Amount Paid \$250.00 Zoning Permit # 17-0081DT

APR 28 2019

DEPARTMENT OF
PLANNING & ZONING

- Description of the decision under appeal;
"Determination as to duplex or triplex status."

- Description of the property subject to the appeal;

Existing triplex with was destroyed by Fire on April 21, 2016

- Reference to the regulatory provisions applicable to the appeal;

Sec. 5.3.4 Nonconforming Uses (b) Discontinuance of the Comprehensive Development Ordinance

- Relief requested by the appellant:

Determination that 135 Hayward Street remains zoned as a triplex

- Alleged grounds why such request relief is believed proper under the circumstances;

Due to 135 Hayward Street being deemed as a "Vacant Building" Solely due to Code Enforcement inspection fees not being paid from 8/10/2010 – 2012 while the building was undergoing major renovations and unable to be occupied during that time period. The vacant building label has been misused in the Determination Findings, thus causing an adverse monetary hardship on the owners by reducing the Zoning of said residence from a triplex to a single family home determination

Scott Gustin

From: Hans Huessy <HHuessy@mskvt.com>
Sent: Friday, October 07, 2016 10:52 AM
To: Scott Gustin
Cc: Andrew Rowan
Subject: Rowan property
Attachments: Decree of Distribution - Estate of Clodomir Lascelles Rowan (00232100xA9531).pdf

Scott,

Per our call, here is a copy of the Decree of Distribution for the estate of the prior owner. The property was held by the trust, and passage of the assets held in trust is referenced in the paragraph called the Third. Here is a link to his obituary.

<http://www.legacy.com/obituaries/burlingtonfreepress/obituary.aspx?n=clodomir-j-g-lascelles&pid=137478511>

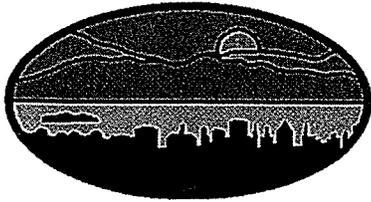
With these documents, you will see that he died in December of 2009, his estate was opened in January of 2010, and the Trust property was formally distributed to the new owner, his brother, in October of 2010. During that time frame, two building permits were issued, one in March of 2010 and one in July of 2010.

Let me know if you need any further information.

Sincerely,

Hans G. Huessy, Esq.
Murphy Sullivan Kronk
275 College Street, P.O. Box 4485
Burlington, VT 05406-4485
hhuessy@mskvt.com
Tel: 802-861-7000 Fax: 802-861-7007

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**ZONING DETERMINATION
ADVERSE**

City of Burlington, Vermont
Department of Planning and Zoning

APR 28 2016
DEPARTMENT OF
PLANNING & ZONING

Application Date: 07/20/2016

Appeal Expiration Date: 08/27/2016

Project Location: 135 HAYWARD STREET

District:

Owner: Andrew F. Rowan

Ward: 5S

Address: 60 BRIAR LN
Essex Jct VT 05451

Tax ID: 053-3-167-000

Determination Type: Residential - Use - Existing

Determination Description:

Determination as to duplex or triplex status.

Zoning Review #17-0081DT

Decision Type: Administrative

Decision: Adverse

See Determination Findings

Zoning Administrative Officer

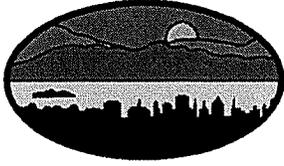
Decision Date: August 12, 2016

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on August 27, 2016.

| Fee Type | Amount | Paid in Full | Balance Due: \$0.00 |
|------------------|---------|--------------|-----------------------------------|
| Application Fee: | \$80.00 | Yes | Date Paid: _____ Check # _____ |

Building Permit Required: **No**

Permit Received By: _____ Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Determination – Findings

ZP #: 17-0081DT

Tax ID: 053-3-167-000

Issue Date: August 12, 2016

Decision: Adverse

Property Address: 135 HAYWARD STREET

Description: Determination as to duplex or triplex status.

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize the use of the property as that of a duplex or triplex. The City reviewed the following documents/evidence to form its determination:

- The City's zoning permit records
- The City's property assessment records
- The City's rental registration records
- The City's vacant building records
- 2008 Comprehensive Development Ordinance and as amended
- Site plan included in the determination request

Based on the review of these items, it is the determination of the Planning and Zoning Department that use of the property cannot be recognized as a duplex or triplex. On October 5, 1992, a zoning permit was granted to allow conversion of a duplex to a triplex. Under the present 2008 Comprehensive Development Ordinance (CDO), this triplex amounts to a nonconformity. There are no subsequent zoning permits for a change in use except for a June 1998 zoning permit to convert to a single family home – it was relinquished July 8, 2010.

The city's vacant building records demonstrate that the building was vacant for more than 1 year starting in December 2009 and extending to February 2012. The city's rental registration records indicate that the building was re-occupied in 2012 with 2 units (duplex).

The subject property is ~ 4,854 sf and is located in the residential low density zone. Residential density is limited to 7 units per acre. Single family homes are a permitted use. Duplexes are a conditional use subject to, among other things, a minimum lot size of 10,000 sf. Triplexes are not allowed (with some exceptions). Duplex and triplex use on this property are nonconforming.

Sec. 5.3.4 *Nonconforming Uses (b) Discontinuance* of the CDO states that a nonconforming use shall not be reestablished if such use has been discontinued for any reason for a period of one year or longer. While city records indicate that the duplex use was reestablished following a period of vacancy greater than one year between 2009 and 2012, it was done so without express approval for the duplex use. The nonconforming use cannot be retained.



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DEPARTMENT OF PLANNING & ZONING

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 135 Hayward

PROPERTY OWNER*: Andrew & Daniel Rowan

*If condominium unit, written approval from the Association is also required

APPLICANT: Fairbanks Const/Mike Rainville

POSTAL ADDRESS: 135 Hayward Street

POSTAL ADDRESS: 210 East Ave

CITY, ST, ZIP: Burlington VT 05401

CITY, ST, ZIP: Burl VT 05409

DAY PHONE: 802 734 6131

DAY PHONE: 802 233

EMAIL: VTROWAN@gmail.com

EMAIL: michaelrainville@GMAVT.net

SIGNATURE: Andrew Rowan

SIGNATURE: MR Rainville

I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.

Description of Proposed Project: Zoning Determination if 135 Hayward is currently zoned as a Triplex or Duplex?

Existing Use of Property: [] Single Family [X] Multi Family: # 3 Units [] Other:

Proposed Use of Property: [] Single Family [] Multi Family: # Units [] Other:

- Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled? Yes [] No []
Will 400 sq ft or more of land be disturbed, exposed and/or developed? Yes [] No []
For Single Family & Duplex, will total impervious area be 2500 sq ft or more? Yes [] No []
Are you proposing any work within or above the public right of way? Yes [] No []

Estimated Construction Cost (value)*: \$ N/A

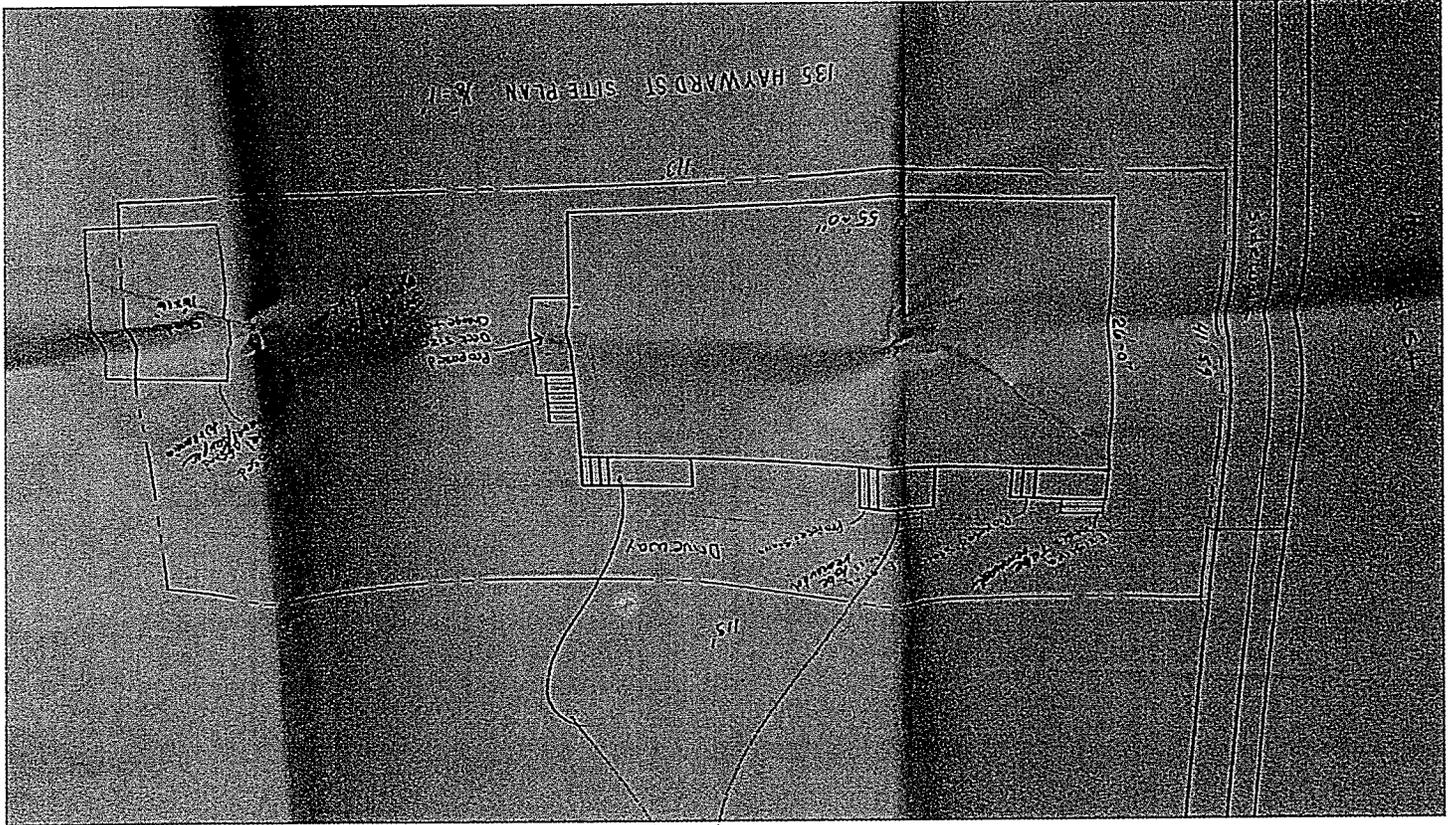
Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review. All permit approvals or denials are subject to an appeal period (15 days for administrative permit; 30 days for board permit).

Office Use Only: Zone: RL Eligible for Design Review? [X] Age of House: 1989 Lot Size:
Type: SN [] AW [] FC [] BA [] COA 1 [] COA 2 [] COA 3 [] CU [] MA [] VR [] HO [] SP [] DT [X] MP []
Check No.: 46 Amount Paid: \$0 Zoning Permit #: 17-0091DT

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6/17/2016

~ (5344*3006)



Porches



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 OCT 13 2011
 BURLINGTON
 CODE ENFORCEMENT

CODE ENFORCEMENT OFFICE
 845A Pine St (PO Box 849)
 Burlington, VT 05402-0849
 Phone: (802) 863-0442
 Fax: (802) 652-4221

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DEPARTMENT OF
 PLANNING & ZONING

RELINQUISH or CONFIRM EXPIRATION OF ZONING PERMIT

Use this form to relinquish a zoning permit that has been approved and either the project will not be undertaken within the applicable time frame or has not been undertaken and the permit has expired. Confirmation needs to be received that a permit is to be relinquished so that this can be officially confirmed and your property records can be updated. There is no fee for this request.

I do hereby testify, pursuant to the City of Burlington Comprehensive Development Ordinance Sec 3:2.9, that the proposal approved by zoning permit # 98-031

Project Description (from Zoning Permit):
Change of use from duplex (type should be duplex) to single family house with no exterior change.

located at 135 Hayward St approved on June 26, 1998

was never undertaken and I wish to relinquish the permit (which is still valid) or
 was never undertaken and I confirm the permit has expired

I hereby swear/affirm under the penalties of perjury that the statements made by me in this certification are true and accurate.

PROPERTY OWNER: Joseph Paul Bannas
 ADDRESS: _____
 DAY PHONE: _____
 SIGNATURE: Joseph Paul Bannas
 DATE: 10/13/11

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OCT 13 2011

DEPARTMENT OF
 PLANNING & ZONING

Note: You are required to attach a copy of the zoning permit, conditions of approval and all approved plans to this request. If you require a copy of these items, please visit the Planning and Zoning Office at City Hall, 149 Grand Street, Burlington.

If legal representative, please attach a copy of document authorizing you as the legal representative for the

CODE ENFORCEMENT OFFICE USE ONLY

Reviewed and approved by: [Signature] Date: 10.3.11

July 20