



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

RECEIVED

JUN - 5 2015

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: 193 Saint Paul St.

Subject Property Owner: Owners of Stratos Condominium c/o Stratos Condominium Association

Appellant: Glenn Von Bernowitz

Agent/Representative:

Mailing Address: 193 Saint Paul St # 306

City, St, Zip: Burlington VT 05401

Day Phone: 802 999 3739 Email: gvb321@yahoo.com

Appellant Signature: [Signature] Date: 6/5/15

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

see attached

- 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.

08-167 PD

Office Use Only:

Check No. 133 Amount Paid \$250 Zoning Permit # K-1318 AP

Schedule for DRB - July 21.

On February 10, 2015 a Zoning Enforcement Complaint was submitted. This is attached as Exhibit 1. This complaint stated that the parking width dimensions are not built according to the approved plans for the project.

In a letter dated May 21, 2015, the Code Enforcement Office denied this complaint. This letter is attached as Exhibit 2.

The property in question is 193 Saint Paul St., more specifically, the lower level garage.

The complaint is that the current parking is not in compliance with the building plans in two ways: first the line striping is too narrow and second the support column visible in the drawing obstructs parking space (#306) by 14.5 inches. This measurement taken from Code Enforcement Director Bill Ward's drawing – which is attached as Exhibit 3. The plans show the support column; however, it is mostly outside of the parking space with the line striping on the right-most position. The current line striping has the support column fully within the parking space.

Background

Burlington's Development Ordinance Article 8 relating to parking states that standard width parking is to be 9 feet and compact 8 feet, reference attached as Exhibit 4. Drawn to scale building plans and as-built plans measure a 9 foot width for parking in subject spot. Senior Planner Scott Gustin confirms that no dimensional waivers were granted and that parking widths should be per the City Ordinance. Email dated February 5, 2015 is attached as Exhibit 5. Further, the Condo Declaration specifies only 1 space in the garage as Compact (#108), with all other standard – see Exhibit 6 for language in the Declaration referencing Space 108.

The measurements taken by Code Enforcement indicate 88 inches of parking from the left side support column to the mid-point of the righthand line. [Calculated as 90 inches less 2 inches for the halfway point, per Mr. Ward's email regarding gross measurement calculations – part of Exhibit 3]. The result is a parking width of 7 feet, 4 inches versus a planned and required width of 9 feet. This is a material deviation from the requirements. The occupant of the neighboring space is concerned for the safety of her grandchildren whom she has to unload prior to parking her car, see attached email as Exhibit 7.

Relief requested:

A finding of a violation as per terms of the complaint – that the current parking is not in compliance with the approved plans. Further, it is only a matter of time before property damage or personal injury occur due to the parking configuration.

Additional attachments are as follows:

Copy of as-built garage drawings as provided by Planning and Zoning (Exhibit 8)

Enlarged section of as-built (Exhibit 9)

Photo of subject parking spot (Exhibit 10)



CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
Phone: (802) 863-0442
Fax: (802) 652-4221

ZONING ENFORCEMENT COMPLAINT FORM

Use this form to record and report possible Zoning violations or concerns related to any zoning issue you observe. Mail or return this signed form to the Code Enforcement Office. Include your name, address, and a daytime phone number where you can be reached should we require additional information.

Pursuant to Article 19, Section 19.1.5 of the Burlington Zoning Ordinance, zoning complaints are investigated upon receipt of a *signed complaint* alleging a violation of the zoning ordinance. All complainant information is kept confidential by our office consistent with Section 19.1.5.

Please note: In the absence of a signed complaint, a concern will be acted upon at the discretion of the Department Director, and only as time allows. No follow-up information can be provided in the absence of a signed complaint form.

Violation Property Address: 193 SAINT PAUL ST

Location of Violation at the Site: Garage

Date and Time of Alleged Zoning Violation: time of Building

Alleged Zoning Violation

- Construction without an approved Zoning permit
- New Business (change of use) without an approved Zoning Permit
- Change in Number of Units (change of use) without an approved Zoning Permit
- Occupancy without a Zoning Certificate of Occupancy
- Expansion of parking area without an approved Zoning Permit
- Exterior changes without an approved Zoning Permit: (Please circle type: new/altered sign, new fence, retaining wall, exterior lighting, large (> 24 inch) satellite dish/ antennae, other _____)
- Demolition without an approved Zoning permit
- Site improvements, excavation or fill without an approved Zoning permit
- Subdivision without an approved Zoning permit
- Unmet Conditions of Approval / Property Inconsistent with approved plans
- Other change of use or expansion of use without approval (Please describe on back of this form)

Additional information: Parking dimensions NOT meeting
9' width requirement of standard or 8' compact
Column obstructs true parking width - see attached
Planning + zoning indicates no waiver was obtained. These spots would not
count toward require.

Name (Please print legibly): Glenn Von Bernewitz

Address: 193 SAINT PAUL ST unit 306

Phone (daytime) / email: 802 999 3739 GVB321@yahoo.com

Complainant Signature: [Signature] Date: 2/10/15

Exhibit 2



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849

VOICE (802) 863-0442

FAX: (802) 652-4221

May 21, 2015

Mr. Glenn Von Bernewitz
193 St Paul St., #306
Burlington, VT 05401

RE: Zoning Complaint # 284399 193 St Paul Street Parking Dimensions

Dear Mr. Von Bernewitz:

The Code Enforcement office has reviewed your complaint of a zoning violation at the above-referenced property. More specifically, the complaint of noncompliant parking space dimensions in violation of Article 3 Section 3.2.8 (e) of the Burlington Zoning Ordinance. Upon investigation, based on available information, it is our determination that this is not currently a zoning violation for the following reason:

- o Zoning permit(s) and a Zoning Certificate of Occupancy have been approved for the residential building. These include a plan for the garage/parking, at 193 St. Paul St. (ZP 08-167PD)
- o . The parking spaces constructed comply with the dimensions as per the approved garage/parking floor plan. This plan also illustrates the installed support pillars.

If you obtain additional information regarding this complaint, or new information comes to our attention in the future, our office may re-evaluate this determination.

This decision 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 decision, May 18, 2015, 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 June 5, 2015**; an appeal shall not be perfected until the fee is received.

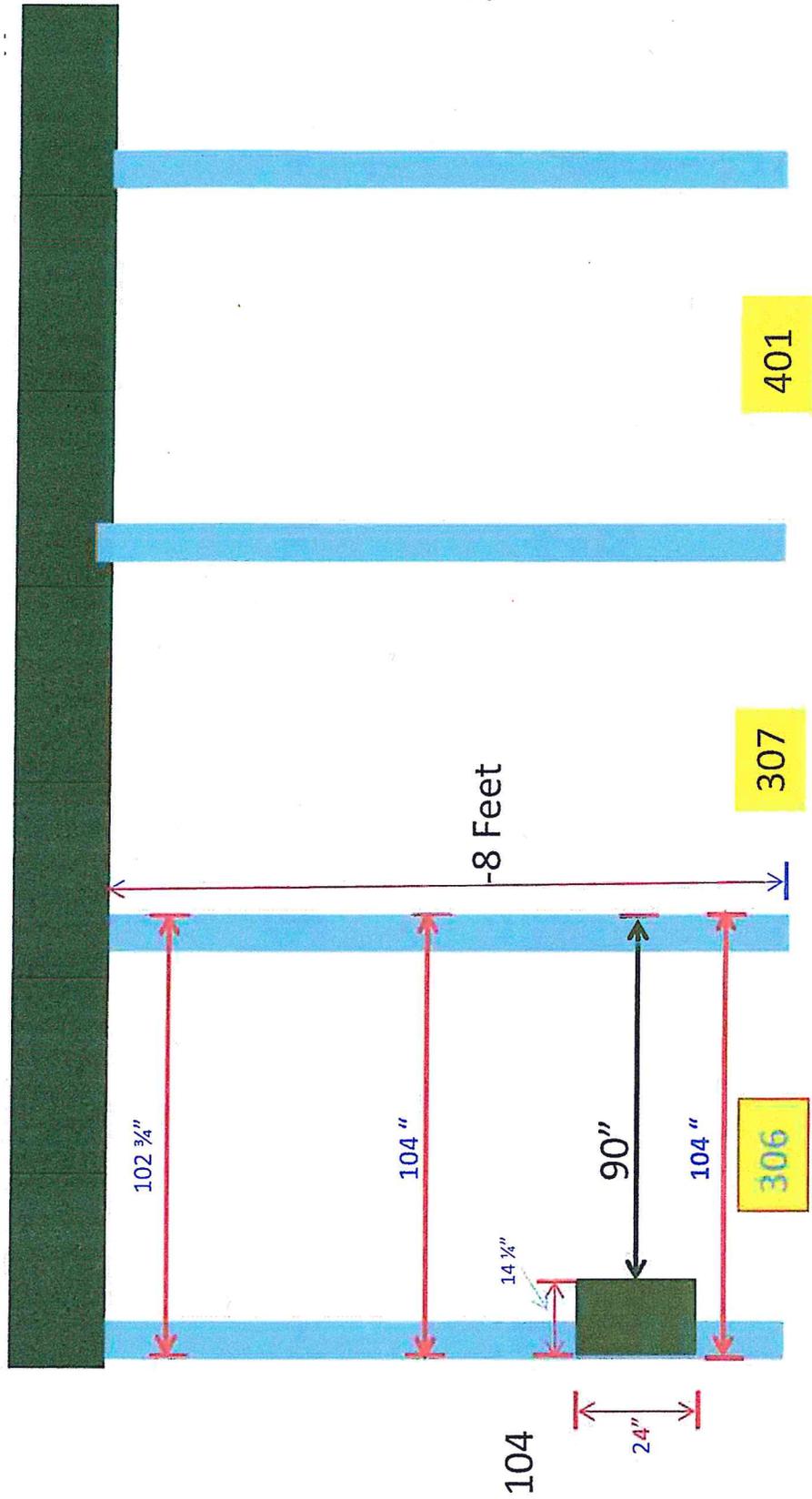
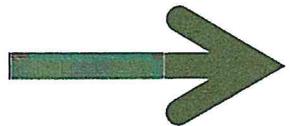
Please feel free to contact our office at (802) 864-8518 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Francis".

Jeanne Francis, Zoning Specialist

Exhibit 3



193 St. Paul Street

Not to Scale

Drawn for dimensions of Space 306

Measurements taken by

Bill Ward Director of Code Enforcement

on June 1, 2015

Subject: RE: Measurements

From: William Ward (wward@burlingtonvt.gov)

To: gvb321@yahoo.com;

Date: Wednesday, June 3, 2015 5:48 PM

Glen,

These are the measurements I provided to planning and zoning. Please note that while the outside of the line was used for the gross measurement, the actual space measurement is measured from half way in on those 4 inch lines that mark each space. This means the measurement of the 104 inches from line to line is equal to 100 inches of parking space. (subtracting 2 inches from each side)

Let me know if you have questions.

Bill

From: Glenn Von Bernewitz [mailto:gvb321@yahoo.com]
Sent: Wednesday, June 03, 2015 4:48 PM
To: William Ward
Subject: Measurements

Hi Bill,

I got your message, thanks.

Yes, if you could scan over your drawings that you provided to Planning and Zoning, I'd appreciate.

Thanks,

Glenn Von Bernewitz

| Table 8.1.11-1 Minimum Parking Dimensions | | | | | |
|-------------------------------------------|----------------|-----------------|-----------------------|------------------------|------------------------|
| Angle of Parking Space | Width of Space | Length of Space | Width of Angled Space | Length of Angled Space | Minimum Back-Up Length |
| Standard Cars | | | | | |
| Parallel Parking | 9.0' | 22.0' | - | - | - |
| 45° Angle | 9.0' | 20.0' | 12.7' | 20.5' | 15.0' |
| 60° Angle | 9.0' | 20.0' | 10.4' | 21.8' | 18.0' |
| 90° Angle | 9.0' | 20.0' | 9.0' | 20.0' | 24.0' |
| Aisle width (one-way) | 10' | | | | |
| Aisle width (two-way) | 20' | | | | |
| Compact Cars | | | | | |
| Parallel Parking | 8.0' | 20.0' | - | - | - |
| 45° Angle | 8.0' | 18.0' | 11.2' | 18.3' | 13.0' |
| 60° Angle | 8.0' | 18.0' | 9.2' | 19.8' | 15.0' |
| 90° Angle | 8.0' | 18.0' | 8.0' | 18.0' | 20.0' |

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.
3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce

Subject: RE: 193 Saint Paul

From: Scott Gustin (SGustin@burlingtonvt.gov)

To: gvb321@yahoo.com;

Date: Thursday, February 5, 2015 11:05 AM

Hello Glenn,

The Stratos project was approved under the 1994 Zoning Ordinance which differs substantially from the presently effective 2008 Comprehensive Development Ordinance. That said, parking dimensions remain largely the same. No dimensional waivers for parking spaces were granted for Stratos. Standard parking spaces should be 9' wide, and compact parking spaces should be 8' wide. Both standard and compact spaces may be used within the garage. 7' 2" is generally too narrow. If the space is indeed 7' 2" wide, it probably shouldn't be counted as one of the required 69 spaces on the property. Feel free to follow up with the Code Enforcement Office if you think this space is one of the required 69. They can be reached at 863-0442 or check out their [website](#).

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

(802) 865-7189

From: Glenn Von Bernewitz [mailto:gvb321@yahoo.com]
Sent: Tuesday, February 03, 2015 12:52 PM
To: Scott Gustin
Subject: 193 Saint Paul

Good afternoon Scott,

I was in the planning and zoning office today and Elsie provided your contact as the project manager for above project. I was inquiring about the dimensions of the parking spaces when compared to the zoning ordinance (section 8 I think). There are a number of smaller spots in the garage and in particular, the space associated with my unit (I am a residential unit owner). My question and what I would like to discuss with you when you have a chance - is the width of 9 feet a requirement or did the developer obtain a waiver on this. Also for the spot in question

6/4/2015

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Ex 5 continued

for my unit - the width is obstructed by a support column - whereby the line striping is drawn on the other side of the column and true width is around 7 feet 2 inches. I would like to know if this is per code as well?

As background, I had been working through this issue with the condo owners association which has now suggested they don't want to be involved and suggested I take it up with the City.

Thanks for your time. I can be reached via this email or by phone at 802-999-3739.

Glenn Von Bernewitz

Exhibit 6

provided that Declarant shall assign the Unit Owner dispossessed of the handicap parking space an alternate parking space in the parking garage. Such spaces are marked on the parking plans included with the Floor Plans. The parking space for Unit 108 is sized only for a compact car. Every Unit Owner shall be responsible for maintaining their respective parking spaces in such a manner as to make the garage space(s) available for parking.

All of the remaining unnumbered parking spaces in the parking garage and the unnumbered parking spaces on Parcel 1 not otherwise assigned to a specific Unit shall be perpetually allocated for the exclusive use of the Commercial Building and all tenants and authorized visitors and guests of the Commercial Building (the "Commercial Building Users") on a first come, first served basis (the "Commercial Parking Spaces"). The Commercial Parking Spaces shall not be used by Unit Owners or their visitors and guests. As described below in Article 5, the owner of the Commercial Building shall be responsible for paying the Association for its pro rata share of the costs to maintain, repair and replace the Shared Easement Areas (as defined below), generally consisting of the two-level parking garage, the Maple Street access drive, all of the outdoor parking on Parcel 1 and the Walkway to the Commercial Building (described below in Section 5.8). The pro rata share of the Commercial Building for the Shared Easement Areas shall be fifty percent (50%) of the annual budget established by the Association for the maintenance, repair and replacement of the Shared Easement Areas.

The Old Saw Mill Homeowners Association, Inc. has a perpetual easement for five (5) parking spaces along the boundary with King Street Youth Center during non-business hours, together with the right to share the proportionate cost of a dumpster, all as shown on the Condominium Plan and as described in an Easement Deed to be recorded in the City of Burlington Land Records.

ARTICLE 5 Easements

Section 5.1. **Easement for Access.** Each Unit Owner is hereby granted an easement, in common with Declarant and each other Unit Owner, in all Common Elements for ingress and egress, utility service for, and support, maintenance and repair of each Unit, subject to such reasonable Rules and Regulations of the Association. Each Unit Owner is also hereby granted an easement, in common with Declarant and others, for ingress and egress over all common walkways, hallways, lobby, entrances, stairways, elevators, and over all driveways and parking areas shown on the Plat and Condominium Plan, including the Maple Street access drive. Each Unit is hereby benefitted by and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same. Such easements and rights are subject to the limitations upon the use of the Limited Common Elements as otherwise set forth herein.

Section 5.2. **Easement for Encroachment.** To the extent that any Unit or Common Element unintentionally and non-negligently encroaches on any other Unit or Common Element, an easement for the encroachment shall exist.

Section 5.3. **Easement for Completion; Utilities; Public Areas.** Declarant, for itself, and its successors and assigns, reserves the right to grant and reserve easements and rights of way: (i) through, under, over and across the Common Elements and the undeveloped portions of the Property for the installation, maintenance, repair, replacement, and inspection of lines and appurtenances for public or private sewer, water, drainage, gas, electricity, telephone, television, boiler, cooling tower, mechanical, electrical, plumbing, and other utility services and systems to the Units and improvements thereon; (ii) for the purpose of completing the construction of the Building, Units and other improvements on the Property; and (iii) for the purpose of erecting, maintaining, and removing signs advertising Units for sale or lease within the Property.

6/5/2015

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Exhibit 7

Subject: Re: Appeal

From: Helene Rothermund Collins (coccinelles@mac.com)

To: gvb321@yahoo.com;

Date: Friday, June 5, 2015 9:59 AM

Good morning Glen

I would be happy to email the board and back up your "observations"/ complaints about the parking spaces we where assigned.

And I may add, that is it difficult and dangerous for me to unload my grand-children. I have to get them out of the car on the driving part of the garage before pulling into my space. Since the spaces are several inches smaller than they should be it is difficult to open the door and get little ones out of their car seats..... This situation makes them stand in the garage while I park the car. I had an instance, where another car pulled into the garage at rather fast speed, almost did not see the children and scared me. Pulling in right behind it, one of our "Board" representatives saw the incident and agreed it was dangerous. Than it was suggested to me I should park in the owners parking spaces because they where "bigger" spaces and they where away in FL. Well I did that a few times, but feel uncomfortable doing it. All that said, I think the officials and our board should remedy this situation, before something bad happens.

I appreciate all you have done, send measurements to the Zoning board and stay on top of this situation.

Warm regards.

Hélène

Hélène Rothermund
Mobile: 603-643-5351
Coccinelles@mac.com

Subject: Re: Photos - 193 Saint Paul
From: Helene Rothermund Collins (coccinelles@me.com)
To: gvb321@yahoo.com;
Date: Wednesday, April 29, 2015 9:16 PM

Glen

Thank you so much. That is fantastic work you did and it seems like it maybe good news. Please let me know if I can do anything to help you. Please feel free to use my name as well. Thank you for mentioning the safety of my grand children. I really appreciate it because it is dangerous to unload them in this space configuration.

Have a good evening and again thank you.

Hélène
Hélène Rothermund
Mobile: 603-643-5351
Coccinelles@mac.com

On Apr 29, 2015, at 7:32 PM, Glenn Von Bernewitz <gvb321@yahoo.com> wrote:

Bill -

Per prior email, I attach 2 photos - one of the parking space 306 with the obstruction and a second from another Burlington project that correctly striped the lines in its garage. Mirror to mirror on my car (and I have a small car) there is 2.5 inches of clearance on each side of the car. The person parking next to me cannot let her grandchildren (age 2) out of the car. She has to let them out before she parks.

Regards,
Glenn Von Bernewitz
802-999-3739

<20141017_180753.jpg>

<20141018_070240.jpg>

Subject: RE: Stratos as-builts

From: Scott Gustin (SGustin@burlingtonvt.gov)

To: gvb321@yahoo.com;

Date: Thursday, May 28, 2015 3:13 PM

Hi Glenn,

A copy of the as-built site plan is attached. The dimensions of the parking spaces and the placement of the column affecting your parking space do not differ from the original approval that we looked at this morning. Let me know if you have any questions.

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

(802) 865-7189

From: Glenn Von Bernewitz [mailto:gvb321@yahoo.com]

Sent: Thursday, May 28, 2015 2:54 PM

To: Scott Gustin

Subject: Stratos as-builts

Hi Scott -

thanks for your time this morning. I would like to clarify - were we looking at the original plans or the as-builts? Code Enforcement tells me that the parking was approved on the as-builts from July 1, 2014.

If these are not what we looked at - can we schedule a time for me to see those? Are you available tomorrow?

Thanks.

Glenn Von Bernewitz

Exhibit 9



Exhibit 10

