

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

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BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday June 19th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT MINUTES

Board Members Present: A.Hart, B.Radbinowitz, I.Smith, A.LaRosa, A.Zipparo, S.Tilton

Board Members Absent: G.Hand, J.Drummond (Alt)

Staff Present: Scott Gustin, Mary O'Neil, Ryan Morrison, Layne Darfler

I. Agenda

No changes to the agenda

II. Communications

No communications submitted

III. Minutes

A.Hart: Minutes from the June 5th meeting will be discussed at the next deliberative

IV. Consent

1. 14-0671CA/MA; 194 Saint Paul St (FD5, Ward 6S) Champlain College Inc.

Request for Time Extension: Construction of mixed-use building with ground-floor commercial space, 104 residential units and enclosed parking. Development to merge three existing lots. (Project Manager: Scott Gustin)

A.Hart: Recused

B.Rabinowitz: Has the applicant received and reviewed the staff comments?

Confirmed

B.Rabinowitz: Any questions?

None

B.Rabinowitz: Do any members of the Board object to this item remaining as consent?

None

B.Rabinowitz: Any public present wish to speak about this project?

None

I.Smith: Motion to approve and adopt staff findings and recommendations

A.LaRosa: Seconds the motion

4-0-0*

**A.Zipparo not present for vote; A.Hart Recused*

2. 18-0983CU; 27 Staniford Road (RL, Ward 4N) Peter Goldstone and Anne Guevel Change of use to a two room B&B. (Project Manager: Mary O'Neil)

A.Hart: Has the applicant received and gone through the staff recommendations?
Confirmed

P.Goldstone: Questions regarding the conditions on waste water

A.Hart: That is a courtesy but it is up to you if you want to check in with the waste water department.

A.Hart: Any board members object to consent

None

A.Hart: Are there any members of the public that wish to comment or have questions regarding the project?

B.Swinton: Concerns about parking and possible fire pit usage.

A.Hart: On the application they are being required to have 4 off street parking spaces

P.Goldstone: We have no plans to put in fire pit; there is an old chimney in the back yard but no plans to use it. Would not allow guests to have fires. There is a two car garage and significant parking in the driveway, however parking is allowed on the street but we are not asking anyone to park in the street.

A.Hart: The purpose of the ordinance in general is to make sure you are not imposing additional hardship or burden on the neighbors or the neighborhood. In order to minimize any impact on the neighbors the ordinance requires you to have spaces on site.

P.Goldstone: Will ask guests to park off of the street. No intent to use street parking

A.Hart: Closed the public hearing

V. Public Hearing

1. 18-0771AP; 12 Weston St (RL, Ward 1E) Charles and Cynthia Burns

For the purposes of closing the public hearing regarding the appeal of NOV 336638 pertaining to duplex use (Project Manager: Scott Gustin)

A.Hart: We need a motion to close the public hearing

A.LaRosa: Motion to close the public hearing

B.Rabinowitz: Seconds the motion

4-0-0*

**I Smith did not deliberate therefore recused from vote; A.Zipparo not present for vote*

2. 18-0950AP; 213 Prospect Parkway (RL, Ward 6S) Melissa Holley

Appeal of NOV 345410; Exterior storage in excess of an aggregate of 24 sf. located in the back yard of property without Zoning Approval. (Project Manager: Jeanne Francis)

J.Francis: Code Enforcement Office received a complaint about excessive storage in rear exterior of property. Sent the owner a notification letter notifying of complain and allowed time for response. They responded but they are saying they don't disagree the excessive storage but arguing the storage does not belong to the property owner and that it is rented out to another party. Notice of Violation was sent as we see it non-complying with the Ordinance under article 3; they subsequently responded with an appeal. They argue the storage does not belong to the homeowner; the person doing the appeal for the appellant, not sure what or who it is, but they are arguing some cites under the federal law but our office stands there is a violation on the property. If she is renting it to someone that creates a home occupation therefore she should get a zoning permit for the home occupation as well.

A.Hart: Has there been any communications with the Ms. Holley or Mr. King or whomever owns the belongings on the property? Were there any remedies

A.Hart: Does the Board have any questions?

None

A.Hart: Are there any members of the public here tonight that wish to speak about this item?

J.Goglia: Images shown online from March don't do it justice the issue has grown; more stuff is continuously added. Would like to see the property cleaned up as there are a lot of potential danger and animal hazards there. It is a growing concern. Back porch is full of stuff.

A.Hart: Have you had any conversation with the property owner?

J.Goglia: No the homeowner stays inside a lot. Believe it is a roommate who has all of the stuff, she mentioned they were planning on selling the stuff.

A.Hart: What are the proposals from the City if we are denying the appeal for conditions or a remedy?

K.Sturtevant: At the end of Code Enforcement's report they asked for a timeline for remedy; if not doable they could try to enter into an agreement with a timeline. It is clear there is exterior storage at the property, if they are renting the space then it becomes a type of business; both issues require a zoning permit and approval.

A.Hart: As neither the appellant nor the apparent renter is here today do we know if they were notified of the meeting?

Confirmed

B.Rabinowitz: Junkyard in the backyard isn't that against the regulations as well?

J.Francis: Definition for Junkyard includes dismantled vehicles

A.Hart: So if they put the stuff in a pile of less than 24 square feet it is fine?

J.Francis: As long as it is under 15 feet tall; Part of the agreement we would require covered storage.

A.Hart: Closed the public hearing

3. 18-1007AP; 110 Riverside Ave (NAC-R, Ward 1E) Sisters & Brothers Investment Group, LLP

Appeal of zoning determination ZP13-0650CA/MA; Proposed 57-unit residential building with associated underground parking. (Project Manager: Mary O'Neil)

A. Hart: Are there any members of the public that wish to speak about this project?

None

D.Greenberg: There has already been an extension granted by the Development Review Board twice. Client had to pick up the permit by 7/24/2017 and have the project complete by 7/21/2018 as per the permit conditions. Client went in early spring to find out about applying and was given a letter stating he owed fees; he went in and applied and picked up the permit with \$15,750 on July 19, 2017 but was told the fees were adjusted and that he owed \$23826, returned on 7/24/2017 to pick up the permit but was told by Anita Wade that Mary O'Neil was not available to process the check. Deadline to start project was the 24th of July 2017. He was told that he could not pick up the permit and they were keeping his money. He went back in on the 28th when they said Mary would have the permit ready. April 18th Mr. Handy received a letter telling him the permit had expired because they hadn't started work.

A.Hart: Confused about July 28th 2017 did he get the permit?

D.Greenberg: Client did not pick up or sign permit until July 28th 2017 then in April they were told the permit had expired.

A.Hart: So the permit was picked up on the 28th

D.Greeberg: yes after it had already expired

A.Hart: Once you had the permit in hand did you begin construction or demolition?

J.Handy: No

A.Hart: Why not?

J.Handy: the building was an old garage and was loaded with material we had to

A.Hart: In packet is decision from last extension; we tripped over ourselves to say it was the last extension. Seems you were rather casual especially with the warnings that the project had to start- and the need to complete by this year.

J.Handy: site work and demo would have been done and then would have put in for building permit to do the other work- long project no easy way to do in a year; received letter June 15th 2018 saying permit is about to expire. July 21 2018. Client would still like an extension but convinced it cannot be done in a year period however it says zoning permit fees once paid are non-refundable it seems any business that accepts money ought to return the check- but they are saying no we are keeping the money. Don't think the city should keep his money if they do not allow the extension.

A.Hart: There is a fee paid at submittal and that was paid and earned, when he originally went in to submit there was a fee; what you're asking for is the development review fee which he paid on time but was told no one was there to process it.

A.Hart: Does the Board have any questions

B.Rabinowitz: Commencement Start Date was July 25th 2017; our permit is not what is needed for construction there is a building permit for that; if he went to the Building Department to obtain the building permit that would have kept the permit alive- did that permit get issued?

J.Handy: Went down to get it last year but they said it hadn't been processed, that was in September or October 2017

M.O'Neil: timeline is in staff report- aware zoning clerk asked to confirm Development Review Fee because the permit was so old we had to go back and check the fee schedule for the original issue year. The permit request for demo came in – Steve Guild requested it and we had a conversation to see if this was to reapply but stated it was new permit for only demolition – told the original permit expired; March 28th 2018 obtained Z card; gave opportunity for applicant to provide plans for new permit, nothing was forthcoming solely a demo request- denial was based on incomplete application. Was down at Department of Public Works when Mr. Handy came in seeking demo permit in April. Had a conversation explaining permit had expired. Insisted letter to be issued so he could appeal that finding, which is what brought us here today. Asked building inspector if any permits had been issued for project, Ned said no building permits had been issued. Discussed what fees went toward both applications and development review fees and how they are calculated. Ordinance expressly notes that there are no refunds provided for fee payments. The applicant also delayed the state permits so much that he had to apply for extension here; last approval date would have been the date of extension 25th

B.Rabinowitz: When he picked up the permit on the 28th he could have gotten a building permit

M.O'Neil: the status would have flipped to Commencement Start Date Expired on the 28th

B.Rabinowitz: The day he handed in the check it was already too late to start construction?

M.O'Neil: It was handed in on the appropriate date of the 25th

A.LaRosa: If the applicant submitted a new application with exactly the same materials would they have to pay the fees again?

M.O'Neil: New permit application fees would be applied again

A.LaRosa: if our decision is that the permit expired and the City gets to keep his money; seemingly it would have been more fair to tell them it was expired- if he files for the exact same thing where is the fairness in asking for another \$24,000 even though we have already done all of the work and review

M.O'Neil: That is assuming that the ordinance has not changed in the last 5 years

A Hart: 5 years have passed, the neighborhood could have changed and staff would

S.Tilton: When you wrote the check you didn't think you could get the project done in 1 year, it would have had to be 2 years? Did you think you could get the work done in the timeframe provided?

J.Handy: When I wrote the check in April 2017 she needed the Development Review Board conditions and architect had to do more work. Email was sent to property manager saying they owed more money. Came back in with a higher Development Review Fee sent on July 19th, 2017 and went down with check to pay for it, Anita said Mary had to review it and they needed to come back, nothing more than that. I was going to start construction and do it; but thought once submitted the check that he would have 2 years to complete it. July 21st 2018; when I gave the check it was too late anyway, they should have told that

M.O'Neil: the automatic letter is generated near the end of permit life- those go out to all applicants as a reminder that the 2 years is almost up think about closing or finish the work; 1 year to commence the work and 2 years to finish unless other timeline afforded by the Development Review Board. Precedent of COTS renovation on North Ave; permit expired before completion and they reapplied with same plans and application fee of \$150 to come before the Board after the permit expired.

A.Hart: Any other questions from the Board or members of the public that wish to speak?

None

Public hearing closed

4. 18-0899CA/MA; 56, 58 & 66 North Ave (RM, Ward 3C) Sara Holbrook Community Center

Combine three parcels and expand Sara Holbrook Community Center at 66 North Avenue, demolish a duplex and garage at 58 North Avenue, and demolish a duplex and a shed at 56 North Avenue. (Project Manager: Ryan Morrison)

B.Duncan: There is one particular issue that arose in staff comments that I would like to address.

A.Hart: staff comments raised parking and other questions; walk through the plan.

B. Duncan: went over site plan overview via PowerPoint; proposing expansion to Sara Holbrook Center, used to be called Sara Holbrook Community Center; functioning largely as a child care center; functions as Community Center on nights and weekends. Well aware of the conditions listed out in the staff report. Critical need for center was a safe drop off for kids. Most kids come by foot. Parking is essentially concealed from street. Total lot coverage does not exceed what is currently there. Went through floor plan in relation to programs. Showed elevations- Design Advisory Board had issue with windows heights, took critique to heart and made slight revision to keep playful and friendly façade but a bit more regularity in the window layout. We've reduced from 6 to 4 exterior colors. All rooftop equipment will be concealed. Went over façade designs- parking/drop off-bike parking. Kitchen on 1st floor will serve childcare facility; discussed what programs would be using facility and when; parking numbers are dramatically diff than staff report but that comes down to uses and the majority is childcare not community center

A.Hart: Staff didn't agree with the characterization with 2 separate uses. Parking is based on the Community Center usage.

B.Duncan: The potential use is not the existing use

A.Hart: part of the reason why you don't need more spaces and a waiver is applicable is because teachers are told not to bring a car- still the obligation is to provide parking or come up with a management plan to justify the parking waiver.

How are we dealing with the parking now- relying on onsite parking, is it really available without getting the other providers in trouble?

parking in the neighboring property, Friday nights and Saturday afternoons. Because of the size of the community center it only requires 7 spaces

S.Gustin: Shared use with COTS would work well with a parking management plan but it would mean COTS would have to apply for a parking management plan; it would work with required paperwork.

P.Berman: The service to the community is outstanding; provide preschool and infant toddler services. Can assure that there are robust preschool programs at Sara Holbrook as well as discussion about extending the early head start program, affirming the use of the building.

D.Chattman: Read letter written by Emmy Louis in support of Sara Holbrook Community Center and for the DRB to reconsider requiring 41 parking spaces

B.Chattman: Discussed history of how Sara Holbrook Community Center has helped kids through grade school flourish. New building will allow preschool and infant care and at the same time they will also have the after school program. Adding more parking is counterproductive to the City lifestyle and motto of a livable/walkable community, but adding more kids programs helps the community. Parking plan is great.

R.Morrison: We are not requiring 41 spaces; we are requiring a parking management plan. The Board has the ability to call out more than one primary use on the property.

P.Robins: Institution with a very long history and reputation for taking care of immigrants- putting a parking requirement would kill the project.

A.Hart: Surprised in the introduction of the Staff report that two houses from 1899 are being demolished and the overview here was fairly generic; is Board comfortable with findings?

Confirmed

A.Hart: Motion to continue the Public Hearing until July 5th but will discuss at deliberation and close the Public Hearing if needed

B.Rabinowitz: Seconds the motion

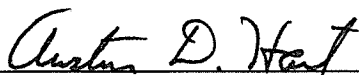
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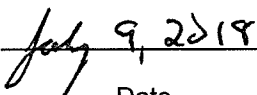
VI. Other Business

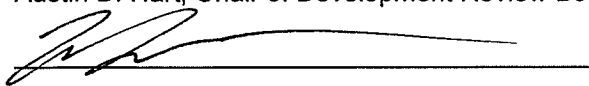
July 3rd, 2018 DRB Meeting has been rescheduled for July 5th, 2018

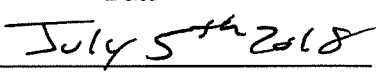
VII. Adjournment

Meeting was adjourned at 6:50 pm


Austin D. Hart, Chair of Development Review Board


Date


L. Darfler, Planning Technician


Date

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/drbb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.