

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

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Brad Rabinowitz
AJ LaRosa
Austin Hart
Springer Harris
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Zoraya Hightower, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday September 18th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT MINUTES

Board Members Present: B. Rabinowitz, A. LaRosa, A. Hart, G. Hand, A. Zipparo, S. Tilton, J. Drummond (Alt.)

Board Members Absent: S. Harris, Z. Hightower (Alt.)

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

I. Agenda

S. Gustin: Appeal for 62 Venus Ave has been withdrawn

II. Communications

None

III. Minutes

B. Rabinowitz: To be discussed at the next deliberation

IV. Consent

1. 14-0747SD; 1891-1893 North Ave (RL, Ward 4N) Thomas P. Mitchell

Request for Time Extension: Subdivide two lots into three lots, remove existing single-family house, and construct two duplexes and one single-family house.
(Project Manager: Scott Gustin)

B. Rabinowitz: Has the applicants received staff comments?

Yes

B. Rabinowitz: Any members of the Board object to this item being treated as consent?

None

B. Rabinowitz: Any members of the public wish to speak?

None

G. Hand: I move that we approve the application and adopt staff findings and conditions.

A. Zipparo: Seconds the motion.

6-0-0

2. 19-0117CA; 298 College St (RH, Ward 8E) Greater Burlington YMCA Foundation

Amend condition 3 of DRB approval ZP18-0834CA/MA to permit construction activity during the following hours: Monday-Friday 7 AM -5:30PM; Saturday 8AM-3:30 P; No construction activity on Sunday. (Project Manager: Scott Gustin)

The programs and services of the City of Burlington are accessible to people with disabilities.

Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

A. Hart and G. Hand Recused

B. Rabinowitz: Has the applicants received staff comments?

Yes

B. Rabinowitz: Any members of the Board object to this item being treated as consent?

None

B. Rabinowitz: Any members of the public wish to speak?

None

J. Drummond: I move that we approve the application and adopt staff findings and conditions.

A. LaRosa: Seconds the motion.

4-0-0

3. 19-0119CU; 31 North Prospect St (RL, Ward 1E) Kesha Ram

Owner occupied duplex; change downstairs use from commercial medical to 3 bedroom boarding house. (Project Manager: Scott Gustin)

B. Rabinowitz: Has the applicants received staff comments?

Yes

B. Rabinowitz: Any members of the Board object to this item being treated as consent?

None

B. Rabinowitz: Any members of the public wish to speak?

None

A. LaRosa: I move that we approve the application and adopt staff findings and conditions.

G. Hand: Seconds the motion.

6-0-0

V. Public Hearing

1. 18-0894LL; 14 Peru St (RM, Ward 3C) PBGC, LLC and 18-0895LL; 16 Peru St (RM, Ward 3C) BPJS Management LLC

Reopen appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street. (Project Manager: Mary O'Neil)

S. Tilton arrived for review

M. Daly: we submitted a proposed parking easement; back at the initial hearing we believe and contend that we addressed with boundary line adjustments and parking easement we proposed solutions to the staff concerns. Ms. Sturtevant and Ms. O'Neil identified a portion of the ordinance that they asked you to consider. The Board asked that both sides provide feedback and analysis on that. City attorneys and clients representative met and talked about way to resolve it. Provision 5.3.6c of the CDO. Had a difficult time reaching Kim. City's position was attached to link to staff's recommendation. Their interpretation was an adverse finding due to failure to meet provisions of that section. Prepared memorandum to use in later deliberations.

~~The language was confusing. That section does not offer this board guidance. The~~
appellant asks you not apply it in the deliberation but instead consider the boundary line adjustment and parking easement as a solution to a good faith mistake. Irregular lines in boundary line adjustments are not uncommon.

B. Rabinowitz: you submitted something on the Easement?

M. Daly: yes

B. Rabinowitz: this is something that staff would approve or is this part of the

M. O'Neil: yes it was submitted and was previously available.

A. Hart: there is no evidence that this was anything other than an innocent mistake. The section you are talking about questions if the 12 x 1 ft bump out is an increase to the structure. The "zig zag" line doesn't bother me at all. How does the parking easement fix the issue?

M. Daly: Mr. Bissonette controls both properties; one property has more than ample parking which we would be looking to deed parking rights for the less sufficient property

B. Bissonette: the easement addresses the issue that with the boundary line adjustment we can legally park, we don't understand why we need an easement when the cars have been parking there for decades. No limitations to physical space.

A. Hart: trying to understand what is the parking issue and how you're going to solve it. Cars at house to the left park in between the 2 houses. With the boundary line adjustment that parking is now narrower which creates non-compliant parking. The parking you're offering is what?

M. Daly: 16 Peru St would grant 14 Peru St 2 parking spaces

A. Hart: by moving the boundary into the driveway you take the parking away from that space- no one will be using that space between the two buildings.

M. Daly: in theory- but in reality there will be parking in that driveway.

A. Hart: we can require people to provide legal parking, but we can't require them to use it.

M. Daly: no way to police people to not park there. Be cautious to what we are committing the appellant to.

K. Sturtevant: no change will be permitted. This is a nonconforming lot; it increased the structure with the upward and outward expansion. Is it permissible if the dimensional requirements or standards are met.

A. LaRosa: changes to a non-conforming lot; I can't adjust the house that is on there? If I have a house that conforms in all ways except the lot is small I can't expand the home

G. Hand: yes you don't allow the non-conformity or use to expand

B. Rabinowitz: no change to lot

G. Hand: read this as no change shall be permitted to a non-conformity in which the project increase density or increases the home. Unless it allows you to meet the dimensional requirements.

A. LaRosa: there are a lot of non-conforming lots how do they change the structures?

B. Rabinowitz: the key is that changing the lot to make this happen is where the trouble is. If you could do this without changing the lot then it's no issue.

M. Daly: It is a complicated run on sentence.

G. Hand: the structures in the setbacks are not necessarily on non-conforming then we allowed it to go up in height

M. O'Neil: yes but it is only with DRB approval. If the appellant had come in for a permit to increase the space then it may have been a non-issue.

M. Daly: what is the boundary line adjustment provision for, does this trump that provision.

A. Hart: we are the DRB not the planning commission

M. Daly: the Ordinance is not perfectly written

A. Zipparo: sounds like we have a reasonable reading but unfortunately we don't have the discretion to rule against the Ordinance. It's an unfortunate situation but what we are trying to do is not to set a precedent. While it is an unfortunate mistake we can't have people asking for forgiveness after work has been done.

M. Daly: then don't rule

B. Rabinowitz: that is only there when a decision cannot be met or agreed upon

G. Hand: are there any other solutions?

B. Rabinowitz: is a PUD (Planned Unit Development) possible.

M. Daly: there are 3 lots in a row

M. O'Neil: thought the suggested boundary line adjustment would suffice; there are changes to both lots.

B. Rabinowitz: any other questions.

M. O'Neil: RL zoning district no minimal project size for PUD.

B. Rabinowitz: continue to later date. 10/16/18

A. LaRosa: Motion to continue to date certain of 10/16/2018

A. Hart: Seconds the motion

7-0-0

2. **18-0840AP; 62 Venus Avenue (RL, Ward 7N) Lorraine Latorre Family Trust**
Appeal of NOV # 346538 regarding change of use to duplex. (Project Manager: Scott Gustin)

S. Gustin: Appeal was withdrawn

VI. Other Business

1. 2019 Draft DRB Schedule

B. Rabinowitz: Potential meeting schedule for next year, should we move to next meeting agenda? Or approve it now as it is?

M. O'Neil: Annotations at bottom show why the meetings are the way they are.

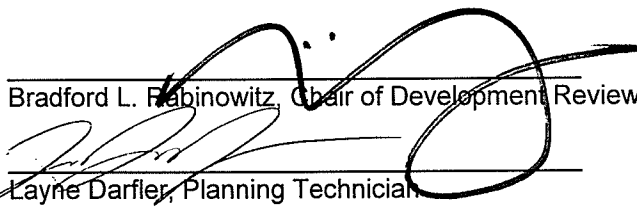
G. Hand: Move to approve as proposed

A. Hart: Seconds the motion

7-0-0

VII. Adjournment

Meeting was adjourned at 5:50PM



Bradford L. Rabinowitz, Chair of Development Review Board



Layne Darfler, Planning Technician

11/7/18

Date

10-02-2018

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/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.