

Burlington Development Review Board

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Zoraya Hightower, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday October 16th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT MINUTES

Board Members Present: B. Rabinowitz, A. LaRosa, A. Hart, S. Harris, A. Zipparo, S. Tilton
Board Members Absent: G. Hand, J. Drummond (Alt.), Z. Hightower (Alt.)
Staff Present: Scott Gustin, Mary O'Neil, Layne Darfler

I. Agenda

15 Conger Ave; applicants have requested deferral to November 7th 2018
S. Gustin: does not need to be seen by the Board was taken care of
14/16 Peru St Appellant has requested deferral or continue until November or
December date

II. Communications

Communications have been included with respective projects in the meeting material
packets; All communications accepted by the Board.

III. Minutes

B. Rabinowitz: Minutes from the October 2nd meeting will be reviewed and discussed
at the next deliberation

IV. Consent

1. 19-0284CA; 69 Charlotte St (RL, Ward 5S) Paul and Sabine Budnitz

Demolish and replace existing single-family house and accessory building. (Project
Manager: Mary O'Neil)

A. LaRosa: Communications have been received and in order to accept them into
the record we have to open this review to public hearing

B. Rabinowitz: Open to public hearing

S. Brown: Family has lived next door for 15 or so years; no complaint about the idea
of new neighbors or new construction but would like the height to be reconsidered as
it will impede our views and sunlight. Hoping there might be modifications made to
the structure to lower the ridgeline. Question lot coverage calculation and why the
extra coverage is allowable, the new structure enjoys the benefits of the larger
coverage than it should also claim the burden of the shorter structure.

A. LaRosa: question the nonconformity

M. O'Neil: The existing structure is non-conforming regarding the setbacks and
coverage; the new plan will conform to setback and height requirements and they
are decreasing coverage.

A. LaRosa: Neighbor communications would be better to resolve the concerns rather
than this Board.

S. Budnitz: We need to get started with the project and only received note from neighbor very recently; we feel the anticipated light impact to the house is not as drastic as they feel it is going to be.

B. Rabinowitz: The current house has an unusual roof slope and the new design is more fitting for the neighborhood.

B. Rabinowitz: Have any sun or light studies been done?

S. Selin: Yes, we worked with a 3d model study looking at the worse sun day of the year from 9AM to 9 P; submitted to the Board. Looking at the images the neighbor submitted, it looks at the worst-case scenario but doesn't show how the light changes throughout the day. We have opened up more of the Southern side of their house by pulling the house 5 feet back further from the existing house, which opens up the front 5 ft of Sarah's house and opens it to the sunlight. Although the existing house is only 22' 8 Sarah's and the southern homes are in the 30 ft range so it fits into the neighborhood. Trying to keep with the neighborhood and that means the house has to move certain ways otherwise it would disrupt the pattern; below the max height by 4', but the exiting house is one of the smallest in the neighborhood. Bringing the property farther into compliance with setbacks and coverage.

B. Rabinowitz: Does the Board have any further questions
None

B. Rabinowitz: Closed the Public Hearing

2. 19-0233CU; 29 Allen St (RM, Ward 3C) Saint Joseph's Charitable Trust
Establish warming shelter (emergency shelter) for 10 individuals; Seasonal from November to March. (Project Manager: Scott Gustin)

B. Rabinowitz: Have the applicant's received staff comments?

Yes

B. Rabinowitz: Do you have and questions or concerns?

None

B. Rabinowitz: Do any members of the Board object to this item being on the consent agenda?

None

B. Rabinowitz: Are there any members of the public hear to speak about this project?

Yes

B. Rabinowitz: Open the review to public hearing

S. Judd: Neighboring property owner, discussed concerns over the parking lot and the activities that occur in the parking lot; specifically how the mis-use of the parking lot may affect the youth utilizing the warming shelter. Currently no policing of the parking lot.

W. Town: Staff will be on site at all open hours and we ask staff to do foot patrols. Issues are not related to the use of the warming shelter or those utilizing the services.

S. Judd: Not opposed to the project, just concerned for the youth utilizing the site.

B. Rabinowitz: Any other questions

None

B. Rabinowitz: Closed the public hearing

V. Public Hearing

1. 15-0055CA; 15 Conger Ave (RLW, Ward 5S) Patrice Stratmann

Request for time extension; Replace existing garage with new single family

**2. 18-0894LL; 14 Peru St (RM, Ward 3C) PBGC, LLC and
18-0895LL; 16 Peru St (RM, Ward 3C) BPJS Management LLC**

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

B. Rabinowitz: The applicant is here to ask for deferral; this has been around for a while are we running into any time clocks?

M. O'Neil: DRB bylaws time clock is 6 months.

A. LaRosa: Motion to defer until November 20th, 2018

A. Hart: Seconds the motion

6-0-0

3. 19-0021CA/MA; 375 North Ave (NAC-CR, Ward 4N) 375 North Avenue LLC

Continued review of amendment to PUD approved under ZP17-0623CA/MA increasing the overall unit count from 739 to 770. Redesign of building M, adding additional stories to buildings G, M, P, Q, & R. (Project Manager: Mary O'Neil/Scott Gustin)

A. Hart recused

S. Gustin: Traffic memo received from DPW late this afternoon, applicants also just submitted their own traffic memo

B. Rabinowitz: Open public hearing; Department of Public Works agrees with your findings. Convenient store is in a certain location so if that moves you would have to redo the traffic study.

E. Smith: Yes there were 3 possible locations for that store; there may be more conversations needed in the future

B. Rabinowitz: Any further questions

None

B. Rabinowitz: Closed the public hearing

4. 19-0167CA; 158 North Willard St (RL, Ward 1E) Joseph Cleary and Teresa Cleary

Appeal of administrative approval regarding expand living space into north porch. Site plan and coverage calculation reflect more driveway removed than permitted in ZP12-0277CA. (Project Manager: Mary O'Neil)

A. LaRosa: Is this related to the current superior court case?

K. Sturtevant: DRB decision over a section on the appellant's property toward the south of the driveway came before them about discontinuance of the parking area; the Board agreed with department of public works that it was in discontinuance; it went to the e-board and has been requested for reconsideration. That review is not part of this appeal.

A. LaRosa Recused

A. Zipparo Recused

L. Purvis: Neighbor since July 2013; Easement of the property is being misrepresented by neighbors and staff. The issue is previous owner had covered that easement in gravel for several years and the site plan that was signed off on in 2012 that 158 claimed it as green space. They claimed it as greenspace and the city agreed with it. No one would expect your rights of 30 years to be stolen just so they can have a deck. The condition of the space is gravel with weeds on it- the city produced an investigation to discontinue parking but in their notes they state that gravel has been there for 15 plus years. This is not about parking it is

A. Hart: This is an appeal to an approved application to enclose a 4' x 6' porch; this does not affect lot coverage and does not implicate a previous site plan. This appeal needs to be related to the porch enclosure.

B. Rabinowitz: Enclosing the porch brings it into the lot coverage calculation and out of the bonus equation.

L. Purvis: Easement is about 330 square feet I am here to ask for an accurate site plan to be submitted without the use of the easement; as of now I am not able to produce a site plan with the easement on it. Provided images and neighbor testimony city has definition of lot and that explicitly excludes right of ways; read definition of lot. The assessor's office has it listed as a right of way; the deeded rights say for ingress and egress; Mr. Cleary submitted affidavits stating it is a right of way. In communications, both Tedd Miles and Jeanne Francis refer to easement talk about 1999 gis google earth photos showing the parking area. Previous owner had permitted use to work on junk cars in that location from back in 1968; M. O'Neil, in staff comments said the easement is identified but green not identified in to the coverage calculation; disagreement; several sections in the permitting conditions regarding errors.

J. Cleary: Want to enclose a small useless porch into a bathroom; the previous calculation did not include the removal of portions of the driveway which is how we ended up under the lot coverage allowance. The previous zoning permit went unappealed. We recognize the deeded easement rights but not that they include vehicular parking there. The gravel that he claims was placed there by the previous owner in 2013. Mr. Pervis the appellant is abusing this process, he is hijacking the process.

B. Rabinowitz: looking at the site plan I see the easement sliver, is there a fence on that line

J. Cleary: Yes; other side of fence is grass; before Pervis moved in there was grass on his side and no parking in 2012; We as well as the City have rental records that show 2010-2014 the history of the rentals and parking at the property. The gravel was deposited by Mr. Leclair in March 2013 unpermitted. This board directed Mr. Pervis to remove the gravel and return it to green space. He is trying to walk a fine line between the easement and a strip of land between the easement and his driveway.

M. O'Neil: in reviewing the materials submitted by Mr. Pervis, there is an important descriptive in the Harris survey report and under his letter to you number 8 states he systematically probed the grass in the easement area. This points to the current condition.

K. Sturtevant: The discussion of 15 year statute of limitations; it is being used as explanation to be clear there has been no determination of 164; there has also been a permit- the owners are showing the property as green that would interrupt the 15 year limitations; only question is what is being presented as lot coverage.

J. Cleary: we agree with previous zoning permit, which was unappealed. Mr. Pervis does not have standing to appeal, as he can't go back in time. Previous site plan sets precedent that should be stuck to for this permit as well. City has already opposed the parking on the easement.

A. Hart: What was the issue in 2015

M. O'Neil: 2015 issue was whether it was green space or driveway pre-existing

K. Sturtevant: Appeal of letter issued by Code Enforcement regarding a section of 158 and that is what the decision was based on; it was determined the area next to the easement was discontinued but that was pertaining to 164.

J. Cleary: The Board at that time recommended that the easement be returned to green space; it had been green space and should return. Compaction from his vehicles causes runoff issues for our property.

L. Purvis: In 2015 the discussion was about parking not lot coverage; the

neighbor testimony points to the easement being needed for the access to his business. The grass grows up through gravel, would like to continue to use the south side of barn to access. Not asking previous permit be remedied just want the mistake corrected. I have pictures of neighbors putting grass seed down on it, fence has been moved 4ft farther so gravel now goes right to the fence; Mr. Cleary submitted a permit to replace a fence and included the contradictory interpretation that states the easement is 12 ft wide. So I was told I couldn't appeal a boundary issue so I had to have a full survey done. They are trying to diminish and subvert the rights I have to the easement. Not receiving the same leniency they seem to be getting.

B. Rabinowitz: Any further questions

None

B. Rabinowitz: Closed the public hearing

VI. Certificate of Appropriateness

- 1. 18-0975CA/18-0976LL; 308 Main St (RH, Ward 8E) Green Castle LLC (Bruce Baker and Gregory Doremus) AND 18-0977LL; 323-325 College St (RH, Ward 8E) Green Castle LLC and Alpha Properties LLC (Peter C. Potts, Carol B. Potts, Elizabeth Demas IRA, Mary Lee IRA)**

Residential addition to add four (4) new dwelling units for a total of 8. Site plans changes simultaneous to lot line adjustment with 323-325 College Street to accommodate parking and circulation. (Project Manager: Mary O'Neil)

A. Hart Recused

B. Rabinowitz: provided overview as to what the applicants had been asked to come back with

G. Doremus: Overview of elevation changes, handicap access and pedestrian separation. Proposed addition to 308; provided overview of traffic circulation.

B. Rabinowitz: how many shared spaces?

B. Baker: 8 each

A. Zipparo: can you go over bike parking

G. Doremus: pointed out locations of outdoor and indoor bike parking

M. O'Neil: annotated on plans provided site plans based on previous permit and site plan; correction on site plan; storm water review is unresolved and open

B. Baker: would ask stormwater be a condition; boundary line adjustments changes lot coverages and the survey revealed slight changes to coverage.

B. Rabinowitz: Any further questions

None

B. Rabinowitz: Closed the public hearing

VII. Other Business

- 1. Revised 2019 Meeting Agenda**

A. LaRosa: Motion to adopt the revised 2019 meeting agenda

A. Hart: Seconds the motion

6-0-0

VIII. Adjournment

The meeting adjourned at 6:40 PM



Bradford L. Rabinowitz, Chair of Development Review Board



Layne Darfler, Planning Technician

11/7/18
Date

11-07-2018
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.