

Burlington Development Review Board

149 Church Street, City Hall
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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 November 20th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT Draft Minutes

Board Members Present: A. LaRosa, S. Harris, G. Hand, A. Zipparo, J. Drummond (Alt.)

Board Members Absent: B. Rabinowitz, A. Hart, S. Tilton, Z. Hightower (Alt.)

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

I. Agenda

No changes to the agenda

II. Communications

A. LaRosa: Supplemental communications have been submitted for 441 Shelburne St and will be considered upon discussion of the topic

III. Minutes

A. LaRosa: Minutes from the November meeting will be discussed at deliberation

IV. Consent

1. 19-0326CA; 121 Crescent Beach Drive AND 19-0367CA; 133 Crescent Beach Drive (RL-W, Ward 4N) Crescent Beach Drive Association

Install stone on existing sand parking lot.

(Project Manager: Ryan Morrison)

A. LaRosa: Have the applicant's received staff comments?

Yes

A. LaRosa: Do you have and questions or concerns?

None

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

None

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

None

G. Hand: Motion to approve and adopt staff findings and recommendations

A. Zipparo: Seconds the motion

5-0-0

2. 19-0355CA; 441 Shelburne St (RM, Ward 5S) 441 Shelburne Road, LLC

Convert boarding house and duplex into 10 unit residential apartments with associated site improvements. Reapplication for expired zoning permit.

(Project Manager: Scott Gustin)

A. LaRosa: Is the applicant here?

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).

None stepped forward

A. LaRosa: Open to public hearing as no applicant is present and communications were submitted

S. Gustin: Applicant is looking for re-approval of what got approved because he missed the deadline for extension; Board could consider tighter timeline or aspects for completing construction

G. Hand: last time we approved there was public testimony are the submitters the same?

S. Gustin: Believe so as they abut the property; would be more comfortable to continue to another date then discuss without the applicant

S. Gustin: Continue to next item and come back to this in case the applicant comes in late

A. LaRosa: Move to continue public hearing until 12-18-18

G. Hand: Seconds the motion

5-0-0

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)

M.Daly: Provided brief permitting history and Board review of the project that is of issue; Application dates back to march, boundary line adjustment was considered to cure a construction encroachment. Came in with boundary line adjustment and at the July hearing an issue came up with respect to particular section of the code regarding further a non-conformance; Board asked both parties to take time and prepare comments regarding section of the ordinance and possibility of PUD. Came back in September continuance procedurally to allow appellant time to explore possibility for PUD. July denial- spent time meeting with architect and engineer, PUD not workable. We will not be proceeding to seek PUD. Asking Board to revise review and adjudication on the boundary line adjustment decision. Staff made adverse findings on a number of points resulting in denial; we addressed those in a memorandum and hearing that was held. Asking Board to agree with us that through steps we've taken and creation of parking easement we have addressed staffs concerns and the adverse findings. Ask that the Board agree that the specific section of the ordinance that was in contention does not apply to this project. Believe it is in the Boards discretionary authority and see that this was a mistake and that we have present plausible solutions. Alt is either enforcement action leading to construction waste or litigation

G.Hand: any info on economic waste? Do you have numbers with you

M. Daly: it is a 12 x 1 ft addition into the encroachment; client estimates its \$30,000 to fix the problem.

A. LaRosa: Any Board members have questions

None

A. LaRosa: Do any members of the public wish to speak

No

M. O'Neil: project manager, remind Board that alterations to the building still do not have a permit so they cannot be deemed approved through this action. There was a vertical enhancement of the building which requires DRB approval. The renovations that were done without permits continued that wall plan but still no permits taken out. There was one kitchen remodel permit taken out. To suggest the 12' X 1' section is the only problem is in error.

M. Daly: prior representation for applicant had met with staff and worked out solutions to those other issues. Saw evidence and recorded emails of that but it was the 12' x 1' encroachment that led to staff not being able to issue the permits.

G. Hand: if we were to deny the appeal then maybe deconstruction depending litigation; granting would grant boundary line adjustment but city says there are other aspects that require approval- Board could approve boundary line adjustment but not the changes of the structure which might violate the ordinance anyway.

M. Daly: Staff through issues that were there; it was a mistake that the work was done without permitting. Willing to sit down with staff to work out the other issues if the meeting goes our way.

M. O'Neil: confirm Staff had met but that was prior to the survey being done, the survey led to unfavorable information regarding the project.

G. Hand: Overview of Section 5 in ordinance; trying to understand if there is reasonable argument – does changing the boundary line effectually increase the structure.

K. Sturtevant: it's part of the underlying problem

A. LaRosa: under this provision the options are that they don't do it or they tear it down

G. Hand: Do we have the discretion to take into account the economic waste arguments

K. Sturtevant: A variance would be difficult because the issue was caused by the property owner

A. LaRosa: Can you provide an overview of the parking easement

M. Daly: Discussed parking arraignments

S. Harris: the house on the west was purchased after the construction took place- house was also purchased to accommodate this error- you estimated the deconstructed cost at \$30,000 but the appellant purchased the home instead of correcting the error.

A. LaRosa: Any other comments or questions

None

A. LaRosa: Closed public hearing

VI. Adjournment 5:35 PM

Meeting adjourned at 5:35 PM

A. J. LaRosa, Vice Chair of Development Review Board

Date

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