

## Burlington Development Review Board

149 Church Street, City Hall  
Burlington, VT 05401

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Austin Hart  
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Israel Smith  
AJ LaRosa  
Geoff Hand  
Alexandra Zipparo  
Samantha Tilton  
Jim Drummond, (Alternate)  
Vacant, (Alternate)



### BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday March 20th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT MINUTES

**Board Members Present:** A. Hart, B.Rabinowitz, I. Smith, A, LaRosa, G. Hand, A Zipparo, J. Drummond (Alt.)

**Board Members Absent:** S.Tilton, J. Drummond (Alt.)

**Staff Present:** Scott Gustin, Ryan Morrison, Layne Darfler

#### I. Agenda

A.Hart: There has been a request for continuance by the applicants for 21 Peru St; Request to be continued to the April 3<sup>rd</sup>, 2018 meeting

#### II. Communications

A.Hart: Supplemental Communications have been submitted for 81 Dunder Road as well as 390 Colchester Ave; those will be accepted by the Board

#### III. Minutes

A.Hart: Minutes for the March 7<sup>th</sup>, 2018 meeting will be discussed at the next deliberation

#### IV. Consent

- 1. 18-0677CA/CU; 390 Colchester Ave (RL, Ward 1E) Nathaniel Hayward**  
New accessory dwelling unit within an existing single-family residence; and addition of a deck.  
(Project Manager: Ryan Morrison)

A.Hart: Do any members of the Board object to this item being treated as consent?

None

B. Rabinowitz: One question for staff

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

None

A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?

R.Johnson: Believes applicant has received everything sent to him

A.hart: Basically what was in the staff report was an approval with listed conditions, has the applicant received that or have any questions about those conditions?

R.Johnson: Yes the applicant has received those conditions.

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B.Rabinowitz: The added parking space graphically does not fit on the parking space; it spills over the property line  
R.Morrison: The driveway is shared and the code is that you can go right up to the property line with a shared space  
B.Rabinowitz: Motion to approve and adopt staff findings and recommendations  
A.Zipparo: Seconds the motion  
5-0-0  
G.Hand: Recused  
A.Hart: letter we did not have chance to read; acknowledge the supplemental communication as accepted.

**2. 18-0682CU; 81 Dunder Rd (RL-W, Ward 5S) Johnathan Heller**

Change of use to bed and breakfast in one bedroom.  
(Project Manager: Ryan Morrison)

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

Yes

A.Hart: We will open this project to a public hearing

A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?

J.Heller: Yes, no questions everything is as presented.

A.Hart: Do any Board member have any questions?

None

M.St Amand: Read a submitted letter; Want to comment in addition that husband and self lived on Dunder Rd for 40 years. We have experienced a number of issues created by the tenants at 81 Dunder Rd; to add another transient element would make matters worse. Strongly urge the Board to deny the change of use.

A.LaRosa: What tenants are you speaking of?

M.St Amand: There are multiple tenants who are renting rooms at the property

A.Zipparo: Are they roommates? Does the owner live at the property?

M.St Amand: The owner lives at the property and has a daughter who is there sometimes.

A.Zipparo: So these are roommates not tenants

A.LaRosa: Do you know of anyone else who has an accessory apartment or mother in law apartments in the area?

M.St Amand: Not aware of any

A.LaRosa: Would your concerns be the same if it was a garage apartment?

M.St Amand: The issue is the number of people who are at the place and the multiple issues we have had.

A.St Amand: Main concern is the number of cars that we have to deal with; the owner has a large van and there are consistently 3 to 4 cars in addition to that. If this was approved there would be at least another car. There are young kids in the neighborhood and we would hate to see someone get hurt by all the cars on the street; having these tenants use the beach creates a liability and major impact on the association.

M.Hennessy: General concerns are the addition to a bed and breakfast; when does that end. This is a desirable neighborhood and one bed and breakfast could turn into 2 then 3 and so on. I cannot attest to who is a roommate or a tenant; a tenant introduced herself as such at one point and complained about the noise of the neighborhood. Other tenants have been in the stand-alone apartment; one Air BnB tenant came to our door looking to move in; we would like to see the neighborhood remain residential.

A.Sularz: We've gone through this and last time it was an Air BnB and it ended up in this room: people that come to the Air BnB's are on vacation so we experience

people out on the decks being loud. Want to make sure he is aware of the noise restrictions. Currently has long term tenants. His house is the only one where plows and cleaners go around so there is definitely a parking issue. Legally expanding the driveway to accommodate the cars is a question. The beach is another thing, there should be a stipulation that the beach is off limits.

B.Rabinowitz: We don't have jurisdiction over a private beach

A.Sularz: Can you give any suggestions

A.Hart: We cannot do that, we have no authority there

J.Heller: Never considered offering beach access to Air BnB people; do have roommates at the house, find it hard to tell them to go. With Air BnB they come vetted- when you take on a roommate from craigslist there is no vetting, Air BnB there is a vetting system. You can't control if a roommate has 2 or 3 cars – Air BnB you can restrict more of what they can and can't do.

B.Rabinowitz: Are you suggesting you won't have roommates if you have an Air BnB.

J.Heller: I would like to rent the space using Air BnB to avoid being limited to the 30 day minimum; would like to eliminate roommates all together.

A.Hart: Issue or concern was raised about the cars, can you explain why there are so many cars?

J.Heller: Roommates have two cars; can't control what they do with their cars

A.Zipparo: You are going to be permitted with the department of health and heavily taxed; it will be overseen by the City, under the radar a bit more, you do understand you will be enforced more than you currently are now. Can you speak to that in terms of explaining how the situation will be different then with roommates? Believe we are entering into regulatory territory where you are going to be held accountable.

J.Heller: Completely fine with that; as long as I can make more money and have less roommates

A.Hart: Guest parking would be on site and off street?

G.Hand: There was concern over the driveway being expanded

J.Heller: Driveway is as it was when I bought it

A.Hart: Closed the public hearing

### **3. 18-0681CA/CU; 68 Staniford Rd (RL, Ward 4N) Green Mountain Habitat for Humanity**

Construction of a new duplex and two sheds.

(Project Manager: Ryan Morrison)

A.Hart: Recused

B.Rabinowitz: Would the applicant come up; Do any members of the Board have any questions?

B.Rabinowitz: There is a discrepancy between the site plan and the drafted plan in terms of where the door is on the rear of the building and the front on the drafted plan; both entries are to the right side. The one in the rear on the site plan is pushed towards the center of the building. There is also two doors on the left hand side that go out towards the side property. Wonder why it doesn't go towards the driveway where there is more access for tenants?

D.Mullen: The concept was that it was more to the yard.

B.Rabinowitz: The issue with the rear porch may push the parking a little bit and we're right at the lot coverage but believe there is 96 square feet; porches fit into the 10% bonus so you could gain a little more.

B.Rabinowitz: Does the Board have any further questions?

None

B.Rabinowitz: Open up to the public for comment

J.Rossetti: We have concerns and would like Habitat for Humanity to put up fence; we don't want to be responsible for children or pets coming onto their property. 10

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feet right of way is close to the property line. Has concern of lawn being driven on. Another concern is there is a Habitat for Humanity home across from Burlington High School and we have seen the front porches and they are always full of trash so it would be nice to see Habitat for Humanity maintain.

A.Zipparo: What was the concerns with cars?

J.Rossetti: Concerned with the 10 foot driveway with a 5 foot setback

A.LaRosa: The concern is the need for a fence the length of the driveway

J.Rossetti: We would like to see a fence all the way back

A.Zipparo: Do you not have any neighbors?

A.LaRosa: Have you thought of putting up your own fence?

J.Rossetti: Yes, we have neighbors and they have fences. We offered to put up fences previously but never needed to. Our concern is that the home is bigger and set up for a large family in the front and a smaller family in the rear; we are concerned there would be encroachment

W.Lalime: Two questions and concerns and a couple of observations; used to be a fenced in property there- these lots were designed in 1916 properties developed there afterward, fence has always been up there and then it was removed so there was fencing on both sides of the 68 prop. Also had a chain-link fence on the 68 side. Believe there has to be a fence, if you look at the layout of the 2 apartments the one will be large family and there is not a lot of space in that backyard. Not a lot of space for kids to play and there is an assumption of 1-2 pets, doesn't want his land to be used by the animals or the kids. Believe there should be a 6 feet tall sturdy maintainable fence. Just to restrict that so pets and the encumbrance of others running in the property wouldn't be a problem. Second if you look at the west side there are 2 doors there, wall of the house is 6ft from property line with 5 foot setback. There is a little step that encroaches into the setback. Maybe the doors should be moved to the driveway side. I own 50 ft lot, the city has approached him and pressure him to sell but he doesn't want to. Surprised you can put a house within a 50 foot lot with the two setbacks, don't want any infringement like he is dealing with. Observations- the cost of the house; says in guidelines says the cost of the house should be the cost of the materials and typical contractor prices. \$90k wont build too much of a house concerned with that.

D.Mullens: Sounded as though there may have been a misconception of someone I can call if there is an issue- these are homeowners not tenants; Green Mountain Habitat for Humanity is able to produce 5 star energy rated homes that meet or exceed the BTV codes. Other areas there have been concerns voiced and when Habitat for Humanity built homes there the houses we built were nicer and more appealing than the homes that were already there. The issue with the fence is understandable, it is a narrow lot and we have every intention to make these opportunities for families to be successful in these homes, sometime fences make good situations. I agree Habitat for Humanity could put a fence on the property. Would assist the neighbors and the property owners to know where the boundary line is.

B.Rabinowitz: It's 240 feet approximately. Having a fence go front to back to the street may look out of character in the neighborhood, the extent of it mixing fence with vegetation may be more in line with the nature of the neighborhood. In the efforts of having this feel like it is part of the neighborhood a wall may not.

G.Hand: We may not require you to put a fence in- the neighbors could just as easily put in a fence; appreciate your willingness to resolve it but have not heard a compelling argument to require it.

A.LaRosa: Seems a conversation amongst all the parties would be best.

B.Rabinowitz: Public hearing closed

## V. Public Hearing

1. **18-0679CU; 94 Caroline St (RL, Ward 5S) Dori Weingard**

Change of use from three units to a single-family home with a bed and breakfast with 2 rooms to let. No site or exterior building changes.

(Project Manager: Scott Gustin)

A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?

D.Weingard: Just received them shortly before the meeting began, but have read through them.

A.Hart: There was a staff recommendation of denial based on the number of rooms

D.Weingard: It says up to 3 room may be a part of the BnB and I have 8 rooms requested; when you look at the floor plan you can see there is an open floor plan. Look at 'B' there are 4 rooms but the open floor plan turns them into 2 rooms with 2 bed area within the room, there are no walls to create specific rooms. So the 4 is technically 2. The upstairs is similar there are not 4 rooms.

A.Hart: A BnB in a residential district there are restrictions because it puts a constraint to the impact on the neighbors and I hear your reasoning. The potential for impacts on the neighbors is say: I have 1 room you have 1-2 guest maximum, your 1 room you could have 3-4 people and 3 cars each. So under your definition of 1 room there is a lot of impact

A.Zipparo: If I read staff findings and recommendations I'm not sure it corresponds now. You're just using one of the rooms not the duplex in the back?

D.Weingard: Will do it however I can. I have been renting it all long term. When you look at what I've applied for in the past to have a single family that was split into 2 units -1992 approval for switch in units, patio and switching parking.

A.Zipparo: There are 2 units in the back right now, you would be fine with only one of them being used as the BnB.

D.Weingard: Yes to keep option of long and short term to accommodate health care students and workers. Long term tenants had lots of friends and cars and had more impact. Usually have extended stays with nurses or month long; one unit does have short term rental but would like the opportunity to have both of them available for that. Don't want to restrict it to just one short term rental. Believe it would be less of an impact than long term rental.

S.Gustin: Spoke with applicant last week and she wanted to do all of it if possible. One is conceivable however parking needs to be figured out.

D.Weingard: Have the ability for 6 parking spots if I take out the stone wall and the patio, but never need that many parking spaces. Had 2 units running for 26 years with current configuration never had noise violation trash violation or any real complaints from police.

B.Rabinowitz: your goal is to end up with 1 BnB is that ok?

D.Weingard: Yes as long as I can have short term rental

B.Rabinowitz: We do not see any lot coverage calculations

S.Gustin: Lot coverage was not mentioned because there were no changes applied for, it can be reconfigured but that is not included in the application yet.

B.Rabinowitz: how many spaces are required, is there waiver possibility?

s.Gustin: article 8 in the ordinance refers to 1 space per the room let in the BnB; intent is per room.it could be argued for 5 spaces.

A.Hart: Are there anymore questions from the Board?

None

D.Weingard: wonder about parking if there are 2 units in the back and there has been for 26 years; wondering if I have the same configuration or less now it's usually 1 long term or 2-3 for weekend but no more ever than 4 cars total; 2 for owner 2 for tenants. How if the need has not changed why I need more parking; could take out patio but it is not wanted.

A.Hart: Open for public comment

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E.Clayton: Moved in a year and a half ago; concerns are that the characteristics will change; the carriage house is in her backyard people are in and out constantly and doesn't know her neighbors. Other concern is the parking- only downsides listed on Doris's Air BnB listing is a complaint about tight parking; she responded by parking her car on the street. Her new truck makes the tight parking even tighter. 4 car tandem parking is not possible. She won't double up those cars and get a negative review. Other concerns are dogs- she does rent to dogs; one of her cats has been attacked on her property twice now. Her yard is not fenced in. it's not a site specific but in a city where we are so concerned about the loss of long term rental housing, here we are losing long term units

N.Knox- You can only park on the west side, lot of people park on the street. Snow emergencies many can't get their cars off the street looking at the site plan you can't fit 4 cars on the site.

C.Bates: I took an aerial shot off google; her house is only 15 feet from the property line on the other side, her house is 5 feet from the property line and that is actually the fence that Elizabeth has put a fence up for privacy. Parking is right on top of neighbors. Showcased images from neighbors property of application property; the fact that it is long term rental- we should not take long term rental out of the area. To put something that is not zoned in the neighborhood- don't want to set the precedent that BnB's are wanted in the neighborhood. To make neighborhood become encompassed by BnB's is not wanted. It's not zoned for BnB and it shouldn't be zoned for BnB; not enough parking and not enough parking

B.Connis: Dori has been nothing but welcoming; has a dog but keeps on the leash. Dori helps with dog while at work, lets tenants borrow skis and bikes- no issue with parking; usually only 2 cars in driveway and on weekends there may be a couple more but they have been able to make the parking situation work

D.Weingard: I would love to talk about the fence; they brought up the fence and the neighbor asked about putting a fence on the property line. Told her she would rather have the wrought iron fence but could agree on a low fence that would step down so it would keep with the neighborhood. Installed fence on her property line and was not the agreed fence; took apart the wrought iron fence; went to code enforcement and complained

A.Hart: fence is brought up in the context of the space is tight there

D.Weingard: neighbor installed isn't what was agreed on; clearly laid out in code enforcement complaint

A.Hart: Respond to the tight space in the context of the need for sufficient parking

D.Weingard: Fence isn't really a problem it's too big and way tall, but that's her decision. The truck that I bought is the same size as I had before, only had one Air BnB complaint and that is the only complaint I have ever had. Used to allow other neighbors to park in driveway on snowdays. One complaint about parking because someone didn't follow the rules. I don't always park in the street.

A.Hart: what we look at in terms of parking is if you're providing the off street parking that zoning requires. We want to focus on how much off-street onsite parking can you provide and is it sufficient to meet your needs and the tenants.

D.Weingard: I can make it back to 6, taking away the patio and turning it into parking will be more intrusive to tenants and neighbors

B.Rabinowitz: There was an adverse finding in staff report that had to do with parking. If you don't do anything you're not required to do anything- it seems that if you want to have the BnB status; however we will probably require that something in the parking needs to change.

D.Weingard: Asking to reconsider that decision; and when you look at it there is not 8 spaces it is 5. would love a parking waiver or will put it to 6 parking spots. It will never go back to long term rentals for years at a time anymore because of the amount of work she has put into them for short term rentals, the dog incident was a long term rental and it was her fault as it slipped the leash. That's one time, for 26 years she has had years. Her cats are all over the place they are wonderful.

A.Hart: Do any members of the Board have any more questions?

None

A.Hart: Public Hearing closed

**2. 18-0556DT; 21 Peru St (RH, Ward 3C) BPJS Management LLC**

Appeal affirmative finding: determination request of preexisting nonconforming use of dwelling for more than four unrelated adult occupants.

(Project Manager: Scott Gustin)

*Note: The appellants have requested deferral to the April 3<sup>rd</sup>, 2018 meeting.*

A.Hart: Motion to defer project to date certain of April 3<sup>rd</sup>, 2018

G.Hand: Seconds the motion

6-0-0

**VI. Adjournment**

The meeting was adjourned at 6:37PM.



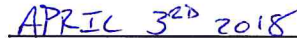
Austin D. Hart, Chair of Development Review Board



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/drb/agendas](http://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.



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