

Burlington Development Review Board

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Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday October 17th, 2017, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT MINUTES

Board Members Present: Austin Hart, Brad Rabinowitz, Israel Smith, AJ LaRosa, Geoff Hand, Alexandra Zipparo, Samantha Tilton,

Board Members Absent: Jim Drummond (Alt.), Robert Purvee (Alt.)

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

I. Agenda

A.Hart: Are there any changes to the agenda?
S.Gustin: Deferral request by 323 Pearl St

II. Communications

1. **18-0285CA; 323 Pearl Street (RH, Ward 8E) 323 Pearl Street LLC**
Request for deferral
(Project Manager: Scott Gustin)

III. Minutes

Will be reviewed at next deliberative

IV. Consent

2. **18-0285CA; 323 Pearl Street (RH, Ward 8E) 323 Pearl Street LLC**
Combine two small 1BR units into a 2BR unit reducing total dwelling unit count from 13 to 12. Existing 500 sqft office suite to remain. 1-space parking waiver requested.
(Project Manager: Scott Gustin)

A.Hart: The applicant has requested deferral

S.Gustin: Correct, they would like to revise the Site Plan so there may be a possibility that the parking waiver is not needed

A.Hart: Is there a date they have requested or that is recommended?

S.Gustin: No date requested, recommending November 21st

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

None

A.Hart: Is there a motion?

B.Rabinowitz: Motion to defer to November 21st, 2017

I.Smith: Seconds the motion

6-0-0

3. **18-0325CA; 181 Battery St (DW, Ward 5S) Burlington Waterfront South LLC / Kim and AL Gobeille**
500 sqft. addition to building and 1,500 sqft exterior deck addition

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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).

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(Project Manager: Mary O'Neil)

(A.Hart recused)

B.Rabinowitz: Has the applicant see the staff report?

Confirmed

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

None

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

None

B.Rabinowitz: Staff posted new plans online, they appear to be different than what is in the packet

M.O'Neil: The difference is the images had omitted a chimney that exists, the majority of the changes reflect the recommendations and agreements with DPW regarding the right of way.

B.Rabinowitz: Is there a motion?

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

A.Zipparo: Seconds the motion

6-0-0

V. Public Hearing

1. 17-1338DT; 171 Summit St (RL, Ward 6S) Joseph and Claire Delaney

Appeal of adverse administrative determination that a 14' X 14' deck has existed for more than 15 years.

(Project Manager: Ryan Morrison)

A.Hart: Does the City (attorney) need to be here?

R.Morrison: It is an appeal of an adverse determination so there is no direct need.

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

None

J.Delaney: Moved into the house March of 1993, there was a deteriorating stone patio that needed fixing, built the current deck summer of 1993 over that patio. From day of creation it has never changed other than increasing a hole in which a tree is growing through. Brought letters from 3 neighbors stating its creation in 1993, had submitted images to the Planning Department but most images don't have dates on them and the one that does is from 14 years and a few months ago. City shows document of a 12'x 12' deck but it has always been 14'x 14' from day one. Brought neighbors with him today to provide testimony

A.Hart: So you have lived there for 24 years, since March of 1993; the deck, whatever size it is now, has not been enlarged and was built by you or for you in 1993?

Confirmed

A.Hart: Other Zoning Permit for stone patio and another deck- 2011 permit for stone patio and deck

J.Delaney: Stone patio was 2004

A.Hart: Site Plan stamped approved does not show the 14' x 14' deck at all

J.Delaney: That plan shows what was going to be done, not what was existing; to me "plan" means what is coming in as new, not what has already been done

A.Hart: Our decisions depend to a great extent on what is already there. The Site plan needs to tell us what the existing Site Plan, including lot coverage is currently.

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

None

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

Yes

B. Katz: Next door neighbor, confirms applicant built the deck in summer of 1993.

A.Hart: What time period did you live next door?

B.Katz: 1980 to 1998

A.Hart: Had any expansion taken place or any alterations at all?

None

A.LaRosa: Have you seen the deck recently?
B.Katz: Yes, it has not changed
A.Hart: Any further discussion?
None
C.Wool: Left side neighbor; read submitted letter in support of the Delaney family
A.Hart: How long have you lived next door?
C.Wool: 10 years
A.Hart: Are you familiar with this deck?
C.Wool: Yes, it has not changed in any way
A.Hart: Does the applicant have any response or any further discussion?
J.Delaney: The complaint that was filed was not by a neighbor but by a department official who closed out the permit for the 2011 deck. They noticed the deck in question had no permits, but indicated that the deck would be grandfathered in.
S.Tilton: To clarify that when you built the deck in 1993 you did not get a permit?
J.Delaney: Correct, Wife's memory is that in 1993 they were told they didn't need one.
R.Morrison: 1993 deck installed without permit. 1993 regulations required a 5 foot setback, the 12' x 12' deck would have complied; no activity occurred until a separate deck was requested. Lack of permit and missing the 14' x 14' deck on approved site plan. April 2017 Code Enforcement reopened the case against previous unfinished permit, we then informed the applicant that we could not permit the 14' x 14' deck but rather they could reduce it to meet the approved 12' x 12' deck that was permitted or seek a determination, they chose the latter which is why we're here today. Had nothing to prove the 14' x 14' deck existed over 15 years ago.
A.Hart: So if we were to decide that a 14' x 14' deck had been there, does that resolve the NOV?
R.Morrison: If you reverse the adverse decision that would give code enforcement the knowledge that the deck is not a violation.
S.Gustin: To clarify the 15 years is about the distinction; you are addressing the adverse decision.
K.Sturtevant: Questioning the 15 year stature to limitations. The 2011 approved site plan that omits the deck in question would interrupt any argument over the 15 year time limit.
S.Tilton: So when you say interrupt what does that mean?
K.Sturtevant: The clock would start from 2011, the site plan is representation of the property by the property owner.
A.Hart: The City relied on a site plan that misrepresented under the circumstances; we have it in mind that there was a misunderstanding regarding what was needed on the site plan.
Closed public hearing

VI. Certificate of Appropriateness

1. 18-0214CA; 192 Elmwood Avenue (RM, Ward 2C) Sam Gardner

Request for a 1-space parking waiver as part of application for a change of use from single family home to duplex. Associated lot line adjustment.
(Project Manager: Mary O'Neil)

A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?
None
A.Hart: Do any Board member object to this project remaining consent or have any further questions?
A.Hart: Request for a parking waiver; there are 2 tandem parking spaces currently. The proposal is to alter the parking area so it would be no longer tandem; question is if 2 cars are in the parking area will there be enough room to pull out forward onto the street or will they need to back out?
S.Gardner: There will be room for them to turn around
A.Hart: The second floor apartment is very small?
S.Gardner: Correct it is basically a studio

A.Hart: Would you have any objection to include in the leases that only 1 car is allowed?
S.Garden: That would make it tough; what I've done in the past is had some tenants with no cars and others who may have one or two. There really wouldn't be enough flexibility if I put in the lease that the tenant is only allowed one car.
A.Zipparo: So what if it was that if one tenant has 2 cars than the other tenant can't have any, would that flexibility be suitable?
S.Gardner: Yes that would be fine
A.Hart: There is a boundary line adjustment coming separate?
M.O'Neil: yes, simply to move footage to meet dimensional requirements
S.Gardner: We hired a surveyor to accurately survey for the adjustment more accuracy regarding lot coverage will come out of that survey.
A.Hart: There appears to be a possibility of an easement for parking space?
S.Gardner: There is talk of a shared driveway, surveyors are looking into it. This is for access only not parking.
A.Hart: Any further questions from the Board?
None
A.Hart: Any members of the public wish to speak about this project?
None
Closed the public hearing

VII. Other Business

VIII. Adjournment

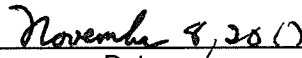
The meeting adjourned at 5:42 PM



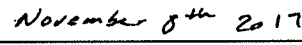
Austin D. Hart, Chair of Development Review Board



L. Derfler, Planning Technician



Date



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.