

Burlington Development Review Board

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BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday September 6, 2016, 5:00 PM

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT

Minutes

Board Members Present: Austin Hart, Brad Rabinowitz, Wayne Senville, Alexandra Zipparo,
Geoff Hand, Israel Smith, Jim Drummond,

Board Members Absent: A.J.LaRosa, Robert Purvee (alt)

Staff Present: Scott Gustin, Mary O'Neil, Ryan Morrison, Anita Wade

I. Agenda

S.Gustin: North Ave and Lake Street recommended as consent items.

II. Communications

Supplemental: plans for Shelburne Street.

III. Minutes

IV. Public Hearing

1. 17-0133CU; 124 Sunset Cliff Road (RL-W, Ward 4N) Joseph Kroger

Establish bed and breakfast with 1 room (Airbnb). No site or exterior building changes proposed. (Project Manager, Ryan Morrison)

A.Hart: mentioned the submission of supplemental communications for this project concerned private covenant information, which is not something the Board deals with under the zoning ordinance and therefore will not give this consideration for tonight's meeting. Swears in applicant and interested parties.

J.Kroger: lives at 124 Sunset Cliff Rd is asking approval for B&B in his home. Has seen staff comments. Would like to use one bedroom as a B&B. Started renting as air B&B in June and then filled up through October. Was not aware he needed a zoning permit. Discussion at an association meeting regarding rental as B&B, which resulted in bylaws written up after the meeting and sent out as a vote to close down the B&B.

A.Hart: if there are private covenants these are a matter for the Association. This Board cannot approve or make a determination of violation on covenants.

J.Kroger: after vote I did not open up any more dates. Then received reminder I needed to apply for a zoning permit and filed this August 2nd.

A.Hart: went over requirements for air B&B one of which is owner occupancy for 6 months of the year.

J.Kroger: only applying for air B&B for 4 months from June 15th to October 15th and intend to be owner occupied during these times.

B.Rabinowitz: do you also have an accessory apt?

J.Kroger: yes for 23 years.

B.Rabinowitz: where?

J.Kroger: I marked on the plans I sent on the first floor in back of the house comprising 3 small rooms. There is a beach in front of my house, which is common property. Members have been

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objecting about use of the beach by air B&B asking rentals to stay in front of the house. Rentals have been quiet and air B&B does a good job of vetting guests.

B.Rabinowitz: asks staff if this feels like double dipping with an accessory apartment and an air B&B.

R.Morrison: this cannot exceed the thresholds of more than 30%.

S.Gustin: not expressly precluded and could also have a home occupation.

J.Bennett: resident of 98 Sunset Cliff Dr. has a complaint regarding the accessory apartment. Mentioned the failure to notify neighbors at Sunset Cliff about permitting an accessory apartment. Asked to see the notice.

A.Hart: it is noted you do not agree with the accessory apartment. You need to take up notifications with staff.

J.Bennett: discussed history of air B&B and that it is opening a can of worms. This is not for Burlington. Concerns about sewer capacity, and insurance liability, falls on individual members, where the association and each member can be sued.

A.Hart: understand the concern, but liability is not a zoning issue.

J.Bennett: questions enforcement and certification asking at what point does a home operation become commercial? Asking City to consider only hotel permits, not air B&B's.

J.Clark: resident at 104 Sunset Cliff asks the Board to deny the zoning permit. Cannot understand how he got accessory apartment and an air B&B. Mentioned problems with guests using the beach, speeding down a single lane road and lighting bomb fires every night. With five camps, the sewer system is stressed for all the houses. Do not understand how this can be allowed. Other members have what we call short term rentals.

J.Kroger: feels previous situations are different from the present. I live alone and bought this as a rental for UVM students. Currently, it is a two people rental in house staying generally 1 or 2 nights, which is usually on the weekends when the property is used. Understands that cars cannot go more than 15 mph down road.

A.Hart: closed public hearing.

2. 10-1005CA/MA, 10-1115CA and 11-0570CU; 475 Lake Street and 601 Lake Street (E, EL, Ward 3) City of Burlington

Time extension for the redevelopment of the Moran Plant into public-private uses and associated site works and car parking and area for temporary construction staging.
(Project Manager, Scott Gustin)

Recusals: A.Hart, G.Hand, I.Smith

B.Rabinowitz; asks applicant if he has seen staff recommendations. This was recommended as consent item.

Applicant: yes

B.Rabinowitz: asks if public has any objection treating this as a consent item.

W.Serville: questions whether testimony will be taken

B.Rabinowitz: no

A.Zipparo: motion to approve request for time extension for redevelopment of the Moran Plant.

W.Serville: seconds the motion subject to staff recommendations and conditions.

A.Zipparo: accepts and approves this condition.

Vote: 4-0-0

B.Rabinowitz: mentions this will be the last time extension.

3. **14-0747SD: 1891 North Avenue (RL, Ward 4) Thomas P. Mitchell**
Time Extension to subdivide two lots into three lots, remove existing single family house, construct two duplexes and one single family house.
(Project Manager, Scott Gustin)

A.Hart: will treat this as a public hearing. Asks public if anyone wants to speak or ask questions. Swears in applicants. Asks if the purpose of the limit of construction is to save neighbors from the construction noise and dust and if there and some reason why this will not be completed in two years

Applicant: having trouble obtaining financing and the term was running out. Had to extend it and now considering selling property because of financial aspect. We obtained a permit for demolition to take outbuildings down.

A.Hart: asks if permit will stop after demolition is done.

Applicant: yes, there are no plans to change original permit, only need an extension for another year.

A.Hart: closed public hearing

V. **Certificate of Appropriateness**

1. **16-1378CA; 75 Orchard Terrace (RH, Ward 8E) Laura and Liam Murphy**
Reopen public hearing for a change of use from one dwelling unit with a four person boarding house to one dwelling unit with a two person boarding house; request for a one space parking waiver. (Project Manager, Mary O'Neil)

A.Hart: the Board is reopening the public hearing.

M.O'Neil: alerts Board this project was inaccurately defined as conditional use zoning permit for one public hearing agenda, but this should remain as a certificate of appropriateness zoning permit.

A.Hart: asks if interested parties would like to speak. Swears in applicants. Asks applicants to clarify floor plans on the boundaries and what is shared and not shared space.

L.Murphy: the plan may not have been clear. Designed as boarding house use for first floor.

A.Hart: questions on floor plan and if it is a shared kitchen.

L.Murphy: there will only be one kitchen. According to the ordinance this is really a single dwelling with boarding house use, renting up to 2 people. Different than air B&B and not a short term rental.

A.Hart: Is this it a bedroom with separate access to the space shared within a single family use

L.Murphy: yes.

B.Rabinowitz: original plan was not clear and trying to figure out how do they get to the shared space and access.

L.Murphy; there will be a door.

G.Hand: have some confusion over single dwelling that has an apartment and is a boarding house.

L.Murphy: there was approval in 1983 for two separate uses; an apartment and a boarding house with shared bath. We have a dwelling that can be rented to two boarders, but it is not apartment and a dwelling with a separate use. Seeking one parking space. Willing to have it be owner occupied eventually.

A.Zipparo: anything else you wanted to add about parking?

L.Murphy: this is near city market and would be willing to provide bike rack. Don't think people will need a car. We've rent an apartment building up the street for 20 years with six units and don't have a parking issue. There are no students. Two units have parking and others don't and our experience in this location is that a car is not expected

A.Hart thank you for coming back to clarify. Closed public hearing

2. **17-0138CA; 435-441 Shelburne Street (RM, Ward 5S) Mitchel Richardson**

Convert boarding house and duplex to 10-unit residential apartment with associated site improvements. (Project Manager, Scott Gustin)

A.Hart: swears in applicants and interested parties. Mentions there was a previous sketch plan. Asks applicant to focus on issues highlighted by staff.

M.Richards: acquired property from parents and would like to convert former dwelling unit to 10 unit dwelling

S.Silla: architect for project. Lot is located at Lyman and Shelburne Streets in RM district corner lot straddling RL on one side.

A.Zipparo: question about location, this the house presently under construction

S.Silla: yes

M.Richards: explained he got zoning permits for updating dwelling unit, but decided it didn't make sense to renovate

S.Silla: brought in to change from boarding house to two story rental apartments with partial basement renovation contained within existing footprint. Combination of two lots merged along with alley and the combined parcels creates 144 acre proposing 10 dwelling units which conforms with the density regulations.

Discussion between Board and applicant regarding lot location, and alley way.

S.Silla: lot not compliant but would make it compliant.

B.Rabinowitz: property includes alley way all the area way up to Ferguson Ave. Not sure this was in the packet and would like a copy for the Board.

S.Silla: shows photos with slide presentation.

A.Thelemarck: SE Group structure architect. Shows slide presentation location and orientation of site with lot coverage stays the same. Spoke of proposed parking area, pedestrian access, each unit has private access, covered parking, landscape features to define main entry; rain garden; terraced entry from parking spaces, ADA ramp, and trash removal with Casella totes. Went over floor plan schematics for 2 inclusionary units, footprint hasn't changed and in keeping with residential pattern with some elevation changes.

B.Rabinowitz: questions covered parking location, trash location and access.

P.Boisvert: landscape architect, spoke with DPW and submitted revised package to them. DPW concerns for stormwater retention and will discharge and hold water on site to lesson sewer capacity.

B.Rabinowitz: are these holding tanks

P.Boisvert: not holding tanks, but a chamber system that allows for infiltration. Mentions parking dimensions.

S.Gustin: not so much parking dimensions as it is for back up angles being a concern

P.Boisvert: said the spaces are 18 ft. parking spaces and with 20 ft. back up area.

S.Gustin: scaled it to 17ft, but still need a hard number.

P.Boisvert: should have this on the plan.

B.Rabinowitz: alley used by other properties, but it looks as if it gets narrower on upper section 6 or 7 ft wide

A.Hart: does lot coverage includes alley?

P.Boisvert: yes.

W.Senville: questions alley way and parking dimensions.

P.Boisvert: there is a 20 ft. back up consistent until further down alley way

B.Rabinowitz: property lines of alleyway is a questions

G.Hand: asks about landscaping and hedgerow location for backing up. Nothing to stop vehicles from hitting vegetation.

P.Boisvert: tight sight, went over subdivision questions from Scott.

A.Thelemarck: for alternative energy, working with BTV and Burlington Telecom on solar and heat pumps.

B.Rabinowitz: asks how do tenants get to trash?

A.Hart: questions on heat pumps.

M.Richards: current thinking of central boiler.

B.Rabinowitz: asks if entrance on Shelburne is covered?

A.Thelemarck: yes

M.Richards: calls made to CCTVA and working with Dealer.com for bus passes. Willing to do carshare.

A.Hart: we cannot give you specifics, but parking is the biggest issue. Whatever you can do with car share and encourage public transport will help toward a 50% parking waiver.

B.Rabinowitz: very nice project. Concerned that everything is to the maximum and pushed to the limit.

M.Richards: project was already out of compliance from beginning. We have done extensive renovations on the grounds itself.

W.Senville: questions two staff comments regarding parking.

A.Thelemarck: we have one bedroom units and below average for most of units as related to Champlain Housing Trust.

M.Richards: looking for one car per unit.

A.Hart: don't see the limits in place. Either in leases or something enforceable needs to be incorporated into the management plan to limit parking spaces.

A.Zipparo: asked about car share locations and arrangements.

M.Richards: could set up a corporate account with each apartment getting a car share pass

A.Zipparo: questions number of bike spaces.

M.Ricards: 20 spaces, 10 outside and 10 inside.

A.Zipparo: questions trash and recycling capacity.

M.Richards: wants to know if he can provide a letter from Casella to Board about a waiver for trash for recycling.

A.Thelemarck: allocated spot for 10 totes inside and outside, but Casella reduced this number.

A.Zipparo: can you put two foodscapes bin in extra space?

M.Ricards: yes

T.Hand: SE group, maxed site for better conformance to layer elements to maximize space as much as possible

J.Govoni: appreciation of effort for project, but some concerns with the neighborhood may be placed under stress from parking, and access.

A.Hart: who plows the alley?

J.Govoni: probably the city.

B.Rabinowitz: questions about alley way access

T.Hand: does proposed plan cut off portion of your home?

J.Govoni: I have been using alley way about 25 years, which has been the primary way to get to my back yard.

A.Hart: access to back yard?

J.Govoni: yes.

B.Rabinowitz: alley way was purchased recently.

J.Govoni: I was trying to contact the attorney to purchase the alley. No phone calls were returned. Alleys were designed for trash disposal, power lines, and access to our properties.

W.Senville: asks if the alley is a public right of way.

S.Gustin: not a public common for this time.

M.Richards: we have maintained the road during the life of my parents. The City was not maintaining this. No one has deeded rights.

M.ONeil: gave history of the Ferguson-Scarff additions, which were set up as avenues for public utilities. It remained private with some alleys being sold with the lots and became private land.

W.Senville: are you keeping the alley up in the current condition?

M.Richards: yes.

A.Hart: this is clearly thought out and appreciate how planning this is a tough site. What we may need is a subdivision plat, turning radius, floor plan unit breakdown, clarification of parking management issues and parking leases that will limit parking. Please get this to the Board prior to the deliberate session at the end of the week.

A.Hart: Closed public hearing pending further submissions.

VI. Other Business

1. 15-0840CU; 27 Arlington Court (RL, Ward 7) Nathan Casewell

Return to DRB one year after issuance of a certificate of occupancy for the Bed & Breakfast to report on any neighborhood concerns or complaints relative to the Bed & Breakfast use. (Project Manager, Scott Gustin)

A.Hart: thank you for returning to tell us how things are going

Applicant: thing are going fine. I am returning to meet one of our was a permit condition to return after one year

M.ONeil: applicant the scheduling was so far out on this request to go before the Board. We examined code enforcement and there are no complaints for this property

A.Hart: helpful for us that you came back.

B.Rabinowitz: how many nights are you renting?

Applicant: rent out for 3 nights a week with an average stay of 2 nights.

A.Zipparo: asked if a typical stay is one person or couple from out of state and one car.

Applicant: yes, and typically come in one car.

M.Oneil: mentions there is no separate category for air B&B and it is his discretion for serving breakfast.

W.Senville: asks staff how many other B&B's situations are being monitored annually.

M.ONeil: not aware of any other B&B's. Sometimes this is done for a conditional use.

A.Zipparo: do you pay room and sales tax?

Applicant: yes. I want to be an example of how the system can work. My neighbor wanted to know if he could speak in support of this.

A.Hart: thank you for coming back.

W.Senville: committee had a meeting last week. First item coming up on homeless shelters. Scott is putting together a list of amendments. Take a look at the list and see if this triggers other items that may not be on Scotts' list.

A.Hart: closed public hearing.

VII. Adjournment closed at 7:13pm

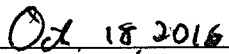
Deliberation session: 75 Orchard Terrace.

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.

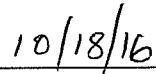
Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential.

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.


Austin D. Hart, Chair of Development Review Board


Date


A.Wade, Planning and Zoning Clerk


Date