

Burlington Development Review Board

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Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Wayne Senville
Jim Drummond, (Alternate)
Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, June 20, 2017, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT Minutes

Board Members Present: A. Hart, B. Rabinowitz, I. Smith, G. Hand, A. Zipparo, , R.Purvee (alt)
Members Absent: A.LaRosa , J. Drummond (alt)
Staff Present: M.O'Neil, R. Morrison, L. Darfler

I. Agenda

A. Hart: The following projects have submitted requests for deferral;

Agenda item #2 **17-1117CA/CU; 426 South Winooski Avenue (R1, Ward 6) Scott Mapes**
Demolish existing detached garage and replace with new detached garage with accessory dwelling unit. (Project Manager: Scott Gustin)

Agenda item, under public hearing, #2 **17-1103AP; 383 College Street (RH, Ward 8E) Astra Burlington LLC**
Appeal of a zoning violation #334211 for conversion of a multi-use 5 office and 12 residential unit structure to a 14 residential unit building with commercial use, exterior signs and site plan alterations. (Project Manager: Jeanne Francis)

Both projects will be differed until the July 5th, 2017 DRB Meeting.

II. Communications

1. Memo from Elisa Nelson regarding 79 Industrial Parkway
A.Hart: Board accepts communications submitted in the supplemental packet.

III. Minutes

A. Hart: June 6th, 2017 meeting minutes. Asks the board to submit any comments or changes to the next deliberative meeting

IV. Consent

1. **17-1085CA; 85-87 Pearl Street (D, Ward 3C) 77-87 Pearl Street LLC**
Change of use of existing building from diner to dog training facility.
(Project Manager: Ryan Morrison)

A.Hart: Asks applicant if they have reviewed staff comments or if they have any questions

A.Hart: Asks if any board members have objections to the project being on consent

None

A.Hart- Asks if any members of public are in attendance that wish to comment on the project.

Yes

A.Hart: opens the project to public hearing

A.Hart- business plan with specifics regarding events and hours with maximum number of dogs and people was included in application, this information seemed important. Asked the applicant if the board were to include those stipulations and hours in the conditions would that

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be of any problem.

M.O'Hara: indicated it would not be of concern or hindrance.

J. Bastille: Commenting in favor of the project, noted that due to the structure of the building that noise concern would be no issue. Business would be a good fit because of how insulated the business is and has informally spoken with neighboring residents who have indicated this business would be of no concern. More dog training in the City is a good thing.

A.Hart: There will be commercial on first floor and residential on top floors

M. O'Hara confirms

A.Hart: The DRB will deliberate on this project immediately following the public hearing, time permitted.

2. 17-1117CA/CU; 426 South Winooski Avenue (R1, Ward 6) Scott Mapes

Demolish existing detached garage and replace with new detached garage with accessory dwelling unit. (Project Manager: Scott Gustin)

A.Hart: No application present, project has been requested for deferral to July 5th meeting.

No objections from the board

Motion by B.Rabinowitz to differ project to July 5th meeting

A.Zipparo seconds the motion

Board Vote: 5-0-0

3. 17-1191CA/HO; 55-57 Howard Street (RL, 5S) Patrick J. McHenry

Home occupation for medical office/acupuncture office. Exterior construction; new doors, new window trim, expand porch, new lights. (Project Manager: Ryan Morrison)

A.Hart: Asks applicant if they have reviewed staff comments or if they have any questions

R.Morrison: Application has changed administratively from CA to HO proposal

A.Hart: Treating as public hearing rather than consent

P.McHenry: Property owner; has had extensive conversation with the tenant hoping to have an acupuncture office. Stated that there is an overwhelming amount of clients in the area. Indicated that many clients have followed this practice up to its current location on Main St and would expect them to follow to its new location on Howard Street.

A.Hart: Concern is parking; Parking requirements in the Home Occupation ordinance. The building is currently a duplex, if the Board approves will the building remain a duplex?

P.McHenry confirms; Home Occupations to be downstairs unit with tenant living there as well and second floor is residential.

A.Hart: There are four parking spaces on the site currently, the proposal is to figure out parking and provide parking space for the Home Occupation, and the proposed is to have the applicant serve as the parking lot attendant. Concern over the configuration of the parking, if there is more than one car parked there than someone can't get out.

P.McHenry: Acupuncture treatments appointments run 60 minutes long with 5-10 minutes before and after as prep work and turndown so there wouldn't be more than one person coming to the business at a time.

A.Hart: Would the first floor tenant have the keys to the cars belonging to the upstairs tenants?

P.McHenry: Stated he is the upstairs tenant and does not plan to own a car any time soon.

A.Hart: It may be in the future that an upstairs tenant with 1-2 cars moves in, how would that tenant have parking?

P.McHenry: If a new tenant moved in they would have written contract in the lease stating that keys to their vehicles be accessible to the first floor unit

B.Rabinowitz: is the downstairs unit accessed from the front door only and no side door?

P.McHenry: No there is a front, side and rear entrance to first floor, there is a separate entrance on the side to upstairs unit.

B.Rabinowitz: Plans do not show the upstairs entrance

P.McHenry: The plans show the first floor, where the Home Occupation is, but will submit second floor plans if requested.

B.Rabinowitz: Which doo do the clients enter from?

P.McHenry: Front door

B.Rabinowitz: Could they use the side door?

P.McHenry: In theory yes

G. Hand: Asked R. Morrison about stacked parking spaces

A.Hart: To R. Morrison-In recommendations regarding the parking it was stated that the City would only recognize two conforming parking spaces in driveway, however for the Home Occupation the situation is unique. Is this a unique situation in which theoretically 5 units would be required; how do we get from 5 required to 4 theoretically possible?

R.Morrison: If you have a valet to tend to all 4 spaces then it would be alright under current code you can't go over 2 stacked spaces. Potentially you could go over 2 spaces with full time parking attendant; the acupuncturist would act as valet and at least maintain the 2 required parking spaces.

P.McHenry: the operation that will exist will never have more than 2 patients, typically there will only be one at the location at a time.

A.Hart: that is a requirement that there only be 1 patient at a time.

B.Rabinowitz: There are two treatment rooms shown which implies 2 patients would be present at one time.

P.McHenry: There is room turnovers that has to be done which includes cleaning.

A.Hart: Asks if the acupuncturist is here and if they could answer some questions.

M.Burns: Acupuncturist occupying unit; each appointment ends 5-10 minutes early to check person out, move cars, and turnover the room.

G.Hand: Would there ever be a situation where there would be more than one patient at a time.

M.Burns: Only if someone arrived early

A.Magyar: neighboring reside; has no concern with the parking issue, there was no problem with the parking when it was 4 tenant resident based.

A.Hart: Closed the public hearing

4. 17-0914CA; 212 Elmwood Avenue (RM, Ward 2C) Champlain Housing Trust / Green Mountain Habitat for Humanity

Demolish existing single-family residence and replace with a new single-family residence. Request to change Condition #5:

Construction hours shall be limited to Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request to the Development Review Board. No work on Sunday.

To allow Saturday construction hours. (Project Manager Ryan Morrison.)

G.Hand Recused himself

Ahart- Acknowledged G.Hand's recusal.

A.Hart: any public comment or concerns, does the applicant have any questions upon reviewing staff findings or recommendations?

None

A.Hart: Any board objections

None

A.Hart: Is there any limit to what kind of construction is happening on Saturday?

D.Mullins: Not quite, but anticipating that 90% or more the Saturday work is individuals coming to help hammer or build as opposed to excavators and heavy equipment. Any need for heavy equipment should be done by end of the week. It is very rare that they have paid contractors on Saturdays.

A.Zipparo: Motion to grant Saturday construction and adopt staff recommendations and findings

Motion seconded by B.Rabinowitz

Board Vote: 4-0-0

V. Public Hearing

1. 17-1097CA/MA; 79 Industrial Parkway (ELM, Ward 5S) Zoo Holdings, LLC

Construct two building additions, 14,200 sf of building footprint, paving of an existing parking lot, construction of fire access road; and add removal of 2 storage trailers.

(Project Manager: Mary O'Neil)

A.Zipparo: Recusal from project

A.Hart: Acknowledges recusal. Asks applicant if they have reviewed staff comments or if they have any questions

B.Linghurst: Provided an overview of addition to existing buildings, the site will be accessed from existing curb cut; parking area is existing and will be re-paved as part of the project. Addition to parking as well as new fire access on north side of property.

B.Linghurst: Plan shown is revised, it is referenced by staff comments but not in the packets before the board

B.Linghurst: Addressing concerns brought up by neighbors; landscaping has been extended to north, the western landscaping is to replace low growth from existing tree line from a previous removal. Followed recommended landscaping to work well with wildlife corridor, tree line will be maintained.

G.Hand: How much of tree clearing had previously occurred?

B.Linghurst: specifies unsure

A.Hart: Noise and impact seems to be an issues, what is the distance between the back of the addition, the fence and the property line?

M.O'Neil: Tree maintenance plan application in 2016 provided revised landscaping plan

B.Linghurst: South end of west addition 60 feet from corner and 60 feet from property line

B.Rabinowitz: Nitrogen tanks is source of screening concern, what is generating the noise?

T. Castle: Sources of noise are liquid nitrogen delivery trucks backing up at limited hours and using pumps. Looking at sound noise study for better location for HVAC units on south side and appropriate sound mitigation.

B.Rabinowitz: Does the venting go straight up or directly through the wall?

B.Linghurst: Up; HVAC concerns were discussed between neighbors due to the Act 250 permit, particularly around the noise impact of the facility.

B.Rabinowitz: if the nitrogen tank screening is part of what you are trying to add it seems the screening stops before the need.

T.Castle: there is no screening there now, all being shown is proposed. The sound engineer started today, it is a 7 day test which was agreed to in the Act 250. Hired noise engineer to determine location of HVAC units.

A.Hart: Adding 28 parking spaces but no new employees, what is the need for the additional parking?

T.Castle: This project does not add any new employees, the applicants are craving nicer parking facility than what currently exist. Overlapping work shifts create hardship for employees trying to find available parking spaces. In general we see this as trying to work with the neighbors; trying to be a good neighbor, we have agreed to everything the neighbors have asked for understanding we are an industrial buildings in close proximity to residential neighbors. Primary reason for renovations is food safety; they make cookie dough the goes into ice cream. The additions will include a nice breakroom for employees. The company is spending \$5.5 Million to stay in Burlington.

B.Linghurst: To address staff comments on lighting levels; currently having electrical and lighting designer work on that and can resubmit if needed, but appears they can just swap out fixtures.

E.Nelson: Submitted a letter from neighbors to Act 250 Board regarding requests and agreement with Rhino. Stated that there is some history in the letter that the Board needs to be aware of; she has lived in her current home for 25 years has had issues with the addition of the 3rd shift and noise issues; stated home windows have to be shut and blocked all year long. Stated that it would be interesting to have a sound study done at certain times as the business is probably in excess of required limit. Placing industrial zoning next to waterfront industrial was poor planning long ago. How can we work through it so Rhino can thrive and also the neighborhood can thrive? There was once a 100 foot buffer but has since been reduced to 50 foot of trees last February. Concerned that noise sources will continue well over an 8 foot fence. HVAC noises are already on the roof. The 8 foot fence will help but only minimally. Requested for a sound engineer to give an appropriate and effective noise mitigation. Previous permit that requested screening was more visually helpful than sound buffering, has not remained due to maintenance. Requesting that a sign be put up on nitrogen station to tell truck drivers of delivery hour limits so they are aware, if after hours they need to talk to site management.

P.Smith: Wanted to reiterate that Rhino has worked with the neighbors for 20 years haven't felt pressured or turned away. Concerned with Rhino's ability to follow through with promises or plans. Concerned sound laws are not well written at all nor enforced well. Concerned with impact long term, stated there are reflective issues regarding current and proposed location of HVAC unit. Would like to see HVAC plan finalized and see report from sound engineer. Would like same requested filed with Act 250 reflected in Boards conditions of approval.

B.Rabinowitz: Are the neighbors concerned with Act 250 looking to get something in terms of reports from the applicant, it seems implied by the Act 250 letter.

E.Nelson: no but it would be nice to get the reports

F.Cioffi: Speaking in favor of applicant; Rhino is a phenomenal company, there are about 1,000 jobs in industrial park, has lead in employing members of the refugee resettlement program providing opportunities for new Americans to be introduced to our culture. The City of Burlington does well from property taxes. The zoning of the area was intentional to create 7 industrial parks to attract manufacturing. Manufacturing is changing with new technology and it is important to regional economy. The applicants have proposed several accommodations specifically to work with the neighboring residents.

C.Goodnight: They have proposed to do things which are great, but the noise is an issue. Willing to tolerate it as now, but does not want the noise to increase. All of the neighbors are in agreement.

A.Hart: Asks the applicant to come back to the stand to answer questions and address the opposing concerns.

T.Castle: the liquid nitrogen filling is a big issue and outside of 1 recent incident, there has rarely been a late delivery. The drivers are deterred to deliver at night and they are aware of the time limits. Signs are a great idea but are not always noticed; reassures the Board that drivers and dispatchers are aware of the time limits.

B.Linghurst: Regarding the Act 250 letter submitted to the DRB by residents, it is slightly different than that which was submitted to the Act 250 Board. Copies were passed out to Board

T.Castle: Applicants have obliged the four requested submitted by residents to the Act 250 Board. The four requests include limiting the use of back road to liquid nitrogen truck deliveries; to engage a sound engineer to provide a plan that recommends the location and specifications of sound barriers that will best minimize the noise of the new units and the existing boiler vent; install effective noise reduction equipment and landscaping.

T.Castle: Barriers that were recommended would not be higher than 8 foot.

A. Hart: Does the applicant want the Board to make its decision based off the current information or wait until a report from the sound engineer is provided, in which case we will leave the meeting open?

T.Castle: The sooner we can have a decision the better, this addition won't add any new noise but rather could lessen the current noise.

B.Linghurst: In the Act 250 report there was an agreement to put in the sound engineers recommendation, if the Board could put in the same conditions that is in the Act 250 context. Stated the language in the Act 250 report was much more specific than the letter from the neighboring residents.

A.Hart: Closed the public meeting.

A.Hart Deliberation for 79 Industrial and 55-57 Howard will be Tuesday June 27th at 5pm in Planning and Zoning.

2. 17-1103AP; 383 College Street (RH, Ward 8E) Astra Burlington LLC

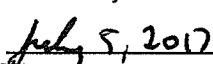
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VI. Other Business

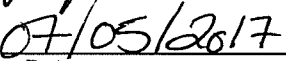
VII. Adjournment

The meeting was adjourned at 6:31 pm , Deliberative meeting followed immediately


Austin D. Hart Chairperson of Development Review Board


Date


L. Darner, 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.