



City of
Burlington, Vermont
149 Church Street

Miscellaneous Appeal - Enforcement – Code Report

ZP #: 18-0950AP

Tax ID: 058-3-025-000

Application Date: April 26, 2018

Property Address: 213 PROSPECT PARKWAY

TO: Development Review Board

FR: Jeanne Francis, Assistant Zoning Administrative Officer,
Code Compliance and Enforcement

DT: June 13, 2018

RE: Report on Appeal #18-0950AP; Appeal of an Administrative Officer's Zoning Notice of Violation (ZV # 345410) issued on March 15, 2018, for "Exterior storage in excess of an aggregate of 24 sf, located in the back yard of property, without zoning approval" for Premises Located at 213 Prospect Parkway, Burlington, Vermont

Note: This is the Administrative Officer's report; decisions are made by the Development Review Board, which may overturn or uphold the Zoning Administrator's Decision. **THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Location: 213 Prospect Parkway, Burlington, Vermont

Tax Lot # 058-03-025-000

Appellant: Melissa Holley

Applicable Regulations: CDO Articles 2, 3, 5, 8, 12 and VSA §4451

Appeal # 18-0950 AP

Appeal: *Sec. 12.2.2 Appeals of Administrative Officer Decisions*
Appeal filed at the Planning/Zoning office on April 4, 2018

Name and address of appellant:

Melissa C. Holley
213 Prospect Parkway
Burlington, VT 05401

Description of Property:

Owner-occupied single family home located in the RL zone.

Appellant's Appeal as Submitted

Notice is pursuant to Title 24 V.S.A. §4451, therefore Vermont Rules of Civil Procedure = Precedence et.al {with leave to amend} Pursuant to V.R.CP Rule 44.1; 79.1 et al: VRCP 44.1 Determination of Foreign Law

(a) Notice of State and Foreign Law

(b) Notice and Proof of Municipal Ordinances, and Regulation

Therefore [also] the following: Title [I] One [-Historical Document Titles 9 and 9a Uniform Commercial Code et al

[1] Now comes Melissa C. Holley, Widow of Major Robert g. Holley, MC From September 1969 to 31 August 1972, U.S. Army MD to 1974.

Notice under Penalty of perjury

Melissa C. Holley

213 Prospect Pkwy

Burlington, VT 05401

[2] I have no personal property photographed

[3] The stored tools, personal papers and wood products represent [Legal Lawful items] belonging to Steven Gordon King c/o 176 North Street, Burlington, VT, who is under Contract to [store] – ending October 1, 2018.

[4] I under affirmation declare that the offended parties next door [Steven and [or] Richard's Gene Richard as well as the Code Enforcement/remove the arbitrary, factious and capricious demands subject to Notice of Violation [NOV 3454010] at my 213 Prospect Parkway, Burlington, VT Lot Tax # 058-3-025-000

[5] I have no arbitrary choice to impair the above contracts.

Notice of Appeal Under Penalty of Perjury

Name: Melissa C. Holley

213 Prospect Parkway

Burlington, VT 05401

Background

On December 22, 2017 Code Enforcement Office Inspector, during a routine inspection of another property, observed Property's backyard had exceeded CDO Sec. 3.1.2 (c) 10), accumulation of exterior storage greater than 24 sf. A notification letter was mailed to Appellant on January 9, 2018 for "Excessive storage in the back yard of the property without Zoning Approval"; Appellant's representative, Steven Gordon King, responded to the notice and refuted the allegations, noting the storage was of personal use. On March 8, a follow-up inspection was conducted by an Enforcement Officer which concluded, exterior storage in the excess of an aggregate 24 sf dimension, continued at Property; Notice of Violation was mailed on March 15, 2018, to which Appellant appealed.

CDO Article 2. Enforcement

Sec. 2.7.5 Observation or Complaints of Violations

The observation of a violation on the part of the administrative officer shall be considered an investigation and the alleged violator may be issued a notice of zoning violation or a municipal civil complaint ticket.

CDO Article 3.1.2. Applications, Permits, and Project Review

10. *All structures of 24 square feet or less and no taller than 15 feet, as long as they are located in compliance with applicable setbacks. This exemption is limited to 1 such structure. This exemption does not apply to properties located within the Special Flood Hazard Area. Except for that development which is exempt from a permit requirement under Sec. 3.1.2(c) below, no development may be commenced within the city without a zoning permit issued by the administrative officer including but not limited to the following types of exterior and interior work:*

As shown in 3 Photos attached to this document, dated December 22, 2017, March 8, 2018, and June 13, 2018, exterior storage at this Property exceeds an accumulative dimension of 24 square feet and continues to be in violation of CDO.

CDO Article 12. Appeals, Conditional Uses, Variances

Appellant filed an appeal contesting NOV 345410 on April 4, 2018.

24 V.S.A. §4451. Enforcement, penalties

- (a) *Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months.*

Summary

Appellant admits there is exterior storage, in excess of 24 sf, at the property, but that Appellant has contracted with Steven King for the storage cited under ZV # 345410; Appellant does not have zoning approval to conduct a business in which to rent property out for exterior storage and, therefore, could be in violation for the use of the property in addition to the physical condition of the property. Appellant is responsible for her property, and prior to contracting with individuals to store items at their property she must first obtain zoning approval. In this instance, zoning approval for commercial storage could not be approved due to use limitations in the RL zone. As shown in 3 Photos attached to this document, dated December 22, 2017, March 8, 2018, and June 13, 2018, exterior storage at this Property exceeds an accumulative dimension of 24 square feet and continues to be in violation of CDO.

Conclusion:

The Code Enforcement Office, under the auspices of the Zoning Administrator, hereby requests the Development Review Board to uphold their decision that Property has violated CDO cited under NOV #345410. Further, we request the Board condition the following:

1. **Within 35 days from date of DRB decision**, Appellant shall reduce exterior storage to an aggregate of 24 sf or less. Appellant may also apply for a zoning permit to construct an outbuilding to provide enclosed storage space. Providing storage space for rent by offsite owners shall cease entirely. Upon completion of the reduction, Appellant shall contact Code Enforcement Office to verify compliance; or
2. **Within 35 days from date of DRB decision**, Appellant shall execute a Stipulation Agreement with the City that includes a reasonable timeline in which to bring Property into compliance with the CDO (administrative fees are required).