

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

*David White, FAICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Shaleigh Draper, Zoning Clerk*



TO: Development Review Board
FROM: Scott Gustin
DATE: August 21, 2018
RE: 18-1190CU; 233 Pearl Street

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RH Ward: 8E

Owner/Applicant: Aaron Goldberg/Liam Murphy

Request: Time extension request for continuance of nonconforming use.

Applicable Regulations:

Article 5 (Citywide General Regulations)

Background Information:

The subject property is located within the Residential – High Density zone and contains both general office space and residential space. The general office space is a pre-existing nonconformity. As such, the time it may be vacant is limited to 1 year unless an extension from the DRB is sought and granted. Otherwise, the nonconformity is lost, and only a conforming use may take its place. The applicant is seeking approval for a 1-year extension to fill the vacant general office space.

Previous zoning actions for this property are noted below:

- 10/17/16, Approval to install replacement parallel sign
- 12/26/00, Approval for 25% expansion of nonconforming general office use
- 1/8/97, Approval to install 2 parallel signs
- 12/18/96, Approval to convert 1st floor medical office to general office
- 7/26/93, Approval to replace tar paper roof with soldered copper

Recommendation: Consent approval as per, and subject to, the following findings.

I. Findings

Article 5: Citywide General Standards

Sec. 5.3.4, Nonconforming Uses

(a) Changes and Modifications

Not applicable.

(b) Discontinuance

This criterion limits discontinuance of a nonconforming use to 1 year (or 2 years in the E-LM zone). This limitation may be extended by the DRB following a public hearing and a demonstration by the applicant that a continuous good-faith effort has been undertaken to reestablish the nonconforming use. In this case, the applicants are seeking a 1-year extension to fill the vacant general office space. The space became vacant August 1, 2017 and has been marketed ever since, first by a realtor and more recently by the owners. The space has not yet been filled.

The applicant applied for an extension June 19, 2018, well before the August 1 deadline. Insofar as the applicant made a timely application for extension and has consistently marketed the general office space for new tenancy, the requested 1-year extension may be granted. **(Affirmative finding)**

II. Conditions of Approval

1. The pre-existing nonconforming general office use of the subject property is extended to August 1, 2019.
2. No changes to the use are included in this approval.