

Burlington Development Review Board
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Alexander J. LaRosa
Brad Rabinowitz
Israel Smith
Wayne Senville
Alexandra Zipparo,
Jim Drummond, (alternate)
Vacant (alternate)



Burlington Development Review Board
Findings of Fact
Deliberative Hearing Monday, July 25, 2016

Board Members Present: Austin Hart, Geoff Hand, Brad Rabinowitz, Alexander LaRosa, Israel Smith, Ali Zipparo, Wayne Senville.

Absent: Jim Drummond (alternate)

Staff members present: Scott Gustin, Mary O’Neil, Kimberlee Sturtevant.

File: ZP13-0650CA/MA

Location: 110 Riverside Avenue

Zone: Neighborhood Activity Center, Riverside Corridor (NAC-R) **Ward:** 1

Date application accepted: May 26, 2016

Applicant/ Owner: Sisters and Brothers Investment Group / Joe Handy

Request: 2nd request for a one-year time extension for ZP13-0650CA/MA: Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing. Approved with amended conditions, July 2, 2013.



Evidence Presented:

The Board examined the materials submitted in support of this request.

I. Findings

Background:

- Application filed for Act 250 June 30, 2015. Per **Section 3.2.9 (f), Exception to Permit Time Limits:** *Except for projects subject to additional state or federal permitting jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Section 3.2.9 (d) and (e) unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.*

For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority.

The application for Act 250 review tolled the approval date.

- **ZP13-0650CA.MA**; One Year Time Extension approved by DRB June 3, 2014.
- **ZP13-0650CA.MA**; Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing. Approved with amended conditions, July 2, 2013.
- **.ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN**; 4' x 6' parallel sign for M & H Auto. Approved August 2004.
- **Zoning Permit 04-314**; Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. Approved January 2004.
- **Zoning Permit 01-318 / COA 097-029**; Installation of a new nonilluminatd parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362**; Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.
- **Zoning Permit 99-419 / COA 097-029B**; Installation of a nonilluminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C**; Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029**; replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B**; Change of use from retail (see COA 97-029) to used car sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A**; Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.
- **Zoning Permit 97-274 / 097-029**; Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031**; one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199**; Convert building to auto body shop; minor exterior work. Approved January 1988.
- **Zoning Permit 87-746 / COA 87-199A**; install one sign. Approved April 1988.
- **Zoning Permit 85-491**; construct a chain fence 4' to run along the west boundary of the property. Approved October 1985.

- **Zoning Permit 84-446 / COA 84-118**; Remove front wall of plate glass and replace with 2 x 6 frame, insulate and finish exterior with vinyl siding. Install thermopane picture window. Approved September 1984.
- **Zoning Permit 84-328 / COA 84-088**; construct 30 x 30' one story building to be used as a repair shop to replace a building of the same size and use that was destroyed by fire 4 months previous. Approved July 1984.
- **Zoning Permit 82-546**; parallel sign for "First Quality Carpets." Approved December 1982.
- **Zoning Permit 82-525**; To establish a floor covering and home decoration store. Prior use was a furniture store. Approved December 1982.
- **Zoning Permit 82-344 / COA 82-75**; Change pitch of roof. July 1982.
- **Zoning Permit 82-337 / COA 82-73**; establish use as a building supply and material retail outlet – dealing in hot tubs and plumbing fixtures for residential installation. 1000 sq ft devoted to retail use. Approved July 1982.
- **Zoning Permit 81-292**; Change of use from automobile retail business into a furniture retail business. No structural alterations. Approved December 1980.
- **Zoning Permit 78-162**; Used car sales, service and repair. Build partitions and 3 phase electric power in order to create car painting stalls in existing large garage. No additional coverage. Paint shop presently exists in the small garage at 110 Riverside. Issued October 1978.
- **Zoning Permit 75-891?** ; Erect a pylon sign flat against the building. May 1975.
- **Zoning Permit**, erect a 30' x 60' addition on the north side of the existing garage and remodel the front of the showroom. Issued August 1971.

Overview: The applicant received approval in 2013 from the DRB to raze all buildings on this corner site and develop a multi-story residential building (original request at Sketch Plan Review was for 64-66 units; now set at 57) with 61 parking spaces, 49 of those provided under the building and 12 more on a small surface lot. 25% of the units (14) are intended to be low to moderate income Senior Housing to qualify for the additional height bonus. The applicant asserted in 2014 that with time requirements waiting for State permits (Waste Water, Act 250), the project was not likely to meet the commencement/completion dates provided for within the approval. They applied for and received a one-year time extension from the DRB in 2014. In 2015, the applicant demonstrated that they were still under state jurisdictional review (Act 250) and, therefore, their approval date could be tolled to the date of that decision. Documentation provided, however, demonstrated that they did not apply for their project until late June 2015, nearly two years after receiving initial project approval from the DRB. This application again requests another one-year time extension to begin the project.

II. Minutes

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

III. Motion by Austin Hart:

I move that the Board approve the request for a 2nd time extension, and adopt the findings above and the conditions below.

IV. Conditions of Approval

1. The applicant shall demonstrate persistence and timeliness in identifying and securing all required state and federal permits for construction of this project. The project must commence upon securement of said permits, and to the approved plans of July 2, 2013.
2. All conditions of ZP13-0650CA/MA not herein altered shall remain in effect.
3. No other time extensions shall be considered by the DRB.
4. Standard Permit Conditions 1-15.

Second: Wayne Senville

Vote: 6-0

Vote: motion carried

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:

(a) Notice of Appeal: The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.)