

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
Fax (802) 863-0466

Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, January 5th, 2020, 5:00 PM REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/82200877340?pwd=WWdaYnBhOXBOSUQzVGtZRXo5R1ZFUT09>

Webinar ID: 822 0087 7340

Password: 842557

Telephone: +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799 or
+1 669 900 6833 or +1 253 215 8782

Meeting link: <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-349>

Draft Minutes

Board Members Present: Brad Rabinowitz, AJ LaRosa, Springer Harris, Brooks McArthur, Kienan Christianson, Caitlin Halpert, Geoff Hand (only present for 21-0499SP item)

Board Members Not Present: Sean McKenzie (Alt), Ravi Venkataraman (Alt)

Staff Members: Scott Gustin, Mary O'Neil, Ryan Morrison, Alison Davis

I. Agenda

B. Rabinowitz: No changes to the agenda.

II. Communications

B. Rabinowitz: All communications posted under meeting packet online.

S. Gustin: Some revised sketch plan materials posted for the 2-14 King Street item

III. Minutes

B. Rabinowitz: Minutes from December 15th posted online.

IV. Consent

1. 19-0202CA/MA; 44 Lakeside Avenue (ELM, Ward 5S) Lakeside Ovens LLC

Time extension request for renovating buildings for assembly, office, and seasonal recreational use. Rework parking and circulation. Merge north and south lots into one. (Project Manager: Mary O'Neil)

John Caulo appeared on behalf of item

No public appeared for testimony

B. Rabinowitz: Asks applicant if they agree with the Conditions of Approval and staff recommendations

J. Caulo: Yes, agree. Extension due to impact of covid.

B. Rabinowitz: Asks if there is anyone from the public to comment on item

No public

S. Harris: Motion to grant one-year time extension and adopt staff findings.

B. McArthur: Seconds motion

6-0-0

2. 20-0037CA/MA; 266 College Street (FD5, Ward 8E) Hotel Y Burlington LLC

Time extension request for building renovations and addition for hotel, below grade parking structure, and rooftop bar and restaurant. (Project Manager: Mary O'Neil)

John Caulo appeared on behalf of item

No public appeared for testimony

B. Rabinowitz: Asks applicant if they agree with the Conditions of Approval and staff recommendations

J. Caulo: Yes, agrees. Asks to clarify that this is a one-year extension and that brings that date to August 2023.

M. O'Neil: Yes, correct. This time extension differs from the 44 Lakeside Ave item time extension because the Lakeside Ave project is nearly complete and the time extension was needed just to complete the project. This is a time extension to allow you the one year to commence construction. It will bring you out to August 2023.

B. Rabinowitz: Asks if there are any members on the Board who object to treating item as consent.

No objections

B. Rabinowitz: Asks if there is anyone from the public to comment on item

No public

S. Harris: Motion to grant approval for time extension and adopt staff findings and conditions.

C. Halpert: Seconds motion

6-0-0

3. 21-0520CA/CU; 31 North Prospect Street (RL, Ward 1E) Kesha Ram

Change of use to duplex; removing boarding house. (Project Manager: Ryan Morrison)

Kesha Ram appeared on behalf of item

No public appeared for comment

B. Rabinowitz: Asks applicant if they agree with the Conditions of Approval and staff recommendations

K. Ram: Yes, agree.

B. Rabinowitz: Asks if any members of Board object to item being treated as consent

No objections

Asks if there is anyone from the public to comment on item

No public

K. Christianson: Motion to approve application and adopt staff findings.

C. Halpert: Seconds motion

6-0-0

4. 21-0491CU; 194 South Champlain Street (RH, Ward 5S) Cheri Campbell

Requesting a short-term rental (bed and breakfast). (Project Manager: Ryan Morrison)

Cheri Campbell appeared on behalf of item

No public appeared for comment

B. Rabinowitz: Asks applicant if they agree with the Conditions of Approval and staff recommendations

C. Campbell: Yes, agree.

B. Rabinowitz: Asks if any members of Board object to item being treated as consent

No objections

Asks if there is anyone from the public to comment on item

No public

C. Halpert: Motion to adopt staff recommendations and approve the application for the short-term rental.

K. Christianson: Seconds motion

6-0-0

V. Public Hearing

1. 21-0536CA/CU; 14 Strong Street (RM, Ward 3C) Erica Giannone and Missa Aloisi

Addition over single story portion of home; replace windows and install door. (Project Manager: Mary O'Neil)

Missa Aloisi appeared on behalf of item

Alan Bjerke provided public comment

B. Rabinowitz: Asks about relevance of property line and the issues that were raised for tree removal.

M. Aloisi: Explains that there is a proposed project to create an addition over the first level of home to create another bedroom. Discovered that deed states that western property line is 22 ft from eastern face of 8 Strong St and 75 ft along Strong St to Drew St. If those two dimensions were on the site plan, they would create conflict. Explains dispute of where property line actually exists. Designed project so that there is not encroachment on that disputed property line. No intention of removing any trees on property.

B. Rabinowitz: Asks if there are questions from Board

None

B. Rabinowitz: Invites neighbor to speak

A. Bjerke: Explains that plans were modified for the encroachment of property line, but other issue is that there is a door and flat membrane roof over the section and on the current existing plans, it is planning on being used as a deck. One of the current standard condition states that the door will need to be removed and made into a window. Would prefer that there is not a flat membrane roof there for someone to be able to put a deck on or to climb onto and be treated as a deck. Fine with the addition. Thinks that some trees are going to be cut back.

B. Rabinowitz: Asks if any Board members have questions for neighbor, Alan.

None

B. Rabinowitz: Asks the applicant opinion about Condition of deck not being treated as a deck.

M. Aloisi: Yes, agree. Plans will be revised to how the updates.

B. Rabinowitz: Closes public hearing

VI. Sketch Plan

1. 21-0499SP; 2-14 King Street (DW-PT, Ward 3C/5S) Lake Champlain Transportation Company

Sketch Plan Review of demo warehouse and construct 6,500 sf restaurant with site alterations. (Project Manager: Scott Gustin)

Steve Roy, Jay Buermann, and Russell Fox appeared on behalf of sketch plan

Sharon Bushor provided public comment

B. Rabinowitz: Asks for Staff to give an overview for relevant point of view from the CDO.

S. Gustin: The only item in need of additional attention would be the 50-ft setback from the water's edge. This is on Public Trust land, so the City's zoning code requires 50-foot wide from the water's edge, clear public passage. In the sketch plan, there is patio area, planters, and some building within the setback. There is allowed provision for encroachment, like seating areas, planters, and landscaping, but there is a balance to what is permissible to continue to allow for open and consistent public access. The restaurant is fine, it is in the flood zone, but they are proposing to elevate it to 104 ft above sea level. There is no parking requirement. They do have a fair bit of parking. Question raised to whether it exceeds parking maximum limitation. Even though the minimum parking requirement is gone, the maximum is retained.

S. Roy: Biggest challenge has been the pedestrian access requirements along the lake itself. Trying to present is what we feel is the best balance that can be achieved by Lake Champlain Transportation. Four key items that we want to convey. 1. This is a Maritime Transportation Security Act location. It is a transportation ferry system. Do not know the specific details, they are confidential, but they have requirements that are federally mandated that require certain conditions to be achieved. They are working to maintain that security among some defined level. 2. On south side of proposed project is the only deep water access area. If there is a problem with any of the ferries, that area needs to be accessed to the transportation company to be able to work on the ferries. 3. Marina needs support and access along west side. This revised version has the southern access extending all the way to the west. It allows access to pull any marina docks in and out of the water. 4. For use of restaurant, there are liquor control requirements, and the ability to define certain areas and have those blocked those off from all public access. Trying to work with a combination of all those items. The buildings shown in red are the ones to be removed. The one green hatched is where the new one will be.

B. Rabinowitz: Asks about location of ferry and ferry access.

S. Roy: There are a few different access ramps. The existing location remains as well as the lake access. There are a few different connection points that will remain. There is a new access ramp that will remain in the same place but will probably not be used to a great extent. There is a barge slip that happens on the north portion. That remains used as an access point for loading the barges. Remains as required access. Walks through more of the plans. Explains parking spaces and handicap parking spaces. Building's main entrance will be south side where there is sidewalk leading from parking. There is bike rack area and then covered entrance into building. Largest building sign will be located. Provides greatest visibility from the vehicular access point. There will be a significant amount of seating on patios facing the lake. Explains tree locations and overall site plan. Asks for questions.

C. Halpert: Asks about labeling on plan. Asks about justification of building being placed within pedestrian easement and 50-foot setback.

S. Roy: We have existing building that already encroaches that setback so we are placing the restaurant within that footprint; the zoning code allows us to do that.

G. Hand: Asks to clarify statement. Looks like new building goes beyond the existing footprint.

S. Roy: Explains the location of existing building and proposed new building. To the north, new restaurant comes within one foot or so of the existing footprint that is there today.

G. Hand: Clarifies that the building stays within the existing footprint only to the north.

S. Roy: Yes and the only thing within the 50-ft setback to the west are the planters, low walls and patio space

B. Rabinowitz: Asks about raising grade within the 50-foot area. Asks if that is allowed.

S. Gustin: Provision for encroachment that includes things like planters, landscaping, hardscaping, but it cannot prohibit free and open public access. You can walk across the patio, but the way the walls are designed, it seems cut off from public access. It is seating for the restaurant.

B. Rabinowitz: Asks if the public can walk along the proposed lawn

S. Harris: Not sure if public can even do that based on the landscaping. You would have to go through not the building itself, but through some type of outside viewing situation and enter through the property. Having the public walk through tables, you feel like you are in a restaurant, not like you have access to that land.

S. Roy: Correct. The intent is that the lawn and observation area to the north side would be unfettered public access, but for the south side we would want to discourage access due to ferry operation issues. The proposed lawn and patio space is public access but by way of restaurant.

S. Harris: Asks for details about the access through restaurant and a way to manage customers vs non customers in that area.

S. Roy: To get back to the patio, you enter the restaurant area.

C. Halpert: Asks if it would not be accessible outside business hours.

S. Roy: Yes, outside of business hours it becomes more of a marina security concern for Lake Champlain Transportation.

G. Hand: Explains that they are going to need more information on the justification for why it is okay to put a restaurant that makes money, within the 50-foot easement right-of-way with no restrictions related to security related to that use, but exclude members of the public to that area.

C. Halpert: Existing lawn turning into a member's only area that is directly in front of the deep-water access.

AJ LaRosa: Has concerns as well. It is a public patio. We want to see utilization of underused spaces; this can be popular and add to the waterfront experience, but do not think you can take this public trust doctrine lightly.

G. Hand: Comments on public access. Asks about rerouting of bike path but no provision for access from bike path to this facility.

J. Buermann: The railroad and bike path are ongoing discussion between the transportation company and the City. Trying to plan to some extent for whatever develops, but we are not able to offer anything while those negotiations are ongoing. Our primary connection that we are aiming to offer is the opening up to the north via Echo, what is shown on the plans.

G. Hand: Asks about large restaurant to the south of this property, probably will be traffic between that facility and this one. Asks about pedestrian access back down towards ferry docks or across to existing restaurants in this area.

J. Buermann: Would like to discourage that connection because we have ferry operations in between

B. Rabinowitz: Need a plan that includes surrounding areas for context.

C. Halpert: For the parking being over the maximum, putting this building and patio into the setback makes it feel like it is purposely designed so that you can add additional parking for the entire property. There is space on this property to put a building and patio of this size not in the setback.

S. Gustin: Clarifies that this use would classify as a restaurant and the parking is based on square footage, so the upper limit on surface parking is 20. There are a lot more than 20

spaces on the plan, but not sure what spaces are for the restaurant vs ferry operation. Would like to request more details for that point.

J. Buermann: Understands. Trying to balance the need for parking at the waterfront area even though the restaurant will not take up that much room. The other ongoing operations on this property require a lot of parking.

B. Rabinowitz: Should supply a plan clarifying the allocation of parking spaces.

S. Harris: Asks about how private events would be handled. Can think of a number of private events that may want to purchase that area. Asks how that factors in with public access. Asks about the 3D renderings and how they represent the area around the building and how it differs the surrounding area that currently exists. Does not paint the same picture, unrealistic looking south and north, would like a better representation.

B. Rabinowitz: Asks if it is a one level building.

S. Roy: Yes, but is an 800 sq ft mezzanine for storage.

S. Harris: Asks about trash receptacle locations.

S. Roy: That was part of the Staff notes. We have had conversations about trying to locate a combined trash location for both restaurant and LCT's buildings. Can be defined better in the next round.

B. Rabinowitz: Asks about the setback line in floorplan.

S. Roy: Yes, blue line.

G. Hand: Asks if the marina docks to the west and south are existing.

S. Roy: Yes, they were there this summer.

G. Hand: Adds to my concern about the security justification. You show marina docks in an area you suggested you need to maintain access for deep-water work to the south.

S. Roy: Yes, they have concerns and ongoing issues with the public accessing marina, jumping the wall, getting onto people's boats. Having the restaurant on the western side, that allows more off hours to have no public there or mischief to happen at night.

B. Rabinowitz: Asks to clarify that having the restricted public access provides more security for the docks.

R. Fox: Explains the security plans and the required security plans through the government. The facility security plan is in plan throughout the entire year.

B. Rabinowitz: Explains that through the next round of review, would be helpful to understand if there is anything that they are doing that is restricting public access because of those issues.

C. Halpert: Important to understand the difference of the security concerns for where it falls under the ferryboats and deep-water access vs security for the marina and money making operation of that. Some limitations to public access might make sense for one but not the other.

S. Harris: Would like to know the difference of securing private vessels vs the security needs of boats on the City docks, King St and Echo.

G. Hand: Would love to see this area developed, but would need to see resolutions to the concerns.

S. Roy: Asks if the Board sees any limit to the width of the setback allowed for the 50 ft setback. If the public were allowed access, in the final ten feet towards the water, do you see any difference

G. Hand: Clarifies that there are provisions to encroachment of the 50 ft setback

S. Gustin: Explains the provisions

S. Roy: Asks if the pedestrians are able to flow within the 50 feet, if it has to be the entire 50 feet. If there is a way to provide adequate security on that side, asks if that would sufficient.

G. Hand: Explains what the Board would be looking for or what the options are for answering that question that was raised.

B. Rabinowitz: Explains need for circulation around building.

S. Harris: Would like to know more about the approval for Spot on the Dock property. Lots of similarities between two projects.

B. Rabinowitz: Invites public to speak

S. Bushor: Speaks on history of 50-foot buffer and importance of the 50-foot public access buffer.

B. Rabinowitz: Closes public hearing.

VII. Adjournment

Meeting adjourned at 6:16pm

Bradford L. Rabinowitz, Chair of Development Review Board

Date

Alison Davis

1/9/2021

Alison Davis, Zoning Clerk

Date

Plans may be viewed upon request by contacting the Department of Permitting & Inspections 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 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/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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