

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, February 2, 2021, 5:00 PM REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/87060482251?pwd=T2VNVW10bS9SbVIYSjZHL2FQTktFZz09>

Webinar ID: 870 6048 2251

Password: 842557

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

Agenda

Meeting link: <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-351>

Board Members Present: Brad Rabinowitz, AJ LaRosa, Geoff Hand, Brooks McArthur, Caitlin Halpert, Springer Harris, Kienan Christianson

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

Staff Present: Scott Gustin, Mary O'Neil, Alison Davis, Ted Miles, Laura Wheelock (DPW), Nicole Losch (DPW)

I. Agenda

II. Communications

III. Minutes

IV. Public Hearing

1. **21-0579CA/CU; 180 North Street (NMU, Ward 3C) Samuel Gardner**

Demolish and rebuild garage. *Application withdrawn.*

S. Gustin: Application has been withdrawn. This item is on the agenda because it was listed on the Public Hearing Notice.

2. **21-0609VR; 110 Summit Street (RL, Ward 6S) Amy Mellencamp and Charlie Smith**

Setback variance request for project to remove existing garage and construct a new garage with accessory dwelling unit. (Project Manager: Scott Gustin)

Charlie Smith, Amy Mellencamp, and Missa Aloisi appeared on behalf of the application

B. Rabinowitz: Issue is the setback. There is a project that has a noncomplying setback now, and you are proposing to make it more noncompliant.

A. Mellencamp: Explains that application is to replace garage, which is deteriorating, and replacing it in the same location, nestled in the back left corner of property. Would like to place it there with a 20-foot setback from the back lot.

B. Rabinowitz: Asks to clarify if the garage will be replaced in the existing footprint.

A. Mellencamp: Explains that it is a slightly larger footprint, but is in same location/area. There are considerations, if we were to comply with the 45-ft setback, which would move the project to the back of our house. Worries that will take away daylight from all the windows and it would loom over house.

B. Rabinowitz: Asks to clarify with Staff if the Board has the authority to give waivers for setbacks. Can look at interpretations as to what increases or the amount of the non-conformity. If you are now 23 feet from the back property line, does not believe that Board will be able to give authority for the applicant to get any closer to the property line.

S. Gustin: Clarifies that that is the reason the applicant is requesting a variance. Correct, the Board cannot grant a waiver.

A. Mellencamp: There are a few considerations that we would like the Board to discuss. We share our driveway with our next-door neighbor. If we would have to change the location of access into the garage, that would affect the neighbors. Both of our neighbors currently have garages with ADUs above them. The garage/ADU structures are set at their rear property lines. If you are looking at the character of the neighborhood and the current way our neighborhood looks, what we are asking for is similar to rest of the neighborhood. Explains that having a backyard is preferable, and if we would have to reconstruct our garage, it would take away from our entire backyard.

B. Rabinowitz: Explains that there is the middle-ground of complying with the existing 23-foot setback.

C. Smith: Explains that there may be a misunderstanding between the conversation, what the plan shows and what the staff report discusses. Explains that what they are asking for is 20-feet vs 8-feet for the setback.

B. Rabinowitz: Asks to clarify plan.

S. Gustin: *Screen-shares site plan that was submitted for application.* Shows 8-feet for the setback.

A. LaRosa: Asks to clarify the provision of the CDO that addresses the two-story structure setback requirements that are an issue with this application. Does not recall the difference between the 5-foot accessory structure setback and then the two-story standard.

S. Gustin: Explains that the exception for accessory structures is 15-feet tall or less. The exception being 5-foot side and rear setbacks.

B. Rabinowitz: Asks applicant if there is a different plan that they were intending on submitting.

A. Mellencamp: Had talked about a plan whether it was 8-feet or 20-feet. The concern that came up was that we were told that it had to be 45-feet. We are definitely disputing the 45-foot setback.

C. Halpert: Explains that it is 45-feet unless the structure would be in the existing footprint.

B. Rabinowitz: The existing rear yard setback right now is 23-feet, but believes the Board has the ability to grant to extend the building at 23-foot setback so you are not increasing the amount of non-conformities.

S. Gustin: With the word "extend", I would say no. Explains that the existing structure can be replaced on the footprint, within that envelope, including height.

B. Rabinowitz: Asks if the setback is measured to a point, and what happens if we do not increase the closeness to the property line.

A. LaRosa: Explains that if it is a two-story structure, it would still be anywhere between 45-feet and 5-feet would be non-conforming, and expanding in that would be increasing the non-conformity.

S. Gustin: That is correct.

A. LaRosa: As a single-story structure or a structure under 15-feet tall, they could move it anywhere within that backspace.

S. Gustin: Correct. If the structure is 15-feet or less, it has a 5-foot setback.

M. Aloisi: Explains that they are trying to maximize the size of the ADU, so we are going for the 900 sq ft with the garage underneath, which is allowed by the State. In order to consolidate the footprints on the site, putting the ADU on top of the garage makes the most sense in terms of feasibility and integrity of preserving the open space in the yard. Issue at hand is that we are requesting a variance, but believes the City has done a lot of work over the past year updating ADU regulations in terms of parking and size. Believes that this setback issue is overlooked Ordinance issue for ADUs. Putting an ADU against the main living structure creates issues with the yard, access, sharing the yard. If we were not looking at setbacks alone, the best location would be setting it back in the rear of the property. We are asking for something that shares the character of the neighborhood. Provision in Ordinance is outdated.

C. Halpert: Asks about the character of neighborhood. The neighboring garages on neighboring properties in the plan that was submitted for this application look significantly smaller than the structure that is proposed for this application.

A. Mellencamp: Explains that in the plan that is displayed via screen-share, on the neighboring property in top right corner of plan, garage structure may not be drawn to scale.

M. Aloisi: Correct. In addition, the entire structure is not on the plan and the structure goes significantly to the north and is approximately the same size as the one they are proposing. The structures in the properties to the south are sizable as well.

B. Rabinowitz: Explains that there are five different specific criteria for the variance. One of them is the least non-complying solution to the Ordinance. Even though the other options are not favorable, it is not necessarily the least complying one.

C. Smith: Explains that if you were to take the structure that they are proposing, and move it so the back edge is 46-feet from the back lot, which is entrance to garage, they would be within 15-feet of the back of main house.

B. Rabinowitz: I believe there are other options that would be in compliance with the Ordinance.

A. Mellencamp: Explains an option could be extending current footprint of garage and stick with the 34-feet as it currently is, but would like to extend it out slightly in order to have a functional ADU above the garage.

B. Rabinowitz: Asks to confirm with Staff that if the dimensions/footprint changes of the structure, it cannot stay within the current setback.

S. Gustin: Correct. The existing structure is non-conforming on the north-side property line, so that footprint cannot be lengthened in any way. Possible that accessory structure could be widened to the South and possibly taller, but it has a 15-foot limit for the height to the mid-point of the rise.

B. Rabinowitz: Asks to clarify that the expansion to the South cannot be done as a two-story structure.

S. Gustin: Correct. Not in that footprint. Would have to be relocated. Once you are past 15-feet and making it bigger, you need to adjust the location.

A. Mellencamp: Asks what the 45-foot setback accomplishes for the City. Expresses that changing the location of the ADU would decrease usable yard space.

C. Smith: The ADU would have yard to use, but the main living structure would have almost no yard. Expresses that the Ordinance is restrictive for trying to propose ADUs. Asks if the Board would make revisions to the Ordinance to make it more possible to have a result in a case similar to this where you could have a sensible solution to the problem.

A. LaRosa: Understands that the State has enacted a law that alters what regulations ADUs can be subject to, but what that means and how that works through would be

something that the Planning Commission of the City will have to address, but that is currently not the issue at hand.

B. Rabinowitz: Asks if there is a different plan that the Board should have been looking at with not the 8-foot setback, but a 20-foot setback.

C. Smith: Confirms that it has been drawn both ways.

G. Hand: Not sure that the other plan would solve the problem. What this has been coming to is the Ordinance and the statutory variance language does not give many options for this scenario.

B. Rabinowitz: Thinks Board will have to look at this item as a variance request and see how they respond to it. *Closes public hearing*

3. 21-0593AP; 110 Riverside (NMU-R, Ward 1E) Sister & Brothers Investment Group and G4 Design Studios

Appeal of Notice of Violation 380795 "Numerous inoperable vehicles being stored about the property without Zoning Approval." (Project Manager: Ted Miles)

Ted Miles appeared on behalf of Notice of Violation

Applicant absent due to technical difficulties

A. LaRosa: Motion to move item to February 16th meeting

B. McArthur: Seconds motion

7-0-0

V. Certificate of Appropriateness

1. 21-0583CA; 52 Institute Road (RCO, Ward 4N) Black River Design / Burlington School Dept.

Expansion and renovation of Burlington High School and Technical Center. (Project Manager: Mary O'Neil)

Kienan Christianson recused from item

Marty Spaulding, John Hemmelgarn, Tom Peterson, Hannah Loope, Kate Stein appeared on behalf of item

Provided public comment

B. Rabinowitz: Explains that Board review is limited to certain criteria, general site plan and circulation. Asks applicant to give overview of project, asks to give details about environmental issues that arose.

M. Spaulding: Gives brief overview of renovation and project plans. Explains air quality testing and PCBs in air, choice was made to not occupy the building. This project was first presented on October 1st, 2020. Hoping to break ground as soon as this summer. Process of PCB removal is lengthy process. Explains testing of air quality for PCB and testing of building material.

B. Rabinowitz: Asks if the four rooms that are being demoed are happening before the summer timeline statement made earlier.

M. Spaulding: Prior to the summer start, but probably simultaneously when the work starts in the summer.

Pictures and plans displayed via screen-share

J. Hemmelgarn: Gives overview of project. Explains that increasing accessible infrastructure is a goal of project. Building was outdated and there is a lack of needed spaces for learning. Explains demolition of certain buildings, and what buildings and corridors are being created. Walks through building and site plan. Explains changes to parking lot and circulation pattern. Explains gravel wetlands and Stormwater

infrastructure. Describes exterior view changes to the building. Explains comments and considerations made by the Design Advisory Board, like putting in granite curbs instead of concrete curbs. Explains and walks through ramp of emergency access to the auxiliary gymnasium, and how the design has changed. Explains adjustments to lighting plans to meet requirements of Ordinance. Are aware that the City's Department of Public Works (DPW) submitted comments recently about project and they are prepared to address those comments.

B. Rabinowitz: Asks about parking waiver that is being requested. Asks about the DPW comment about the bike lanes and bike circulation for Institute Road.

M. Spaulding: We are not intending to increase staff or student capacity for this building, therefore, proposing to keep the same number of parking spaces that they currently have, actually proposing six spaces less than current numbers. Have capacity in student lot which is about $\frac{3}{4}$ full on a daily basis. Incorporating additional ADA parking, vehicle charging stations, and bike parking into design. We do not feel a need for additional parking, which is why we are requesting the waiver.

J. Hemmelgarn: Explains and walks through bike traffic patterns/routes and parking areas. There is a concern for people who are coming down the exit drive and going left towards North Avenue. DPW would like to encourage people to go along sidewalk and cut through by the bus loop and then down towards the school building. There was also a suggestion to widen the bike path near the entrance of Institute Road.

B. Rabinowitz: Asks if someone is coming from the South on North Ave, how they access the site.

L. Wheelock: That was one of the concerns with bike lanes being added on North Ave, there is more activity and there are more attractive places to be able to ride bicycles that are more protected. Thought is that some of the people who might be coming from the South, would cross at the signal and access that blue path shown on the plan, which is currently a sidewalk that is on BHS property, not City property. To have the right amount of capacity for the anticipated bike traffic coming from the South, and to avoid a conflict at the exit driveway, this path needs to be appropriately sized for the amount of use.

M. Spaulding: The district recognizes that concern and are willing to make that change. One way to accommodate that concern would be to possibly add additional asphalt access for bikes next to the concrete sidewalk, as opposed to widening the sidewalk.

L. Wheelock: Yes, could be a good option.

M. Spaulding: Would increase lot coverage, and we are already over our lot coverage, which has been approved by City Council.

J. Hemmelgarn: Big inconvenience is that this would increase the amount of impervious surface on the site and would require an amendment to the Stormwater permit application and potentially some redesign for that. It is a complicated Stormwater plan.

N. Losch: For anyone headed South on North Ave, the sidewalk that was shown that enters through the bus loop area, there is no access from the road onto that sidewalk, so for anyone who is biking on the road, their best way to access point would be to enter at the actual driveway. We would like to think about a wide enough ramp to be accessible.

J. Hemmelgarn: Thinking curb cut at discussed location from bike lane through bus loop would help safely guide people towards the entrance of the building.

L. Wheelock: That is something that DPW can work on with applicants. Just need to acknowledge that in the existing state, it does not have a good way to move between those modes of transportation.

J. Hemmelgarn: We do recognize that and are willing to find solution.

B. Rabinowitz: Seems like many of those things can be included and addressed in the Conditions of Approval.

J. Hemmelgarn: Yes, that would be good. We want these routes to be short, visible, and safe. Asks about concerns for bike lane at exit drive area.

L. Wheelock: We have reviewed it with you at the technical level with various City Staff, had many questions like turning radiuses for pick-up and drop-off for bus shuttles, as well as fire truck access. Asks for clarification about protection of bike lane.

H. Loope: We are proposing a 3-foot striped buffer and a 5-foot travel lane. The overall lane accommodation is 8-feet. Explains paths and routes for students leaving and entering building regarding bike rack locations.

N. Losch: Asks how wide the driveway is next to the bike lane. Has other questions about travel lanes and plans.

H. Loope: Addresses questions regarding travel and circulation patterns.

T. Peterson: Addresses phasing of project. When talking about phasing, talking about seasons, years, sequencing. Plan is to not occupy the building until property has obtained a Unified Certificate of Occupancy. Will be occupying part of A building which was previously approved.

B. Rabinowitz: Asks if there is an estimate for an end date for construction.

T. Peterson: We have applied and requested an extension for the permit to be a 5-year permit instead of the standard 3-year. Not planning to use all 5-years. Final completion would be into the 5th year by several weeks or a month or so. Completion within 3.5-4 years.

G. Hand: Asks about timeline and notes that were made from Planner on staff report.

M. O'Neil: Addresses question about note and additional request for time extension. Addresses language used for timeline.

G. Hand: Asks about auxiliary gym and chances of that not being built and plan with that.

L. Wheelock: Mentions DPW comments and if they are able to be included in Staff Report and deliberation.

J. Hemmelgarn: Explains bike-parking numbers.

G. Hands: Asks about bike parking numbers and usage level.

K. Stein: There is a lot less need for bike parking in the winter months than there is in the fall, spring and summer months.

B. Rabinowitz: Asks if there are any other questions from Board, applicants, Staff, or public. *Closes public hearing*

VI. Adjournment

Meeting adjourned at 6:15pm

	2/8/21
Bradford L. Rabinowitz, Chair of Development Review Board	Date
	2/7/2021
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.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.