

## Burlington Development Review Board

Department of Permitting & Inspections  
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Brooks McArthur  
Kienan Christianson  
Caitlin Halpert  
Sean McKenzie, (Alternate)  
Ravi Venkataraman, (Alternate)



### BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, December 15, 2020, 5:00 PM REMOTE MEETING

**Zoom:** <https://us02web.zoom.us/j/82307995395?pwd=emVaSkxUY0gza2haQ09DQnRoWmV6QT09>

**Webinar ID:** 823 0799 5395

**Password:** 842557

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

Meeting link: <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-348>

#### Draft Minutes

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

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

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

#### I. Agenda

B. Rabinowitz: No changes to the agenda.

#### II. Communications

B. Rabinowitz: All material for items are posted under meeting packets [online](#).

#### III. Minutes

B. Rabinowitz: Last meeting minutes are posted [online](#).

#### IV. Consent

##### 1. **21-0462CA; 57 South Williams Street (RH, Ward 1E) Vermont Organization for Jewish Education- Chabad of Vermont**

Re-apply for previously approved 17-0455CA: two-level rear building addition, 5500 sq. ft. to west side of existing building. New worship sanctuary on upper level with supporting spaces on lower level; new off street parking, landscaping and erosion prevention. See ZP 17-0455CA. (Project Manager: Ryan Morrison)

Ed Wolfstein appeared on behalf of item

Public: Lynn Faust, Sharon Bushor

B. Rabinowitz: Invites public to comment

L. Faust: Concerns with the raised elevation of the parking area. When application was originally being reviewed, the abutting condo association's Board requested vegetation blockage of headlights of cars. Parking area was built and has been in use, and now they realize that the elevation of the parking area and the sharp slope, it will be difficult to

screen with only vegetation. Asking Board to consider guardrails or solid fence on abutting side of parking area to block light from cars.

B. Rabinowitz: Asks about parking lot already being built and in use.

L. Faust: Yes, has been built for some time now. Complaints from residents that headlights shine into bedrooms and other rooms. Will be a continuing nuisance for residents living in those neighboring buildings.

B. Rabinowitz: Asks if vegetation was put in when the parking was built

L. Faust: No vegetation was planted. The slope is about 45 degrees, very steep.

E. Wolfstein: Has no problem putting up solid fencing to mitigate car lights to the South. Can put up temporary fencing right away. Vegetation can be planted in the Spring. Covid slowed down construction during the summer, little construction was done. Will gladly install fencing on South side. Fencing on West side would not do much, but we would not mind putting up fencing there. None of the cars face West when they park.

B. Rabinowitz: Asks if Board has any questions for the applicant

None

L. Faust: Concerned about units in the back of the lot. Shielding on a portion of the West boundary would help mitigate the lights that are turning around in that space. South part of west side of parking lot, along with South side of parking lot.

S. Harris: Asks what is the difference between 71 South Williams parking lot and this parking lot's lights.

L. Faust: Explains that before the 57 South Williams parking lot was built, it was at the same grade as their parking deck. It was graded to be very steep and now the headlights are at the height of their second floor windows. They have created this elevated parking.

E. Wolfstein: Explains the locations of the expanded parking spaces and the demand of parking spaces. Will not be a residential parking area where people are coming and going at all hours of the night.

S. Harris: Asks about potential fencing being placed up until fenced in dumpster location

L. Faust: Yes, worried about turnaround area and lights from cars turning around.

B. Rabinowitz: Invites Sharon Bushor to comment on item.

S. Bushor: Explains concerns with the height of the parking area pertaining to car headlights. Lights are disruptive. Supports neighbor's concerns and appreciates applicant willingness to install fencing to prevent lights shining into windows.

B. Rabinowitz: Closes public hearing.

**2. 21-0464CA; 24 Sunset Cliff Road (RL-W, Ward 4N) Jack and Kim Kane**

Remove residential structure, rebuild within same footprint plus 1035 sf footprint addition that includes screened porch. (Project Manager: Ryan Morrison)

Jack Kane, Lucy Thayer, and Jenn Desautels appeared on behalf of item

Public:

B. Rabinowitz: Explains that item is recommended for consent. Asks if they have reviewed and if they approve the staff report and recommended conditions.

L. Thayer: Yes, they approve.

J. Desautels: Have all reviewed and do not have a problem with it being on the consent agenda.

B. Rabinowitz: Asks if any Board members disagree to item being on consent agenda

No objections

S. Harris: Motion to approve application and adopt staff findings and recommendations

C. Halpert: Seconds motion

7-0-0

**3. 21-0377CU; 12-22 North Street (NMU, Ward 3C) AJ Rossman and Burlington School District**

Burlington Tech Center space for educational use. (Project Manager: Mary O'Neil)

Marty Spaulding and Jason Gingold appeared on behalf of item

Public:

M. O'Neil: Explains that application was going to be reviewed by Board previously and then was taken off the agenda because it was thought that they had a previous permit that granted the educational use. It was then caught by a staff member that the education use permit was relinquished. It is now in front of the Board to be reviewed.

B. Rabinowitz: Explains to applicant that item is recommended for consent. Asks if they have reviewed and if they approve the staff report and recommended conditions.

M. Spaulding: Yes, agree.

B. Rabinowitz: Confirms if there is public attending to speak on item

None

No objections from Board for item being on consent agenda and no questions for applicant

G. Hand: Motion to approve application and adopt staff findings and conditions

B. McArthur: Seconds motion

7-0-0

**V. Public Hearing**

**1. 21-0226HO; 132 North Champlain Street (RM, Ward 3C) Appellant: Israel Smith**

Appeal of administrative decision for a home occupation at 132 North Champlain Street. (Project Manager: Ryan Morrison)

Appellant: Israel Smith

Property owner: Larry Paap

Public:

R. Morrison: Explains application was submitted in response to a code violation investigation by City staff member, Ted Miles. There was a contractor storage yard operation on property, in response to enforcement, the applicant submitted home occupation. Complaints were surrounding people coming and going from the property to pick up and drop off supplies, was a nuisance for neighbor. Exterior storage in the yard that was associated with the business. Noted that there was also a zoning permit previously issued for the house on the property that some of the materials could have been for the house work. The home occupation permit was submitted, permit was issued and there were specific conditions to correct the violation. Appellant submitted appeal in timely fashion.

B. Rabinowitz: Asks if conditions were met.

R. Morrison: Working towards that. Photos were submitted today. Ted Miles would have more information about conditions of property.

I. Smith: Commercial operations have been increasing steadily over the past few years. Is essentially a contractor's storage yard and is busier during the summer months. Written appeal sums up the issues. A lot of traffic. Lots of vehicles that are parked and double parked. Have had driveway blocked, have blocked traffic. Have created a situation in the backyard that is a commercial situation and not a residential situation. Preparation of materials, construction debris. Initial excuses were that there was a zoning permit to reside the house, so that is where the activity stems from. Complaint was not immediately responded to by City. Was surprised that it was an administrative decision.

C. Halpert: Clarifies that it is not necessarily the materials stored on the property that is the issue, but the activity that is happening, which is hard to prove or disprove on paper or from a photo.

I. Smith: Yes, agrees with statement

B. Rabinowitz: Invites applicant to respond

L. Paap: House and property has been improved entirely. Explains traffic flow at property. Explains difficulty of managing parking from crew working on house.

B. Rabinowitz: Confirms that the materials and debris that was on property was related to the construction from the house.

L. Paap: The majority of it was.

B. Rabinowitz: Asks if he will be able to agree and comply with the specific conditions for this home occupation.

L. Paap: Yes, agrees with the conditions. Not much traffic for business at property. Sometimes brief interactions.

G. Hand: Explains that those interactions with employees at home do not abide by the permit conditions that are in the home occupation permit.

L. Paap: Not usually home. Rarely have interactions with employees at property.

S. Harris: Seems like in the photos provided by the appellant that it is pretty clear that there was business going on not related to the construction of the house.

L. Paap: Not sure what photos are being mentioned. Neighbor watches my property constantly.

S. Harris: In the appeal filed, there is documentation of people coming and going and people loading materials into trucks.

B. Rabinowitz: Invites Ted Miles to speak about item.

T. Miles: Explains history of violation and property. Complaint started back up about the contractor yard last April, there was a notice that was sent to Larry on May 6<sup>th</sup>. Met with Larry on site. Hard to associate what was for the house and what was for the contracting business. Larry did do a major cleanup of property.

B. Rabinowitz: Asks if the yard is cleaned up today

T. Miles: Yes, went by yesterday and took a photo. Is cleaned up tremendously. Ted was visiting property with Fire Marshall in October because there was a complaint filed with the Fire Marshall's office complaining about debris and fire hazards, contractors supplies on site. Met with Larry, went through site and found that complaint was unwarranted. Not in support of the idea that there was excess of contractors materials.

B. Rabinowitz: Asks if there is a pile of ladders on site.

T. Miles: No, as of yesterday there are two ladders on the site that look like are associated with the home.

S. Gustin: Points out there were photos that were taken today submitted by the owner that are online.

T. Miles: Have been in conversation with Larry about sheds that are in incorrect locations. There is a survey that is supposed to happen this year.

B. Rabinowitz: Asks appellant opinion of yard being cleaned up as of today.

I. Smith: There has been an effort to clean up the property, which is appreciated and helpful. Would like to believe that there will not be any other materials or equipment ran out of the property throughout the day like there has been. Applicant is painting a rosy picture of the traffic on property. Took a lot of complaining to have attention brought to this issue.

B. Rabinowitz: Clarifies that appellants goal is that the conditions of approval for a home occupation are acceptable to you and the issue is that he has not been in compliance with that. The issue for Larry is that he feels like they want to and intend to go by the conditions of approval for the home occupation.

L. Paap: Yes, agrees with statement.

S. Harris: Asks appellant and applicant their opinions if the Board was to consider a condition where there would be a timeline needed for this item to be reviewed again to see if the business is following the conditions of the permit.

L. Paap: Would not mind

I. Smith: Would support a condition like that

T. Miles: States that the appellant makes it seem like the City has not responded to complaints, but Larry could confirm how often he has been in contact with him and has visited the property.

B. Rabinowitz: Closes public hearing

**2. 21-0354AP; 75 Cherry Street (FD6, Ward 3C) BTC Mall Associates, LLC**

Appeal of Zoning Administrator Determination regarding relinquishing 17-0662CA/MA.  
(Project Manager: Scott Gustin)

Geoff Hand recused

B. Rabinowitz: There has been a request for deferral.

S. Gustin: Makes sense to push it to the 16<sup>th</sup> meeting to be with the other item.

K. Christianson: Motion to defer this item until DRB meeting on February 16<sup>th</sup>, 2021.

B. McArthur: Seconds motion

6-0-0

**VI. Adjournment**

Meeting adjourned at 6:00PM

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Bradford L. Rabinowitz, Chair of Development Review Board

Date

*Alison Davis*

12/19/2020

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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](http://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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