

## Burlington Development Review Board

Department of Permitting & Inspections  
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AJ LaRosa  
Caitlin Halpert  
Geoff Hand  
Sean McKenzie  
Brad Rabinowitz  
Leo Sprinzen  
Chase Taylor  
Marina Campbell, (Alternate)  
Evan Gould, (Alternate)



### BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, April 2, 2024, 5:00 PM

#### MINUTES

*Hybrid & In Person (at 645 Pine Street) Meeting*

**Board Members Present:** AJ LaRosa, Caitlin Halpert, Sean McKenzie, Brad Rabinowitz, Leo Sprinzen, Chase Taylor, Marina Campbell, and Evan Gould

**Board Members Absent:** Geoff Hand

**Staff Members Present:** Scott Gustin, Mary O'Neil, and Joseph Cava

**Staff Members Absent:** Garret King

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Public Hearing**

**1. ZP-24-23; 23 Catherine Street (RL, Ward 5) David Barron / Erica Houskeeper / Dixie O'Connor**

Conditional use to demolish existing garage to construct a new habitable building in the same footprint. (Project Manager, Mary O'Neil)

Erica Houskeeper, David Barron, owners, present, Dixie O'Connor: Sworn in.

AJ LaRosa: Can you tell us about this project?

Erica Houskeeper: Our goal is to rebuild as a habitable guest structure in the same footprint as the existing structure. No kitchenette is proposed.

David Barron: Our original intention was to preserve the existing structure, but the foundation was in poor condition.

AJ LaRosa: Are there any questions or comments from the board?

Leo Sprinzen: When did you move to this property?

Erica Houskeeper: In 2007.

Leo Sprinzen: Did you try rehabbing the existing structure?

Erica Houskeeper: Yes.

Dave Barron: This has been a year long process and the cinderblocks around the perimeter and plywood floor on the interior were crumbling and rotten.

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AJ LaRosa: It is a shame to lose a historic building, but we appreciate you for rebuilding in the existing character. Do you have anything to add Dixie O'Connor?

Dixie O'Connor: We did evaluate the prospect of rehabbing the structure, but the conditions of what is existing is too poor.

AJ LaRosa: Are there any questions or comments from the public? Hearing no additional questions or comments, would someone like to make a motion seeing as this was originally proposed for consent?

Brad Rabinowitz: Motioned to approve and adopt staff recommendations, Caitlin Halpert 2<sup>nd</sup>. Vote 7-0. Motion carried.

**2. ZP-24-58; 140 North Prospect Street (RL, Ward 1) Marian E. Price 2005 Rev. Trust / Marian E. Price / Patrick Weise**

Seeking a variance for north setback to add an ADA compliant WheelPad on lot with 3' X 4' connection to house. (Project Manager, Scott Gustin)

Marian Price, owner, present, Patrick Weise, Julie Lineberger, RJ Adler, and Thomas Cincotta: Sworn in.

AJ LaRosa: Brad Rabinowitz is recused on this. Scott Gustin, can you clarify this project?

Scott Gustin: It is for an ADA structure.

AJ LaRosa: We have to take in account reasonable accommodation for ADA standards. This is different from the variance standards. The clarification will be reasonable accommodation for the accessibility standards.

Marian Price: Ever since moving here, this home has been my family's home. I want to encourage the accommodation and quality of life that will afford my grandson his independence as far as it could go. It was recommended I look into the WheelPad as an alternative solution.

Patrick Weise: Putting this on the driveway side of the property would infringe on the shared driveway with the neighbors.

Evan Gould: Have you considered connecting the two properties since the neighboring property is owned by your son?

Marian Price: I do not want to infringe on the legal quality/rights of my children and grandchildren by doing that.

AJ LaRosa: Can you clarify the site plan in regard to plantings and structures impacted by this proposal?

Patrick Weise: There is existing vegetation and a fence.

Marian Price: We will likely be taking the fence down to accommodate the WheelPad.

Patrick Weise: This is the recommended location based on the space needed for the WheelPad.

AJ LaRosa: What is currently existing along that fence line?

Patrick Weise: Plantings and other vegetation.

Chase Taylor: Does the WheelPad require utility connections?

Patrick Weise: Yes.

AJ LaRosa: Will the WheelPad say on its wheels or does it have a foundation?

Patrick Weise: The WheelPad can be adjusted on jacks.

Sean McKenzie: Can you describe the distance between the proposed WheelPad and the existing fence?

Patrick Weise: Six inches.

Julie Lineberger: I am the company founder of the WheelPad and my husband is the architect. The WheelPad has been retrofitted to address tighter situations like the one's presented by this property.

Chase Taylor: Can you expand on the egress?

Julie Lineberger: There is a ramp on the exterior of the WheelPad.

Chase Taylor: So the access is along the side of the house, with the ramp leading to the front of the house?

Patrick Weise: Yes.

AJ LaRosa: Where will the door access be?

Patrick Weise: To the north.

RJ Adler: The entrance to the WheelPad will be facing North Prospect Street. There is a high privacy window looking into the WheelPad.

Sean McKenzie: So the WheelPad will displace two shrubs and a fence?

Marian Price: Yes, but I've never liked those shrubs, and one of three was previously removed.

AJ LaRosa: Part of the difficulty of our review is the ramp, which isn't represented in these plans where it crosses into the setback.

Scott Gustin: If you approve the variance, you approve breaking the rules to place this unit within the setback. The applicant then needs to apply for a permit to actually do the work. That application can include the ramp.

Caitlin Halpert: If this addition has wheels, what makes it a structure?

Scott Gustin: Where its proposed, it would be the parking space that sits within the setback. If it was to be placed in the driveway, there would be no impact on the setback.

AJ LaRosa: This structure would need to cross the shared driveway to place the WheelPad in the desired location.

Evan Gould: What is the time limitation for a variance?

Scott Gustin: The application timeframe is two years from the review and approval of a variance.

AJ LaRosa: We cannot have an open ended decision, we would need to tie up the details.

Thomas Cincotta: We have 18 placements of these structures in places like Boston and Cape Cod.

Chase Taylor: Regardless of the placement of the WheelPad, it would allow access into the home.

Leo Sprinzen: What would be the primary entrance?

RJ Adler: Through the primary WheelPad door.

Leo Sprinzen: What is the height?

RJ Adler: Roughly 13 feet.

Leo Sprinzen: So once the bushes are removed it will be have a clear sightline to the street?

Marian Price: Yes.

AJ LaRosa: What is the decking into the house?

Patrick Weise: It is Trex.

AJ LaRosa: Are there any additional questions or comments from the board?

Leo Sprinzen: Have you considered access from the backyard into the house?

Marian Price: Yes, but this would not be a very peaceful entrance. It would also restrict the use of the backyard.

RJ Adler: It would also be difficult to turn the WheelPad the 90 degrees to maneuver it into place, not to mention the loss of further mature plantings.

Patrick Weise: This will also block the back door as an existing point of egress.

Leo Sprinzen: How long to you foresee this being in place?

Marian Price: Roughly seven to eight years.

RJ Adler: This WheelPad model can be repurposed for future uses to assist others.

AJ LaRosa: Are there any additional questions or comments from the public? Hearing none, we will close the hearing on this item and deliberate later on.

**3. ZAP-24-1; 230 Main Street (FD5, Ward 8) Mid-Town Associates, Inc. / Ryan Nick**

Appeal of zoning violation notice regarding unpermitted parking lot use. (Project Manager, Scott Gustin)

Jeff Nick, owner, present, Ted Miles, and Kim Sturtevant: Sworn in.

AJ LaRosa: In the case of appeals, traditionally, the City will speak on the facts of the case, then we will open it to the appellant to speak.

Scott Gustin: The appeal before the board is in regard to a notice of violation from November 2023 for lack of compliance with the permit to demolish the Midtown Motel and the resultant unpermitted parking lot use. The demolition permit required conversion to greenspace, but it has remained gravel and pavement, and the permit has expired.

AJ LaRosa: There was an agreement that was supposed to be signed between the appellant and the City, but is still pending.

Scott Gustin: An agreement was not signed and this was deferred from a previous Development Review Board meeting a couple of months while an agreement could be signed. No agreement has yet been executed.

AJ LaRosa: What would be the impact of upholding the violation in terms of previous parking for COTS?

Scott Gustin: Parking was never approved and occurred while the permit was still valid. Use of the property by COTS was contemplated, but no agreement was ever signed by the parties involved.

AJ LaRosa: Can you expand?

Scott Gustin: The board approved a deferral of the initial appeal hearing back in February to allow time to come to an agreement. One has not yet been reached, so here we are.

Brad Rabinowitz: Was the violation due to this not being converted to greenspace as conditioned?

Scott Gustin: Correct.

Ted Miles: This property is in violation of not converting the property to greenspace as permitted under the conditions, and for unpermitted parking lot use.

AJ LaRosa: Is surface parking allowed in this district as a primary use?

Scott Gustin: No, it is not an allowed primary use in the form based code district.

Jeff Nick: Our goal was to redevelop the old Midtown Motel in 1996 when we acquired the property, but the facility closed in 2005 and we used it for parking. The roof failed in 2020 and we made the decision to demolish the old Midtown Motel rather than dump money into the property. The pavement that existed below the motel stayed in place to use as surface parking. City staff continually threatened us with fines. COTS approached me about using it as a staging area during this three year period. After COTS, DPW expressed interest in using the land for its Main Street project.

AJ LaRosa: Does DPW still want to use it?

Jeff Nick: Yes. We learned a lot of things about the use of this property. We had concerns about converting the property to greenspace knowing that the homeless population would establish an encampment.

AJ LaRosa: Is COTS parking there now?

Jeff Nick: No.

Sean McKenzie: Beyond the previous and existing staging, what is your goal for this property?

Jeff Nick: We are working with outside parties to redevelop this site. I am ashamed at the way we have been treated by City staff.

Brad Rabinowitz: Do you wish you had not said that you would convert it to greenspace? This was the agreed upon permit condition.

Jeff Nick: We would like an extension to continue in our negotiations with the City.

AJ LaRosa: Our review is limited to the scope of the violation. A two month extension was already granted.

Brad Rabinowitz: There is some leeway in addressing the window of resolving the violation.

Scott Gustin: There's nuance here that this property is located in a form based code district. Any project or plan must comply with the form code. The alternative is no development at all – a greenfield site.

Jeff Nick: Could I reapply for permitting considering the changes in use over the years? Parking has existed from 2005 onward. We have been good citizens throughout this process and I request a reapplication for the redevelopment of the Downtown Gateway block.

Caitlin Halpert: We are bound by the ordinance.

AJ LaRosa: I would not advise re-opening this.

Brad Rabinowitz: This is a violation of an expired permit.

Caitlin Halpert: Why do you not want to convert the property to greenspace?

Jeff Nick: It does not make sense to convert this area to greenspace with the various parking uses over the years.

Scott Gustin: This is really about the window of compliance to convert the area to greenspace as conditioned.

Jeff Nick: I guess I did not connect the dots for complying with the permit conditions.

AJ LaRosa: We have heard good arguments from both sides.

Evan Gould: This would not resolve the violation though if an agreement is signed.

Scott Gustin: The agreement would stipulate when the violation needs to be resolved.

AJ LaRosa: Are there any additional questions or comments from the board? Hearing none, are there any questions or comments from the public?

Kim Sturtevant: I want to touch on a couple of things for the board. The term here is the compliance needed to conform to the conditions of the permit. The permit is not being challenged under the statute of limitations.

Jeff Nick: Are you deciding on the extension?

AJ LaRosa: We are deciding on the notice of violation.

AJ LaRosa: Hearing no additional questions or comments, we will close the hearing on this item and deliberate later on.

## **V. Certificate of Appropriateness**

### **1. ZP-24-65; 140 Grove Street (RL, Ward 1) Bayberry, LLC / Nicholas Smith**

Proposed modifications from previously approved permits for site conditions, driveway alterations, removal of sidewalk/stair encumbrances, and site plan review for maintenance garage. (Project Manager, Scott Gustin)

Nicholas Smith, Patrick O'Brien, Ted Miles, and Sharon Bushor: Sworn in.

AJ LaRosa: We have seen this project previously and are familiar with it and its amendments. Can you tell us about the proposed changes under this recent amendment?

Nicholas Smith: The proposed changes are in response to zoning amendments including lot coverage, parking, and the construction of a maintenance garage as after-the-fact changes. Other changes include the removal of staircase encumbrances and crosswalks.

Patrick O'Brien: Some of this stuff like the maintenance garage was previously approved and other items are to clean up the site like parking.

Nicholas Smith: The overlook pavilion is a removed portion of the previous application because no one will offer liability coverage on this feature.

Patrick O'Brien: The thought was to turn the ramp from the old concrete plant into a landscaped feature, which was a good idea at the time, but there were issues with ownership from the City and insurance coverage.

AJ LaRosa: Can you expand on the site conditions?

Ted Miles: The previously proposed pavilion from what was there before was to grant additional height on the buildings that were constructed.

AJ LaRosa: So they should build it and not get insurance?

Ted Miles: From the bonuses they are receiving, the benefits far outweigh the costs.

Nicholas Smith: The maintenance garage has changed slightly with a refined design including parking and stockpiling locations.

AJ LaRosa: Are there any questions or comments from the board? Hearing none, are there any questions or comments from the public?

Sharon Bushor: I live in this Ward, but I wanted to verify the maximum allowable height measuring 35-50 feet. The residential units that are built from now on should be accommodating to the residents, but the noise in this area is evident. I wonder if sound will be taken into account with future proposals. Will there also be additional modifications to the entrance and exits? How were these changes calculated between vehicular and pedestrian traffic? I thought this would be a good housing opportunity for university and medical center employees, but feel it has missed this opportunity.

Nicholas Smith: The height was allowed up to 59 feet.

AJ LaRosa: Present conditions would allow up to 50 feet.

Nicholas Smith: The entry changes is to bring conformity with pedestrian traffic.

Patrick Smith: We never built the sidewalk.

AJ LaRosa: Are there any additional questions or comments from the board? Hearing no additional questions or comments, we will close the hearing on this item and deliberate.

## **VI. Adjournment**

Hearing closed at 7:15 PM.

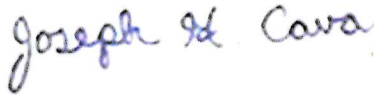


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Alexander J. LaRosa, Chair of Development Review Board

5/7/24

Date



4-16-24

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Joseph H. Cava, Permitting & Inspections Permit Technician

Date

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