

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401

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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, May 7, 2024, 5:00 PM

MINUTES

Hybrid & In Person (at 645 Pine Street) Meeting

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

Board Members Absent: Marina Campbell

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

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Consent**

1. **ZP-24-104; 163 Maple Street (RM, Ward 5) Taylor Post / Jacob Shapiro**

Proposed construction of an L-shaped retaining wall in backyard with minor rear yard grading.

(Project Manager, Garret King)

Jacob Shapiro, owner, present

AJ LaRosa: This item is recommended for consent approval. Does anyone on the board have an issue with treating this as consent? Hearing none, has the applicant had a chance to review the staff report?

Jacob Shapiro: Yes, I have.

AJ LaRosa: Do you have any questions or comments?

Jacob Shapiro: No, none.

AJ LaRosa: Are there any questions or comments from board members? Hearing none, are there any questions or comments from the public? Hearing none, would someone like to make a motion?

AJ LaRosa: Motioned to approve and adopt staff recommendations, Brad Rabinowitz 2nd. Vote 8-0. Motion carried.

V. **Public Hearing**

1. **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 (reopened public hearing). (Project Manager, Scott Gustin)

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Marian Price, owner, present, Patrick Weise, RJ Adler, Richard Price, Bob Duncan, Anne Chapple-Sokol, Scott Baldwin, and Carter Neubieser: Sworn in

Brad Rabinowitz: I am recused on this.

AJ LaRosa: Under the Americans with Disabilities Act (ADA) standards we are reopening the public hearing to gather a better understanding of this project including the site limitations it creates.

Geoff Hand: Two neighbors wrote to Sean McKenzie and I expressing support for this project.

Patrick Weise: The purpose of this project is to provide a safe means of accessing the existing residence without causing disruption to the existing property owner. We acknowledge other scenarios that would conform to the ordinance, but this would create costlier circumstances as well as disruptions to the existing property owner.

AJ LaRosa: Looking over the recently added attachments I see that floor plans have been submitted addressing the various layouts for the WheelPad's placement. Is there an issue that would prevent maneuvering the WheelPad into the backyard?

RJ Adler: To maneuver the WheelPad into the rear yard would require the removal of an existing fence and a mature plum tree.

Caitlin Halpert: Is it correct that the WheelPad would cross a portion of an abutting property owner's parcel?

Patrick Weise: Yes.

Evan Gould: Did you do a calculation for lot coverage in the other layouts/alternatives?

Scott Gustin: Ramps are an exemption to zoning's review for setbacks and lot coverage.

Chase Taylor: Will there be a concrete pad installed beneath the WheelPad?

Patrick Weise: No.

Geoff Hand: Can you elaborate on the monetary factors preventing placement in the rear yard?

Patrick Weise: In addition to the removal of an existing fence and mature vegetative plantings, there is also an existing deck and foundation that would create maneuverability issues.

AJ LaRosa: Does the board have any additional questions or comments?

Caitlin Halpert: Has a design for a ramp going to the front door been considered?

Patrick Weise: It would be similar to the ramps shown in the uploaded materials. The existing doorway openings cannot accommodate the use of a wheelchair.

Scott Gustin: A reminder that this decision is for the variance only, not the WheelPad which would be reviewed under a separate application.

Patrick Weise: Maintenance is also a factor of consideration for the WheelPad.

AJ LaRosa: Can you expand on maintenance?

RJ Adler: Snow removal from the ramp in the winter.

Richard Price: I am the owner of the house next door and I would sign off on an application for the proposed WheelPad installation.

Bob Duncan: It is important for this community to come up with a solution that works that will not cost the applicant team tens of thousands of dollars. The existing house and site is not wheelchair accessible and it would cause an extreme undertaking to make it so beyond what has been proposed. I encourage you to think hard on this as it relates to the ordinance and the exemptions that could be made.

Geoff Hand: The issue with the design is reasonable accommodation. Do you feel the applicant team has provided this in their proposal?

Bob Duncan: Yes, this is the most reasonable accommodation proposal that I have seen.

Anne Chapple-Sokol: I understand that this is complicated and the City is bound by its rules. I am interested in seeing this happen for the victim's dignity, privacy, and independence. Beyond the technical details, this is about the humanity to create a safe space.

Scott Baldwin: We are a great neighborhood and this grandmother's attempt to create a safe and welcoming environment bridges the need to conditionally allow this property to be adapted. This is an exception to the rules caused by a tragic circumstance to create a safer environment. I would hope there is an opportunity to waive the 30-day appeal period so this project can get up and running.

AJ LaRosa: Thank you.

Scott Gustin: There are some folks on Zoom.

Carter Neubieser: I appreciate the work that has gone into this project and I think it is the right thing to do.

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

2. ZAP-24-3; 32-34 Hickok Place (RM, Ward 3) Mary Vanburen Swasey / Francis Swasey / Lewis Creek Builders / Mel Hurlbut

Appeal of administrative denial, ZP-24-52, to replace existing slate roof with an asphalt shingle roof for the installation of solar panels. (Project Manager, Mary O'Neil)

Francis Swasey, owner, present, Chris Swasey, Lewis Creek Builders: Sworn in

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

Mary O'Neil: The denial was issued on March 22nd, March 27th the appeal was received and the fee paid. No appeal documents were received until after the conclusion of the 15-day administrative appeal period. The appellant is also not the property owner or a neighbor or any that would otherwise meet the qualifications of an interested party. The first question is if the submission was not complete, then is it a legal submission? The second question for the DRB is whether this board will find the appeal complete and timely.

AJ LaRosa: I would like to know whether a property owner consent form was submitted on behalf of the property owner.

Mary O'Neil: The property owner consent form was based on the original application, not the appeal. More information was requested by our Planning Technician, Joseph Cava.

AJ LaRosa: Who was notified of the denial?

Mary O'Neil: The property owner and the applicant.

Geoff Hand: Where can the applicant/appellant upload documents?

Mary O'Neil: Beneath the attachments section with the other appeal documents?

AJ LaRosa: What was the basis of the merits for the denial?

Mary O'Neil: You have in front of you, the reasons for denial.

Geoff Hand: How did the installation of non-compliant materials factor into the analysis?

Mary O'Neil: We regularly accept applications for replacement materials. When the material is identified in the historic listing narrative, the standards require replacement-in-kind, unless it can be demonstrated that the historic material has reached the end of its serviceable life. We rely then on a statement from one who is qualified to evaluate the material (in this case, slate) to assess its condition. The applicant provided their own slate assessment. The submission was in the form of an email from a private Gmail account, it was not on any letterhead, no references for earlier work history was provided, and the submission did not include the nomenclature that would suggest roofing experience. Staff requested a second opinion, which did not concur with the applicant's submission.

Brad Rabinowitz: The ordinance encourages the use of materials like solar panels, but why is this in conflict with the historical preservation portion of the ordinance?

Mary O'Neil: They are not mutually exclusive. The City issued *Burlington's Historic Buildings' Path to Net Zero* almost three years ago, and it offers guidance on how to address adoption of solar energy when working with a historic building. Although not a regulatory tool, it does offer preferred alternatives. The document was shared with the applicant team.

Caitlin Halpert: Did the original proposal include a solar installation?

Mary O'Neil: No, the pictures submitted in the original application were taken November 2, 2023; months before the application was submitted. When staff informed the applicant that we had engaged a slater to make a second opinion, the roof was immediately tarped. He had to make three trips to view the state of the roof, and even then it was only partially uncovered.

AJ LaRosa: So the appeal itself was timely, but the supporting information was not?

Mary O'Neil: Correct, I did receive multiple document uploads following the submission of the appeal after the close of the 15-day administrative appeal period.

AJ LaRosa: Do we consider the cost prohibitions for economic feasibility?

Mary O'Neil: No, economic factors are not included.

Geoff Hand: Under the regulations, solar is exempt from zoning's review?

Mary O'Neil: I am aware of the statute. We do not review solar installations. But the applicant did not include the solar array as part of the application; only that it is a future intent. We are required to review under the standards that are triggered in the ordinance.

AJ LaRosa: Hearing no additional feedback from city staff, we will hear from the property owners and appellant team. Does the property owner have an interest in Lewis Creek Builders?

Francis Swasey: No, my son works for Lewis Creek Builders.

AJ LaRosa: Does the appellant have an interest in the property?

Chris Swasey: No, this is my parent's property. We were notified of additional gaps in our application.

Brad Rabinowitz: What are the gaps?

Chris Swasey: The property owner consent form.

AJ LaRosa: How was the process for applying for the appeal?

Chris Swasey: I'm not sure, another colleague of Lewis Creek Builders applied for the appeal on my parent's behalf.

AJ LaRosa: Have you filed an appeal before?

Chris Swasey: No.

Brad Rabinowitz: What was the driving force for this application?

Chris Swasey: We attempted to repair this roof previously and our slater told us to invest in a replacement asphalt roof. We were told by the solar company that they could not consider a solar installation on a slate roof. At this time, we do not have an estimate to proceed with a solar installation.

Caitlin Halpert: Asphalt roofs do not have the same longevity as slate. Can you describe why this was the preferred roofing material choice?

Chris Swasey: This was at the request of the property owner's for aesthetics.

Geoff Hand: So the purpose was to replace the existing slate roof with an asphalt shingle roof to then install rooftop solar panels?

Francis Swasey: The purpose is to protect my wife's antique doll collection, so a new roof was more economical than heat pumps which the City is encouraging.

AJ LaRosa: Is there anyone else who wishes to speak on this?

Brad Rabinowitz: Have you explored other roof options like metal?

Francis Swasey: The solar company would not speak to us on this until we replaced the roof.

Chris Swasey: The roof is wrapped around the edges in metal which is starting to deteriorate.

Leo Sprinzen: Looking at the pictures, it looks like there is nothing between the sheathing boards.

Chris Swasey: We could replace the roof with slate, but this would be costlier than asphalt roofing shingles.

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

VI. Certificate of Appropriateness

1. ZP-24-60; 58 Charlotte Street (RM, Ward 5) Stephen Hard / Eric Belliveau

Proposed renovation with addition to rear of existing structure. (Project Manager, Garret King)
Stephen Hard, owner, present, Eric Belliveau and Johanne Larson: Sworn in

AJ LaRosa: Can you walk us through this project?

Eric Belliveau: This structure is currently a permitted triplex, and the idea is to construct a second story addition on the rear first floor addition. The units on the lower floor would remain relatively unchanged, while the second-floor addition would expand the existing use.

AJ LaRosa: We have a public comment expressing concern of shedding snow and ice from the second floor onto neighboring properties. Would you object to snow and ice shielding if it was a condition of approval?

Eric Belliveau: Yes, we could consider this.

Sean McKenzie: What is the roof material?

Eric Belliveau: It is currently asphalt.

Evan Gould: Can you speak on the existing layout?

Leo Sprinzen: Do you have the pitch of the current/proposed roofline?

Eric Belliveau: No, the pitch would remain unchanged as the proposal is just to increase the height by a story.

Johanne Larson: I live to the north of this property. My concern is the greater height will lead to additional snow and ice, but also a safety risk to individual standing in the driveway. Would you consider ice and snow shield to alleviate this risk?

Eric Belliveau: Yes, this could absolutely be a consideration.

Caitlin Halpert: So your driveway abuts the property in question?

Johanne Larson: Yes.

Eric Belliveau: I would reserve that an asphalt roof doesn't have the same shedding or ice dam issues that metal roofs have. We also do not want the melting snow to come back into the building causing significant water damage.

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

VII. Adjournment

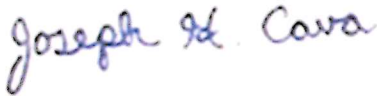
Hearing closed at 6:50 PM.



Alexander J. LaRosa, Chair of Development Review Board

6/4/24

Date



Joseph H. Cava

5-21-24

Joseph H. Cava, Permitting & Inspections Permit Technician

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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