Burlington Development Review Board
Department of Permitting & Inspections
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AJ LaRosa
Caitlin Halpert
Geoff Hand
Sean McKenzie
Brad Rabinowitz
Leo Sprinzen
Miles Waite
Marina Campbell, (Alternate)
Evan Gould, (Alternate)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, September 17, 2024, 5:00 PM
MINUTES

Hybrid & In Person (at 645 Pine Street) Meeting

Board Members Present: AJ LaRosa (5:05 PM), Caitlin Halpert, Geoff Hand, Sean McKenzie, Leo Sprinzen, Miles Waite, and Evan Gould

Board Members Absent: Brad Rabinowitz and 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-24-335; 149 Beaumont Avenue (I, Ward 8) University of Vermont / State Agricultural College / Lani Ravin**
Proposed amendment to ZP-19-590 for the fulfillment of Condition #1 in response to approved 2023-2028 JIPMP and TDM practices. (Project Manager, Scott Gustin)
Lani Ravin: Sworn in

Caitlin Halpert: This item has been marked as consent. 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?

Lani Ravin: Yes, I have.

Caitlin Halpert: Did you have any questions or comments regarding the staff report?

Lani Ravin: No, none.

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

Geoff Hand: Motioned to approve and adopt staff recommendations, Leo Sprinzen 2nd. Vote 6-0. Motion carried.

2. **ZP-24-285; 362 South Union Street (RM, Ward 6) Tshen Shue / William Fellows**
Planned Unit Development (PUD) to convert existing duplex into two single-family homes. (Project Manager, Mary O'Neil)
William Fellows: Sworn in

Miles Waite: I am recused on this.

Caitlin Halpert: This item has been marked as consent. 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?

William Fellows: Yes, I have.

Caitlin Halpert: Did you have any questions or comments regarding the staff report?

William Fellows: No, none.

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

Geoff Hand: Motioned to approve and adopt staff recommendations, Evan Gould 2nd. Vote 5-0. Motion carried.

V. Public Hearing

1. **ZP-24-316; 75 Cherry Street (FD6, Ward 3) CityPlace Partners, LLC / Jesse Robbins**
Proposed revisions to North Building including expansion of Level 10, addition of small Level 11, and addition of balconies. (Project Manager, Mary O'Neil)
Jesse Robbins: Sworn in

Geoff Hand: I disclose that I have represented previous owners of this development.

AJ LaRosa: I would like to omit a similar disclosure, but this should not be an issue. Can you tell us about this project?

Jesse Robbins: Everyone is familiar with the site. We had a Level 10, which was previously recessed into the building with a Level 11 above for mechanical equipment. The proposal is to make Level 10 flush with the exterior of the building and add balconies to the exterior façade.

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

Miles Waite: Is the North Building part of Phase 1A?

Jesse Robbins: Yes, the South Building is part of Phase 2A.

Evan Gould: I note discrepancies in the project plan, can you expand?

Jesse Robbins: I would need to know more.

Evan Gould: Level 5 south side, the square footages are different.

Jesse Robbins: The setback is different at Level 5.

AJ LaRosa: The zoning drawings are different based on the uses, hotel, residential apartment, service corridor, etc.

Jesse Robbins: I would say it is okay to approve the drawings as submitted, not as presented. The project plans will change to support the varied uses as the project progresses until the project is complete.

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

Geoff Hand: Can you expand on the changes in the building height?

Jesse Robbins: The fire marshal's office requested that we change the floor numbering. The original proposal was for a nine-story structure which has transformed into an eleven-story structure. The topmost story was previously reserved for mechanical equipment, but now contains penthouse apartments.

Geoff Hand: Can you expand on rooftop spaces?

Mary O'Neil: We have heard from the development team previously that rooftop space in uninsurable, which is why we do not see rooftop spaces as previously presented.

Evan Gould: I am confused about the relationship of the rooftop space with public restrooms.

Mary O'Neil: The ratio incorporates for every so many square feet there needs to be a public restroom available for use.

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

2. **ZAP-24-9; 52 Marble Avenue (RM, Ward 5) Suzanne Hebeler**
Appeal of administrative denial, ZP-24-158 to replace shed previously demolished under ZP-23-145.
Project Manager, Garret King)
Suzanne Hebeler, owner, present, Kim Sturtevant: Sworn in

AJ LaRosa: This is an appeal, so we will hear the facts of the case from city staff, then open it up to the appellant to speak. Can you tell us about this appeal and the basis of the application's denial?

Garret King: This was a follow up application to ZP-23-145 which outlined conditions as part of its approval. The new application was not complete after failing to comply with the conditions of the previous permit. This new application would create a shed would be nonconforming with respect to setback and lot coverage.

Caitlin Halpert: When was the fee due communicated and made available as an option to pay in the online platform?

Garret King: The fee was made available for payment on 5/13/24.

Scott Gustin: Part of what the board needs to deliberate on is the timeliness of this appeal.

Miles Waite: My understanding is that submission of the application is what defines timeliness and payment of the fee is an inappropriate classification of timeliness.

Geoff Hand: Between 4/25/24 and 5/13/24, was the appellant notified of what defines a complete application?

Garret King: Yes, multiple times.

AJ LaRosa: The fee structure is different from the old permitting process and the administrative mechanisms have changed.

Evan Gould: Did staff follow up on fee reminders?

Garret King: Yes, staff notified the appellant through OpenGov and by phone reminding them of the requirements including the site plan, site pictures, and application fee.

Caitlin Halpert: So, the application was denied as incomplete?

Garret King: Yes, under Article 3, staff have a responsibility to act on applications within a thirty-day timeframe. The application was originally denied as incomplete.

Sean McKenzie: So, the denial was reversed, but the application was still incomplete?

Garret King: Correct, but the application was complete at that time and started administrative review.

Scott Gustin: Article 5 contains language outlining the reconstruction following demolition to keep a non-conforming setback of a structure.

AJ LaRosa: Are there any additional questions or comments from the board? Hearing none, we will now hear from the appellant.

Suzanne Hebeler: I had previously spoken with Joseph Cava regarding the movement of documents from the building permit application over to the zoning permit application. I was informed that further information was needed in addition to what was already provided. I prefer to pay by check because it is easier for bookkeeping. If someone had said that my application was not complete, and said I needed to provide this by a date certain, then I could have complied. There was no due date associated with my bill, so I interpreted it as there was no date certain that my balance needed to be paid in full. The site is tight and would only allow the placement of a shed in the middle of the backyard under the existing regulations versus the rear corner where the previous garage existed as a grandfathered non-conformity.

Miles Waite: Was there a time when the application fee could be paid at the time of application submittal at City Hall?

Scott Gustin: Yes, but back in those days, applicants submitted near to complete applications.

Suzanne Hebeler: The messages from OpenGov are cumbersome and not very detailed.

AJ LaRosa: Why did you wait until April to file a new application?

Suzanne Hebeler: Scott Gustin has been very helpful throughout this process, but it was my understanding that the zoning rules were changing, and I wanted to wait and see what could be done in response to the new rules and regulations. I did not want to lose the ability to construct an Accessory Dwelling Unit (ADU) if the rules would allow it.

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

Evan Gould: What was the average calculation of the two adjacent properties?

Scott Gustin: I recall speaking with the appellant on this, but it would not be in the appellant's favor to use this calculation for the side setback.

Suzanne Hebeler: I do not recall this conversation.

Garret King: I do not know exactly, based on the lot width regulation the side yard setback would be 3.7 ft. and that is greater than the proposed 12 inches.

Evan Gould: Regardless, this was a non-conforming structure whose setbacks would not meet the existing regulations.

Suzanne Hebeler: Again, I would like to reiterate, that I was not given a timeline for material submissions or fee payment.

Geoff Hand: The Comprehensive Development Ordinance (CDO) says that an application is not complete until the fee has been paid.

AJ LaRosa: What section are you citing this language?

Geoff Hand: Section 3.2.4.

Kim Sturtevant: At any point during this process, did you ask city staff for clarification about the deadline for the submission of application materials and fees?

Suzanne Hebeler: No.

AJ LaRosa: Is there anyone from the public that wishes to speak on this application? Hearing none, we will close the hearing on this item and enter into deliberative session.

VI. Adjournment

Hearing closed at 6:15 PM.

10-15-24

Alexander J. LaRosa, Chair of Development Review Board — Date

Joseph H. Cava

10-15-24

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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