

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

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, October 1, 2024, 5:00 PM
MINUTES

Remote Meeting

Board Members Present: All members were remote. Caitlin Halpert, Sean McKenzie (5:05 PM), Brad Rabinowitz, Leo Sprinzen (5:05 PM), Miles Waite, Marina Campbell (5:05 PM), and Evan Gould

Board Members Absent: AJ LaRosa and Geoff Hand

Staff Members Present: Members were in-person and remote. Bill Ward, Robert Strassenburgh, Scott Gustin, Mary O'Neil, Steve Cormier, and Joseph Cava

Staff Members Absent: Garret King

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

1. ZP-24-317; 251-253 South Union Street (RM, Ward 6) Daisy Properties, LLC / Stephen Kredell

Planned Unit Development (PUD) for construction of one five-unit addition and two detached four-unit buildings and related site improvements. (Project Manager, Scott Gustin)
James Dufour and Sharon Bushor: Sworn in.

Caitlin Halpert: Can you tell us about this project?

James Dufour: This project proposes a Planned Unit Development (PUD), with the construction of three new buildings behind the existing historic building. The project would also include site improvements like parking and walkways.

Caitlin Halpert: Can you expand on the pedestrian connection between Buildings A and B to the streetscape?

James Dufour: There is walkway abutting the proposed parking lot connecting to the street.

Brad Rabinowitz: Can you expand on this?

James Dufour: Due to the site layout and grading, pedestrian traffic will naturally cut across the grass and parking lot to access the street.

Evan Gould: For additional bicycle parking, can you add an additional shed for storage?

James Dufour: Yes.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).
Printed on 100% Recycled Paper

Evan Gould: I have a concern about bike theft without sufficient secured storage.

James Dufour: I share that concern. There will be access for residents of this property to secure bicycle storage.

Evan Gould: What is the solution for short-term bicycle parking?

James Dufour: I am not objecting or opposed to adding additional bicycle parking/storage.

Brad Rabinowitz: To clarify, will the proposed units be two-bedroom units in these buildings?

James Dufour: Yes, or one bedroom and an office, with flexibility within the spaces.

Marina Campbell: It is not ideal to lock up bicycles outside, overnight, but I appreciate the emphasis on additional bicycle storage.

Miles Waite: The under drained area in the stormwater plans will limit infiltration of stormwater for this proposed development.

James Dufour: I will speak to the applicant team about this.

Evan Gould: Will there be a curb? Will that affect mobility access?

James Dufour: No, no curbs.

Brad Rabinowitz: Curbs would be a recommendation for this project to prevent vehicles from driving over the grass and other vegetation.

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

Sharon Bushor: My opinion is that the structures as proposed look like prisons. Do the units have access to natural light? I also have concerns about the steel railings during use in winter when metal is not good for slip resistance. I would also like the applicant to point out the plans for plantings. The existing area is very green and my concern is that there is not enough emphasis on the retention of mature plantings. I want those who reside here to have a good quality of life from greenspaces.

James Dufour: The greenspaces in the center of the property will have new plantings.

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

2. ZAP-24-8; 0 Northshore Drive (RL, Ward 4) Village of Northshore Association, Inc. Members / Jon Anderson

Appeal of administrative denial, ZP-24-193, for the after-the-fact installation of four EV charging stations. (Project Manager, Scott Gustin)

Caitlin Halpert: This item has requested a deferral to a date to be determined.

Caitlin Halpert: Motioned to approve deferral to November 19 2024, Brad Rabinowitz 2nd. Vote 7-0. Motion carried.

3. ZP-24-59; 44 Wright Avenue (RM, Ward 5) 44 Wright, LLC / Arthur Chukhman

Planned Unit Development (PUD), with construction of an additional principal structure at 44 Wright Avenue. (Project Manager, Marv O'Neil)

Robert Cone, owner, present, Sam Beall, Sharon Bushor, Thomas Freiheit, Bruce Allis, and Diane Freiheit: Sworn in.

Evan Gould: I am recused on this item.

Caitlin Halpert: Can you tell us about this project?

Robert Cone: We own a few properties in the region, and this is one of our investments to increase housing in this area. We respect the historic character of this neighborhood and are doing our best to create additional housing.

Sam Beall: We presented this to the Design Advisory Board (DAB) and have incorporated feedback based on board recommendations and neighboring concerns. There are environmental concerns and we conducted a Phase II environmental assessment with corresponding report to ensure the safety of this site. We redesigned the project and it shows that no view is lost from what already exists when compared to the proposed project. There is no change to the existing fabric of the neighborhood as evidenced by other three-story structures and other modern infill.

Caitlin Halpert: Are there any questions or comments from the board?

Brad Rabinowitz: Can you go to the landscape plan? It appears that the proposed building and parking would be located behind the existing structure.

Sam Beall: Correct, there are also native planting proposed between Lake Champlain and the proposed parking. There are also other plantings proposed not pictured in the preliminary plans.

Brad Rabinowitz: Is the existing house to the east on a corner?

Sam Beall: Yes, there are also existing mature trees, that will be removed, and a lilac bush, which will be retained.

Caitlin Halpert: Are there any additional questions or comments from the board?

Leo Sprinzen: Can you expand on parking?

Sam Beall: Yes, one long driveway with a small two-point turnaround.

Brad Rabinowitz: What is the story for neighborhood parking?

Robert Cone: There would be parking near the railroad overpass in the existing parking lot along Lakeside Avenue with opportunities for walkability and bike storage.

Brad Rabinowitz: Is not this area proposed for future development?

Robert Cone: Yes, parking would move into a parking garage if built.

Caitlin Halpert: Is there any concern with a condition for planting?

Robert Cone: No, none at all. We would be happy to restore plantings in this area.

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

Sharon Bushor: I do not live in this neighborhood, but I have been following this project. I have concerns about the removal of mature trees. I would like to know if those in charge could confirm

the health of the existing mature trees proposed for removal. There is always a healthy balance of structures, trees, and landscaping in any ecosystem.

Caitlin Halpert: We will review this during our deliberative session.

Thomas Freiheit: There is a concern of steep slopes. Under Section 5.5.3 in relation to adjacent lands of the steep slopes, which shall be reviewed as such. The map I saw was over forty feet, and I think the project needs to be re-evaluated. There are also setbacks outlined that are not being adhered to by the neighborhood average. It is noteworthy that the notes are calculated off setbacks that are out of compliance. The site plan illustrates that there will be an issue with parking which is already stretched thin by existing tenant parking and Hula Lakeside. The applicant team is reusing everything at this site's disposal and it is making this site tighter than it already is.

Caitlin Halpert: The staff report outlines conformity with the steep slope standards.

Mary O'Neil: The applicant team's topographical map also supports this.

Caitlin Halpert: Can you expand on setbacks?

Mary O'Neil: The property on the far north corner and the key on the site map support this property having the ability to average the setbacks.

Bruce Allis: I would like to speak on parking. The driveway, as proposed, would reduce the driveway that already exists. Most of the buildings in this neighborhood have slate roofs, which would be a risk to pedestrians using the pedestrian walkway along the side of the building. On another note, one of the trees proposed for removal does not belong to 44 Wright Avenue. On the other side of the property, there is only about four feet between this property and the abutting neighbor.

Diane Freiheit: I am wondering if more details can be provided beyond what is illustrated on the site maps. It does not appear that there was a reduction in lot coverage.

Caitlin Halpert: Some site features do not apply towards lot coverage.

Diane Freiheit: I would like to mention that the scale is out of place for this neighborhood as evidenced by the building being over forty feet in height. I personally believe that parking is going to be an issue, as evidenced by Hula Lakeside. This is not just my concern, but also a neighborhood concern. I do not see a waiver for the additional allowances created. I also have a concern that this project does not relate to the Neighborhood Code, as it is currently presented as a Planned Unit Development (PUD). The Planning Commission has set a minimum on PUDs for half an acre, which does not exist at this property. This is the reason why this proposal is inappropriate.

Caitlin Halpert: Would the applicant team like to speak on or address any of these concerns?

Sam Beall: Our interpretation is correct based on the existing regulations. We would consider snow guards in response to pedestrian safety. The height of the structure has been reduced considerably in response to the initial application. I understand the parking demand, but streets are a community resource. People residing at 44 Wright Avenue have as much right to park on the street as anyone else living or working in this neighborhood. People may not like the zoning ordinance as it is written, but it is what we have to work with.

Caitlin Halpert: Are there any additional questions or comments from the public?

Miles Waite: It was my understanding that this area is resident parking only. Has this been acted upon?

Sam Beall: No, resident only parking has not been established.

Mary O'Neil: The basis of this application is a PUD, which has certain exemptions from the regulations outlined in the Comprehensive Development Ordinance (CDO).

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

4. ZAP-24-10; 164 North Willard Street (RL, Ward 1) Luke Purvis

Appeal of administrative decisions finding two complaints as to alleged zoning violations unfounded. (Project Manager, Steve Cormier)

Luke Purvis, owner, present, Christina Lauterbach, Kim Sturtevant, Scott Gustin, Steve Cormier, Melanie Jannery, and Margaret Tamulonis: Sworn in.

Caitlin Halpert: This 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 for the complaint being declared unfounded?

Scott Gustin: Steve Cormier is here to speak on this item.

Steve Cormier: This appeal pertains to Housing/Zoning Complaint records, CPLT-24-103 and CPLT-24-104, both submitted on 7/18/24. There are two sheds permitted under ZP-23-533, which was approved on 11/22/23 and ZP-23-560, which was approved on 1/5/24. Neither of these zoning permits were appealed to the Development Review Board (DRB). Zoning permit application, ZP-23-560, also included a fence. The assertion that the constructed fence encroaches into the setback is unfounded by the submitted stamped survey drawing. Ultimately, the complaint records were deemed unfounded because the permitted sheds and fence were constructed according to their approved permit conditions.

Brad Rabinowitz: Can you verify the information contained in the site plans?

Steve Cormier: I am not sure which site plan you are referencing. Barnard & Gervais, LLC, a State of Vermont licensed land surveyor, created a boundary retraction survey plat for Margaret Tamulonis before the submission of ZP-23-533 and ZP-23-560 to confirm the property boundaries.

Caitlin Halpert: Are there any questions or comments from the board?

Miles Waite: It is important to note that there is an existing five-foot maintenance easement in this area. Is this being confused as a five-foot setback?

Steve Cormier: As I understand it, fences can encroach within the setback.

Caitlin Halpert: Easements are not within the scope of the Development Review Board's review or authority. Are there any additional questions or comments from the board? Hearing none, we will now hear from the appellant.

Christina Lauterbach: I have been to a number of these hearings. I am nervous, because we have been asking questions of Code Enforcement to help resolve the issues we have been having. We are here to understand why the decisions of our submitted complaint records were unfounded. I do not know how to advocate or support my family when something is categorized as unfounded. We are trying to fix a problem and are not being offered the same guidance as our neighbors. I am emotional right now because comments are being made about my family that do not belong in a public zoning record. I am asking for fairness, which we are not being given. I am looking for guidance on how to resolve a patio encroaching in the setback, which the complaint is based on. This civil matter needs to be resolved before we can resolve the property boundary line issues.

Caitlin Halpert: We are obligated to use the boundaries depicted in the survey as conclusive supporting evidence.

Brad Rabinowitz: So the survey that was filed, is not one that you initiated?

Christina Lauterbach: No, we did have a survey, but we have been good neighbors for the last fifteen years.

Brad Rabinowitz: What precipitated this action?

Christina Lauterbach: There is a fence post jammed up against our house, which would prevent future siding maintenance.

Evan Gould: Can you bring up the stamped survey? Is it correct that the fence pictured in the survey is the fence in question?

Christina Lauterbach: Yes.

Evan Gould: Is it possible to delay this item while civil matters progress?

Caitlin Halpert: I am not sure.

Kim Sturtevant: I would need to take a closer look at the regulations. I would have a concern of holding up this matter waiting on another matter. A court case can take a year or more on a pending docket. There is a present issue of practicality.

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

Melanie Jannery: We have been working on this, but it has been a very stressful process. If you look in the supporting documents, we had a survey done in 2023 and compared it against the Purvis' survey done in 2016. Their own survey is out of compliance with the approved conditions. I am disabled and I will need the clearance for accessible pathways. The fence posts that were installed resulted in threatening complaints and emails. The fence provides a barrier for our dogs. Luke Purvis has been very helpful with the fence maintenance over the years, but now it feels like I am being watched which is not healthy for my existing heart condition and Lyme disease. We have received threatening emails that the fence was constructed on their property. I have done repairs over the years and the engineer's survey supports our placement of the fence. Damage has occurred to our property and we would like to use our property without being threatened by a neighbor. We have provided two surveys, both confirming the boundary line at the fifty-foot mark where these properties were originally subdivided. This information is also supported by the deed and chain of title.

Margaret Tamulonis: I know this situation is difficult and I appreciate your patience. We have been continuously harassed and threatened from even using our own property.

Brad Rabinowitz: Let us stick to the pertinent information, including the facts of the case, and not emotional accusations.

Margaret Tamulonis: My partner and I have been planning the use of our property for years and I was under the impression that the 2022 settlement resolved this. Their child yells and screams homophobic slurs at us for just being in our own driveway.

Caitlin Halpert: I would like to reiterate Brad Rabinowitz's comments to stick to the facts.

Margaret Tamulonis: I have been fearful for our safety caused by the threatening actions of Luke Purvis and it has made it difficult to even use our own property. We have evidence of people trespassing on our property after installing cameras.

Evan Gould: Can we keep to the matter at hand, please.

Margaret Tamulonis: Please pay attention to the property boundary lines outlined in the submitted survey. Thank you.

Scott Gustin: To clarify, the two zoning permits are not under appeal, it is the two complaint records that are being evaluated this evening.

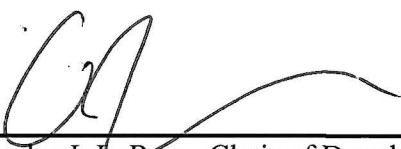
Caitlin Halpert: Thank you for the correction.

Christina Lauterbach: The 172 North Willard Street site plans from 2016 and 2020 do not address the window wells on our property at 164 North Willard Street. The site plans that were approved are missing critical property features. I feel we have been acting in good faith and are being punished for it. We have reached out to the City for help, but we have been passed over as bullies in favor of our neighbors.

Caitlin Halpert: Are there any additional questions or comments from the board? Hearing none, are there any questions or comments from the public? Hearing none, we will close the hearing on this item and enter into deliberate session.

V. Adjournment

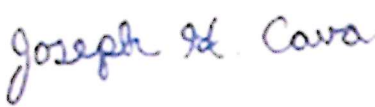
Hearing closed at 6:55 PM.



Alexander J. LaRosa, Chair of Development Review Board

10-15-24

Date



Joseph H. Cava, Permitting & Inspections Permit Technician

10-15-24

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.