Burlington Development Review Board
149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/PZ/DRB
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Austin Hart, Chair
Jonathan Stevens
Brad Rabinowitz
Geoff Hand
Israel Smith
A.J. LaRosa
Alexandra Zipparo
Jim Drummond (Alt.)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, July 21, 2015
PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Tuesday July 21, 2015 at 5:00 p.m. in Contois Auditorium, City Hall.**

1. **14-0005CA/CU; 110 Hyde Street (RM, Ward 2C) Andrew Rianhard**
   Time extension for conditional use home occupation for auto upholstery work within garage. Associated site and garage improvements.

2. **15-1234CA; 18-20 Weston Ave (RL, Ward 1E) Charles Burns**
   Re-open appeal of zoning violation # 279187.

3. **15-1375CU; 820 North Ave (RCO, Ward 7N) WVPD**
   Convert classroom into small daycare within existing small museum (Ethan Allen Homestead). No construction proposed.

4. **15-1318AP; 193 St. Paul Street (RH, Ward 5) Stratos Condominium Association**
   Appeal of a Code Enforcement decision that a zoning violation regarding parking does not exist.

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), 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 Planning and 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/pz/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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 Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

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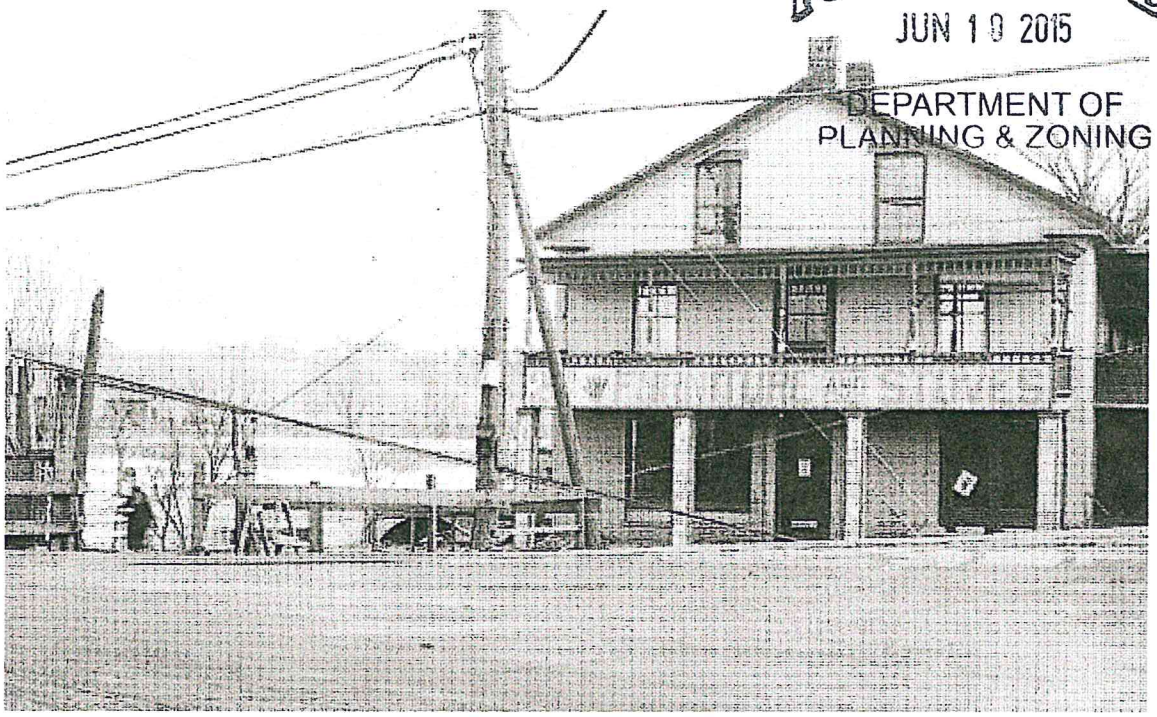

Photo 1. West elevation photo taken 1927, after the flood, but before bridge was rebuilt 9 feet higher.

Photo 2. West elevation taken 2014. What is now a blocked in doorway just above the sidewalk used to be a door to the second floor porch seen in Photo 1. The porch was removed when the building was buried. Windows have been replaced with 1-over-1 windows, instead of the original 2-over2 windows seen in the historic photograph.

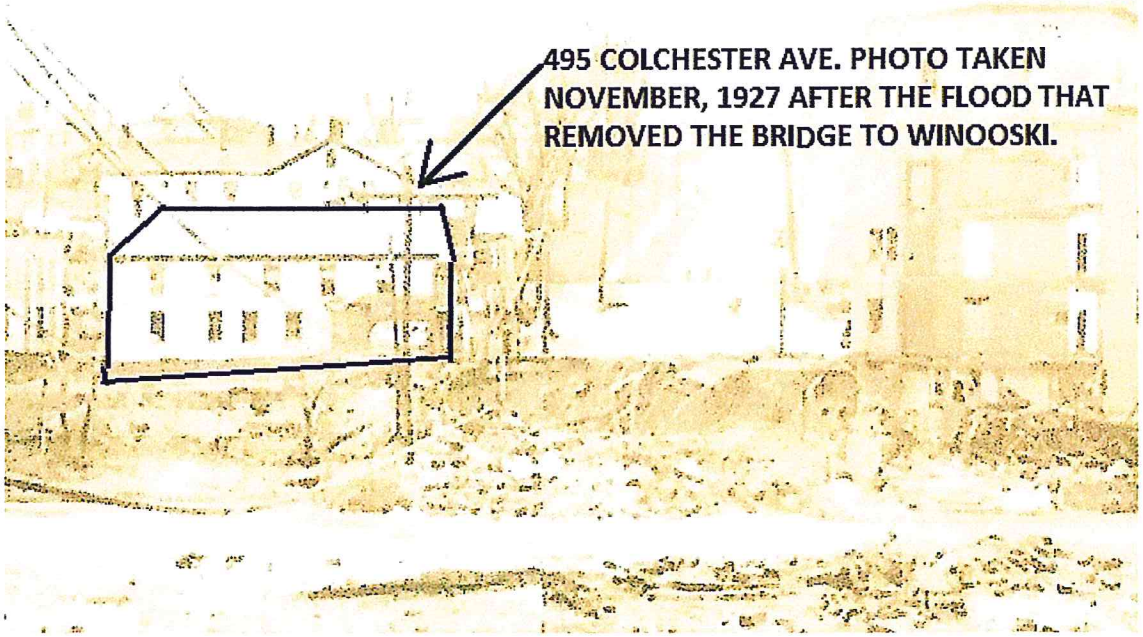

Photo 3. North elevation photo taken 1927, after the flood, but before bridge was rebuilt 9 feet higher. Dark outline is the building of this application. Note the stone foundation wall and windows visible at the Cellar level, and four windows to the left side of the loading doors.

Photo 4. North elevation photo taken 2014.

Photo 5. North elevation photo taken 2014. Note evidence of rising damp on the bricks at the west end of the north elevation, caused by the building being buried.

Photo 6. Interior of north wall of cellar showing original stone foundation. Former above ground windows have been filled in. The floor structure supporting the first floor is not original and will be replaced with mill construction techniques matching extant framing of the floors above. Stone walls will remain exposed in the adaptation of this level into a Café.

Photo 7. Existing south wall of cellar. Structure of First Floor above is modern, made of 2x10 joists and 6x6 posts spaced 12' apart.

Photo 8. The first floor windows are now mostly buried. The north windows have these little window wells put in to offer some protection from snow and rain. Rooms inside are dark and gloomy. The Cellar is a full floor below the floor these windows are on.

Photo 9. The first floor apartments are currently at grade level on the east end of the building shown here. The apartment door is not original and was cut into the brick façade. Originally this floor was about 9 feet above grade with the cellar having an on-grade access at this end of the building.

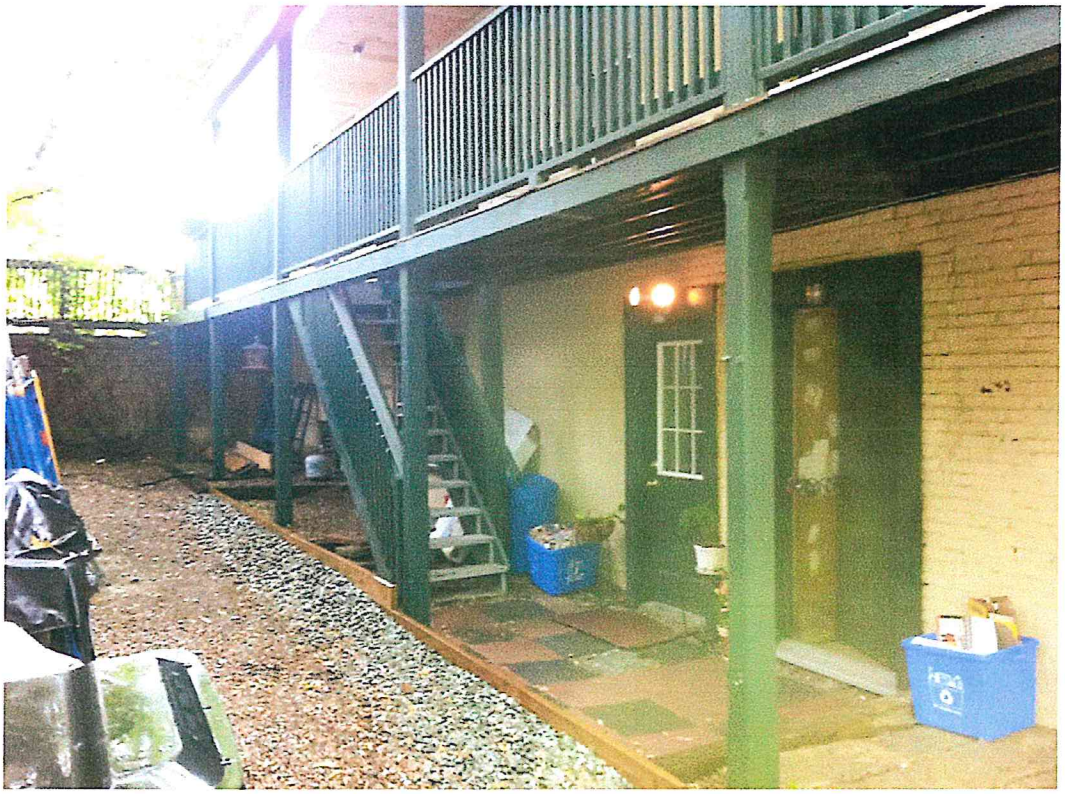

Photo 10. On the south side, a courtyard was cut in to allow access to the first floor apartments. The door on the left leads to one of the apartments. The door on the right leads to the cellar. The side porch was not part of the building prior to the flood.

Photo 11. On the south side, the wall east of the first floor apartment past the door with the light in it, was rebuilt in concrete block. We assume that the brick veneer failed at some point and was replaced with concrete block. The renovations will replace this concrete block with brick veneer to match the original brick veneer conditions.

Photo 12. Part of the original south wall was replaced with concrete block. The wall has begun to lean out at the top; the boxed out windows are vertical.

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Photo 13. Exterior porch, east side was first built in 1916 and remodeled later to its present condition shown here. The door at the upper level replaced a former window from the 1820 design. The lower door was put in after 1929, as the first floor was well above the ground floor on the east side.

Photo 14. Replaced south side porch. Original south side porch seen in PHOTO 1, does not come all the way to the west façade as this one does. The ceiling of the porch seen here is fairly new.

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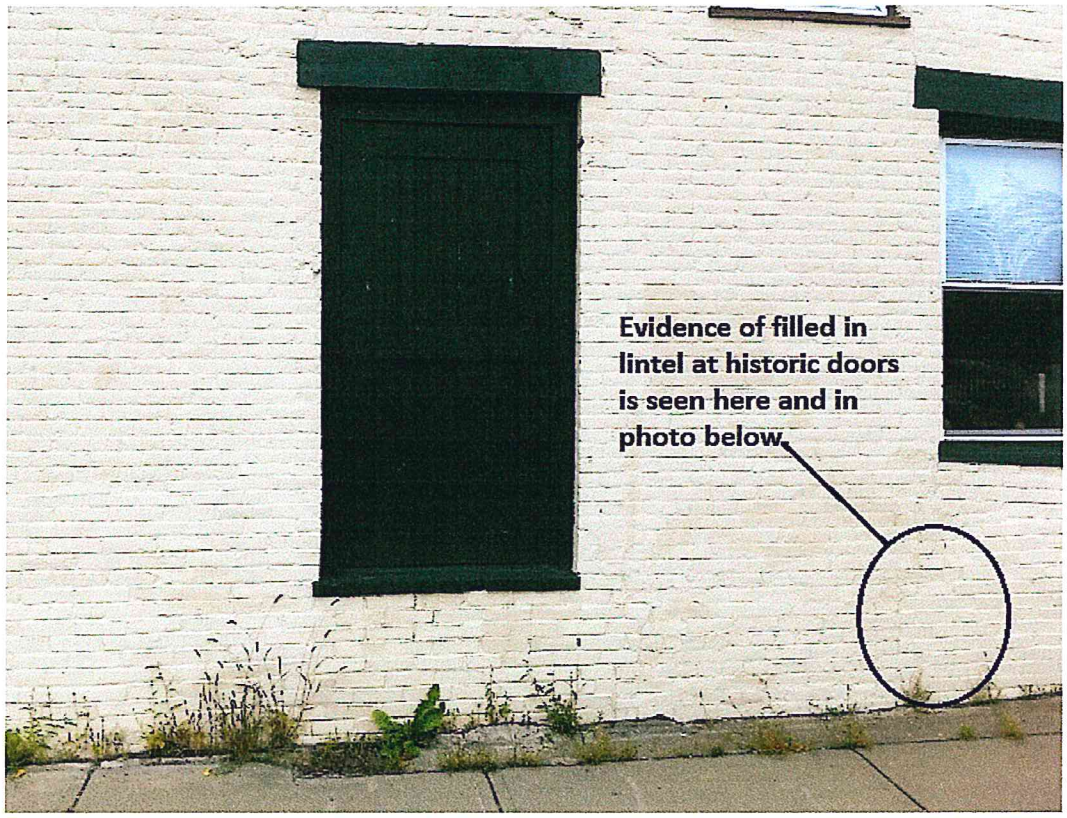

Photo 15. Evidence of where shop doors were filled in with brick. This is the lintel location.

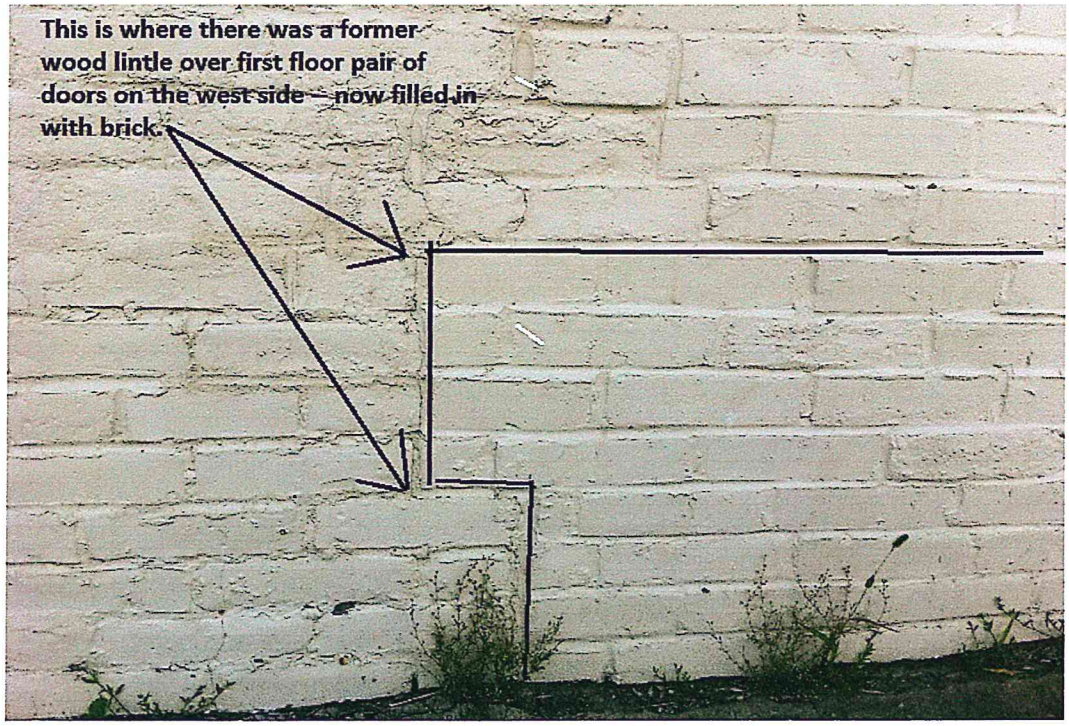

Photo 16. Evidence of where shop doors were filled in with brick. This is the lintel location. Note the difference in joint detail and brick face texture.

Photo 17. Evidence of where loading dock doors were filled in with brick on the north elevation. The painted wood lintel remains. Note damage from rising damp to the right of the blocked opening. The black lines are cable TV cables.

Photo 18. North side windows are buried to various depths. They have more exposure the closer they are to the east side of the building. None of the windows are the original 2-over-2 pattern seen in historic PHOTO 3.

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Photo 19. North side first floor windows on the west are buried more than those toward the east due to the slope of the street in front of the windows. The brick window wells were built when the building was buried in 1928.

Photo 20. East and North elevation showing location of first and second floor doors and windows. The door just to the left of the window on the east elevation is not original and was cut in to access the apartment at the east end of the first floor in 1928.

Photo 21. East side showing added porch and door cut in to access the apartment at the east end of the first floor in 1928. The porch was built after 1928.

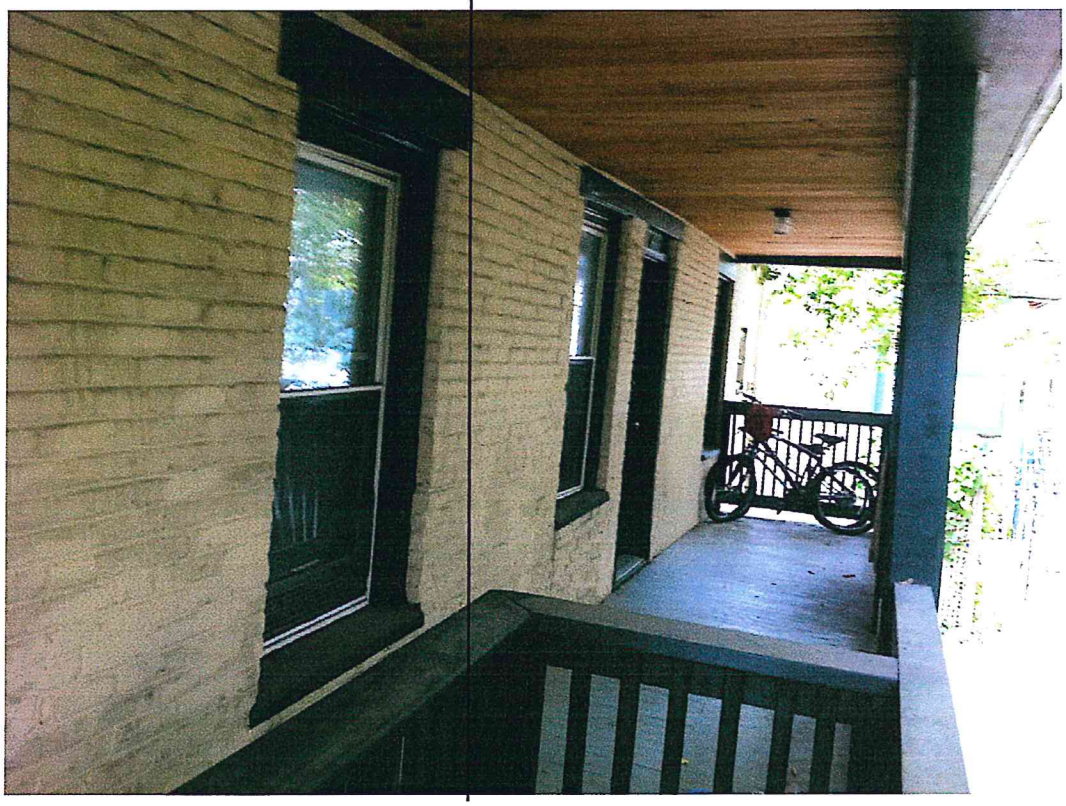

Photo 22. South side at Second Floor of south porch. Windows and doors are at original location with original solid wood headers and sills. Sash and doors are not original.

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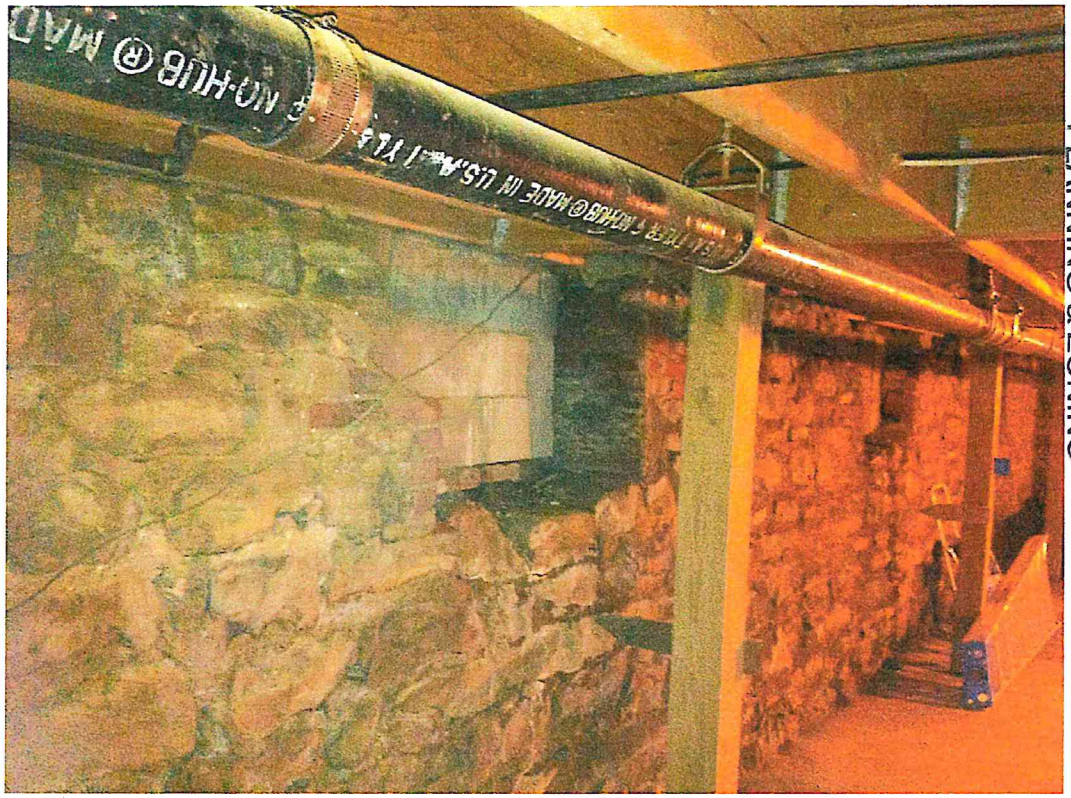

Photo 23. North wall of cellar, showing infill of windows buried in 1928. Locations of these windows will be duplicated in the new Ground Floor walls that will be inserted between these existing walls that will remain and the raised walls of the first and second floors.

Photo 24. East wall of cellar, showing original on-grade entrance on the left, now blocked with concrete blocks. The pair of windows on the right, provided natural light and display features from the east end, which was fully above grade at this level before 1928. Now sewer lines from the apartments above gather and exit here.

Photo 25. Eastern-most window at the north wall in the Cellar. Original sill was at the top of the remaining stone, which is recessed toward the exterior of the foundation wall. Sewer lines above will be relocated in the renovation to not be parallel to the exterior walls, so as not to block the tops of these windows. Concrete blocks will be plastered over.

Photo 26. First Floor, west end apartment (#3). The rooms in this mostly buried apartment get almost no natural light. The original beams supporting the second floor are 8x8 wood beams that have been covered in sheetrock. No historic fabric remains at the interior of this level, except for the heavy timber frame made of 8x8 beams that support the second floor and attic floor.

Photo 27. First Floor, west end apartment (#3). Note the mostly buried window visible through one of the two bedrooms in the apartment. One of the historic 8x8 beams (now covered in Sheetrock) is visible in the upper right hand corner.

Photo 28. First Floor, east end apartment (#4). This is the brightest part of the apartment.

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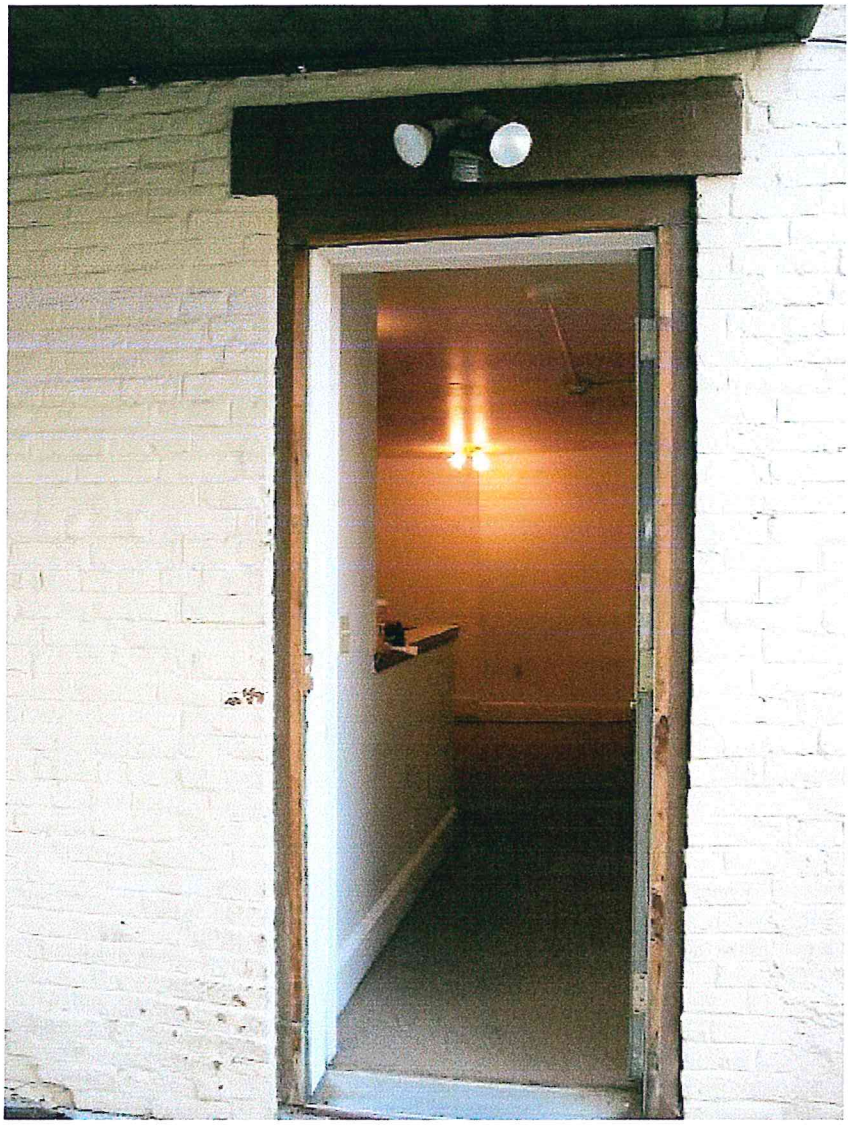

Photo 29. Door to apartment (#4) on east end of first floor. Door frame is modern and bricks have been cut to create this opening.

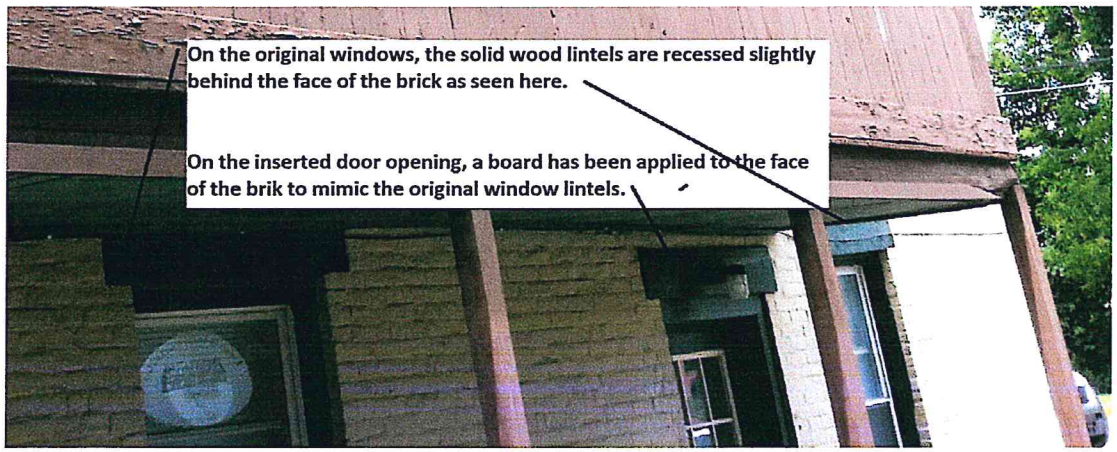

Photo 30. Note that on the historic windows, the solid wood lintels are recessed just behind the face of the brick. Where the door has been inserted under the porch, the historic lintels are mimicked with a faux lintel that is really just a board applied over the brick cut opening with the door frame acting as support for the brick veneer wall surface.

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Photo 31. Living Room of apartment (#1) west side, second floor. Note that the tall space also shows the window at the attic level.

Photo 32. Kitchen of apartment (#1) at west end of Second Floor. Beam in foreground is one of the original 8x8 framing timbers, now wrapped in Sheetrock. No historic fabric exists at the interior of the first or second floors.

Photo 33. Kitchen (on raised platform) and living space of apartment (#2) at east end of Second Floor. Door with glass leading to the mostly-enclosed east porch replaces an historic window.

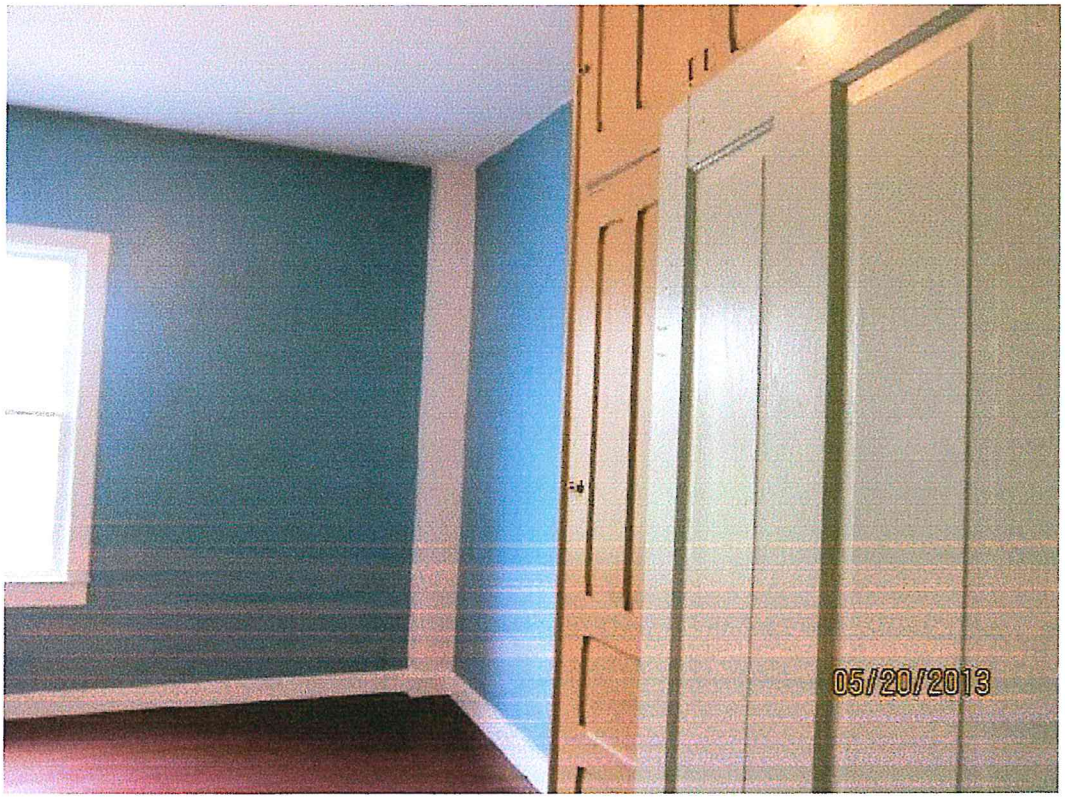

Photo 34. One of the three bedrooms of the east end apartment (#2) on the Second Floor. Note the corner post that is part of the 8x8 heavy timber frame of the building.

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Photo 35. Retaining walls built in 1928 to retain the earth of the raised roads. Wall is poured directly against the brick veneer of the building, and is causing damaging rising damp to the façade. Note that original color of building was unpainted dark red/maroon colored bricks.

Photo 36. Detail at top of retaining wall at west side of building.

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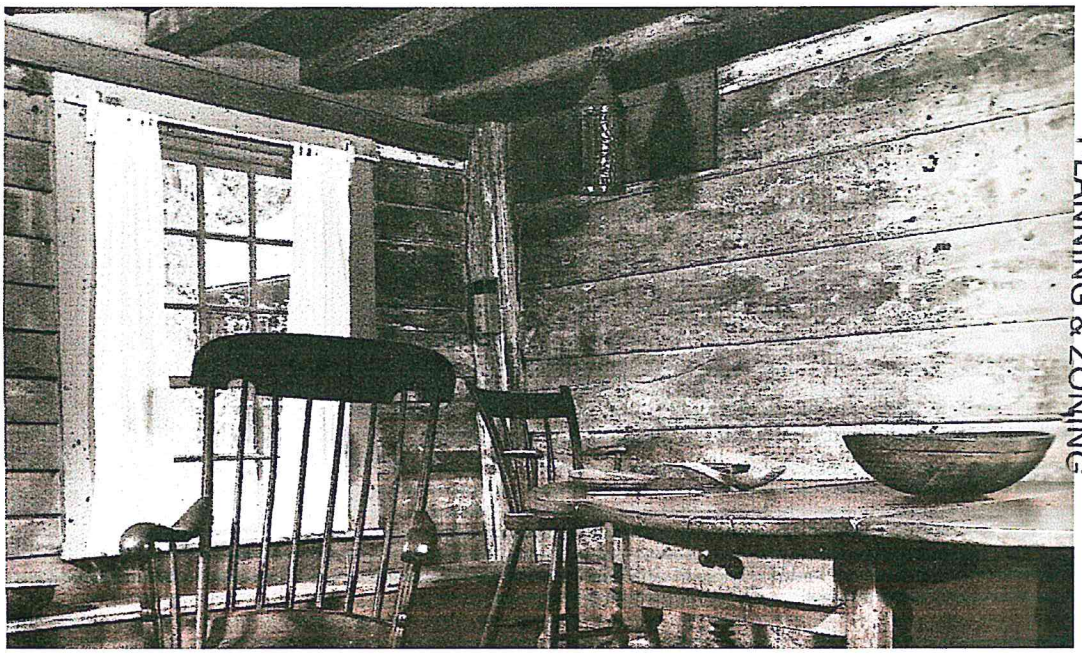

Photo 37. The new floor structure of the inserted floor and the first floor apartments when seen from the cellar floor will be similar to that seen here.

Photo 38. This photo shows two the granite stones that will be used to reconstruct the foundation wall between the top of the existing stone foundation that will remain and the bottom of the brick at the lifted building. Sizes are similar with similar cut to the existing stones, but these are grayer – compatible, but different so they do not fool someone to thinking they are the original stones. These stones will only be visible on the exterior and will be backed up to a new insulated concrete foundation wall on the interior, faced with plaster.

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Photo 39. Location of existing meters on east end of south elevation. Intent is to move these to the west end of the south elevation after the building is lifted and service the building with an underground primary feed from the existing power pole near that location. One additional meter will be included for the Café. If possible, all meters may be put inside the building is Green Mountain Power can accept "smart metering" at this location with a remote reading ability for each meter.

Photo 40. Light at apartment doors. Lamp will be an LED lamp with 2700K color temperature to match that of incandescent lighting. Width is 4.785" Height is 7.25". Housing is black.

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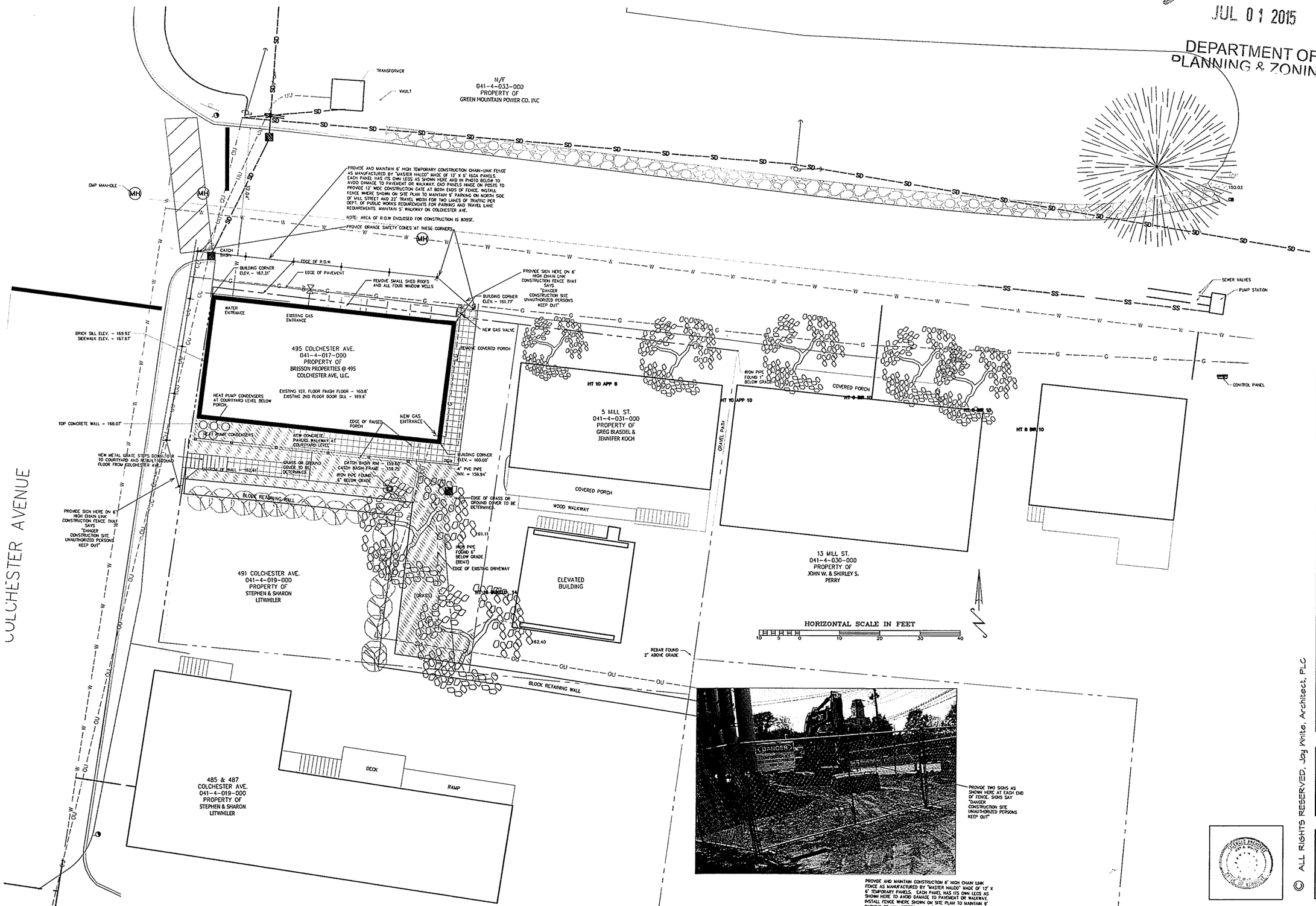

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PROJECT:
BRISSON PROPERTIES
495 COLCHESTER AVENUE RESTORATION
BURLINGTON, VERMONT
JOB No. 14-03

TITLE:
PROPOSED SITE PLAN
SCALE: 1" = 10' IF PRINTED 24X36

ISSUE DATE:
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REVISIONS:
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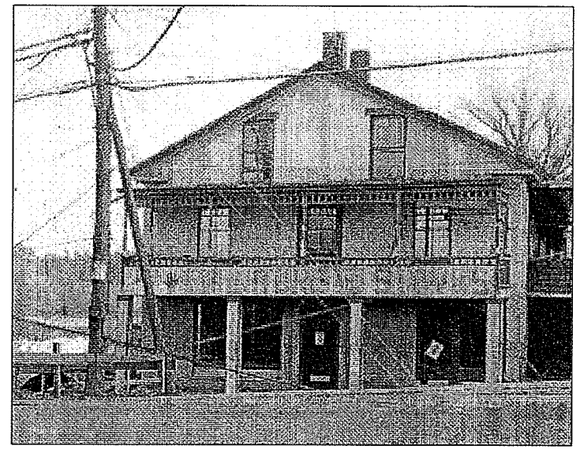
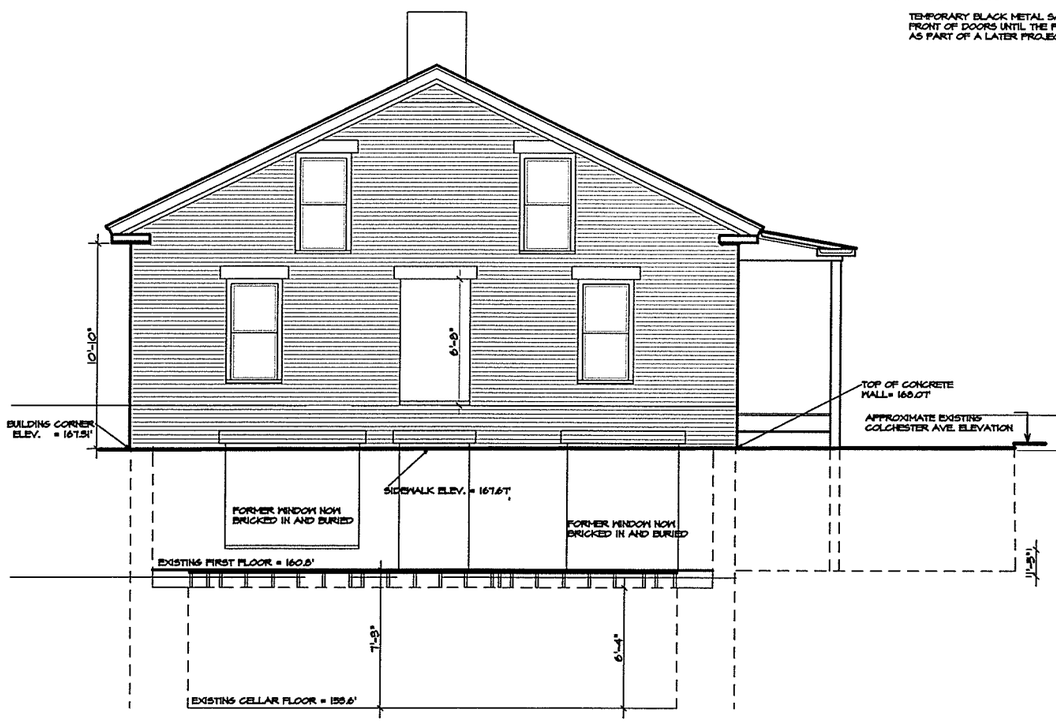
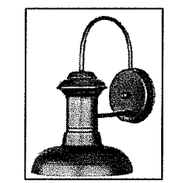


HISTORIC PHOTO c. 1928

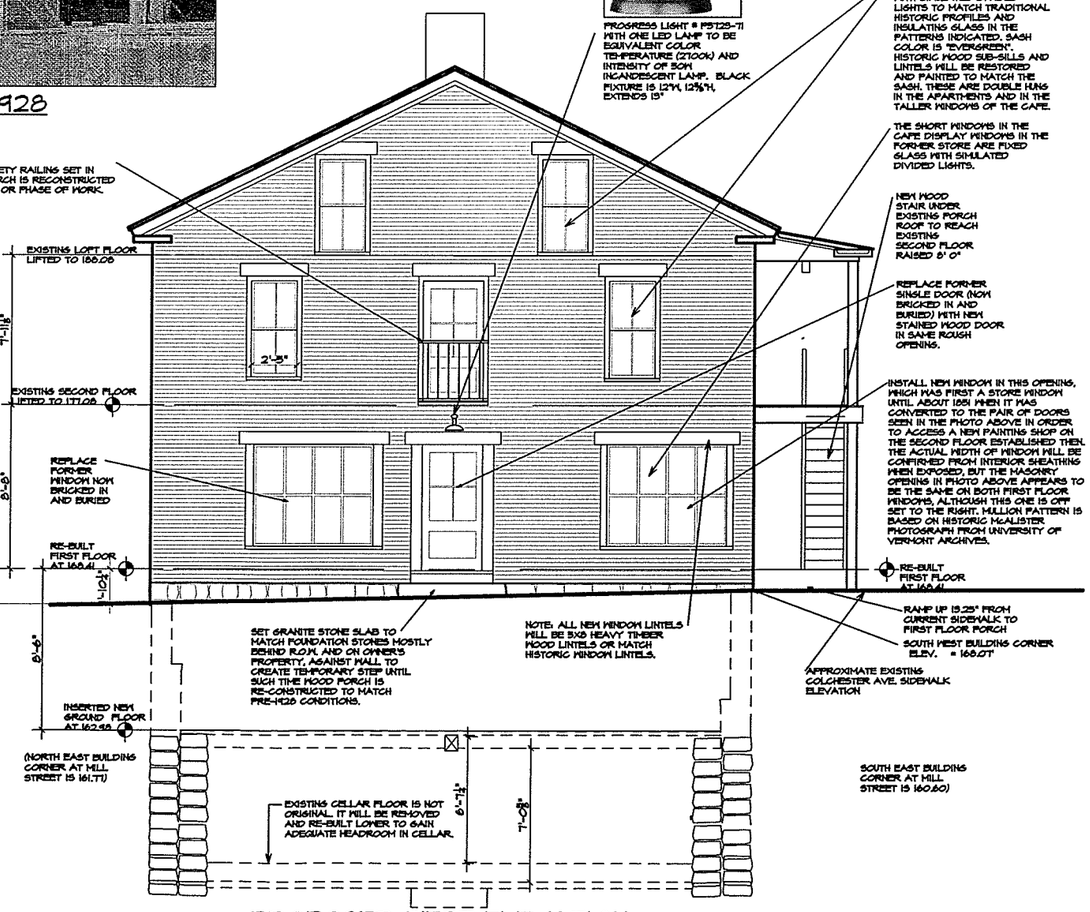
NOTE: RECONSTRUCTION OF HISTORIC PORCH DEPENDS ON GETTING OWNERSHIP OR AN EASEMENT OF PROPERTY NOW IN THE VTRANS R.O.W.



EXISTING WEST ELEVATION
1/8" = 1'-0"



PROGRESS LIGHT # P5723-71 WITH ONE LED LAMP TO BE EQUIVALENT COLOR TEMPERATURE (2700K) AND INTENSITY OF 50W INCANDESCENT LAMP. BLACK FIXTURE IS 12"H, 12⅝"H, EXTENDS 13"



PROPOSED WEST ELEVATION
1/8" = 1'-0"

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PROJECT:
445 COLCHESTER AVE. RESTORATION
BRISSON PROPERTIES
JOB No. 14-03

TITLE:
EXISTING WEST ELEV.
PROPOSED WEST ELEV.
SCALE: 1/8" = 1'-0"

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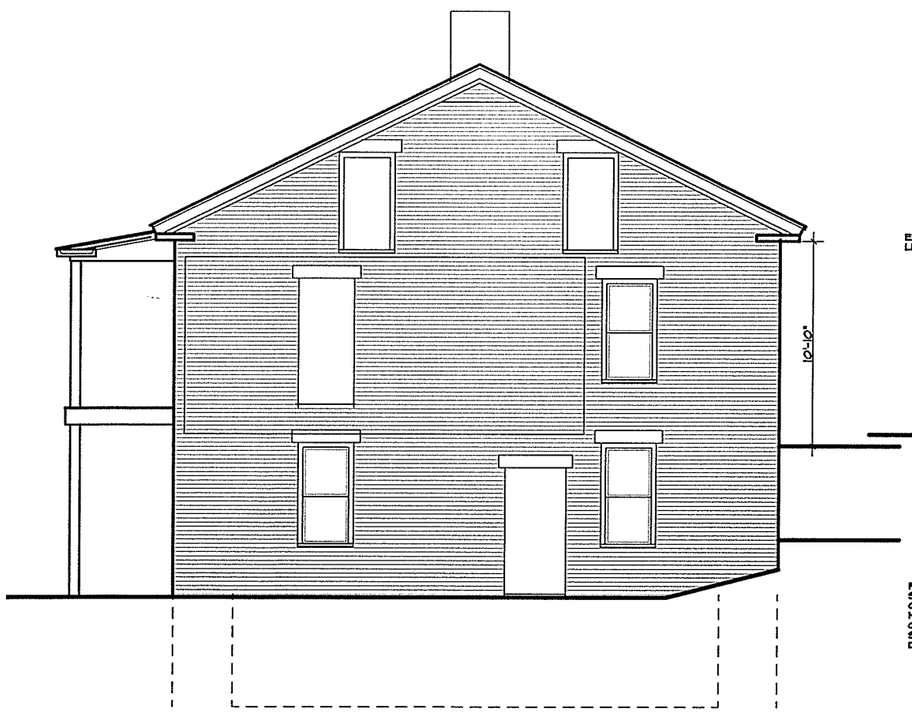
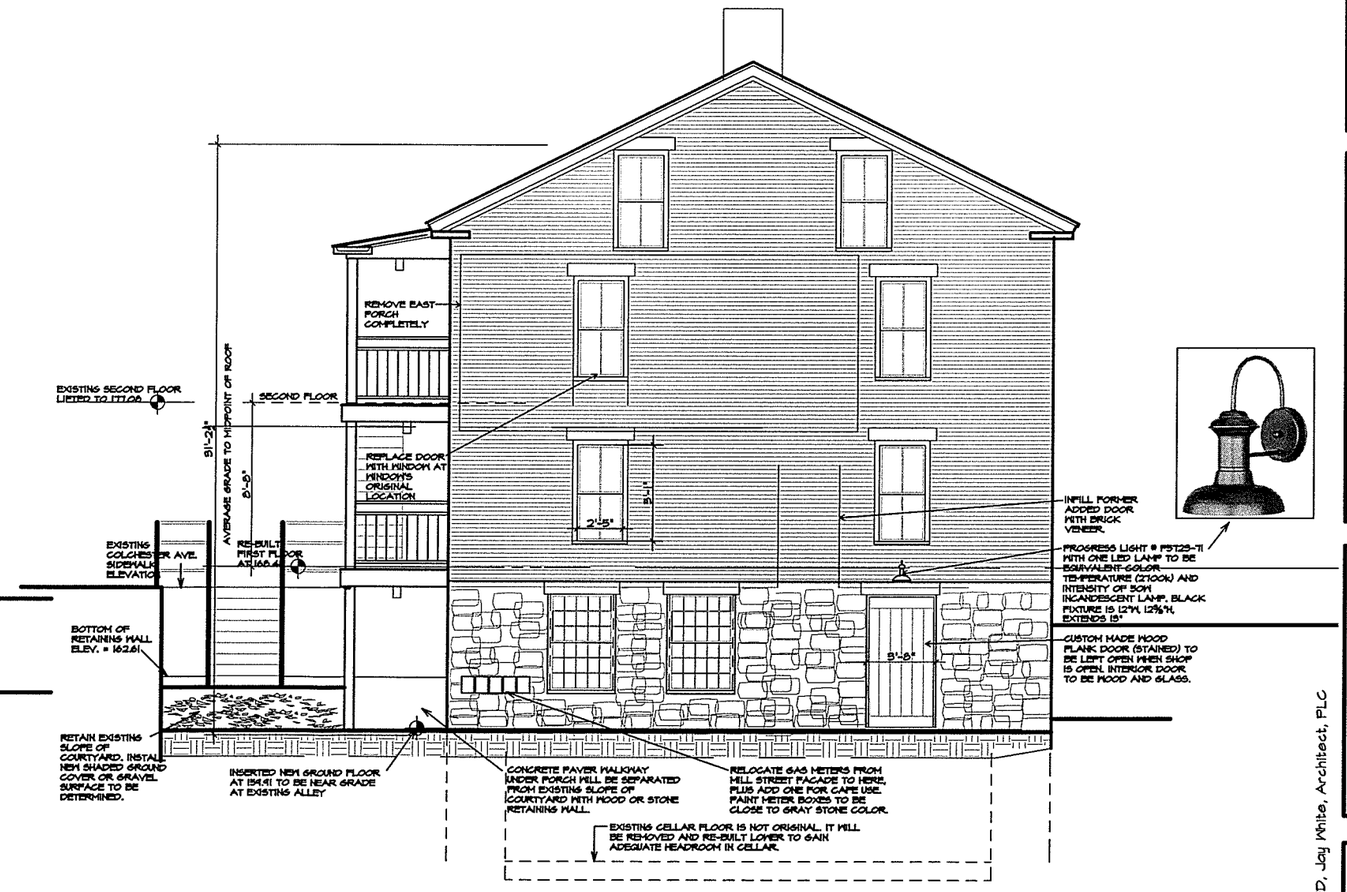


EXISTING EAST ELEVATION
1/8" = 1'-0"
(WITH EAST PORCH REMOVED)



PROPOSED EAST ELEVATION
1/8" = 1'-0"

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PROJECT: 445 COLCHESTER AVE. RESTORATION
BRIGSON PROPERTIES
JOB No. 14-03

TITLE: EXISTING WEST ELEV.
PROPOSED WEST ELEV.
SCALE: 1/8" = 1'-0"

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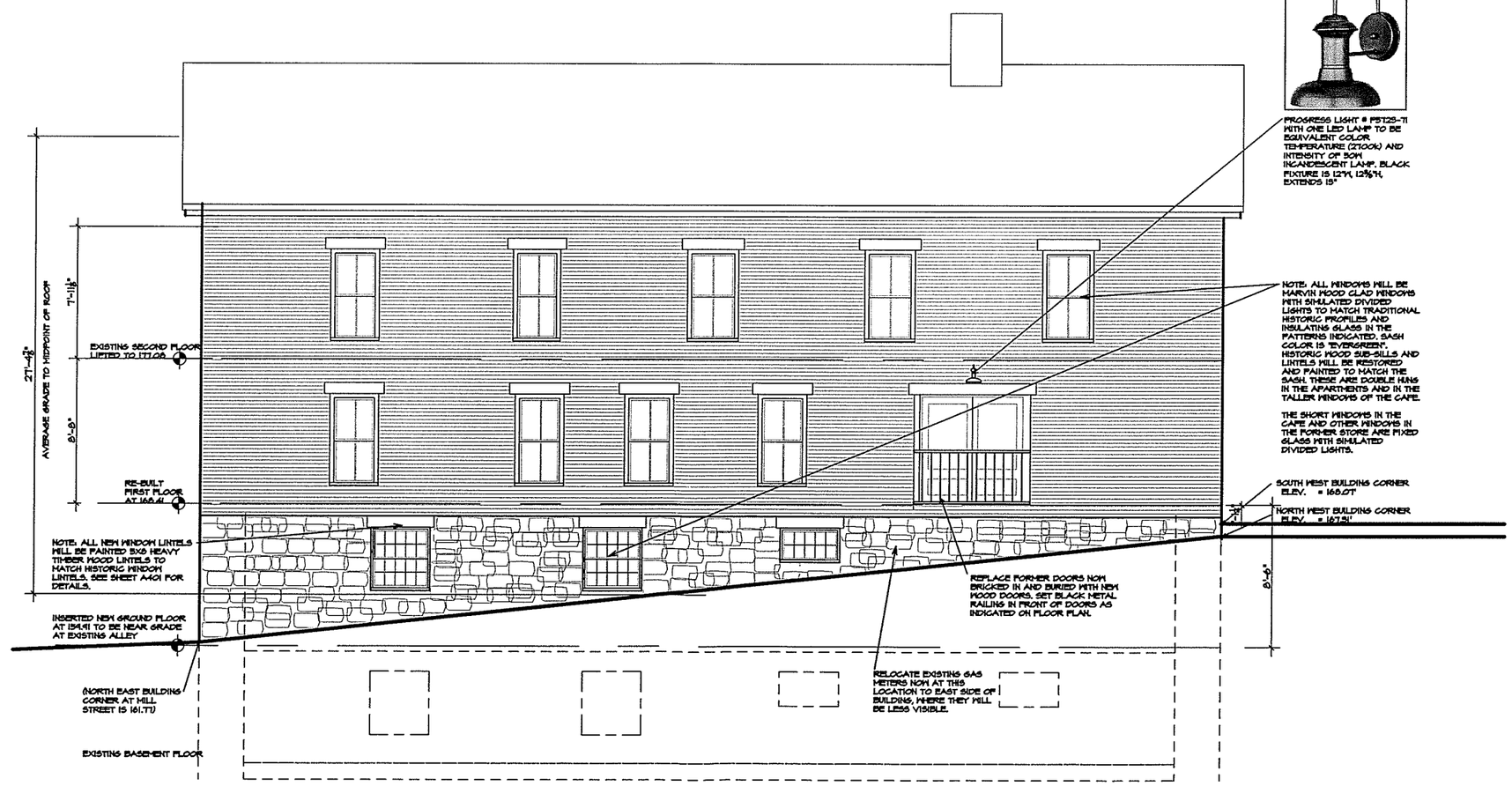

PROPOSED NORTH ELEVATION
1/8" = 1'-0"

(AFTER LIFTING 8' 0")

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PROJECT:
415 COLCHESTER AVE. RESTORATION
BRISSON PROPERTIES
JOB No. 14-09

TITLE:
PROPOSED NORTH ELEV.
SCALE: 1/8 = 1'-0"

ISSUE DATE: 6 4 15
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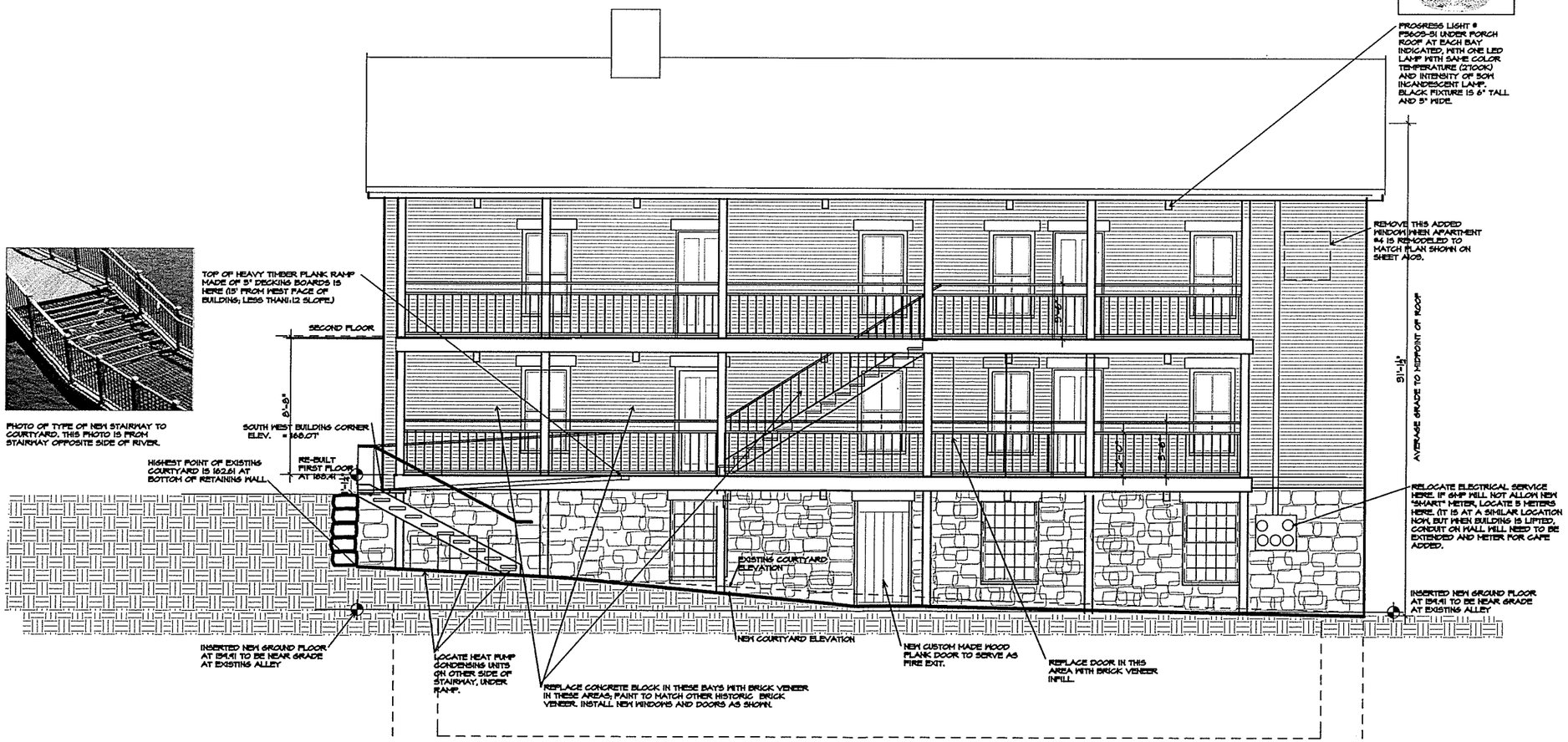
PROGRESS LIGHT # P5603-31 UNDER PORCH ROOF AT EACH BAY INDICATED, WITH ONE LED LAMP WITH SAME COLOR TEMPERATURE (2700K) AND INTENSITY OF 50W INCANDESCENT LAMP. BLACK FIXTURE IS 6" TALL AND 5" WIDE.

PHOTO OF TYPE OF NEW STAIRWAY TO COURTYARD. THIS PHOTO IS FROM STAIRWAY OPPOSITE SIDE OF RIVER.



PROPOSED SOUTH ELEVATION

1/8" = 1'-0"

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PROJECT: 445 COLCHESTER AVE. RESTORATION
BRUSSON PROPERTIES
JOB No. 14-09

TITLE: EXISTING SOUTH ELEV.
SCALE: 1/8" = 1'-0"

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REVISIONS: 6 29 15

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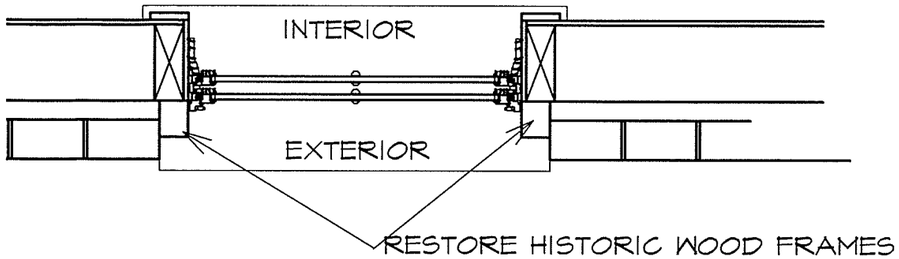
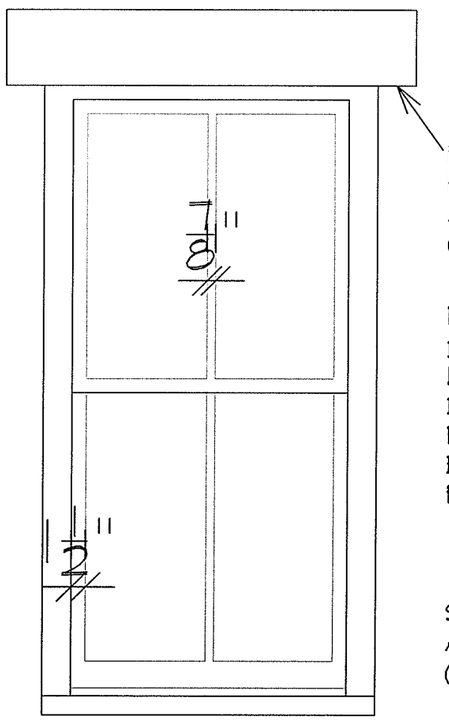


WINDOW JAMB DETAIL



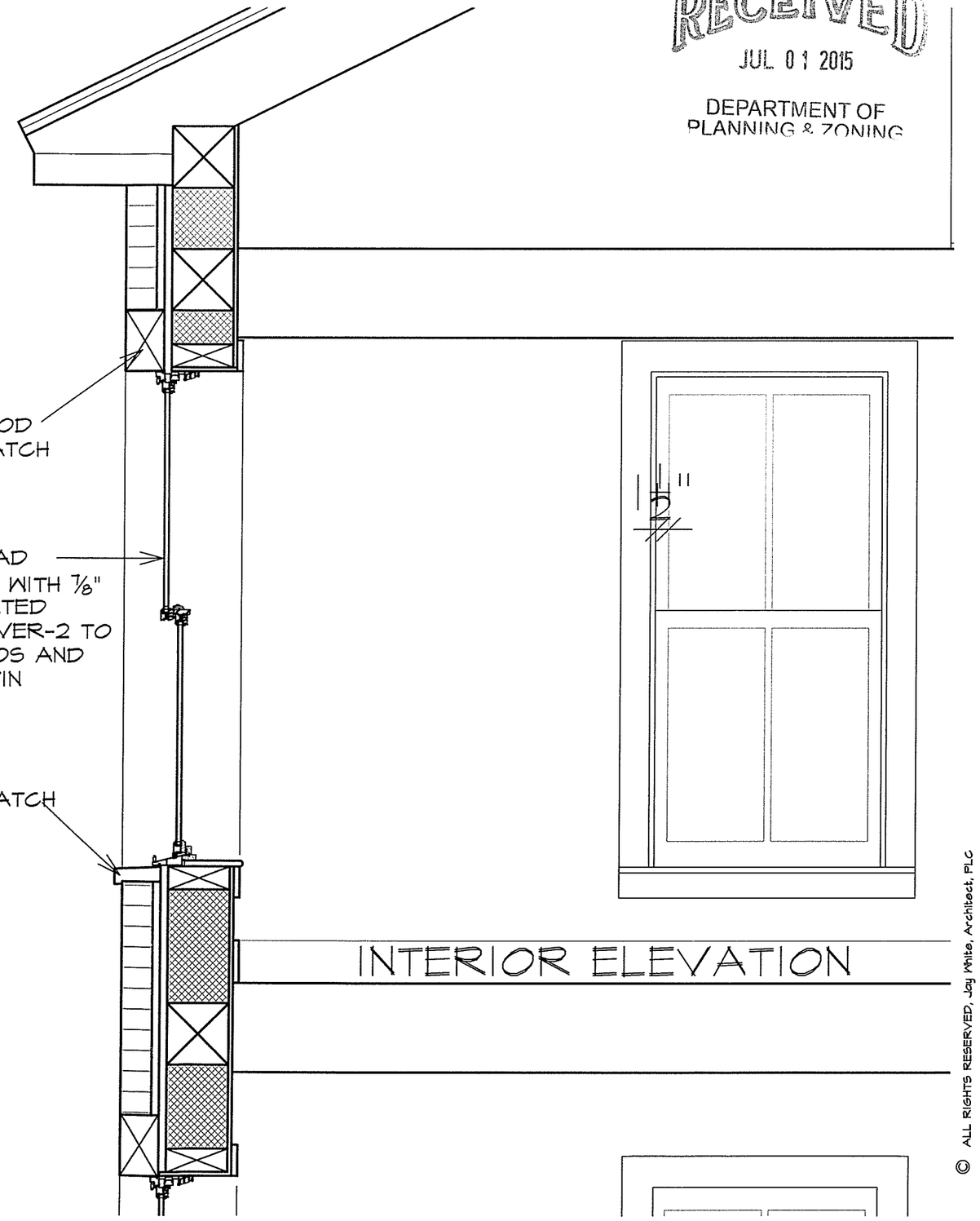
RESTORE HISTORIC WOOD HEADERS. PAINT TO MATCH ALUMINUM CLAD SASH (EVERGREEN).

NEW MARVIN WOOD CLAD DOUBLE HUNG WINDOWS WITH 7/8" WIDE VERTICAL SIMULATED DIVIDER TO MAKE 2-OVER-2 TO MATCH HISTORIC PHOTOS AND BRICK MOLD AND MUNTIN PROFILES.

SUB-SILLS. PAINT TO MATCH ALUMINUM CLAD SASH (EVERGREEN).

EXTERIOR ELEVATION AT UPPER TWO LEVELS

NOTE: REFER TO EXTERIOR ELEVATIONS FOR WINDOW PATTERNS AT GROUND FLOOR LEVEL. DETAIL OF JAMBS, HEADS AND MUNTINS MATCH THESE SHOWN AT UPPER TWO FLOORS. EXTERIOR FINISHES ARE 6" THICK GRANITE STONE AT GROUND FLOOR LEVEL INSTEAD OF BRICK SHOWN HERE.



INTERIOR ELEVATION

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PROJECT: 415 COLCHESTER AVE. RESTORATION
BRISSON PROPERTIES
JOB No. 14-08

TITLE: WINDOW DETAILS
SCALE: 3/4" = 1'-0"

ISSUE DATE: 6 4 15
REVISIONS: 6 29 15

SHEET No. A 401

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Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

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JUN - 9 2015
DEPARTMENT OF PLANNING & ZONING

Time Extension Request

Use this form to request a one year time extension on any valid zoning permit.
Permits that were administratively approved can have time extension requests administratively reviewed and there is n
Permits that were reviewed by the Development Review Board, require a public meeting and there is a $150 fee for t
request to cover time and expenses for public notices.

PROJECT LOCATION ADDRESS: 110 Hyde Street, Burlington

PROPERTY OWNER*: Andrew Rianhard *If condominium unit, written approval from the Association is also required	**OWNER'S REPRESENTATIVE:** Same
POSTAL ADDRESS: 110 Hyde Street	POSTAL ADDRESS:
CITY, ST, ZIP: Burlington VT 05401	CITY, ST, ZIP:
DAY PHONE: 508-930-8869	DAY PHONE:
EMAIL: zealousinteriors@gmail.com	EMAIL:
SIGNATURE: [signature] I am the owner and I duly authorize the owner's representative (if applicable) to act on my behalf for all matters pertaining to this zoning permit application.	**SIGNATURE:**

Zoning Permit Number: # 14-0005CA/HO

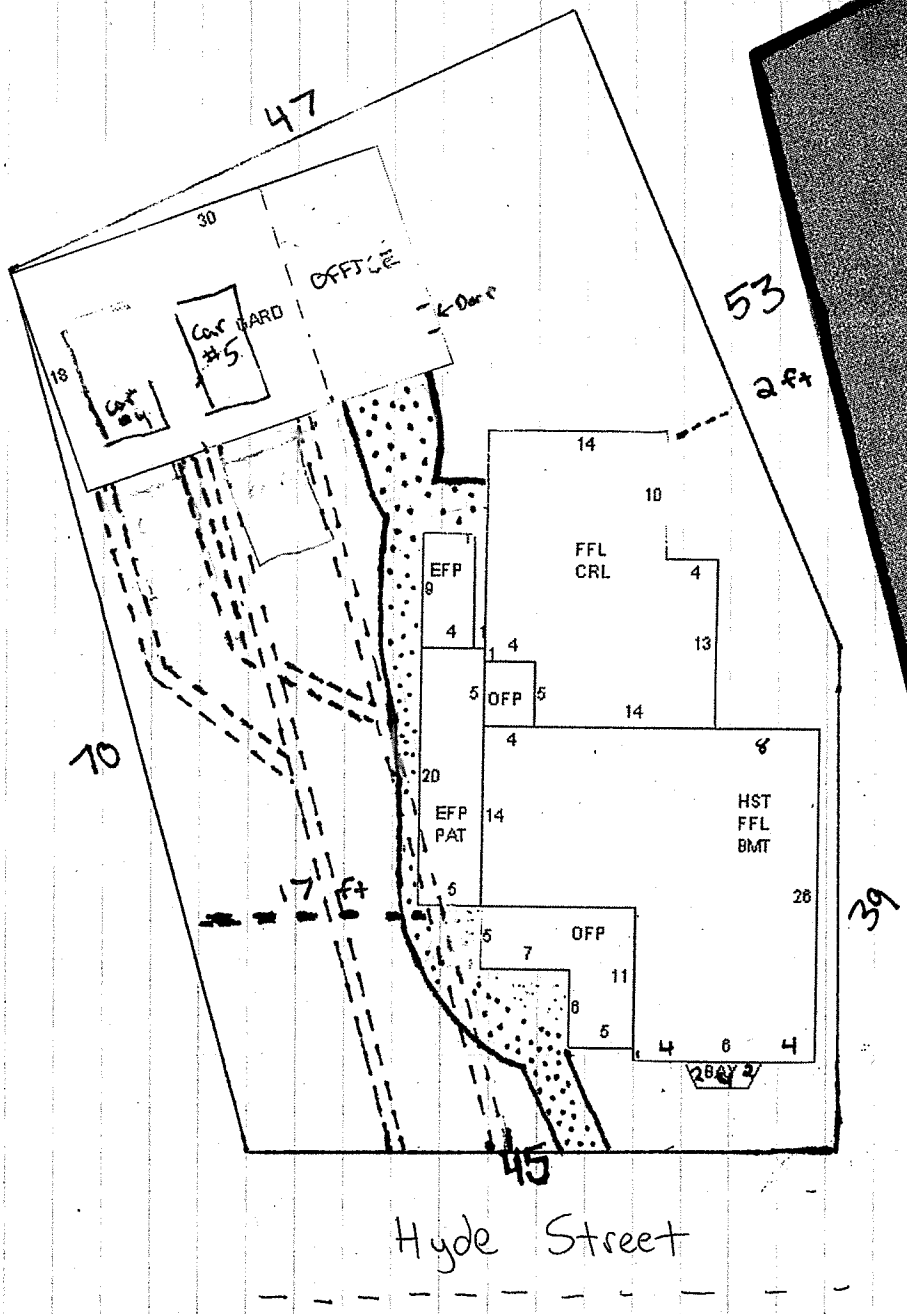
Summary of Approved Permit Description: Home occupation for auto upholstery = Con
back to 3 car garage, remove vinyl, insulate + finish right bay
into office, add driveway strips.

Summary of current status of project: The 3 garage doors are installed. The nex
step is structual supports of garage + office, then exterior work, elect
insulate, drywall. Aiming to finish exterior before mid-fall. I need more time
do the driveway and interior finishing of the garage, if possible! Please o
the porch work doubled in price after the stairs became an issue after levelin

- Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, the office in the lower level of City Hall, 149 Church Street.

Office Use Only

Check No. 1070 Amount Paid 150.- Zoning Permit # 14-0005CA/H



Hyde Street

1 ft = 1.72 mm
Blue: Proposed tract
Green: current sider

-- NOTE --

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 12/10/13

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

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DEPARTMENT OF
PLANNING & ZONING

Burlington Development Review Board
149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/PZ/Boards/Development-Review-Board
Phone: (802) 865-7188
Fax (802) 865-7195

Austin Hart
Michael Long
Jonathan Stevens
Brad Rabinowitz
Bob Schwartz
Missa Aloisi
Jim Drummond
Israel Smith (Alt.)
Alexandra Zipparo (Alt.)

Burlington Development Review Board

Minutes/Findings of Fact
December 10, 2013

In RE: 14-0005HO/CA; 110 Hyde Street (Ward 2, RM) (Tax Lot No. 040-2-044-000)

Owner/Representative: Estate of James Byrd / Andrew Rainhard

Request: Establish home occupation for auto upholstery work (including convertible tops) within garage

Members Present:
Austin Hart
Jonathan Stevens
Bob Schwartz
Brad Rabinowitz
Jim Drummond
Alexandra Zipparo

Evidence Presented:
The Board examined the materials submitted in support of this request.

I. FINDINGS

Background Information:
The applicant is seeking approval for a home occupation involving automotive upholstery work. The home occupation would take place within an existing garage. New garage doors are proposed to be installed to replace previously removed ones, and a driveway would be installed to access the garage.

The Development Review Board initially reviewed this application on August 6, 2013. The Board found that a number of items were outstanding and that the proposal itself was ambiguous. The Board tabled the application pending receipt of additional information to clarify the following:

- Exactly what goods and/or services are proposed;
- How vehicles awaiting service or that are finished will not be kept onsite; and,
- Whether the proposed use will change the fire rating of the structure (confirmation from the Burlington Fire Marshal is needed).

The Board stipulated that this additional information be provided within 60 days of its August 15, 2013 deliberation. The information was submitted September 30, 2013 – within 60 days. Additional details to address items beyond the Board's explicit stipulations were also submitted.

Previous zoning actions for this property are noted below.

- 8/23/99, Approval to install vinyl siding on home. Retain wooden trim and windows.
- 6/6/93, Approval to remove garage chimney

Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
(1) The capacity of existing or planned community facilities;
The proposed home occupation will entail little, if any, additional impacts on community facilities currently serving the residence. **(Affirmative finding)**

(2) The character of the area affected;
The immediate neighborhood is exclusively residential with a mix of single family homes, duplexes, and multi-family homes. The duplex use on the subject property will remain unchanged, and there will be no exterior building alterations to the residence. Exterior work associated with this proposal is limited to installation of driveway strips and garage renovations. Insofar as the exterior changes are modest, and the home occupation is limited per Sec. 5.4.6 below, it may be found to have no significant impact on the character of the area affected. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;
Customers will come to the premises. Services will be by appointment only and will be limited to 1 customer per day. With this limit of just 1 customer per day, traffic impacts will be minor. **(Affirmative finding)**

(4) Bylaws then in effect;
As conditioned, this application complies with applicable bylaws. **(Affirmative finding)**

(5) Utilization of renewable energy resources;
The applicant contemplates installing solar panels on the garage roof; however, funding their installation has not yet been secured, and they should not be included in this application. The applicant is encouraged to pursue their installation under separate permit in the future. **(Affirmative finding)**

(6) Cumulative impacts of the proposed use;
The proposed home occupation will generate minimal traffic, and no customer vehicles will be stored onsite. Vehicle work will be limited to upholstery services only with no need for commercial ventilation or noise attenuation. **(Affirmative finding)**

(7) Functional family;
This criterion does not apply to the subject permit request. **(Not applicable)**

(8) Vehicular access points;

The subject property contains a duplex and detached garage. There is no driveway, nor has there been one since before the 1978 orthophotos were taken. The applicant proposes to install a driveway to access the garage. The proposed driveway will provide sufficient access for the requested home occupation. **(Affirmative finding)**

(9) Signs;
A small sign for the home occupation is proposed; however, details are lacking. A separate zoning permit is required for outdoor signs. The sign must be a parallel sign no greater than 2 square feet and non-illuminated as per Section 5.4.6 (b) 5. B. **(Affirmative finding as conditioned)**

(10) Mitigation measures;
The proposed home occupation will take place within an enclosed structure. The application does not include any new exterior ventilation. As the application has been revised, the upholstery work will not generate any perceptible noxious effects such as noise, glare, or emissions. **(Affirmative finding)**

(11) Time limits for construction;
A construction schedule is proposed, and it takes place within the standard 2-year time frame for zoning permits. **(Affirmative finding)**

(12) Hours of operation and construction;
The revised application materials propose days and hours of operation of Monday – Friday, 10:00 AM – 6:30 PM. These proposed days and hours of operation are fairly limited and are acceptable for the home occupation. **(Affirmative finding)**

(13) Future enlargement or alterations;
Any future enlargement or alterations of the home occupation will require additional permit review per the regulations in effect at that time.

(14) Performance standards;
See Sections 5.5.2 and 5.5.3 for outdoor lighting and stormwater, respectively.

(15) Conditions and safeguards;
Conditions of approval are included in these findings.

Article 4: Maps & Districts
Sec. 4.4.5, Residential Districts:
(a) Purpose
(3) Residential Medium Density (RM)
The subject property is located in the RM zone. This zone is intended primarily for medium density residential development in the form of single and multi-family homes. The primary use will remain that of a duplex. **(Affirmative finding)**

(b) Dimensional Standards & Density
Residential density will remain unchanged.

Lot coverage is presently nonconforming at 59.6%. The limit in the RM zone is 40%. In order to install the proposed driveway strips, an existing concrete walkway will be removed. As proposed, 270 square feet of concrete walkway will be removed, and 174 square feet of concrete driveway strips will be installed. A set of 10 stone steps will also be installed totaling 40 sf. The net result will be a 56 sf reduction in lot coverage. Lot coverage will drop to 58.3%.

Building setbacks will remain unchanged. The proposed driveway strips will affect the left side yard setback. The site plan is drawn at a scale (1.72 mm = 1') that makes it difficult to determine compliance with the side yard setback. The applicant has clarified this setback noting that the driveway will be ~6 feet from the side property line, whereas a 5' minimum is required.

Building height will remain unchanged. **(Affirmative finding)**

(c) Permitted & Conditional Uses
The duplex is a permitted use in the RM zone. The proposed home occupation may be conditionally permitted. **(Affirmative finding)**

(d) District Specific Regulations
1. Setbacks
No setback encroachments are being sought. **(Not applicable)**

2. Height
No height bonuses are being sought. **(Not applicable)**

3. Lot Coverage
No lot coverage bonuses are being sought. **(Not applicable)**

4. Accessory Residential Structures and Uses
No new accessory structures are sought. **(Not applicable)**

5. Residential Density
No exceptions to the occupancy limits of the duplex are sought. **(Not applicable)**

6. Uses
No neighborhood commercial use is included in this proposal. **(Not applicable)**

7. Residential Development Bonuses
No development bonuses are being sought. **(Not applicable)**

Article 5: Citywide General Regulations
Part 4: Special Use Regulations
Sec. 5.4.6, Home Occupations
1. A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL and WRL districts and no more than two (2) full-

time equivalent employees in other districts. The home occupation shall be conducted entirely within an existing dwelling unit and/or one enclosed accessory structure.

The home occupation will be conducted by one resident occupant and one outside employee. The home occupation will take place entirely within the detached garage. **(Affirmative finding)**

2. No more than thirty-five percent (35%) of the floor area of said residence, including accessory structures, up to a maximum of seven hundred fifty (750) square feet, whichever is less, shall be used for such purpose.

Two of the garage bays, totaling 360 sf, will be used for the home occupation. The associated dwelling and accessory structure space totals 1,422 sf. The proposed 360 sf home occupation space is 25.3% of the associated dwelling and accessory structure space. **(Affirmative finding)**

3. No home occupation shall require alterations, construction or equipment that would change the fire rating of the structure or the fire district in which the structure is located.

As now confirmed by the Fire Marshal, the home occupation does not result in a change to the fire rating of the structure. **(Affirmative finding)**

4. There shall be no outside storage of any kind related to the home occupation.

No outside storage is proposed. **(Affirmative finding)**

5. There shall be no exterior evidence of the conduct of a home occupation except for:
Occasional garage/lawn/yard type sales (up to twice a year not to exceed two (2) days each); and
One non-illuminated attached parallel sign that shall not exceed two (2) square feet. No other signs shall be permitted.

No garage/lawn/yard type sales are included in this proposal. A 2 sf exterior sign is proposed, but is subject to a separate zoning permit. **(Affirmative finding as conditioned)**

6. No home occupation may increase vehicular traffic flow or parking by more than one additional vehicle at a time for customers or deliveries. All parking shall be located off-street and shall maintain the required front yard setback per Article 5.

Customers will come to the premises and will be limited to 1 per day. The property has no parking under current conditions. As proposed, 2 legitimate parking spaces will be provided in the garage with newly provided driveway access. One of the spaces will serve the home occupation and one will serve the residence. The site plans depict 2 more parking spaces on the driveway strips. Doing so would increase the already nonconforming lot coverage and cannot be permitted. Only the 2 garage spaces may be used.

Additional information has been provided about limiting traffic. The driveway will remain gated. Furthermore, customers may drop off and pick up vehicles the day that the work is being

done. Alternatively, if they pick up the vehicle on the following day, it will be parked offsite at nearby 310 North Winooski Ave (Champlain Transmission). This arrangement may be acceptable; however, confirmation is needed as to whether the property at 310 North Winooski Avenue has excess parking to lease per the parking requirements of Article 8. There are no zoning permits on file for this property. If it does have excess parking capacity, a long term lease or similar measure tied to the duration of the proposed home occupation must be executed. **(Affirmative finding as conditioned)**

7. No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit.

The home occupation as proposed will not generate any nuisance or unsightliness discernible from the exterior. The only exterior evidence of the home occupation will be the one sign. **(Affirmative finding)**

8. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.

The vehicle upholstery services will be provided by appointment only, 1 customer per day. Days and hours of operation are limited to 10:00 AM – 6:30 PM, Monday – Friday. The proposed home occupation is limited in scope and secondary to the primary residential use of the property. **(Affirmative finding)**

9. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day.

Commercial delivery vehicles will service the home occupation and will come to the premises 2 times per week. **(Affirmative finding)**

10. With the exception of one delivery per day, as specified in subparagraph (9), no more than one commercial vehicle shall be allowed on the premises at any one time; and

No commercial vehicles other than the delivery vehicle as noted are associated with the home occupation. **(Affirmative finding)**

11. There shall be no sale of goods except for goods fabricated on the premises as part of an approved home occupation.

Vehicle upholstery services will be provided onsite within the garage. No goods fabricated elsewhere will be sold as part of the home occupation. **(Affirmative finding)**

Article 5: Citywide General Regulations
Sec. 5.2.3, Lot Coverage Requirements
See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation
(Not applicable)

Sec. 5.2.5, Setbacks
See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits
See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations
See Sec. 4.4.5 (b) above.

Sec. 5.4.8, Historic Buildings and Sites
(b) Standards and Guidelines

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*
   The home and detached garage have both been surveyed and deemed eligible for inclusion in the Vermont Register of Historic Places. The home will remain unchanged; however, some alterations to the garage are proposed. The use of the garage will remain largely that of a garage with home occupation space inside. **(Affirmative finding)**

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*
   The photograph of the garage as it is today versus as it was in 1995 depicts substantial changes to the front façade. The 3 double doors and associated ornamentation have been removed and replaced with a single central door. Vinyl siding has also been installed. There are no zoning permits on file for any of these alterations. This is a serious concern as they could have been removed without proper lead-safe practices being utilized. The historic survey was conducted in 2002 and notes the original doors. The applicant proposes to reinstall 3 garage doors and a side window and doorway that had also been boarded up. **(Affirmative finding)**

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*
   Additional details for the proposed garage renovation have been provided but are not yet complete. As noted above, the 3 garage bays will be put back in use, and 3 new garage doors are proposed. A cut sheet for the door has been provided. The steel material is not ideal; however, the door design is acceptable. No cutsheets for the reinstalled side window or door have been provided and must be. As part of the renovations, the unpermitted vinyl siding must be removed, and the underlying material must be fixed or replaced in kind as needed. **(Affirmative finding as conditioned)**

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*
   Not applicable.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*
   As noted above, the unpermitted vinyl siding must be removed, and the underlying material must be fixed or replaced in kind as needed. **(Affirmative finding as conditioned)**

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*
   See criteria 3 and 5 above.

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*
   (Not applicable)

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*
   There are no known archeological resources on the property. **(Affirmative finding)**

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*
   As conditioned, exterior alterations to the garage will restore its historic integrity. Inappropriate and unpermitted exterior materials will be removed. **(Affirmative finding)**

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*
    See #9 above.

Sec. 5.5.1, Nuisance Regulations
Nothing in the proposal appears to result in creating a nuisance under this criterion.
(Affirmative finding)

Sec. 5.5.2, Outdoor Lighting
No new outdoor lighting is proposed. **(Not applicable)**

Sec. 5.5.3, Stormwater and Erosion Control

Earthwork associated with this proposal does not exceed 400 sf. Therefore, no erosion control plan is needed. **(Affirmative finding)**

Article 8: Parking
The duplex requires 4 parking spaces (2 per unit). The property has no parking and has not had any since before the 1978 orthophotos were taken. It is nonconforming. The proposed work includes provision of 1 residential space in the garage, thereby lessening the degree of nonconformity. The home occupation requires 1 parking space, and that space will be provided in the garage. As noted previously, parking on the driveway strips is prohibited as it would increase the degree of nonconforming lot coverage. **(Affirmative finding)**

II. MINUTES

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

III. MOTION

Motion: Austin Hart
I move that the Board grant combined conditional use and certificate of appropriateness approval to establish a home occupation for auto upholstery work (including convertible tops) within a detached garage for the property at 110 Hyde Street in the RM zone in accordance with Articles 3, 4, 5, and 8. Approval is subject to the following conditions:

1. **Prior to release of the zoning permit**, cut sheets for the proposed side window and door shall be provided, subject to staff review and approval.
2. **Prior to issuance of a certificate of occupancy,** the proposed off-site parking shall be guaranteed for the duration of the home occupation use as evidenced by deed, lease, easement, or other similar written instrument as reviewed and approved by the City Attorney. Confirmation of parking at 310 North Winooski Avenue in excess of the minimum requirements of Article 8 shall be provided, subject to staff review and approval.
3. There shall be no more than one vehicle associated with the home occupation on the premises at any one time. In addition, no vehicles associated with the home occupation shall remain on-site after working hours, i.e. 6:30 PM. Any such vehicles shall be parked at 310 North Winooski Avenue as per condition # 2.
4. The vinyl siding and trim on the garage shall be removed as part of this permit approval. The underlying material shall be repaired or replaced in-kind as needed.
5. Days and hours of operation shall be limited to Monday – Friday, 10:00 AM – 6:30 PM. Customers are limited to 1 per day by appointment only.
6. All outdoor signs are separate to review and approval under a separate sign permit.
7. The home occupation space shall comply with Burlington's current energy efficiency standards and with Burlington's current ingress and egress requirements as established by Burlington Electric Department and Burlington Public Works, respectively.
8. It is the applicant's responsibility to comply with all applicable ADA requirements.
9. Standard permit conditions 1 -15.

Seconded: Bob Schwartz

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this 10th day of December, 2013

Respectfully Submitted,

Austin D. Hart

Austin Hart, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. (Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. The appeal shall be taken in such a manner as the supreme court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board's decision.

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
vacant, Assistant Director
vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary

TO: Development Review Board
FROM: Scott Gustin
DATE: July 21, 2015
RE: 14-0005HO; 110 Hyde Street

==========

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE <u>MUST</u> ATTEND THE MEETING.

Zone: RM Ward: 2C

Owner/Representative: Andrew Rianhard

Request: Time extension request for zoning permit to establish home occupation for auto upholstery work (including convertible tops) within garage.

Applicable Regulations: Article 3 (Applications and Reviews)

Background Information:
The applicant is seeking a time extension to complete work associated with his approved home occupation automotive detailing business. The home occupation has been approved to take place within an existing garage with associated interior fit-up work. New garage doors are proposed to be installed to replace previously removed ones, and a driveway would be installed to access the garage.

Previous zoning actions for this property are noted below.

- 12/10/13, Approval to establish auto upholstery work home occupation with associated site and garage improvements.
- 8/23/99, Approval to install vinyl siding on home. Retain wooden trim and windows.
- 6/6/93, Approval to remove garage chimney

Recommendation: **<u>Consent approval</u>** as per, and subject to, the following findings and conditions:

I. Findings
Sec. 3.2.9, Zoning Permits
(d) Time Limit on Zoning Permits:

The zoning permit for this project was approved by the Development Review Board on December 10, 2013. From that date, the applicant had 1 year to commence construction. The project was to be completed by the end of the 2nd year, or per this criterion, request a 1-year time extension. The applicant started construction within the first year as required. The applicant is requesting a time

extension for completion of the project. This request has been made prior to expiration of the permit as required. No changes to the project are proposed. Extension by another year is acceptable. Construction must be complete by December 10, 2016. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. Except as specifically modified in this approval, all conditions of the original zoning permit approval dated December 10, 2013 shall remain in effect.
1. Standard permit conditions 1 -15 (including construction completion date no later than December 10, 2016).

820 North Ave

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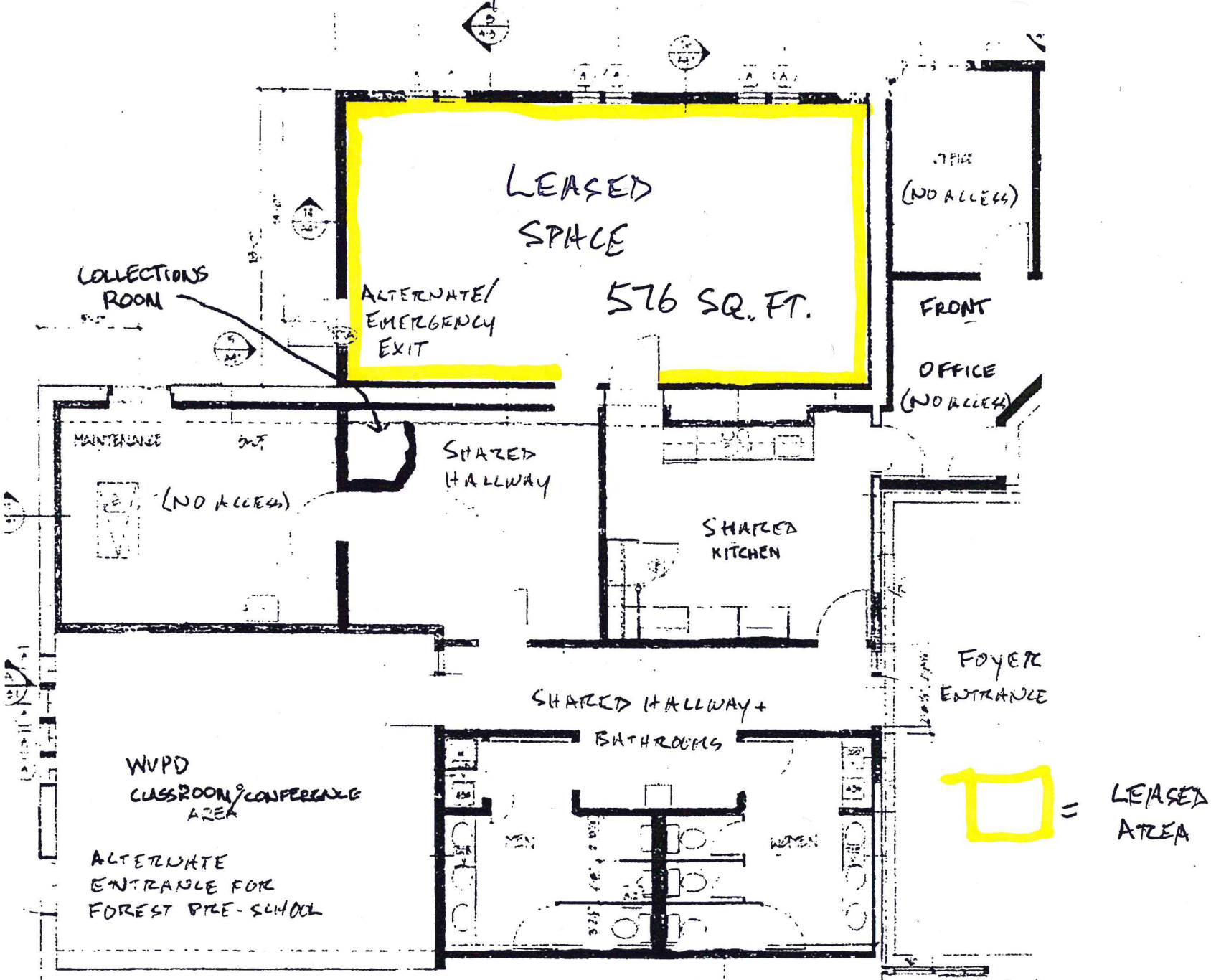
PROJECT DATA:

- No physical alterations necessary to covert use: already existing classroom facility;
- Area to be leased for small daycare is 576 square feet;
- shared access is provided to entrance and bathrooms;
- Capacity is set at 10 children;
- There are two employees;
- Capacity of main lot is 25 spaces, auxiliary lot has 30 spaces;
- Hours of operation are weekdays only, 8AM-4:30PM

EAHM SOUTH LAYOUT



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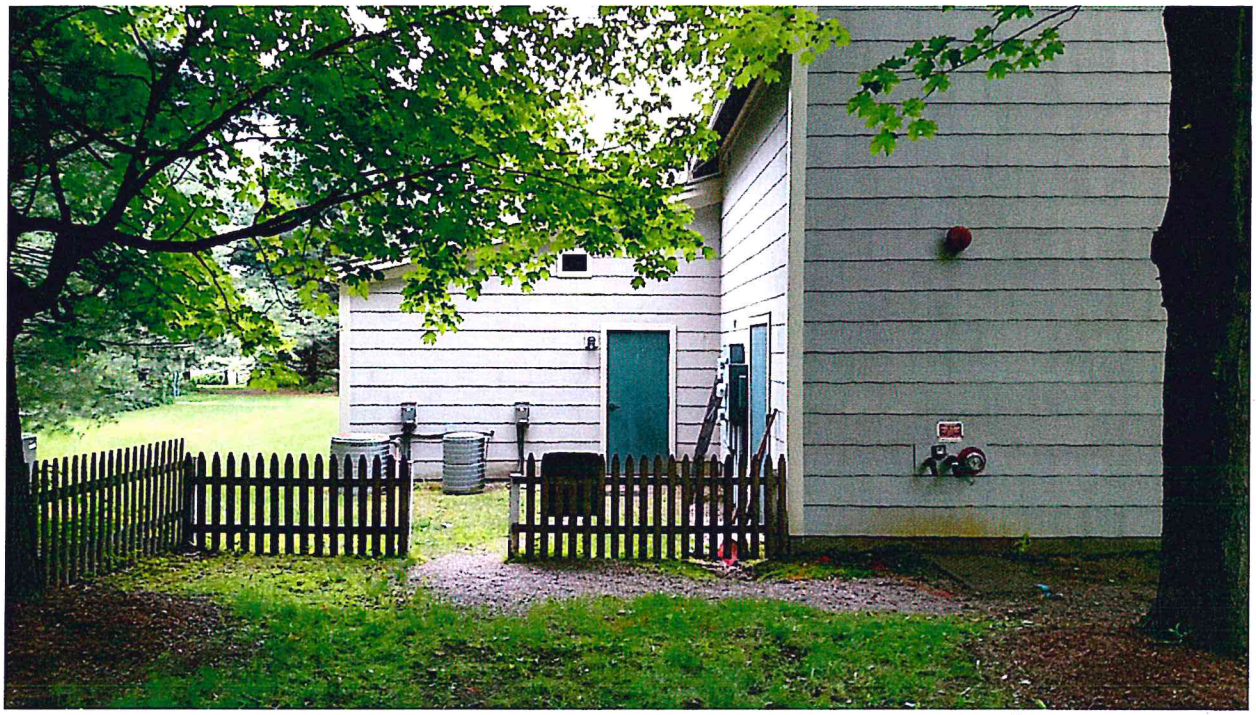
ZONING PERMIT APPLICATION: SMALL DAYCARE AT THE ETHAN ALLEN HOMESTEAD MUSEUM

MAIN FACILITY SHARED ENTRANCE (LOOKING EAST)



EXTERIOR SIDE DOOR ALTERNATE EGRESS FOR LEASED SPACE (LOOKING SOUTH)

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ZONING PERMIT APPLICATION: SMALL DAYCARE AT THE ETHAN ALLEN HOMESTEAD MUSEUM

ROOM TO BE LEASED FOR SMALL DAYCARE (576 SQUARE FEET)

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ZONING PERMIT APPLICATION: SMALL DAYCARE AT THE ETHAN ALLEN HOMESTEAD MUSEUM

SHARED HALLWAY (LOOKING EAST)

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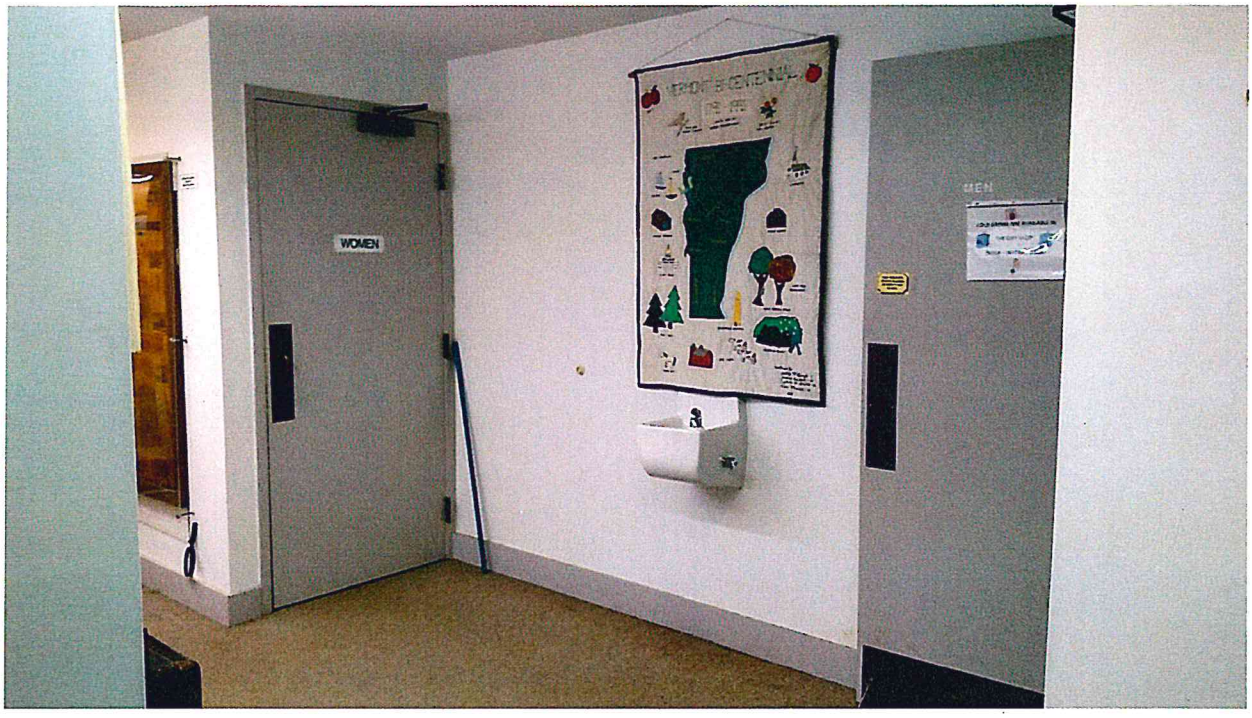

SHARED BATHROOMS (LOOKING SOUTHWEST)

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PLANNING & ZONING

ZONING PERMIT APPLICATION: SMALL DAYCARE AT THE ETHAN ALLEN HOMESTEAD MUSEUM

MAIN PARKING LOT: CAPACITY 25 SPOTS (LOOKING SOUTH)

TOTAL FACILTY CAPACITY FOR EVENTS: 221 SPOTS

MAIN PARKING LOT (LOOKING SOUTHWEST)

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ZONING PERMIT APPLICATION: SMALL DAYCARE AT THE ETHAN ALLEN HOMESTEAD MUSEUM

AUXILIARY PARKING LOT: CAPACITY 30 SPOTS (LOOKING SOUTH)

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DEPARTMENT OF
PLANNING & ZONING

IMAGE OF EAHM FACILITY AND PARKING AREAS (LOOKING NORTHWEST)

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PLANNING & ZONING

CITY OF BURLINGTON

ORDINANCE 4.12
Sponsor: Planning Department
Public Hearing Dates: 06/15/15
First reading: 05/18/15
Referred to: schedule Public
Rules suspended and placed in all stages of passage:
Second reading: 06/15/15
Action: adopted
Date: 06/15/15
Signed by Mayor: 06/15/15
Published: 06/24/15
Effective: 07/15/15

In the Year Two Thousand Fifteen

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE –
Appendix A-Use Table (Attached Dwellings-Mixed Use and Small Daycares in the RCO)
ZA 15-05 (A and B)

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending the Use Table – All Zoning Districts thereof to read as follows:

*See proposed changes on attached table.

** Material stricken out deleted.
*** Material underlined added.

lb/KS/c: Ordinances 2015/Zoning Amendment – ZA #15-05A Attached Dwellings-Mixed Use, ZA #15-05B Small Daycares in the RCO, App. A, Use Table – All Zoning Districts,
5/13/15

ORIGINAL

AN ORDINANCE

IN RELATION TO

CDO-Appendix A-Use Table (Attached Dwellings-Mixed Use and Small Daycares in the RCO) ZA 15-05 (A and B)

Introduced by

Councilor / / / / / / / Planning Department

Read in City Council first time

May 18, 20 15.

Attest,

, Clerk.

Rules suspended, and ordinance placed in all stages of passage.

, 20 .

Attest,

, Clerk.

Read in City Council second time

June 15, 20 15.

Attest,

, Clerk.

Passed in City Council at meeting held

June 15, 20 15.

Attest,

, Clerk.

Approved June 15, 20 15

I, ACAO Goodwin, City Clerk of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for Wednesday day, namely the 24th day of June, 20 15.

Adopted 06/15/15 Published 06/24/15 Effective 07/15/15

ACAO, City Clerk

* * * * * * * *

Distribution

I hereby certify that this Ordinance has been sent to the following department(s) on

P & Z Director White
City Attorney's Office

Attest:

Lori Olberg
Licensing,Voting & Records Coordinator

* * * * * * * *

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential				Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	UR	RCO-A	RCO-RG	RCO-C	I	RL/W	RMW	RH	D	DW	DW-PT	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
RESIDENTIAL USES	UR	RCO-A	RCO-RG	RCO-C	I	RL/W	RMW	RH	D	DW	DW-PT	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
							*****											
Attached Dwelling(s) – Mixed-Use[24]	N	N[1]	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
							*****											
NON-RESIDENTIAL USES	UR	RCO-A	RCO-RG	RCO-C	I	RL/W	RMW	RH	D	DW	DW-PT	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
							*****											
Daycare – Small (7-20 children) (See Sec. 6.4.1)	N[21]	N[22]	N[22]	N[22]	CU	CU	CU[23]	CU[23]	Y	Y	N	CU	CU	Y	Y	Y	CU	CU
							*****											

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. ~~Reserved.~~ Small daycares in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	**Zoning District**
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RMW	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
vacant, Assistant Director
vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary

TO: Development Review Board
FROM: Scott Gustin
DATE: July 21, 2015
RE: 15-1375CU; 820 North Avenue

==========

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RCO-A&C Ward: 7N

Owner/Representative: Winooski Valley Park District

Request: Convert classroom into small daycare within existing small museum (Ethan Allen Homestead). No construction proposed.

Applicable Regulations:
Article 3 (Applications and Reviews), Article 4 (Maps & Districts), Article 8 (Parking)

Background Information:
The applicant is seeking conditional use approval to establish a "small daycare" within an existing "small museum." Both terms are defined in the CDO and are limited to 20 children and < 10,000 sf, respectively. In this case, the proposed small daycare would contain up to 10 children. No building or site alterations are included in this proposal.

Small daycares may be allowed in association with small museums per zoning amendment 15-05, adopted June 15, 2015.

Previous zoning actions for this property are as follows:

- 6/20/14, Approval to remove storage shed and install new storage shed
- 4/18/14, Approval to install new fencing around community garden
- 4/30/10, Approval to install exterior foundation insulation
- 5/9/08, Approval to construct tool shed
- 10/20/03, Approval to construct bench & platform structure associated with picnic shelter
- 5/28/92, Approval to construct wooden walkway through wetland
- 8/10/88, Approval of modified outdoor lighting
- 4/14/88, Approval of building and site renovations
- 2/13/87, Approval of two building additions
- 10/24/86, Approval of exterior renovations to office/garage building
- 1/12/84, Approval to replace overhead door with windows
- 7/2/82, Approval for temporary mobile trailer

- 7/22/82, Approval for restoration of original homestead, relocation of additional residential structure, construction of information center, restrooms, and caretaker's residence, and parking
- 5/12/78, Approval to erect picnic shelter and restroom buildings

Recommendation: **<u>Consent approval</u>** as per, and subject to, the following findings and conditions:

I. Findings
Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Sec. 3.5.6, Review Criteria
(a) Conditional Use Review Standards
1. The capacity of existing or planned community facilities;
The proposed small daycare will have little, if any, impact on the capacity of community facilities. The facility is served by city water and onsite septic. A state wastewater permit may be required. The applicant is already working with VT DEC relative to this item. **(Affirmative finding)**

2. The character of the area affected;
The property is located in the RCO-A & C zones. The RCO-A zone is intended to protect productive agricultural soils, provide opportunities for viable commercial agricultural production, and to protect natural resources and working forest lands. The RCO-C zone is intended to preserve the function, integrity, and health of the city's significant natural communities and features, both land and water, in their natural state for scientific, ecological, wildlife, educational, or scenic purposes. The existing small museum, the Ethan Allen Homestead, is consistent with the educational goals of this zone. The proposed small daycare is consistent with the mission of the Ethan Allen Homestead and fits within the educational goals of this zone. **(Affirmative finding)**

3. Traffic on roads and highways in the vicinity;
No traffic information has been provided; however, traffic associated with the new daycare is expected to be minimal. **(Affirmative finding)**

4. Bylaws then in effect;
The project as conditioned is in compliance with all applicable bylaws as reflected in these findings. **(Affirmative finding)**

5. Utilization of renewable energy resources;
The utilization of alternative energy has not been incorporated into this proposal. The proposed daycare does not preclude such utilization in the future. **(Affirmative finding)**

6. Cumulative impacts of the proposed use;
The proposed small daycare will be established within an existing small museum in a largely rural setting. Cumulative impacts are expected to be negligible. **(Affirmative finding)**

7. Functional family;
(Not applicable)

8. Vehicular access points;

Existing private road access from Rte. 127 will serve the proposed small daycare. **(Affirmative finding)**

9. Signs;
No signs are included in this proposal. **(Not applicable)**

10. Mitigation measures;
The proposal is not expected to generate any noxious effects such as excessive noise, glare, or emissions. **(Affirmative finding)**

11. Time limits for construction;
No construction is proposed. **(Not applicable)**

12. Hours of operation and construction;
The small daycare would operate from 8:00 AM – 4:30 PM, Monday – Friday. Closed on weekends. These hours are within the typical range for a small daycare and are acceptable. **(Affirmative finding)**

13. Future enlargement or alterations;
As with anything else, any future enlargement or alteration to the daycare will require zoning review under the regulations in effect at that time. **(Affirmative finding)**

14. Performance standards;
Performance standards relating to outdoor lighting and erosion control do not pertain to this application.

15. Conditions and safeguards;
Approval of this project will be conditioned to implement the purposes of the zoning regulations. **(Affirmative finding)**

Article 4: Maps & Districts
Sec. 4.4.6, Recreation, Conservation, and Open Space Districts:
(a) Purpose
(1) RCO-Agriculture (RCO-A) & (3) RCO-Conservation (RCO-C)
As noted above, the property is situated within the RCO-A and RCO-C zones. These zones are intended primarily for working agricultural and forest lands and for preservation of significant natural communities, respectively. As related to these overarching goals, these lands may also be used for scientific, ecological, wildlife, educational, or scenic purposes. The existing small museum and proposed small daycare are consistent with these purposes. **(Affirmative finding)**

(b) Dimensional Standards & Density
No site or building changes are proposed. Setbacks, building height, and lot coverage all remain unchanged. **(Affirmative finding)**

(c) Permitted & Conditional Uses
The proposed small daycare is a conditional use in the RCO-A and RCO-C zones. Conditional use criteria are addressed under Article 3 above. Per zoning amendment 15-05, the small daycare must not exceed 50% of the floor area of the small museum with which it is associated. Such is the case

here. The proposed small daycare will occupy just 576 sf or 9.2% of the 6,232 sf Ethan Allen Homestead museum building. **(Affirmative finding)**

(d) District Specific Regulations
(Not applicable)

Article 8: Parking
Sec. 8.1.8, Minimum Off-Street Parking Requirements
The subject property is located in the Neighborhood Parking District. The proposed small daycare requires 1 parking space per 2 employees. As just 2 employees are proposed, just 1 parking space is required. The associated small museum requires 1 parking space per 1,000 sf GFA. In this case, the 6,232 sf museum requires 6 parking spaces. There are two parking lots onsite. One contains 25 spaces, and the other contains 30 spaces. There is sufficient parking onsite for the existing and proposed uses. **(Affirmative finding)**

Sec. 8.2.5, Bicycle Parking Requirements
At just 576 square feet, the proposed small daycare is too small to require any bicycle parking. Existing bike parking facilities at the museum will remain unchanged. **(Affirmative finding)**

II. Conditions of Approval
1. The small daycare is limited to 10 children and days/hours of operation of Monday-Friday, 8:00 AM – 4:30 PM.
2. Standard permit conditions 1-15.

Miscellaneous Appeal - Enforcement – DRB Staff Comments

City of
Burlington, Vermont
149 Church Street

ZP #: 15-1318AP **Tax ID:** 049-3-010-000

Application Date: June 11, 2015

Property Address: 193 SAINT PAUL STREET

Description: Appeal of a Code Enforcement decision that a zoning violation regarding parking does not exists at 193 Saint Paul Street.

File: ZP #: 08-167PD
Location: 193 St. Paul Street
Zone: Zone: RH Ward: 5
Date appeal received: June 5, 2015
Date of administrative decision: May 21, 2015
Owner/Appellant: Glenn Von Bernewitz

Request: Appeal of Administrative Determination by Code Enforcement of an unsubstantiated complaint pertaining to the parking dimensions for the garage/parking at 193 St. Paul Street.

Appeal
The appellant's statement is attached.
Appellant argues there is a concrete support column encroaching into his parking space reducing the width by approx. 1 foot which means the parking is not in compliance with either the original plans or the as-built approvals for ZP 08-167PD.

Background Facts/Overview:
Zoning Permit ZP 08-167PD was issued for project described as 34 residential condominium units with structured parking and associated site modifications. The conditions of approval associated with this project are found in the Judgment Order, Project Permit Conditions, and Standard Permit Conditions as per the Environmental Court of the State of Vermont, signed March 11, 2009 by the Honorable Thomas Durkin. The project received a final Unified Certificate of Occupancy on July 14, 2014.

The appellant's parking space identified by markings on the pavement as space #306 was measured by Code Enforcement Staff and found to be 8 feet 4" wide. The concrete support column is depicted in the approved site plans for ZP 08-167PD. The support column measurement is less than 6 inches from the scaled location as depicted in the approved plans. A de minimis deviation of 6" is reasonably acceptable and not a violation of the permit.

Response to Appellant
Zoning Permit ZP 08-167PD for final plat review of 34 residential condominium units with structured parking and associated site modifications received zoning approval as noted above and was issued a final unified certificate of occupancy on July 14, 2014.

Request:
Deny the appeal and uphold the administrative determination per the above facts and the finality status of the approval zoning permit #: 15-1318AP

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

RECEIVED
JUN - 5 2015
DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 193 Saint Paul St.

Subject Property Owner: Owners of Stratos Condominium c/o Stratos Condominium Association

Appellant: Glenn Von Bernewitz

Agent/Representative:

Mailing Address: 193 Saint Paul St #306

City, St, Zip: Burlington VT 05401

Day Phone: 802 999 3739 Email: gvb321@yahoo.com

Appellant Signature: Date: 6/5/15

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- ☐ The Appeal **fee of $250**;
- ☐ Description of the decision under appeal;
- ☐ Description of the property subject to the appeal;
- ☐ Reference to the regulatory provisions applicable to the appeal;
- ☐ Relief requested by the appellant;
- ☐ Alleged grounds why such requested relief is believed proper under the circumstances.

see attached

08-167PD

Office Use Only:

Check No. 133 Amount Paid $250 Zoning Permit # 15-1318 AP

Schedule for DRB - July 21.

On February 10, 2015 a Zoning Enforcement Complaint was submitted. This is attached as Exhibit 1. This complaint stated that the parking width dimensions are not built according to the approved plans for the project.

In a letter dated May 21, 2015, the Code Enforcement Office denied this complaint. This letter is attached as Exhibit 2.

The property in question is 193 Saint Paul St., more specifically, the lower level garage.

The complaint is that the current parking is not in compliance with the building plans in two ways: first the line striping is too narrow and second the support column visible in the drawing obstructs parking space (#306) by 14.5 inches. This measurement taken from Code Enforcement Director Bill Ward's drawing – which is attached as Exhibit 3. The plans show the support column; however, it is mostly outside of the parking space with the line striping on the right-most position. The current line striping has the support column fully within the parking space.

Background

Burlington's Development Ordinance Article 8 relating to parking states that standard width parking is to be 9 feet and compact 8 feet, reference attached as Exhibit 4. Drawn to scale building plans and as-built plans measure a 9 foot width for parking in subject spot. Senior Planner Scott Gustin confirms that no dimensional waivers were granted and that parking widths should be per the City Ordinance. Email dated February 5, 2015 is attached as Exhibit 5. Further, the Condo Declaration specifies only 1 space in the garage as Compact (#108), with all other standard – see Exhibit 6 for language in the Declaration referencing Space 108.

The measurements taken by Code Enforcement indicate 88 inches of parking from the left side support column to the mid-point of the righthand line. [Calculated as 90 inches less 2 inches for the halfway point, per Mr. Ward's email regarding gross measurement calculations – part of Exhibit 3]. The result is a parking width of 7 feet, 4 inches versus a planned and required width of 9 feet. This is a material deviation from the requirements. The occupant of the neighboring space is concerned for the safety of her grandchildren whom she has to unload prior to parking her car, see attached email as Exhibit 7.

Relief requested:

A finding of a violation as per terms of the complaint – that the current parking is not in compliance with the approved plans. Further, it is only a matter of time before property damage or personal injury occur due to the parking configuration.

Additional attachments are as follows:

Copy of as-built garage drawings as provided by Planning and Zoning (Exhibit 8)

Enlarged section of as-built (Exhibit 9)

Photo of subject parking spot (Exhibit 10)

Exhibit 1

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
Phone: (802) 863-0442
Fax: (802) 652-4221

ZONING ENFORCEMENT COMPLAINT FORM

Use this form to record and report possible Zoning violations or concerns related to any zoning issue you observe. Mail o return this signed form to the Code Enforcement Office. Include your name, address, and a daytime phone number where you can be reached should we require additional information.

Pursuant to Article 19, Section 19.1.5 of the Burlington Zoning Ordinance, zoning complaints are investigated upon receip of a *signed complaint* alleging a violation of the zoning ordinance. All complainant information is kept confidential by ou office consistent with Section 19.1.5.

Please note: In the absence of a signed complaint, a concern will be acted upon at the discretion of the Departmen Director, and only as time allows. No follow-up information can be provided in the absence of a signed complaint form.

Violation Property Address: 193 Saint Paul ST

Location of Violation at the Site: Garage

Date and Time of Alleged Zoning Violation: time of Building

Alleged Zoning Violation

- ☐ Construction without an approved Zoning permit
- ☐ New Business (change of use) without an approved Zoning Permit
- ☐ Change in Number of Units (change of use) without an approved Zoning Permit
- ☐ Occupancy without a Zoning Certificate of Occupancy
- ☐ Expansion of parking area without an approved Zoning Permit
- ☐ Exterior changes without an approved Zoning Permit: (Please circle type: new/altered sign, new fence, retaining wall, exterior lighting, large (> 24 inch) satellite dish/ antennae, other _____
- ☐ Demolition without an approved Zoning permit
- ☐ Site improvements, excavation or fill without an approved Zoning permit
- ☐ Subdivision without an approved Zoning permit
- ☒ Unmet Conditions of Approval / Property Inconsistent with approved plans
- ☐ Other change of use or expansion of use without approval (Please describe on back of this form)

Additional information: Parking dimensions not meeting 9' width requirement of standard or 8' compact Column obstructs true parking width - See attached Planning + Zoning indicates no waiver was obtained. These spots would count toward

Name (Please print legibly): Glenn Von Bernewitz

Address: 193 Saint Paul ST unit 306

Phone (daytime) / email: 802 999 3739 GVB321@yahoo.com

Complainant Signature: [signature] Date: 2/10/15

Exhibit 2

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849

VOICE (802) 863-0442
FAX: (802) 652-4221

May 21, 2015

Mr. Glenn Von Bernewitz
193 St Paul St., #306
Burlington, VT 05401

RE: Zoning Complaint # 284399 193 St Paul Street Parking Dimensions

Dear Mr. Von Bernewitz:

The Code Enforcement office has reviewed your complaint of a zoning violation at the above-referenced property. More specifically, the complaint of noncompliant parking space dimensions in violation of Article 3 Section 3.2.8 (e) of the Burlington Zoning Ordinance. Upon investigation, based on available information, it is our determination that this is not currently a zoning violation for the following reason:

- Zoning permit(s) and a Zoning Certificate of Occupancy have been approved for the residential building. These include a plan for the garage/parking, at 193 St. Paul St. (ZP 08-167PD)
- . The parking spaces constructed comply with the dimensions as per the approved garage/parking floor plan. This plan also illustrates the installed support pillars.

If you obtain additional information regarding this complaint, or new information comes to our attention in the future, our office may re-evaluate this determination.

This decisionmay be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this decision, May 18, 2015, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by **4 pm on June 5, 2015**; an appeal shall not be perfected until the fee is received.

Please feel free to contact our office at (802) 864-8518 if you have any questions or concerns.

Sincerely,

Jeanne Francis, Zoning Specialist

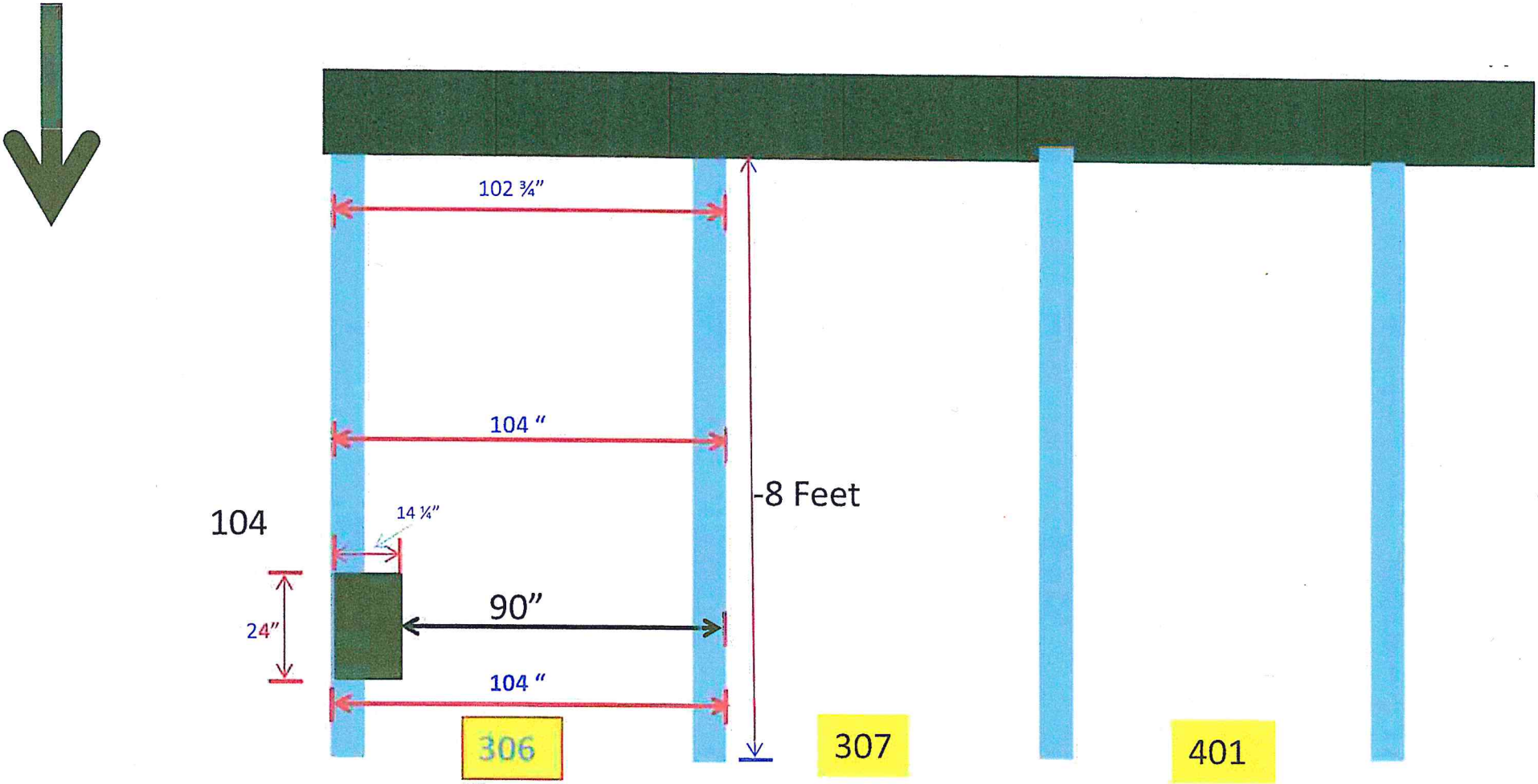


Exhibit 3

193 St. Paul Street

Not to Scale

Drawn for dimensions of Space 306

Measurements taken by
Bill Ward Director of Code Enforcement
on June 1, 2015

 Exhibit 3 continued

Subject: RE: Measurements

From: William Ward (wward@burlingtonvt.gov)

To: gvb321@yahoo.com;

Date: Wednesday, June 3, 2015 5:48 PM

Glen,

These are the measurements I provided to planning and zoning. Please note that while the outside of the line used for the gross measurement, the actual space measurement is measured from half way in on those 4 inch lines that mark each space. This means the measurement of the 104 inches from line to line is equal to 100 inches of parking space. (subtracting 2 inches from each side)

Let me know if you have questions.

Bill

From: Glenn Von Bernewitz [mailto:gvb321@yahoo.com]
Sent: Wednesday, June 03, 2015 4:48 PM
To: William Ward
Subject: Measurements

Hi Bill,

I got your message, thanks.

Yes, if you could scan over your drawings that you provided to Planning and Zoning, I'd appreciate.

Thanks,

Glenn Von Bernewitz

Exhibit 4

Table 8.1.11-1 Minimum Parking Dimensions					
Angle of Parking Space	**Width of Space**	**Length of Space**	**Width of Angled Space**	**Length of Angled Space**	**Minimum Back-Up Length**
Standard Cars					
Parallel Parking	9.0'	22.0'	-	-	-
45° Angle	9.0'	20.0'	12.7'	20.5'	15.0'
60° Angle	9.0'	20.0'	10.4'	21.8'	18.0'
90° Angle	9.0'	20.0'	9.0'	20.0'	24.0'
Aisle width (one-way)	10'				
Aisle width (two-way)	20'				
Compact Cars					
Parallel Parking	8.0'	20.0'	-	-	-
45° Angle	8.0'	18.0'	11.2'	18.3'	13.0'
60° Angle	8.0'	18.0'	9.2'	19.8'	15.0'
90° Angle	8.0'	18.0'	8.0'	18.0'	20.0'

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.
3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce

 Exhibit 5

Subject: RE: 193 Saint Paul

From: Scott Gustin (SGustin@burlingtonvt.gov)

To: gvb321@yahoo.com;

Date: Thursday, February 5, 2015 11:05 AM

Hello Glenn,

The Stratos project was approved under the 1994 Zoning Ordinance which differs substantially from the presently effective 2008 Comprehensive Development Ordinance. That said, parking dimensions remain large the same. No dimensional waivers for parking spaces were granted for Stratos. Standard parking spaces shou be 9' wide, and compact parking spaces should be 8' wide. Both standard and compact spaces may be used within the garage. 7' 2" is generally too narrow. If the space is indeed 7' 2" wide, it probably shouldn't be counted as one of the required 69 spaces on the property. Feel free to follow up with the Code Enforcement Office if you think this space is one of the required 69. They can be reached at 863-0442 or check out their website.

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

(802) 865-7189

From: Glenn Von Bernewitz [mailto:gvb321@yahoo.com]
Sent: Tuesday, February 03, 2015 12:52 PM
To: Scott Gustin
Subject: 193 Saint Paul

Good afternoon Scott,

I was in the planning and zoning office today and Elsie provided your contact as the project manager for above project. I was inquiring ab the dimensions of the parking spaces when compared to the zoning ordinance (section 8 I think). There are a number of smaller spots in th garage and in particular, the space associated with my unit (I am a residential unit owner). My question and what I would like to discuss w you when you have a chance - is the width of 9 feet a requirement or did the developer obtain a waiver on this. Also for the spot in questi

for my unit - the width is obstructed by a support column - whereby the line striping is drawn on the other side of the column and true wid around 7 feet 2 inches. I would like to know if this is per code as well?

As background, I had been working through this issue with the condo owners association which has now suggested they don't want to be involved and suggested I take it up with the City.

Thanks for your time. I can be reached via this email or by phone at 802-999-3739.

Glenn Von Bernewitz

Exhibit 6

provided that Declarant shall assign the Unit Owner dispossessed of the handicap parking space an alternate parking space in the parking garage. Such spaces are marked on the parking plans included with the Floor Plans. The parking space for Unit 108 is sized only for a compact car. Every Unit Owner shall be responsible for maintaining their respective parking spaces in such a manner as to make the garage space(s) available for parking.

All of the remaining unnumbered parking spaces in the parking garage and the unnumbered parking spaces on Parcel 1 not otherwise assigned to a specific Unit shall be perpetually allocated for the exclusive use of the Commercial Building and all tenants and authorized visitors and guests of the Commercial Building (the "Commercial Building Users") on a first come, first served basis (the "Commercial Parking Spaces"). The Commercial Parking Spaces shall not be used by Unit Owners or their visitors and guests. As described below in Article 5, the owner of the Commercial Building shall be responsible for paying the Association for its pro rata share of the costs to maintain, repair and replace the Shared Easement Areas (as defined below), generally consisting of the two-level parking garage, the Maple Street access drive, all of the outdoor parking on Parcel 1 and the Walkway to the Commercial Building (described below in Section 5.8). The pro rata share of the Commercial Building for the Shared Easement Areas shall be fifty percent (50%) of the annual budget established by the Association for the maintenance, repair and replacement of the Shared Easement Areas.

The Old Saw Mill Homeowners Association, Inc. has a perpetual easement for five (5) parking spaces along the boundary with King Street Youth Center during non-business hours, together with the right to share the proportionate cost of a dumpster, all as shown on the Condominium Plan and as described in an Easement Deed to be recorded in the City of Burlington Land Records.

ARTICLE 5
Easements

Section 5.1. **Easement for Access**. Each Unit Owner is hereby granted an easement, in common with Declarant and each other Unit Owner, in all Common Elements for ingress and egress, utility service for, and support, maintenance and repair of each Unit, subject to such reasonable Rules and Regulations of the Association. Each Unit Owner is also hereby granted an easement, in common with Declarant and others, for ingress and egress over all common walkways, hallways, lobby, entrances, stairways, elevators, and over all driveways and parking areas shown on the Plat and Condominium Plan, including the Maple Street access drive. Each Unit is hereby benefitted by and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same. Such easements and rights are subject to the limitations upon the use of the Limited Common Elements as otherwise set forth herein.

Section 5.2. **Easement for Encroachment**. To the extent that any Unit or Common Element unintentionally and non-negligently encroaches on any other Unit or Common Element, an easement for the encroachment shall exist.

Section 5.3. **Easement for Completion; Utilities; Public Areas**. Declarant, for itself, and its successors and assigns, reserves the right to grant and reserve easements and rights of way: (i) through, under, over and across the Common Elements and the undeveloped portions of the Property for the installation, maintenance, repair, replacement, and inspection of lines and appurtenances for public or private sewer, water, drainage, gas, electricity, telephone, television, boiler, cooling tower, mechanical, electrical, plumbing, and other utility services and systems to the Units and improvements thereon; (ii) for the purpose of completing the construction of the Building, Units and other improvements on the Property; and (iii) for the purpose of erecting, maintaining, and removing signs advertising Units for sale or lease within the Property.

 Exhibit 7

Subject: Re: Appeal

From: Helene Rothermund Collins (coccinelles@mac.com)

To: gvb321@yahoo.com;

Date: Friday, June 5, 2015 9:59 AM

Good morning Glen
I would be happy to email the board and back up your "observations"/ complaints about the parking spaces we where assigned.
And I may add, that is it difficult and dangerous for me to unload my grand-children. I have to get the out of the car on the driving part of the garage before pulling into my space. Since the spaces are seve inches smaller than they should be it is difficult to open the door and get little ones out of their car seats..... This situation makes them stand in the garage while I park the car. I had an instance, where another car pulled into the garage at rather fast speed, almost did not see the children and scared me. Pulling in right behind it, one of our "Board" representatives saw the incident and agreed it was dangerous. Than it was suggested to me I should park in the owners parking spaces because they whe "bigger" spaces and they where away in FL. Well I did that a few times, but feel uncomfortable doing All that said, I think the officials and our board should remedy this situation, before something bad happens.
I appreciate all you have done, send measurements to the Zoning board and stay on top of this situatio
Warm regards.

Hélène

Hélène Rothermund
Mobile: 603-643-5351
Coccinelles@mac.com

 Exhibit 7 continued

Subject: Re: Photos - 193 Saint Paul

From: Helene Rothermund Collins (coccinelles@me.com)

To: gvb321@yahoo.com;

Date: Wednesday, April 29, 2015 9:16 PM

Glen
Thank you so much. That is fantastic work you did and it seems like it maybe good news. Please let m know if I can do anything to help you. Please feel free to use my name as well. Thank you for mentio the safety of my grand children. I really appreciate it because it is dangerous to unload them in this sp configuration.
Have a good evening and again thank you.

Hélène
Hélène Rothermund
Mobile: 603-643-5351
Coccinelles@mac.com

On Apr 29, 2015, at 7:32 PM, Glenn Von Bernewitz <gvb321@yahoo.com> wrote:

> Bill -
> Per prior email, I attach 2 photos - one of the parking space 306 with the obstruction and a second from another Burlington project that correctly striped the lines in its garage. Mirror to mirror on my car (and I have a small car) there is 2.5 inches of clearance on each side of the car. The person parking next to me cannot let her grandchildren (age 2) out of the car. She has to let then out before she parks.
>
> Regards,
> Glenn Von Bernewitz
> 802-999-3739
>
> <20141017_180753.jpg>
>
> <20141018_070240.jpg>

 Exhibit 8

Subject: RE: Stratos as-builts

From: Scott Gustin (SGustin@burlingtonvt.gov)

To: gvb321@yahoo.com;

Date: Thursday, May 28, 2015 3:13 PM

Hi Glenn,

A copy of the as-built site plan is attached. The dimensions of the parking spaces and the placement of the column affecting your parking space do not differ from the original approval that we looked at this morning. I me know if you have any questions.

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

(802) 865-7189

From: Glenn Von Bernewitz [mailto:gvb321@yahoo.com]
Sent: Thursday, May 28, 2015 2:54 PM
To: Scott Gustin
Subject: Stratos as-builts

Hi Scott -

thanks for your time this morning. I would like to clarify - were we looking at the original plans or the as-builts? Code Enforcement tells that the parking was approved on the as-builts from July 1, 2014.

If these are not what we looked at - can we schedule a time for me to see those? Are you available tomorrow?

Thanks.

Glenn Von Bernewitz

-- NOTE --

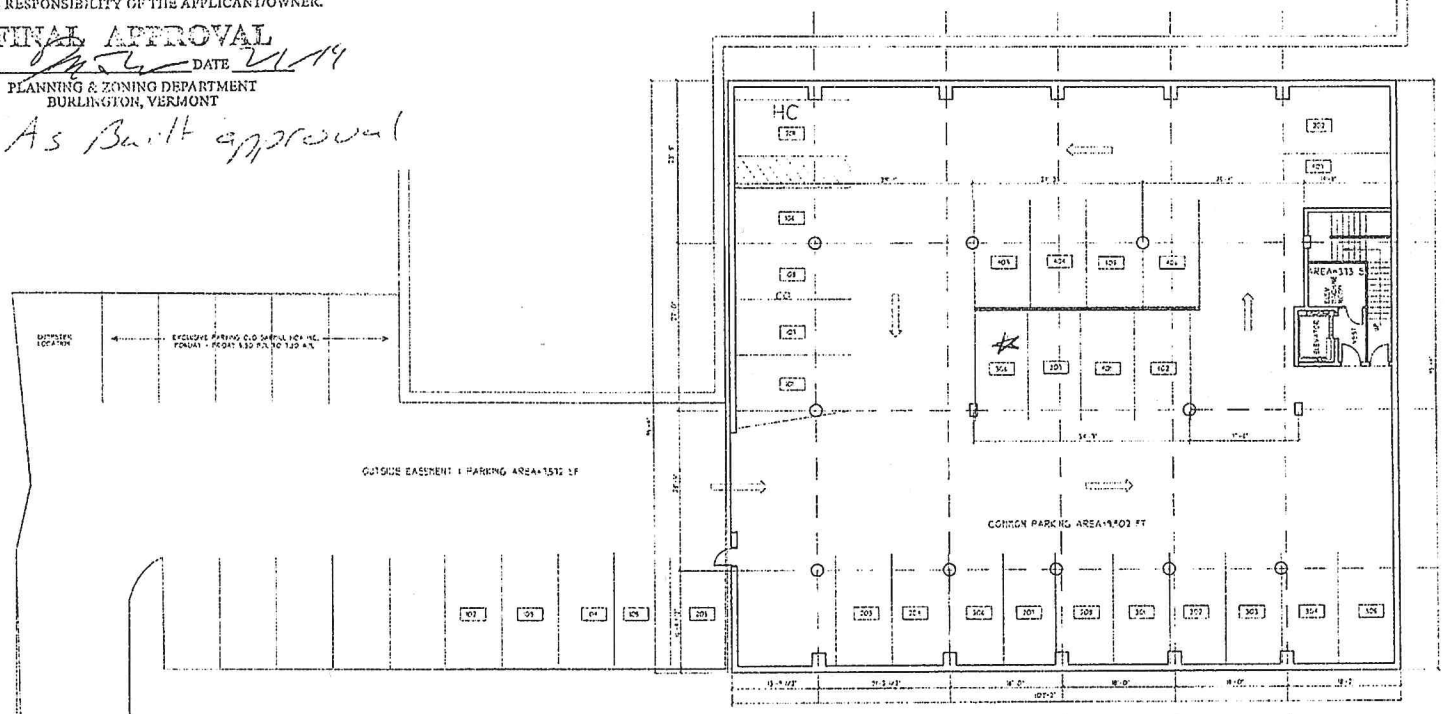
ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 2/1/19

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

As Built approval



The undersigned, an architect licensed in the State of Vermont, hereby certifies that these floor plans contain the following information required by 27A V.S.A. sect. 2-104, (a) the approximate location and dimension of the vertical boundaries of each unit, and the unit's identifying number or name; and (b) the approximate location and dimension of enclosed common elements and limited common elements.

_____ date

1 PARKING GARAGE
SCALE: 3/16" = 1'-0"

Date	Revision	Date	Revision

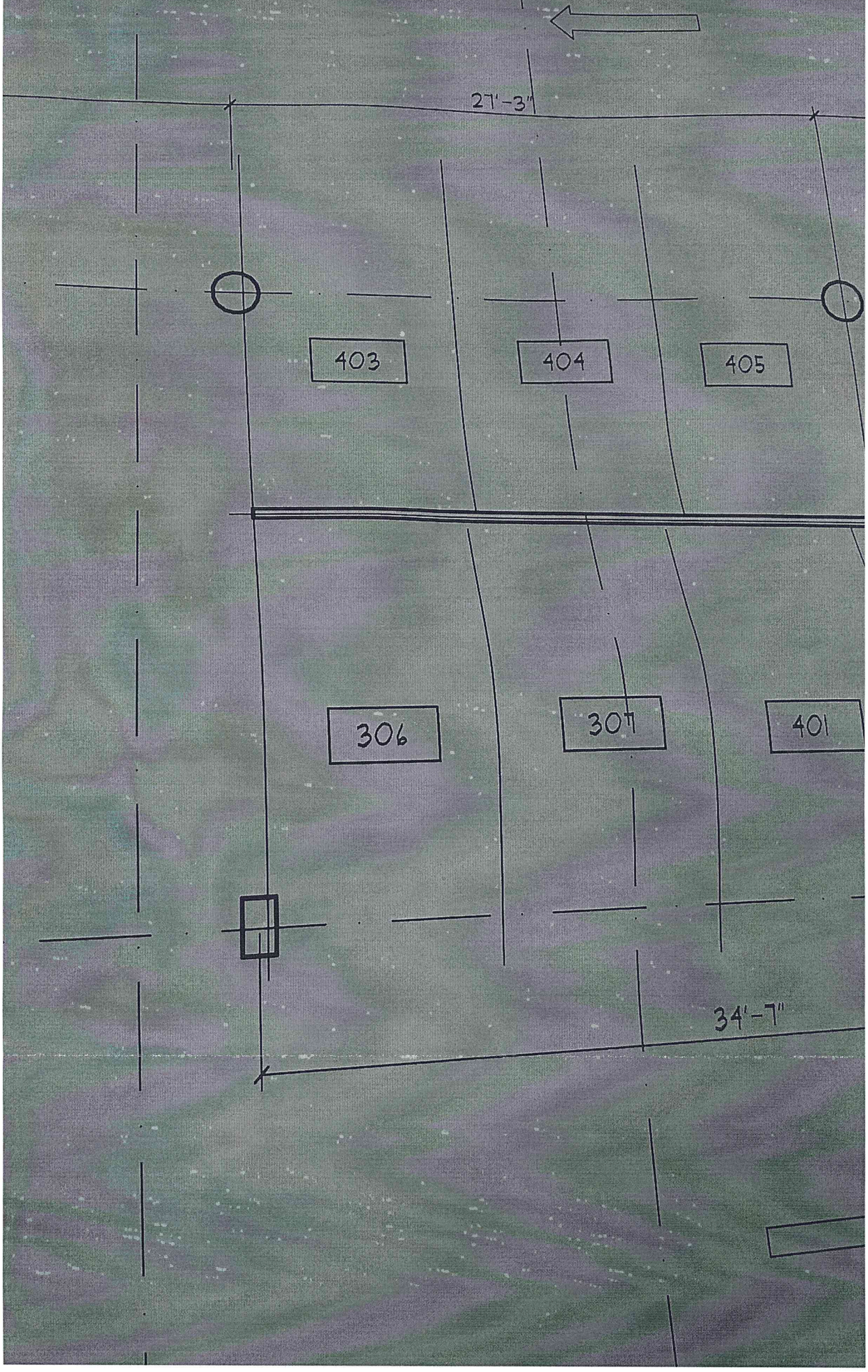
Project Name: STRATOS CONDOMINIUM
183 ST. PAUL STREET
BURLINGTON Vermont

Sheet Title: MAPLE STREET PARKING GARAGE

Date: 06/13/14
Scale: 1/8"=1'-0"
Drawn By:
File Name:

Sheet Number: A1.1

Ex 8 Continued


27'-3"
403
404
405
306
307
401
34'-7"

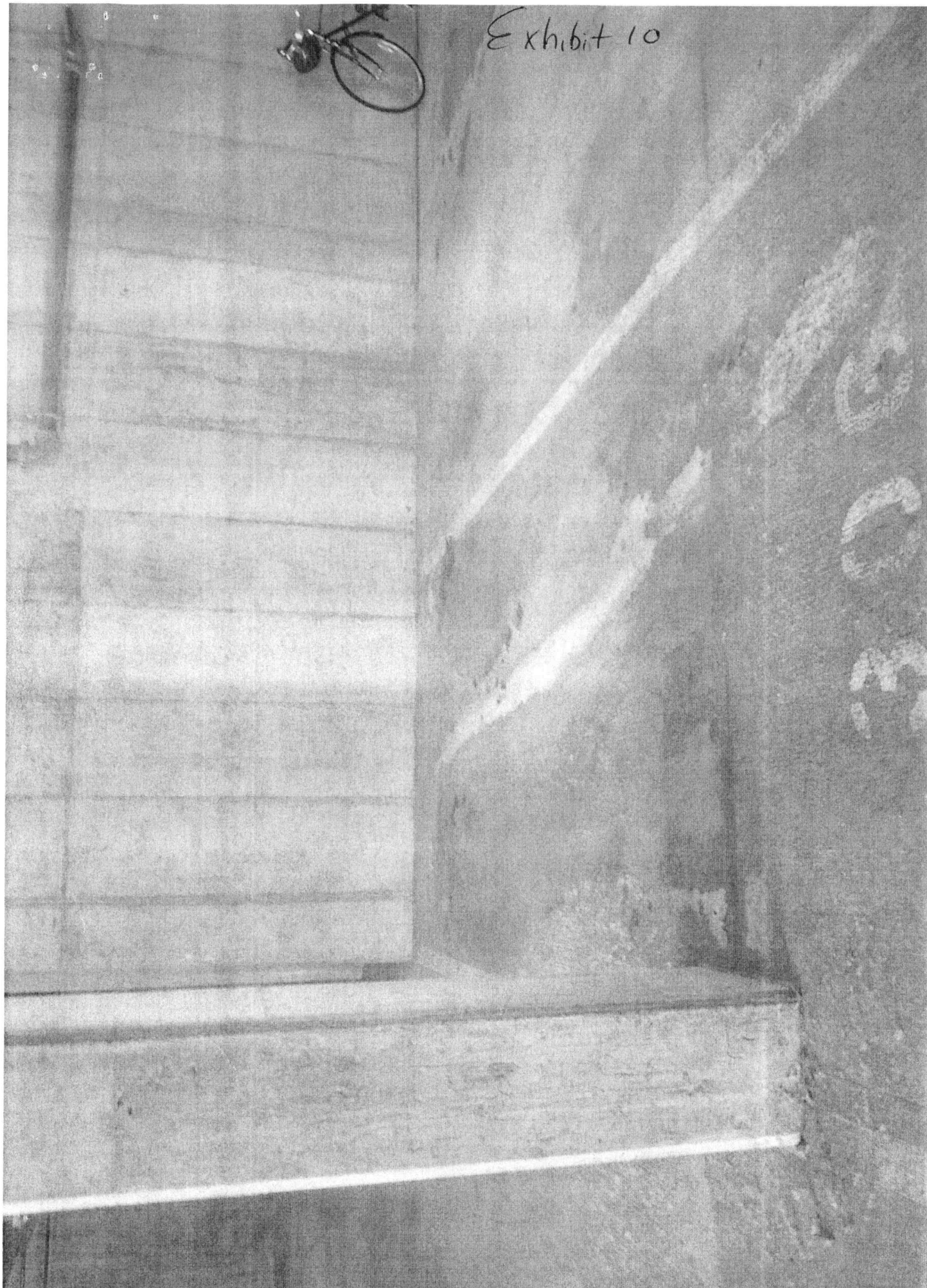


Exhibit 10

City of Burlington, Vermont
149 Church Street

Miscellaneous Appeal - Enforcement – DRB Staff Comments

ZP #: 15-0830AP **Tax ID:** 045-1-236-000

Application Date: February 17, 2015
Appeal reopened at request of Code Enforcm

Property Address: 18/20 Weston Street

APPEAL PUBLIC HEARING
CODE ENFORCEMENT OFFICE REPORT

TO:	Development Review Board (hereinafter referred to as "Board")
FROM:	William Ward, Director of Code Enforcement Office
DATE:	July 14, 2015
RE:	Report on request for reconsideration filed on May 27, 2015 for 18/20 Weston Street Burlington, Vermont. (hereinafter referred to as "Property")

Description: request for reconsideration and reopen the hearing to invite the property owner and City of Burlington representatives or witnesses back to provide additional testimony and evidence as necessary to clarify the parking dimensions and specific number that the DRB intends to approve based on their findings.

APPELLANT: Charles and Cynthia Burns Represented by Brian Hehir, Attorney at Law

APPLICABLE REGULATIONS:
Article 2, 3, 5, 8, 12; 24 V.S.A. §4454(a) and §4470

RELIEF REQUESTED BY APPELLANT:
Appellant contends the parking lot in question has existed continuously for over 15 years and therefore, the City is barred from enforcement.

APPLICANT'S APPEAL SUBMITTALS
□ Appeal
□ February 12, 2015 Letter from Jeanne Francis: RE: Parking at Premises, Storage within Garage of Premises, and Occupancy of Residential Structural
□ Notice of Violation # 279187 Dated February 12, 2105
□□Green space along southern boundary of property used as a Parking Lot …
□□Replacing green space with additional parking ….
□□Change of accessory use: … storage in garage
□□Placement of trash receptacles …
□□Exterior Storage along the boundary of property…

CITY'S APPEAL SUBMITTALS

- Note to File: 3/31/2005, Mrs. Mahoney, 51 Henry St (complaint # 128416), complaint of parking at Premises; lived at property for 30 years and will testify the parking has increased over the years.
- May 31, 2005 ―Show Cause Letter‖
- 1988 Aerial photograph
- Dimensional sketch from Code Enforcement

BACKGROUND:

• Pursuant to City Assessor records, Appellant purchased this 2-family 5,634 sf c.1915 structure in 2002. A detached garage is included on the property. As currently configured, one unit has 4 bedrooms, one unit has 5 bedrooms.

• March 31, 2005 Owner of property located at 51 Henry Street, abutting on the northeast corner of Premises, complained that Appellant increased the rear parking area; complainant stated ―she had lived at her property for 30 years and will testify the parking had increased over the years".

• May 31, 2005 Code Office mailed a ―Show Cause Letter‖ (currently referred to as a ―Notification Letter‖) to Appellants, informing them of a potential parking violation. Appellant contacted Code Office on June 7, stated he could not produce sufficient documentation to prove parking had existed for a consistent period of 15+ years (24 V.S.A. § 4454(a)). Code Enforcement staff met Appellant at Premises on June 10 and discussed (1) location of dumpster, (2) parking along the southern boundary, (3) parking along the northern boundary, (4) use of the garage for storage, and (5) need for so much parking—Appellant identified 9 tenants, however, ordinance only requires four parking spaces for a duplex use and there is a 6-space garage on site.

• Appellant requested ―grandfathering‖ for the parking so Code revisited City records (aerial photos, statements, etc.), and concluded, based on the information available, it was reasonable for the City to recognize 4-exterior parking spaces on the northern property boundary, one exterior parking space on the southern boundary (not 8 as requested by Appellant) and a six-car garage at Premises. An informal plan was drawn up showing parking recognized by the City; Appellant did not argue. Appellant placed barriers and shrubbery around the recognized parking area, no further parking complaints were received at the Code Office until 2014.

• November 2014 Code complaint regarding parking concerns at Premises. Notification letter sent to Appellant. Met with Appellant on Premises, reviewed concerns, found violations, and issued a formal Notice of Violation; notice appealed.

FINDINGS:

(1) November 12, 2014 site visit to Premises with Appellant present; discussed parking and garage issues. Appellant noted two of the three vehicles parked along the southern boundary belonged to his tenants at 12 Weston Street. Parking for the six-car garage was replaced with storage owned by Appellant, Appellant's daughter, two units for maintenance storage and repair shop for all of Appellant's properties, and two units were being used for tenant storage.

(2) November 21, 2014 site visit to Premises revealed: (a) 3 vehicles parked along the southern boundary; (b) exterior storage along the southern boundary in excess of 16 sf; (c) green space within the green space

destroyed by illegal parking; (d) garage bays used for storage rather than parking; and (e) relocation of trash receptacles.

(3) November 24, 2014 site visit to Premises revealed: (a) 1 vehicle parked along the southern boundary; (b) knocked on doors to each unit, nobody was home; (c) spoke with 2 tenants at 12 Weston Street, reviewed living and parking scenarios for tenants at 12 Weston Street. Interview concluded parking is allocated to one space in driveway, and along Weston Street, no parking at 18-20 Weston Street.

(4) February 11, 2015, met with Appellant at Premises; there were three vehicles parked along the southern boundary of Premises and 4 in the northern parking area.

(5) April 7, 2015 – Development Review Board hearing was held and the hearing was continued on May 5, 2015 at the request of the appellant. The DRB met Monday, May 18, 2015 in deliberative session and had a finding of an unenforceable violation for "Replacing green space with additional parking without zoning approval, an increase in lot coverage".

(6) June 02, 2015 the Development Review Board heard and approved a request to re-open from Code Enforcement on the issue of reconsideration of 15-0830AP 18-20 Weston St.

DETERMINATION:

(1) Green space along southern boundary of property used as intermittent parking for tenants of 18/20 Weston Street and 12 Weston Street. The site plan submitted by the appellant showing 4 parking spaces on the southern boundary is inaccurate based on dimensions and not supported by clear record of 4 cars having used the spaces continuously for 15 years.

RECOMMENDATION:

Uphold the determination and require the property owner to submit a site plan to clarify the parking dimensions and specific number of parking spaces that meet the dimensional requirements of the CDO and are recognized as having existed for greater than 15 years.

Scott Gustin

From: ccburnsrealestate@gmail.com on behalf of Charles Burns <ccburns@c21jack.com>
Sent: Wednesday, April 01, 2015 4:30 PM
To: Scott Gustin
Subject: Fwd: 18-20 Weston

Hi Scott, Elsie suggested I send this request to you as Ken's email has the auto reply that he is away. Please me know. Thanks, Chuck cell802-343-0462
---------- Forwarded message ----------
From: **Charles Burns** <ccburns@c21jack.com>
Date: Wed, Apr 1, 2015 at 4:23 PM
Subject: 18-20 Weston
To: klerner@burlingtonvt.gov

Hi Ken, We would like to postpone our hearing with the DRB until a later date. My attorney, Brian Hehir ha not been able to communicate with Kim Sturtevant and we are still unsure of the actual violations. This is a follow up request from Brian Hehir's request earlier in the week to the Chairman of the DRB. Thank You an we look forward to hearing back. My Best, Chuck

--

Chuck Burns, Broker/REALTOR
The Burns Real Estate Team
Specializing in Apartment Sales
and Residential Homes

CENTURY 21 JACK ASSOCIATES
44 Shelburne Street
Burlington, VT 05401
Cell - 802-343-0462
Office 802-864-9856
www.c21jack.com

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Notwithstanding any attachments of scanned and signed documents to the contrary, nothing contained herein constitutes nor is intended to constitute an offer inducement, promise, or contract of any kind. Only signed documents are adequate to enter into a contract or to modify, amend, change or provide any require notice to a previously signed contract.
This is not a solicitation for your business if you already have a client relationship with another real estate agency.
To opt out of emails just reply with a request. Thank you the Burns Real Estate Team.

BRIAN P. HEHIR
ATTORNEY AT LAW
239 SOUTH UNION ST.
P.O. BOX 1052
BURLINGTON, VT 05402-1052

Brian@hehirlaw.com
www.hehirlaw.com

TEL 802-862-2006
FAX 802-862-2301

March 31, 2015

Chairperson
Development Review Board
City of Burlington
149 Church Street
Burlington, VT 05401

HAND DELIVERED

Re: 18-20 Weston Street, Notice of Violation 15-0830AP, Charles and Cynthia Burns

Dear Chairperson:

I represent the Burns in this appeal of an alleged zoning violation.

This is a request to continue the hearing set for Tuesday April 7 at 5:00pm.

The reason for this request is that I have been working with the City Attorney (Kim Sturtevant) to determine exactly which sections of the Ordinance are alleged to have been violated. At this time, it is unclear from the Notice of Violation and the attached Findings, which sections of the Ordinance are involved. Ms. Sturtevant says that her information will be forthcoming.

We would like the opportunity to prepare fully for the hearing and can do that when we know exactly which sections or provisions of the Ordinance must be addressed at the hearing.

It is also very likely that the owners and the City can agree to a settlement of this matter without the need for a hearing.

As such, we request that the hearing be continued for 60 days.

Thank you for your consideration.

Very truly yours,

Brian P. Hehir, Esq.

cc: Charles and Cynthia Burns

RECEIVED
MAR 31 2015
DEPARTMENT OF
PLANNING & ZONING

BRIAN P. HEHIR
ATTORNEY AT LAW
239 SOUTH UNION ST.
P.O. BOX 1052
BURLINGTON, VT 05402-1052

Brian@hehirlaw.com
www.hehirlaw.com

TEL 802-862-2006
FAX 802-862-2301

RECEIVED
MAR 11 2015
DEPARTMENT OF
PLANNING & ZONING

March 9, 2015

Development Review Board
City of Burlington
149 Church Street
Burlington, VT 05401

Re: Appeal of Charles and Cynthia Burns, 18-20 Weston Street.

Dear DRB Clerk:

Please find enclosed an appeal of a Notice of Appeal in response to Notice of Zoning Violation No. 279187. The Burns have previously filed an Appeal in this matter, dated February 24, 2015, and have paid the appeal fee. This supplements that previous filing.

Thank you for your assistance.

Very truly yours,

Brian P. Hehir, Esq.

enclosures

cc: Charles and Cynthia Burns

RECEIVED
MAR 11 2015
DEVELOPMENT REVIEW BOARD
DEPARTMENT OF
PLANNING & ZONING

CITY OF BURLINGTON

IN RE: 18-20 WESTON STREET

NOTICE OF APPEAL

NOW COME Charles and Cynthia Burns, owners of 18-20 Weston Stree by and through their attorney, Brian P. Hehir, Esq., and pursuant to Article 12 o the Burlington Zoning Ordinance, hereby appeal to the Burlington Developmen Review Board a Notice of Zoning Violation dated February 12, 2014; this Notic of Appeal supplements an earlier appeal filed by Chuck Burns on February 24, 2015 (attached).

In support of their appeal, appellants state as follows:

1) Charles and Cynthia Burns reside in Charlotte, Vermont and own a duplex located at 18-20 Weston Street.

2) The regulatory provisions which apply to this appeal are contained i the Burlington Zoning Ordinance; the Notice of Zoning Violation fails to state which specific sections of the Ordinance appellants' property is alleged to viol

3) Appellants request that the Notice of Violation be dismissed becaus the parking lot in question is a pre-existing nonconforming use, and the allege uses complained of, have, upon information and belief, existed continuously f over 15 years.

Dated at Burlington, Vermont this 9th day of March, 2015.

By: _____
Brian P. Hehir, Esq., Attorney for
Charles and Cynthia Burns

BRIAN P. HEHIR
ATTORNEY AT LAW
9 SOUTH UNION STREET
P. O. BOX 1052
RLINGTON, VT 05402-1052
802-862-2006

RECEIVED
MAR 11 2015
DEPARTMENT OF
PLANNING & ZONING

RECEIVED
FEB 24 2015
DEPARTMENT OF
PLANNING & ZONING

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-3235
Phone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 18-20 Weston St.

PROPERTY OWNER*: Charles Burns *If condominium unit, written approval from the Association is also required	**APPLICANT:**
POSTAL ADDRESS: 44 Shelburne St	POSTAL ADDRESS:
CITY, ST, ZIP: Burlington, Vt. 05401	CITY, ST, ZIP:
DAY PHONE: 864-9856 or 343-0462	DAY PHONE:
EMAIL: ccburns@c21vack.com	EMAIL:
SIGNATURE: [signature] I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.	**SIGNATURE:**

Description of Proposed Project: Appeal of Zoning Violation #279187

Existing Use of Property: ☐ Single Family ☒ Multi Family: #2 Units ☐ Other:

Proposed Use of Property: ☐ Single Family ☐ Multi Family: #___ Units ☐ Other:

- **Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled?** Yes ☐ No ☐
  (If yes, the Vermont Residential Building Energy Standards (VRBES) apply. Visit the P&Z Office, Public Service Board or PSB website for details)
- **Will 400 sq ft or more of land be disturbed, exposed and/or developed?** Yes ☐ No ☐
  (If yes, you will need to submit the 'Erosion Prevention and Sediment Control Plan' questionnaire, with a site plan)
- **For Single Family & Duplex, will total impervious area be 2500 sq ft or more?** Yes ☐ No ☐
  (If yes, you will need to submit the 'Stormwater Management Plan' questionnaire, with a site plan)
- **Are you proposing any work within or above the public right of way?** Yes ☐ No ☐
  (If yes, you will need to receive prior approval from the Department of Public Works)

Estimated Construction Cost (value)*: $_____
(*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review. All permit approvals or denials are subject to an appeal period (15 days for administrative permit; 30 days for board permit). A building (and/or electrical, mechanical, plumbing, curb cut) permit will also be required. Contact the Department of Public Works at 802-863-9094 to inquire. Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, or visit the office in the lower level of City Hall, 149 Church Street.

Office Use Only: Zone: ____ Eligible for Design Review? ____ Age of House: ____ Lot Size: ____
Type: SN AW FC BA COA1 COA2 COA3 CU MA VR HO SP DT MP
Check No. ____ Amount Paid ____ Zoning Permit # ____

April 2014

24/4454(a) SOL

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849

VOICE (802) 863-0442
FAX: (802) 652-4221

RECEIVED
MAR 11 2015
DEPARTMENT OF
PLANNING & ZONING

February 12, 2015

Cynthia and Charles Burns
475 Meadowside Drive
Charlotte, VT 05445

RE: 18-20 Weston Street

Dear Mr. Burns:

As you may recall, I met with you at the Premises known as 18-20 Weston Street, on November 12, 2015. At that time we discussed the parking and the 2005 Drawing, storage in the garage and the occupancy at 18-20 Weston Street.

It has come to the attention of this office that the parking on the southern boundary continues; we have received several complaints. When I spoke with you in November you noted that a couple of the cars on the southern boundary belonged to your tenants at 12 Weston Street. You also mentioned you would inform those tenants not to park at 18-20 Weston Street; parking for 18-20 Weston Street is restricted by use of those tenants and guests, parking by 12 Weston Street results in a "private parking lot" situation; apparently your 12 Weston Street tenants are not listening to you and as the property owner, it is your responsibility to ensure compliance. If you wish to apply for a zoning permit to include a private parking lot at this Premise for your 12 Weston Street tenants, that is your right.

We also talked about storage within each of the garages. I noted to you that I had spoken to your maintenance person prior to our visit and he informed me two of the garages were being used for maintenance and storage relating to all your properties. In addition, you mentioned that you and your daughter were storing items in two of the garages. These garages are used in the parking requirement calculation and should be used for tenants at 18-20 Weston Street. It is permissible for 18-20 Weston Street tenants to use a partial of each of the garages for their personal storage, same scenario of a single family house, park in the garage and use part of the garage as storage – accessory to the garage. If you wish to apply for a zoning permit to include storage for off-site use and storage of maintenance equipment for all your properties, that is your right.

RECEIVED
MAR 11 2015
DEPARTMENT OF
PLANNING & ZONING

Our office, in consultation with Planning/Zoning staff and City Attorney's office are still occurring, thus citing use of premises inconsistent with the Family Definition of the Zoning Ordinance (CDO) has not been included in this notice of violation, however, if appropriate, may be part of a future notice of violation.

Attached is the formal notice of violation. Please feel free to call me at 864-8518 or e-mail me at jfrancis@burlingtonvt.gov when you are ready to discuss your options (within each noted timeframe, of course).

Sincerely,

Jeanne Francis
Zoning Specialist

Attachments: Notice of Violation for Premises located at 18-20 Weston Street.

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

NOTICE OF ZONING VIOLATION (NOV)

February 12, 2015

Mailed Certified Mail 7013 3020 0001 6717 6912
And FIRST CLASS MAIL

CHARLES C. & CYNTHIA D. BURNS
475 MEADOWSIDE DR
CHARLOTTE VT 05445

NOTICE OF VIOLATION AT:
18-20 WESTON ST, BURLINGTON, VT
TAX LOT #045-1-236-000

Zoning Violation# 279187

Dear Mr. and Mrs. Burns,

It has come to the attention of this office that a zoning violation exists at 18-20 Weston St.

Description of Violation:

1. Green space along southern boundary of property used as a "Private Parking Lot". Change of a conforming use to a non-conforming use, without zoning approval; and
2. Replacing green space with additional parking without zoning approval, an increase in lot coverage; and
3. Change of accessory use: parking allocated to duplex use as regulated in the CDO, to storage, that is not accessory to the duplex use, without zoning approval; and
4. Placement of trash recepticals in an unapproved area of property, without zoning approval; and
5. Exterior storage along the southern boundary of property, in excess of 16 sf, without zoning approval.

(See attached findings, photos, and 2005 plan)

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 8, 12, 13 and 24 VSA §4451.

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars ($200.00) for each day that a violation continues. You may submit an application to attempt correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

This correspondence serves as a formal notice of a zoning violation pursuant to 24 V.S.A §4451. You have seven (7) days from receipt of this notice to cure the referenced violation. Additional warnings for the violation are not required and will not be forthcoming. In the event that the violation is not cured or remedied as provided for in this notice, the City will pursue enforcement of the violation as provided for by law.

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV December 5, 2014, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete

application shall be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by **4 pm on February 27, 2015**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call me at (802) 864-8518 or email me at jfrancis@burlingtonvt.gov .

Sincerely,

Jeanne Francis
Zoning Compliance Officer

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 045-1-236-000

FINDINGS

VIOLATION DETAILS

LOCATION: 18-20 Weston ST

DECISION DATE: February 12, 2015

VIOLATION DESCRIPTION:

1. Green space along southern boundary of property used as a "Private Parking Lot". Change of a conforming use to a non-conforming use, without zoning approval; and
2. Replacing green space with additional parking without zoning approval, an increase in lot coverage; and
3. Change of accessory use: parking allocated to duplex use as regulated in the CDO, to storage that is not accessory to the duplex use, without zoning approval; and
4. Placement of trash recepticals in an unapproved area of property, without zoning approval; and
5. Exterior storage along the southern boundary of property, in excess of 16 sf, without zoning approval.

FINDINGS:

1. Green space along southern boundary of property used as a "Private Parking Lot". Change of a conforming use (lawn) to a non-conforming use (parking), without zoning approval:
   Findings: Up to 3 vehicles found parked along the southern boundary of property. Owner admitted he allows parking for tenants at 12 Weston St. Spoke with tenants at 12 Weston Street, they admitted tenants park at 18 Weston St. in area I identified to them. No record of zoning approval to operate a private parking lot.
2. Replacing green space with additional parking without zoning approval, an increase in lot coverage:
   Findings: Several site visits verified parking along the southern boundary of property. Photos from prior years show green space which has not been replaced with private parking. No record of permits on file.
3. Change in accessory use: garage (parking bays), allocated to the duplex use, as

regulated in the CDO, has changed to storage for maintenance and storage of all Burn properties; such use is not accessory to the duplex use, without zoning approval:
Findings: see attached photo.

4. Placement of trash recepticals in an unapproved area of property, without zoning approval; and
5. Exterior storage along the southern boundary of property, in excess of 16 sf, without zoning approval. **Findings**: see attached photo.
6. May 31, 2005 "Show Cause Letter" mailed to Owners Cynthia and Charles Burns citing an increase in parking area. Owner could not document a consistent 15 year use of parking along the southern boundry to "grandfather" parking on the southern boundary. Aerial photos were not clear but it did appear one car had been parking on the southern boundary. Owner worked and together agreed to the attached 2005 plan to remedy violation. Decision was not appealed. Notice of Violation was not sent.
7. 2005 City and Owner agreed to 4 existing parking spaces on the northern boundary and one on the southern border. Shrubs were planted in front of northern parking lot and west of the one space southern parking lot. Concrete curbs were placed to mark 4 parking spaces along the northern boundary.
8. November 21 2014 spoke with Owner Chuck Burns at property. At the time 3 vehicles were parked on the southern boundary. Mr. Burns noted 2 of the parking spaces were allocated to 12 Weston St. (property south of this property which is also owned by Mr. Burns) but would ask tenants to move them. At the same time Mr. Burns noted garages were being used by himself, his daughter, tenants, and maintence space for his properties.
9. As of February 11, 2015, parking violations are repeated.

REMEDY OPTIONS: Within seven (7) days from receipt of this notice you may cure the violation by:

1. To remedy #1 and #2 above by complying with attached 2005 drawing. All landscaping and barriers shall comply with the drawing. All areas destroyed to Premises from the illegal parking shall be **restored to its prior state (ie. lawn). Owner shall inform the Code Enforcement Office when violations have been removed so our office may verify compliance;**
2. **To remedy #3 above by removing storage in garages and replace with parking (garage spaces are used in calculating the parking required for the duplex;**
3. **To remedy #4: Relocate trash receptacles in front of parking space #1 as indicated on 2005 drawing;**
4. **To remedy #5 remove all exterior storage (ladders, boats, and wood) along the southern boundary; or**

2) - Obtaining approval from the City's Department of Planning and Zoning for a private parking lot, add coverage, change use of garage to accesory storage by others than tenants, site improvements (other than those indicated on 2005 drawing), and trash receptacle relocation, without an approved zoning permit (permit application **fee is** doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus $75 per hour of Code Enforcement staff time (up to $500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. ***PLEASE NOTE***: If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or request

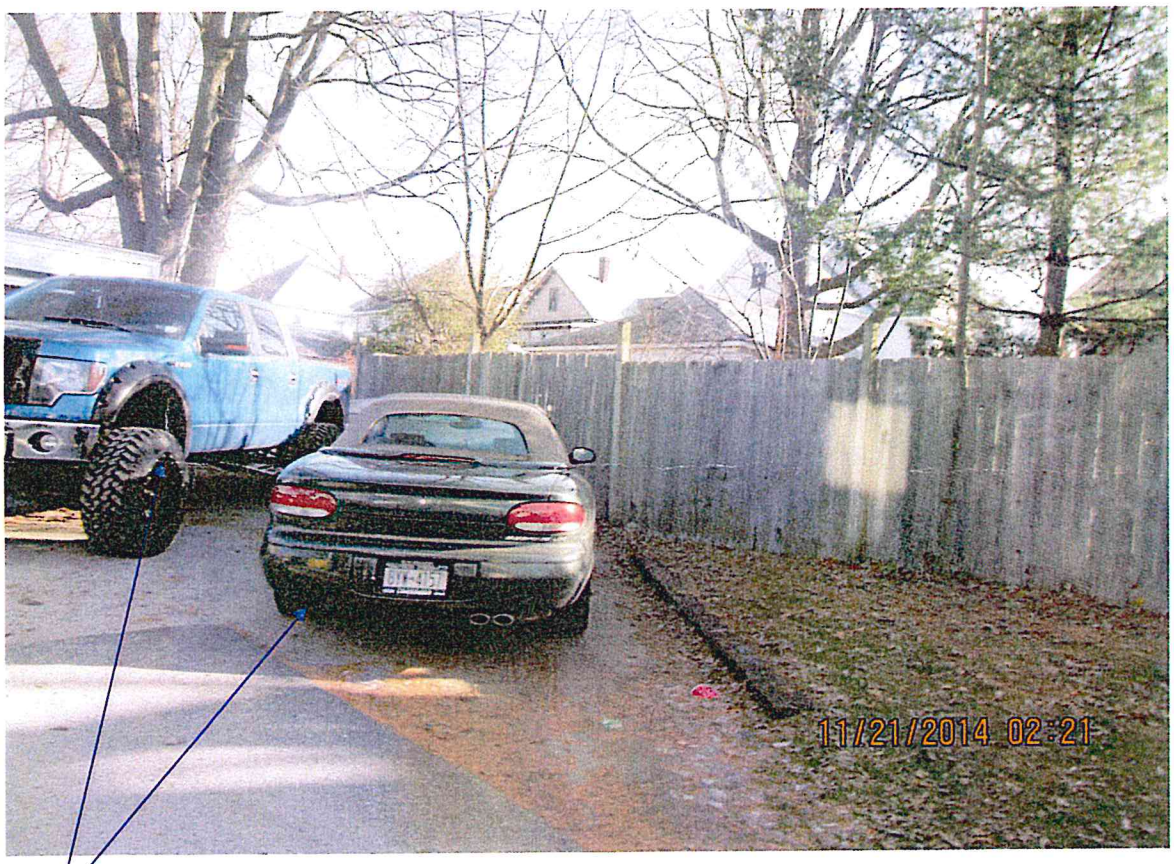
an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; **or**

3) - Entering into an Agreement with the City of Burlington to extend deadlines in which to come into compliance with the City's ordinance (**administrative fees required**).

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on February 27, 2015.** Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CITATION: CDO Article(s): 2, 3, 5, 12 and 24 VSA §4451

PHOTOS

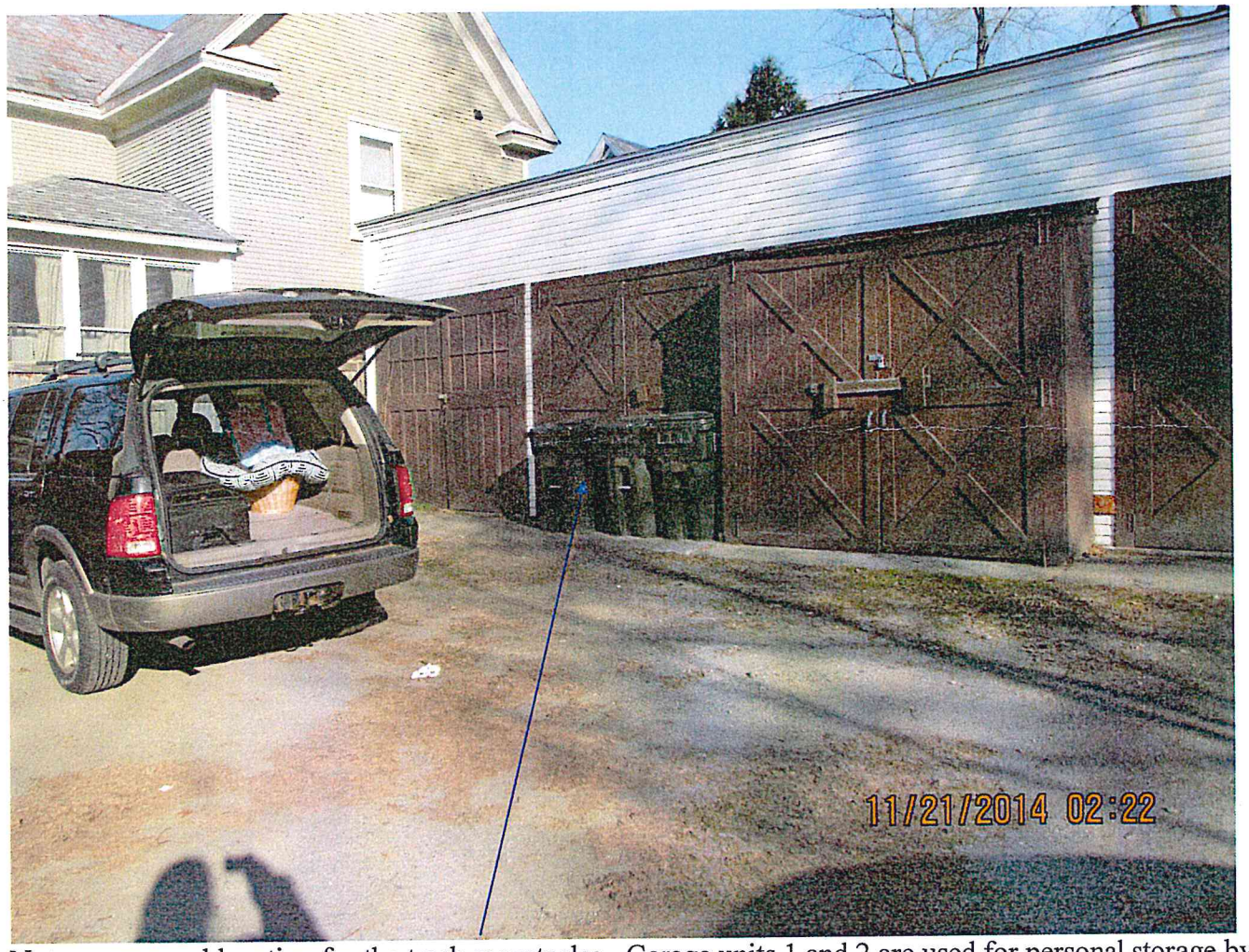


Parking exceeds agreed upon parking – see attached 2005 plan.

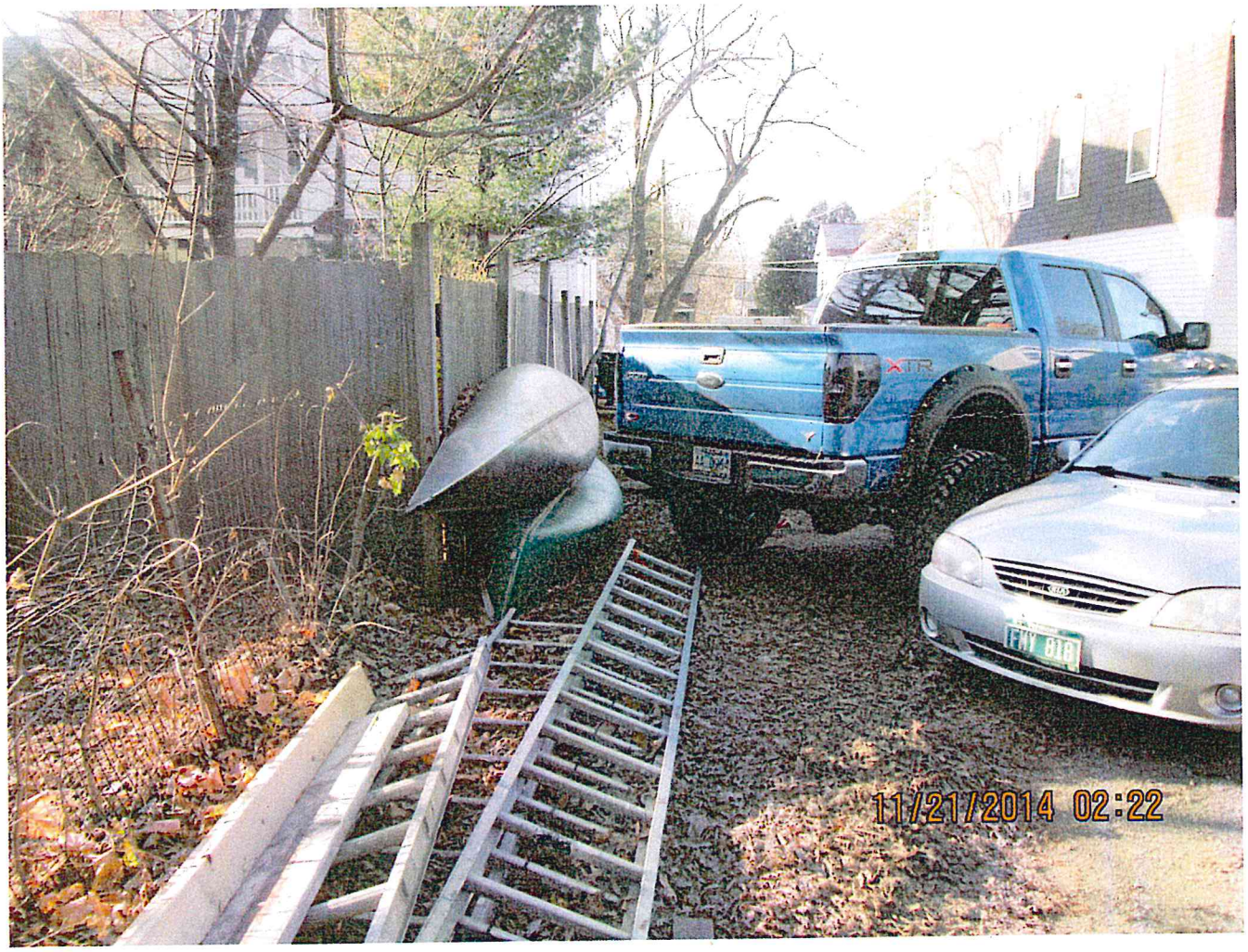
Southern boundary. Boats and other exterior materials exceeding 16' sf require zoning approval.

Southern parking area. In 2005 we agreed to one 9'x20' parking space (with barrier) surrounded by landscaping, Lately three vehicles have been using this area for parking. At lease one vehicle belongs to a tenant at 12 Weston St (other than tenants of 18-20 Weston), thereby making this a private parking lot. See attached plan.

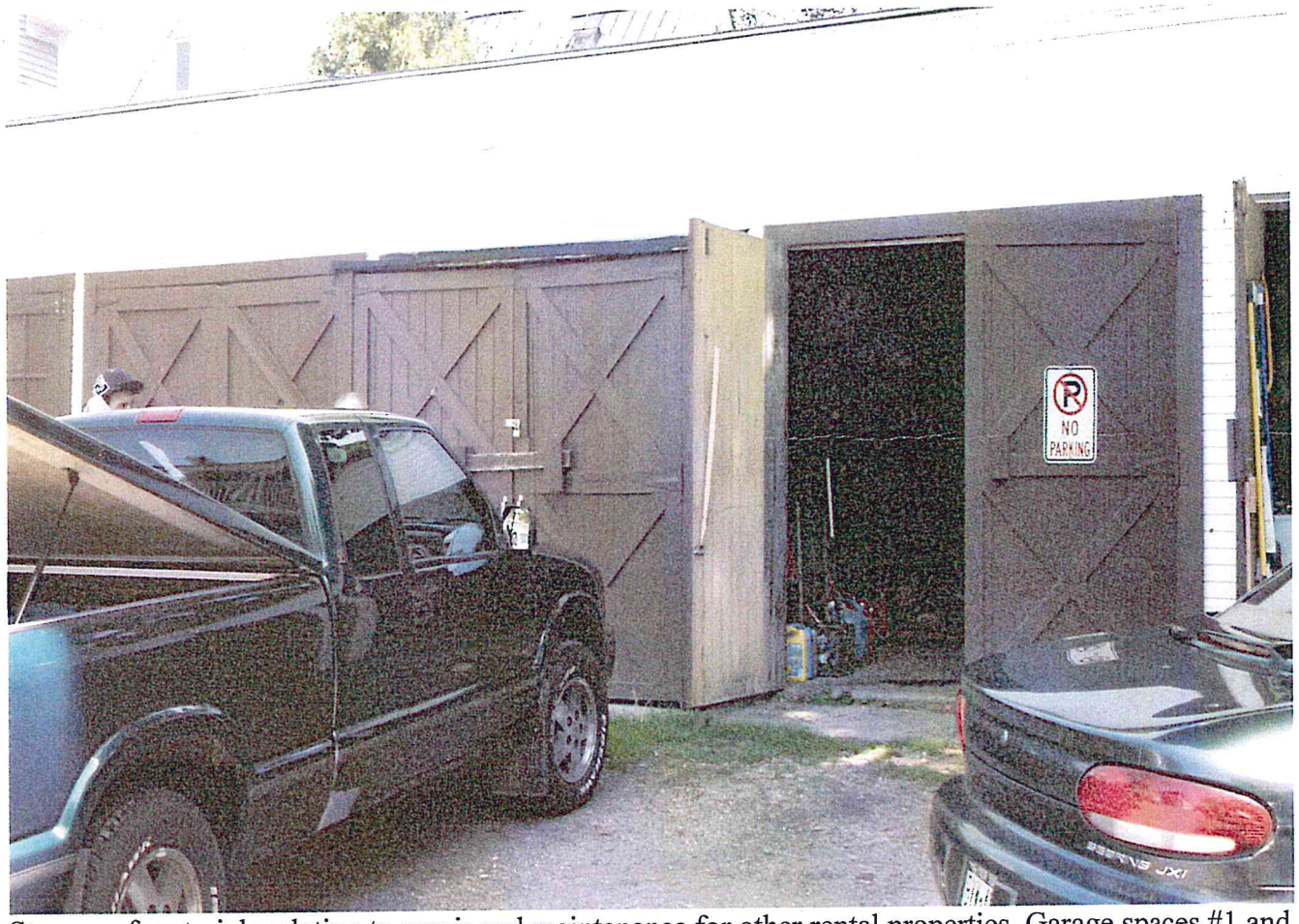
North parking lot – in 2005 we agreed to four 9'x20' parking spaces on the northern boundary with dumpster located in front (north) of parking space #1. Parking spaces were to be contained within a barrier to be reviewed and approved by our office. See attached plan.



Not an approved location for the trash receptacles. Garage units 1 and 2 are used for personal storage by owner – non conforming use would require zoning approval. The six garages are counted as part of the parking requirement for a duplex.

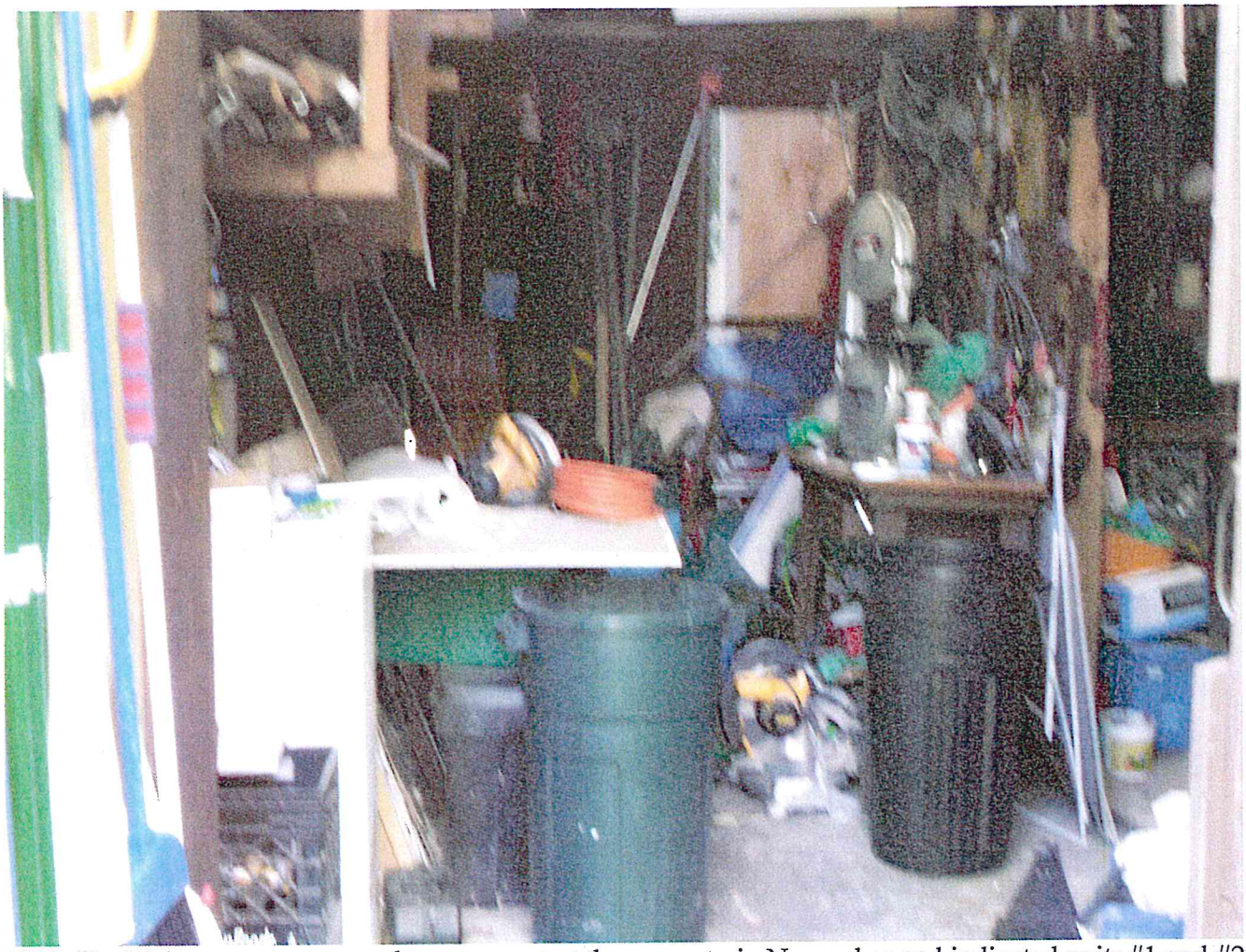


Exterior storage in excess of 16 sf along the southern boundary of property without a zoning permit.

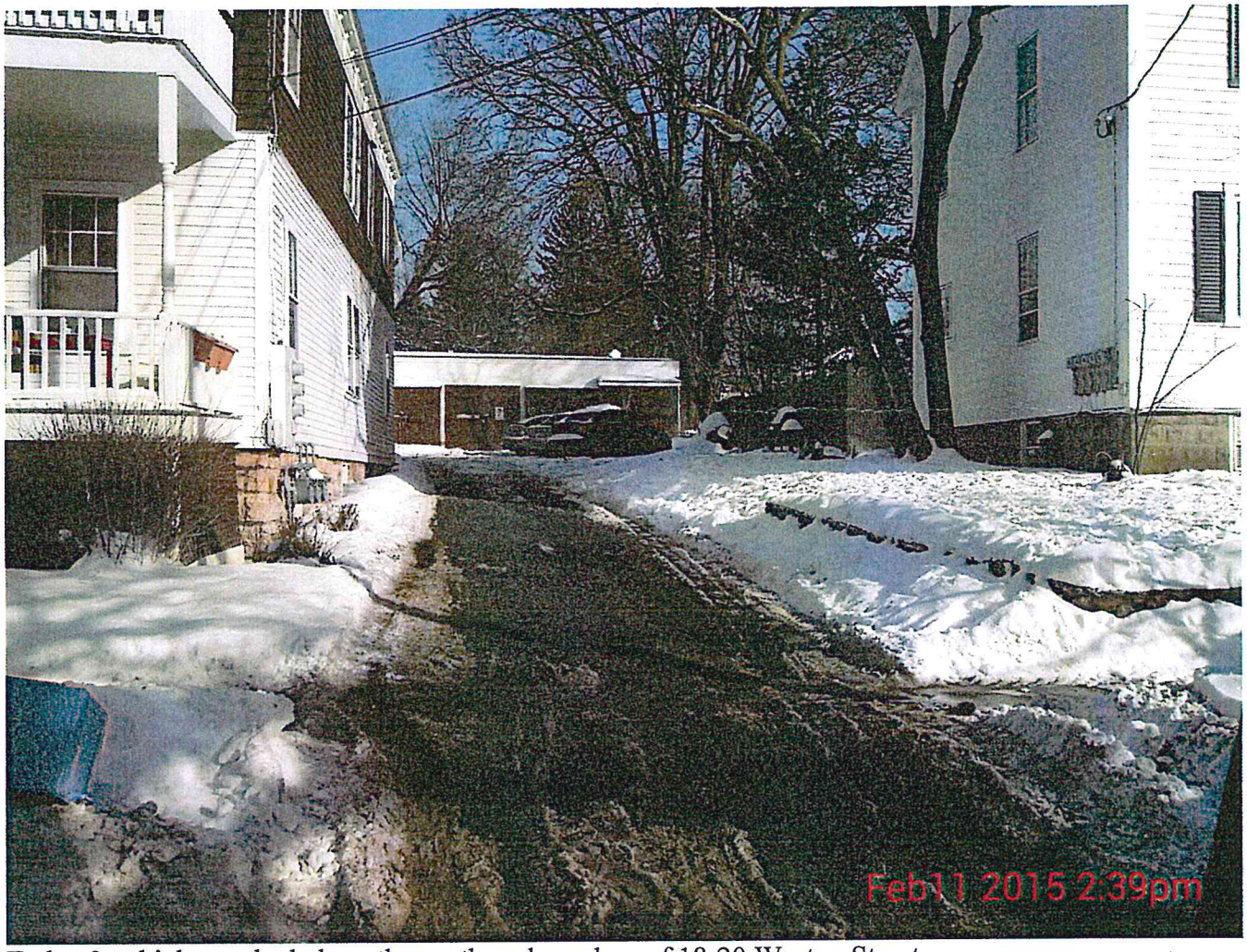


Storage of materials relating to repair and maintenance for other rental properties. Garage spaces #1 and 2 (southern edge of garage) are used for storage and maintenance space for all properties owned by Mr. Burns. Change of use from garage (conforming use) to private storage, without zoning approval.

Storage of materials relating to repair and maintenance for other rental properties. Garage spaces #1 and #2 (southern edge of garage) are used for storage and maintenance space for all properties owned by Mr. Burns. This is #2.

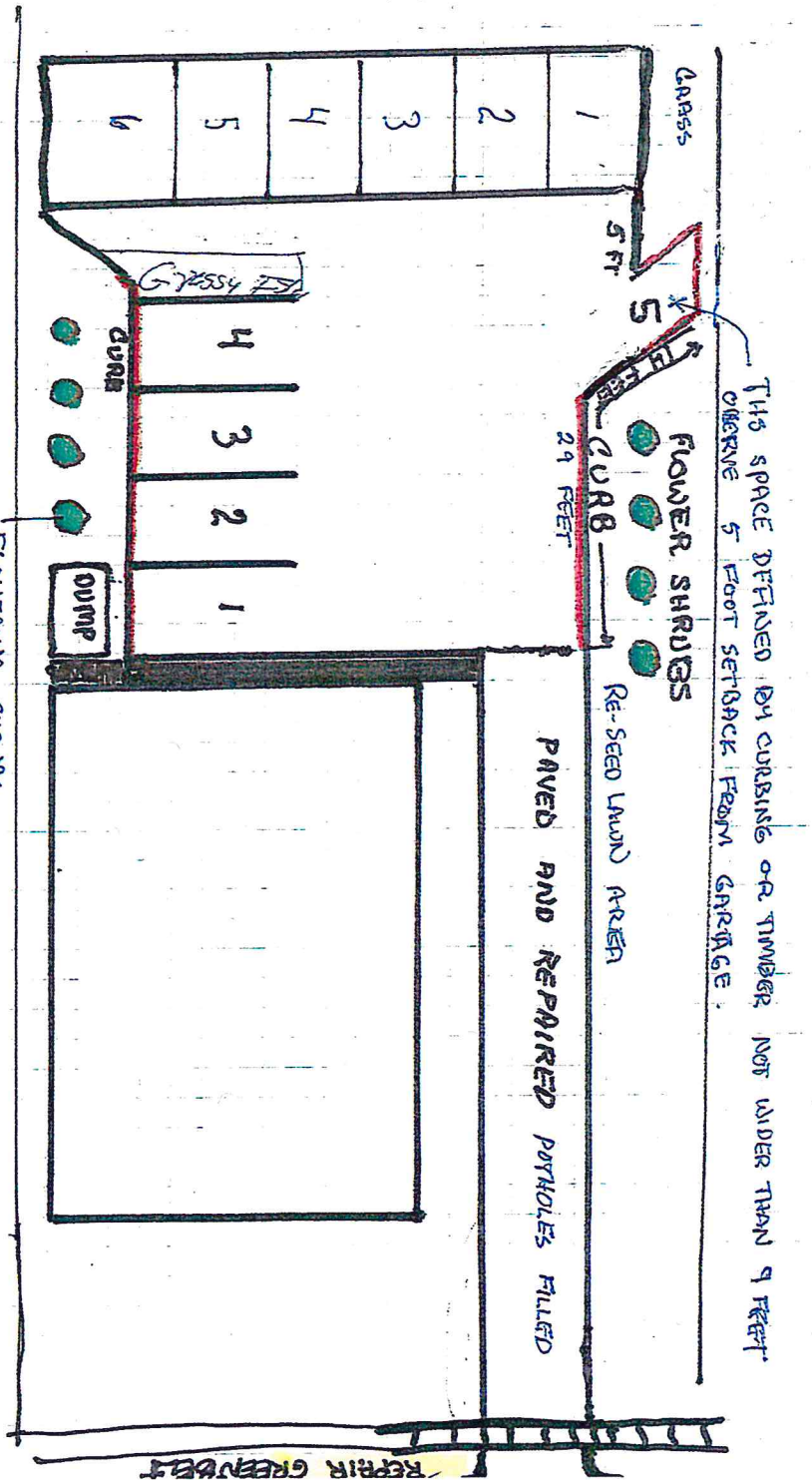


Unit #1. Maintenance personnel was present at the property in November and indicated units #1 and #2 were being used for storage of maintenance materials that are used for all Burn properties.



Today 3 vehicles parked along the southern boundary of 18-20 Weston Street.

2005 Plan Discussed with Mr. Burns on site. JT



2005 Site Plan – parking spaces agreed to by Owner and City

EUGENE BERGMAN
Interim Director
865-5382

KATHLEEN BUTLER
Health Policy/Case Management Specialist
865-7510

JEANNE FRANCIS
Zoning Specialist
865-7544

Code Enforcement Administrators
GLORIA ALLEN
863-0442
SHIRLEY GILMAN
863-6247

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
FAX: (802) 652-4221

Code Enforcement Inspect
GEORGE COUTRAY
652-42
MATTHEW PER
864-21
FRANCES POL
865-75
DONALD ROBE
865-75
JOHN RY
865-7

Zoning Inspe
TIMOTHY AHON
652-42

June 13, 2005

Charles and Cynthia Burns
475 Meadowside Drive
Charlotte, VT 05445

RE: Functional Family Application

Dear Mr. and Mrs. Burns:

You have requested to apply for Functional Family status pursuant to the definition of "Family" in Article 30 of the Burlington Zoning Ordinance. In order for us to process your request our office needs you to complete the enclosed Functional Family Application and submit the information requested therein.

Our office will also need to conduct a site visit and interview the residents at the property individually. At the interview, we request the residents to have copies of the following documents available for the interviewer to review: voter registration, driver's license, motor vehicle registration and last years tax form.

The application will not be deemed complete until all of this information is obtained. Further, there may be additional information requested during our review of the application if additional issues arise.

Please do not hesitate to contact me with any questions.

Sincerely,

Jeanne Francis
Zoning Specialist

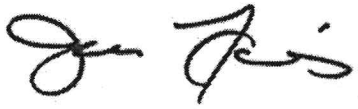
231170-00002 FF Appl. Ltr. Form 3-4-2005

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 865-7121 or (802) 863-0450 TTY.
An Equal Opportunity Employer

Our office, in consultation with Planning/Zoning staff and City Attorney's office are still occurring, thus citing use of premises inconsistent with the Family Definition of the Zoning Ordinance (CDO) has not been included in this notice of violation, however, if appropriate, may be part of a future notice of violation.

Attached is the formal notice of violation. Please feel free to call me at 864-8518 or e-mail me at jfrancis@burlingtonvt.gov when you are ready to discuss your options (within each noted timeframe, of course).

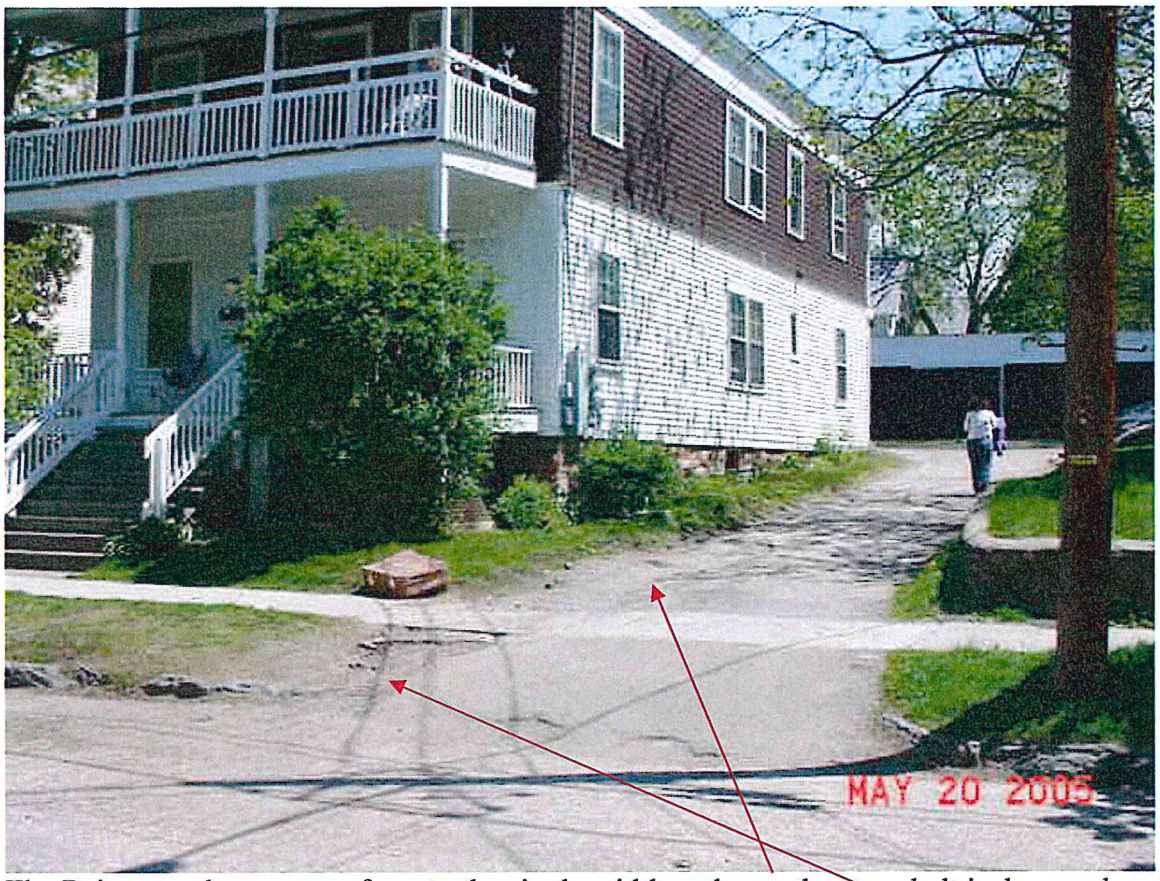
Sincerely,



Jeanne Francis
Zoning Specialist

Attachments: Notice of Violation for Premises located at 18-20 Weston Street.

18-20 WESTON STREET MAY 20, 2005



The Driveway does not conform to the single width curb cut, the greenbelt is damaged. Curbing and greenbelt have been damaged by cars driving over the area.

18-20 WESTON STREET MAY 20, 2005

The

The Driveway does not conform to the single width curb cut, the greenbelt is damaged. Curbing and greenbelt have been damaged by cars driving over the area.

18-20 WESTON STREET MAY 20, 2005

The driveway area has allegedly been increased.

18-20 WESTON STREET MAY 20, 2005

ZONING PERMIT
BASIC
City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 4/15/1998 | Appeal Expiration Date: 5/2/1998

Project Location: 18 WESTON STREET | District: RL

Owner: Scott Rieley
Address: PO BOX 4279
BURLINGTON VT 05406

Ward: 1
Tax ID: 045-1-236-000

Project Type: Residential - Renovation/Facade

Project Description: Installation of a stair within the existing rear porch to the duplex. No additional coverage or change in use.

Construction Cost:	$1,000	Lot Size (Sq Ft):	
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	4

Zoning Permit #: 98-442
Level of Review: 1

Decision By: Administrative
Decision: Approved
See Conditions of Approval
Decision Date: April 17, 1998
Project File #: NA

Zoning Administrative Officer

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on May 2, 1998.

Fee Type	Amount	Paid in Full
Application Fee:	$25.00	Yes
Development Review Fee:	$0.00	NA
Impact Fee:	*Not Applicable*	

Balance Due: $25.00
Date Paid: _____
Check # _____

Building Permit Required: **Yes**

Permit Received by: _____ Date: _____

RSN: 44181

149 Church Street Burlington, Vermont 05401-8415

AMANDA 5.4.3.1.20200312 - User Jeanne Francis Signed on to AMANDA_Production

File Data Search Edit Actions Reports Window Help

Close Update Mark All Delete Pick Accept Retrieve Detail Query Exit Log Off To-Do List Reports Permit Property People

18-20 WESTON ST (Q2)

Folder | Property (1) | People (5) | Info (2) | Process (3) | Document (1) | Inspection Req. | Comment (8) | Attachment (2)

Folder #	F
1995 004911 000 00 EP	2754
1997 005728 000 00 EP	3075
1998 004182 000 00 ZB	98-44
1998 013542 000 00 PP	3319
1998 026692 000 00 BP	3271
1998 026781 000 00 BP	3289
1998 026917 000 00 BP	3318
2003 001679 000 00 RR	1439
2004 103524 000 00 RB	1439
2004 106669 000 00 PP	
2005 102356 000 00 RB	1439
2005 112969 000 00 Q2	
2005 113042 000 00 RI	
2005 114757 000 00 VL	
2006 102498 000 00 RB	1439
2006 108570 000 00 MH	
2007 102186 000 00 RB	1439
2007 123114 000 00 QC	IOC
2008 130700 000 00 RB	1439
2008 134828 000 00 Q1	
2008 134829 000 00 QC	
2008 135435 000 00 Q1	
2008 135436 000 00 QC	

Folder: 05 112969 000 00 Q2

Parking - increased parking area without permits. Mrs. Mahoney, complainant, has lived at her property for 30 years and will testify the parking has increased over the years.

Reminder Date: Thu Mar 31, 2005 | Remind: SGilman | Include: ☐

Made On: Thu Mar 31, 2005 | Made By: SGilman

Comment Date: Thu Mar 31, 2005

◉ List View ○ Related View

☑ Show no. of rows on tabs

8 Rows Returned

54 Rows Returned

GREGORY B. McKNIGHT II
Director
865-5382

KATHLEEN BUTLER
Health Policy/Case Management Specialist
865-7510

JEANNE FRANCIS
Zoning Specialist
865-7544

Code Enforcement Administrators
GLORIA ALLEN
863-0442
SHIRLEY GILMAN
863-6247

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
FAX: (802) 652-4221

Code Enforcement Inspectors
GEORGE COUTRAYER
652-4235
MATTHEW PERRY
864-2156
FRANCES POLITI
865-7565
DONALD ROBEAR
865-7563
JOHN RYAN
865-7525

Zoning Inspector
TIMOTHY AHONEN
652-4222

SHOW CAUSE LETTER

May 31, 2005

COPY

Cynthia and Charles Burns
475 Meadowside Drive
Charlotte, Vermont 05445

RE: 18-20 Weston Street (hereinafter referred to as "Premises")

Dear Cynthia and Charles Burns:

It has come to the attention of this office that a potential zoning violation exists at the above referenced Premises.

Nature of Alleged Violation: increasing the parking area at the Premises without an approved zoning permit (see attached). Burlington Zoning Ordinance Articles: 4, 5, 10, and 19.

You, as the Owner of the Premises (hereinafter "Owner") have **TEN (10) CALENDAR DAYS** from the date of this memo (ie. June 11, 2005) to show cause that the alleged violation does not exist **or, within the same time frame**, remedy the alleged violation by either:

1. removing the violation (see attached photo indicating location of alleged violation), installing barriers around the City's recognized parking area to be reviewed and approved by this office and re-seed any damaged lawn areas (including greenbelts); or
2. submitting a complete application to the Burlington Department of Planning and Zoning (located in City Hall) to cure the alleged violation. **If the application or the portion of the application that deals with the alleged violation is denied, you have TEN (10) CALENDAR DAYS from the application denial date to remove the violation and comply with number 1 above.**

There will be no further warnings forthcoming. Pursuant to Burlington Zoning Ordinance Article 19 and 24 V.S.A. §§1974a, 4451 and 4452, if the alleged violation has not been cured or Owner has not shown a violation does not exist within ten (10) calendar days from the date of this letter, either a Municipal Complaint Ticket or a Notice of Violation will be issued to you as Owner. Please note the first Municipal Complaint Ticket carries a waiver fee of $100, the second ticket carries a waiver fee of $150, and the third ticket carries a waiver fee of $250; there is a five (5) calendar day cure period between each ticket. The Notice of Violation has a fee of up to $100.00 for each offense. Each day that a violation is continued shall be a separate offense.

Should you have questions, don't hesitate to call me at 865-7544. Thank you for your anticipated cooperation and prompt attention to this matter.

Sincerely,

Jeanne Francis
Zoning Specialist

Enclosures: see above

Cc: Department Planning/Zoning
Code Files

D:/documents/templates/show cause memo parking 051705

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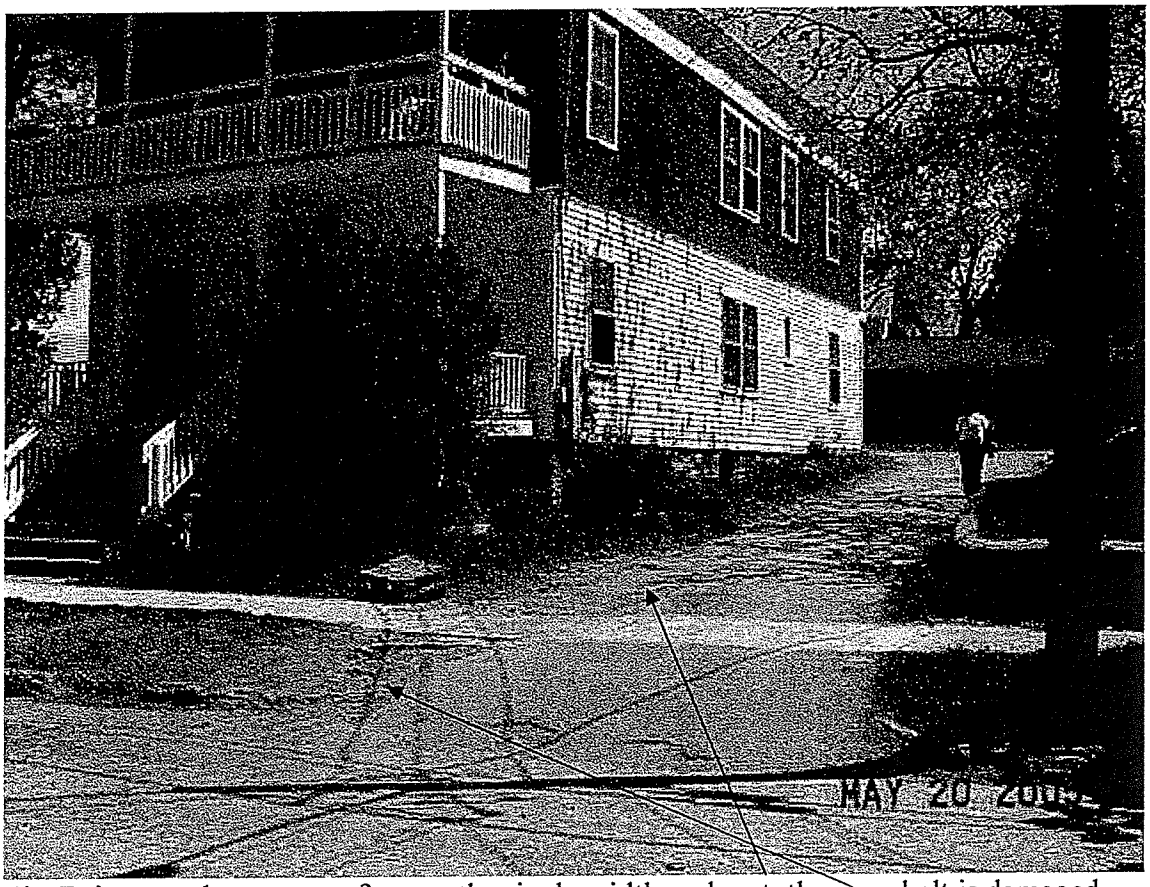
For disability access information call (802) 865-7121 or (802) 863-0450 TTY.
An Equal Opportunity Employer

18-20 Weston Street

18-20 WESTON STREET MAY 20, 2005

The driveway area has allegedly been increased.

18-20 WESTON STREET MAY 20, 2005



The Driveway does not conform to the single width curb cut, the greenbelt is damaged. Curbing and greenbelt have been damaged by cars driving over the area.

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/pz
Phone: (802) 865-7188
Fax: (802) 865-7195

David White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Senior Planner
Mary O'Neil, AICP, Senior Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk

Burlington
Planning and Zoning

MEMORANDUM
To: Interested Persons
From: K. Lerner
Date: June 3, 2015
RE: Request to Re-open Public Hearing on 18-20 Weston St.; Appeal 15-0830AP
==========

In response to the request from Code Enforcement, the DRB voted to re-open the public hearing. The hearing was closed on May 5th. The decision on reopening is as follows:

A. Hart: I move that the Board grant the request for reconsideration on the limited issue of defining the scope and boundaries of the expanded parking used continuously for at least 15 years. The Board heard extensive conflicting testimony on this issue at the public hearing. Testimony at the reopened public hearing will be limited to new evidence that will assist the Board on the limited issue. The Board specifically requests the introduction of a larger version of the plan or aerial photo that it was not able to consider in its prior deliberation.

J. Stevens: Seconds

Vote: 5-2 (B. Rabinowitz, AJ La Rosa dissenting)

A new public hearing notice will be issued as to date and place of the hearing.

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

To: The Development Review Board
From: Bill Ward –Director of Code Enforcement
Date: May 27, 2015
Re: 18-20 Weston Street Appeal – Request for reconsideration and reopen

At the May 18, 2015 deliberative session of the Development Review Board it was my understanding the DRB had a finding of an unenforceable violation for "Replacing green space with additional parking without zoning approval, an increase in lot coverage". The motion that was approved from the DRB included a statement that there was evidence that the parking on the South side of the property line has existed beyond the statute of limitations for zoning enforcement. The motion did not state the number of parking spaces or a specific dimension of DRB approved parking. I respectfully request your reconsideration of that issue.

I request that the Development Review Board accept my request for reconsideration and reopen the hearing to invite the property owner and City of Burlington representatives or witnesses back to provide additional testimony and evidence as necessary to clarify the parking dimensions and specific number that the DRB intends to approve based on their findings.

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
vacant, Assistant Director
vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary

TO: Development Review Board
FROM: Scott Gustin
DATE: July 21, 2015
RE: 15-1314CA; 495-497 Colchester Avenue

==========

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: NMU Ward: 1E

Owner/Applicant: Brisson Properties / Jay White

Request: Raise building in place, insert additional story, and remove rear porch. Retain 4 dwelling units and establish cafe.

Applicable Regulations:
Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:
The applicant is seeking approval to renovate and expand an existing 4-unit apartment building. The original ground level story was largely buried after installation of an elevated bridge across the Winooski River following the 1927 flood. This proposal includes elevating the buried first story (and upper stories) and inserting a new first story in its place. The footprint of the building, including the basement, will remain unchanged. The four residential apartments will be retained and renovated, and a café will be established in the newly inserted ground floor level.

This proposal underwent sketch plan review with the Development Review Board on February 17, 2015. Much of the site work associated with that sketch plan has been eliminated from the current proposal largely due to its encroachment into the public right-of-way. The proposed building work remains largely the same. Staff had raised concerns with the significant alterations to the historic structure and loss of the physical documentation (burial) associated with one of Vermont's most significant natural disasters. The Development Review Board, however, felt that the proposed work was acceptable, particularly in light of the deteriorating condition of the buried portions of the structure. They encouraged documentation of the building in its present condition prior to making alterations. Other concerns relative to proposed work within the street right-of-way are no longer pertinent, as that work has been eliminated.

The Design Advisory Board reviewed this project June 23, 2015 and unanimously recommended approval subject to the following conditions:

1. Replacement and new windows shall be compliant with the standards of the Comprehensive Development Ordinance (wood or clad wood).

2. Fenestration should follow the original pattern as discovered when the building is raised and exposed.
3. Existing versus proposed room count is needed along with related parking as applicable.
4. Cutoff light fixtures should be used along the Colchester Avenue façade.
5. Meters should be relocated into the alleyway.

Revised project plans and additional information has been provided to comply with the recommendations of the Design Advisory Board.

Previous zoning actions for this property are as follows:

- 7/02, Zoning Permit 03-019; replace existing slate shingles with slate colored architectural shingles.
- 9/01, Zoning Permit 02-154; replace slate and asphalt shingles with (artificial) Majestic slate tiles.
- 11/92, Zoning Permit 93-219; change of use from commercial office space to one residential unit (575 sq. ft.) for a total of 4 units and no commercial space. No exterior changes proposed.
- 3/88, Zoning Permit 87-745 / COA88-036; erect one projecting sign for the office space and one place sign with "carriage house" carved above the front door.
- 10/87, Zoning Permit 87-529; 87-171; relocate existing residential unit into vacant space and convert the residential space to office use.

Recommendation: <u>Certificate of Appropriateness approval</u> as per, and subject to, the following findings and conditions:

I. Findings
Article 4: Maps & Districts
Sec. 4.4.2, Neighborhood Mixed Use Districts:
(a) Purpose
(2) Neighborhood Mixed Use (NMU)
The Neighborhood Mixed Use District is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns within the city's older neighborhoods. Uses are intended to provide neighborhood oriented goods and services and employment opportunities within walking or biking distance of residential neighborhoods. The proposed work retains the residential apartments and introduces a small scale café consistent with the purpose of the district. **(Affirmative finding)**

(b) Dimensional Standards & Density
FAR in the NMU zone is limited to 2.0. The subject property is very small at just 3,893 sf. As proposed, the above-grade floor area of the building will be 5,268 sf or 1.35 FAR. The proposed FAR is acceptable.

Maximum permissible lot coverage is 80% in the NMU zone. As proposed, lot coverage will increase slightly to an acceptable 61.1%.

Setbacks remain unchanged.

Within the NMU zone, the maximum building height is 35', and the minimum is 20'. Buildings shall be at least 2 stories. The proposed building is up to 31' 2" tall and 3 ½ stories, depending on the grade. **(Affirmative finding)**

(c) Permitted & Conditional Uses
The existing multifamily residential use is permitted in the NMU zone. The proposed café use is also permitted. The new commercial use will require payment of impact fees per Article 3, Part 3: *Impact Fees*. **(Affirmative finding as conditioned)**

(d) District Specific Regulations
Not applicable to the project as proposed.

Article 5: Citywide General Regulations
Sec. 5.2.3, Lot Coverage Requirements
See Sec. 4.4.2 (b) above.

Sec. 5.2.4, Buildable Area Calculation
(Not applicable)

Sec. 5.2.5, Setbacks
See Sec. 4.4.2 (b) above.

Sec. 5.2.6, Building Height Limits
See Sec. 4.4.2 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations
See Sec. 4.4.2 (b) above.

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

The subject building is included in the National Register of Historic Places and the VT Historic Sites & Structures Survey. It is located within the Winooski Falls Mill Historic District and was

constructed prior to 1822. As such, it is one of the oldest industrial structures in Burlington. **(Affirmative finding)**

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

   For most of its history, the building was used for commercial purposes. More recently, the building has been used for residential apartments. The apartment use will be retained, and a new café space will be established. Materials and features will remain largely unchanged except for the introduction of concrete with stone veneer along the new ground level and the reintroduction of several windows and doors into bricked-in openings. Although the overall building mass will increase, the spatial relationship amongst building features will remain consistent. **(Affirmative finding)**

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

   Exterior building materials will remain intact and be repaired as needed. As noted above, several bricked-in window and door openings will be opened up again with new windows and doors. The newly inserted ground level will, of course, contain additional fenestration. Contiguity amongst the spatial relationships of building features will be retained. **(Affirmative finding)**

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

   Within the original structure, no conjectural features or elements will be added. New windows and doors will be inserted into original openings that were bricked-in when the building was partially buried. The newly inserted ground level will be clad in stone veneer and will be distinct from the original structure to be set upon it. The proposed work is another clearly discernable chapter in the history of this structure. **(Affirmative finding)**

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

   The partial burial of the building following the 1927 flood is historically significant in its own right. While most of the original structure will be raised out of the ground, the surrounding grades and building volume within the ground will remain unchanged. Deteriorating buried

brick will be raised out of the ground and replaced with concrete for the new ground floor. **(Affirmative finding)**

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

   It appears that all such materials, features, finishes, and construction techniques represented by the original structure will be preserved. **(Affirmative finding)**

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

   When the original structure is raised, damaged brick will be repaired as needed. Previously bricked-in (and buried) window and door openings will be reopened with new windows and doors. **(Affirmative finding)**

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

   No such treatments are included in this proposal. **(Affirmative finding)**

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

   The property contains no known archaeological resources, and only limited excavation is proposed. **(Affirmative finding)**

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

   The new addition in this proposal amounts to a new ground level floor. The original structure (sans the basement) will be lifted and placed on top of a newly constructed ground floor. The existing exterior building materials and features will be retained. The new construction will be constructed of concrete and clad in stone veneer. It will be clearly distinct from the original structure to be placed upon it. The new ground floor is compatible with the rest of the structure in terms of its size, scale, and proportion. As noted previously, spatial relationships amongst building features will remain consistent. Although the building will become larger, it's overall massing and fenestration pattern will be retained. **(Affirmative finding)**

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

While the proposed construction could technically be removed in the future, it is essentially a permanent alteration. Insofar as the historic structure will be retained and placed upon the new ground floor, its removal would simply amount to re-burying much of the original structure. **(Affirmative finding)**

Sec. 5.5.1, Nuisance Regulations
Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting
New outdoor lighting is proposed and consists of building mounted fixtures to illuminate building entries. "Jelly jar" fixtures are proposed within the southern porches. As recommended by the Design Advisory Board, a cutoff fixture will be installed above the western, eastern, and northern doorways. The two fixture types are both acceptable with "low output" lamps. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control
Less than 400 sf of earth disturbance is included in this proposal, and impervious surface will remain largely unchanged. **(Affirmative finding)**

Article 6: Development Review Standards
Part 1, Land Division Design Standards
Not applicable.

Part 2, Site Plan Design Standards
Sec. 6.2.2, Review Standards
Limited site work is included in this proposal. Existing window wells along the north elevation will be removed. New metal grate steps from the public sidewalk along Colchester Avenue will be installed, providing a connection to the rebuilt walkway along the building's southern elevation. This rebuilt walkway will be installed following limited excavation to moderately lower the grade. The covered porch on the building's eastern elevation will be removed, and the walkway will be retained. **(Affirmative finding)**

Part 3, Architectural Design Standards
Sec. 6.3.2, Review Standards
(a) Relate development to its environment

1. Massing, Height, and Scale
While the building will become larger with the insertion of a new floor level, its general massing will remain essentially the same. The symmetric rectangular shape will be retained along with the gable roof and evenly proportioned fenestration. Building height, too, will obviously increase. The greater building mass and height, however, remain within a scale consistent with the nearby mix of commercial and residential buildings. **(Affirmative finding)**

2. Roofs and Rooflines
As noted above, the pitched gable roof will be retained in its present condition. **(Affirmative finding)**

3. Building Openings

Generally, existing doors and windows will be retained. Former window and door openings that have been bricked in and buried will be re-opened and fit with new windows and doors within the rough openings. Several unoriginal doors and windows will be removed and filled in with siding material. The proposed window and door alterations/additions reflect the building's established fenestration pattern. The Design Advisory Board acknowledged that the fenestration pattern may vary somewhat as the building is lifted and the actual historic pattern is discerned. **(Affirmative finding)**

(b) Protection of important architectural resources
See Sec. 5.4.8.

(c) Protection of important public views
The building is not located along any defined view corridor. The proposed renovations and addition will not impact any important public views. **(Affirmative finding)**

(d) Provide an active and inviting street edge
The proposed construction will liven the structure's Colchester Avenue frontage, reintroducing shopfront windows and doors that were buried following the 1927 flood. The newly reintroduced door on the west elevation is somewhat elevated above grade. A single stone step will be provided. The application notes that the step is "mostly" on private property and out of the street right-of-way. Any encroachment into the right-of-way may require an encumbrance permit from the Dept. of Public Works. **(Affirmative finding as conditioned)**

(e) Quality of materials
Existing brick veneer will be retained and filled in as needed. The newly inserted ground floor will be constructed of concrete, clad in stone veneer. New lintels will be heavy timber. Windows will be clad wooden units with simulated divided lights. Roofing material will remain unchanged. **(Affirmative finding)**

(f) Reduce energy utilization
No exceptional measures for reducing energy consumption are noted in the project plans. It must comply with all applicable city and state energy codes. **(Affirmative finding as conditioned)**

(g) Make advertising features complimentary to the site
No outdoor signage is included in this proposal.

(h) Integrate infrastructure into the building design
The electrical meter cluster will be relocated to the building's south elevation. The gas meters will be located on the east elevation (facing the alleyway). Both locations are largely hidden from view. Similarly, new heat pumps will be located along the southern elevation. **(Affirmative finding)**

(i) Make spaces safe and secure
Doorways will be illuminated with exterior light fixtures. New windows must be sized appropriately for compliance with current egress requirements. **(Affirmative finding as conditioned)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements
The property is located within the Shared Use Parking District. The existing 4 apartments require 4 parking spaces (1 per dwelling unit). Only 1 off-street parking space is present. No additional apartments are proposed, nor will there be any net increase in the numbers of rooms within the apartments. Therefore, no additional parking is required for the renovated apartments.

The proposed café requires no off-street parking, and none is proposed. **(Affirmative finding)**

II. Conditions of Approval

1. Any and all construction with the public right-of-way (ROW) is subject to review and approval by the Department of Public Works. This includes, but is not limited to, the front (Colchester Avenue) step. Any and all private construction within the public ROW requires an encumbrance permit issued from the City Council in consultation with the Department of Public Works.
2. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency and egress codes of the city and state as required.
3. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed development.
4. Standard permit conditions 1-15.

Burlington Development Review Board
149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/PZ/DRB
Phone: (802) 865-7188
Fax: (802) 865-7195

Austin Hart, Chair
Jonathan Stevens
Brad Rabinowitz
Geoff Hand
Israel Smith
A.J. LaRosa
Alexandra Zipparo
Jim Drummond (Alt.)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, July 21, 2015, 5:00 p.m.
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
AGENDA

I. Agenda
II. Communications
III. Minutes

IV. Public Hearing

1. **14-005CA/HO; 110 Hyde Street (RM, Ward 2C) Andrew Rianhard**
   Time extension for conditional use home occupation for auto upholstery work within garage. Associated site and garage improvements.

2. **15-1234CA; 18-20 Weston Ave (RL, Ward 1E) Charles Burns**
   Re-opened appeal of zoning violation # 279187.

3. **15-1375CU; 820 North Ave (RCO, Ward 7N) WVPD**
   Convert classroom into small daycare within existing small museum (Ethan Allen Homestead). No construction proposed.

4. **15-1318AP; 193 St. Paul Street (RH, Ward 5) Stratos Condominium Association**
   Appeal of a Code Enforcement decision that a zoning violation regarding parking does not exist.

Certificate of Appropriateness

1. **15-1314CA; 495-497 Colchester Ave (C, Ward 1) Brisson Properties**
   Raise building in place, insert additional story, and remove front porch. Retain 4 dwelling units and establish cafe.

V. Adjournment
VI. Other Business

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), 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 Planning and 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/pz/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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 Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

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Burlington Development Review Board
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Jim Drummond (Alt.)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday, July 7, 2015, 5:00 p.m.
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
Minutes

Board Members Present: Austin Hart, Jonathan Stevens, Israel Smith, A.J. LaRosa, Alexandra Zipparo, Geoff Hand
Board Members Absent: J.Drummond
Staff Members Present: Ken Lerner, Mary O'Neil, Anita Wade

I. Agenda
No Changes.

II. Communications
None.

III. Minutes
Provided in Packet

IV. Public Hearing

1. 15-1219AP; 111 Colchester Ave (UC, Ward 1) Fletcher Allen Health Care, Inc.
Appeal for Code Enforcement Decision of an unsubstantiated complaint pertaining to the construction by the Medical Center on an acre of land zoned for university use. (Project Manager, Ken Lerner)

K.Lerner: Presented on behalf of the Code Enforcement and the City giving a brief summary. The appeal is based on a final code determination of May 12th.
M.Lang; the appellant and owner at 138 Colchester Ave and owner of five adjacent properties showed a display speaking to overlay districts.
M.Lang; spoke about overlay districts in the institutional zone. Said staff notes the distinction between the schools and hospital uses pertaining to 4.5.2 (b)(a). She is not appealing the project, nor objecting to the one acre lot line adjustment. She has nothing negative to say about UVM. Stated there is a need for a land use change. She mentioned that only the planning commission is authorized to do change a use according to the zoning code, referencing 12.1.1. Spoke about conditions regarding the permit in reference to the ordinance14-2.1(c.)(a.). Said it is a material fact that the change of use must be reviewed for major impact. The hospital cannot get a certificate of appropriateness without a use change. The DRB should enforce the laws and invalidate this permit. She gave a packet for staff to distribute to the Board. Asks the City to enforce its own laws. There would be a possible loss of jobs if a court injunction is declared because the work on this project has to stop due to an appeal. Intends to appeal decision based on the need for a land use change regarding university land not being changed to reflect as hospital land. Mentioned concern about the Mayor's support for the project.
AJLaRosa; said the property transferred was not the use applied for
BRabinowitz; asked appellant if she was opposed to the project.
M.Lang; said she supports the project, but opposed to hospital getting a zoning permit without a use change.
J.Stevens; your complaint is that it's being used as a hospital rather than a school?
M.Lang; said her opposition is to the zoning use change dedicated to UVM ICC, needs to be changed to Fletcher Allen Institutional Care. Hospital is getting a 'pass' regarding the settlement offer of 6/4/15.

JStevens; definition of school; hospital is accessory to institution of University as a teaching hospital.
M.Lang; spoke to definition in ordinance and said if accessory use is in two zones all institutions would be accessory to each other.
G.Hand; questioned if she supported and participated in the original hearing and if she raised this issue.
M.Lang; said yes, but the issue was not being addressed at that time.
M.Lang; distributes packet to staff.
G.Hand; asked if she appealed the original permit?
M.Lang; answered 'no' she did the other permit.
K.Lerner; said land use change is not a permit and that the need for the change was recognized at the time of the hearing. Said it would be finalized once lot line adjustment was completed to reflect overlay line. This was disclosed at the hearing pertaining to the hospitals conditional use.
B.Rabinowitz; asks what this means and would it be adjusted?
A.Ziparro; asked if there was a zoning change during the ordinance committee?
K.Lerner; said they had not met recently.
G.Hand; questioned if it was necessary to adjust zoning and if it was reasonable for appellant to think this could happen?
K.Lerner; yes this will happen, but only upon condition of approval was lot line adjustment.
S.Buser; wanted to go on the record about her concerns with the process on boundary line adjustments between two different zones. She asked about the communications and processes available to applicants as they move forward to apply for lot line adjustments. Questioned if this situation is unique. She requests for communications from attorneys to be distributed with the clear understanding about the process.
The public hearing was closed at 5.24pm

2. **15-0922CA/MA; 451 Appletree Point Road (RL, Ward 4N) Alfred Senecal**
Re-opened. Demolition of existing structures, construct new duplex, associated site improvements and lot line adjustment. (Project Manager, Scott Gustin)
15-0923CA/MA; 465 Appletree Point Road (RL, Ward 4N) Alfred Senecal
Re-opened. New residential duplex, utilities and driveway (Project Manager, Scott Gustin)

B.Rabinowitz recused. A.Hart was absent and recused.

J.Stevens; said there would be a limit to the testimony regarding the extent of encroachment within 451 of the setback.
B.Rabinowitz; speaking as representative for applicants, said the hearing was reopened with special request to regarding existing site plan. At the last hearing, a colored site plan was distributed pertaining to the existing lot coverage on the existing road. There was some confusion regarding the existing and proposed lot coverage. The map indicates setbacks where the entire buildable area is within setback. The display showed setbacks mostly within 75' setback. The lot coverage numbers are small.
J.Stevens; said lot coverage isn't the issue.
B.Rabinowitz; lot coverage regarding within 75' setback was the issue.
J.Stevens; what's needed is clarification on parking and lot size, not structures.
B.Rabinowitz; said the approval of the 451 lot had to be limited to area of the existing structure regarding the property.
J.Stevens; spoke about the definition of a parking structure.
B.Rabinowitz; said there was no limit to size of structure for 465 lot.
J.Stevens; said Board was only considering lot coverage pertaining to the question from resident.
L.Larson; as a resident of 506 Appletree Pt Rd, he does not see how Board comes to conclusion that structures can be within 75' from Lake. He was asking board to deny appeal based on what is clearly stated in regulations for new lots.

J.Haig; as resident of 22 Appletree Pt Rd and President of Neighborhood Association wanted to go on record as an opponent to the project feeling that the numbers are off.
B.Rabinowitz; said the project was approved based on the setbacks according for the existing and pre-existing lot. Said these setbacks were agreed to a year ago prior to his involvement with the project
A.Zipparo; asked for clarification regarding 75' setback.
J.Stevens; said the Board approved a variance last year.
B.Rabinowitz; the lakefront setback did not conform since it was grandfathered as an existing structure and therefore this was not actually a variance for a lakeshore setback.
AJ.LaRosa; according to language, no variance was necessary due to setback approval.
L.Larson; said the packet dating back to 2004 when Board denied a 3 lot subdivision and created new a two lot subdivision. He had commented a year ago and had asked Board to do a site visit.
M.Oneil; Reminded speakers to sign in on the attendance sheet. Said she would speak on behalf of Scott since he was not present tonight. She was aware of Scott acknowledging that this lot was created under different zoning ordinance noting that the new project request is being reviewed under the new ordinance.
J.Stevens; Closed public hearing at 5:42pm

The Deliberative session will be next Monday, July 13, 2015 at 5:00pm.

V. Other Business

1. Annual Organizational Meeting
2. Training Topics Discussion

Discussion ensued on possible Board training topics:
M.Oneil; asked Board members which topics were of interest for training sessions.
AJLaRosa; like to have sessions on meeting procedures, time limitations, Bianchi, Westro decision, enforceable vs grandfathering; deliberative process; and appeals.
J.Stevens; ordinance encourages site visits. Questioned when something should be said regarding new evidence and the way to inform and to ask questions.
AJ.LaRosa; agrees with doing site visits for training purposes.
B.Rabinowitz; would like more information about statute of limitations.
K.Lerner; videos are available and posted online. Sees benefit in photographing the project for the Board.
A.Zipparo; mentioned parking show be included.
M.ONeil; agreed it was good idea to stay current with parking studies.
B.Rabinowitz; good to know how things have worked out from other parking studies.
M.ONeil; the studies gives a limited review of the parking issue.
B.Rabinowitz; asked about 4 trainings
M.ONeil; mentioned how trainings could be scheduled following the regular meetings.
B.Rabinowitz; mentioned how he appreciated the breakdown of packets of information by staff.
A.Zipparo; said she finds it easier to get the information rather than IPhone.
I.Smith; said his priority were the topics on the top of the handout, but that all were relevant and liked the way they were ranked on the sheet.
AJ.LaRosa; asked for architectural training.
M.ONeil; could provide additional information on materials and style.
AJLaRosa; agreed to materials and specifications
K.Lerner; said Board can advertise as a work session and participate off sight.
A.Zipparo; spoke about the quality being poor with the call in and wondered if this can this be changed.
M.ONeil; said this can be pursued, but was not sure if this can happen.
A.Zipparo; said she knows that City Councilors do this.
A.Hart; at this point, arrived from a previous meeting. Mentioned that Scott sent out a meeting notice regarding the need to create appointments. The Board needs to vote on the appointment of a clerk. J.Stevens nominated A.Wade. A.Zipparo seconded the motion. Vote was 7-0 for endorsement of A.Wade as zoning clerk.

Board then discussed Chairperson's position.
B.Rabinowitz; nominated A.Hart for Chair. Jonathan expressed concerns about the frequency A.Hart's recusals and would like others to have an opportunity.
A.Hart; is aware of circumstances and said the City Council is aware as well.
AJ.LaRosa; offered to chair meetings.
A.Hart; enjoys being Chair and mindful of what JStevens said. Thinks it would be good to have other Board members to rotate for succession purposes.
A.Hart; nominates AJ.LaRosa which is seconded by JStevens.
AJ.LaRosa; said it was wise to have different voices and feels he recuses himself less often on projects. Agreed it was good to have others rotate in positions.
G.Hand questions the recusal procedure when the Chair needs to recuse.
Vote for Chairperson:
4 in favor of A.Hart; 3 in favor of AJ.LaRosa
Vote for Vice-Chairperson was 6-0 in favor of B.Rabinowitz
J.Stevens spoke about the ordinance committee.
K.Lerner; said Scott suggested a morning meeting or scheduling a different day, since attendance has been poor.
A.Zipparo; asked if it would be between 8-5pm.
J.Stevens; said Scott will be managing the committee.
AHart; said it is important for the Board to see the grand vision of the city.
Vote: unanimous vote for J.Stevens to represent the Ordinance Committee.
A.Hart; that a procedure be established.
AJ.LaRosa; spoke about the long range planning committee meetings and long term planning projects to provide input into projects such as the South end and Waterfront project and updating master planning projects.
Vote 7-0 for AJ.LaRosa to be representative for the long range planning projects committee. All five positons were filled.

A.Hart; Adjourned the meeting at 6:14pm.

VI. Adjournment

_____ _____
A.Hart, Chair, Development Review Board Date

_____ _____
Anita Wade, Planning and Zoning Clerk Date

Applications and Plans may be viewed in the Planning and Zoning office, (City Hall, First Floor, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

All staff comments, plans and supporting documents will be available on the Planning and Zoning website at: www.burlingtonvt.gov/pz/drb/agendas approximately one week before the hearing.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office and Development Review Board is considered public and cannot be kept confidential.

This agenda is distributed to: adjacent property owners of projects before the Development Review Board, Neighborhood Planning Assemblies, City Councilors, City Departments and interested parties. You may direct written comments to the Planning and Zoning Department, at the above address. Inquiries may be made by calling 865-7188. Oral comments may be given at the meeting by any persons on any project listed on the Agenda.