

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

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Austin Hart
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Samantha Tilton
Jim Drummond, (Alternate)
Vacant, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday July 17th , 2018, 5:00 PM

PUBLIC HEARING NOTICE

**The Burlington Development Review Board will hold a meeting on
Tuesday July 17th, 2018 at 5:00pm in Contois Auditorium, City Hall.**

- 1. 18-0937CU; 94 Caroline St (RL, Ward 5S) Dori Weigand**
Establish short-term rental (bed and breakfast) in existing residence. No site or exterior building changes.
- 2. 18-1039HO; 168 Woodbury Road (RL, Ward 4N) Lorena N. Neironi-Rossi**
Home occupation related to operation of a food truck.
- 3. 18-0894LL; 14 Peru St (RM, Ward 3C) PBGC, LLC**
Appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street.
- 4. 18-0895LL; 16 Peru St (RM, Ward 3C) BPJS Management LLC**
Appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street.

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).
Printed on 100% Recycled Paper

DALY & DALY, P.C.
Attorneys at Law
110 Main Street, 4th Floor, P.O. Box 69
Burlington, Vermont 05402-0069
phone: 802-658-6665 -- fax: 802-658-8565
www.dalyanddaly.com

Matthew T. Daly
M. Cecilia Daly
Jeremy M. Carter

May 14, 2018

RECEIVED
MAY 14 2018
DEPARTMENT OF
PLANNING & ZONING

City of Burlington
Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415

Re: 16 Peru Street/BPJS Management, LLC
14 Peru Street/PBGC, LLC
Boundary Line Adjustment Appeal

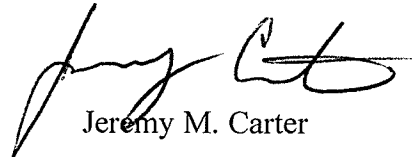
To Whom It May Concern:

Our office represents BPJS Management, LLC and PBGC, LLC. Enclosed you will find the following with regard to the above:

1. Two Appeal of an Administrative Decision Requests;
2. A Memorandum;
3. Two copies of the Boundary Survey; and
3. Two checks each in the amount of \$250 for the appeal fee.

Thank you.

Very truly yours,


Jeremy M. Carter

Encs.



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

MAY 14 2018

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: 14 Peru Street

Subject Property Owner: PBGC, LLC

Appellant: PBGC, LLC

Agent/Representative: Daly & Daly, P.C.

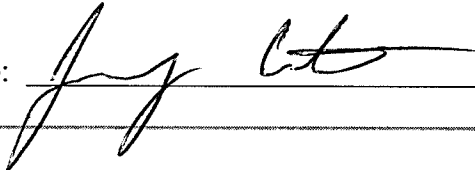
Mailing Address: 110 Main Street

City, St, Zip: Burlington

Vermont 05402

Day Phone: 802-658-6665

Email: mattdaly@dalyanddaly.com

Appellant Signature: 

Date: 5/14/18

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.

Office Use Only:

Check No. 4862 Amount Paid 250 Zoning Permit # 18-0894LL

DALY & DALY, P.C.
Attorneys at Law
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www.dalyanddaly.com

*Matthew T. Daly
M. Cecilia Daly
Jeremy M. Carter*

MEMORANDUM

TO: City of Burlington
Department of Planning & Zoning

FROM: Daly & Daly, P.C.

SUBJECT: BPJS Management, LLC—16 Peru Street
PBGC, LLC—14 Peru Street
Lot Line Adjustment

DATE: May 14, 2018

RECEIVED
MAY 14 2018

**DEPARTMENT OF
PLANNING & ZONING**

BPJS Management, LLC (“BPJS”), owns real property located at 16 Peru Street, and PBGC, LLC (“PBGC”), owns real property located at 14 Peru Street. The two properties share a common boundary that runs north to south with 14 Peru to the west of the boundary line and 16 Peru to the east. On April 13, 2018, BPJS and PBGC requested that the Burlington Planning and Zoning Department (the “Department”) adopt the lot line adjustment proposed in their applications. The proposed lot line adjustment is intended to compensate for an addition that was previously installed to the existing building at 16 Peru, which currently encroaches onto 14 Peru. This line is specifically set forth in the attached survey, which is titled, “BOUNDARY SURVEY AND LOT LINE ADJUSTMENT: BPGC LL, BPJS Management & J&S, LLC,” prepared by Civil Engineering Associates, Inc., and dated March 6, 2018.

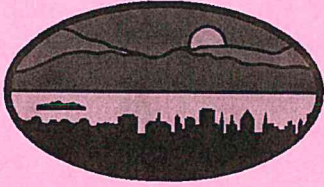
The Department denied BPJS and PBGC’s applications because the Department believes the proposed boundary line adjustment will 1) cause portions of each property to violate various minimum setback requirements, 2) restrict parking below acceptable levels, and 3) create a boundary line that is not perpendicular from Peru Street. The City of Burlington Comprehensive Development Ordinance expressly describes three instances in which the Department may deny an application for a boundary line adjustment. These include, 1) “where the proposed adjustment will result in a new lot being created;” 2) “where the proposed adjustment will result in the creation of a non-conforming parcel or non-conforming buildings or structures or yard areas or

any nonconforming dimensional standard;" and 3) "where the proposed adjustment does not adequately address the applicable Land Division Design Standards of Art. 6." Burlington Comprehensive Development Ordinance, Article 10.1.5(c).

First, the proposed boundary line adjustment does not create a new lot. Second, the nonconformities highlighted by the Department as reasons to justify its denial of the proposed boundary line adjustment are all already existing. The proposed boundary line would not create any new nonconformities. Third, the proposed adjustment conforms with the Land Division Design Standards of Article 6.

For these reasons, BPJS and PBGC contend that, taken as a whole, the Department erred in denying their proposed boundary line adjustment. BPJS and PBGC request that the City of Burlington Development Review Board reverse the Department's decisions and adopt the proposed boundary line.

RECEIVED
MAY 14 2018
DEPARTMENT OF
PLANNING & ZONING



**ZONING REQUEST DENIAL
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 04/13/2018

Appeal Expiration Date: 05/15/2018

Project Location: 14 PERU STREET

District: RM

Owner: PBGC, LLC

Ward: 30

Address: 100 NORTH ST
BURLINGTON VT 05401

Tax ID: 044-1-373-00

Project Type: Residential - Lot Line Adjustment

Project Description: Lot line adjustment between 14 and 16 Peru Street.

Construction Cost:	\$0.00	Lot Size (Sq Ft):	2,550
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	2
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	2

Zoning Permit #: 18-0894LL

Decision By: Administrative

Level of Review: 3

Decision: Denied

See Reasons for Denial

Decision Date: April 30, 2018

Project File: NA

Review: Final Plat Review


Zoning Administrative Officer

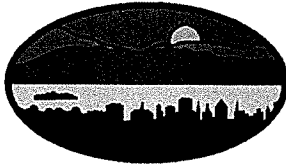
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on May 15, 2018.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee(s):	\$110.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	Not Applicable		

Building Permit Required: **Not**

Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA Level III – Reasons for Denial

ZP #: 18-0894LL

Tax ID: 044-1-373-000

Issue Date: April 30, 2018

Decision: Denied

Property Address: 14 PERU STREET

Description: Lot line adjustment between 14 and 16 Peru Street.

Reasons for Denial:

Article 4: Zoning Maps and Districts

Table 4.4.5-1 Minimum Lot Size and Frontage:

A single, detached dwelling requires 30 minimum lot frontage in the RM zoning district. It is assumptive that the lot itself will not diminish below that 30' threshold established by the frontage. While the parcel will continue to maintain the minimum 30' frontage, the lot width will diminish below that standard due to the proposed lot line adjustment. **Adverse finding.**

Article 5: Citywide General Regulations

Section 5.2.5 Setbacks

(b) Exceptions to Yard Setback Requirements

4. Accessory Structures and Parking Areas. Accessory structures no more than fifteen feet in height, parking areas, and driveways may project into a required side and rear yard setback provided they are no less than five (5) feet from a side or rear property line where such a setback is required.

The proposed boundary line change will reduce the existing (non-conforming) setback from the property line further below the required 5'; increasing the level of non-conformity of the site relative to a required setback. **Adverse finding.**

Section 5.3.5 Non-Conforming Structures

(a) any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below:

Within residential districts, and subject to Development Review Board approval, existing nonconforming single family homes and community centers (existing enclosed spaces only) that project into a side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

- i. Be subject to conformance with all dimensional requirements (i.e. height, lot coverage, density and intensity of development);*
- ii. Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and*
- iii. Be compatible with the character and scale of surrounding structures.*

2. *Such a change or modification shall not create any new nonconformity; and*
3. *Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*

Vertical structural expansion is not proposed and therefore not applicable.

The proposal for a boundary line adjustment will increase the level of **non-conformity to a required setback** on this parcel relative to the driveway, which currently is approximately 1' from the existing property line.

The property line adjustment would further increase the **non-conformity of the vehicular parking dimension** (9' x 20' minimum parking space; 3 ½ - 4' width proposed) as the property line is proposed to move further west into the existing drive. **Adverse finding.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Section 6.1.2 Review Standards

(c) Arrangement of Lots

*The size and arrangement of new lots shall **reflect and perpetuate the existing development pattern** of the surrounding neighborhood. Lots shall be created in such a way as to enable their development pursuant to the requirements of this ordinance, and ensure a clear transfer of title.*

*Interior lot lines extending from a street should be **perpendicular or radial to the street right of way line** to the greatest extent feasible. Flag lots and through lots are discouraged, and shall be allowed only to the extent where topography and existing block and lot arrangement allow no suitable alternatives. In such cases, a minimum frontage for access of 20 feet shall be required.*

The proposed boundary line adjustment does not create a flag lot or through lot.

The new lot lines do not, however, extend from the street right-of-way in a perpendicular or radial manner; nor do they perpetuate the regular arrangement of lots in the neighborhood, which are platted in manner reflecting lot lines perpendicular to the street right-of-way creating rectangular parcels.

Adverse finding.

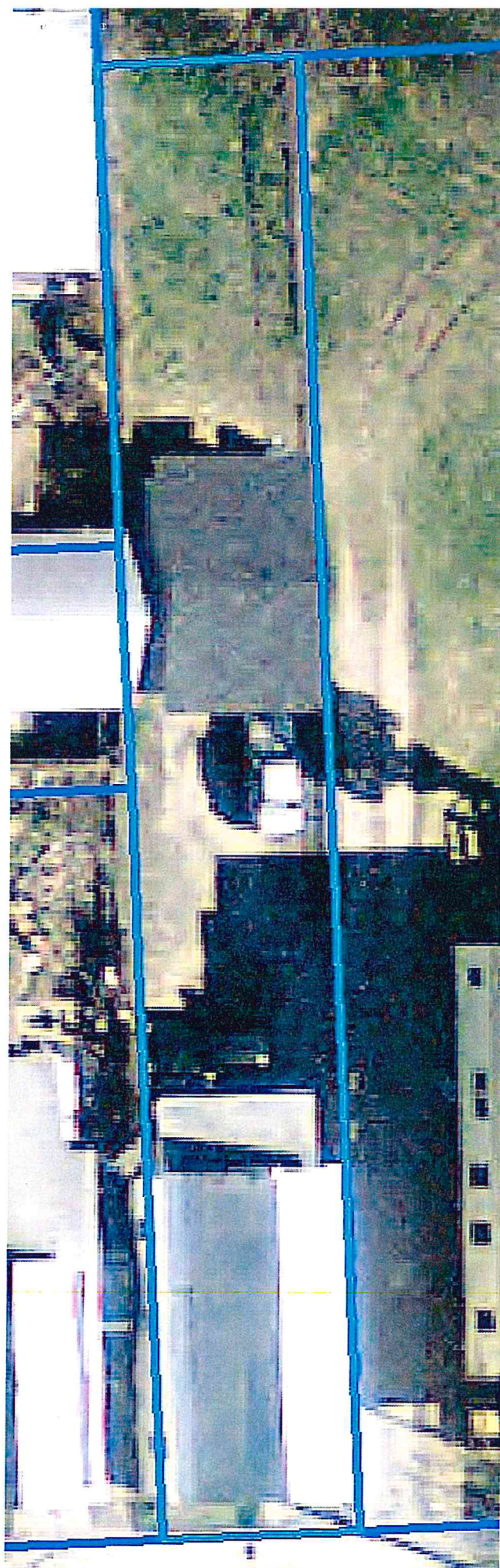
Article 8: Parking

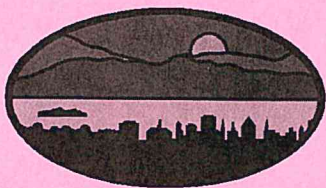
Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family residences in the Neighborhood Parking District require 2 parking spaces per unit. The proposed lot line adjustment encroaches into the required parking area for the single family home; either eliminating a second parking space or further reducing the (non-conforming) size of the existing parking area. **Adverse finding.**

Table 8.1.11-1 Minimum Parking Dimensions

90° angle parking requires a width of 9'. By the existing site plan, there is currently only 5' of width in which to park vehicles; with the boundary line adjustment, that width is reduced to 3 ½ - 4 feet on the 14 Peru Street parcel. **Adverse finding.**





**ZONING REQUEST DENIAL
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 04/13/2018

Appeal Expiration Date: 05/15/2018

Project Location: 16 PERU STREET

District: R1

Owner: BPJS Management LLC
Address: C/O Bissonette Properties
100 North Street
Burlington VT 05401

Ward: 3
Tax ID: 044-1-374-00

Project Type: Residential - Lot Line Adjustment

Project Description: Lot line adjustment between 14 and 16 Peru Street.

Construction Cost:	\$0.00	Lot Size (Sq Ft):	3,874
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	61.00	Existing # of Parking Spaces:	2
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	2
Net New % Lot Coverage:	-61.00	Required # of Parking Spaces:	2

Zoning Permit #: 18-0895LL

Level of Review: 3

Decision By: Administrative

Decision: Denied

See Reasons for Denial

Decision Date: April 30, 2018

Project File: NA

Review: Final Plat Review

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on May 15, 2018.

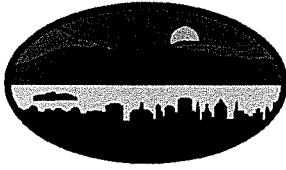
Fee Type	Amount	Paid in Full	Balance Due: \$10.00
Application Fee(s):	\$110.00	No	Date Paid: 4/13/18
Development Review Fee:	\$0.00	NA	Check # CASH
Impact Fee:	Not Applicable		

Building Permit Required: **Not**

Received by: _____

Date: _____

Cost waived 5/1/18



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA Level III – Reasons for Denial

ZP #: 18-0895LL

Tax ID: 044-1-374-000

Issue Date: April 30, 2018

Decision: Denied

Property Address: 16 PERU STREET

Description: Lot line adjustment between 14 and 16 Peru Street.

Reasons for Denial:

Article 3: Applications, Permits and Project Reviews

Section 3.1.2 Zoning Permit Required

(a) Exterior work

1. Additions to existing buildings, garages, accessory buildings or other structures.
2. alternations to building elevations/appearances including, but not limited to, re-siding or window replacement (or addition) or other changes that alter trim details or otherwise change the exterior appearance.
5. Alterations, changes, or modifications to building lots or sites related to site improvements including, but not limited to, increased lot coverage.
13. Porches, patios and decks.

The applicant is seeking a boundary line adjustment to accommodate a building addition and site improvements that were constructed without zoning or building permits. That enlarged structure now encroaches into a required setback on the westerly property line. Although the proposed boundary line adjustment would accommodate the required structural setback, an installed heat pump which currently extends across the property boundary line between 14 and 16 Peru Street would not meet required setbacks. **Adverse finding.**

Article 4: Zoning Maps and Districts

Table 4.4.5-1 Minimum Lot Size and Frontage:

A single, detached dwelling requires 30 minimum lot frontage in the RM zoning district. It is assumptive that the lot itself will not diminish below that 30' threshold established by the frontage. While the 14 Peru Street will continue to maintain the minimum 30' frontage, the lot width will diminish below that standard due to the proposed lot line adjustment. **Adverse finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Side setbacks in the RM zoning district are 10% of the lot width, or the average of side yard setbacks of 2 adjacent lots on both sides. Using the 10% method, the side yard setback for 16 Peru Street is 2.3'. The rear addition, as constructed without permit approval, encroaches within that required setback. Although the requested property line adjustment seeks to remedy that setback requirement, the heat pump continues to encroach within the required setback. **Adverse finding.**

Article 5: Citywide General Regulations

Section 5.2.5 Setbacks

(b) Exceptions to Yard Setback Requirements

4. *Accessory Structures and Parking Areas.* Accessory structures no more than fifteen feet in height, parking areas, and driveways may project into a required side and rear yard setback provided they are **no less than five (5) feet** from a side or rear property line where such a setback is required.

The proposed boundary line modification will reduce the existing (non-conforming) setback from the property line on the 14 Peru Street parcel further below the required 5'; increasing the level of non-conformity of the site relative to a required setback. **Adverse finding.**

Section 5.3.5 Non-Conforming Structures

(a) *any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:*

1. *Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below:*

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- i. Be subject to conformance with all dimensional requirements (i.e. height, lot coverage, density and intensity of development);*
- ii. Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and*
- iii. Be compatible with the character and scale of surrounding structures.*

2. *Such a change or modification shall not create any new nonconformity; and*

3. *Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.*

Vertical structural expansion is not proposed and therefore not applicable.

The proposal for a boundary line adjustment will increase the level of **non-conformity to a required setback** on the 14 Peru Street parcel relative to the driveway, which currently is approximately 1' from the existing property line.

The property line adjustment would further increase the **non-conformity of the vehicular parking dimension** (9' x 20' minimum parking space; 3 ½ - 4' width proposed) at 14 Peru Street as the property line is proposed to move further west into the existing drive. **Adverse finding.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Section 6.1.2 Review Standards

(c) Arrangement of Lots

The size and arrangement of new lots shall reflect and perpetuate the existing development pattern of the surrounding neighborhood. Lots shall be created in such a way as to enable their development pursuant to the requirements of this ordinance, and ensure a clear transfer of title.

Interior lot lines extending from a street should be perpendicular or radial to the street right of way line to the greatest extent feasible. Flag lots and through lots are discouraged, and shall be allowed only to the extent where topography and existing block and lot arrangement allow no suitable alternatives. In such cases, a minimum frontage for access of 20 feet shall be required.

The proposed boundary line adjustment does not create a flag lot or through lot.

The new lot lines do not, however, extend from the street right-of-way in a perpendicular or radial manner; nor do they perpetuate the regular arrangement of lots in the neighborhood, which are platted in a manner reflecting lot lines perpendicular to the street right-of-way creating rectangular parcels.

Adverse finding.

Article 8: Parking

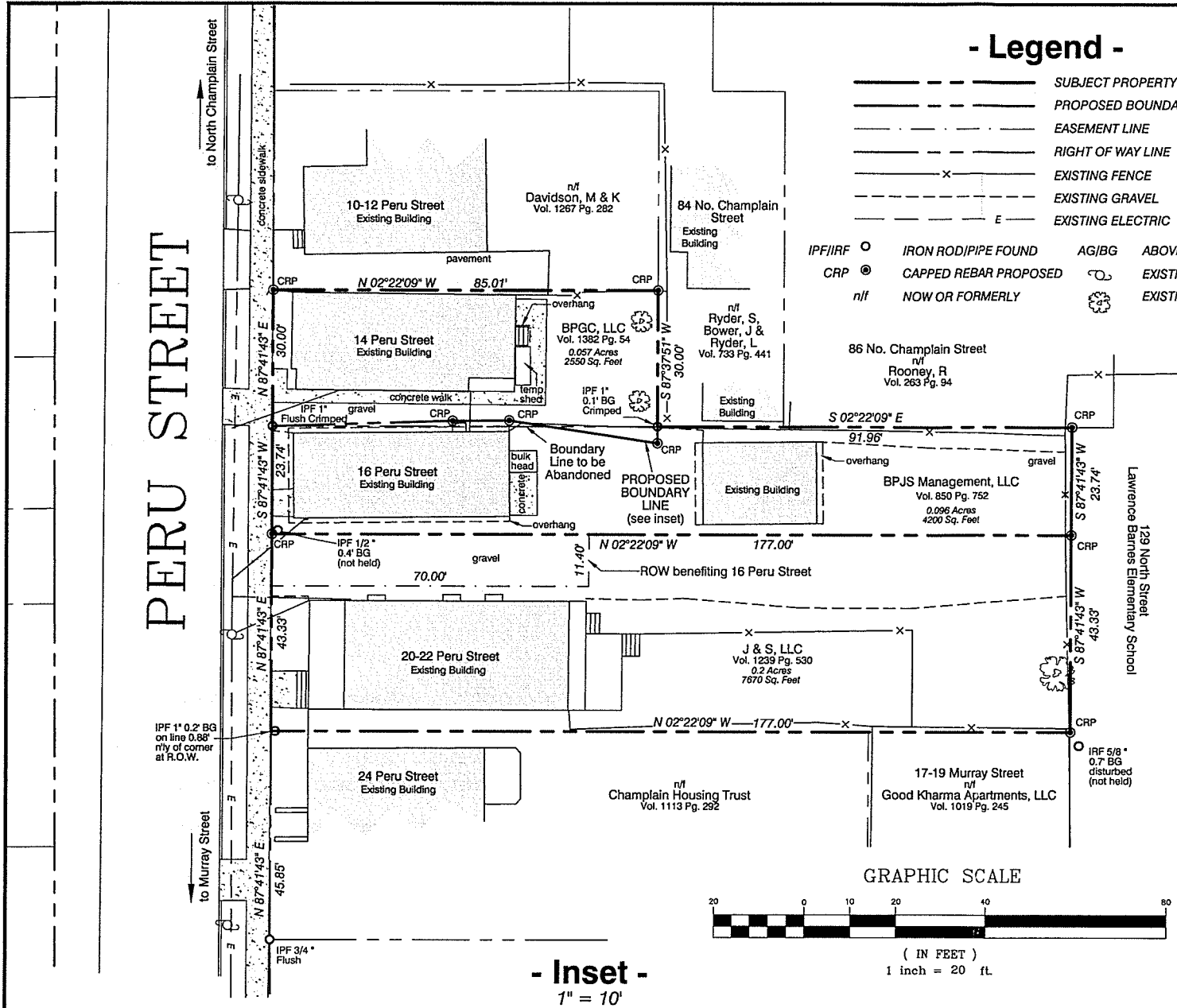
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Single family residences in the Neighborhood Parking District require 2 parking spaces per unit. The proposed lot line adjustment encroaches into the required parking area at 14 Peru Street; either eliminating a second parking space or further reducing the (non-conforming) size of the existing parking area. **Adverse finding.**

Table 8.1.11-1 Minimum Parking Dimensions

90° angle parking requires a width of 9'. By the existing site plan, there is currently only 5' of width in which to park vehicles at 14 Peru Street; with the boundary line adjustment, that width is reduced to 3 ½ 4 feet on that parcel. **Adverse finding.**

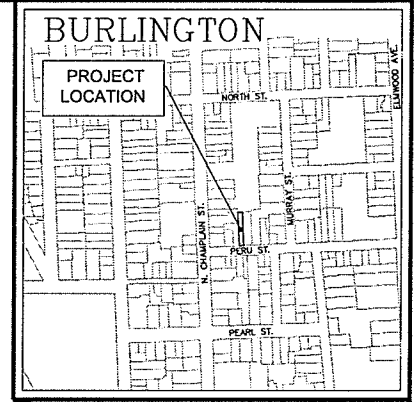
ORIGINAL INK on MYLAR



- Legend -

- Area Table -

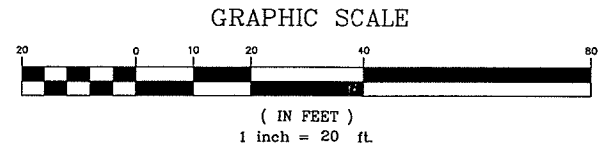
14 Peru Street		16 Peru Street	
Exist. Lot	2,500 sq ft	Exist. Lot	4,200 sq ft
To 16 Peru St.	-44 sq ft	To 16 Peru St.	-44 sq ft
From 16 Peru St.	+44 sq ft	From 16 Peru St.	+44 sq ft
Proposed	2,500 sq ft	Proposed	4,200 sq ft



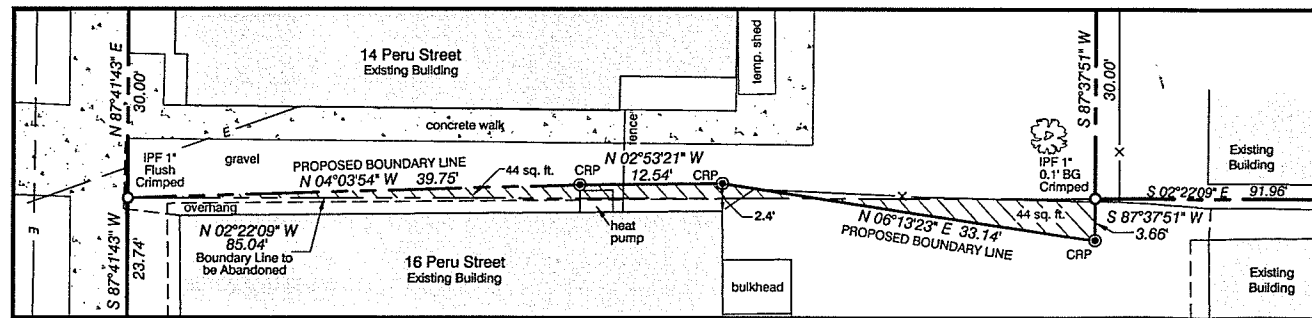
LOCATION MAP
NOT TO SCALE

- Survey Notes -

- Purposes of this survey are to retrace, monument and document the boundaries of the following existing parcels of land: 14 Peru Street, deeded to BPGC LLC by Warranty Deed dated February 16, 2018 recorded Volume 1382 Page 54 of the City of Burlington Land Records; 16 Peru Street, deeded to BPJS Management, LLC by Warranty Deed dated December 11, 2003 recorded Volume 850 Page 752 of the City of Burlington Land Records; 20-22 Peru Street, deeded to J & S, LLC by Warranty Deed dated December 11, 2003 recorded Volume 1239 Page 530 of the City of Burlington Land Records and to depict a boundary line adjustment between 14 Peru Street and 16 Peru Street. Other neighboring property lines and buildings shown MAY be approximate only, and are shown for information purposes only.
- Boundary location determinations are based upon record deed descriptions and monumentation found in the field. Discrepancies between record deed calls and occupation lines were observed.
- Field survey was conducted winter of 2018 and consists of a closed-loop traverse utilizing a robotic total station instrument. Bearings shown are from Grid North, Vermont Coordinate System of 1983, based upon our GPS observations on or adjacent to the site (Reference Frame NAD83 (2011, Epoch 2010)).
- Iron pipes shown as "found" are typically labeled with inside diameter, rods with outside diameter, unless otherwise indicated. Condition of pipes, rods and markers found are "good" unless otherwise noted. Corners denoted "Proposed" shall typically consist of 5/8" diameter rebar capped with aluminum disks stamped "Civil Engineering Assoc. - VT LS 597", typically set flush with existing grade.
- Not being within the scope of this survey, Civil Engineering Associates, Inc. has conducted no investigation whatsoever respecting whether or not the property and each component thereof is in compliance with state or local permits.
- Utilities shown do not purport to constitute or represent all utilities located upon or adjacent to the surveyed premises. Existing utility locations are approximate only. Buried utilities shown are depicted based solely on surface indication. Actual locations may vary. Contact Dig Safe (888-344-7233) prior to any construction.
- Peru Street is an assumed 48.5' wide R.O.W. determined by existing monumentation and the centerline of the traverse portion of the road.



- Inset -
1" = 10'



- Lot Coverage Calculations -

ZONE: RESIDENTIAL MEDIUM DENSITY

	14 PERU STREET		16 PERU STREET		20-22 PERU STREET	
	EXISTING CONDITIONS	PROPOSED CONDITIONS	EXISTING CONDITIONS	PROPOSED CONDITIONS	EXISTING CONDITIONS	PROPOSED CONDITIONS
WALKS / PARKING / DRIVEWAY	555 S.F.	565 S.F.	2,410 S.F.	2,400 S.F.	2,640 S.F.	2,640 S.F.
BUILDINGS/DECKS/PATIOS	1,020 S.F.	1,020 S.F.	1,370 S.F.	1,370 S.F.	1,650 S.F.	1,650 S.F.
TOTAL COVERAGE	1,575 S.F.	1,585 S.F.	3,780 S.F.	3,770 S.F.	4,290 S.F.	4,290 S.F.
TOTAL PARCEL	2,550 S.F.	2,550 S.F.	4,220 S.F.	4,220 S.F.	7,670 S.F.	7,670 S.F.
% OF COVERAGE	61.7%	62.2%	89.6%	89.3%	55.9%	55.9%
MAXIMUM % ALLOWED: 40%						

APPROVAL OF THIS LOT LINE ADJUSTMENT PLAT DOES NOT CONSTITUTE THE CREATION OF A SEPARATE PARCEL OR LOT. IT ADJUSTS THE PHYSICAL LOCATION OF THE COMMON BOUNDARY OF THE ADJOINING PARCELS OR LOTS. THIS LOT LINE ADJUSTMENT HAS BEEN APPROVED BY:

CITY OF BURLINGTON ADMINISTRATIVE OFFICER / ASSISTANT ADMINISTRATIVE OFFICER

DATE: _____ ZONING PERMIT # _____

RECEIVED FOR RECORDING IN THE LAND RECORDS OF THE CITY OF BURLINGTON, VERMONT, AT _____ O'CLOCK ON THE _____ DAY OF _____, 20____.

ATTEST: _____ CITY CLERK

To the best of my knowledge and belief this plat depicts the results of a survey conducted by me as described in "Survey Notes" above, based upon our analysis of land records and evidence found in the field. Existing boundaries shown are in substantial conformance with the records, except as noted. This plat is in substantial compliance with 27 VSA 1403, "Recording of Land Plats". This statement valid only when accompanied by my original signature and seal.

Rebecca Gilson VT LS 109314

Drawn by RG Date March 6, 2018

Checked by TRC/JLM Scale 1" = 20'

Approved by RG Project No. 17211

BOUNDARY SURVEY AND LOT LINE ADJUSTMENT
BPGC LLC, BPJS Management & J & S, LLC
14, 16 & 20-22 PERU STREET
BURLINGTON VERMONT

CIVIL ENGINEERING ASSOCIATES, INC.
10 MANSFIELD VIEW LANE, SOUTH BURLINGTON, VT 05403
802-864-2323 FAX: 802-864-2271 web: www.cea-vt.com
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P1
SHEET 1 of 1

RECEIVED
APR 13 2018
DEPARTMENT OF
PLANNING & ZONING









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APR 13 2018

DEPARTMENT OF
PLANNING & ZONING



Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

<http://www.burlingtonvt.gov/PZ/>

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Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Shaleigh Draper, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 17, 2018
RE: ZP18-0894LL / AP 14 Peru Street and
ZP18-0895LL / AP 16 Peru 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 MUST ATTEND THE MEETING.

File: ZP18-0894LL and ZP18-0895LL

Address: 14 and 16 Peru Street

Zone: RM **Ward:** 3C

Date application accepted: April 13, 2018; Application denied April 30, 2018. Appeal filed May 14, 2018 within 15-day appeal period.

Applicant has formally requested a later hearing date to accommodate prescheduled vacation plans.

Applicant/ Owner: Matthew Daly, on behalf of Bill Bissonette dba. PBGC LLC (14 Peru Street) and BPJS Management, LLC (16 Peru Street.)

Request: Appeal of an administrative denial of a boundary line adjustment between 14 and 16 Peru Street.

Background:

14 Peru Street

- **Zoning Permit 09-257CA;** close in the porch, adding 2 windows to match existing ones and vinyl siding to match. October 2008.

16 Peru Street

- **Zoning Permit 18-0495CA;** Renovation of existing single family house including removal of rear porch and construction of 2 story addition; new siding, new windows and doors; convert garage to storage. No change in use. (After the fact permit application.) **Denied** March 8, 2018 due to encroachment into a required setback.
- **Zoning Permit 09-896CA;** replace 15 double hung and 2 awning windows. June 2009.
- **Zoning Permit (n.n),** demolish existing rear porch and rebuild 10'x 14' porch with concrete floor and six aluminum windows. March 1976.

Overview: The owner of 16 Peru Street (Bissonette) conducted a major renovation at 16 Peru Street (raised roof, demolished rear porch and erected a new two story addition; new siding, windows, roofing, lighting. Graveled rear yard, converted two car garage to storage) without

any building or zoning permits (although a building permit for a kitchen remodel was issued.) In an after-the-fact zoning permit application for the completed work, it was determined that the new addition encroached into a required side yard setback on the west; in fact, mechanical equipment was installed outside the property boundaries.

The applicant had the property surveyed to ascertain accurate property lines; purchased the abutting property at 14 Peru Street, and made dual applications to relocate the common boundary line in an attempt to bring 16 Peru Street into compliance.

The applicant, through his attorney, has filed two appeals relative to the administrative denial of those applications to adjust the common boundary line.

Recommended motion: Deny appeals and uphold the administrative denials of a boundary line adjustment of the common boundary of 14 and 16 Peru Street.

I. Findings

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

Table 4.4.5-1 Minimum Lot Size and Frontage

A single, detached dwelling requires 30' minimum lot frontage in the RM zoning district. It is assumptive that the lot itself will not diminish below that 30' threshold established by the frontage. 14 Peru Street currently has 30' dimension on the street front property line, but is proposed to be narrowed for the purposes of the boundary line adjustment. The parcel at 16 Peru Street is non-conforming at 27' in width, but will be further constricted by the proposed new westerly boundary line on the proposed northerly terminus. For both lots, the lot width will diminish below the standard of this table, and in the case of 16 Peru Street, increase the level of non-conformity of the lot. **Adverse finding.**

Article 5: Citywide General Regulations

Section 5.2.5 Setbacks

Table 4.4.5-3 Residential District Dimensional Standards

Side setbacks in the RM zoning district are 10% of the lot width, or the average of side yard setbacks of 2 adjacent lots on both sides. Using the 10% method, the side yard setback for 16 Peru Street is 2.3'. The rear addition, as constructed without permit approval, encroaches within that required setback. Although the requested property line adjustment seeks to remedy that setback requirement, the heat pump on the west elevation continues to encroach within the required setback. **Adverse finding.**

Article 5: Citywide General Regulations

Section 5.2.5 Setbacks

(b) Exceptions to Yard Setback Requirements

4. *Accessory Structures and Parking Areas.* Accessory structures no more than fifteen feet in height, parking areas, and **driveways** may project into a required side and rear yard setback provided they are **no less than five (5) feet** from a side or rear property line where such a setback is required.

The proposed boundary line modification will reduce the existing (non-conforming) setback from the property line on the 14 Peru Street parcel further below the required 5'; increasing the level of non-conformity of the site relative to a required setback. **Adverse finding.**

Section 5.3.5 Non-Conforming Structures

(a) any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. Such a change or modification may reduce the degree of nonconformity and **shall not increase the nonconformity** except as provided below:

Within residential districts, and subject to Development Review Board approval, existing nonconforming single family homes and community centers (existing enclosed spaces only) that project into a side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

- i. Be subject to conformance with all dimensional requirements (i.e. height, lot coverage, density and intensity of development);
- ii. Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and
- iii. Be compatible with the character and scale of surrounding structures.

2. Such a change or modification shall not create any new nonconformity; and

3. Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.

Vertical structural expansion occurred at 16 Peru Street without zoning application, review or approval. An after-the-fact permit was denied for encroachment into a required setback and not appealed. Vertical expansion is not within these applications or appeals and therefore not applicable.

The proposal for a boundary line adjustment will increase the level of **non-conformity to a required setback** on the 14 Peru Street parcel relative to the driveway, which currently is approximately 1' from the existing property line.

The property line adjustment would further increase the **non-conformity of the vehicular parking dimension** (9' x 20' minimum parking space; 3 ½ - 4' width proposed) at 14 Peru Street as the property line is proposed to move further west into the existing drive.

Adverse finding.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Section 6.1.2 Review Standards

(c) Arrangement of Lots

The size and arrangement of new lots shall **reflect and perpetuate the existing development pattern** of the surrounding neighborhood. Lots shall be created in such a way as to enable their development pursuant to the requirements of this ordinance, and ensure a clear transfer of title. Interior lot lines extending from a street should be **perpendicular or radial to the street right of way line** to the greatest extent feasible. Flag lots and through lots are discouraged, and shall be

allowed only to the extent where topography and existing block and lot arrangement allow no suitable alternatives. In such cases, a minimum frontage for access of 20 feet shall be required.

The proposed boundary line adjustment does not create a flag lot or through lot.

The new lot lines do not, however, extend from the street right-of-way in a perpendicular or radial manner; nor do they perpetuate the regular arrangement of lots in the neighborhood, which are platted in a manner reflecting lot lines perpendicular to the street right-of-way creating rectangular parcels. The proposed new boundary line arcs first to the west in an attempt to meet the minimum setback of 2.3' from 16 Peru Street; then veers easterly to recapture the same amount of area to reconcile existing lot sizes. The proposed lot line is incongruous with this standard by its irregularity and inconsistency with existing patterns of development.

Adverse finding.

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

Single family residences in the Neighborhood Parking District require 2 parking spaces per unit. The proposed lot line adjustment encroaches into the required parking area at 14 Peru Street; either eliminating a second parking space or further reducing the (non-conforming) size of the existing parking area. **Adverse finding.**

Table 8.1.11-1 Minimum Parking Dimensions

90° angle parking requires a width of 9'. By the existing site plan, there is currently only 5' of width in which to park vehicles at 14 Peru Street; with the boundary line adjustment, that width is reduced to 3 ½ - 4 feet on that parcel; insufficient to meet the minimum parking standard and further increasing the level of non-conformity to parking. **Adverse finding.**

Article 10: Subdivision Review

Section 10.1.5 Lot Line Adjustments

(c) Lot Line Adjustment – Administrative Decision

The administrative officer shall have the authority to approve or deny an application for a Lot Line Adjustment as follows:

1. An application may be denied for good cause based upon substantial evidence including but not limited to:

A. Such cases where the proposed adjustment will result in a new lot being created.

No new lot will be created by the proposed lot line adjustment. **Affirmative finding.**

B. Such cases where the proposed adjustment will result in the creation of a non-conforming parcel or non-conforming buildings or structures or yard areas or any non-conforming dimensional standard; and

The proposed lot line adjustment will create new non-conformity to lot width (Section 4.4.5-1) and increase the level of non-conformity to setback on 14 Peru Street (Section 4.4.5-3) and non-conformity to minimum parking standards at 14 Peru Street (Table 8.1.8-1.) **Adverse finding.**

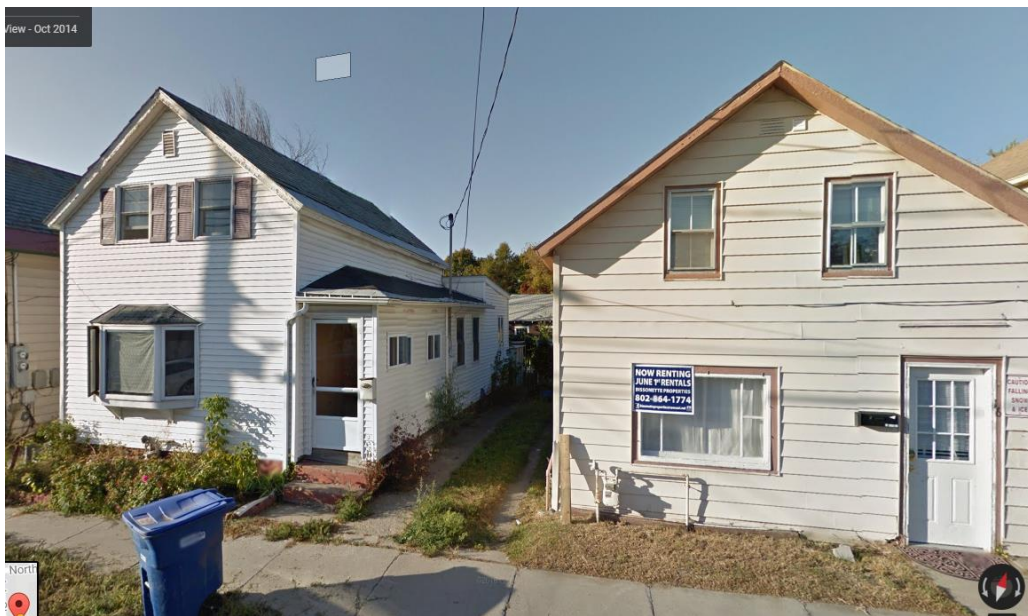
C. Such cases where the proposed adjustment does not adequately address the applicable Land Division Design Standards of Article 6.

The proposed lot line adjustment conflicts with Section 6.1.2 (c) in that the proposed lot line is not perpendicular or radial to the street right-of-way line, and does not perpetuate the existing development pattern of rectangular parcels. **Adverse finding.**

2. Provided the adjustment does not create a non-conforming parcel, structure or nonconforming yard area or other dimensional non-conformity, or upon the issuance of a variance by the DRB, and upon submission of a plat per subsection (b) above, the administrative officer shall approve the proposal as presented or as modified.

The proposed lot line adjustment creates or increases several non-conformities (including those of dimensional standards, setback, and minimum parking standards) and conflicts with the noted standards of Articles 4, 5, 6, 8 and 10. No variance has been approved by the DRB. Approval of the proposed boundary line adjustment is therefore not possible.

Adverse finding.



Google Street view, taken October 2014. Note appearance of 16 Peru prior to alterations, and narrow width of 14 Peru Street driveway.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.

Burlington Development Review Board

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Geoff Hand
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Zoraya Hightower, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday July 17th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT AGENDA

I. Agenda

II. Communications

III. Minutes

IV. Consent

1. **18-1039HO; 168 Woodbury Road (RL, Ward 4N) Lorena N. Neironi-Rossi**
Home occupation related to operation of a food truck. (Project Manager: Scott Gustin)

V. Public Hearing

1. **18-0937CU; 94 Caroline St (RL, Ward 5S) Dori Weigand**
Establish short-term rental (bed and breakfast) in existing residence. No site or exterior building changes (Project Manager: Scott Gustin)
2. **18-0894LL; 14 Peru St (RM, Ward 3C) PBGC, LLC**
Appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street. (Project Manager: Mary O'Neil)
3. **18-0895LL; 16 Peru St (RM, Ward 3C) BPJS Management LLC**
Appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street. (Project Manager: Mary O'Neil)
4. **18-0840AP; 62 Venus Avenue (RL, Ward 7N) Lorraine Latorre Family Trust**
Appeal of NOV # 346538 regarding change of use to duplex. (Project Manager: Scott Gustin)
5. **18-0861AP; 19-21 South Willard Street (RH, Ward 8E) WHN Properties LLC**
Appeal of NOV #333035 for increasing number of residential units from 9 to 10 without zoning approval. (Project Manager: Jeanne Francis)

VI. Other Business

VII. Adjournment

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/dr/ agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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TO: Development Review Board
FROM: Scott Gustin
DATE: July 17, 2018
RE: 18-1039HO/CU; 168 Woodbury Road

=====

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Zone: RL Ward: 4N

Owner/Applicant: Lorena Neironi-Rossi

Request: Establish home occupation related to operation of a food truck.

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking after-the-fact approval to establish a home occupation related to the operation of a food truck. This application is related to a Code Enforcement inspection of the property. Administrative work in support of the food truck will take place within the home. The food truck will not operate on the premises.

Previous zoning actions for this property are noted below.

- 3/21/17, Approval to construct 2 sheds, extend driveway, add front entrance gate and fence
- 1/21/15, Approval to establish home cleaning business home occupation
- 7/25/14, Approval to install replacement windows

Recommendation: Consent approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;*

The property is served by municipal utilities. The proposed home occupation will have no impact on municipal utilities serving the residence. **(Affirmative finding)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The property is located within an established residential neighborhood in the low density residential zoning (RL) district. The RL zoning district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. The proposed home occupation amounts to administrative office work in support of the food truck. No customers will come to the premises. The food truck will operate offsite. The MDP does not articulate goals and objectives for home occupations, but insofar as it will be conducted within an existing single family dwelling in the RL zone, it can be found consistent with the intent of the district and municipal development plan. **(Affirmative finding)**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

The proposed home occupation is not expected to generate nuisance impacts from noise, odor, dust, and the like that may be more typically associated with industrial uses. **(Affirmative finding)**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;*

No traffic analysis has been provided or is required for this application. The proposed home occupation is expected to generate minimal additional traffic, primarily associated with driving the food truck offsite for operation. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No renewable energy utilization is included in this proposal. Future incorporation is not precluded by the use. **(Affirmative finding)**

and,

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

It is the applicant's responsibility to comply with applicable local and state codes that pertain to food service operations.

(b) Major Impact Review Standards

Not applicable.

(c) Conditions of Approval:

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

The proposed home occupation is not expected to produce offsite noise or glare substantial enough to require mitigation. **(Affirmative finding)**

2. Time limits for construction.

No construction timeline or phasing are included in this proposal. The standard 2-year timeframe for zoning permits will apply. **(Affirmative finding)**

3. Hours of operation and/or construction to reduce the impacts on surrounding properties.

Hours of operation need not apply to the proposed use. The administrative work will take place within the home and will not involve any customers coming to the property.

No construction is associated with this proposal. **(Affirmative finding)**

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

See the recommended conditions.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The subject property is located in the RL zone. This zone is intended primarily for single family homes and duplexes. The primary use will remain that of a single family home. **(Affirmative finding)**

(b) Dimensional Standards & Density

Not applicable.

(c) Permitted & Conditional Uses

The single family home is a permitted use in the RL zone. The proposed home occupation may be conditionally permitted. **(Affirmative finding)**

(d) District Specific Regulations

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 a single resident occupant. The administrative work will take place entirely within the home. The food truck will operate offsite. **(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.

The application does not specify the area of the home to be used for the administrative home occupation work and must. Given the nature of the work, it can easily be accomplished within the allowed parameters. **(Affirmative finding as conditioned)**

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.

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. No outdoor sign is proposed. **(Affirmative finding)**

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.

No customers will come to the premises, nor will there be any delivery vehicles. **(Affirmative finding)**

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. **(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 administrative work associated with the proposed home occupation is clearly incidental to the primary residential use of the property. The food truck will park within the driveway when not in use. As per criterion 10 below, a single commercial vehicle may be present onsite. **(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.

No commercial delivery vehicles will serve the home occupation. **(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

A single commercial vehicle – the food truck – is associated with the home occupation. The driveway is of sufficient size to accommodate storage of the food truck while continuing to allow parking for the single family dwelling. **(Affirmative finding)**

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

No sale of goods will take place onsite. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, the applicant shall provide a floor plan of the residence indicating the area to be used for the home occupation, subject to staff review and approval.
2. Standard permit conditions 1-15.



Department of Planning and Zoning

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MAY 14 2018

DEPARTMENT OF
PLANNING & ZONING

Home Occupation Application Questionnaire

Use this checklist for all applications for a home occupation - See Sec. 5.4.6 of the Zoning Ordinance. This questionnaire is provided to summarize details and is required to accompany a zoning permit application form and required fee (for either administrative approval or conditional use review).

Please note:

1. The specific requirements for home occupations can be found in Section 5.4.6 of the Comprehensive Development Ordinance which is available in its entirety on our website at www.burlingtonvt.gov/PZ
2. A 'Business Personal Property Registration Form' may be required to be submitted to the Assessors Office. This form is available at www.burlingtonvt.gov/assessor/businesses

Name of Business Proposed: GAUCHO LLC dba DALE BOCA Food Truck

Type of Business Proposed: FOOD TRUCK

Provide a detailed description of the proposed Home Occupation such as: activities involved; materials and equipment used; quantities of materials and equipment stored on-site; methods of operation; hours of operation. This may be done on a separate piece of paper and attached.

Please respond to the following:

1. How many persons will be involved or employed in the conduct of the proposed Home Occupation:
Residents of premises: 1 Others Total Number 1
2. What type of product will be produced, serviced, or repaired in the conduct of your Home Occupation? (For example: repair of clocks or watches, making jewelry, etc.). Explain:
NO HOME OCCUPATION. ONLY PARKING OF FOOD TRUCK WHILE NO OPERATING
3. Describe any alterations to the home or premises that might be required to facilitate your Home Occupation:
NONE
4. Describe what rooms will be used in the conduct of the Home Occupation and how these rooms will be used. (For example: garage will be used to store supplies; or den will contain desk and file cabinets, etc.). Indicate the gross floor area(s) that will be used in the conduct of the Home Occupation. Indicate the total gross floor areas of your house and include any accessory structure(s) to be used for the Home Occupation, (Ex. Garage).
NONE, ONLY DRIVEWAY
5. Describe the mechanical and/or electrical equipment that will be necessary to conduct your business activity:
FOOD TRUCK
6. Describe how, where and in what amounts the material, supplies and/or equipment related to your Home Occupation will be displayed or stored:
FOOD TRUCK PARK IN DRIVEWAY

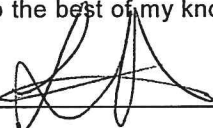
PLEASE TURN OVER

7. Will people come to your home to obtain any product or utilize any service connected with the proposed Home Occupation activity? Yes _____ No ✓
If yes, please explain in detail:

8. Are any signs necessary or proposed relative to the Home Occupation?
Yes _____ No ✓
If yes, you are required to file for a Sign Permit. An application form can be obtained at the Planning and Zoning Department or on our website.
9. If trucks or other equipment will be used in your Home Occupation, where will they be parked or stored?
DRIVEWAY
10. Will the Home Occupation involve the use of commercial vehicles for delivery of materials to or from the premises? Yes _____ No ✓
If yes, please explain:

11. How many parking spaces will be provided for the home occupation? 1
Where will they be located? Indicate parking spaces on a site plan of this property as part of your application submission.
12. Is your proposed Home Occupation in conformance with the conditions, covenants and restrictions pertaining to your property? Yes ✓ No _____
We suggest checking your deed for conditions, covenants and restrictions.

I have read and understand 'Sec 5.4.6 Home Occupations' under the City of Burlington Comprehensive Development Ordinance and believe that to the best of my knowledge my proposed Home Occupation would not violate any portion of said Ordinance:

Applicant's Signature: 

Date: 05/19/17

Property Owner's Signature: 

Date: 05/19/17

168 Woodbury Rd



CITY OF BURLINGTON VT

4/28/2004



Department of Planning and Zoning

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Shaleigh Draper, Zoning Clerk*



TO: Development Review Board
FROM: Scott Gustin
DATE: July 17, 2018
RE: 18-0840AP; 62 Venus Avenue

The appellant has requested additional time to work towards settling this matter. City staff concurs with the request.

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin
DATE: July 17, 2018
RE: 18-0937CU; 94 Caroline Street

=====

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Zone: RL Ward: 5S

Owner/Applicant: Dori Weigand

Request: Establish short term rentals (bed & breakfasts) in existing duplex.

Summary:

The applicant is seeking approval to establish short term rental use of the two units in the rear duplex (the front of the property contains the owner's single family home). Short term rentals are presently regulated as bed & breakfasts or hotels, depending on the location and property details.

A similar application was filed and denied in March 2018. This new application was filed with an intended revision to the parking layout and management plan. These would-be revisions were discussed by the property owner and zoning staff; however, they have not actually been articulated in the pending application. Requests for this information have not been responded to.

The pending application should be denied as incomplete or simply deferred to a future Development Review Board meeting date.

Previous zoning actions for this property are noted below:

- 3/27/18, Denial to establish bed & breakfast (short term rental) in rear duplex units
- 317/17, Approval to replace roofs on both residential structures
- 2/9/17, Approval to replace windows in apartment A
- 9/1/11, Approval to replace window with sliding patio doors
- 4/7/94, Approval for façade renovations to the duplex
- 1/13/94, Approval for patio, fence, and stone wall
- 10/27/92, Approval to reconfigure units onsite – 2 in back building and 1 in front building

Recommendation: **Denial** as incomplete or **Deferral** to a future DRB meeting upon completion of the application.



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

APR 23 2018

Zoning Permit Application

DEPARTMENT OF
PLANNING & ZONING

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

PROJECT LOCATION ADDRESS: 94 CAROLINE STREET

PROPERTY
OWNER*: JOEL WEIGAND

*If condominium unit, written approval from the Association is also required

APPLICANT: JOEL WEIGAND

POSTAL ADDRESS: 94 CAROLINE STREET

CITY, ST, ZIP: BURLINGTON VT

DAY PHONE: (802)

EMAIL: _____

POSTAL ADDRESS: SAME

CITY, ST, ZIP: _____

DAY PHONE: _____

EMAIL: _____

SIGNATURE: Joel Weigand

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: Joel Weigand

Description of Proposed Project: Requesting short term rental for the Carriac house (2) 1 BR units. Requesting both short term Bed & Breakfast use. There are no rules for Bed & breakfast in Airbnb format

Existing Use of Property: ☐ Single Family ☒ Multi Family: # 3 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, below, or above the public right of way? Yes ☐ No ☐
(If yes, you will need to receive prior approval from the Department of Public Works)
- Are you proposing any onsite food or beverage production/manufacturing? Yes ☐ No ☐
(If yes, you will need to consult with Water Resources Division at the Department of Public Works: 863-4501)

Estimated Construction Cost (value)*: \$ 0

(*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: RL Eligible for Design Review? Y Age of House 1940 Lot Size 6088

Type: SN ☐ AW ☐ FC ☐ BA ☐ COA 1 ☒ COA 2 ☐ COA 3 ☐ CUX ☐ MA ☐ VR ☐ HO ☐ SP ☐ DT ☐ MP ☐

Check No. 3157

Amount Paid 150

Zoning Permit # 18-0937CU

Scott Gustin

From: Scott Gustin
Sent: Thursday, May 10, 2018 2:50 PM
To: [REDACTED]
Subject: 94 Caroline Street

Hello Dori,

I've looked over your new zoning permit application for short term rental/B&B at 94 Caroline Street. The application is presently incomplete. I see only the application form. There is no explanation of how parking will be provided and managed, nor is there a site plan. As we discussed, you need to provide at least a narrative as to how the parking will be managed. As I recall, you had said you'd like to go with stacked parking with an onsite parking manager. Please send along a narrative for the Development Review Board's consideration as to how you plan to manage parking. As to the site plan, you may use the prior site plan as a template; however, it needs to be updated to depict two pairs of tandem spaces. Right now, it does not.

Let me know if you have any questions.

Scott

Scott Gustin, AICP, CFM
Principal Planner & Asst. Administrative Officer
Dept. of Planning & Zoning
149 Church Street
Burlington, VT 05401
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*David White, FAICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Shaleigh Draper, Zoning Clerk*



TO: Development Review Board
FROM: Scott Gustin
DATE: July 17, 2018
RE: 18-0861AP; 19-21 South Willard Street

The parties involved with this matter are working to settle it prior to the DRB hearing on July 17, 2018.

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

Telephone: (802) 865-7188

Fax (802) 865-7195

Austin Hart
Brad Rabinowitz
Springer Harris
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Zoraya Hightower, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday July 17th, 2018, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT Minutes

Board Members Present: A. Hart, S. Harris, A. LaRosa, G. Hand, A. Zipparo, J. Drummond (Alt.), Z. Hightower (Alt.)

Board Members Absent: B. Rabinowitz, S. Tilton

Staff Present: Mary O'Neil, Ryan Morrison, Layne Darfler

I. Agenda

A. Hart: Public Hearing item regarding 19-21 South Prospect St has been withdrawn and the project regarding 62 Venus Ave has requested deferral

II. Communications

None

III. Minutes

A. Hart: Minutes from the July 5th 2018 meeting will be discussed at the upcoming deliberative

IV. Consent

- 1. 18-1039HO; 168 Woodbury Road (RL, Ward 4N) Lorena N. Neironi-Rossi**
Home occupation related to operation of a food truck. (Project Manager: Scott Gustin)

A. Hart: Has the applicant received and reviewed the staff comments? Do you have any questions?

L. Neironi-Rossi: Yes received staff report, no questions

A. Hart: Any public present wish to speak about this project?

None

A. Hart: Do any members of the Board object to this item remaining as consent?

None

A. LaRosa: Motion to approve and adopt staff findings and recommendations

G. Hand: Seconds the motion

5-0-0

V. Public Hearing

- 1. 18-0937CU; 94 Caroline St (RL, Ward 5S) Dori Weigand**

Establish short-term rental (bed and breakfast) in existing residence. No site or exterior building changes (Project Manager: Scott Gustin)

A. Hart: As a preliminary matter, we have no staff report or findings the recommendation was that the application was incomplete therefore a recommendation that it be denied or deferred so we're really starting at a disadvantage in dealing with this. We had some email correspondence from Scott

Gustin who is the project manager for this application; he requested information on site plans and parking, so that staff could look at that and provide a report in advance of the meeting. The report back to us is that he did not receive any information back.

D. Weigand: It's interesting that I never heard from Scott; looked through emails and couldn't find any correspondence other than from Layne. I didn't get any request from Scott for those items.

A. Hart: The communications for whatever reasons have not been good, understand that we know nothing about this, we don't have a plan, we don't have a staff report, and we don't know what the issues are.

A. LaRosa: Have you seen the staff report that recommends deferral, because we don't have the information?

Confirmed; had a discussion with Mary O'Neil. Was instructed that she couldn't defer the review. Would like a deferral still.

A. LaRosa: Staff doesn't agree that the application was complete; would you be prepared in a couple weeks or a month with the missing information?

D. Weigand: Not understanding what is being requested

A. LaRosa: We have nothing, we have an application with one email from Scott and normally we will have more than that; i.e. site plan, parking plan, etc.

D. Weigand: Thought that would be discussed tonight, did not know that the Board would require prior information to be provided.

A. Hart: You were before us for the same property not too long ago and during that process, we had information about the property. There were findings that you received in advance of the hearing with recommendations on whether there was compliance or non-compliance. For you to show up today stating you didn't know you needed to provide information in advance is totally inconsistent with the process you went through a few months ago. I hear in response to Aj's questions that you would be happy to defer to a later date.

Does the City object to deferral?

J. Francis: We issued a Notice of Violation in February 2018 for operating a Bed and Breakfast without approval from Zoning. She was going to rectify the violation by applying for a permit, that permit was denied. Now she is here to submit another application.

A. Hart: The Notice of Violation is not before us tonight

A. LaRosa: This was the short-term rental that had two units correct?

D. Weigand: I looked at what you required and I got the Site Plan for parking

A. Hart: is the City objecting to deferral?

J. Francis: The City is objecting to deferral to October as the applicant has requested, maybe something before the next meeting would be more appropriate but in the meantime, we would like an agreement as it has been quite a while and there has been no action.

S. Harris: If you are in fact seeking a deferral why is it that your Air BnB listing appears to be still operating and mostly booked through October.

D. Weigand: There is a whole process to stopping those services, which includes canceling people; compared an example of another Air BnB.

S. Harris: The nature of my question is if you request to continue or defer and we approve deferral you are going to keep operating the two Air BnB's?

D. Weigand: Trying to understand why other properties with less parking can get approved but mine cannot. Was very clear when I got my building permits that I was going to do an Air BnB and was told there was nothing that I needed to do, simply gave me a rental tax ID number.

A. Hart: I'd like to just tackle the issue of if there is a violation, code enforcement

whatever code enforcement wants to do in terms of a current violation is up to them not us. Do any of the public/neighbors here tonight object to deferral?

None

M. O'Neil: September 4th is the first opening available to defer to.

A. Hart: Move that we defer this project review to date certain of September 4th, 2018

D. Weigand: Will not be in Town

A. Hart: Any chance we can squeeze in earlier

M. O'Neil: August 21st

D. Weigand: Parking plan is what the issue is, so I don't quite understand

G. Hand: If you read staff comments there is no complete application; if you read the ordinance it tells you what you need to do to complete the application; would recommend you set up a meeting with Scott before coming back to us to go over what it is you need to provide. All we have currently is a one-page document.

D. Weigand: I did not understand that

A. Hart: Motion to defer to the August 21st, 2018 meeting

A. LaRosa: Seconds the motion

4-1-1*

*A. Zipparo arrived late therefor did not vote

2. 18-0894LL; 14 Peru St (RM, Ward 3C) PBGC, LLC

Appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street. (Project Manager: Mary O'Neil)

AND 18-0895LL; 16 Peru St (RM, Ward 3C) BPJS Management LLC

Appeal of administrative denial of lot line adjustment between 14 and 16 Peru Street. (Project Manager: Mary O'Neil)

M. Daly: Applied for a boundary line adjustment to remedy a problem that was created by Mr. Bissonette's contractors some time ago. Mr. Bissonett is not avoiding responsibility for that problem, what we are doing today is trying to remedy that problem and trying to address it in a reasonable way. We believe it is an alternative to deconstruction, which we would ask the Board to view as unnecessary waste. We think the Board has the latitude to read and interpret the Ordinance to allow for this boundary line adjustment. Comments regarding the staff report. Contractors created a mistake that Mr. Bissonett and his company sincerely regret it was an honest error that was committed by the contractor. Application is truly a good faith effort to remedy the mistake. In the staff reports, the first section addresses Article 4 and Zoning Maps and District Sections 4.4.5 and the associated table concerning lot size and frontage. 14 Peru St currently has a 30' dimension on the street front; 16 Peru St is non-conforming. The frontage on 16 Peru is 23.74'. Regarding staff comments, the frontage is not being changed through the adjustment. The comment regarding the Westerly boundary line on the proposed Northern terminus. We would like the Board to consider the following, which is that it's not uncommon for a lot to have a side yard that is not perpendicular to the street. We've created a line that is bowed a little bit in order to allow for the compliance and conformance with some of the tables and the requirements.

A. Hart: are you going to talk about the survey or do you want the Board to ask questions.

M. Daly: we want to open it up for comments about the staff conditions because we think it's not necessarily a hard line requirement that there be perpendicular

A. Hart: Can you explain why the line is drawn this way and is it the minimum necessary to fix the problem?

J. Milbank: We need to retain the 30' frontage requirement for the zoning district, we chose the Southwest corner of the lot as the beginning of the adjustment and held that point firm. Ran the line northerly to a point where we were able to maintain the 10% for the side yard setback for the construction mistake.

Discussed the boundary line adjustment and reasoning behind the line change; balancing the lot sizes to minimize any changes with the relief.

M. Daly: Table provided highlights no net gain or loss between the properties; 44 square feet are evenly transferred between each property. Ask the Board to find that the impact of this line is not so detrimental to the purpose of the Ordinance and to use some latitude to allow for the line adjustment and allow the applicant to remedy the problem. Second set of comments relates to Article 5, which relates to a heat pump located on the West elevation continues to encroach; the applicant has removed the heat pump therefore resolving that issue.

G. Hand: Is the comment based on the heat pump or is the change in the boundary line that increases the non-conformity and therefore it doesn't comply

M. O'Neil: The heat pump as it was installed still encroaches into the setback, so relocation of that could potentially remove that encroachment. The boundary line was designed to meet the required setback based on the 10% rule for the structure. It increases the non-conformity of the driveway on 14 Peru. 16 Peru St removal of the heat pump resolves the conflict with the setback for the heat pump.

M. Daly: The next comments do relate to accessory structures and parking areas. Comments from staff are laid out in the memo; in our application we propose as a condition of approval to provide either a deeded easement or a parking sharing agreement; Mr. Bissonett owns both 14 and 16 Peru St through different Limited Liability Company's and there can be sharing arraignments, there can be licenses, there can be deeded rights of way or easements. Mr. Bissonett also owns some other property across the street that has excess parking that could be used to supplement this project.

A. Hart: In order to fix the setback etc. there has been a new line drawn, those parking spaces are all still there, and through licenses or easements, both properties will have the required parking spaces?

Confirmed

A. Hart: Have we cured a setback or encroachment this way before?

A. LaRosa: Recalls similar occurrences

M. Daly: As an alternative condition, that parking space potentially could be removed and the parking could be addressed through additional parking in other spaces that are available on the overall properties or across the street at another property owned by Mr. Bissonett. The next comments by staff which led to adverse findings similarly dealt with problems associated with parking; our proposed fixed again would seek a condition of approval that involves a deeded easement or shared right of way. Results in no setback being required under 5.2.5b6; as a result there is no change to the non-conformity, it actually brings it into greater compliance.

A. Hart: You have stated a few times that you provided examples of conditions of approval were those submitted for review.

M. Daly: No, they were verbally proposing them today.

A. Hart: Do you have some suggested language in mind or could you prepare that for our review?

M. Daly: Absolutely, we have done it with similar properties/situations. I thought it would be more constructive to have the Board condition that the applicant

A. Hart: Looking at the language would be helpful to convince the Board whether or not this will work. Right now it's too conceptual and hard to grasp. And if it needs to be revised and approved by staff that's fine.

A. LaRosa: It would be helpful to see drawn out what the proposed easements would look like.

M. Daly: More staff comments similarly address the parking dilemma. Specifically, staff states that single-family residences in the Neighborhood parking district require two parking spaces per unit; the proposed lot line adjustment encroaches into the required parking area at 14 Peru St. Further comments relating to the minimum parking dimension, under Table 8.1.11-1, again we proposed to remedy this through a deeded easement or some form of agreement. The seventh comment in the staff report has three adverse findings relating to the increase level of non-conformity of the setback at 14 Peru St; Are response is that the contention of the lot width becoming non-conforming is addressed under Article 4. There is no change in the frontage for either property. If conditioned the lot line adjustment does not result in any non-conformities. Overall proposal today is to ask the Board to allow for a little latitude here and consider the effects of deconstruction and the development waste it will create.

A. Hart: Mary, from staff's point of view, on the technical or setback requirements does staff have any comments regarding the proposed agreements or conditions they have brought forward today?

M. Daly: There is an irregular jig-jag in the line, which we know the Ordinance frowns upon. Have seen examples of similar Board approvals.

K. Sturtevant: Under Section 5.3.6C Changes to non-conforming lots; since 16 Peru St had the change, the increase of the building, which because of the frontage deficiency it is a non-conforming lot. That provision provides that no change shall be permitted to any nonconforming lot which would have the effect of increasing the density at which the property is being used, or increasing the structure located upon such lot, if the dimensional requirements and standards, including parking, of the underlying zoning district are not met as a result thereof. It goes on to talk about a lot considered non-conforming if there is not sufficient parking, but I think the Board needs to consider this provision as well.

A. Hart: Is the proposal of conditions of approval able to get us around that issue.

K. Sturtevant: the difficulty is that the lot would need to come up to today's dimensional standards and requirements. They are still not met.

G. Hand: So the changes to the building made without a zoning permit increased the underlying structure. If he had come in for a permit, we could not have authorized that because of this provision and they haven't addressed that problem even with what they are proposing today.

K. Sturtevant: Yes, that needs to be addressed.

M. Daly: Again asking the Board for some latitude and flexibility.

G. Hand: The challenge, even understanding that this may have been a mistake, but Mr. Bissonett is a very experienced landowner in Burlington, owns a substantial amount of property. I don't think this is the first engagement he's ever had with this level of change without an approval and come back to us and ask for forgiveness. If it was simply an adjustment of lot lines to continue a non-conformity of the same level that's one thing, but as Kim has pointed out I'm not sure we could have approved what happened on the property itself in the first place not withstanding now trying to correct the boundary line problem.

M. Daly: The problem was a 12' x 1' bump out.

A. Hart: Going back to the original error, it wasn't that the contractor didn't follow the approved permitted plan, there should have been an application for the

W. Bissonett: Had conversations with Mary multiple times about the setback deficiencies and even she didn't catch the encroachment right away.

G. Hand: I am suggesting that a permit should have been applied for before you did this work.

W. Bissonett: We had building permits

G. Hand: The write up says all of this work, raised roof, demolish rear porch, erect new two story addition, new siding, windows, roofing, lighting, gravel in rear yard, convert two car garage to storage, all done without any building or zoning permits.

W. Bissonett: That's not true. We had a building permit.

G. Hand: So how did you end up doing that level of work without a zoning permit?

W. Bissonett: We started to renovate a bathroom and kitchen found more issues than expected. In terms of garage, I changed the type of doors.

M. O'Neil: The possibility of parking off site is always available but the provisions relative to nonconforming lots would prohibit that.

A. Zipparo: The kitchen was the only permitted work

M. O'Neil: Confirmed, permit for alterations were only for after the fact work that led to discovering the bump out.

A. Hart: When could you get us proposed conditions?

M. Daly: Friday

A. Hart: Deliberation will be Tuesday the 24th at 6PM, public hearing closed subject to receipt of draft conditions as discussed.

3. 18-0840AP; 62 Venus Avenue (RL, Ward 7N) Lorraine Latorre Family Trust
Appeal of NOV # 346538 regarding change of use to duplex. (Project Manager: Scott Gustin)

A. Hart: Applicant has requested additional time to work out issues; staff conquers

G. Hand: Motion to defer to September 4th, 2018

S. Harris: Seconds the Motion
5-0-0

4. 18-0861AP; 19-21 South Willard Street (RH, Ward 8E) WHN Properties LLC
Appeal of NOV #333035 for increasing number of residential units from 9 to 10 without zoning approval. (Project Manager: Jeanne Francis)

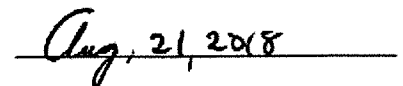
VI. Adjournment

The meeting was adjourned at 6:10PM

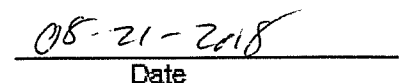


Austin D. Hart, Chair of Development Review Board


L. Darfler, Planning Technician



Date


Date

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