

## Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

[www.burlingtonvt.gov/PZ/DRB](http://www.burlingtonvt.gov/PZ/DRB)

Phone: (802) 865-7188

Fax: (802) 865-7195

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



### BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday May 17, 2016

#### PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Tuesday May 17, 2016 at 5:00 p.m.** in **Contois Auditorium, City Hall.**

1. **16-0859CU; 616 SOUTH WILLARD STREET (RL, Ward 6S) RJL South Willard Management, LLC**  
Re-opened public hearing to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church.
2. **16-0762PD; 16 ROSE STREET (RM, Ward 3C) J & S, LLC**  
Re-opened public hearing to build a duplex on a parcel with an existing single family home.

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/drdb/agendas](http://www.burlingtonvt.gov/pz/drdb/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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Jim Drummond, (Alternate)



### BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday May 17, 2016, 5:00 PM Contois Auditorium, City Hall, 149 Church Street, Burlington, VT AGENDA

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Public Hearing**
  1. **16-0859CU; 616 South Willard Street (RL, Ward 6S) RJL South Willard**  
Re-opened public hearing to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church. (Project Manager, Scott Gustin)
  2. **16-0762PD; 16 Rose Street (I, Ward 1E) J & S, LLC**  
Build a duplex on a parcel with an existing single family home. (Project Manager, Mary O'Neil)
  3. **16-0870AP; 124 Sunset Cliff Road (RL-W, Ward 4N) Joseph Kroger**  
Continuance of an appeal of Notice of Zoning Violation #298627 relative to a second unit in a single family home. (Project Manager, Jeanne Francis)
  4. **16-1148CA; 395 Manhattan Drive (RM, Ward 2C) Chris Khamnei**  
Install house and related site improvements on vacant lot. (Project Manager, Scott Gustin)
- V. **Other Business**
  1. **Discussion item as requested by Susan Reardon**  
**16-0724PD; 451 Ethan Allen Parkway (RL, Ward 7N) Timothy G. Alles**  
9-unit planned unit development. Preliminary plat presently under appeal at VT Superior Court Environmental Division.
- VI. **Adjournment**

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## 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*  
*Meagan Tuttle, AICP, Comprehensive Planner*  
*Jay Appleton, Senior Programmer*  
*Scott Gustin, AICP, CFM, Principal Planner*  
*Mary O'Neil, AICP, Principal Planner*  
*Ryan Morrison, CFM, Associate Planner*  
*Anita Wade, Zoning Clerk*  
*Elsie Tillotson, Department Secretary*



TO: Development Review Board  
FROM: Scott Gustin *AS*  
DATE: May 17, 2016  
RE: 16-0859CU; 616 South Willard Street

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The applicants for 16-0859CU (application to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church) have requested deferral of the re-opened public hearing for 30 days. See the attached memo.



PO Box 4248, Burlington, VT 05406  
802-860-2200/phone  
802-860-1097/facsimile

SENT VIA EMAIL

May 9, 2016

Attention: Scott Gustin  
Burlington Planning and Zoning  
City of Burlington  
149 Church St.  
Burlington, VT 05401  
802-865-7189/phone  
sgustin@burlingtonvt.gov

**Re: Requesting 30 Day Continuance**  
16-08959CU; 616 South Willard St (Ward 6S, RL) (Tax Lot No. 054-2-017-000)

Dear Scott,

As a follow up to our conversation, we are requesting a 30 day continuance for the zoning permit at 616 South Willard Street. We met with the Greek Orthodox Church last month, with school vacations and the Greek Orthodox Easter on May 1st, they were unable to research and discuss this matter as a board.

The board is meeting on May 15th to discuss the parking management plan, so we are asking for a 30 day continuance.

I can be reached at 802-860-2200 if you need anything further.

Thank you,

A handwritten signature in black ink, appearing to read 'Maura D. Fitzgerald', is written over a circular stamp. The signature is fluid and cursive.

Maura D. Fitzgerald  
Majestic Car Rental Group

gravel &  
shea

ATTORNEYS AT LAW

76 St. Paul Street  
Post Office Box 369  
Burlington, Vermont 05402-0369

Telephone 802.658.0220  
Facsimile 802.658.1456  
www.gravelshea.com

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MAY 11 2016

DEPARTMENT OF  
PLANNING & ZONING

Matthew S. Stern  
Associate  
mstern@gravelshea.com

May 11, 2016

Austin Hart, Chair  
Burlington Development Review Board  
149 Church Street, City Hall  
Burlington, VT 05401

Re: 16-0870AP; 124 Sunset Cliff Road; Joseph Kroger – Withdraw of Appeal

Dear Mr. Hart:

This firm represents Joseph Kroger in the above-referenced matter. As discussed at previous hearings on this matter and in Mr. Kroger's March 25, 2016 request for a continuance, Mr. Kroger obtained Zoning Permit 16-0946CA ("Zoning Permit") on March 21, 2016, granting after-the-fact approval for the accessory apartment that is the subject of the Notice of Zoning Violation #298627 ("NOV") under review in this appeal. The Zoning Permit was conditioned upon obtaining a Construction Permit or written confirmation that a Construction Permit is not required from the Department of Public Works-Inspection Services Division. The Department of Public Works has now determined that a Construction Permit is not required, and a Unified Certificate of Occupancy was issued for the apartment on May 9, 2016.

As a result of receiving a Unified Certificate of Occupancy, the NOV has been resolved and this appeal is now moot. Therefore, Mr. Kroger requests that this appeal be dismissed by the Development Review Board.

Thank you for your assistance with this matter. Please contact me should you have any questions.

Very truly yours,

GRAVEL & SHEA PC



Matthew S. Stern

MSS:nl

cc: Mr. Scott Gustin, Department of Planning & Zoning (e-mail)

Notice of Appeal

4/4/16

To: The Environmental Court of Vermont

Subject: 451 Ethan Allen Parkway, Burlington, VT  
Appeal of Development Review Board 3/27/16  
granting preliminary plat approval of  
a 9-unit planned unit development.  
The proposal ~~has~~ been presented,  
rejected three times over a period  
of years but was approved 3/7/16.  
Adjoining homeowners were not notified  
of the meeting and were not notified  
of the decision of the board. Therefore  
the homeowners were unable to appeal  
the decision within the 30-day period.

The local appeal presented 4/4/16 (see  
attached) was not accepted by the  
Department of Planning and Zoning (see  
attached copy).

Negativision Scheffler  
4 Moore Drive  
Burlington, VT 05408

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APR 18 2016

DEPARTMENT OF  
PLANNING & ZONING

Notice of Appeal

4/4/16

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4 Moore Drive  
Burlington, VT 05408

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DEPARTMENT OF  
PLANNING & ZONING

## Department of Planning and Zoning

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*Anita Wade, Zoning Clerk*  
*Elsie Tillotson, Department Secretary*



**TO:** Development Review Board  
**FROM:** Scott Gustin *SG*  
**DATE:** May 17, 2016  
**RE:** 16-1148CA; 395 Manhattan Drive

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**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: RM                      Ward: 2C

Owner/Representative: Chris C. Khamnei

**Request:** Install house and related site improvements on vacant lot

### **Applicable Regulations:**

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

### **Background Information:**

The applicant is requesting approval to place a single family home on the presently vacant lot at 395 Manhattan Drive. The home is to be moved from Winooski and placed on the subject parcel. New construction would amount to a foundation and driveway.

About 2 years ago, the applicant received approval to demolish an existing home and to construct a new duplex. A 2-space parking waiver was associated with that approval. The home was demolished, but a new home was never constructed. That permit has expired. A notice of zoning violation was issued and not appealed. Enactment of this new permit application could cure much of the zoning violation. Impact fees will be paid as part of this new home installation.

Previous zoning actions for this property are noted below.

- 5/27/14, Approval to demolish home and construct new duplex
- 5/29/12, Approval to convert single family home to duplex with 2-space parking waiver
- 4/26/12, Approval to raise roof and change pitch of existing residence
- 4/78, Approval to erect a chain link fence and gate

**Recommendation:** Certificate of appropriateness approval as per, and subject to, the following findings and conditions:

### **I. 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 family detached dwellings and attached multi-family apartments. The proposed single family home is consistent with this purpose. The lot previously contained a single family home. **(Affirmative finding)**

*(b) Dimensional Standards & Density*

The 1 residential unit proposed on the 0.08 acre lot is acceptable (20 units/acre = 1.5 units).

Lot coverage will come to 35.1%, below the 40% limit permitted.

The proposed front yard setback is 5' which is within +/- 5' of the average of neighboring homes (~2' average). The east side setback is just 2'. The side yard setback may be calculated in either of two ways: 10% of the lot width or the average side yard setback of neighboring properties. The 48' wide lot requires a 4.8' side yard setback or ~ 5' based on the average of neighbors. This 5' average is based on tax parcel boundaries overlain on 2013 orthophotos. The 2' east side yard setback appears to be too close unless the applicant can demonstrate more accurate measurements supporting a 2' average. The western side yard setback is compliant at 9.5'. The rear yard setback is compliant at 56'. The minimum required rear yard setback is 23' (25% of the 93' depth).

Building height is not noted and must be. That said, the 1.5 story structure is clearly below the 35' height limit. **(Affirmative finding as conditioned)**

*(c) Permitted & Conditional Uses*

The proposed single family home is a permitted use in the RM zone. **(Affirmative finding)**

*(d) District Specific Regulations*

*1. Setbacks*

*A. Encroachment for Residential Driveway*

The proposed site plan depicts a single space driveway compliant with setbacks. In order to provide 2 parking spaces, the driveway must be lengthened and extend into the 5' minimum side yard setback. This criterion allows doing so for existing, developed, nonconforming lots containing single family homes. While the subject property should contain a home, it does not. It is a vacant lot being redeveloped. **(Adverse finding)**

*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 accessory structures are proposed. **(Not applicable)**

*5. Residential Density*

The proposed home is subject to the residential occupancy provisions of the Comprehensive Development Ordinance. **(Affirmative finding)**

## **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**

#### ***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. 5.5.1, 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 included in this proposal. **(Not applicable)**

#### ***Sec. 5.5.3, Stormwater and Erosion Control***

This project is too small to require post-construction stormwater management plan. The sandy soils onsite are expected to infiltrate much of the runoff. A “small project erosion control” plan is required and has been submitted. It is pending review and approval by the Stormwater Administrator. **(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***

###### ***(a) Protection of important natural features***

The subject property contains no significant natural features. **(Affirmative finding)**

###### ***(b) Topographical alterations***

The lot contains a large hole where the prior home stood. Placement of a new foundation and home will fill in much of this hole. Related site grading will fill in the rest. **(Affirmative finding)**

*(c) Protection of important public views*

There are no important public views from or through the subject property. **(Affirmative finding)**

*(d) Protection of important cultural resources*

The site itself is not historically significant, nor does it contain any known archaeological significance. **(Affirmative finding)**

*(e) Supporting the use of alternative energy*

No alternative energy measures are included in the development proposal. The new home will have no adverse impacts on alternative energy potential on the subject or neighboring properties. **(Affirmative finding)**

*(f) Brownfield sites*

The property is not an identified brownfield. **(Affirmative finding)**

*(g) Provide for nature's events*

The proposed building is not large enough to warrant a post-construction stormwater management plan. There is ample room at the end of the proposed driveway for onsite snow storage. **(Affirmative finding)**

*(h) Building location and orientation*

The proposed building is located in essentially the same place as the building it replaces. It is set close to the front property line and reflects the existing street edge along this portion of Manhattan Drive. Its front entrance is readily identifiable from the street. **(Affirmative finding)**

*(i) Vehicular access*

A single driveway will provide access and onsite parking for the property. It will be set to the west of the proposed home and will comply with a 5' side yard setback. **(Affirmative finding)**

*(j) Pedestrian access*

The front entry of the proposed home faces the street. No front walkway is evident and must be provided in order to connect the front door with the public sidewalk. **(Affirmative finding as conditioned)**

*(k) Accessibility for the handicapped*

No handicap accessibility is evident in this proposal, nor is it required. **(Affirmative finding)**

*(l) Parking and circulation*

A single straight driveway will provide access and parking for the property. The straight in and straight out circulation mirrors the prior arrangement and is acceptable for this single family home. **(Affirmative finding)**

*(m) Landscaping and fences*

No landscaping details have been provided. At least a basic landscaping proposal is needed for this application. **(No finding possible)**

*(n) Public plazas and open space*

No public plazas or open space are included in this proposal. **(Not applicable)**

*(o) Outdoor lighting*

See Sec. 5.5.2.

*(p) Integrate infrastructure into the design*

Any new utility lines must be buried. Utility meters are presently set to the side of the house. When the home is transferred to this new location, the meters should be installed in the same location. **(Affirmative finding as conditioned)**

***Part 3, Architectural Design Standards***

***Sec. 6.3.2, Review Standards***

*(a) Relate development to its environment*

*1. Massing, Height, and Scale*

The massing, height, and scale of the home are consistent with other homes in the neighborhood. It is a 1.5 story Cape Cod home with a comparatively elaborate center front entry. No alterations to the home are proposed upon its relocation. **(Affirmative finding)**

*2. Roofs and Rooflines*

The home has a gable roof typical of a Cape Cod building form. The prominent Gothic wall dormer accentuates the front entry. The gable roof form is common amongst neighborhood homes. **(Affirmative finding)**

*3. Building Openings*

The fenestration pattern is simple and consistent throughout the home. The exception is the large center widow in the front wall dormer. No alterations to building fenestration are proposed. **(Affirmative finding)**

*(b) Protection of important architectural resources*

The home to be relocated to this property dates to 1840 and is historically significant. It presently sits in Winooski and is to be moved to make way for new development at its present location. Although relocation will completely alter its context, its preservation is preferable to demolition. **(Affirmative finding)**

*(c) Protection of important public views*

See 6.2.2 (c) above.

*(d) Provide an active and inviting street edge*

The relocated home is located close to the sidewalk such as neighboring buildings are. Its front entrance is clearly discernible. As noted above, a front walkway is needed to provide connection to the public sidewalk. **(Affirmative finding)**

*(e) Quality of materials*

The home is clad in wooden clapboards and trim. Window materials are not noted, but they appear to be wooden. The home retains its slate roof and two brick chimneys. No exterior alterations are included in this application. **(Affirmative finding)**

*(f) Reduce energy utilization*

It is unlikely that the home complies with present energy efficiency standards. Its preservation and relocation, however, reduce energy consumption associated with typical new home construction. **(Affirmative finding)**

*(g) Make advertising features complimentary to the site*  
Not applicable.

*(h) Integrate infrastructure into the building design*  
As noted above, utility meters are located on the side of the building. No exterior mechanical equipment is included in the project plans. **(Affirmative finding)**

*(i) Make spaces safe and secure*  
The relocated building may be subject to current egress requirements. Any window changes associated with these requirements will be subject to separate zoning permit. **(Affirmative finding as conditioned)**

## **Article 8: Parking**

### ***Sec. 8.1.8, Minimum Off-Street Parking Requirements***

The subject property is located in the Shared Use Parking District. The single family home requires 2 parking spaces. The proposed driveway contains room for 1 parking space. Extending the driveway further would encroach into the 5' side yard setback and is, therefore, not permissible. A 1-space (50%) parking waiver is needed. The prior permit approval included a 50% (2-space) waiver for a new duplex. That permit has expired, and a new waiver is needed for this current permit application. **(Affirmative finding)**

### ***Sec. 8.1.15, Waivers from Parking Requirements / Parking Management Plans***

In the event that a driveway setback encroachment is not allowed per Sec. 4.4.5 (d) 1, the applicant requests a 1-space parking waiver. A 50% (1-space) parking waiver is needed. The prior duplex proposal received a 50% (2-space) parking waiver. The proposed parking management plan is very basic and largely mirrors that for the prior duplex proposal. It asserts only that the home will be located within close proximity to the bike path and will be accessible by bus service. Perhaps more importantly, and not noted in the plan, is the home's close walking and biking proximity to employment, goods, and services. **(Affirmative finding)**

## **II. Recommended Conditions**

Assuming an adequate landscaping plan is submitted and compliance with the east side yard setback is confirmed, the following conditions of approval are recommended:

1. **Prior to release of the zoning permit**, revised plans containing the following must be submitted, subject to staff review and approval:
  - a. Building height
  - b. Front walkway connecting the front door to the public sidewalk
  - c. Utility meter location on side of the home
2. New utility lines shall be buried.
3. No exterior building alterations are included in this permit.
4. A 1-space parking waiver is included in this permit.
5. At least **7 days prior to issuance of a certificate of occupancy**, impact fees based on the gross floor area of the home shall be paid to the Department of Planning & Zoning.

6. 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) and state and city energy standards as may be required.
7. A State of Vermont wastewater permit is required.
8. Standard permit conditions 1-15.

## PARKING WAIVER or SETBACK RELIEF REQUEST

This “one car” parking waiver or setback requirement request is submitted with the zoning application to move a historic single family home (31' width and 28' length) presently situated at 106 East Allen Street, Winsooski to 395 Manhattan Drive in Burlington. The only zoning application ever filed for Manhattan Drive was for a fence. The lot size is small and recorded in the tax map as 3335 square feet. The previous lot coverage was 71% which was comprised of a large asphalt driveway, concrete patios, and porches. The zone is Residential Medium Density. The issue here is the property line tapers which causes the driveway setback to diminish from five feet to two feet along the length of two cars (38'). There are four methods of relieving the tapering setback: (1) face the 28' gable side end of the house towards the street, (2) receive a “one car” parking waiver, (3) recognize the existing drive has NOT been discontinued because the apron and access has been continuously used, and (4) allow the driveway to penetrate the setback because of a small lot and an existing single-family home being situated on the lot.



The parking district for this house is “Shared Use” and requires two parking spaces per unit. In this district, if this house was three units it would require only three parking spaces. Previously, the house provided three tight parking spots “back-to-back” on the west side of the house on the asphalt driveway. The driveway had a 0 foot setback to the property line (or equivalently did NOT have a side setback to the driveway). It is the applicant's position that because the apron has not been removed and the property has been accessed through the beginning of the existing driveway with equipment that the original driveway has NOT been discontinued. Therefore the hard 5' setback for the new driveway is NOT required. If the city does NOT agree with the applicant then a “one car” waiver is requested.

This section of Manhattan Drive is unique because it is the “edge” of the city that panoramically overlooks the Ethan Allen Homestead. There is ample street parking because of the few houses and driveways in this section of Manhattan Drive. The bike path access is on the corner approximately 100 yards away and around the corner from the bus path. The house is being moved and situated on the property in a manner consistent with the city's tradition of salvaging and maintaining historical content, opening green space, reducing intensity and creating sustainability. This single-family dwelling with three bedrooms would be ideal and affordable for a owner occupied family.

**RECEIVED**

MAY 11 2016

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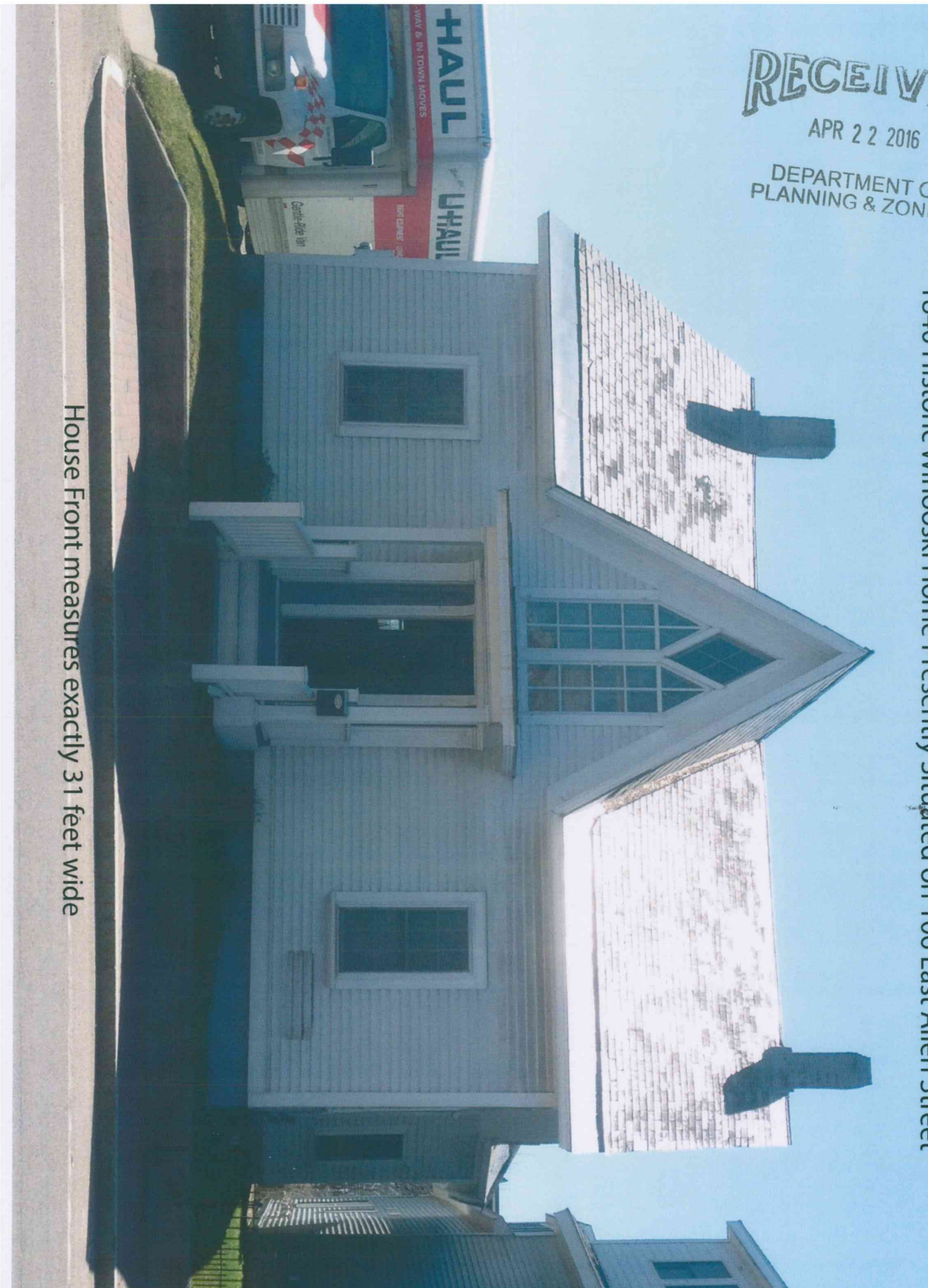
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PHOTO HISTORIC WINDSOR HOUSE, RESIDENTLY SITUATED ON 100 EAST MILLER STREET

House Front measures exactly 31 feet wide



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House Depth measures exactly 28 feet



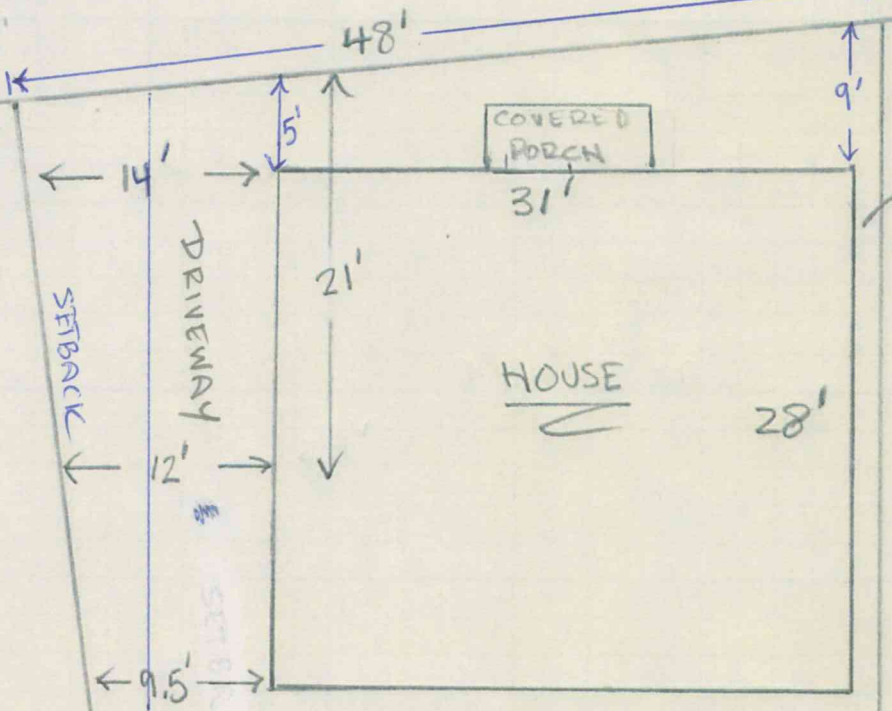
395 MANHATTAN DRIVE

SITE PLAN

SCALE 1" = 10'

MANHATTAN DRIVE

22-141 50 SHEETS  
22-142 100 SHEETS  
22-144 200 SHEETS



SEE ATTACHED LOT  
COVERAGE CALCULATIONS

N  
↑

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DEPARTMENT OF  
PLANNING & ZONING

35'

## 395 Manhattan Drive

### Proposed Lot Coverage

| <u>Structure</u>                                      | <u>Depth (ft)</u> | <u>Width (ft)</u> | <u>Area (sq.ft.)</u> | <u>% Coverage</u> |
|-------------------------------------------------------|-------------------|-------------------|----------------------|-------------------|
| Main House                                            | 28                | 31                | 868                  | 26.03%            |
| Driveway - Parking #1 - Two 2' strips (Green Parking) | 38                | 7                 | 266                  | 7.98%             |
| Front Pathway                                         | 6                 | 6                 | 36                   | 1.08%             |
| Totals                                                |                   |                   | 1134                 | 35.08%            |

Lot Size:

3335

Maximum lot coverage allowance is 40%

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APR 22 2016  
DEPARTMENT OF  
PLANNING & ZONING

WARRANTY DEED.

Thomas Martell

TO  
Flora Rowe

Know all Men by these Presents, That

I Thomas Martell of the City

of Burlington in the County of Chittenden in the State of Vermont.  
In consideration of Five hundred dollars paid to my satisfaction by  
Flora Rowe of the City of Burlington in the County of Chittenden in the State of Vermont.  
do freely give, grant, bargain, sell, alien and convey unto the said Flora Rowe  
heirs and assigns forever, the following described piece or parcel of land situated in said City of Burlington in said county,

via:  
the land and premises situated on the southerly side of North Bend street in said City of Burlington. Said land is bounded by a line running as follows: Beginning at a point in the northerly line of lot No 49 as laid down on a plan of Lewis Duck's land of record in Vol 19 p. 342 of said Burlington land records, fifteen feet northerly of the south easterly corner of said lot; Thence southerly in a line parallel with the easterly line of said lot twenty four feet; Thence westerly in a line parallel with southerly line of North Bend street twenty two feet; Thence southerly parallel with the easterly line of said lot No 49 twenty four feet; Thence westerly in a line parallel with North Bend street eight feet more or less to East line of land conveyed to Elizabeth Martell May 18-1899 by W. A. Bullard of record in Vol 38 page 361 of said Burlington land records. Thence northerly in said Elizabeth's East line to said North Bend Street Thence easterly in said southerly line of North Bend Street to the point or place of beginning together with the North half of the double tenement on said land. Reference is here had to said plan and deed and their records in aid of this description.

To Have and to Hold, the above granted and bargained premises, with all the privileges and appurtenances thereof and thereto belonging, unto the said Flora Rowe her heirs and assigns, to her and their own proper use benefit and behoof forever. And I the said Thomas Martell do for myself, my heirs, executors and administrators, covenant to and with the said Flora Rowe her heirs, executors, administrators and assigns, that at and until the executing of these presents I well seized of the premises in fee simple that I have good right and lawful authority to bargain and sell the same in manner and form as is above written; that they are free and clear of all incumbrance.

and that I will warrant and defend the same against all lawful claims and demands of any person or persons whomsoever.

In Witness Whereof, I hereunto set my hand and seal this 29<sup>th</sup> day of April A. D. 1901.

IN PRESENCE OF

Charles E. Allen  
Lieut. A. Dorr

Thomas Martell Seal  
Mark

State of Vermont,

Personally appeared at Burlington  
Thomas Martell

RECEIVED

Chittenden County, ss. I the signer and sealer of the above written instrument, and acknowledged the same to be his free act and deed, this 29<sup>th</sup> day of April A. D. 1901

Before me, Charles E. Allen Notary Public, April 29 1901, at 5 o'clock P. M., and recorded.

I hereby certify that U. S. Rev. Steward to the amount of 500 were affixed to the foregoing instrument, and duly certified.

Attest, Charles E. Allen City Clerk.

APR 22 20  
DEPARTMENT  
PLANNING & ZC

Thomas Martelle

WARRANTY DEED.

Flora Rowe

Know all Men by these Presents, That

I Thomas Martelle

in consideration of ten dollars and other consideration

of Burlington, in the County of Chittenden

in the State of Vermont

Flora Rowe

of Burlington

Flora Rowe

of the County of Chittenden

in the State of Vermont

do hereby give, grant, bargain, sell, alien and convey unto the said

Flora Rowe heirs and assigns forever, the following described piece or parcel of land situated in

Burlington

in said

vis: Lot and half of double house on North Bend Street, being a part of Lot as laid down on Plan of Land of Louis Luck of record in Vol. 19, page 342 of said City of Burlington Land Records and bounded as follows: Beginning at Northeast corner of said Lot #49, running Southerly in said Easterly line of said Lot #49 about 89 ft. to land of Louis Luck, thence Westerly along said Luck North line 35 ft. more or less to a point which would be met by a production of the West line of land of said Flora Rowe (see Deed Vol. 44, page 493), thence North to said Rowe's South line, thence Easterly eight feet, thence Northerly twenty feet, thence Easterly twenty two feet, thence Northerly twenty four feet to South line of North Bend St. thence Easterly about 15 feet to point of beginning. Meaning to convey the remainder of the East half of Lot #49 or that which is left after conveying a part thereof to said Rowe as recorded in Vol. 44, page 49. To all of which Deeds and Plan, reference is here had in aid of this description.

I have and to Hold, the above granted and bargained premises, with all the privileges and appurtenances thereof and thereto belonging, unto the said Flora Rowe her heirs and assigns, to her and their own proper benefit and behoof forever. And I, the said Thomas Martelle, do for myself my heirs, executors and administrators, covenant to and with the said Flora Rowe her heirs, executors, administrators and assigns, that at and until the enrolling of these presents, I, the said Thomas Martelle, well seized of the premises simple that I have good right and lawful authority to bargain and sell the same in manner and form as is above written; that they are and clear of all encumbrance.

and that I will warrant and defend the same against all lawful claims and demands of any person or persons whomsoever.

In Witness Whereof,

IN PRESENCE OF

A. D. McShane  
C. D. Eaton

State of Vermont,

personally appeared at

Burlington

in said Co

Chittenden County, ss.

written instrument, and acknowledged the same to be his free act and deed, this 14 day of April, A. D. 1905.

Received for record

RECEIVED

10.50

10.50

of stock, A. N., and recorded.

Attest,

M. D. McShane

APR 22 2016



118

**ANCHOR FOUNDATIONS, INC.**

375 Swamp Rd.  
FAIRFAX, VERMONT 05454  
(802) 849-6165

**JOB ESTIMATE**

apchorfoundationsinc@gmail.com

TO

Chris Khammel  
Green Mtn Real Estate  
199 S. Union St. #0  
Burlington VT. 05401

PHONE

777-6007

DATE

4/20/16

JOB NAME/LOCATION

New Home

Burlington

JOB DESCRIPTION:

28' x 31' x 7'10"

|                        |                            |                  |      |
|------------------------|----------------------------|------------------|------|
| > 1. Footings          | 8" x 16" 3000 PSI 5 yhr    | 295.00 yd        | 1475 |
| 2. Walls               | 8" x 7'10" 3000 PSI 24 yhr | 285.00 yd        | 6840 |
| 3. #4 Steel            | 2 T/B 2 ft 500 ft          | 85 ft            | 765  |
| 4. Anchor Bolts        | 4-6' OS. 36                | 1.00 ea          | 36   |
| 5. Corners             | 4                          | 55.00 ea         | 220  |
| 6. Windows             | 4                          | Std sm 125.00 ea | 500  |
| 7. Slabs               | 4" 3000 PSI 11 1/2 yhr     |                  | 240  |
| 8. Pump Truck Charges  | 600.00 per use (if needed) |                  | ?    |
| 9. Minimum Load Charge | none                       |                  |      |

12230  
12000

**RECEIVED**

APR 22 2016

DEPARTMENT OF  
PLANNING & ZONING

\$12000.00



55 Leroy Rd, Suite 15  
Williston, VT 05495  
Tel: 802-497-3653 Fax: 802-497-3656

April 21, 2016

Chris C. Khamnei, Ph.D.  
Green Mountain Real Estate  
199 South Union Street #0  
Burlington, VT 05401

RE: Historic house move located at 106 East Allen St.

Dear Chris,

It is with great excitement that I write to you today in response to your interest in moving the historic house located at 106 East Allen St in Winooski. As you are aware, this is a very unique house, built in the 1840's in a Gothic Mill house style. The house was first built by a well-known Burlington Brick Mason and later served as housing to Mill workers. From there, it has been owned by a family who moved from Canada to Winooski in the mid 1900's. I have also lived in this house for a few years with my family and it is where my first daughter was born. We are extremely supportive of your efforts to move this house and to your willingness to take on such a complex project. Both myself, the City of Winooski and the Vermont Division for Historic Preservation are looking to see this become a reality.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Dagesse', with a long horizontal flourish extending to the right.

Nathan Dagesse  
Owner and Developer of 106 East Allen St  
Vice President of EIV Technical Services  
Phone #: 802-683-9967

RECEIVED  
APR 22 2016

DEPARTMENT OF  
PLANNING & ZONING

Move 1840 Post + Beam House  
Proposed cost \$55,000

We are New England Building Movers Inc. We are insured by Travelers insurance company. We have over 37 yrs. of experience (Monte Provencher owner and president of NEBM Inc.). I skated my first house 32 yrs. ago. In comparison to other structures we have moved this is a small building.

We are in hopes to skate this 1840 post + beam home onto Abenaki drive and prepare it for transport. This would involve cross H beams, main carrying beams, track, skatas, cribb jacks, dollies, bowlster and all wheel drive, 5th wheel truck.

The proposed route, is to stage (Abenaki drive) E. Allen st., Main st. Colchester Ave., Riverside Ave, Oak st, and destination on Manhattan Drive, to open lot.

Our experience is to transport house on a Sunday morning. This house is a very rare find and will fit very well with the neighborhood.

Apr. 22, 2016

RECEIVED  
NEBM Inc. APR 22 2016  
Monte Provencher  
DEPARTMENT OF PLANNING & ZONING



November 12, 2015. Chain link fence around Property even though Court Order stipulates no chain link fence. Fence is falling and has not been maintained, another unmet stipulation from the Court Order. Northeast corner exhibits large rocks and debris from another project at another property owned by Owner. Debris is greater than 24 sf and is placed within front and side setbacks. North (across street) looking south. Cellar hole for proposed duplex project has been dredged.

*Existing conditions*



November 12, 2015. Northwest looking southeast. Debris strewn around property. Building materials from another Owner property stored in the southeast corner of property within setbacks. Chain link fence constructed along east property line even though Court Order stipulates no chain link fence. Fence is falling and has not been maintained, another unmet stipulation from the Court Order. Southeast corner building materials from another project at another Owner property. Debris is greater than 24 sf and is placed within front and side setbacks. Stockade fence along southern boundary of Property belongs to neighboring property. Cellar hole for proposed duplex project has been dredged.

*Existing conditions*

## Department of Planning and Zoning

149 Church Street, City Hall  
Burlington, VT 05401  
[www.burlingtonvt.gov/pz](http://www.burlingtonvt.gov/pz)  
Phone: (802) 865-7188  
Fax: (802) 865-7195

*David White, AICP, Director*  
*Meagan Tuttle, AICP, Comprehensive Planner*  
*Jay Appleton, Senior GIS/IT Programmer/Analyst*  
*Scott Gustin, AICP, CFM, Principal Planner*  
*Mary O'Neil, AICP, Principal Planner*  
*Ryan Morrison, Associate Planner*  
*Elsie Tillotson, Department Secretary*  
*Anita Wade, Zoning Clerk*



TO: Development Review Board  
FROM: Anita Wade  
DATE: May 12, 2016  
RE: 16 Rose Street; 16-0762PD

---

The applicant for 16 Rose Street has withdrawn the permit application, 16-0762PD, to build a duplex on a parcel with an existing single family home.

## **Burlington Development Review Board**

149 Church Street, City Hall  
Burlington, VT 05401

[www.burlingtonvt.gov/pz/DRB](http://www.burlingtonvt.gov/pz/DRB)

Telephone: (802) 865-7188

Fax (802) 865-7195

Austin Hart  
Brad Rabinowitz  
Jonathan Stevens  
Alexandra Zipparo

Israel Smith  
AJ LaRosa  
Geoff Hand

Wayne Senville, (Alternate)  
Jim Drummond, (Alternate)



### **BURLINGTON DEVELOPMENT REVIEW BOARD**

**Tuesday May 17, 2016, 5:00 PM**

**Contois Auditorium, City Hall, 149 Church Street, Burlington, VT**

#### **AGENDA**

**Board Members Present: Austin Hart, Brad Rabinowitz, Jonathan Stevens, A.J. LaRosa, Ali Zipparo, Wayne Senville**

**Board Members Absent: Israel Smith, Geoff Hand**

**Staff Members Present: Scott Gustin, Anita Wade**

#### **I. Agenda**

616 So Willard Street requests deferral.  
16 Rose Street application has been withdrawn  
124 Sunset Cliff Road appellant requests a dismissal.

#### **II. Communications**

Letter from Jon Anderson accepted into the record.

#### **III. Minutes**

#### **IV. Public Hearing**

##### **1. 16-0859CU; 616 South Willard Street (RL, Ward 6S) R.J.L. South Willard**

Re-opened public hearing to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church. (Project Manager, Scott Gustin)

A.Hart – Board has received a letter requesting a deferral of 30 days.

Applicant - yes

Board members and staff discussed possible meeting dates.

A.Hart – applicant is asking for a deference until July 19<sup>th</sup>. The Board would like to give neighbors an opportunity to speak tonight, but don't we know what the applicant's intentions are. This is not considered a public hearing.

J.Noll – feel this is a stalling technique by applicant. The Church does not meet on regular basis and this makes communication with them difficult.

A.Hart - are you opposing the request for deferral?

J.Noll - yes

S.Gustin - a formal NOV has not been issued by Code Enforcement.

B.Rabinowitz - is this appropriate?

S.Gustin - not able to provide an answer. Must defer to Code Enforcement.

A.Hart - if there is an existing violation that you do not want to be living with ask the Code Enforcement Department to pursue it. This Board cannot initiate this.

S.Contompasi – please explain if this is not a formal appeal what is tonight or July's meeting? Parking is still ongoing problem. What can be done about this?

B.Rabinowitz - speak to Code Enforcement Department about the parking. The Board does revisit and reopen public hearings.

S.Contompasi - why is this based on what Church has to say?

AJ.LaRosa - we were given a parking request, but it was denied since the Board felt we did not have all the information on which to base a decision. Because of this, we reopened the public hearing. The applicant's request of information from the Church is perhaps what they need.

S.Contompasi - maybe the information from the Church is not relevant?

A.Hart - the applicant can come forward and explain. There may be some agreement between applicant and the Church.

B.Rabinowitz - parking at the Church may be a violation and we need to know if there was an agreement between them. We don't have enough information to know this.

A.Hart - asks applicant to give additional information that they intend to provide at the next hearing.

M.Fitzgerald - a representative for the applicant, spoke about the Church being support, but that the Church needs to vote on arrangement with Majestic. Due to religious holiday and vacations they have been unable to meet.

B.Rabinowitz - is the information based on the original permit?

M.Fitzgerald - we can address this at the next meeting.

A.Hart - question is whether to meet during July 19<sup>th</sup> for the continuance and whether everyone has had a chance to speak.

S.Contompasi - unable to understand about the parking between Church and Majestic.

S.Gustin - they requested a deferral for additional information.

A.Hart - have we made a decision to reopen?

S.Gustin - yes

S.Contompasi - this is for more information?

A.Hart - there is very little information and allowing applicant to present more information.

J.Noll - If this property is zoned in RL what happens? In meantime they continue to use it.

G.Hand - motion to defer public hearing to July 19<sup>th</sup>.

AJ.LaRosa - seconds the motion.

Board Vote: 4-1-1

Motion passes.

**2. 16-0762PD; 16 Rose Street (I, Ward 1E) J & S, LLC**

Build a duplex on a parcel with an existing single family home. (Project Manager, Mary O'Neil)

A.Hart - applicant has withdrawn their application. There is no one to speak. This matter is closed and the application withdrawn.

**3. 16-0870AP; 124 Sunset Cliff Road (RL-W, Ward 4N) Joseph Kroger**

Continuance of an appeal of Notice of Zoning Violation #298627 relative to a second unit in a single family home. (Project Manager, Jeanne Francis)

A.Hart - This item is moot and there is no one here to speak. Motion made to dismiss.

A.Zipparo - seconds the motion.

Board Vote: 7-0-0

**4. 16-1148CA; 395 Manhattan Drive (RM, Ward 2C) Chris Khamnei**

Install house and related site improvements on vacant lot. (Project Manager, Scott Gustin)

A.Hart - no applicant, but neighbors and members of public are here to speak. There was a NOV meant to resolve the fact the house was demolished and the property was an open pit for a few years. For the applicant not to show up is frustrating.

A.Hart - swears in adjacent property owner who would like to speak.

J.Allerman - owns 383 Manhattan Dr. Said the project property was vacant for some time with debris and garbage and drug deals. In support of the development of site especially a historic home. Agrees with staff recommendations and basic landscaping plan. Applicant should include trees and shrubs and DPW should ensure safety and proper permits.

A.Zipparo - are there homeless people living there?

J.Allerman - they are living in cars.

A.Zipparo - aware that drug deals are pretty persistent.

A.Hart - Board discussed what to do about this deciding the project was a good solution for the area. Usually if applicant doesn't show up we have to put off or deny the project.

B.Rabinowitz - there are a few technical aspects with this application.

A.Hart - difficult to discuss this without the applicant present. What should the Board do about the continuance? Does the Board have subpoena power?

S.Gustin - yes, the Board does.

A.Hart - ask staff to contact Code Enforcement to follow up and the Board can continue the public hearing to the soonest date.

A.Zipparo - asks if the Board should deny the application?

A.J.LaRosa - this is up to Code Enforcement. The Board is respectful of the applicant on these violations, but then he does not show up today?

A.Hart - should we reschedule?

S.Gustin - the 1<sup>st</sup> hearing in June is full a full agenda. The June 21<sup>st</sup> has five regular items.

A.Zipparo - how long ago did we vote on this item?

S.Gustin - originally, the Board gave approval for a duplex, but the permit expired.

J.Stevens - is there a reason why we are not denying this project and sending to Code Enforcement?

A.Hart - we want this to be built as soon as possible if our questions are answered.

J.Stevens - we just had a discussion about the process and how it is not based on personal feelings. On the application is says that the applicant must attend the meeting to receive approval.

S.Gustin - Code Enforcement has issued a NOV. If he doesn't pursue the application, the next step is to go to Court. Fines are issued by the Court.

The applicant arrives to the meeting.

A.Hart - the hearing started at 5pm. The hearing starts at 5pm and it is disrespectful to the Board, staff, and neighbors

C.Khamnei - not trying to be disrespectful. I had a plumbing emergency.

A.Hart - swears in applicant and other neighbor; tell us what you want to inform; issues brought up with staff and neighbors to be late.

C.Khamnei - this has not happened before. Forgive me for being late, there was no intention to do so. I had a plumbing emergency. The Board has this application and I wanted to submit questions. I would like to know what testimony I have missed.

A.Hart - this looks like a good solution for the enforcement issue. Questions the implementation.

C.Khamnei - this is a historic house. Before I did this I cleaned up the property.

B.Rabinowitz - questions side yard setbacks.

A.Hart - have you seen staff comments?

C.Khamnei - these lots are old, the deeds do not correspond with the tax maps.

S.Gustin - Chris and I met and discussed the need for setback measurements.

C.Khamnei - took measurements that shows exactly 2ft. from gate to house. No side yard setback to driveway. Driveway apron is still there, since never a discontinuance of apron and original driveway consistent with adjacent properties and a continued use.

Further discussion occurred among Board members, staff and applicant on the setback issue.

C.Khamnei - foundation will be ready in a week. The excavator will finish the hole. The house mover is ready and secured. Chimneys are not coming with it. Slate roof taken off and put back on. Barn is being taken off and only main house moved. The roof will be reconstructed.

J.Stevens - what is the completion date?

C.Khamnei - house needs to be moved by end of June. Will have plenty of time to put in foundation. The house mover takes 2 to 3 weeks to prepare and takes one day to move.

A.Hart - do you have approval from the City of Winooski?

C.Khamnei - yes

A.Hart - looks like a really nice house and great proposal. Do you need approval to move a house across public roads?

C.Khamnei - spoke about permits and about moving electrical lines.

B.Rabinowitz - Board needs to see landscape plan and 2ft setback.

C.Khamnei - may not do a landscape plan allowing a buyer to do this.

A.Hart - this is part of this approval and we will not approve without this plan.

C.Khamnei - intend to plant grass, and minimal.

A.Hart – are standards in the ordinance for landscaping?  
 S.Gustin - yes  
 A.Hart – an erosion control plan?  
 S.Gustin - yes  
 A.Hart - other questions?  
 S.Gustin - a parking waiver is requested. Have been trying to get real answers on these waivers.  
 C.Khamnei - there's parking on the street and for bikes.  
 A.Zipparo - any other exterior changes to the house?  
 C.Khamnei – the porch  
 A.Hart - two steps up to porch?  
 B.Rabinowitz - are you having a basement, then you will need two steps.  
 C.Khamnei – again expresses apology for being late.  
 B.Kellor – as a resident of an adjacent property near Manhattan Dr., here to lend support to the project. I was not aware about moving house from Winooski and want to see site plan and know setback.  
 C.Khamnei – spoke regarding two adjacent properties facing Manhattan Dr.  
 B.Kellor - welcome news that there will be something there soon.  
 A.Hart - still like you to provide setbacks on adjacent properties.

#### V. Other Business

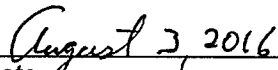
1. **Discussion item as requested by Susan Reardon**  
**16-0724PD; 451 Ethan Allen Parkway (RL, Ward 7N) Timothy G. Alles**  
 9-unit planned unit development. Preliminary plat presently under appeal at VT Superior Court Environmental Division.  
  
 A.Hart - we made a decision that has been appealed to VSCED. Interested parties made a request about procedure  
 S.Reardon - here to talk about the procedure. The list of homeowners is outdated. Many of us did not receive the notice. When we spoke with staff they said it was accurate.  
 A.Hart - opportunity to see if we can do things better. Do we send notices based on the grand list property tax rolls?  
 S.Gustin – yes, adjacent and a few beyond.  
 A.Hart – the grand list can be different.  
 S.Reardon - two houses were not even listed as adjoining properties.  
 A.Hart - the system may not be perfect. A 'Z' card is posted on the property and there are postings in City Hall and in the newspaper.  
 S.Reardon - if you don't know where to look how would you know? This has been going on since 2002.  
 A.Zipparo - tenants do not receive the notices and are not included in this process.  
 S.Reardon - notification is a huge issue. Confusion over the appeal process.  
 S.Gustin - cannot waive fee it is not our fee it is the VSCED fee. This appeal was denied because it was not based on an Administrative Decision.  
 A.Hart - only way to appeal is to go to VSCED. None of us can give advice about appeal. This decision was on a preliminary plat and not a final plat.  
 S.Reardon - two different people given the form and then told could not do this with the form.  
 A.Hart - if you were handed the wrong form we can correct internally, but you ended up were you wanted to be.  
 S.Reardon - VSCED asked why we were there; we are doing what the elected officials told us  
 A.Hart - it may be that consulting with an attorney is a good idea. The process is not simple  
 S.Reardon - if given proper notice we would have been here.  
 A.J.LaRosa - this is now totally out of our hands. We cannot do anything at this point. It's in VSCED jurisdiction.  
 S.Reardon – April 5<sup>th</sup> agenda was not on properly informed. Anne Shefler watching the TV airing came down to speak and was not allowed to talk. Taking this information to VSCED.  
 S.Gustin – this was one of three before the Board on April 5<sup>th</sup>. This the Board made the decision not to reopen and therefore the individual who came to speak could not.

S.Reardon – we would not be with the VSCED if asked to speak at that time.  
S.Gustin - you did need to come, but the Board could not reopen the hearing.  
AJ.LaRosa – gave explanation on how a hearing is reopened.  
S.Reardon - sounded like the decision was made already.  
B.Rabinowitz - this project has been ongoing for 8 years. The project has had a lot of public input. I understand the errors and that you are not happy with the process and that maybe it's something you want to address at VSCED. It wasn't about not having a public hearing.  
S.Reardon - merits of case and stormwater plan is not enough in our opinion.  
A.Hart - we can continue to be conscious about the notice list and tax list. Planning and Zoning staff can be educated to give advice. Maybe you are where you want to be.  
S.Reardon – wanted to say that staff is always extremely polite and helpful.

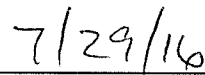
#### VI. Adjournment

Meeting adjourned 6:38 pm.  
Deliberative session was held after this meeting.

  
Austin Hart, Chair of Development Review Board

  
Date

  
A.Wade, Planning & Zoning Clerk

  
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 not be the final order in which items will be heard. Please view final Agenda, at [www.burlingtonvt.gov/pz/drb/agendas](http://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.

