

Burlington Development Review Board

645 Pine Street, Burlington Permitting & Inspections
Burlington, VT 05401

www.burlingtonvt.gov/DPI/DRB

Telephone: (802) 865-7188

Fax (802) 863-0466

Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Zoraya Hightower
Brooks McArthur
Kienan Christianson
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday February 4th 2020, 5:00 PM

PUBLIC HEARING NOTICE

**The Burlington Development Review Board will hold a meeting on
Tuesday February 4th, 2020 at 5:00 PM in Contois Auditorium, City Hall.**

- 1. 20-0573CU; 260 South Union (RL, Ward 6S) Marc Jacobs**
Establish 1-bedroom bed and breakfast (short-term rental)
- 2. 20-0559AP; 389 Riverside Avenue (NAC-R, RCO-C, Ward 1E) Quigbin Wang**
Appeal of Notice of Violation #364420, regarding unpermitted fill and grading change

Plans may be viewed at the Department of Permitting & Inspections, (645 Pine 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 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 or the office notice board, one week before the hearing for the order in which items will be heard.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

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

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Department of Permitting & Inspections

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

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



TO: Development Review Board
FROM: Scott Gustin
DATE: February 4, 2020
RE: 20-0573CU; 260 South Union Street

=====

The applicant has withdrawn this application.



12/11/2019 10:57





10/09/2019 11:35

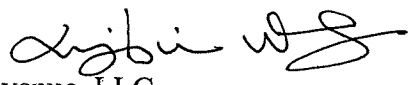


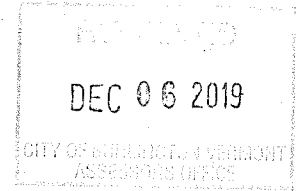
Network Nov 30, 2013 at 4:12 PM ES



Date: December 5, 2019

To: Burlington Development Review Board

From: Qingbin Wang 
389 Riverside Avenue, LLC
72 East Terrance
South Burlington, VT 05403
Phone: (802) 999-1110. Email: qbvermont@gmail.com



Re: Appeal of Zoning Violation # 364420

I would like to ask the Burlington Development Review Board to review Zoning Violation # 364420 (see Attachment 1) and consider to dismiss the violation based on the reasons provided in this appeal application.

A brief description of the property: This property of 0.31 acre with a single house is located at 389 Riverside Avenue. The lot is about 120 feet wide along the Riverside Avenue and 102 feet deep, plus an additional strip of 10x250 feet on the back toward the Winooski River (see Attachment 2).

Some background information: When I purchased the property in November 2016, there was a significant amount of trash, used concrete blocks, broken appliances (refrigerators, washers, stoves, etc.), furniture, etc. on the back and down the slope dumped there over many years. I spent more than \$1000 to have all the large items hauled away in summer 2017 and have made efforts to stop illegal dumping on the property but it has still happened occasionally, especially during summer 2019 when I was out of country for seven weeks.

Reasons for the appeal of the zoning violation:

- (1) I have responded quickly and followed the instructions of Mr. Ward, Zoning Administrative Officer, and Mr. Miles, Code Enforcement Officer, since I was contacted by the city in November 2018. Mr. Ward left me a phone message regarding safety concerns about fill dumped on the embankment of my property on November 30, 2018. I called him back on the same day and told him over phone that I did not pay or authorize anyone to dump fill on my property and I had no need or plan to expand the parking area (there are at least four parking spaces and my tenants have never needed more than three). I also told him that I did see one person when he was dumping some fill there and told the person that I am the new owner and he should not dump fill on my property.

Following Mr. Ward's instruction over the phone and specified in his email of November 30, 2018 (see Attachment 3), I informed that person again that no more dumping of fill on my property is allowed, placed yellow caution tape along the back of the parking area, and informed my tenants about safety suggestions. I replied Mr. Ward's email on December 3, 2018 and informed him that I took all the actions he suggested (see

Attachment 4). I also asked my tenants to let me know if they see any dumping on the property.

I received a letter from Mr. Ward around December 9, 2018 (see Attachment 5). In the letter, I was informed that his office would initiate an investigation about the problem (discussed over phone and through emails). I have never received any notice about that investigation.

- (2) I did see some new materials dumped on my property two times in March and April 2019 and called that person who dumped fill there in 2018 but he told me that it was not by him. I then placed a "no dumping" sign there. I stopped by almost every week in May and early June 2019 but did not see any problem.

I was out of country for seven weeks in summer 2019 and, when I came back in late July, I saw some large pieces of concretes and fill were dumped to the area of my property bordering the neighbor's property. For the neighbor's property, a huge amount of large concrete blocks and other material have been dumped there for years, likely for the purpose of expanding the commercial parking lot. As noticed by my tenants but I could not prove it, some truck drivers likely dumped to my property when the neighbor's parking lot was full and they had no access to the area for dumping. Also, some fill and materials on my property bordering the neighbor's property were actually dumped from the neighbor's parking lot and slid to my property because there was a "ditch" along the border line (the area along the border line is significantly lower than the areas on both sides and I noticed materials slid from the other side to my side before the materials were dumped directly on my side in summer 2019).

- (3) On October 18, 2019, Mr. Miles emailed me that more material was dumped over the embankment of my property and that I was "ordered to cease from dumping any further material over the embankment at the property until you have obtained the required Zoning permit ..." (see Attachment 6). I replied his email on the same day that I did not pay or authorize anyone to dump fill there and the new materials were dumped there in the summer while I was aboard (see Attachment 7). I also told him that I would take more actions to stop illegal dumping on my property. Mr. Miles replied my email on October 18, 2019 (see Attachment 7). In his first email (see Attachment 6), Mr. Miles wrote that ***"Any further dumping of materials without the proper permits will result in a zoning violation with fees."*** Based on his statement, I should not be issued a zoning violation because no further dumping of materials has happened since I received his email. I am sure about this because I have checked the area at least two times every week since I received Mr. Miles' email on October 18, 2019. I have also installed a temporary wood fence along the back of my parking area (see Attachment 8).
- (4) On November 1, 2019, a huge amount of materials dumped on my neighbor's property over years collapsed after heavy rain and slid down the slope. As part of the collapse and soil sliding, one area of my property bordering the neighbor's property also slid down. I believe the soil sliding happened on my property was partially caused by the huge sliding of the neighbor's property as there was a significant amount of new soil and materials on

DEC 06 2019

K

that “ditch” along the bordering line. When the huge amount of materials, including some huge and heavy concrete pieces, were dumped on my neighbor’s property over years, they damaged all the large trees and the huge concrete pieces were also mixed with trees and other materials. I have noticed that the soil and materials slid down my property were only the new materials dumped there in summer 2019 and did not reach the area beyond my property (my lot is about 102 feet deep). Also, the materials dumped on my property have not damaged any large trees (there are a few tree trunks and branches on my property bordering the neighbor’s property but I believe they were dumped there from other places). I believe that this soil sliding could be prevented if the huge amount of dumped on my neighbor’s property over many years was stopped by the city authority.

- (5) In the Notice of Zoning Violation (see Attachment 1), the date of December 4, 2018, on Page 2, is likely incorrect because the phone conversation with Mr. Ward and his email of November 30, 2018 (see Attachment 3) logically happened after his office received the complaint. Also, on the first page of the Notice, it says “See attached photo” but there was no photo attached to the Notice.

As shown in the attached emails mentioned above, I have had no plan or reason to change the grade of my property, I have not paid or authorized any company or individual to dump materials on my property, and I have also responded appropriately and quickly to all the notices and requests from the city and taken appropriate actions requested by the city.

I plan to apply for the required city permits to install permanent fence along the back of my parking area, to have the large pieces of concretes dumped on the embankment of my property taken away next spring, and to plant more grass and trees in the spring or summer. I am also willing to follow any recommendations from the city to improve the safety and prevent soil erosion on my property.

Due to the above reasons with supporting documents, I am asking the Burlington Development Review Board to review and dismiss the zoning violation.

Thank you very much for your consideration and please let me know if you have any questions or need any additional information.



PERMITTING & INSPECTIONS

645 Pine Street, Ste. A | PO Box 849

Burlington, VT 05402-0849

Housing: (802) 863-0442

Trades: (802) 863-9094

Zoning: (802) 865-7188

NOTICE OF ZONING VIOLATION (NOV 364420)

November 20, 2019

389 RIVERSIDE AVENUE, LLC
72 East Terrace
South Burlington, Vt 05403

Mailed Certified Mail #70173380000051248515
And FIRST CLASS MAIL

NOTICE OF VIOLATION AT:
389 RIVERSIDE AVENUE, BURLINGTON, VT
TAX LOT #040-4-026-000

Zoning Violation# 364420

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 389 Riverside Avenue.

Description of Violation: Grade change with fill without Zoning Approval See attached photo.

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

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

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

This Notice of Violation (NOV) may be appealed to the Burlington Development Review Board in accordance with the provisions of CDO Sections 2.7.12 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV November 20, 2019, and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Zoning Office (City Hall, 149 Church Street) by **4 pm on December 6, 2019** ; an appeal shall not be perfected until the fee is received.

If you have any questions, please call Ted Miles or William Ward at (802) 863-0442.

Sincerely,

William Ward
Zoning Administrative Officer

Sincerely,

Theodore Miles
Code Compliance Officer

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 040-4-026-000

VIOLATION DETAILS

LOCATION: 389 RIVERSIDE AVENUE
DECISION DATE: November 18, 2019
VIOLATION DESCRIPTION: Grade change with fill without Zoning Approval

FINDINGS: December 4, 2018, Complaint received about fill being added over the embankment at the rear of this property. Property owner sent a warning letter notifying him of the complaint.

October 9, 2019, follow up conducted upon report from a citizen of visible cracks in the soil at the property at the embankment.

November 1, 2019, parts of embankment collapsed and some area washed out after heavy rain storm passed through area. There was also indications that more concrete fill has been added at the end of the driveway portion at the slope.

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

No fill is to be added to the property until proper permits have been obtained. These include a Zoning Permit and an Erosion Control Plan from the Department of Public Works or any permit that may be required as determined from the Geotechnical Engineer's report.

1) - Obtaining approval from the City's Zoning Office for Work Without an approved zoning permit (permit application fee is doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus \$75 per hour of Code Enforcement staff time (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. **PLEASE NOTE:** If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or request an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; **or**

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

3.) IN EITHER CASE, IMMEDIATELY MAKE AREA SECURE AND MAKE SAFE AS DIRECTED BELOW

A.) Short Term-Hire a Licensed in the State of Vermont Professional Geotechnical Engineer to Assess the existing condition of the infilled portion of the property and prepare a written report. Written report requires establishing if there is an unsafe condition identifying an unstable slope-(**within 30 business days of this Notice of Violation**)

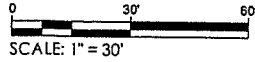
B.) If there is an unsafe and an instability in the slope, a written report would be required to be prepared by a License Geotechnical Engineer that provides the direction and guidance to a contractor of your choice to remedy to the existing unsafe condition. **Plan would be required to be reviewed and approved by the City Engineer and the Building Inspector (Within 60 business days of this Notice of Violation)**

C.) Contractor hired to complete the approved plan to remedy the existing unsafe condition **(within 60 days of written determination from the Geotechnical Engineers report)**

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.12 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on December 6, 2019.** Submit a complete application with ZV# and appropriate fee to the City's Zoning Office, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CITATION: CDO Article(s): 2, 3, 5, 8, 12 and 24 VSA §4451, Article 6.2.2, and 5.5.3

Attachment 2

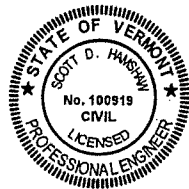
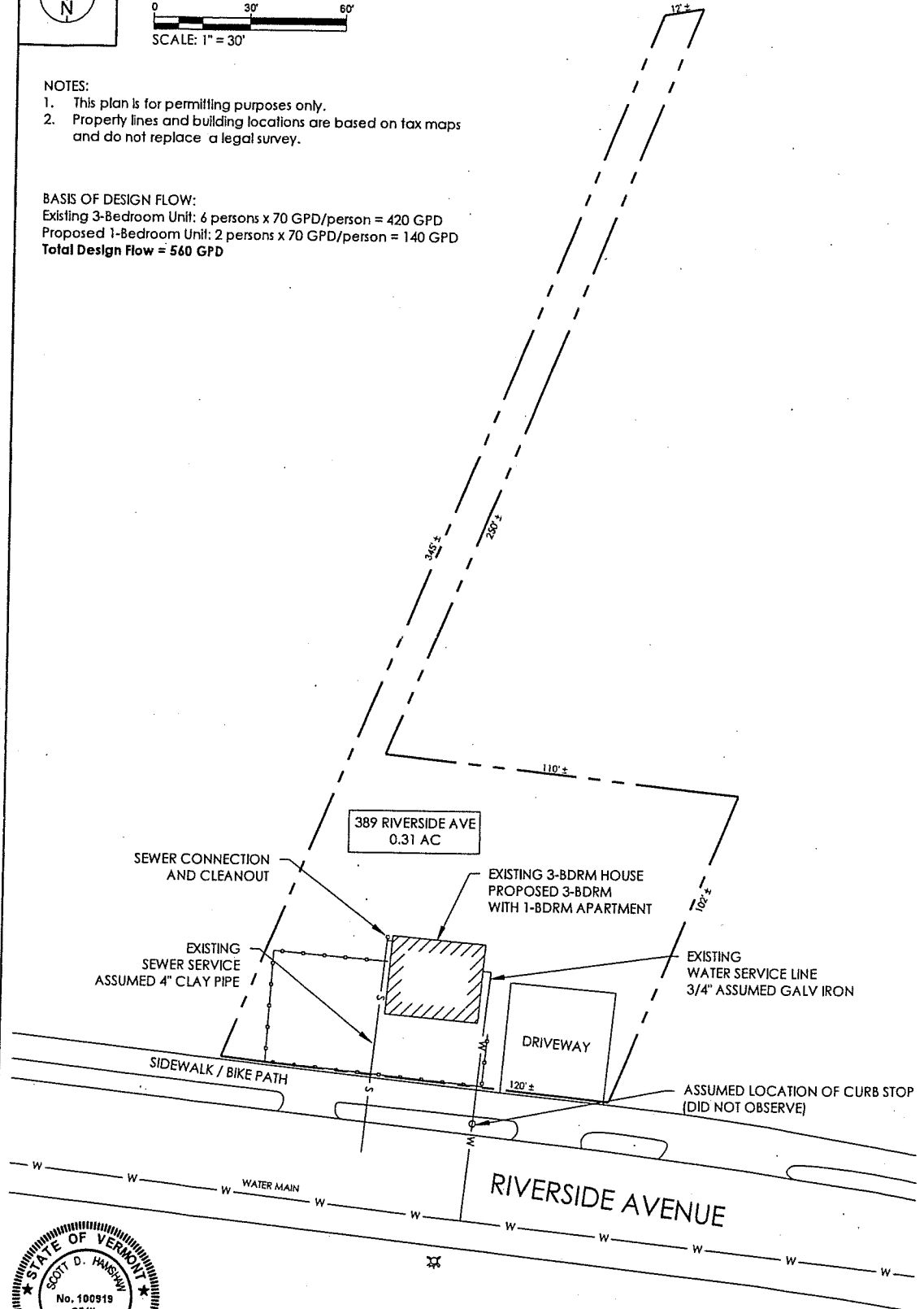


NOTES:

1. This plan is for permitting purposes only.
2. Property lines and building locations are based on tax maps and do not replace a legal survey.

BASIS OF DESIGN FLOW:

Existing 3-Bedroom Unit: 6 persons x 70 GPD/person = 420 GPD
 Proposed 1-Bedroom Unit: 2 persons x 70 GPD/person = 140 GPD
Total Design Flow = 560 GPD



Scott D. Hamshaw, P.E.
 15 Maple Street
 Bristol, Vermont 05443
 (802) 324-4221
 scott.hamshaw@gmail.com

389 RIVERSIDE AVE

BURLINGTON, VERMONT

**SITE PLAN
 WATER/WASTEWATER**

Drawn By: SDH Checked By: SDH
 Date: JAN. 7, 2018 Scale: 1" = 30'

Sheet:

C1

of 1

Job Number:

12/2/2019

Gmail - URGENT -389 Riverside Avenue -

Attachment



Qb Vermont <qbvermont@gmail.com>

URGENT -389 Riverside Avenue -

2 messages

William Ward <wward@burlingtonvt.gov>

Fri, Nov 30, 2018 at 5:32

To: "qbvermont@gmail.com" <qbvermont@gmail.com>

Thank you for calling us right back regarding this urgent matter. My contact information is below if you need to reach me this weekend.

We appreciate your agreement to stop any current work and make sure no additional materials get added. Let me know when you have notified the tenants to keep off the newly placed soil. I will also check the site over the weekend to see that caution tape or a similar barrier remains in place once you are able to set that up.

We will follow up next week on the next steps.

Thank you.

Bill

Bill Ward

Director of Code Enforcement

654 Pine Street

Burlington, VT 05401

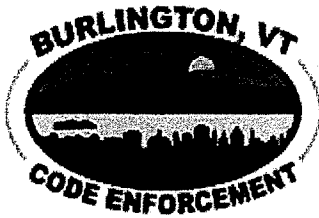
(802) 865-7510 -Office

(802) 881-4696 -Cell

12/2/2019

Gmail - URGENT -389 Riverside Avenue -

Attachment



Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Qb Vermont <qbvermont@gmail.com>
To: William Ward <wward@burlingtonvt.gov>

Mon, Dec 3, 2018 at 11:29

Hi Bill:

Thanks for your email and it was nice to talk to you over the phone last Friday.

Following our conversation, I (1) informed the person who dumped the material there do not dump anything there any more (he dumped a very small amount once a while in the fall but dumped a significant amount last week and I did not know when and how much he dumped there), (2) informed my tenants to keep out of that area, and (3) placed the yellow caution tape there Saturday afternoon.

As I said over the phone, I am more concerned than the city about that area of my property and will check that area every week. When it is warm enough in the spring, I will check if I should plant grass and/or trees to cover the slope.

Thanks and please let me know if you have any questions or suggestions.

Qingbin Wang
[Quoted text hidden]

2 attachments

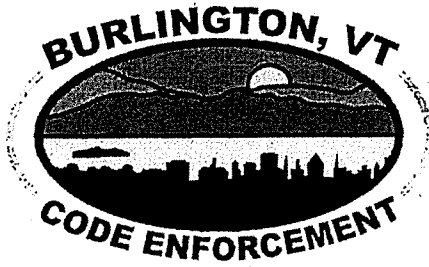


image003.png
20K



image003.png
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Attachment 5



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849

Burlington, VT 05402-0849

VOICE (802) 863-0442

FAX: (802) 652-4221

December 4, 2018

QINGBING WANG
72 EAST TER
SOUTH BURLINGTON VT 05403

RE: 389 Riverside Avenue Burlington, Vermont

Dear Owners,

According to our records, you are the owner of record of the above-referenced property. This letter is to inform you that the Code Enforcement Office has received the following complaint(s) regarding this property:

- **Grade change with fill without Zoning Approval**

Our office has initiated an investigation regarding the complaint(s), however, as of this date; a final determination has not been made. Should you have any information or explanation that you believe will be useful to us during our investigation, please submit it to the Code Enforcement Office, **in written form, within the next ten (10) business days**.

Please note, while any information from you as the property owner is useful, the investigation will occur with or without the information. This letter is intended to give you notice of the alleged complaint(s) against your property and provide you an opportunity to explain the condition and/or refute the allegation prior to a formal determination being issued.

Should you have questions, please don't hesitate to call me at 863-0442.

Sincerely,

William Ward, Director of Code Enforcement

12/4/2019

Gmail - 389 Riverside Ave

Attachment 6



Qb Vermont <qbvermont@gmail.co

389 Riverside Ave

3 messages

Theodore Miles <TMiles@burlingtonvt.gov>

Fri, Oct 18, 2019 at 10:04

To: "qbvermont@gmail.com" <qbvermont@gmail.com>

Cc: William Ward <wward@burlingtonvt.gov>, Scott Gustin <SGustin@burlingtonvt.gov>

Norm Baldwin <nbaldwin@burlingtonvt.gov>

Sir,

Evidence shows that material continues to be dumped over the embankment at this property. You are hereby ordered to cease from dumping any further material over the embankment at this property until you have obtained the required Zoning permit and an erosion control permit from the Department of Public works.

A zoning permit may be obtained from the Zoning Department at City Hall. Any further dumping of materials without the proper permits will result in a zoning violation with fees.

Thank you for your cooperation,

Ted Miles

Department of Permitting and Inspection

City of Burlington, Vermont

(802)863-0442

(802)864-8518

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Attachment 7

Qb Vermont <qbvermont@gmail.com>

Fri, Oct 18, 2019 at 11:17

To: Theodore Miles <TMiles@burlingtonvt.gov>

Cc: William Ward <wward@burlingtonvt.gov>, Scott Gustin <SGustin@burlingtonvt.gov>

Norm Baldwin <nbaldwin@burlingtonvt.gov>

Hi Ted:

Thanks for your email.

I have not paid anyone to dump material there since a phone conversation with your office in the end of November or early December in 2018. I did notice two or three times that some small amounts were dumped there since early this summer and that could be a mistake by someone who was dumping material to the neighbor's property. I will place a sign there this weekend to say that "no dumping of any materials is allowed".

As I told the city last time, trash and appliances were dumped to the back of the property for so many years before I purchased the property and I paid more than \$1000 to move away the broken appliances in 2017.

Thanks again and have a nice weekend,

Qingbin Wang

[Quoted text hidden]



Department of Permitting & Inspections

Zoning Division
149 Church Street
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Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



TO: Development Review Board
FROM: Ryan Morrison
DATE: February 4, 2020
RE: 20-0577CA; 21-25 Grant Street

=====

The applicant has withdrawn this application.

Burlington Development Review Board

645 Pine Street, Burlington Permitting & Inspections
Burlington, VT 05401

www.burlingtonvt.gov/DPI/DRB

Telephone: (802) 865-7188

Fax (802) 863-0466

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Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday February 4th 2020, 5:00 PM

Contois Auditorium, City Hall

149 Church Street, Burlington, VT

Agenda

I. Agenda

II. Communications

III. Minutes

IV. Consent

1. 20-0577CA; 21-25 Grant Street (RH, Ward 2C) Alan Perry

Change from four residential units to five residential units. Project includes a request for a 1-space parking waiver (Project Manager: Ryan Morrison)

V. Public Hearing

1. 20-0573CU; 260 South Union (RL, Ward 6S) Marc Jacobs

Establish 1-bedroom bed and breakfast (short-term rental) (Project Manager: Scott Gustin)

2. 20-0559AP; 389 Riverside Avenue (NAC-R, Ward 1E) Quigbin Wang

Appeal of Notice of Violation #364420, regarding unpermitted fill and grading change (Project Manager: Ted Miles)

VI. Other Business

1. 20-0579AP/20-0580AP; 180/266 Queen City Park Road (ELM, Ward 5S)

Property owner: Burton Corporation

Appellant: City of South Burlington

Resolution of appeal of zoning permits 20-0493CA & 20-0514CA relative to site changes (Project Manager: Scott Gustin)

VII. Adjournment

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Printed on 100% Recycled Paper

committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.



Department of Permitting and Inspections

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

VOICE (802) 863-0442

FAX: (802) 652-4221

TO: Development Review Board

From: Ted Miles,
Department of Permitting and Inspections

Date: December 12, 2019

RE: Report on **Appeal #20-0559AP**; Appeal of an Administrative Officer's Zoning Notice of Violation (ZV #364420) issued on November 20, 2019, for grade change with fill without zoning approval for the property at 389 Riverside Ave, Burlington, Vermont.

Note: This is the staff report; decisions are made by the Development Review Board, which may overturn or uphold the Zoning Administrator's Decision. **THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Location: 389 Riverside Ave, Burlington, Vermont

Tax Lot # 040-4-026-000

Appellant: Qingbin Wang

Representative: Qingbin Wang

Applicable Regulations: CDO Articles 2, 3, 4, 5, 12 and 24 VSA §4451

Appeal # 20-0559AP filed on December 6, 2019.

Violation:

- **Grade change with Fill without Zoning Approval**

This property is in a Neighborhood Activity Center- Riverside Ave and RCO-Conservation zoning district. The building is a Residential Duplex building. (CDO) Section 4.4.5 (d) (5) (c)

Fill has been added at the parking area and over the embankment. Appellant does not dispute that fill has been added over the embankment of the property. In appellants response he has stated that fill has been added at least four different times over the past year, therefore, the notice of violation was proper and should be upheld.

Enforcement Timeline

1. December 2018. Zoning complaint received about materials being placed over the embankment at the driveway area. Warning letter sent to owner that a complaint was filed on the property about fill being added without a zoning permit.
2. October 8, 2019. Second complaint received by a citizen notifying the department about the ground cracking at the top of the embankment at 365, 389 and 411 Riverside Avenue.
3. October 18, 2019. Email sent to owner about materials that continue to be dumped over the embankment near the driveway. Owner responded that he has not allowed any dumping at the property. but acknowledges that two or three times small amounts were dumped there since early this summer.
4. November 1, 2019. Rain storm from the previous evening washed out a segment of the embankment between 365 and 389 Riverside with the majority of failure on the 365 Riverside Ave.
5. November 21, 2019. A Notice of Violation was mailed to the property owner for fill added without a zoning permit.
6. December 6, 2019. Received appeal of Notice of Violation for materials dumped over the embankment without a zoning permit.

Background Information:

- Built 1942 as a single family home. Building is NOT listed on State historic registry.
- Zoning Permit applied for on April 16, 2008 to remove small building and convert to green space. The approved site plan also notes "Install fill in slope failure" Three bedroom house to remain.
- Mr. Wang purchased the property in December 2016.
- Zoning permit applied to convert the single family home to a duplex. Final Unified Certificate of Occupancy Issued on March 13, 2008
- Neighborhood Activity Center- Riverside Ave and RCO-C Zones, Ward 1E

Response To Appellant's Claims:

Appellant has acknowledged that fill has been added several times this past year after having received the notice of the complaint. It is acknowledged that the owner may not have given permission or hired someone to dump materials over the embankment,

however, the owner is responsible for any actions on his property and has not taken sufficient steps to prevent further dumping after the notice.

Cracks have developed at the top of the embankment which indicate a potential slope failure in the future and needs to be addressed in a preventative measure before failure occurs.

Summary:

The CDO 6.2.2 states:

(b) *Topographical Alterations:* Alteration to the natural contour of the site shall minimize grading, cut, and fill, and shall take necessary measures to protect against erosion and future instability. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. In areas where more intense levels of development are encouraged, development should seek to take advantage of topographical changes to hide and/or blend new construction into the landscape. Proposed design and construction details for any cut and fill, or retaining walls over 3-feet in height, or any height along the lakeshore, shall be subject to review and approval by the city engineer before receiving approval of the site plan.

Conclusion:

The Assistant Zoning Administrative Officer for Code Compliance/Enforcement hereby requests the Development Review Board uphold ZV#364420 as valid. The following stipulations are recommended:

1. Obtain a zoning permit for the fill that has already been added and obtain a zoning permit if any fill is to be added in the future.
2. Hire a geotechnical engineer for a study of the embankment and have the City Engineer review the recommendations before any other work is done to stabilize the embankment.
3. Obtain an Erosion Prevention and Sediment Control plan approval from the Department of Public Works, Storm water division.

Burlington Development Review Board

645 Pine Street, Burlington Permitting & Inspections
Burlington, VT 05401

www.burlingtonvt.gov/DPI/DRB

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Brad Rabinowitz

AJ LaRosa

Springer Harris

Geoff Hand

Zoraya Hightower

Brooks McArthur

Kienan Christianson

Sean McKenzie, (Alternate)

Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday February 4th 2020, 5:00 PM

Contois Auditorium, City Hall

149 Church Street, Burlington, VT

Minutes

Board Members Present: Brad Rabinowitz, AJ LaRosa, Brooks McArthur, Springer Harris, Kienan Christianson, Ravi Venkataraman (Alt)

Board Members Absent: Zoraya Hightower, Geoff Hand, Sean McKenzie (Alt)

Staff Present: Scott Gustin, Alison Davis

I. Agenda

B. Rabinowitz: 21-25 Grant Street withdrew their application. 260 South Union withdrew their application

S. Gustin: Other Business item on agenda is a deliberative item that the Board needs to finish

II. Communications

No additional communications.

III. Minutes

B. Rabinowitz: Will review minutes from January 22 during deliberation

IV. Consent

1. 20-0577CA; 21-25 Grant Street (RH, Ward 2C) Alan Perry

Change from four residential units to five residential units. Project includes a request for a 1-space parking waiver (Project Manager: Ryan Morrison)

Withdrawn by applicant.

V. Public Hearing

1. 20-0573CU; 260 South Union (RL, Ward 6S) Marc Jacobs

Establish 1-bedroom bed and breakfast (short-term rental) (Project Manager: Scott Gustin)

Withdrawn by applicant.

2. 20-0559AP; 389 Riverside Avenue (NAC-R, Ward 1E) Quigbin Wang

Appeal of Notice of Violation #364420, regarding unpermitted fill and grading change (Project Manager: Ted Miles)

Appellant, Quigbin Wang, failed to appear on behalf of appeal

B. Rabinowitz: Opens public hearing

T. Miles: Explains complaint from Nov 2018. Warning letter sent Dec 2018 about fill being placed. Oct 2019, an email was sent to Department complaining about fill being dumped on properties on Riverside Avenue. Issue involved three different properties, 365, 389, and 411 Riverside Ave. 365 and 411 responded to the letters by applying for the permits as requested. Owner of 389 filed an appeal of the violation. Walks Board through photos.

AJ LaRosa: Asks for opinion if fill was being dumped by property owner or someone else

T. Miles: Clarifies that owner had conversations that dumping happened several times over the summer, but did not give permission for someone to do it. After the first time, it is the owner's responsibility to stop it from continuing to happen

B. Rabinowitz: Asks if this dumping was different than the violations of the other two properties initially involved

T. Miles: Those instances of dumping were by the owners. 365 and 411 Riverside Ave hired a geotechnical engineer and the City's engineer, to do work there.

K. Christianson: Asks if the applicant has raised any objections to the recommendations

T. Miles: Confirms applicant has not raised concerns. Explains that because of the illegal dumping, there is cracking at the embankment, creating a stress. Recommends doing nothing with it until consulting a geotechnical engineer.

S. Harris: Asks about definition for dumping. What purpose was the dumping for?

T. Miles: Mix of materials, garbage, brick, metal, concrete, dirt/soil. Combination of things, not household trash

S. Harris: Confirms the dumping was not to remedy a property issue

T. Miles: Could have been for bank stabilization, but can have adverse effects if done incorrectly, which happened here

Paul Bierman provided public testimony

P. Bierman: Explains history of observing properties on walks to work. Noticed new fill and ground cracks at a property, continued to document property on walks home. One or two additional filling events over the summer. Appears that fill had been graded, needed earth-moving equipment to grade this fill. Explains landslide hazards and future risks involved with Riverside Avenue. Dangerous place to have buildings and people

B. Rabinowitz: Asks how much of the property goes down the bank

T. Miles: Property line is close to the river's edge

B. Rabinowitz: Asks if property owners should be responsible for such fragile geology

T. Miles: Shared interest, which is why the City is involved to find a solution. Will affect the City as well as the property owners

P. Bierman: Explains history of landslides on Riverside Ave. History of instability

B. Rabinowitz: Closes public hearing

VI. Other Business

1. 20-0579AP/20-0580AP; 180/266 Queen City Park Road (ELM, Ward 5S)

Property owner: Burton Corporation

Appellant: City of South Burlington

Resolution of appeal of zoning permits 20-0493CA & 20-0514CA relative to site

S. Gustin: Explains appeal by the City of South Burlington. Conditionally withdrawn based on acceptance of a condition reflecting a revised plan. Board needs to act on including that condition in the permit

B. Rabinowitz: Clarifies it is for the relocation of a curb cut to keep within the City of Burlington

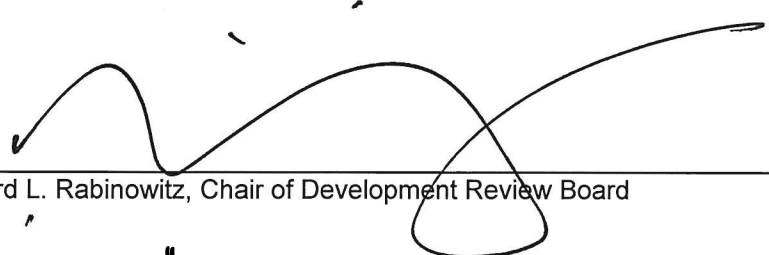
AJ LaRosa: Motion to adopt condition A, of B. Dunkiel's Jan 22, 2020 email, into Board's approval

S. Harris: Seconds motion

B. Rabinowitz: Clarifies that this agenda item was addressed last meeting, but was revised to reflect the conditions

VII. Adjournment

Meeting adjourned at 5:30 pm



Bradford L. Rabinowitz, Chair of Development Review Board
Date 2/19/20



Alison Davis, Zoning Clerk
Date _____

Plans may be viewed at the Department of Permitting & Inspections, (645 Pine 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 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.

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