

# **CITY OF RUTLAND, VERMONT**

## **Development Review Board Minutes**

### **Wednesday August 15, 2018**

Development Review Board Members: Stephanie A. Lorentz, Al Paul, Jim Pell, Steve Wilk and Mike McClallen.

This hearing was preceded by a site visit. The site visit was attended by:

- Joseph Giancola
- Stacy Sturtevant
- Mark Brown
- Jacob Sherman
- ZA Kelly
- DRB members: Lorentz, McClallen, Pell and Wilk

Those present were able to view the interior of the building including two residential units and all of the commercial tenant spaces.

Members present for the hearing: Lorentz, McClallen (Chair), Paul, Pell and Wilk. Also present, Zoning Administrator Tara Kelly.

At 6:17 PM Chair McClallen called to order the hearing to consider two applications related to 41 East Center Street (known as the Dana Center) located within the Mixed Residential-1 district. The first application is for a Variance to allow a day care of up to 82 children at the site. The second application is a Conditional Use permit to allow tenants falling into the following categories: Office Space, Community Facilities, Clubs/Lodge, Church Uses and School / Daycare uses.

Chair McClallen explained the DRB hearing process and that participation in the hearing was a prerequisite to the right to appeal. He explained the DRB would review and discuss both applications, but would take testimony on one application at a time. Anyone wishing to participate in either application should participate in the swearing in. He then swore in the applicants: Joseph Giancola and Stacy Sturtevant as well as the following members of the public:

- Jennifer Sanford of 48 Terrill St
- Mark Brown of 48 East Center St
- Andrew Perry of 42 East Center St
- Jake Sherman of 48 Morse Place

Mr. Giancola began by explaining the proposed day care. He explained the proposed day care would use 4 classroom spaces within the building. The operation is requesting to have a maximum of 82 children. The applicant stated there is a need for day care in Rutland, particularly as some are being closed down by the State since they lack the requirements to be licensed. The new day care would share the outdoor playground space with the existing day care.

Chair McClallen asked Mr. Giancola to review the responses provided by the applicant with respect to how this proposal meets the criteria for a Variance. Mr. Giancola reviewed the information submitted

with the packet. He emphasized that this is a positive re-use of a building that is not well-suited to many other uses, and added a day care would be good for the city residents and good for the tax base.

Ms. Sturtevant, who would be the owner of the proposed day care, is in the process of seeking a license from the State for this space. She has a Director who has a master's degree. This allows her operation to have an unlimited number of children based upon the space, the student to staff ratio, etc. Ms. Sturtevant has 29 years of experience and her director, Cynthia Davis, has 30 years of experience.

Ms. Sturtevant plans to have 15 employees when she opens and would need to increase as children increase. With the proposed 82 children (the maximum the space would allow), she would need up to 25 employees maximum (actual number based on ratios required by State).

DRB member asked about the maximum number of children and staff if both the existing day care and this newer one were at full operation. Mr. Giancola stated there would be 178 children and 55 employees, if everyone were on-site at the same time. Ms. Sturtevant said she would have 10 full-time employees with additional part-time employees to cover for vacations, sickness etc. Chair McClallen pointed out that the site plan shows 56 striped spaces. Mr. Giancola pointed out the church operation is only on Sundays and the apartments have low occupancy with generally only one car per residence. Mr. Giancola also noted there is ample on-street parking on the 2 streets.

Ms. Sturtevant noted that parents would be parking briefly as they pick up and drop off at the door on the west end of the north side of the building. The existing day care uses the door on the east end of the north side of the building (shown as "main access" on the site plan). Ms. Sturtevant said she'd be willing to make it a policy to have employees park in the large lot at the east side of the building to free up spaces closest to the doors. Mr. Giancola said the parking lot would be striped now that the building is coming into fuller occupancy.

Mr. Giancola stated that in terms of traffic circulation the majority of parents are entering on East Street and exiting on East Center St – though some do the opposite. DRB member Lorentz asked about the width of the curb cuts. Mr. Giancola estimated that the East Center Street driveway entrance is around 30 feet and East Street is around 60 feet.

Member Lorentz asked about office space for the proposed day care. Ms. Sturtevant said a small portion of the day care's kitchen area is going to be used for that purpose.

Member Lorentz then asked Mr. Giancola to explain the Conditional Use request. Mr. Giancola explained that given the nature of the multi-use building he is seeking some flexibility for moving various types of tenants in and out of the building without needed a full public hearing each time. This idea was discussed.

Chair McClallen clarified that if the DRB were to consider this request, a range of uses would be granted but a Zoning Permit would be needed each time a tenant was changed so that ZA Kelly could confirm that the new use is in conformance with the Conditional Use permit and that the overall impact of the variety of uses within the building would not have a greater impact to the neighborhood than envisioned by the Conditional Use permit. ZA Kelly explained that she would be evaluating the requests carefully, using best available information and objective data. If she were to grant a permit, it would be posted on the property and be subject to appeal to the DRB for further consideration. Member Lorentz asked Mr. Giancola if he understood and agreed with this process. Mr. Giancola said he understood the

process and would be grateful for the flexibility it would grant him. She further clarified that this process would be needed in order to verify the Conditional Uses already introduced into the building (dance studio and church) which are currently operating without permits. Mr. Giancola understood.

Chair McClallen opened up the floor to members of the public wishing to discuss the Variance application for the second day care. Ms. Sanford explained her property abuts the playground on the north side of the property. She expressed some concern about noise, particularly because she is planning to open a massage space within her home (already permitted) on October 1<sup>st</sup>. She said the existing day care noise is already somewhat bothersome and felt a doubling of the number of children would be even more so. Ms. Sturtevant said the day cares would be coordinating their use of the playground so that the number of children outside at one time would be managed to maintain safety for the kids and appropriate staff ratios. After additional discussion, it was agreed that good communication between Ms. Sanford and the daycare operators would be important with the goal of having sensitivity to limit the amount of “screaming just for the sake of screaming”. Ms. Sturtevant offered to sit down with Ms. Sanford and the current day care operator to discuss further. The number of children allowed on the playground would be limited to available space per State regulations.

Mr. Perry shared a number of observations and concerns with respect to traffic circulation and parking on East Center Street. He spoke of issues with the street width which can be problematic when school buses are dropping off. He said the street operated better when it was one-way. He understood his concerns were outside of the purview of the DRB, but asked that given the development at Dana that the concerns be shared with the Traffic Safety for consideration. He did not have any major concerns with respect to the proposed uses of the building but was generally concerned about parking impacts along the road if the demand exceeded the parking available in the lot.

Chair McClallen turned the focus of the hearing toward the Conditional Use application. He restated that this application is for the DRB to review a category of Conditional Uses and, if deemed to meet the criteria for Conditional Uses in this neighborhood, issue a decision that would allow future tenants to be permitted via a Zoning Permit. This process would allow for neighborhood residents to appeal decisions of the Zoning Administrator for further review by the DRB, if they disagreed with the Zoning Administrator’s decision to issue a permit. Furthermore, if the application was deemed by the Zoning Administrator to be outside of the Conditional Use decision issued by the DRB, then the application would need to go to the DRB for consideration.

Chair McClallen shared a list of typical uses Mr. Giancola submitted to clarify the types of tenants he is considering within the general use categories requested. The types of uses were discussed with respect to the size and scale of operations. He pointed out that the list included Specialty Shop or Store. This use would not fit in the Conditional Use categories requested, so would need to be the subject of a different DRB hearing in the future if it were to be requested.

Member Lorentz asked about the commercial kitchen. Mr. Giancola clarified it was for use by tenants, such as the church, for catering meals to their members or for special events held by the church. Chair McClallen also clarified that the coin-op laundry was for use by tenants only, not the general public. Mr. Giancola agreed.

Member Paul asked about the internet office to better understand that use. Mr. Giancola described it as a call center, people in the office on the phone. Not a fulfillment center with shipping from on-site.

Some discussion ensued about the small manufacturing uses and what the limits of those types of operations would be. Mr. Giancola said they would be small 1-2 person shops making items for sale off-site. Mr. Giancola said this type of small space was in demand for start-up operations. Several comments were made about noise levels. Chair McClallen noted that the noise level and deliveries would be two considerations when considering and approving uses. Mr. Giancola agreed and said that having residents in the building and having this building within the neighborhood would make it inappropriate for anything too intense or noisy.

Chair McClallen opened up the floor for any comments from the public. Mr. Brown asked about special events held by the church and wondered if a permit would be needed. ZA Kelly clarified that would not need a Zoning Permit but may need a special event permit or some other permit if triggered. Mr. Perry expressed concern about the "small manufacturing" category because maybe a small operation would be fine, but he is concerned that if an operation grew it might have an impact it didn't initially. He wondered how this would be managed since he thinks it could be difficult to get a use out once it is in. Ms. Sanford wondered how she would be notified if the day care operators changed so she would know who to communicate with about any issues with the playground.

Chair McClallen explained the decision-making process and subsequent appeal rights, including applicable times per State Statute.

The hearing was adjourned at 7:33 PM.

Respectfully submitted,  
**Tara Kelly**  
**Development Review Board Clerk**