

Department of Planning and Zoning

149 Church Street

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: October 16, 2018
RE: ZP19-0167CA / AP 158 North Willard Street

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

Project Number: ZP18-0167CA/AP

Zone: RL **Ward:** 1E

Date application accepted: August 22, 2018

Date of Decision: August 29, 2018

Date of Appeal: September 12, 2018

Applicant/ Owner: Joseph and Teresa Cleary

Appellant: Luke Purvis

Request: Expand living space into north porch. Site plan and coverage calculation corrected as more driveway removed from site plan of ZP12-0277CA.

Background:

- **Zoning Permit 16-0440FC;** installation of wooden stockade fence. October 2015.
- **Zoning Permit 13-0606CA,** replace 24 wood double hung windows; replace 1 wood awning window. December 2012.
- **Zoning Permit 12-0277CA;** Add wood deck, remove portion of driveway.
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Overview: The applicants at 158 North Willard Street applied to enclose a north porch to allow a bathroom expansion. As an open porch is a "bonus" allowance for coverage under **Section 4.4.5 (d) 3 A. (Exceptions for Accessory Residential Features)** the applicants were challenged to remove the equivalent area from elsewhere on the site. Examination of the site plan approved under ZP12-0277CA revealed that more pavement had been removed from the driveway than was captured on that approved site plan. For purposes of correcting that plan so as to allow issuance of a Certificate of Occupancy, and to remove sufficient "base" coverage to allow enclosure of the north porch, the applicants submitted a revised, corrected site plan to accompany this application, which was approved administratively August 29, 2018.

At issue is the neighbor's assertion that an easement area, on the northeasterly corner of 158 North Willard Street and as depicted in the approved site plan of ZP12-0277CA (unappealed)

and this permit is not green space but, in fact, gravel. 164 North Willard Street holds an easement for *ingress and egress and other lawful purpose*.

The appeal follows a continuing dispute in Superior Court over a prior Board decision regarding parking in the area adjacent to the easement area.

The easement was created in 1983.

Mr. and Mrs. Cleary purchased 158 North Willard Street July 2, 2012.

Luke Purvis acquired 164 North Willard Street July 17, 2013.

Recommended motion: Deny the appeal and uphold the administrative approval, per the following findings:

I. Findings

Article 3: Applications, Permits and Project Reviews

Section 3.1.2 Zoning Permit Required

(a) Exterior work

2. Alterations to building elevations/appearances

5. Alterations, changes, or modifications to building lots or sites related to site improvements including, but not limited to, increased lot coverage.

(b) Interior work

1. Increase in habitable living space (including, but not limited to, attic, bedroom, basement, garage, and winterizing or otherwise enclosing a porch).

The request to enclose approximately 24 sf. of a porch will require a zoning permit, which the applicant has sought. **Affirmative finding.**

Section 3.2.1 Pre-Application Conference

The applicants met with staff prior to filing their zoning permit application. **Affirmative finding. Affirmative finding.**

Section 3.2.7 Administrative Review and Approval

(a) Administrative Authority

Staff administratively reviewed and approved the COA Level I application. **Affirmative finding.**

Article 4: Zoning Maps and Districts

Table 4.4.5-3 Residential District Dimensional Standards

Coverage in the RL zoning district is limited to 35%, with an additional 10% “bonus” for open amenities as identified under:

4.4.5 (d) 3. Lot Coverage A. Exceptions for Accessory Residential Features.

In the RL, RL-W, RM and RM-W districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to

residential uses provided that such features shall at no time be enclosed or be used for parking:

(i) Decks;

(ii) Patios;

(iii) Porches;

(iv) Terraces;

(v) Tennis or other outdoor game courts;

(vi) Swimming pools and swimming pool aprons;

(vii) Walkways;

(viii) Window Wells; and/or

(ix) Pervious pavement designed and maintained to infiltrate the 1-year/24- hour storm event onsite, subject to review and approval by the Stormwater Administrator.

The remaining open porch on the north elevation of 158 North Willard Street was proposed to be enclosed to expand a bathroom. Enclosing 24 sf of an open porch would cut into that “bonus” allowance, so an equal or greater amount of “base” coverage (within the 35%) had to be removed to comply with these standards.

The last approved site plan for 158 North Willard Street was ZP12-0277CA which provided coverage at 44.78%. The applicant noted that more driveway had been removed than illustrated in the site plan for ZP12-0277CA, so a revised site plan was submitted reflecting those changes. A recalculation of coverage defined an adequate removal of “base” coverage sufficient to compensate for the 24 sf of new enclosure. The new coverage calculation as approved is 43.44%; under the 45% maximum for the zoning district with bonus allowances.

On both the ZP12-0277CA permit and ZP19-0167CA, the easement area is identified, but “green” and not contributing to the coverage calculation. The 12-0277CA permit was issued September 6, 2011 and was not appealed.

Affirmative finding for coverage.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

Not applicable.

Section 5.2.2 Required Frontage or Access

158 North Willard Street has access onto a public street. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

Not applicable.

Section 5.2.5 Setbacks

Not applicable.

Section 5.2.6 Building Height Limits

Not applicable.

Section 5.2.7 Density and Intensity of Development Calculations

Not applicable.

Part 3: Non Conformities

Although the lot is non-conforming to minimum lot size in the RL zoning district (5,600, versus 6,000), it has no bearing on this application to enclose a porch. Not applicable.

Sec. 5.4.8 Historic Buildings and Sites

158 North Willard Street is listed on the Vermont State Register of Historic Resources.

(b) Standards and Guidelines:

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

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

The structure was constructed c. 1922 as a residence; a use that continues.

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

The historic character will be retained and preserved. The enclosure of a small area on a secondary façade will not substantively alter features, spaces or spatial relationships that characterize the property.

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

No conjectural elements or features are proposed. The original side porch has obviously been enclosed in sections which is evident in the incremental sections of the siding. The component no longer provides access to the interior and remains a small appendage on the north façade of the building.

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

Not applicable.

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

The owners plan to replicate the sheathing of the original house on the new enclosure.

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

The project is not the result of deterioration or neglect.

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

Not applicable.

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

Not applicable.

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

The proposed small enclosure will follow suit of previous expansion; while not creating any new footprint, capturing a little more living area on a secondary façade. The building will continue to “read” the same with no change to size, scale or proportion.

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

It is quite possible to consider this alteration reversible. **Affirmative finding to all standards.**

Article 6: Development Review Standards

Section 6.1.2 Review Standards

Part I Land Division Standards

Not applicable.

Part 2: Site Plan Design Standards
Section 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

Not applicable.

(c) Protection of Important Public Views:

Not applicable.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

No part of this project will preclude the use of wind, water, solar, geothermal or other renewable energy resource.

Affirmative finding.

(f) Brownfield Sites:

Not applicable.

(g) Provide for nature's events:

Not applicable.

(h) Building Location and Orientation:

Not applicable.

(i) Vehicular Access:

Not applicable.

(j) Pedestrian Access:

The north porch no longer has entry access to the interior due to previous enclosure. For that reason, there is no pedestrian access here. Not applicable.

(k) Accessibility for the Handicapped:

Not applicable.

(l) Parking and Circulation:

There is adequate parking to meet the two parking space requirement in the driveway and/or garage. **Affirmative finding.**

(m) Landscaping, Fences and Retaining Walls:

Not applicable.

(n) Public Plazas and Open Space:

Not applicable.

(o) Outdoor Lighting:

Not applicable.

(p) Integrate infrastructure into the design:

Not applicable.

Part 3: Architectural Design Standards

Section 6.3.2 Review Standards

(a) Relate development to its environment:

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity.

The following shall be considered:

1. Massing, Height and Scale:

The proposed enclosure of a 6' x 4' section of porch on the north elevation will not adversely impact the massing, height and scale of the existing dwelling. **Affirmative finding.**

2. Roofs and Rooflines.

No change is proposed to the existing porch roofline. Not applicable.

3. Building Openings

The existing window will be moved to the front of the new enclosure, retaining the same visual qualities as viewed from the street. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

See Section 5.4.8, above.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

As the existing window will be moved forward, the appearance from the street will remain almost the same as at present. **Affirmative finding.**

(e) Quality of materials:

The applicants propose to match the existing materials on the new enclosure. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

(g) Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

Not applicable.

(i) Make spaces secure and safe:

All construction shall meet applicable building and life safety code as defined by the building inspector and/or fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

The corrected site plan demonstrates that despite removal of some driveway pavement, there continues to be two tandem parking spaces for the existing single family home in the Neighborhood Parking District; conforming to Table 8.1.8-1. **Affirmative finding.**

Article 12: Variances and Appeals

Section 12.2.2 Appeals of Administrative Officer Decisions

(a) Notice of Appeal

The appellant submitted his appeal within 15 days of the date of decision, and is therefore timely. **Affirmative finding.**

Section 12.2.5 Finality

Upon the failure of any interested person to appeal to the DRB or to the environmental court, all interested persons affected shall be bound by such decision or act of such administrative officer, such provisions or such decisions of the DRB, as the case may be, and shall not thereafter

contest, either directly or indirectly, such decision or act, such provision, or such decision in any proceeding, including without limitation, any proceeding brought to enforce this ordinance.

The site plan submitted with ZP12-0277CA defined conditions at 158 North Willard Street, including green space at the site of the easement area. The permit was approved September 6, 2011 and was not appealed. That site plan is therefore final, and may be utilized to inform future project reviews. Staff rightly consulted this approved plan in assessing coverage for ZP19-0167CA. An appeal based on the validity of the 2011 site plan is therefore without basis.

Affirmative finding.

II. Conditions of Approval

1. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
2. All construction shall meet applicable building and life safety code as defined by the building inspector and/or fire marshal.
3. Standard Permit Conditions 1-15.

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