

Department of Planning and Zoning

149 Church Street
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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, CFM, Associate Planner
Date: November 15, 2016
RE: ZP16-1441CA 112 Church Street

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

File: ZP16-1441CA

Location: 112 Church Street

Zone: D Ward: 3C

Date application accepted: October 17, 2016.

Applicant/ Owner: Jeff Berger / E.H. Berger Trust

Request: Appeal of administrative denial for replacement windows on 2nd and 3rd floor of front facade.

Background:

- **Zoning Permit 16-1441CA;** Replace second and third floor windows on front facade. Denied October 13, 2016. (Focus of appeal)
- **Non-Applicability of Zoning Permit Requirements 15-0742NA;** Interior renovations only. Approved September, 2015.
- **Zoning Permit 95-277;** Façade renovations to the existing retail space with two residential units on the second and third floors. Approved January 26, 1995.
- **Zoning Permit 95-197;** Installation of non-illuminated parallel signs, across the existing sign band of the retail space, measuring 5' x 2', plus individual letters at either end. Approved November 1, 1994.
- **Zoning Permit 94-301;** Change of use from retail storage to retail (1500 sf) in the basement of the existing mixed use (residential and retail) building. Proposal includes the installation of an access door on the front elevation. Approved February 24, 1994.
- **Zoning Permit 94-273;** Change of use from retail to a residential unit on the second floor of the mixed use structure (retail on first floor, residential on third). No exterior changes proposed. Approved January 4, 1994.

- **Zoning Permit 94-167;** Installation of parallel sign, measuring 2' x 23'6" on front façade of existing retail space. Application includes removal of existing awning. Approved October 5, 1993.
- **Zoning Permit 92-306;** Change of use from office to one residential unit on third floor. Retail remaining on first and second floors. No exterior changes. Approved April 21, 1992.

The **Design Advisory Board** reviewed ZP16-1441CA at their September 13, 2016 meeting. The DAB recommended denial of the proposed double hung replacement windows. A recommendation of approval was made by the DAB for casement or awning style windows, with dark, horizontal muntins that could simulate the appearance of the existing jalousie windows. According to the DAB vice-chair, the biggest reason why double hung windows should not be approved is because the upper and lower sash are in different planes. And the center (horizontal) line (dividing bar) between the two sashes would be thicker than the muntin lines. Overall, in the vice-chair's opinion, it would look like a poor attempt at copying the original windows. Also, double hung windows are more closely associated with residential construction, and even though the current use is residential (in the 2nd and 3rd floors), the original uses of those floors were for office/commercial uses. The windows are (were) very important to the unique character of the building.

Three pairs of double hung windows and one pair of louvered jalousie windows currently exist on the 2nd and 3rd floor façade of the building. The building's listing in the National Register of Historic Places notes that these windows were originally louvered jalousies. Photographs from 1984, 1993, 1995 and 2016 show how the windows, with the exception of the south set on the 3rd floor, have changed – without permits. It is important to note the project descriptions of zoning permits 92-306 and 94-273, above. Both are for a change in use to create residential units (2nd and 3rd floors). However, neither proposed any exterior changes. Replacing windows would be considered an exterior change. Additionally, the project description of ZP 95-277 states *“Façade renovations to the existing retail space with two residential units on the second and third floors.”* Note that this permit merely mentions that the second and third floor uses are residential, but that the permit was solely for the façade renovation of the first floor retail space.

This appeal is relative to the administrative denial of double hung windows, and approval of casement or awning windows, with horizontal mullions to replicate jalousie windows.

Recommendation: The building is a contributing resource within the Church Street Historic District, listed on the National Register of Historic Places (see Church Street Historic District nomination #41, attached). The Design Advisory Board recognized the architectural and historic merit of 112 Church Street. The proposed double hung replacement windows to replace louvered jalousie windows was not supported by the DAB. The DAB supported casement or awning replacement windows with horizontal muntins to replicate jalousie windows. The recommendation is to adopt the DAB's recommendation, **upholding the administrative denial** per Articles 5 & 6; and to deny appeal.

I. Findings

ARTICLE 5: CITYWIDE GENERAL STANDARDS

Sec. 5.4.8, Historic Buildings and Sites

(a) Applicability

1. The building is 50 years old or older.

The building at 112 Church Street was constructed in 1961 and is more than 50 years old.

2. The building or site is deemed to possess significance in illustrating or interpreting the heritage of the city, state, or nation in history, architecture, archeology, technology, and culture because on or more of the following conditions is present:

A. Association with events that have made a significant contribution to the broad patterns of history; or,

B. Association with the lives of persons significant in the past; or,

C. Embodiment of distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a significant or distinguishable entity whose components may lack individual distinction; or,

D. Maintenance of an exceptionally high degree of integrity, original site orientation and virtually all character defining elements intact; or,

E. Yielding, or may be likely to yield, information important to prehistory.

The building, “*H. Abraham Store*”, is listed as a ‘contributing’ resource on the National Register of Historic Places. It is a 3-story, two-bay, concrete block, flat-roofed International Style commercial/residential building. It replaced a 3-story block that burned in 1947. The façade features strong vertical elements, with narrow rectangular white plastic panels divided vertically by a black steel frame covering the entire 2nd and 3rd stories. Each of the two bays on the 2nd and 3rd stories contain paired windows separated by narrow steel mullions that are integrated into the black frame and reach from the cornice above to the signboard below. Three pairs of windows have one over one sash, while the south set on the third floor contains a pair of the original louvered jalousie windows. The original 1st floor storefront was altered in 1995 and given a more traditional appearance. It has a central door flanked on each side by three narrow half-length windows set in wood frames, with molded wood panels. Above the door is a wood signboard, sheltered by a ‘boutique’ black fabric canopy. The National Registry notes that despite the building’s younger age, it contributes to the district because its International style façade, with unusual materials, is original to the building.

It is important to note that the Church Street Historic District was written and adopted into the National Register of Historic Places in 2008. The description of the building’s windows is based on what was observed during surveying, which was three pairs of one over one sash and one pair of original louvered jalousie windows. The three pairs of one over one sash windows are not original, nor were they ever permitted.

3. The building or site possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association.

See item 2 above. There have been minimal alterations to the building. Zoning permit history shows that there have been few exterior changes to the building, consisting of 1st floor façade renovations (storefront) in 1995, and a few new and replacement signs. Review under the standards of Sec. 5.4.8 will ensure continued integrity, whereas without it, incremental changes may continue until such integrity is lost.

(b) Standards and Guidelines

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 building at 112 Church Street was constructed for commercial use – with retail on the 1st floor, and office and storage space on the 2nd and 3rd floors. In 1992, a zoning permit was issued to convert the 3rd floor office use into a residential use. And in 1994, a zoning permit was issued to convert the 2nd floor from retail use into a residential use. Interestingly, both of those change of use permits noted that there were no exterior changes proposed. The 1st floor has remained a retail space, and the only exterior changes permitted were to renovate the retail store façade, in 1995.
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.*
Windows are a character defining feature. The removal and replacement will undeniably remove an essential date-specific element of this International Style building.

With the exception of the 2nd and 3rd floor windows, the building at 112 Church Street, a 3-story, two-bay, concrete block, flat-roofed commercial building, has maintained its historic character. The 1995 zoning permit (ZP 95-277) to renovate the front façade saw a slight change to the 1st floor storefront. The full height display windows were changed to the half-height display windows seen today. Much of the historic character of the building remains in spite of alterations (double-hung windows and storefront façade) that have taken place. The 3 pairs of double-hung windows are plainly without applicable permits and not “grandfathered”. To bless the three pairs of double-hung windows and allow replacement with new pairs of double-hung windows, thus removing the last existing pair of louvered jalousie windows, would be a substantial step towards loss of the building’s historic character. Such action would be inconsistent with this standard.

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.*
The building was not designed or constructed with double-hung windows. The removal of original jalousie and replacement with double-hung will introduce features anachronistic to the style.
4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*
No such changes are included in this proposal.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*
The existing double-hung windows are inconsistent with this standard. Allowing them to be replaced with new double-hung windows is equally inconsistent. Replacement of the jalousie windows in this structure with double-hung windows would not have been approved previously, nor should they be approved now. Installation of double-hung windows is inconsistent with this standard and with long-standing precedent for replacement windows.

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 last remaining pair of louvered jalousie windows may be in need of repair since they are approximately 55 years old. Conversations with the applicant revealed that the proposed replacements are not in response to egress requirements. The 2nd and 3rd floor apartments already comply with egress requirements. The three pairs of double-hung windows appear to be in need of repair, or even complete replacement. However, replacing any of the windows with anything other than louvered jalousie windows would result in a loss of historic character.

Precedent for replacing windows under the standards of Sec. 5.4.8 would call for jalousie replacement windows. If there were egress requirements for these windows, then an alternative could be considered after the applicant demonstrated that there are no egress windows that are, or simulate, louvered jalousie windows available. The proposed use of double-hung units is inconsistent with this standard and with precedent.

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.*
No such treatment is included in this proposal.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*
There are no known archeological resources on the property.

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.*

Approval of the proposed double-hung windows would validate the loss of louvered jalousie materials. As such, the proposed work would significantly erode the historic integrity of the building at 112 Church Street. The existing double-hung windows have no permits. Their replacement, as well as the replacement of the last pair of jalousie windows, with new

double-hung windows is to be considered as if the original windows had not yet been replaced. Installation of double-hung windows runs contrary to this criterion.

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.*
See #9 above.

ARTICLE 6: DEVELOPMENT REVIEW STANDARDS

Sec. 6.2.2, Review Standards

(a) Protection of Important Natural Features

Not applicable.

(b) Topographic 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... 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 Sec. 5.4.8(b) above. The building is included in both the National Register of Historic Places (Church Street Historic District) and the Vermont State Register of Historic Places, and as a result, Sec. 5.4.8(b) applies. Application of the principles of Sec. 5.4.8(b) would see that jalousie windows should be retained as character defining features.

(e) Supporting the Use of Renewable Energy Resources

Not applicable.

(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

Not applicable.

(k) Accessibility for the Handicapped

Not applicable.

(l) Parking and Circulation

Not applicable.

(m) Landscaping and Fencing

Not applicable.

(n) Public Plazas and Open Space

Not applicable.

(o) Outdoor Lighting

Not applicable.

(p) Integrate Infrastructure into the Design

Not applicable.

Sec. 6.3.2, Review Standards

(a) Relate Development to its Environment

1. Massing, Height and Scale

Not applicable.

2. Roofs and Rooflines

Not applicable.

3. Building Openings

See Sec. 5.4.8, 6.2.2 (d), and 6.3.2 (b), below.

(b) Protection of Important Architectural Resources

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings 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. See Sec. 5.4.8 above. To allow double-hung windows would be in direct conflict with the intent of this section; which is to protect Burlington's architectural and cultural heritage. The building is included in both the National Register of Historic Places (Church Street Historic District) and the Vermont State Register of Historic Places.

(c) Protection of Important Public Views

Not applicable.

(d) Provide an Active and Inviting Street Edge

Not applicable.

(e) Quality of Materials

Not applicable.

(f) Reduce Energy Utilization

Not applicable.

(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

Not applicable.

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

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

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Church Street Historic District
Burlington, Chittenden County, Vermont

Description (continued)

Machine & Repair Company. For many years, the entire first floor was the home of the Everyday Bookshop. A Yankee Candle retail store is the current tenant.

#40 110 Church Street, (Discovery Channel Store), 1973, Non-contributing

This modern, two-story, four-bay, flat-roofed, concrete block commercial building with gray stucco facade was built in 1973. It replaced a four-story brick commercial block that was torn down after 1960. Below the simple flat-molded cornice is a row of four wide arched windows with metal frames. Each window is composed of an arched section above and a narrow rectangular light below. Separate flat black canopies shelter each window. The asymmetrical store entrance is framed in scored stucco, resembling blocks, with a tubular metal sign above. Large plate glass windows are located to both sides of the entrance; they are sheltered by matching black canopies. The first floor is occupied by the Discovery Channel store and the second floor by a bartending school. The building is Non-contributing due to its age.



#41 112 Church Street, (H. Abraham Store), 1961, Contributing

This small, three-story, two-bay, concrete block, flat-roofed International Style commercial building was built in 1961, to replace a three-story block that burned in June, 1947.⁵¹ The building was designed by architect Benjamin Stein and built by the Pizzigalli Construction Company. Hiram Abraham commissioned the building; he also owned the Art Deco style Sherman' Block/Abraham Building (#69/#70). The facade features strong vertical elements, with narrow rectangular white plastic panels divided vertically by a black steel frame covering the entire second and third stories. The panels are primarily white, with a narrow band of grey running along the width of the building just above each bank of windows. The black vertical frame varies in width, with the narrowest bars on the four central members and the widest on the ends. Each of the two bays on the second and third stories contains paired windows separated by narrow steel mullions that are integrated into the black frame and reach from the cornice above to the signboard below. Three pairs of windows have one over one sash, while the south set on the third floor contains a pair of the original louvered jalousie windows. The cornice is simply capped by a steel bar. The original first floor storefront was altered in 1995⁵² and given a more traditional appearance. It has a central door flanked on each side by three narrow half-length windows set in wood frames, with molded wood panels painted green below them. Above the door is a wood signboard, sheltered by a 'boutique' black fabric canopy.

At the time of its construction in 1961, this was the first new structure built on Church Street in almost a decade. It had several innovative features: an exposed structural steel frame, white

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Description (continued)

plastic panels and louvered windows. One of the first occupants of the building was Cassler's Toys. Lipka's Jewelry store currently occupies the first floor, while the second and third contain office and storage space. Although the building is currently forty-seven years old, it contributes to the district because its International style façade, with unusual materials, is original to the building (as opposed to a modernist style façade applied to an older structure).

#42 114-116 Church Street (Howard National Bank), 1902 and 1941, Contributing

Constructed in 1902 for the Howard National Bank, this Renaissance Revival, three-story, five-by-five-by-one bay granite-faced structure anchors the northeast corner of Church and College Streets. Its most distinctive feature is the light gray-colored granite material used on the walls, cornice and window and door surrounds, giving this large, elegant building a uniform appearance that bespeaks stability and prosperity. There are now five bays along each of the two streets, with an additional corner bay set diagonally at the corner and uniting the two facades. As originally constructed, the building had five bays along College Street, but only two on Church Street. Three additional bays were added in 1941, when the bank acquired the building to the north of 116 Church Street and remodeled its façade to match the existing bays. The Howard National Bank has a flat roof, strong horizontality, and a symmetrical arrangement of features and ornamentation. The projecting cornice is supported by substantial brackets and a plain frieze. The deep-set one over one double-hung sash on the second and third stories have simple, low relief molded surrounds, except for projecting sills on the third story windows and projecting lintels on the second. The second story windows have no sills: they sit on a projecting belt course that demarcates the two upper stories from the ground level.

The street level elevation along Church Street is divided into three wide bays. The two end openings have tall, arched, tripartite windows, with segmental granite moldings, to match those on the College Street elevation. The central bay contains a glass door providing access to the upper floors, with a very large plate glass transom even taller than the door below it. The corner bay contains the primary ground floor entrance, with double wood doors, small transom, a carved granite door surround and entablature with egg and dart molding. A granite wreath with "Howard National Bank, 1902" carved within the cartouche is centered above the entryway. The ground level along College Street contains five bays centered below the second and third story windows. Four bays have arched window lights and granite surrounds. The fifth, easternmost bay has a rectangular doorway with egg and dart molding below a projecting cornice, and an oculus window set within a carved granite wreath above the door.