

## Department of Planning and Zoning

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**TO:** Development Review Board  
**FROM:** Scott Gustin *AS*  
**DATE:** July 5, 2016  
**RE:** 16-1121CA; 45-47 North Champlain Street

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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: RH                      Ward: 3C

Owner/Appellant: Johannah Leddy Donovan / Kenneth Nosek

**Request:** Appeal of administrative zoning permit issued to define driveway and parking spaces with crushed gravel and restore green space.

### **Overview:**

The appellant is contesting issuance of zoning permit 16-1121CA issued to better delineate an existing driveway and to formalize parking behind the residence at 45-47 North Champlain Street. Specifically, the appellant is seeking changes to the permit relative to setbacks, the amount of green space, dimensional accuracy, driveway material, and screening. The appellant is apparently not seeking revocation of the permit.

The subject property contains a 4-unit apartment building with very little zoning permit history. Until the subject zoning permit was issued, just a single zoning permit had been issued in 2010 for replacement windows. The zoning permit subject to this appeal was pursued in an effort to correct a zoning violation related to expanded rear yard parking.

**Recommendation:** Uphold issuance of zoning permit based on the following findings and conditions:

### **I. Findings:**

In December 2015, the property owner received a warning letter from the Code Enforcement Office asserting that parking behind the residence had expanded without zoning permits.

On April 18, 2016, the property owner applied for a zoning permit to better define the existing driveway, expand and delineate a rear parking area, and restore some green space lost to the unpermitted parking expansion.

On April 29, 2016, planning and zoning staff emailed the property owner to note discrepancies in the site plan lot coverage numbers and dimensions and to ask questions about the site plan generally.

On May 4, 2016, a revised site plan was submitted. While far from pretty, the revised site plan contained clearer dimensional and lot coverage information.

On May 5, 2016, the subject zoning permit was issued with the following conditions (plus the standard permit conditions 1-15):

1. The 4 parking spaces shall have railroad ties anchored into the ground to serve as curb stops.
2. Additional green space shall be restored at the west end of the property. Specifically, at the southwest corner, the driveway may be up to 14 ft. wide. Beyond that (extending north) there shall be only green space within the 5 ft. setback.

The appeal of the zoning permit was filed May 20, 2016, within 15 days as required.

To paraphrase, the appeal requests the following:

- Demonstrate that there is an erosion prevention and sediment control plan.
- Increase the northerly buffer from 13' to 20.'
- Provide site plan that more accurately depicts each boundary dimension and the breakdown of the individual components of the plan.
- The appeal seems to request more green space but does not expressly state so.
- Use a material other than gravel.
- Install vegetation to provide screening for the rear yard of 87 Sherman Street (appellant's residence).

As no excavation or other significant earthwork of more than 400 sf is included in this project, no erosion prevention and sediment control plan has been sought or is required. Confirmation from the city's Stormwater Program has been received.

Increasing the width of greenspace from 13' as approved to 20' as requested by the appellant would preclude the necessary back-up space. The additional 7' of greenspace would reduce proposed back-up space from ~ 20' to ~ 13'. Table 8.1.11-1, *Minimum Parking Dimensions*, of the CDO stipulates a back-up length of 20' – 24' for parking spaces at a 90-degree angle such as those in this permit.

The appeal calls for more accurate property boundary dimensions and includes plans with dimensions slightly different from those in the approved site plan. To be clear, no survey has been submitted, either from the property owner or the appellant. Lacking a survey, the tax parcel map in the GIS system is used as a point of reference. The approved site plan depicts a front yard of 50.5' wide and a rear yard of 52.75' wide. The northern side boundary is 129' long, and the southern side yard boundary is 131.5' long. Based on the GIS, the boundary lines are 51.5' front, 53.5' rear, 132' north, and 131' south. The GIS parcel map is not a survey and typically has a 3' margin of error on both sides (total of 6'). The dimensions represented in the approved site plan are well within this margin of error. The appeal calls for more accurate dimensions within the site plan. Required dimensions have been provided. The driveway is 8' X 80'. Beyond that, the circulation area is 51.5' X 19.75' (with a condition to modify). The four parking spaces are each defined as 9' X 20' with 2' spacing between.

Much of the rear yard was lawn until the parking expanded. Exactly how much is unclear. The appellant notes that ~ 1,375 sf of the rear yard was greenspace, but this assertion is made without proof. In any event, this property is located within the Residential – High Density (RH) zone. This zone allows up to 80% lot coverage. The approved site plan represents 78.9% lot coverage and is acceptable. Note that a reevaluation of lot coverage by Planning & Zoning staff totals 70.2% lot coverage (69.8% if revised per existing permit condition 1). This coverage remains acceptable and will be noted on a revised zoning permit document and on the site plan.

The appeal requests a material other than gravel so as to avoid parking creep over time. There is no prohibition within the zoning regulations that preclude the use of gravel. Its use on a flat grade such as that at the subject property is acceptable. Furthermore, curb stops will be installed at the end of each of the four new parking spaces, and existing fences run along the southern and western edges of the driveway and parking area. If there is opportunity for the gravel to spread out over time, it is between the driveway and the house. Installation of a border along the driveway's edge would help prevent such spread.

The appeal requests additional vegetation to provide screening for the back yard of 87 Sherman Street. There is already a solid wooden fence running along the adjacent boundary of 87 Sherman Street. There is existing woody vegetation near the southeast corner of that property. Lacking the presence of that fence, the zoning permit would have required installation of screening. Given the presence of the fence, such condition was not required.

The driveway and rear parking area at 45-47 North Champlain Street are presently in poor condition and ill-defined. Enactment of this zoning permit will substantially improve the delineation of the driveway, rear parking area, and abutting green space.

## **II. Recommended Motion:**

Uphold the issuance of zoning permit 16-121CA with the additional conditions:

1. A border shall be installed along the driveway's edge running parallel to the house. The border shall be sufficient to retain the gravel and prevent its spread closer to the house. The selected border material shall be subject to staff review and approval.
2. Corrected lot coverage shall be noted on the site plan and zoning permit.