

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Ryan Morrison, CFM, Associate Planner
Date: February 21, 2017
RE: ZP17-0617CA/AP; 62-64 Buell 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: ZP17-0617CA/AP
Location: 62-64 Buell Street
Zone: RH **Ward:** 8E
Date application accepted: January 11, 2017
Applicant/ Owner: Ernest Palasits
Request: Appeal of administrative denial for the replacement of decking and railings on a front porch.

Overview:

The appellant, Ernest Palasits, is appealing the administrative denial of his zoning permit request for alterations to the front porch at 62-64 Buell Street.

The subject property, 62-64 Buell Street, built circa 1892, is listed as a contributing historic resource in the Buell St. / Bradley St. Historic District of the National Register of Historic Places. It is also listed on the Vermont State Historic Register. Given the building's age and historic significance, it is subject to the regulations set forth in Articles 5 & 6 that pertain to historic preservation.

The property listing in the Buell St. / Bradley St. Historic District speaks specifically to the front porch, stating "*Fronting the main block is a 2-story porch with turned spindle posts and pilasters, stick balustrade, scroll-sawn brackets, and lattice skirt.*" Based on the regulations of Articles 5 & 6, preservation of distinctive materials, features, finishes, and construction techniques or craftsmanship that characterize a property is required. The appellant obtained a Non-Applicability of Zoning Permit Requirements (13-1287NA) to "*Repair front porch, replace rear soffit.*" The approval specified that the repair/replacement work was exempt from the requirements of a zoning permit because the work proposed constituted a 'replacement in-kind'. However, as the appellant states, he was unaware that the porch had to be rebuilt in a specific manner, and as a result, the work did not preserve distinctive materials, features, finishes, and construction techniques of the original porch. Rather, the porch was replaced with pressure-treated wood that lacks the characteristics of the original materials and design. In response to a

zoning violation warning for “construction changes to railings on the front porch without zoning approval”, the applicant submitted zoning permit application 17-0617CA to permit the porch as it had been rebuilt. On December 27, 2016, staff denied ZP17-0617 for reasons found below in the Findings.

This appeal was filed in a timely manner, in accordance with Sec. 12.2.2.

Recommendation: **Uphold zoning permit denial** based on the following findings.

I. Findings

Timeline:

- **June 19, 2013** – Non-Applicability of Zoning Permit issued for in-kind front porch repairs.
- **November 9, 2016** – Zoning warning letter issued for change to railing style on the front porch, of a structure currently on the Federal Historic List, without Zoning Approval.
- **November 28, 2016** – Application ZP17-0617CA submitted.
- **December 5, 2016** – Application ZP17-0617CA deemed complete.
- **December 5, 2016** – Additional information requested.
- **December 27, 2016** – Restarted review.
- **December 27, 2016** – Decision of denial for ZP17-0617CA. See attached Reasons for Denial document.
- **January 11, 2017** – Appeal of administrative decision of ZP17-0617CA submitted.

Applicant’s Basis for Appeal:

- Appellant states that he was not aware that the porch had to be replaced in a specific manner.
- Appellant would like to request a variance on the materials if the property can be restored to the look that it had previously.

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 62-64 Buell Street was constructed in 1892 and is more than 50 years old.

(Affirmative finding)

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.*

As described in the property listing in the Buell St. / Bradley St. Historic District, the front porch had specific materials and craftsmanship that represented the architectural stylings of a historic period.

The National Registry notes that some alterations have occurred to the structure. The alterations include a 2-story (plus basement) addition to the building's rear, vinyl sheathing, covering the original foundation with concrete, and changes to the original fenestration. However, the registry entry goes on to say *"although somewhat altered during its conversion into student housing in recent decades, this duplex maintains the rhythm and massing of the streetscape, and through its remaining details contributes to the historic character of the district."* **(Affirmative finding)**

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 a few alterations to the building. However, the National Registry listing maintains that the structure still maintains the rhythm and massing of the streetscape, and its remaining details contribute to the historic character of the district. Review under the standards of Sec. 5.4.8 is intended to ensure continued integrity, whereas without it, incremental changes may continue until such integrity is lost. **(Affirmative finding)**

(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 62-64 Buell Street was constructed for residential use, and continues to be used for residential use as a duplex. **(Affirmative finding)**

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 front porch was one character defining feature of the structure. As with any building, certain elements need to be repaired/replaced over time, and Planning and Zoning staff approved an 'in-kind' repair/replacement of the front porch, via Non-Applicability of Zoning Permit 13-1276NA. However, the work done did not preserve the distinctive materials and appearance of the front porch. The porch railings, decking and lattice have all been removed and replaced with pressure-treated wood lacking the details of the original. This is a

significant alteration to the front façade of a National Register building. To approve the new porch would be a substantial step towards the loss of the building's historic character. Such action would be inconsistent with this standard. **(Adverse finding)**

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 before and after photos of the front porch show noticeable differences in the historical elements. Replacement of the porch with plain, pressure-treated wood and no preservation of previous architectural details introduce features inconsistent with the home's style. **(Adverse finding)**

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. **(Affirmative finding)**

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

The new porch's styling and materials are inconsistent with this standard, and replacement as such was not approved by the City, nor should it be approved now. Replacement with pressure-treated wood that lacks the historic architectural elements of the original porch is inconsistent with this standard and with long-standing precedent for structural repairs/replacements on historic buildings. **(Adverse finding)**

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 porch, as it is today, is not the result of repair work, it is a complete replacement, and represents a change in design, color, and texture. The DRB has, in the past, allowed use of alternative materials as an option for structural repairs/replacements on historic buildings (i.e. fiber cement boards). However, previous determinations have precluded the use of pressure-treated wood in similar situations. As a result, the proposed use of pressure-treated dimensional lumber inconsistent with this standard and with precedent. **(Adverse finding)**

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. Not applicable.

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. 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.*
 Approval of the porch replacement would validate the loss of the historic porch’s materials and design. As such, the proposed work would significantly erode the historic integrity of the building at 62-64 Buell Street. **(Adverse finding)**
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. **(Adverse finding)**

ARTICLE 6: DEVELOPMENT REVIEW STANDARDS

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*
 Not applicable.

(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 a new porch that lacks the materials and historic architectural details would be in direct conflict with the intent of this section; which is to protect Burlington’s architectural and cultural heritage. **(Adverse finding)**

(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.

Summary:

In summary, the alterations to the front porch of this national register historic building conflicts with the applicable standards of Sec. 5.4.8 and Sec. 6.3.2. The Non-Applicability determination was issued specifically for in-kind repairs. What was done amounts to wholesale replacement and alteration. The replacement front porch cannot be approved in light of the applicable standards.

II. Recommended Motion

Uphold denial of zoning application 17-0617CA per the foregoing findings.