

CITY OF HENDERSONVILLE
Historic Preservation Commission

Minutes of the Meeting of November 16, 2022

Commissioners Present: Jim Welter (Vice-Chair), Cheryl Jones, (Chair), Ralph Hammond-Green, Crystal Cauley, Chris Battista, Jim Boyd, Jane Branigan and Anthony Baltiero

Commissioners Absent:

Staff Present: Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney, Jaime Carpenter, Downtown Manager

- I **Call to Order.** Chair called the regular meeting of the Hendersonville Historic Preservation Commission to order at 5:02 pm.
- II **Public Comment.** There was no public comment.
- III **Agenda.** Chair stated they need to amend Item 5C which will be moved to Item 5A, with A moving down to B and B moving down to C. A motion was made by Commissioner Battista and seconded by Commissioner Hammond-Green to approve the amended agenda.
- IV **Minutes.** On motion of Commissioner Hammond-Green and seconded by Commissioner Battista the minutes of the meeting of October 19, 2022 were approved.
- V **New Business**
- V(A) Alexandra Hunt, Planner stated Item 5A was a Certificate of Appropriateness for 412 N. Main Street for the front façade, but that application was withdrawn earlier today. The applicant (Kingdom Harvest) has removed the façade and sign, so they are in compliance. The Commission had denied the previous application back in April. They intend to get a custom sign made and they will not be doing any work to the façade. They will apply for the appropriate sign permits. Any type of repairs to the stucco will be discussed with staff if any are needed. Staff verified this morning that the sign and façade have been removed and the stucco underneath was not as bad as previously indicated.
- V(B) **Certificate of Appropriateness,** Lelia White, 921 N. Main Street (File No. H22-082-COA). Prior to the opening of the public hearing, Chair announced that any persons desiring to testify at any of the public hearings must first be sworn as witnesses and will be subject to cross-examination by parties or persons whose position may be contrary to yours. A copy of the protocol for a quasi-judicial hearing is provided on the back table next to the agenda. Since this is a quasi-judicial hearing, it is very important that we have an accurate record of what goes on. Therefore, we must ask that you refrain from speaking until recognized by the Chair and, when recognized, come forward to the podium and begin by stating your name and address. Anyone who wishes to testify during the public hearings should come forward to be sworn in. Chair swore in all potential witnesses.

Chair opened the public hearing.

Alexandra Hunt, Planner stated City is in receipt of a Certificate of Appropriateness application from Lelia White for the replacement of the entry door at the subject property located at 921 N. Main Street. (PIN 9569-70-3922)

The subject property is .23 acres and is zoned R-6, High Density Residential and is located in the Hyman Heights Historic District. This COA application is considered a Major Work.

A vicinity map was shown, subject property located in green.

An aerial view was shown of the vicinity.

A subject property is a contributing building that was constructed sometime between 1924 and 1937. It is described as having three-vertical-over one windows and four-vertical-lights-over panel entry door.

Ms. Hunt gave a summary of the past COA approvals which is included in the staff report.

Photos were shown of the property's existing conditions. Those are also included in the staff report.

The applicant provided more detailed images and information as it pertains to the condition of the existing door that is included in the staff report.

The applicant has indicated that she would paint the door to match the color of the existing door and that a carpenter will make removable wood muntins to create the four-vertical-lights-over panel design.

Included in the staff report is also various quotes the applicant has provided with estimates for a custom door as well as information about the possibility of restoring the existing door. This is included in the staff report as Exhibits D and E.

The applicant is present.

The Design Standards that pertain to this application were shown and included in the staff report.

Chair asked if there were any questions for staff.

The Commission asked about the proposed door. Ms. Hunt stated it was a shaker style door which was already purchased but has not been installed. The original door is still in place. She went through a lengthy process to see if the existing door could be restored and also obtained quotes on custom doors. There were also foundation issues they were working through. This has been laid out in the letter.

The Commission discussed the panels of the door.

There were not any further questions for staff.

Chair asked if the applicant to come address the Commission.

Lelia White, 921 N. Main Street stated they are extremely happy to be In Hendersonville. They picked

the historical area because they love older homes. They have done work on the foundation which is sinking. She explained how termites were eating away at the wood on the foundation. They still need to change the door and level the foundation. Chair asked when this door goes in, they will not have to replace or do repair work to the entry part. Ms. White stated it would be level, but the entry porch is sinking so they will need to address that. Once they changed the wood beams on the foundation the door could not be closed all the way because the house was lifted. Now they are able to tweak it with the beams and the support beams. It still scrapes and little but once it settles it should be fine. After the door is installed, they will take care of the patio.

Commissioner Welter asked if there were any other options, and he does realize they have already purchased the door. Ms. White stated she was unaware that she needed a permit when she purchased the door, but she tried to get a door as similar to the existing one as she could find. She got quotes for refinishing the door and they were extremely pricey. Repairing the door and making a new door was four or five times more than this door that she purchased. They placed the order for the door in April and the door came four months later. The door was incorrect and had to be corrected and then she received a letter about following the rules of the historic community. That is when Ms. Hunt educated her about the process. She has spent so much money with the foundation of the house and plumbing in the house, it is hard to spend another \$10,000 for the installation of a door. They have spent over \$50,000 on the house already.

Chair asked if this proposed door looks like wood or fiberglass. Ms. White stated the elements of the door will hold up much better than a wood door. The hope is that when she paints the door the same color as the existing one, from afar you cannot tell what material it is. It will look a little different, but she is willing to do the moldings to make it look like it should look. She has not seen the door yet. It is still in the warehouse of the door company. The door that was incorrect did not look cheap. It was not a cheap Home Depot style door. It does not look like wood, but she is hoping when she paints it, it will have the same red and a similar look to the existing door. The moldings will need to be redone and they will match. She explained the termite damage and the damage to the existing door.

Commissioner Welter asked if she had considered any half-light doors. Ms. White stated when she purchased the door, she was unaware of the rules that she needed to follow. If she has to purchase another one, then she will have to purchase it, but she will be out again another \$2,000. She stated she is at the Commission's mercy. They do respect the rules and they do want to follow them. She was unaware of the rules at the time, and she purchased the door to match the windows.

Chair discussed the guidelines stating to replace "in-kind" to match the original. Substitute materials can be used but only when original is not feasible. Chair asked if Ms. White was saying using a wooden door is not technically feasible. Ms. White stated it is feasible, but it is just going to be four times as much. She did get a quote for a custom-made wood door and the prices were much higher than a manufactured door. Some carpenters could not see her until next year. She has about an inch gap of opening that she has been trying to patch. She could have a custom door made but it would cost her much more than she wanted to spend, and she prioritized their budget on the foundation and the plumbing and things the house truly needed to be able to be lived in.

Chair asked if there were any other doors in that area that are fiberglass. How many and how close to hers? Ms. White stated she walked Hyman Heights and looked and had asked Ms. Hunt if she needed to take photos of other doors that have been replaced without the proper permits and Ms. Hunt told her

no. Chair explained the statute stating "shall" which means "must" and so the statute is that you replace deteriorating with "like" materials unless it is technically not feasible to do so. The testimony is that it is technically feasible, and they are talking about a financial hardship which is not a consideration of the statute. If there were other fiberglass doors in the neighborhood that would show that maybe this is not so incompatible. That would be another consideration. Ms. White stated she definitely could provide the Commission with photos and addresses. Chair asked if she could estimate off the top of her head how many are close by. Ms. White stated when taking a drive, she spotted two or three newer style doors on the road behind her property. Commissioner Battista asked if they were in the district. Ms. White stated yes. She stated the homes were on Patton Street and on Oakland Street. Ms. Hunt stated the home directly behind Ms. White on Patton Street was previously approved to be demolished but never was. Chair stated the concern is that she has to follow the statute and that is unfortunate in situations like these because the Commission realizes what she has tried to do to repair the home to make it right and do it right.

Ms White stated there is a safety aspect too with the front door. She is the first house on North Main Street and just last week there was a guy sitting in front of her lawn and he came towards the front of her home and she told him she would call the police. They have had some riff-raff coming around and she feels like a new door needs to be in place. Chair stated technically for feasibility it will be another year before she could get a custom door and there is a security aspect with the door. Ms. White stated yes and that is if she could find someone to commit to making the door.

Chair stated the Commission needs to discuss and figure out if it is feasible for her to have a custom door made when there is a security factor with having a new door in place now verses having to wait to have a custom door made.

Chair asked if anyone had any further questions for the applicant. There were no further questions.

Chair asked if there was anyone else that would like to speak. When no one spoke, Chair closed the public hearing.

Commissioner Welter would tend to agree with her since they recently replaced a door to the rear of their house and was more expensive and it took longer than expected. He stated wood was an option for some of those that you could order off the shelf. Chair discussed a wood door being feasible and if the fiberglass door would be in keeping with the character of the historic district. Chair stated this is a unique property as it is contributing, and the original door is still there.

Commissioner Welter acknowledged there is a safety concern. He was very concerned with how that garage had gotten torn down. He is inclined with the safety concerns, the ability to get the materials, winter coming on. He does not want to set a precedent.

The Commission discussed the windows getting changed too outside of the guidelines.

Chair stated the statue does state to replace in kind and the original door is still there so the only way to get around that is if there is enough evidence presented that it is technically not feasible to replace it with a wood door.

Discussion was made on the replacement of the door and the door frame being replaced due to termite damage.

Chair reopened the public hearing.

Chair stated she knows Ms. White has paid for the door sitting at the warehouse, is there a chance the manufacturer would give her a credit towards a wooden door? Ms. White stated she truly did not know she was in a historic district because her house and the one next door sits separately from the district. They feel like they are more towards the commercial space than in the neighborhood. The first door was delivered in April, and it took them four months to deliver the wrong door and that is when she received the letter and as soon as she received the letter and then she knew she had a problem and thought maybe she could return the door or switch the door and the manufacturer said no. They made a mistake but if she returns the door, she will lose her money. She tried to fight it and consider something else. Then she thought maybe she could repair it but the three people she contacted came and said they did not want to touch this door. They could make a new door but because of the damage to the existing door and the casing, they could not promise the existing door would fit back in place correctly. No one recommended refinishing the existing door so it would be buying a new door, keeping what she has or making one from scratch which would be the most expensive way to go.

Ms. White stated the door frame would be replaced due to damage and it would be replaced with wood. She stated she is willing to go back and replace the wood panels on the windows that have been removed.

Chair closed the public hearing.

The Commission discussed their concerns with replacing the original door with "in-kind". They could also understand the situation. They discussed the look of the door and the door being fiberglass and having other options looked at. Chair's concern was if the Commission is going to approve a new material, then it should at least look like what is currently there. The design and the material are both different. It was stated that the existing door is the original door from 1924. The Commission felt like this door was not salvageable. They are sympathetic to the issues and not finding out the rules until after the fact, but the rules are the rules and Commission Welter stated that would be a half-light door with four panels over and you can order that style door at GBS from his experience over the past year. Those can be ordered in wood and when he ordered it, it took six months to get it. The concern is will that door last but that is not what the Commission is concerned with. These doors can be ordered. Discussion was made on finding an appropriate door. There are other options that are feasible. They discussed the demolition of the garage and the windows being changed. Commissioner Welter was unsure if any doors in the Hyman Heights District were actually fiberglass.

Daniel Heyman, Staff Attorney stated staff's position is legally a decision on a COA does not create a legal precedent. There might be some equitable consideration that you all take into account but there is no legal precedent set when you decide on a COA, they all stand on their own on their facts. So, it should be based on the facts of this particular application and made by each member impartially. This application stands on its own and it is not a legal precedent. Each application stands on its own but recognizing there is some consideration on equity when you make decisions like this. That is staff's position on the issue.

Mr. Heyman stated if you voted on a hypothetical COA and you voted to approve it and a later applicant came and pointed to that as a legal argument, that legal argument would hold no water to that, it could just be dismissed. That is not relevant. It would be relevant to the extent of is it compatible with the neighborhood. Again, each application stands on their own.

Commissioner Welter stated he is more concerned with the design of the door than the material it is made with. Chair stated they either approve this door or tell her to get a different door and if they tell her to get a different door, that door could be wood. It is all about feasibility. She has already gotten this door and has agreed to change it to make it more compatible with the style of the existing door. It is not a perfect match. They have talked about the statute it is 3.7.6, she is going to call a vote. There was a split vote.

Commissioner Welter moved the Commission to find as fact that the proposed application for a Certificate of Appropriateness, as identified in File # H22-082-COA and located within the Hyman Heights Historic District, if added according to the information reviewed at this hearing and, with any representations made by the applicant on record of this hearing, is incongruous with the character of the Hendersonville Historic Preservation Commission Design Standards (Residential) for the following reasons: The proposed entry door replacement does not match the design and the dimension of the original sash or panels, pane configuration, architectural trim, detailing and materials. Commissioner Hammond-Green seconded the motion which passed 5 in favor of and 2 opposed (Commissioner Baltiero and Commissioner Boyd). The application was denied.

V(C) **Certificate of Appropriateness**, Melissa Wilkinson, 1109 N. Main Street (File No. H22-083-COA).

Chair opened the public hearing.

Ms. Hunt stated staff is in receipt of an after the fact Certificate of Appropriateness application from Melissa Wilkinson for the addition of a metal roof and painting the exterior brick. It should be noted that the applicant replaced the gutters/downspouts as noted in the COA application. Installation of gutters and downspouts is permitted as normal maintenance if the color matches the house trim. Here, the applicant's house trim is white, and the gutters are black and therefore should be considered as a Major Work for the purpose of this hearing. The subject property is located at 1109 N. Main Street (PIN 9569-71-5665). It is approximately .27 acres and is zoned R-6, High Density Residential and is located in the Hyman Heights Historic District. This COA application is considered a Major Work according to the standards of the Residential Historic District Design Standards.

A vicinity map was shown, subject property located in green.

An aerial view was shown with the parcel outlined in red. The parcels across the street are not located in the Hyman heights Historic District.

A history of the subject property was given and is included in the staff report.

Ms. Hunt explained the existing conditions of the subject property. The metal roof is gray in color which is similar to the color of the shingled roof and is similar in scale. There are two paint marks one by the door and under the window that were done by the applicant prior to her receiving notice that a COA application was needed. Staff identified homes with painted brick veneer specifically along Patton

Street, Highland Avenue, Hyman Avenue and N. Main Street and verified that the painted brick veneer existed at the time the survey was conducted for designation of the historic district. Staff also identified one other home in the district with a modern metal roof without COA approval and the property owner was sent a notice of violation.

The Design Standards that pertain to this application were shown and included in the staff report.

Chair asked if there were any questions for staff. Commissioner Hammond-Green asked if there were any other standing ridge metal roofs in the district. Ms. Hunt stated no, the one that was discovered was off of Hyman Avenue and it did not have a file and there was no COA application. They walked the district and that was the only one that staff identified at that time. Discussion was made on there being no standing metal roofs in any of the districts. Ms. Hunt stated she did not do a complete inventory of all the districts.

Ms. Hunt stated questions about the applicant's reasoning for the roof can be directed to the applicant who is in attendance.

Chair asked about it being asphalt shingles and if staff knew if it was previously asphalt. Ms. Hunt stated staff went off the survey that was done and it was not indicated in the description. The photo that is on the HPC website from the survey that was done in 1994/1995, it appears to be shingled.

Matt Manley, Planning Manager stated it appears that the fascia is the same color as the roof. You have white trim, gray fascia and black gutters and downspouts. He wanted to point that out.

There were no further questions for staff.

Melissa Wilkinson, 1109 N. Main Street stated she has lived here for 12 years. Chair asked what lead her to do a metal roof instead of what was there. Ms. Wilkinson stated finances and she had no idea there was a historic district regulation. She is a single mom and grandmother, and this is her first home. Chair stated she has been there 12 years and didn't know. Ms. Wilkinson stated she has been there 12 years and there is Hyman Heights next door and back and if you go along Main Street it stops. There is a metal roof on N. Main Street and Elizabeth and one inside there. She did not know she was part of the Hyman Heights or that she needed to participate in that. When she purchased her home and if you Zillow it, it does not say anything about her home being in a historic district. But the next one and the one down clearly state they are in a historic district. She had hopes of painting the whole house. She has no desire to look like the neighbor. She did not know she was in a historic district, and she has lived there for 12 years. She loves her little house but from the day she bought it her goal was to one day paint it. The metal came in as an option because when she was finally able to refinance her house, she pulled out enough money to get a new roof. She had to deal with water in the basement and had several estimates on if the foundation needed to be repaired. She took what money equity wise out of her home to secure that house for her and her family. It was estimated that the basement wasn't as much of a problem as the roof and gutters were. It was an economical choice and was right at \$9,000 for an asphalt roof. She understands their position, but this was already done after she received the letter from Ms. Hunt. Chair asked what the metal roof was. Ms. Wilkinson stated \$9,500. Chair stated so she paid more for a metal roof. Ms. Wilkinson stated for a metal roof that is essentially indestructible as compared to an asphalt. It is almost the exact same as far as standards with the color. Her neighbor who is 94 years old said that her roof had been replaced at least one time. The big tree in her front yard

had been dropping limbs and damaged her gutters. She explained needing larger gutters for her type of house for her rain-off. Her intent wasn't to leave the rest of the trim white. She wanted her house to sort of look different. She stated she did not know about the requirements for the historic district, and she gets information from the city all the time but that was not one of the things she received. Chair stated she understands but they need to figure out what has been done and how they will deal with it.

Ms. Wilkinson stated once Ms. Hunt told her about this, she knew she could not un-do the material but thought how can she improve the aesthetics or minimize what may be obvious to some as a metal roof. She had to spend \$800 to get a tree removed that the state trimmed and caused to deteriorate. She has since planted a tree and a bush.

Chair asked if there was a way to change the color of the gutters. Ms. Wilkinson stated she can't because she does not have the ability to. She doesn't have the financial resource and she can't paint anymore. She painted the backside of her house. She was told no one cares about the backside. She painted that brick herself, years ago. She is 63 and she is doing the best she can.

Chair stated they have statutes and ordinances they have to uphold. She can read them to her but none of that is compliant. Ms. Wilkinson stated she knows; she has since learned. Chair stated the gutters are not compliant now. If they were white and matched the trim, which is what the statute says. Ms. Wilkinson stated these were special ordered, you can't paint over metal very easily. Chair stated she is telling her what the statute and the ordinance says, the burden is on her as the applicant, so she has to help them some way. Right now, it is not compliant so they need to find a way to fix that. They need to find a way to address the gutters. Ms. Wilkinson asked what their suggestion would be for the gutters. She doesn't know anything else to do besides paint them. She could try to paint them.

The Commission discussed painting unpainted brick and how there are no newly painted brick houses in the area. Chair stated unpainted brick could not be painted.

Commissioner Welter stated they are trying to find a way to work with her with minimal impact. Ms. Wilkinson stated she would be glad to try and paint the gutters. She discussed having someone paint the gutters if she had painted the house, they could have painted the gutters to match also. Chair stated if they could paint the gutters to match then the gutters could be painted white. Ms. Wilkinson stated the painters could have done this, but she can't paint the gutters. This was part of what they said they could do. Chair asked if she was going to hire someone to paint the house. Ms. Wilkinson stated absolutely. Chair stated so she had money to hire someone to paint the house, but you can't paint the gutters. Ms. Wilkinson stated she did have. She purchased the roof right at \$11,000 with the roof and the gutters and the trim. Chair asked if she put the paint swatch on before she did the roof. Ms. Wilkinson stated no, it was after the roof and was all to be done one right after the other. If she was going to paint the house, it was timely. Three months later and he hasn't answered any of her calls. She would have to find a new painter if she needs to paint the gutters. This has taken so long that the money is just gone.

Commissioner Battista asked when did she make this application. Ms. Wilkinson stated August 29th. She contacted Ms. Hunt as soon as she got the notice in the mail.

Commissioner Welter stated so toady she is just asking for them to approve the metal roof and the gutters. Ms. Wilkinson stated yes, and she will fix the gutters. He stated if the gutters were white, it

would be more compatible.

Chair read the statute pertaining to the roof. She stated the roof should be replaced with in-kind materials and only consider other materials if in-kind is technically not feasible. Ms. Wilkinson stated it is not feasible as far as the color of the asphalt shingle. The color she wanted would take four months. She needed to get that work done then because it was compromising her basement. She has two to three inches of water that she would have to pump out. She was looking for a dark gray shingle which was way on back order. Chair stated so she moved forward with the metal roof because it was not technically feasible to get the asphalt roof in time to stop the water that was going into the basement and repair the damage to the roof and eaves. Ms. Wilkinson stated correct.

The roof was replaced before August 29th. It was recent. She refinanced her house in May to do this work.

Discussion was made on the metal wrap and the termite damage.

Chair asked if anyone had any further questions for the applicant. There were no further questions.

Chair asked if there was anyone else that would like to speak. When no one spoke, Chair closed the public hearing.

The Commission discussed the applicant's testimony.

Chair reopened the public hearing.

Chair asked if they deny the roof part, would she have to take it off or appeal. Mr. Heyman stated if there was something that was done in violation of a city ordinance or a state statute, the city would follow the normal enforcement procedure. There are a number of ways you can enforce when somebody does work without a COA under the city ordinance. The penalties available are petitioning the court for an injunction or order of abatement, civil penalties. Those are the options, but they would have to go through the normal enforcement procedure. There is also the possibility that it doesn't get enforced. He wasn't talking about this one but just in general.

Mr. Heyman stated an appeal of the Commission's decision would go to Superior Court. An appeal of an enforcement issue would have another route. The approval of a COA does not create a legal precedent. This is staff's position. He is not saying someone won't come to you and say that, but it is not a valid legal argument. As long as the Commission's decision was properly made that is staff's position and he is not giving the Commission legal advice, he is just stating staff's position.

Chair closed the public hearing.

The Commission discussed the metal roof and not knowing if it was previously asphalt. The trim was also discussed. They discussed repainting the gutters. The painting of the brick has been withdrawn. The Commission discussed someone not knowing they live in the historic district. Materials were also discussed pertaining to the asphalt shingles and the metal. They discussed denial of the application and enforcement.

Chair reopened the public hearing.

Chair asked if they could do an approval with conditions. Mr. Heyman stated yes, with reasonable conditions.

Chair asked Ms. Wilkinson if the Commission votes on the roof for it to stay, would she agree as a condition of the approval would she be willing to paint the downspouts and the gutters, so that the white trim would match what was there before. Ms. Wilkinson stated yes. Chair stated just to confirm, Ms. Wilkinson is withdrawing the request for painting the exterior brick. Ms. Wilkinson stated yes. Chair stated this application is only for the roof and the gutters and downspouts.

Chair closed the public hearing.

Commissioner Baltiero moved the Commission to find as fact that the proposed application for a Certificate of Appropriateness, as identified in File # H22-083-COA and located within the Hyman Heights Historic District, if added according to the information reviewed at this hearing and, with any representations made by the applicant on record of this hearing, is not incongruous with the character of the Hendersonville Historic Preservation Commission Design Standards (Residential) for the following reasons: The addition of the metal roof matches the original in scale and color of the building. Consider compatible substitute materials only is using the original material is not technically feasible which they decided was not. Also, with the caveat that the applicant will paint the gutters and downspouts to match the original trim, which was white, and that the application is amended to remove the proposal to paint the exterior brick.

Prior to seconding the motion, Mr. Manley discussed with Chair the fascia and the dormers being gray and there currently being three different colors on the house. Chair reopened the public hearing. Ms. Wilkinson stated the trim above the dormer is gray metal. The dormer is white and can stay white. The metal in that peak protects the wood and that wrap cannot be painted. The peak of the dormer is metal. Chair asked if she would agree to paint the white on the dormer. Ms. Wilkinson stated she would be glad to see if that could be done. The Commission and staff discussed approving the painting of the metal if practical. Chair closed the public hearing.

Commissioner Baltiero amended the motion to include repainting the dormer on the door and the dormer on the house that is currently wrapped in gray metal, if practical will be made white to match the trim. Commissioner Hammond-Green seconded the motion which passed unanimously.

VI Old Business.

VI(A) Approval of Findings of Fact – 1401 Highland Avenue – H22-059-COA

VI(B) Approval of Findings of Fact – 434 N. Main Street – H22-090-COA.

Commissioner Welter moved to approve the Findings of Fact for 1401 Highland Avenue and 434 N. Main Street as written. Commissioner Baltiero seconded the motion which passed unanimously.

Discussion was made on working with Henderson County concerning demolition of properties in the historic district.

VII ***Adjournment.*** The Chair adjourned the meeting at 7:10 p.m.

Chair

DRAFT