

Montgomery City Council
AGENDA REPORT

Meeting Date: December 12, 2023	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action by the Montgomery City Council acting as the Zoning Board of Adjustment regarding a requested appeal of a Planning & Zoning Commission action denying the use of synthetic lawn at 504 Caroline Street in the Historic Preservation District.

Recommendation

Consider the information and uphold or overturn the Commission's denial of the synthetic lawn.

Discussion

Issue:

The owner of 504 Caroline Street requested to use synthetic lawn in lieu of natural turf for the landscaped area of the property at the October 3, 2023 Planning & Zoning Commission meeting. The Commission denied the synthetic lawn. The applicants have appealed the decision and requested the matter be heard by the Zoning Board of Adjustment. The P&Z Meeting Minutes are attached for reference. Pages 2-6 of the minutes include discussion of the item.

Regulations:

Section 98-347 of the City Code of Ordinances:

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make **any material change to other exterior elements visible from a public right-of-way** which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the Planning and Zoning Commission.

Section 98-29(4) of the City Code of Ordinances [Powers of Board of Adjustment]:

Variances. The Board of Adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed, and substantial justice done, including the following:

- a. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
- b. Authorize, upon appeal, wherever a property owner can show that a **strict application of the terms of this chapter relating to the use, construction or alteration of buildings or structures or the use of land will impose upon him unusual and practical difficulties or particular hardship**, such variances from the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the board of adjustment is satisfied that a granting of such variance will not merely serve as a convenience to the

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applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time the surrounding property will be properly protected.

Analysis:

Following the denial of the material by the P&Z Commission, the contractor installed the synthetic turf on the property. Additionally, the contractor and owner submitted the appeal request being considered tonight. The Commission cited the following reasons for denial:

- The artificial nature of the material is not consistent with the historic structures and elements in the Historic Preservation District.
- The lack of any other examples of artificial turf in the Historic Preservation District poses a risk of losing cohesiveness between this property and surrounding properties.

Neither the Historic Preservation Ordinance or Historic District Guidelines speak directly to the use of alternative landscape materials. The Ordinance is clear on requiring P&Z approval for exterior elements of properties that are visible from the public Right-of-Way within the Historic Preservation District.

Recommendation:

The Zoning Board of Adjustment has two options:

1. Uphold the P&Z Commission denial of the synthetic lawn on the grounds that the use of an artificial material used in this manner is not consistent with cohesiveness of the Historic Preservation District, or
2. Grant the applicant's appeal and approve the request to use synthetic turf. As outlined in Section 98-29 of the City Code of Ordinances, approval should be based on:
 - a. The property owner showing that a strict application of the terms of this chapter relating to the use, construction or alteration of buildings or structures or the use of land will impose upon him unusual and practical difficulties or particular hardship.
 - b. A variation from the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the board of adjustment is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this chapter, and at the same time the surrounding property will be properly protected.

Staff has no material objections to granting the appeal of the applicant. The use of synthetic turf, while not a common material in Montgomery, is widespread in the landscape industry and provides benefits that include eliminating the use of many pesticides and fertilizers and water conservation through reducing the amount of water used for irrigation purposes.

Approved By

Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 12/07/2023
City Administrator	Gary Palmer	Date: 12/07/2023