

Minutes

HISTORIC DISTRICT COMMISSION

Regular meeting

6:30 p.m. June 5, 2024

Board Meeting Room of Town Hall Annex, 105 E. Corbin St.



Present: Chair Will Senner and members Elizabeth Dicker, G. Miller, Hannah Peele, Sara Riek and Bruce Spencer

Absent: Vice Chair Mathew Palmer

Staff: Planner Joseph Hoffheimer and Town Attorney Bob Hornik

1. Call to order, roll call, and confirmation of quorum

Chair Will Senner called the meeting to order at 6:30 p.m. He called the roll and confirmed the presence of a quorum.

2. Commission's mission statement

Senner read the statement.

3. Agenda changes

There were no changes to the agenda.

4. Minutes review and approval

Minutes from regular meeting on May 1, 2024.

Motion: Member G. Miller moved to approve the minutes from the regular meeting on May 1, 2024, with corrections. Member Bruce Spencer seconded.

Vote: 6-0.

Corrections:

- Page 2 of 17, first bullet: change the word "cement" to "concrete."
- Page 14 of 17, Paragraph 4, regarding the window alignment: append to the last sentence – "because the proposed location is inconsistent with the standards of alignment of existing windows per Window Standards, Section 8."

5. Written decisions review and approval

Written decisions from regular meeting on May 1, 2024.

Motion: Miller moved approval of the written decisions from the regular meeting on May 1, 2024, with amendments. Member Elizabeth Dicker seconded.

Vote: 6-0.

Corrections:

Written decision for 114 W. Queen St:

- Number 3, *Windows*, Item a.: Add "The proposed location is inconsistent with the standards of alignment of existing windows per Window Standards, Section 8."
- Number 3, *Porches, Entrances, and Balconies*, Item a.: Add a phrase clarifying that "the addition of a porch had a significant impact on the character defining elevation of the house."

6. New business

1. Certificate of Appropriateness Application: 207 W. Corbin St.

Applicant is requesting after-the-fact approval for unpermitted changes a prior owner made to the rear outbuilding. (PIN 9864984926)

Senner opened the public hearing and asked whether there were any conflicts of interest or bias among the commissioners. All commissioners disclosed that they had visited the site in preparation for reviewing the application. No other conflicts of interest were disclosed.

Planner Joseph Hoffheimer was sworn in. Robert Grady and Barbara Grady, the property owners, were sworn in to speak on behalf of the application.

Hoffheimer introduced the application by presenting the staff report. He noted that the inventory information, application materials, and applicable design standards would be entered into the record as evidence. He provided the staff comments:

- A notice of violation for unpermitted work was received by a former property owner on Oct. 30, 2018. Violations in the letter included a second-floor rear addition to the outbuilding without a Certificate of Appropriateness or zoning approval and painting without minor works approval. The former owner submitted an after-the-fact Certificate of Appropriateness application on Nov. 13, 2018, but prior town staff found that application to be incomplete due to a lack of supporting materials. The last documented correspondence is from April and June of 2019, when prior town staff and the former owner's attorney discussed next steps for an updated Certificate of Appropriateness application. That application was never submitted.
- The former owner also installed several vinyl windows that do not comply with the compatibility matrix. The rest of the materials in this application are permitted, and the applicant is also proposing to finish the work with approved materials.
- The staircase replacement listed on the application is allowed as a minor work but can be approved by the commission as part of this submission.
- Other after-the-fact changes to the building (paint, light-fixtures, and first-floor door replacement), some of which were included in the violation notice and some of which were added later, have already been approved via minor works.
- Resolution of these after-the-fact changes will allow the applicant to obtain Orange County building permits for unrelated work.
- The accessory building in question is not listed in the inventory.

R. Grady said the violation was not disclosed during the sale of the property, but that he found out about it while going through the Orange County permitting process for unrelated work. He explained that he wants to resolve the violation so he can move forward with that permitting process.

The commissioners reviewed the site plan. R. Grady confirmed that the second story addition is on the rear of an accessory building that is to the rear of the main house.

The commissioners reviewed the photograph of the structure. Hoffheimer clarified that the masonry had been painted red and was later painted white, which has since been approved as a minor work.

R. Grady confirmed that there is work yet to be completed on the house, such as siding to be added on both gable ends. He said he plans to use Hardie board on the gable end in the back and match it to the gable end in the front.

The commissioners decided to consider the congruity of the addition as built first, and then to consider the material of the window.

It was noted that the addition includes elements that distinguish it from the original structure and make clear that it is an addition, not intended to look like it is original. It was also noted that except for the windows, the materials are compatible with the compatibility matrix. There were no concerns expressed regarding massing, location, or materials, except for the materials of the windows. It was also noted that all changes were made to elevations that are not character defining.

R. Grady confirmed that there is work to complete on the soffits, and that once that work is finished the Hardie board will be continued up to the top of the gable.

The commissioners discussed the material of the windows. The commissioners referred to other recent after-the-fact cases where the commission required vinyl windows to be replaced with compatible windows. There was consideration of the fact that had this not been an after-the-fact application, vinyl windows would not have been approved. It was agreed that unless other logic to the contrary were raised, the commissioners did not see a path forward that allows congruity with the district without the windows being replaced.

R. Grady said the windows would all be painted black. He said that he struggled to understand the logic of taking out the existing painted windows to replace them with nearly identical-looking ones. He expressed concern that the existing windows would have to be put into the garbage.

There was discussion of the history of vinyl's exclusion from the standards, and that though vinyl exists in the district, it has not been approved. There was discussion of which window materials are compatible.

The issue of sustainability was discussed, but it was agreed that setting a precedent of after-the-fact approval based on sustainability might give others the opportunity to bypass compatibility standards by seeking after-the-fact approval for incompatible materials.

There was discussion of asking the person who did the work to come before the board. Town Attorney Bob Hornik said that the commission does not have subpoena power, and that it would be tricky because there were other owners between the current owner and the one who did the work.

R. Grady expressed that he would like to avoid the subpoena path anyway, and that he would like to get the process completed in a timely manner.

The commissioners expressed their sympathy for the unfortunate situation the homeowners have found themselves in.

There was discussion of alternative methods of remediation, such as removing the vinyl cladding from the wood, or covering the vinyl with wood, but it was supposed that that those processes might cost as much as replacement.

Hoffheimer said that staff believe the original window material was wood, based on photographic evidence.

R. Grady expressed preference for the commission to make replacement of the windows a condition of approval rather than a different exploratory option.

Senner summarized the commissioners' discussion: Overall, the addition itself was not found to be incongruous with the district. The addition is on the rear of the accessory structure which is to the rear of the primary structure; it is oriented in a way that shows that it is clearly an addition and not trying to be part of the primary structure; all the materials except for the windows are compatible. The windows will be replaced with windows of a material consistent with the compatibility matrix.

Hoffheimer confirmed that the stairs could be approved as a minor work.

Motion: Spencer moved to find as fact that the 207 W. Corbin St. application is not incongruous with the overall character of the Historic District and complies with all relevant standards of evaluation based on the commission's discussion of the application and the standards of evaluation in Section 3.12.3 of the Unified Development Ordinance because the plans are consistent with the Historic District Design Standards: Wood, Windows, Roofs, Porches, Entrances, and Balconies, and Additions to Residential Buildings, with conditions. Miller seconded.

Vote: 6-0.

Condition: Vinyl windows in the accessory dwelling unit shall be replaced with windows of a material consistent with the compatibility matrix.

Motion: Spencer moved to approve the application as submitted with conditions. Member Sara Riek seconded.

Vote: 6-0.

Conditions: Vinyl windows in the accessory dwelling unit shall be replaced with windows of a material consistent with the compatibility matrix.

Hoffheimer added that staff received no feedback or concerns from the public about this application. R. Grady added that neighbors had called him to express their support. The commissioners expressed sympathy for the circumstances and thanked the applicants for bringing the matter to resolution after so many years.

7. Old business

A. Certificate of Appropriateness Application: 437 Dimmocks Mill Rd.

Applicant is requesting to install windows in the northwest wall of the mill, demolish Suite 50, regrade, and add a bus drop-off. (PIN 9864646207.006)

Senner noted the public hearing was still open, all witnesses were still sworn in, and Riek was still recused from consideration of the application.

Hoffheimer gave the updated staff report:

- The applicant has since provided several items that were requested by the Commission. These items include:
 - Updated materials list

- Patio wall finish sample
- Proposed window details
- National Park Service site and demolition plans (plans only; these have no bearing on local commission review)
- Proposed floor plans (interior use has no bearing on local commission review)
- Existing door examples
- Scaled elevations
- Proposed entry
- Suite 50 ramp estimate email
- Prior to continuation, staff recommends that the commission addresses each of the following items (some of which may be provided in print at the meeting):
 - Evidence that the total project cost is \$180,000, or collection of the higher application fee (additional \$1 per \$1,000 in construction costs).
 - Additional documentation of the drainage issues and lack of ADA accessibility at Suite 50.
 - A cost-benefit analysis for modifying Suite 50 to meet ADA standards vs. demolishing it. The attached email from a contractor likely is not sufficient evidence.
 - Photo examples of existing windows at Eno River Mill similar to those proposed on the northwest elevation.
- Any demolition is subject to Section 3.12.6 of the Town's Unified Development Ordinance, and the commission may delay issuing a demolition Certificate of Appropriateness for up to 365 days from the date of approval.
- The commission may apply the Secretary of the Interior's Standards regardless of "contributing" status.
- Staff interpret Suite 50 to have local historical significance under Standard 4.
- Staff do not find the existing doors and loading docks on the northwest wall to be historically significant.
- The northwest wall once had windows before it was veneered with brick in the 1970s, but staff have not seen any photos of these.
- West Triangle Charter High School will require a special use permit from the Board of Adjustment. Because the Historic District Commission only reviews exterior changes, it may decide on the submitted application. However, depending on what the special use permit process requires, this application may have to return to the commission if the special use permit requires any major changes (including site changes).
- The northwest wall is over 50 years and is likely contributing to the National Register.
- A \$500 application fee has been paid. The estimated project total is more like \$680,000.
- If this is not enough time to review, staff recommend tabling and giving the applicants another opportunity to present next month.
- Cost calculations: property tax for local landmarks is basically a deferral of 50% of the assessed value in perpetuity, so that is one economic calculation to consider.

The commissioners agreed to look through the materials provided and determine whether they felt comfortable moving forward with the review or would prefer to table it for the next meeting.

Hornik mentioned that the materials include submissions from contractors, and that in order for those items to be sufficient evidence, witnesses should be present to be available for cross-examination. He said he would not recommend basing a decision on evidence where the person or entity presenting the evidence was not available to answer questions.

There was discussion of the evidence submitted by contractors and the content and scope of those materials.

Senner noted that one of the contractors who submitted an estimate has a history of clear and defiant disregard for Historic District Commission standards and has been associated with many after-the-fact application issues. Applicant Elena Wells confirmed that the applicants had heard about that concern and sought estimates from some additional contractors.

It was pointed out that the commission had requested a letter providing evidence for why the building was not able to be brought up to the standards of the Americans with Disabilities Act.

Applicant Will Riedel explained that there are two levels of Suite 50. The main level of the building is not accessible from grade because it is situated 3 ½ feet above grade. He said a ramp to the main level would cost as much as the building is currently worth. Beyond that, an elevator would have to be installed to provide access to the lower level. Riedel said that the fact that the building is over 50 years old does not give it intrinsic historic value. He said there are no remarkable aspects about the building itself.

There was discussion of the comparison of the cost of demolition to the cost of renovating the building to make it accessible. The point was raised that there ought to be consideration of the value of the proposed new space if it were renovated and made accessible. Hornik added that it would be ideal to have an appraiser come in to help the commissioners interpret the various scenarios in order to fully understand the implications of this decision. He confirmed that the financial cost-benefit analysis should also weigh the future economic value of the changes.

Wells reminded the commissioners that Suite 50 comprises only about 0.3% of the entire historic structure. She added that the space is currently unoccupied because of the accessibility issues, despite interest from potential occupants.

Hoffheimer reminded those present that the use of the building and the functional needs of the prospective tenants are not viable reasons that would justify demolition.

There was discussion of the drainage issue involving Suite 50. Wells said it is not fully clear why Suite 50 is causing flooding, but that the representative from NC Drainage believes the underground walkway causes the land to slope toward the mill, and the underground walkway cannot be removed. Wells confirmed that the mill is waterproofed, but that the grades are directing water toward the mill.

Riedel added that grading and filling is not possible with Suite 50 where it is.

The commissioners inquired into whether a slot drain or other drainage system where the walkway meets the mill could be used to capture water and direct it away from the building. Riedel responded that there are sump pumps installed, but if they fail, water gets inside the building and onto the wood floors. He said they would like to install a seal along the building and fill in sloped areas that lead water toward the building, but that Suite 50 prevents that because of its grade. He reiterated that they are trying to protect the integrity of the main mill building.

There was discussion of the potential lease prices for art studio space if Suite 50 were rehabbed. Senner reiterated that a cost-benefit analysis would be necessary because the commissioners would like to understand whether anyone would ever find it economically feasible to rehab Suite 50 so it could be used.

He explained that the commissioners would like to see renovation costs compared to demolition costs and what the revenue of the renovated space and return on investment might be.

Riedel said that the National Park Service does not consider Suite 50 to be a historic structure, so they do not get tax credits on that space. Hoffheimer suggested exploring adding Suite 50 to the nomination for the National Register. He also clarified that in this instance, the burden is on the applicant to prove that renovation is not affordable beyond a reasonable doubt.

There was discussion of whether the commissioners ought to be considering affordability of the project in this case. Hornik confirmed that the question before the commission is whether Suite 50 should be demolished, or whether it could be saved in an economically feasible way.

Member Hannah Peele raised the question of whether a different scenario might allow Suite 50 to be incorporated in another way that might address the drainage problems. She suggested having a drainage expert or structural engineer provide testimony. Senner agreed that all options for resolving drainage issues must be evaluated before landing on the option of demolition. Hoffheimer added that anyone who provides a statement for the application packet ought to be present to answer questions. The commissioners asked the applicants to provide more information about the drainage issues: What is imminent about the drainage? Has it recently gotten worse? Has it always been a problem? Is it expected to get worse in the future?

Spencer clarified that there seem to be two interconnected issues at play: the drainage problems and the economic feasibility of renovating Suite 50.

There was discussion of the historic value of Suite 50. It was noted that the Department of the Interior standards would consider Suite 50 to be historic, and that it has been stated under oath that it is historic.

Wells confirmed that the applicants had forgotten to include the written approval from the Department of the Interior approving the demolition of Suite 50. Hornik reminded the commissioners that approval from the Department of Interior can provide value but should not be the sole piece of evidence upon which the decision is made. Hoffheimer added that the Department of the Interior's standards justifying demolition are different from local standards.

There was discussion of the historical value of Suite 50. Hoffheimer said the building was once the main office for the rest of the mill. There was general consensus that the building has historical significance, but the question was raised about what course of action to take if the building has historic significance but cannot be used. It was agreed that the commissioners need more evidence proving that the building cannot be used.

Senner read Point 4 of the Unified Development Ordinance, which states that demolition may be denied for up to 365 days unless it is shown that the owner would suffer extreme hardship in that case. Hornik added that this is why the commissioners need to review the economic analysis to determine whether the applicants would suffer extreme hardship and be permanently deprived of all beneficial use.

Miller inquired whether there is any use of Suite 50 that does not require ADA improvements. Riedel responded that in order to lease the building, it must be ADA accessible. Miller asked whether there is a way for the owners to use that space for their own purposes that does not require leasing it.

Wells said the applicants already have a much nicer office within the main complex. Riedel added that they worked through many different scenarios to try to keep Suite 50, but that the problems it presents financially and physically outweigh their desire to keep it.

There was further discussion of the evidence needed for the commissioners to make the decision.

Wells asked how many contractors the commissioners would like to attend the next meeting. Hornik suggested at least an appraiser and a contractor. Hoffheimer suggested the State Historic Preservation Office as experts in historic restoration. He also added that it would be helpful to see the cost impact of leaving Suite 50 as a vacant, non-functional facility.

There was discussion of windows on the northwest wall. Riedel said he has historic photos that show that elevation, and that it did have arched windows. However, he said that wall no longer exists, and they cannot replicate that wall because the National Park Service would not allow a replica of a historic wall. He explained that the approach was to use a type of window that was of the period of the existing wall, rather than trying to make a copy of the original wall. Miller clarified that he was not suggesting a replica, but rather the same type of treatment of the windows so as not to ignore the deeper history. He said he would like to see pictures of the arched windows. Hoffheimer added that the replacement wall is representative of its time and also emblematic of the company.

Motion: Senner moved to continue the application to the July 10 meeting. Miller seconded.
Vote: 5-0.

8. General updates

There was discussion of the Certified Local Government program training in Chapel Hill. Hoffheimer announced that Hillsborough has retained its Certified Local Government status.

Hoffheimer announced a history walk for town staff which will be led by the Alliance for Historic Hillsborough. Commissioners are welcome to participate.

9. Adjournment

Senner adjourned the meeting at 8:03 p.m. without a vote.

Respectfully submitted,



Joseph Hoffheimer
Planner
Staff support to the Historic District Commission

Approved: July 10, 2024