



## Legislation Details (With Text)

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**Title:** Appeal of the Historic Preservation Board Action for 1232 N Nevada - Fire Escape (Quasi-Judicial Matter)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Appeal Statement-1232 N Nevada-HPB, 2. 1232 N Nevada\_PowerPoint, 3. 1232 N Nevada\_MWC Record of Decision, 4. 1232 N Nevada\_HP B Record of Decision, 5. Figures 1-6, 6. Criteria-7.5.1605 C- HP

Date	Ver.	Action By	Action	Result
8/11/2015	1	City Council	approved	Pass
7/28/2015	1	City Council	postpone to a date certain	Pass

Appeal of the Historic Preservation Board Action for 1232 N. Nevada Ave. - Fire Escape (Quasi-Judicial Matter)

**From:**

Peter Wysocki, Planning and Development Director, Planning and Development Department AR

**Summary:**

AR R 15-00182-HPB - QUASI-JUDICIAL

Request by ACE Construction and Exteriors, on behalf of Benjamin Gilbert, for approval for construction of a fire escape on the roof of the home located at 1232 N. Nevada Ave. The site is zoned R2/HP (Two-Family Residential with Historic Preservation Overlay) and located near the intersection of N. Nevada Ave. and E. San Miguel St.

**Previous Council Action:**

No previous City Council action has occurred.

**Background:**

The decision of the Historic Preservation Board that is being appealed results from unapproved work taking place at 1232 N. Nevada Ave., which is located within an Historic Preservation Overlay district. Any proposed work within an Historic Preservation Overlay district that is visible from the public right-of-way must be reviewed by the City’s Historic Preservation Board and shall receive a Report of Acceptability prior to construction of any approved work. Projects classified as “minor work” are reviewed by the Historic Preservation Minor Works Committee. The Minor Works Committee has the authority to approve minor works or to refer these applications to the Historic Preservation Board for review. Proposed work being to a site that is not visible from the public right-of-way, or only to

replaces existing features, is administratively issued a Notice to Proceed and is not reviewed by the Historic Preservation Board.

On June 5, 2014 a Notice to Proceed was issued after a request for replacement of the fire escape and decks at 1232 N. Nevada Ave. (Figure1) The proposed work was administratively approved by staff for demolition of the existing deck and fire escape on the southwest corner of the home, and then replacement of the deck and fire escape. On October 20, 2014 staff reviewed the plan set that was submitted to the Pikes Peak Regional Building Department (“PPRBD”), per the previously approved Notice to Proceed with notes that the scope was “replacement of deck; same location, no change to size or location.” (Figure2, PPRBD Plan 78419). The plan set was approved by staff.

On December 12, 2014, a PPRBD Inspector discovered that the scope of work for this project had exceeded what was approved. The City Planning Department was informed that the work taking place on the site included a new dormer where a roof hatch fire escape had previously existed. On December 17, 2014 the building permit was locked pending proper review and approval or disapproval for the expanded scope of work. (Figure 3, PPRBD permit notes) On February 5, 2015 PPRBD received a “Report of Acceptability” that had been previously approved for this site for a re-roof only. (Figure 4) PPRBD staff then mistakenly unlocked the permit for 1232 N. Nevada Ave.

In early March, City staff was informed by the Old North End Neighborhood that construction continued to take place on the site. City staff again worked with PPRBD to determine how the permit had been released. On March 17, 2015 the permit was again locked pending review and approval or disapproval of the work. (Figure 3) On March 23, 2015 a violation letter from City Code Enforcement was mailed to the property owner, Benjamin N Gilbert regarding unapproved construction within the Historic Preservation Overlay district. (Figure 5)

Mr. Gilbert filed an application to the Historic Preservation Board for review by staff. City staff determined that the added dormer does not exceed the allowable height in the R2 zone district; however, the dormer does increase the structure’s overall height which was not permitted in the previously issued permit. The application was reviewed by the Minor Works Committee on April 28, 2015 and was approved with conditions (see Record of Decision for Historic Preservation Minor Works Committee). On May 4, 2015 the City received an appeal of the Minor Works Committee decision. (Figure 6) The application was then reviewed at hearing by the Historic Preservation Board on June 15, 2015. The Board approved the application with conditions to remove a portion of the dormer structure to lower the height in order to maintain the character of the neighborhood. (see Record of Decision for Historic Preservation Board)

The application before City Council is an appeal of the Historic Preservation Board’s decision. Pursuant to City Code Section 7.5.1605 (K), appeals of the Historic Preservation Board are heard by the City Council. The same process is followed as appeals of City Planning Commission decisions.

**Financial Implications:**

Not applicable.

**Board/Commission Recommendation:**

This application was first reviewed by the Historic Preservation Minor Works Committee on April 28, 2015.

The application was approved with the following modifications:

1. The roof line of the added structure must be lowered to maintain the height of the existing

dormer.  
(2-0-1; Schloss excused)

The decision of the Minor Works Committee was appealed to the Historic Preservation Board. The application was reviewed at the June 15, 2015 hearing of the Historic Preservation Board. The application was approved with the following modifications:

1. The roof height of the new dormer must be lowered to maintain the existing height of the home.

(3-2-1; Against: Hooper and Appugliese; Fletcher excused)

### **Stakeholder Process:**

The public process included posting the site notifying the public of the application submittal, as well as the public hearing. Staff did not any receive comments for this application.

### **Alternatives:**

1. Affirm the action of the Historic Preservation Board;
2. Modify the action of the Historic Preservation Board;
3. Reverse the action of the Historic Preservation Board; or
4. Refer the matter back to the Historic Preservation Board for further consideration.

### **Proposed Motion:**

Should Council choose to uphold the Historic Preservation Board's decision:

Deny the appeal and affirm the action of the Historic Preservation Board based on the finding that the Board's decision regarding the application for 1232 N. Nevada Ave. meets the review criteria contained in City Code Section 7.5.1605 (C) and is consistent with the North End Historic Preservation Design Standards, subject to the following modifications;

1. The roof height of the new dormer must be lowered to maintain the existing height of the home.

Should Council choose to overturn the Historic Preservation Board's decision:

Approve the appeal and modify the decision of the Historic Preservation Board based on the finding that the application for 1232 N. Nevada Ave. is consistent with the North End Historic Preservation Design Standards; and complies with the code review criteria set forth in City Code Section 7.5.1605 (C) with no additional modifications.

Not applicable.