



Legislation Text

File #: AR R 20-00323-HPB, **Version:** 1

An appeal of the Historic Preservation Board's denial of a Report of Acceptability for the removal and replacement of a window on the eastern elevation of the residence located at 1611 Wood Avenue.

(Quasi-Judicial)

Presenter:

Gaby Serrano, Planner II, Planning and Community Development
Peter Wysocki, Planning and Community Development Director

Owner: Mario Soto

Representative: PJ Snow

Location: 1611 Wood Avenue

The appeals are of the Historic Preservation Board's decision to deny two concurrent applications for Report of Acceptability:

The first application is for the removal and replacement of a window on the eastern façade of the residence.

The second application is for the removal of eight (8) windows and installation of four new (4) windows in the existing sunroom on the southern façade of the residence. (See "Appeal Statement")

Previous Council Action:

City Council previously took action on this property in 2000 when the Historic Preservation Overlay zone was created via Ordinance # 00-147.

Background:

The Appellant's property is addressed as 1611 Wood Avenue, which is located within a Historic Preservation Overlay zone. In accordance with City Code Section 7.5.1605(A) *Work Requiring Building, Demolition, Moving or Sign Permit*, any proposed work within a Historic Preservation Overlay zone that is visible from the public right-of-way and requires a building permit must be reviewed by the City's Historic Preservation Board (herein referred to as "Board") and shall receive a Report of Acceptability prior to construction of any approved work.

The Board's responsibilities are to advocate, educate, survey, and review and take action or make recommendations regarding applications affecting historically and architecturally significant areas, buildings/structures, and resources within the City, per City Code Section 7.5.1601(B). In terms of the Board's responsibilities as it relates to the two applications being appealed, the Board is tasked to review and take action on applications for alteration or construction of new buildings in the Historic Preservation Overlay. The Board ensures, through a design review process, that the proposed work

is not creating, changing or destroying the architectural character of the building's exterior. The Board's review of permits is also intended to help the homeowner ensure changes are compatible with the historic significance of the property and have no adverse effects on other resources in the area. Through their deliberations, the Board has the right to postpone action until further information is provided or approve or deny the issuance of a Report of Acceptability. In making findings for a decision, the Board must determine whether the application, and proposed scope of work, meet the review criteria in City Code Section 7.5.1605.C. *Board Approval of Proposed Work* (See "Section 7.5.1605.C".) More detail will be provided in the following memo sections related to the two sections of Code found to not be met through the requests.

The applications before City Council are appeals of the Historic Preservation Board's denial decision. Pursuant to City Code Section 7.5.1605(K), *Appeals of Decisions*, appeals of the Historic Preservation Board are heard by the City Council. The procedures for City Council's hearing of the appeal is set forth in City Code Section 7.5.906 *Appeals*.

Below is a brief history of the Old North End Neighborhood, Adoption of the Historic Preservation overlay, and construction and permitting approvals for 1611 Wood Avenue:

- The home at 1611 Wood Avenue was built in 1902.
- On December 17, 1982, the home was listed on the National Register of Historic Places. The residence at 1611 Wood Avenue is listed as a contributing structure in the North End Historic District and was nominated based on its "Vernacular" architecture. More specifically the historical significance character elements of the home are it's "gable-end square". From an architectural character and styles perspective, "Vernacular" architecture is recognized by structures that are covered with lap siding or stucco, a large porch and a roof with a gable end pointing toward the street.
- In November of 1988, City Council adopted the first Historic Preservation Ordinance establishing the Historic Preservation Board, a Historic Preservation Overlay zone district, and permitting the review of changes and modifications to properties that are covered by the Historic Preservation Overlay zone district. The ordinance was adopted to formalize the commitment of preserving the distinctive historic character of Colorado Springs by supporting historic preservation.
- In 1999, a building permit was issued for renovations to the home at 1611 Wood Avenue. The proposed work included interior and exterior renovations, most notably, enclosing of the second-story porch to create a sunroom. (See "1999 Building Permit Plans")
- On September 26, 2000, City Council passed Ordinance 00-147, which created a Historic Preservation (HP) overlay zone encompassing the Old North End Historic District. The purpose of the overlay was to preserve and protect the historically significant portions of the Old North End Neighborhood.
- On April 4, 2002, a building permit was issued for a residential addition to the 1611 Wood Avenue residence. City Planning staff was unable to obtain copies or information for this addition from Pikes Peak Building Regional Department's archives.
- On May 12, 2020, the Appellant's contractor filed a building permit for an interior remodel. City Planning staff reviewed the permit and determined that a window on the eastern elevation was being changed and also eight (8) windows on the southern elevation were being removed and replaced with four (4) windows. Staff approved the building permit for the interior work only. The property owner filed the applications for Reports of Acceptability from the Board.

- On June 1, 2020, the Board heard the applications for Reports of Acceptability for the following scope of work:
 - Change the window on the eastern elevation from a vertical to a horizontal window.
 - Remove and replace eight (8) windows on the southern elevation of the residence with updated “like-to-like” windows.
 - However, at the hearing, the Appellant presented a modified proposal from what was described in the original project statement for the Report of Acceptability. The project statement for the Report of Acceptability states that the existing eight (8) windows would be replaced with a like-to-like style and number of windows. (See Project Statement for the Report of Acceptability). At the hearing, the proposal presented to the Board was to remove the eight (8) windows and replace those with four (4) windows. City Planning staff notes that the Appellant did not provide information (i.e. plans or elevation exhibits) regarding this change to staff prior to the hearing or at the hearing for the Board to consider. The appeal applications also did not include supplemental materials outlining the changed scope of work on the southern elevation of the residence.

According to City Code Section 7.5.1605(K) *Appeals of Decisions*, appeals of Historic Preservation Board decisions heard by City Council must indicate what code sections are not being met which can include the review criteria for the subject applications. The appeal states that the Historic Preservation Board failed to consider the facts presented and misapplied the City Code in their final determination, (See “Appeal Statement”) The Appellant requests City Council reconsider the Historic Preservation Boards decision because:

- The changes will have no impact that are visible from the public right of way an alley, and
- The sunroom is not a historical feature of the home.

Additional reasons for appealing the Historic Preservation Board’s decision can be found in the appeal statement which is attached.

Removal and Replacement of Vertical Window with a Horizontal Window

In accordance with City Code Section 7.5.1605(C) *Board Approval Of Proposed Work*, the Board determined that the removal and replacement of a window on the eastern elevation of the residence did not meet review criteria of City Code Section 7.5.1605 (C)(2),(C)(3) and (C)(4) for the following reasons:

City Code Section 7.5.1605(C)(2) - The architectural style, arrangement, texture and materials of existing and proposed structures, and their relation to the structures in the historic preservation overlay zone.

The change of symmetry from vertical to horizontal will change the “Victorian” architectural style of this home. Per the Old North End Neighborhood Design guidelines, (see “Old North End Historic Preservation Overlay Zone Districts Standards”) these guidelines are not codified or adopted as part of the City Code. These design guidelines are a guide for the Board to make a decision. The Old North End Historic Preservation Design Standard B3 states that “mixes and proportions of building materials, such as exterior siding, window glass and decorative trim, should coincide with the

building's style of architecture." The new window orientation from vertical to horizontal is not consistent with the "Victorian" architectural style.

City Code Section 7.5.1605(C)(3) - The effects of the proposed work in creating, changing or destroying the exterior architectural features of the structure upon which such work is to be done.

The project fails to preserve the unique character of residence and changes the architecture structure drastically.

City Code Section 7.5.1605(C)(4) - The effect of the proposed work upon the protection, enhancement, perpetuation and use of the historic preservation overlay zone.

The Old North End Historic Preservation Design Standard B13 states "Preserve significant windows, including those with such features as stained, beveled or leaded glass, distinctive patterns or curves." This project will not be preserving the orientation of the window.

Removal and Replacement of 8 Windows with 4 Windows on Southern Elevation

The Board concluded that the scope of work did not meet review criteria for granting a Report of Acceptability. Specifically, the Board found that the proposal did not meet City Code Sections 7.5.1065 (C)(2) and (C)(4) for the following reasons:

City Code Section 7.5.1605(C)(2) - The architectural style, arrangement, texture and materials of existing and proposed structures, and their relation to the structures in the historic preservation overlay zone.

The project fails to preserve the significant historic and architectural features of the National Register Home. This project is not maintaining the visual integrity of the Old North End neighborhood.

City Code Section 7.5.1605(C)(4) - The effect of the proposed work upon the protection, enhancement, perpetuation and use of the historic preservation overlay zone.

In addition, this part of the project changes the architectural and historic character of the neighborhood.

During the hearing, the Board also provided the Appellant with several ideas for the removal and replacement of the windows that would not require the Board's review and approval, and would be consistent with the homes "Victorian" architectural style such as replacing the eastern window for a smaller, but a vertical window to maintain the symmetry of the residence. The Appellant, however, raised concerns about privacy.

Overall, the Board found that the scope of work failed to protect and preserve of the physical character of a historic resource and negatively impact the homes relationship with other historical buildings in in the immediate area. Furthermore, the Board found that the projects were not consistent with the purpose for the Historic Preservation Overlay zone, outlined in City Code Section 7.3.505 Purpose and Declaration of Policy, which states:

"It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures and areas of a historical or architectural significance

located within the City is a public necessity and is required in the interest of the prosperity, civic pride, and general welfare of the people.”

Prior to the hearing, City Planning staff determined that the projects met all other applicable development standards of the R1-9000 zone district, as stated in City Code Section 7.3.104 Agricultural, Residential, Special Use and Tradition Neighborhood Development Zone District Development Standards; thus, no additional land use applications were needed. City Planning staff found that the subject applications, as modified during the hearing, were inadequate and additional information should have been provided by the Appellant for the Board to thoroughly review and take action. City Planning staff also found that the projects were not in compliance with the review criteria, as the proposals changed the historic character of the home. As discussed during the hearing, alternatives were presented to the Appellant that would have protected the historical context and significance of the residence. More specifically, the Board would not be required to review the project if the windows were kept in the same location, no changes to the number of windows, no changes to the style of the window and no changes in the rough opening size a building permit will not be required.

Previous Council Action:

N/A

Financial Implications:

N/A

City Council Appointed Board/Commission/Committee Recommendation:

At the City Historic Preservation Board meeting held on June 1, 2020, the appellant's applications for Reports of Acceptability were discussed extensively. During the Historic Preservation Board's deliberation, the follow concerns were expressed about each application.

Removal and replacement of a window on the eastern elevation:

- The Board was concerned about the symmetry of the house, all the doors and windows are in a vertical alignment of the house which is part of the aesthetics of the home.
- The proposed window direction is not cohesive with the rest of the windows of the home.

Removal of eight (8) windows and install four (4) windows in the southern elevation:

- The Board was concerned that replacing the eight (8) windows and installing four (4) windows will change the character of the home as it is historically accurate for the neighborhood.
- The new feature does not maintain the original character of the structure.
- The Board is protecting the structure, so that the structure does not loses the historic significance.
- The Board was apprehensive about replacing the windows and changing the character of the sleeping porch as it is historically significance of this neighborhood.

The Board's vote for each request was as follows:

- The application for the removal and replacement of a window on the eastern elevation of the residence was denied with a vote of 4-1-2-0 (Board Member Kendall was the dissenting vote - meaning voting against the denial - with the Board currently having two vacancies).
- The application for the removal of eight (8) windows and install four (4) windows in the

southern elevation was denied with a vote of 3-2-2-0 (Board Member Smith and Kendall were the dissenting votes against the denial).

During the hearing, no other members of the public spoke in favor or against the applications. Please reference the June 1, 2020 Historic Preservation Board minutes from the hearing for a detailed record. (See “June 1, 2020 Historic Preservation Board Minutes”)

Stakeholder Process:

The public notification process consisted of providing notice to adjacent property owners within One-hundred fifty (150) feet of the site, which included the mailing of postcards on two occasions; prior to the Historic Preservation Board hearing and prior to the City Council hearing. The site was also posted during the two occasions noted above. Staff did not receive comments for the applications.

Staff requested information from the Pikes Peak Regional Building Department Deputy Building official about the guidelines of the 2015 International Residential Code (IRC) Window Sill Height section of code that the Appellant cited in the appeal statement. It appears that the cited section 2015 IRC (R312.2.1) has been deleted from the 2017 Regional Building Code because it can conflict with the requirements from another section of code. (See “Deputy Building Official Response”). Staff finds that the Appellant’s arguments of section 2015 IRC (R312.2.1) are not valid to the request of the removal and replacement of a window on the eastern elevation of the residence.

Alternatives:

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

Proposed Motion:

Deny the appeal and uphold the action of the Historic Preservation Board to deny the Report of Acceptability for removal and replacement of a vertical window with a horizontal window on the eastern elevation of 1611 Wood Avenue, based on the finding that the request does not meet the review criteria in City Code Section 7.5.1605 (C) and the appeal did not meet the appeal requirements of City Code Section 7.5.906(B).

Summary of Ordinance Language

N/A