



DATE: May 30, 2023
TO: Board of Adjustment
FROM: Xavier Bauguess, Planning Technician
CC: Sherry Ashley, Planning Director
SUBJECT: Regular Meeting

The Statesville Board of Adjustment will meet on **Tuesday, June 6, 2023 at 12:30 pm** in the Council Chambers on the 2nd floor of City Hall, 227 South Center Street, Statesville, NC.

AGENDA

1. Welcome
2. Review and Approval of Minutes from the May 2, 2023 regular meeting.
3. **A23-01**; A request filed by Dustin McCrary to appeal based on the fact that the Historic Preservation Committee denied the Certificate of Appropriateness (COA23-05) to install a 6' x 1.5' sign on the building at 117 Kelly Street; Tax Map # 4734-85-8770.
4. Other Business
5. Adjournment

Attachments:

- Minutes – 05/02/2023 BOA Meeting
- Appeal A23-01 Staff Report & Exhibits

**STATESVILLE BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
May 2, 2023**

The Statesville Board of Adjustment met Tuesday, May 2, 2023 at 12:30 p.m. in the City Hall Council Chambers located at 227 South Center Street, Statesville, NC.

Board Members Present: Gurney Wike, Bill Winters, George Simon, Jed Pidcock, Leslie Griffin

Board Members Absent: David Steele, Roy West

Council Present: N/A

Staff Present: Sherry Ashley, Xavier Bauguess

Others: Leah Messick – City Attorney, Ronald Wyatt, Andrew Foard, Chris Harris

Media: 0

Simon called the meeting to order.

Approval of minutes

The February 7, 2022 Board of Adjustment meeting minutes were approved as presented by acclamation.

Chairman Simon explained the quasi-judicial meeting process and stated a 4/5 majority is required for variance approval. Simon swore in all those present who planned to speak during the hearing. Two people were sworn in.

Simon declared the public hearing open.

V23-02 A request filed by Ronald Wyatt for three variances from the minimum lot size and minimum lot width established for the R-20 zoning district, which is 20,000 square feet and 100 feet, established in Section 3.04. B., Table 3-3 of the Statesville Unified Development Code. The petitioner's request is to reduce the minimum lot size to 12,188 square feet and minimum lot width to 71.75 feet for Lot 1 and reduce the minimum lot size to 18,001 for Lot 2, in order to subdivide the current lot, which has two single-family homes into two separate lots, each containing one single-family dwelling.

Sherry Ashley gave the following Staff Report:

Background Information

- The subject property is located at 2908 & 2912 Newton Drive;
- The property is owned by Ronald Wyatt;
- The subject property is approximately .69 acres in size;
- The subject property is located within the R-20 (Suburban Residential) District;

- The variance application was submitted by Ronald Wyatt on March 23, 2023.

Variance Request

The petitioner, Ronald Wyatt is requesting to subdivide this parcel into two parcels. In order to do so, the petitioner needs three variances from the minimum lot size and lot width established for the R-20 zoning district, which is 20,000 square feet and 100 feet, established in Section 3.04. B., Table 3-3 of the Statesville Unified Development Code. The three requested variances are as follows: 1) To reduce the minimum lot size for Lot 1 by 7,812, for a lot size of 12,188 square feet 2) To reduce the minimum lot width for Lot 1 by 28.25 feet for a lot width of 71.75 feet 3) To reduce the minimum lot size for Lot 2 by 1,989 square feet for a lot size of 18,011 square feet.

Review

There are currently two single-family homes on the parcel addressed 2908 and 2912 Newton Drive. This property is located outside of the city limits but is located within the City of Statesville extraterritorial jurisdiction (ETJ). The single-family dwelling addressed 2908 Newton Drive was built in 1939 and the single-family dwelling addressed 2912 Newton Drive was built in 1940, before the City's zoning districts were established. The petitioner, Ronald Wyatt, purchased the property on January 31, 2021, long after the single-family dwellings were built on the property.

The petitioner, Ronald Wyatt, seeks to subdivide the subject parcel, located at 2908 and 2912 Newton Drive, Parcel 4724-53-2313. The established minimum lot size and minimum lot width in the R-20 zoning district, according to the Statesville Unified Development Code, is 20,000 square feet and 100 feet.

Section 6.02. A. 8 states that "there shall not be more than one (1) principal residential building and its accessory building per lot, except as otherwise permitted in this code." The parcel is considered a non-conforming occupied lot because it currently has more than one principal residential building on the lot. The petitioner has stated that granting this variance will remedy the non-conformity of two-single family dwellings on one lot while the minimum lot size and minimum lot with will become legal non-conformities. The petitioner has also stated that this tradeoff will be advantageous for the City of Statesville as it will allow for separate home ownership for each lot allowing for an additional affordable housing unit in Statesville.

The subject property is unique, due to the fact that the two single-family dwellings on this property were built before the City of Statesville extraterritorial jurisdiction was established. The current lot meets the minimum lot size and minimum lot width for one single-family dwelling; however, it has two single-family dwellings on it and does not meet the minimum lot dimensions to subdivide the parcel to create two parcels that meet the minimum lot dimensions. This property is the only parcel in the neighborhood with more than one single-family dwelling and granting the variance will remedy that non-conformity.

The average lot size of lots in the neighborhood is approximately 16,374 square feet, which is below the minimum lot size of the R-20 district. The petitioner has represented that it is not possible to meet the minimum lot size and minimum lot width to create two separate lots however granting the variance request will allow the subdivision of this property, allowing for two parcels containing one principal residential building each, which would achieve the spirit, and intent of the Unified Development Code.

The petitioner is requesting these variances to allow the subdivision of the parcel into two separate parcels with one single-family dwelling on each parcel. The newly created Lot 1 is proposed to be 12,188 square feet, a variance of 7,812 square feet, and will have a lot width of 71.75 feet at the front setback line, a variance of 28.25 feet, while the newly created Lot 2 is proposed to be 18,011 square feet, a variance of 1,989 square feet.

Staff Recommendation

Based on the presented evidence and due to the fact that the lot is already non-conforming, the houses were built before zoning was established, and the average size of the lots in the neighborhood are below 20,000 square feet, staff recommends granting the variance request to reduce the minimum lot size by 7,812 square feet and the minimum lot width by 28.25 feet for Lot 1 and to reduce the minimum lot size by 1,989 for Lot 2, to create two new lots. The newly created Lot 1 is proposed to be 12,188 square feet and will have a lot width of 71.75 feet at the front setback line, while the newly created Lot 2 is proposed to be 18,011 square feet.

Without the variance the petitioner would not be able to subdivide the parcel into two separate parcels and both houses would remain on one lot. The petitioner could also attempt to rezone the property to R-10 (Urban Low Density Residential) District, which has a minimum lot size of 10,000 square feet however a variance would still be needed to subdivide the parcel as proposed because the minimum lot width in the R-10 district is 75. Additionally, there is no guarantee that the rezoning request would receive a favorable recommendation from the Planning Board or approval from City Council.

Ashley presented the findings of fact that the board must determine all four are true to grant the variance and to find substantial evidence to meet each. Ashley gave the staff analysis against the findings of fact based on the evidence submitted by the applicant:

1. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Ashley stated the subject property is zoned R-20, which establishes a minimum lot size of 20,000 square feet and a minimum lot width of 100' at the front setback line. Without the variance, the applicant would not be able to subdivide the parcel into two separate parcels and both houses would remain on one lot.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Ashley stated the subject property is located outside of the city limits but is located within the City of Statesville Extraterritorial Jurisdiction (ETJ) and is zoned R-20. There are currently two single-family homes on the parcel, built before City zoning was established, addressed 2908 and 2912 Newton Drive. The single-family dwelling addressed 2908 Newton Drive was built in 1939 and the single-family dwelling addressed 2912 Newton Drive was built in 1940. Section 6.02. A. 8 states that "there shall not be more than one (1) principal residential building and its accessory building per lot, except as otherwise permitted in this code." The current arrangement is considered to be non-conforming.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

Ashley stated the petitioner, Ronald Wyatt, purchased the property on January 31, 2021, long after the single-family dwellings were built on the property.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Ashley stated the petitioner has represented that granting the variance request will allow the subdivision of this property, allowing for two parcels containing one principal residential building each, which would achieve the spirit, and intent of the Unified Development Code.

The petitioner appears to be requesting reasonable variances required to subdivide the parcel into two parcels with one home on each parcel, while maintaining the spirit of the zoning district.

The requested variance, and subdivision of the parcel into two parcels with one home on each parcel, does not appear to conflict with the UDC Purpose in Section 1.02

Ashley stated based on the evidence provided, all four findings of fact appear to be met. The subject property is unique due to the fact that the parcel is already non-conforming, the houses were built before zoning was established and the average size of the lots in the neighborhood are below 20,000 square feet.

Winters asks if the homes are currently used as rental properties and Wyatt states that they are.

Winters asks if the Board grants this variance request and the homes were torn down, would new homes be permitted on these lots and Ashley stated new homes would be permitted if the new homes met the setback requirements for the district.

Simon asks if anyone wishes to speak in favor of granting the variance.

Ronald Wyatt, property owner, addressed the board. Wyatt stated that this is a current a non-conforming use however he is requesting these variances to bring the property into conformance. Wyatt stated that he has invested more than \$75,000 into the homes to bring them up to modern standards and codes and the intent is to sell the homes for single-family home ownership.

Simon asks if the Board had any questions for Wyatt and there were none.

Simon asks if anyone else would like to speak in favor of granting the variance and there were none.

Simon asks if anyone would like to speak against granting the variance and there were none.

Ashley stated that the Board cannot base their decision on whether the property is owner occupied or renter occupied.

Simon declared the public hearing closed.

Chairman Simon reviewed the following variance checklist questions to apply to the three variance requests.

1. Unnecessary hardship would result from the strict application of the regulation. *It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*

	True	False		True	False	TOTAL
Pidcock	X		Winters	X		True 5
Wike	X		Simon	X		False 0
Griffin	X					

Explanation:

Pidcock – It is already a non-conformity due to there being two single-family homes on the parcel.

Wike - It is already a non-conformity due to there being two single-family homes on the parcel.

Griffin - It is already a non-conformity due to there being two single-family homes on the parcel.

Winter - It is already a non-conformity due to there being two single-family homes on the parcel.

Simon- It is already a non-conformity due to there being two single-family homes on the parcel.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. *Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

	True	False		True	False	TOTAL
Pidcock	X		Winters	X		True 5
Wike	X		Simon	X		False 0
Griffin	X					

Explanation:

Pidcock – The homes were built prior to the current code standards.

Wike – The average lot size in the neighborhood is below 20,000 square feet.

Griffin - The average lot size in the neighborhood is below 20,000 square feet.

Winters – The average lot size in the neighborhood is below 20,000 square feet.

Simon – The average lot size in the neighborhood is below 20,000 square feet.

3. The hardship did not result from actions taken by the applicant or the property owner. *The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.*

	True	False		True	False	TOTAL
Pidcock	X		Winters	X		True 5
Wike	X		Simon	X		False 0
Griffin	X					

Explanation:

Pidcock – The homes were built prior to the current property owner buying the property.

Winters – The homes were built prior to the current property owner buying the property.

Griffin - The homes were built prior to the current property owner buying the property.

Winters – The homes were built prior to the current property owner buying the property.

Simon – The homes were built prior to the current property owner buying the property.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

	True	False		True	False	TOTAL
Pidcock	X		Winters	X		True 5
Wike	X		Simon	X		False 0
Griffin	X					

Explanation:

Pidcock – It is consistent with the of the surrounding area.

Wike – It is consistent with the of the surrounding area.

Griffin - It is consistent with the of the surrounding area.

Winters – It is consistent with the of the surrounding area.

Simon – It is consistent with the of the surrounding area.

Pidcock made a motion based on the findings of fact to grant the three variances as submitted, seconded by Wike. The motion carried unanimously.

V23-03 A request filed by Foard Construction Company on behalf of Excel Truck Group for a variance from the predominant exterior building materials, established in Section 6.08. M.1. of the Statesville Unified Development Code. The petitioner’s request is to build a 50’ x 50’ storage building with metal panels with exposed fasteners on 100% of all four building façades.

Simon swore in all those present who planned to speak during the hearing. Three people were sworn in.

Sherry Ashley gave the following Staff Report:

Background Information

- The subject property is located at 2221 International Drive;
- The property is owned by RE/SG Investments, LLC;
- The subject property is approximately 6.789 acres in size;
- The subject property is located within the B-5 (General Business) District;
- The variance application was submitted by Foard Construction on March 30, 2023.

Variance Request

The petitioner, Foard Construction, on behalf of Excel Truck Group is requesting a variance from the predominant exterior building materials, established in Section 6.08. M.1. of the Statesville Unified Development Code. The petitioner’s request is to build a 50’ x 50’ storage building with metal panels with exposed fasteners on 100% of all four building façades.

Review

The petitioner, Foard Construction on behalf of Excel Truck Group, seeks to build a 50’ x 50’ storage building with metal panels with exposed fasteners on 100% of all four building facades on the subject parcel, located at 2221 International Drive.

Section 6.08. establishes the Design Standards for Non-Residential Developments. Section 6.08. M. 1 states “Predominant exterior building materials shall be high quality materials including brick, wood, sandstone, other native stone, aluminum composite materials and tinted/textured concrete masonry units. Tinted textural concrete masonry can be used as accent block. Metal with no exposed fasteners may be used up to 50% on facades visible from public streets, public parking

areas and/or drive-thru areas. Metal with exposed fasteners may be used up to 30% on facades visible from public streets, public parking areas and/or drive-thru areas as accent materials. Metal siding with exposed or non-exposed fasteners may be used up to 100% for service facades not visible from public streets, public parking and/or drive-thru areas.

The applicant has proposed a 50' x 50' storage building with metal panels and exposed fasteners on 100% of all four building facades. The property has frontage along International Drive and Interstate 40; therefore, all four building facades will be visible from public streets. Since the building facades are visible from public streets, metal with exposed fasteners may be used up to 30% of the building facades while the other 70% of the façade must meet the materials listed in 6.08 M. 1.

Excel Truck Group is a Freightliner/Western Star heavy duty truck dealership. The petitioner states that Freightliner/Western Star is the largest truck manufacturer in the United States and has seen tremendous growth in the Charlotte Region. Excel Truck Groups' location at the Interstate 40 and Interstate 77 interchange is key to their growth. The current building was built in the early 1960's and does not have the storage capacity to support the growth, therefore, it has become necessary to construct additional storage space.

The petitioner states the current building was built in the 1960's and they would like the new building to match the architecture of the existing building. The best location for the new building based on topography, is east of the existing building. Any other location, hidden from public view, would result in moving loads with a forklift up and down a hill, resulting in unnecessary travel time.

The petitioner states the intention for the new storage building is to improve the exterior appearance while providing a safer and more efficient workspace for employees. Excel Truck Group is currently storing items outside and using storage containers. They would like to improve the appearance by constructing a storage building that matches the exterior of the existing building. The new building would keep the parts safe from weather damage and theft and would be ergonomically friendly for employees as they would have access with a forklift.

The petitioner is requesting a variance to construct a 50' x 50' storage building with metal panels and exposed fasteners on 100% of all four building facades.

Staff Recommendation

All four facades of the building would be visible from public streets as the property has frontage along International Drive and Interstate 40. Excel Truck Group can build a new storage building that consists of 30% metal with exposed fasteners or 50% metal with no exposed fasteners. City Council originally adopted this ordinance on August 2, 2010 and amended it on January 10, 2022 to specifically address metal siding. If granted, this variance request would not satisfy the intent of the ordinance. Therefore, based on the evidence presented, staff recommends denial.

Ashley presented the findings of fact that the board must determine all four are true to grant the variance and to find substantial evidence to meet each. Ashley gave the staff analysis against the findings of fact based on the evidence submitted by the applicant:

1. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Ashley stated the petitioner is requesting the variance in order to construct a 50' x 50' storage building with metal panels with exposed fasteners on 100% of all four building façades. The petitioner has stated this request is to match the architecture of the existing building.

UDC Section 6.08. M. 1 states metal with no exposed fasteners may be used up to 50% on facades visible from public streets, public parking areas and/or drive-thru areas. Metal with exposed fasteners may be used up to 30% on facades visible from public streets, public parking areas and/or drive-thru areas as accent materials.

Ashley stated that the Unified Development Code allows three different options for building materials in the B-5 District. Therefore, the staff conclusion is that this finding of fact is not met.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Ashley stated the petitioner has represented the best location for the new building based on topography, is east of the existing building. Any other location, hidden from public view, would result in moving loads with a forklift up and down a hill, resulting in unnecessary travel time.

Ashley stated the subject property has frontage along International Drive and Interstate 40 which means all four facades of the proposed building would be visible from public streets.

Ashley stated that the applicant is placing the building in a spot that would allow visibility on all four facades of the building, and the intent of the ordinance is to have facades visible to the public to meet the architectural ordinance. Therefore, the staff conclusion is that this finding of fact is not met.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

Ashley stated the petitioner has represented that the current building was built in the 1960's and they would like the new building to match the architecture of the existing building.

Ashley stated the hardship would result from actions taken by the applicant since the variance is requested to build a new building that does not meet the code. Therefore, the staff conclusion is that this finding of fact is not met.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Ashley stated the petitioner has represented that the intention for the new storage building is to improve the exterior appearance while providing a safer and more efficient workspace for employees. They are currently storing items outside and using storage containers. The new building would improve the appearance by constructing a storage building that matches the exterior of the existing building. The new building would keep the parts safe from weather damage and theft and would be ergonomically friendly for employees as they would have access with a forklift.

Ashley stated that the City Council amending UDC Section 6.08. M. 1 in January 2022, to specifically address metal siding. Therefore, the staff conclusion is that this finding of fact is not met.

Ashley stated based on the evidence provided, all four findings of fact are not met. All four facades of the building would be visible from public streets as the property has frontage along International Drive and Interstate 40. Excel Truck Group can build a new storage building that consists of 30% metal with exposed fasteners or 50% metal with no exposed fasteners. City Council originally adopted this ordinance on August 2, 2010 and amended it on January 10, 2022 to specifically address metal siding. If granted, this variance request would not satisfy the intent of the ordinance.

Ashley stated that the Board has seen a similar case submitted by Randy Marion however the current ordinance was not in place at that time, therefore this case is different.

Simon asks Winters what the issue was in the Randy Marion case and Winters states that the big discussion at that time was about the exposed fasteners and the Board decided to approve the variance request without exposed fasteners and to required multiple colors of metal.

Simon asks if this request was submitted just to save money and Ashley stated that the board would have to ask the applicant that question.

Pidcock asks if this issue is the visibility from public roads and Ashley stated that it is the current issue.

Simon asks if anyone wishes to speak in favor of granting the variance.

Chris Harris of Excel Truck Group addressed the board. Harris stated that they started leasing this facility six years ago and now own the facility. The biggest challenge they are facing is that they have outgrown the facility and they need to increase their storage space. Harris stated that their intention is for the new building to match the existing facility, however the ordinance would not allow them to do so. Three sides of the building would be visible from Interstate 40. However, you would have to be very close to the building to see the exposed fasteners therefore the exposed fasteners would not be visible from Interstate 40. International Drive is not a highly used road, and they are one of the only ones that use it.

Harris stated that their goal is to put in a facility that would allow them to store all of their parts in. Currently they have to store parts outside, in trailers and shipping containers, which can be a safety issue for their employees and creates a loss in efficiency. Harris stated that this cost always plays a factor in these types decision, however in the next three to five years they are looking to potential replace that facility with a new dealership and at that point they will be looking to build a facility that will be able to store all of their parts but at this time they are looking for a practical solution that will handle their growth today while meeting the need of their employee and customers.

Simon asks if the issue is the fasteners and Harris stated that the ordinance regulates the percentage of metal siding permitted based on the visibility from public street and whether the fasteners are exposed or non-exposed.

Simon asks what the difference in cost would be to meet the requirements of the code and Harris stated that it would double the cost of the project from \$40,000 to \$80,000.

Simon asks if turning the fasteners the other way would alleviate the issue with the fasteners and Harris stated that the head of the fasteners would be on the outside of the building like the fasteners on the existing building. The head of the fasteners can only be seen when you are close to the building and cannot be seen from Interstate 40 or International Drive.

Pidcock stated that if the fasteners were non-exposed they would be allowed to use metal siding up to 50% of the façade.

Winters stated that in the Randy Marion case the metal was called architectural metal and City Council has made their intention clear by adopting the new ordinance therefore any new structure would have to be built in conformance with the current code.

Simon asks if they have looked at other just doing one side of the building to work the percentages to comply with the code and Harris stated they have looked at changing the location of the proposed building to create less visibility however it would not be in the best interest of their employees in terms of efficiency.

Wike asks if they could do façade similar to the existing building that has windows that way the façade would comply with the code and match the existing building and Harris stated that the façade that has windows on the existing building is a same portion of the building and the majority of the building is all metal which is why they are requesting the variance.

Andrew Foard of Foard Construction addressed the board. Foard stated that they are currently using shipping containers as storage on this property that can be seen from Interstate 40 and this building would replace those shipping containers.

Simon declared the public hearing closed.

Chairman Simon reviewed the following variance checklist questions to apply to the variance requests.

1. Unnecessary hardship would result from the strict application of the regulation. *It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*

	True	False		True	False	TOTAL
Pidcock	X		Winters		X	True 1
Wike		X	Simon		X	False 4
Griffin		X				

Explanation:

Pidcock – Due to the additional cost for what the applicant represents is a temporary building.

Wike – The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

Griffin - The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

Winter - The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

Simon- The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. *Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

	True	False		True	False	TOTAL
Pidcock		X	Winters		X	True 0
Wike		X	Simon		X	False 5
Griffin		X				

Explanation:

Pidcock – Due to the standards that have been established by the Unified Development Code.

Wike – Due to the standards that have been established by the Unified Development Code.

Griffin - Due to the standards that have been established by the Unified Development Code.

Winters – Due to the standards that have been established by the Unified Development Code.

Simon – Due to the standards that have been established by the Unified Development Code.

3. The hardship did not result from actions taken by the applicant or the property owner. *The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.*

	True	False		True	False	TOTAL
Pidcock		X	Winters		X	True 0
Wike		X	Simon		X	False 5
Griffin		X				

Explanation:

Pidcock – The applicant is proposing to use building materials that the code specifically addresses.

Winters – The applicant is proposing to use building materials that the code specifically addresses.

Griffin - The applicant is proposing to use building materials that the code specifically addresses.

Winters – The applicant is proposing to use building materials that the code specifically addresses.

Simon – The applicant is proposing to use building materials that the code specifically addresses.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

	True	False		True	False	TOTAL
Pidcock		X	Winters		X	True 0
Wike		X	Simon		X	False 5
Griffin		X				

Explanation:

Pidcock – It is not consistent with the of the purpose and intention of the ordinance.

Wike – It is not consistent with the of the purpose and intention of the ordinance.

Griffin - It is not consistent with the of the purpose and intention of the ordinance.

Winters – It is not consistent with the of the purpose and intention of the ordinance.

Simon – It is not consistent with the of the purpose and intention of the ordinance.

Wike made a motion based on the findings of fact to adopt the conclusions of law proposed and the judgement to deny the variance request, seconded by Winters. The motion carried unanimously.

Meeting adjourned at 1:08 p.m.

Staff Report

To: Board of Adjustment Members
From: Xavier Bauguess, Planning Technician
CC: Sherry Ashley, Planning Director
Date: May 30, 2023
Re: A23-01; 2221 117 Kelly Street; Tax Map 4734-85-8770

Background Information

- The subject property is located at 117 Kelly Street (*Exhibit 1 – Location Map and Site Photo*);
- The property is owned by 120 S ELM ST LLC (*Exhibit 2 – Property Deed*);
- The subject property is approximately .24 acres in size (*Exhibit 2 – Property Deed*);
- The subject property is located within the CB H-D (Central Business Historic District Overlay) District (*Exhibit 3 – Zoning Map*);
- The appeal application was submitted by Dustin McCrary on March 2, 2023 (*Exhibit 4 – Appeal Application*).

Appeal Request

The petitioner, Dustin McCrary, is requesting to appeal based on the fact that the Historic Preservation Committee decision denied the Certificate of Appropriateness (COA23-05) to install a 6' x 1.5' sign on the building at 117 Kelly Street; Tax Map # 4734-85-8770.

Overview

Because this appeal is from the Historic Preservation Commission's decision, the Board of Adjustment may not reopen the case but must make its decision **solely on the record** sent to it by the Historic Preservation Commission (writ of certiorari).

On April 27, 2023 the Historic Preservation Commission denied the request for a Certificate of Appropriateness submitted by Dustin McCrary and the records are included in the exhibits attached.

Staff Exhibits

Exhibit 1 – Location Map and Site Photo
Exhibit 2 – Property Deed

- Exhibit 3 – Zoning Map
- Exhibit 4 – Appeal Application
- Exhibit 5 – Historic Preservation Committee Application
- Exhibit 6 – COA23-05 Staff Report
- Exhibit 7 – Proposed Sign Rendering
- Exhibit 8 – Historic Preservation Commission’s Design Standards Chapter 2. H. Signage
- Exhibit 9 – Historic Preservation Commission Minutes April 27, 2023

EXHIBIT 1 - LOCATION MAP AND SITE PHOTO



Case No. A23-01
Location Map - PIN # 4734-85-8770
117 Kelly Street, Statesville, NC 28677

EXHIBIT 1 - LOCATION MAP AND SITE PHOTO



Type: CONSOLIDATED REAL PROPERTY
Recorded: 6/7/2019 10:13:43 AM
Fee Amt: \$366.00 Page 1 of 3
Revenue Tax: \$340.00
Iredell County, NC
Ronald N. Wyatt Register of Deeds

BK 2623 PG 1767 - 1769

Excise Tax: \$340.00

This instrument was prepared by: Matthew L. Benton, Attorney at Law

Return to: Gottholm, Ralston & Benton, PLLC, 117 N. Kelly Street, Statesville, NC 28677

Parcel ID: 4734-85-8770.000

Brief Description for the Index: 117 N. KELLY STREET

NORTH CAROLINA GENERAL WARRANTY DEED

This DEED made this 5th day of June, 2019 by and between

GRANTOR

**GOTTHOLM, RALSTON & BENTON, PLLC
a North Carolina Professional Limited Liability
Company**

MAILING ADDRESS:
117 N. Kelly Street
Statesville, NC 28677

GRANTEE

**120 S. ELM ST., LLC
a North Carolina Limited Liability Company**

MAILING ADDRESS:
415 E. Broad Street, Unit A5
Statesville, NC 28677

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Iredell County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

For back title reference, see Deed Book 2447 at Page 1712, Iredell County Registry.

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

R.O.T.C.


Page Count: 
 NS PQ SI

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: Subject to such easements, rights of way, restrictions, ordinances and environmental matters as may exist on, over, and under said property; Subject to the 2018 ad valorem taxes which are to be prorated as of this date; Subject to any matters that may be revealed by a recent and accurate survey.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Gottholm, Ralston & Benton, PLLC

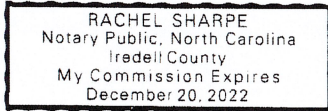


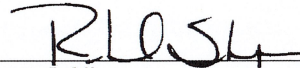
By: Matthew L. Benton, Member

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

I, Rachel Sharpe, a Notary Public of the State of North Carolina, County of Iredell, certify that Matthew L. Benton, Member of Gottholm, Ralston & Benton, PLLC, being known to me or proved on the basis of satisfactory evidence to be the person described, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 6th day of June, 2019.




Notary Public

My Commission Expires: 12/20/22

Exhibit "A"

BEGINNING at an existing iron pin in the west margin of Kelly Street, the southeast corner of Stephen M. Coarsey (Deed Book 763, Page 245) and running thence with the western margin of Kelly Street, South 13 degrees 33 minutes 10 seconds East 59 feet to an existing iron pin, the northeast corner of property owned by the City of Statesville; thence with the City of Statesville's line, South 76 degrees 18 minutes 21 seconds West 107.5 feet to an existing iron pin in the line of W.S.J. Investors (Deed Book 812, Page 228); thence with the line of W.S.J. Investors North 20 degrees 58 minutes 32 seconds West 42.75 feet to an existing iron pin; thence South 70 degrees 00 minutes West 67.6 feet to an existing iron pin in the line of Constantine H. Kutteh; thence with Kutteh's line, North 24 degrees 00 minutes West 32.0 feet to an existing iron pin in Coarsey's line; thence with Coarsey's line as follows: North 75 degrees 16 minutes 22 seconds East 71.89 feet to an existing iron pin and North 89 degrees 24 minutes 55 seconds East 43.2 feet to an existing iron pin and North 74 degrees 44 minutes 40 seconds East 72.15 feet to the point and place of beginning, containing 8,712.90 square feet, more or less, and being according to a survey of Alfred F. Williams, Registered Land Surveyor, dated April 1, 1992.

For back reference see Deed Book 810, Page 555; Deed Book 810, Page 557; Deed Book 763, Page 243, Iredell County Registry.

There is excepted from this conveyance the property, if any conveyed to Constantine H. Kutteh, et ux in Deed Book 763, Page 241, Iredell County Registry.

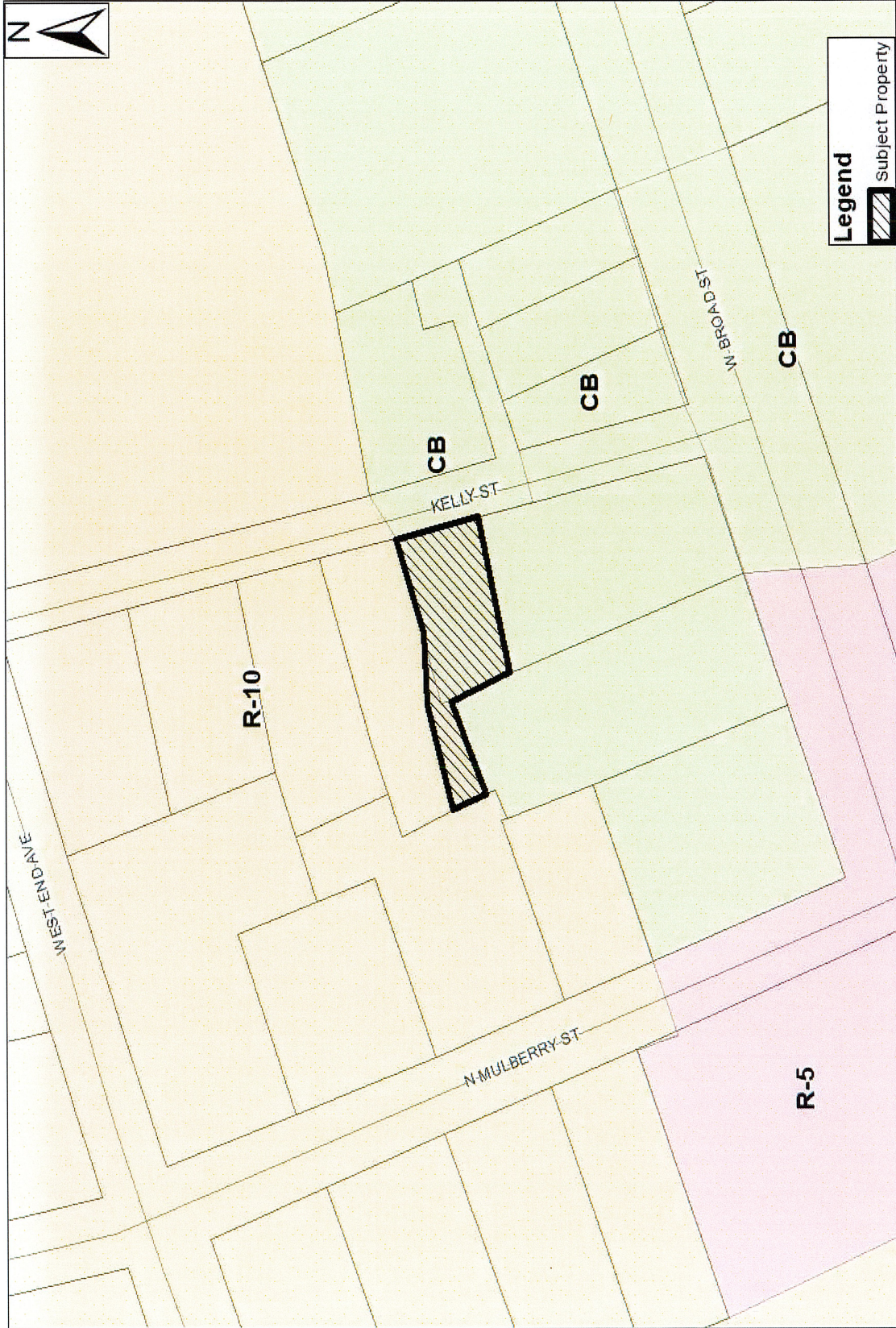
This property shall include the property, if any, quit claimed by Constantine H. Kutteh, II and wife, Teresa C. Kutteh, recorded in Deed Book 763, Page 243, Iredell County Registry.

Easement deed for joint driveway with Stephen M. Coarsey and wife, Sheri A. Coarsey recorded in Deed Book 763, Page 248, Iredell County Registry.

Property Address: 117 N. Kelly Street, Statesville, NC 28677

Parcel ID: 4734-85-8770.000

EXHIBIT 3 - ZONING MAP



Case No. A23-01
Current Zoning Map – PIN # 4734-85-8770



To: Applicant
From: Planning Department
Subject: Board of Adjustment - Variance/Appeal Application

Applications for a variance/appeal must be completed in full and returned to the Planning Department, along with a \$400.00 non-refundable application fee, 30 days prior to the first Tuesday of the month, which is the regular meeting date for the Board of Adjustment.

Additional items needed:

- Metes and bounds description of the property (or portion of property). A recorded deed is sufficient, if the deed describes only the subject property.
- The ownership, taken from the Iredell County GIS system, of all adjacent properties, including all parcels across rights-of-way and/or other separations from the subject parcel(s).
- Site Plan/Elevations/Photographs: 12 folded copies of any plans that are larger than 11" x 17" or contain color.

***** If any of the above requirements are not presented at the time of submittal of application, the application will not be accepted due to incompleteness. *****

VARIANCE/APPEAL # A23-01

**Board of Adjustment
Application for Variance/
Appeal of Administrative Decision**

1. Street Address/Location of Request: 117 Kelly St

2. Owner: 120 S. Elm St, LLC Phone #: 704-929-4386
Address: 102 W Broad St Statesville NC 28677
Street City State Zip

3. Applicant: Dustin McCrary Phone #: 704-929-4386
Address: 241 Oakhurst Rd Statesville NC 28677
Street City State Zip

4. Tax Parcel Number: 4734-93-6249

5. Zoning District: Mitchell College HDM

6. Present Use: Office

7. Please indicate the section(s) of the Ordinance that is relevant to your variance request/appeal: _____

8. Description of request:

a. Describe the administrative decision that is being appealed (DO NOT ANSWER FOR VARIANCE REQUEST):

Appeal from consideration for a Certificate of Appropriateness (COA23-05) to install a sign on the structure at 117 Kelly St, Tax Map 4734-85-8770

b. Describe the reasons for the variance request and the intended use(s) for the subject property **(DO NOT ANSWER FOR APPEALS)**:

The following provisions of the State Statutes (GS 160D-705d) and Unified Development Code (Section 2.11) must be met before a variance can be granted. Respond to each of the four criteria as it pertains to the request.

i. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property **(DO NOT ANSWER FOR APPEALS)** ;

ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability **(DO NOT ANSWER FOR APPEALS)**;

iii. That the hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship **(DO NOT ANSWER FOR APPEALS)**;

iv. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved **(DO NOT ANSWER FOR APPEALS)**.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

****Calls or conversations with Board members prior to the meeting cannot be considered in the final decision and may result in the Board Member's recusal due to a conflict of interest. If adjacent property owners are to testify on behalf of the applicant, they must be present. Petitions and written consent may be accepted by the Board, but they cannot be used as a basis for the decision.**

Certification

I hereby acknowledge that the information contained herein is true to the best of my knowledge and that this application shall not be scheduled for official consideration until it is complete.

Date: 5-2-23

Applicant Signature: 

Type or print name here: Dustin McCrary

1. Minimum Required Information (to be shown on the site plan):

The site plan shall be legibly and accurately drawn to scale on paper suitable for reproduction. Architect's drawings will also be acceptable. The plan shall contain the following information:

	FOR OFFICE USE
a. The name and address of the person filing the application	✓
b. The date, scale, and north arrow	N/A
c. Property lines, building lines, and easements	✓
d. Streets, sidewalks, and alleys	N/A
e. Existing and/or proposed structures and improvements	✓
f. Existing structures within 20 feet of the property	N/A
g. Accurate dimensions of the property and all structures involved	✓

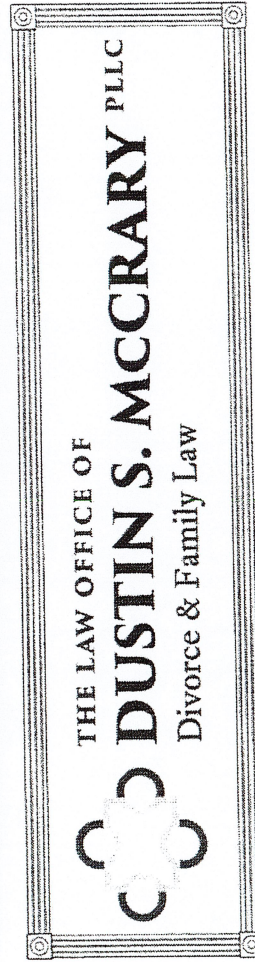
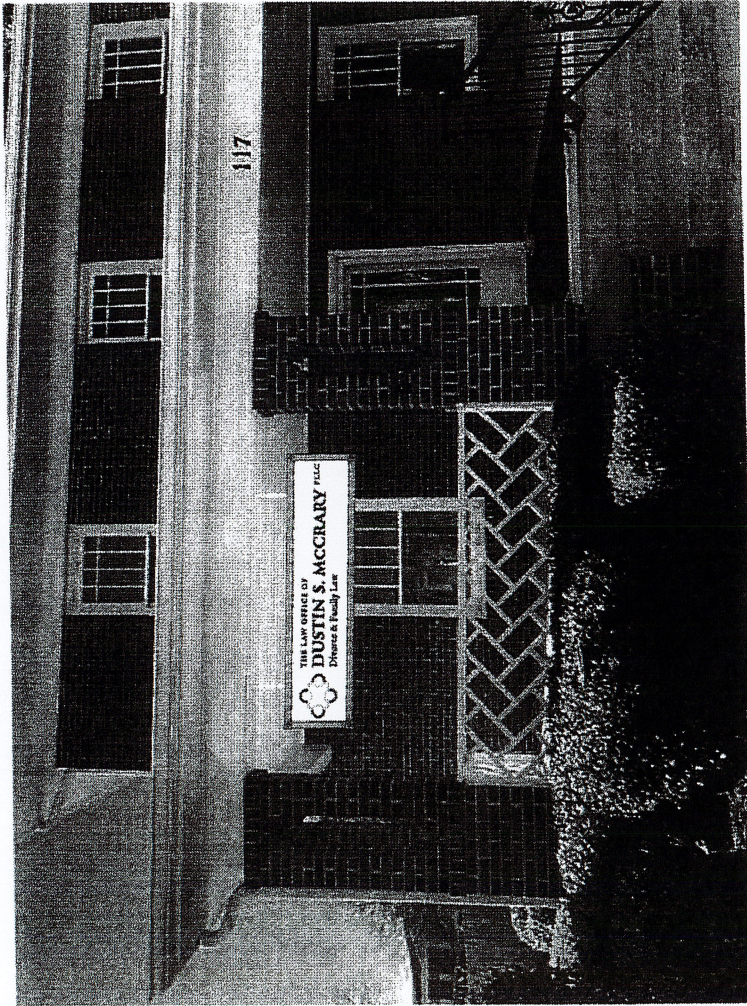
2. Elevations: Elevations shall be submitted for all sign applications, new additions, and alterations to existing structures, new accessory structures, and fences. They shall contain the following information:

- a. Dimensions including height, width, length, and area.
- b. In the case of signs, the elevation should also indicate the exact appearance of the sign, whether or not it is illuminated, and the type of illumination.

3. Other: Any other information deemed necessary by the code official should be stipulated below:

Checked By: Xavier Bauguss Date: 5-19-2023

Exhibit A



72" x 18"

2" Single Sided Routed HDU Sign panel painted brand colors
Hung by bracketed dark blue painted chain

Date	02/08/2023_R0
Designer	MP
Salesperson	JM
Sign Style:	Multi
Additional:	
Material	TBD
Trim	N/A
Face	N/A
Mounting	N/A
Colors	No PMS <input type="checkbox"/>
Job Description	
Installation method	
Approval	

signs&graphics
Artisan
Creatively promoting your brand

18335 Old Statesville Rd.
Cornellus, NC 28031
704-655-9100
www.artisansignsandgraphics.com

Customer	Dustin McCrary	Filename	"N:\RetailID-G\Dustin McCrary\DLJ_BrandSignage_DF.ai"	Revision	1
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EXHIBIT 5 - HISTORIC PRESERVATION COMMITTEE APPLICATION



City of Statesville
Planning Department
Physical: 227 S Center Street
Mailing: PO Box 1111
Statesville, NC 28687

Staff Contact:
704-878-3578

File #	_____
Rec'd date:	_____
Rec'd by:	_____
PIN	_____
Minor Work	Major Work
Zoning Clearance	Building permits
Staff Use Only	

Please use **BLACK** or **BLUE INK**. Do not use other colors, or pencil. They do not photocopy.

Street Address of Property: 117 Kelly St

Historic District: Mitchell

Historic Property/Landmark name (if applicable): none

Applicant's Contact Information:
Applicant's Name: Dustin McCray

Applicant's Address: 241 Oakhurst Road

Phone: (H) _____ (W) _____ (C) 704-929-4386

E-mail: dustin@mccraylaw.com

Applicant's Signature: DM

Owner's Contact Information:
Owner's Name: 120 S Elm St, LLC

Owner's Address: 102 W Broad St

Phone: (H) _____ (W) _____ (C) 704-929-4386

E-mail: dustin@mccraylaw.com

Owner's Signature: DM

Lot size: _____ feet by _____ feet
(Width) (Depth)

Zoning: Downtown Commercial District Setbacks: _____

Mitchell College HDM

Please Note: By signing this application as the applicant, owner or both you are granting permission to staff to visit the subject property to understand site conditions.

EXHIBIT 5 - HISTORIC PRESERVATION COMMITTEE APPLICATION



Please describe all work that is being requested, including all dimensions, height, materials, colors, and any other pertinent information (please attach any photos, drawings or brochures that will help explain your request):

See attached Exhibit A.

This is the proposed sign for the law office.

The material is a wood product called high density Urethane. A sample will be provided at the meeting.

There may be applications filed that are considered urgent to be reviewed due to a safety hazard, requirement of code, or another valid reason. Such cases shall be reviewed by the staff liaison.


EXHIBIT 5 - HISTORIC PRESERVATION COMMITTEE APPLICATION



Exhibit A



72" x 18"
 2" Single Sided Routed HDU Sign panel painted brand colors
 Hung by bracketed dark blue painted chain

Date	02/09/2023_R0
Designer	MP
Salesperson	JM
Sign Style:	Multi
Additional:	
Material	TBD
Trim	N/A
Face	N/A
Mounting	N/A
Colors	No PMS
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Job Description	
Installation method	
Approval	
	
18335 Old Statesville Rd. Cornelius, NC 28031 704-655-9100 www.artisansignsandgraphics.com	

Customer Dustin McCrary Filename "N:\Retail\VD-G\Dustin McCrary\DLT_BrandSignage_DF.ai" Revision 1

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City of Statesville

Staff Report

To: Historic Preservation Commission Members
From: Marci Sigmon, Planner II
CC: Sherry Ashley, Planning Director; Brenda Fugett, City Clerk
Date: April 20, 2023
Re: COA23-05, 117 Kelly Street; Tax Map 4734-85-8770

Background

The house located at 117 Kelly Street was constructed ca. 1920. The structure is a two-story brick veneer house with a hip roof and front hipped dormer. The front porch has brick posts with openwork panels in the center and a plain balustrade.

Past Certificate of Appropriateness approvals include the removal of two large trees in the rear yard due to unhealthiness and disease.

Request

The owner, 120 S Elm Street, LLC, represented by Dustin McCrary, is requesting an after-the-fact approval to install a sign on the front porch of the structure. The requested sign is six feet long and eighteen inches tall. The owner states the sign material is constructed of a wood product called high density urethane. The owner also states the sign will be for a law office. In the applicant's request, it is stated the sign will be hung with dark blue painted chains.

The Historic Preservation Standards state signs over two feet by three feet have to be approved by the Historic Preservation Commission. The standards also state that signs in the historic districts shall be constructed from traditional sign materials such as wood, stone, or metal.

Related Findings of Fact

The commission must consider the following pages in the Design Standards when rendering their decision.

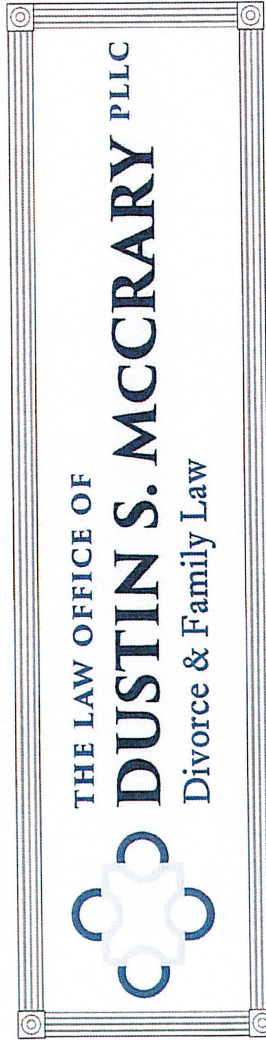
Chapter 2 District Settings & Site Features, Page 19: H. Signage

Findings of Fact

The Commission must either answer all five (5) Findings of Fact in the affirmative or determine that such finding does not apply to the specific project under consideration:

1. The historic character of the property will be retained and preserved.
2. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features has been substantiated by documentary, physical, or pictorial evidence.
3. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest method possible.
4. Archeological resources will be protected and preserved in place. If such resources must be disturbed, the applicant has shown that mitigation measures will be undertaken.
5. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize the property. The new work will be differentiated of the old and will be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment.

Exhibit A



72" x 18"

2" Single Sided Routed HDU Sign panel painted brand colors
Hung by bracketed dark blue painted chain

Date	02/09/2023_R0
Designer	MP
Salesperson	JM
Sign Style:	Multi
Additional:	
Material	TBD
Trim	N/A
Face	N/A
Mounting	N/A
Colors	No PMS <input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
Job Description	
Installation method	
Approval	



18335 Old Statesville Rd.
Cornellus, NC 28031
704-655-9100
www.artisansignsandgraphics.com

Customer	Dustin McCrary
Filename	"N:\Retail\ID-G\Dustin McCrary\DLT_Brand\Signage_DF.ai"
Revision	1

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EXHIBIT 8 - HISTORIC PRESERVATION COMMISSION'S DESIGN STANDARDS CHAPTER 2. H. SIGNAGE

H. Signage

Institutional traffic, historic district and commercial signs, as well as, signs identifying the name and date of some historic buildings are found within Statesville's historic districts.



Standards

1. Replace missing, deteriorated or damaged signs with new signs that are compatible with the location, orientation, material, height, scale, and design of signs in the historic district.
2. Install freestanding signs on low posts or bases that are compatible with the pedestrian scale of the historic district.
3. Mount small identification signs on building facades so as not to conceal or damage significant architectural details.
4. Construct new signage out of traditional sign materials, such as wood, stone, or metal.
5. It is not appropriate to introduce new signage in contemporary materials, such as plastics, or internally lighted signs
6. The SHPC will not exercise control over logos or color. It is strongly recommended that color schemes relate to the building the sign serves.
7. All signage must comply with the local sign ordinance.

Major:

Signs larger than 2' X 3'

Minor:

Appropriately designed and sited signs that are two feet by three feet or smaller may be approved by staff without commission review.

Incidental signage, such as parking and entrance signs

Routine:

The repair and replacement of existing sign as long as they meet the local zoning ordinance and keep the historical character.

Application Requirements:

Photo or drawing of sign

Site plan



**Historic Preservation Commission Meeting Minutes
April 27, 2023 - City Hall Council Chambers - 7:00 p.m.**

- Present:** Anna Campbell, Glenn Setzer, John MacPhail, Barry Edwards, Agnes Wanman, Jessica Arnold, Erika Gottholm
- Absent:** David Richardson, Dea Mazingo-Gorman
- Staff:** Marci Sigmon, Lori Deal
- Others:** Dustin McCrary, Phil Fowler

Roll Call & Swearing In

Vice-Chairman Wanman called the meeting to order, called the roll, and asked the board members if any of them had held ex-parte communication regarding the cases on the agenda. Hearing none, he swore in those who planned to speak.

Approval of minutes

Campbell made a motion to approve the April 5, 2023 Historic Preservation Commission called meeting minutes as presented, seconded by Setzer. The motion carried unanimously.

Setzer made a motion to recuse Erika Gottholm from COA23-05, seconded by MacPhail. The motion carried unanimously.

Consideration for a Consideration for a Certificate of Appropriateness (COA23-05) from Dustin McCrary to install a sign on the structure located at 117 Kelly Street; Tax Map 4734-85-8770.

Marci Sigmon gave the following Staff Report:

The house located at 117 Kelly Street was constructed ca. 1920. The structure is a two-story brick veneer house with a hip roof and front hipped dormer. The front porch has brick posts with openwork panels in the center and a plain balustrade.

Past Certificate of Appropriateness approvals include the removal of two large trees in the rear yard due to unhealthiness and disease.

The owner, 120 S Elm Street, LLC, represented by Dustin McCrary, is requesting after-the-fact approval to install a sign on the front porch of the structure. The requested sign is six feet long and eighteen inches tall. The owner states the sign material is constructed of a wood product called high density urethane. The owner also states the sign will be for a law office. In the applicant's request, it is stated the sign will be hung with dark blue painted chains.

The Historic Preservation Standards state signs over two feet by three feet have to be approved by the Historic Preservation Commission. The standards also state that signs in the historic

districts shall be constructed from traditional sign materials such as wood, stone, or metal.

The commission must consider the following pages in the Design Standards when rendering their decision: Chapter 2 District Settings & Site Features, Page 19: H. Signage

Sigmon passed around a sample of the sign material to the board members.

Edwards asked for the timeline and if this is the original application and Sigmon stated this is the original application. Sigmon stated Mr. McCrary had asked to be on the February meeting, but he missed the deadline, so he was scheduled for the March HPC meeting, then he emailed me and said that he was not going to be able to attend and would like to be on the April agenda. Edwards asked why the sign was lying on the ground instead of posted. Sigmon stated the sign was in the yard from what I recall when McCrary requested to be on the March agenda. When I drove by one day in April, the sign was lying on the ground and not posted. When it was time for the April hearing, I put the sign back in the yard in an upright position.

Setzer asked if a law firm was in that location previously and if there was a sign in the yard and Sigmon stated yes and it is shown in the guideline book in the signage section. Sigmon stated the lamp and sign were there previously.

Edwards asked if the original application was for an after the fact approval and Sigmon stated it was not, it was a request to place a sign. Edwards asked if there was communication with the applicant that it had become after the fact and Sigmon stated no. Sigmon stated she placed it as after the fact in the staff analysis because when I took pictures on April 18th, the applicant's requested sign was installed and I did not know it was being installed.

Edwards asked if there was communication with the applicant at the initial meeting that the material and size did not meet guidelines and Sigmon stated the size is up to the board. There is not a lot of information specifying size in the guidelines, but I did say normally a sign would look like the one in the guidelines and the previous sign on the parcel and McCrary said he removed it and wanted this sign instead.

Edwards asked if there was communication about the material and Sigmon stated I mentioned to him that wood, stone, or metal are allowed as stated in the guidelines.

Arnold stated the application specifies this is a wood material, but on Google, it is a chemically made plastic material made to look like wood. Edwards stated he called the company which fabricated this sign and asked for someone to describe this product and they said there is no wood in this product. Sigmon stated she advised the applicant there are specific rules about the type of material used in the historic district and he dropped off a sample for the March meeting.

Vice-Chairman Wanman declared the public hearing open.

Dustin McCrary stated he owns 117 Kelly Street and his intentions are to move his office there. He has had an office in the Statesville square since June 1, 2012 and has outgrown that space. He has owned 117 North Kelly Street since 2019 and has spent the past year renovating. He originally applied in February for the March meeting but was out of town and was delayed until the April meeting. On April 13th he was driving to Tennessee and received an email from Artisan Graphics that install was en route to install the interior sign. He did not know they were hanging the outside sign until his sister sent a photograph of the sign installed. He sent an email to them on April 14th to ask how to take the sign down since he had not attended the meeting for approval.

He had not received a response by April 20th so he emailed them again and is still waiting for a reason why they hung the sign.

Artisan Graphics told him they have used the sign in other historic areas because it is high density urethane that appears to be wood. It is six feet long by 18 to 20 inches high for a total of nine square feet and the size allowed is six square feet. The issue is the length and with my logo and my name, it has to be a little bit longer. McCrary believes it looks appropriate, is symmetrical, and looks good. He chose a hanging sign instead of a sign on a post because Kelly Street is a one-way street and parking is full in front of his office before 8:00 am due to Lifespan and the church. The only way to see a sign is if it hangs and a sign on a post cannot be seen over the cars parked on the street. The previous law firms had a sign on a lamp post. This is the only commercial property on the street and it looks more appropriate to hang a sign than to be the only house on the block that has a lamp post with a monument sign.

When planning the sign, he explored a monument sign, but his name is long and there is no grass. There is about five or six feet of grass between the end step and the beginning of the sidewalk so it would not look appropriate in such a limited space. His approach was to be as discreet as possible with a sign that can be seen over the cars and maintain an appropriate, aesthetic look.

This composite material has been used in other historic areas and it looks like wood without rot or decay. His intention was to bring the sign, but it has been installed. He wanted to show it looks good and is nicer than the previous sign.

Edwards stated the sign in the standards has two names under each other and it fits on the sign and if you put McCrary under Dustin, it would probably fit too. Edwards asked at what point did you discuss with the sign company that this is a historic district and you need to get approval and McCrary stated from the very beginning and they hung the sign anyway. At first, he thought Sigmon could approve it then Amy Lawton called and Mr. Hudson called and they thought she was going to be able to approve the sign. Sigmon called or emailed the day after and said she could not approve it and he would have to come before HPC. I hoped to take the sign to the meeting because it is easier to ask permission than to ask forgiveness, but I cannot undo the chain links.

Setzer asked where Lifespan's sign is located and Campbell stated it is on the front of the building, but it faces Broad Street. McCrary stated the Keller Williams, Pasta Amore, the cigar shop and the Watering Hole all have large signs and his sign is half their size. Setzer stated those properties are in the Downtown District where HPC does not have jurisdiction.

Wanman stated the hanging sign is attractive but is hard to see with cars parked along the street and a monument sign would be the same way. A sign on the house or a hanging sign is a better option and she does not have an issue with the placement or size of the sign but has an issue with the material.

Edwards stated there are several structures on Broad Street from the previous BB&T bank coming into town that have signs on posts and he can read every sign across the street. There is an attorney's office that has a sign on the structure by the front door with the same sign on a post out front. Edwards asked if there are height allowances for a post in the front yard and Sigmon stated there are not exact measurements listed in the Historic Preservation Standards, but in the Unified Development Ordinance (UDO) it cannot be any taller than six feet with the pole.

Setzer stated he did not realize parking is allowed in front of Lifespan and McCrary stated every parking spot on Kelly Street is taken by 8:00 am. Statesville granted Lifespan the right to use Kelly Street for their parking up to his property and everything beyond his property is public parking. He has asked Lifespan to move the van which is parked in Lifespan's parking lot next to the road and the answer was no. McCrary stated the van will block a monument sign.

Edwards asked Sigmon if any of the emails shared with her were about the sign fabricator showing up and installing the sign without the applicant knowing and Sigmon stated no. McCrary stated they sent him an email April 13th at 10:21 that said, "install is enroute today to install interior sign". He emailed them April 14th at 2:35 PM and said, "the interior sign looks awesome, but how do you take down the exterior sign". Edwards asked how the sign was already fabricated if he did not have approval and McCrary stated he wanted to bring it to this meeting and if the answer was no, it was going to be trash and it was worth the risk. McCrary stated the sign looks like wood and Setzer and Campbell agreed it does look like wood. Edwards stated as a quasi-judicial board we are to base our vote on our standards not our opinion.

McCrary stated his sign is not the only hanging sign in downtown Statesville. The Arts Council hung a circular sign off one of the most historic structures in downtown Statesville, the old jail. Edwards, Setzer and Wanman stated downtown business are not in their jurisdiction. McCrary stated there are signs that are suspended and not monument signs McCrary stated on Broad Street the monument signs in front of large corporations and banks are huge.

Arnold stated the issue is not with the size of the sign, but the material it is made of. We would be more comfortable approving a sign out of the materials that the standards recommend. The application states the sign is wood, but it is a chemically made material. The previous sign is more visible from a car rather than the sign on the porch because it is hidden by the pillars.

Edwards stated the Dudley Law Firm on Broad Street has double signs. The sign to the right of the front door is about 16 inches high by approximately three feet wide and there is a sign on the post and the two signs do an adequate job announcing what type of attorney they are and are in pedestrian scale. Parking is not allowed on that block, but that is the only difference.

McCrary stated there is a whole block of commercial business on that side of the street and to differentiate, he was trying to look like the other houses on the side of the street that do not have a lamp post and a monument sign in front of them.

Campbell asked why urethane material was used instead of wood. McCrary stated Investor Jackson in Davidson used this material and it was described as a wood composite, the closest thing to wood, and it looks like wood.

MacPhail asked if this material is approved will it set a precedence and Wanman stated yes. Wanman continued, we have been discussing changing materials on homes, but a sign is not part of a home and can be removed and not affect the historic fabric of the building. Wanman stated the guidelines are clear for wood, stone, or metal, but if we approve against the guidelines, it will set a precedent and we would be obligated to consider the material change for signs. Edwards stated according to quasi-judicial guidelines, one vote never sets precedence for any future votes. Wanman stated she agrees if we do not step over that line, but it opens the door if we approve against the guidelines.

McCrary stated this material is supposed to last longer than wood, is weather resistant, is lighter, and easier to make. Wood is more expensive and this sign is machine carved. Edwards stated

you could have used stone or metal and McCrary stated there is five feet of yard space for a monument sign and it would not look appropriate on a residential street. Wanman agreed a monument sign would not be appropriate. Arnold stated the previous type of sign could have been used and McCrary stated with his branding and the length of his name it will not look right.

Wanman stated hardy plank siding is allowed on new construction with the provision it is smooth and not fake wood grain. It mimics the look of wood and is on the permanent structure. A sign is temporary and the look and texture of this product is similar to hardy plank. It is temporary and is not requested to be put on the building, but to be installed in front of or attached to the building. Sigmon stated the difference is the guidelines state fiber cement siding is allowed on new construction and the sign guidelines do not state a substitute material is allowed.

Edwards stated the size of the hanging sign blocks architectural details on the window and if it was on a post in the front yard all details on the structure could be seen. Edwards continued this is a residential area zoned commercial and this was a home at one time and should not look like a sign in the commercial area downtown. McCrary stated the house next door has vinyl siding. Edwards stated standards four and five state construct new signage out of traditional materials such as wood, stone or metal and it is not appropriate to introduce new signage in contemporary materials such as plastics and this is a type of a resin plastic.

Wanman stated she has no issue with the material, but the regulations state something different. Campbell asked if an approval can be based on a future change to guidelines and Sigmon stated no, because all changes go through this committee then the planning board and then city council.

Edwards asked if the property next door is also zoned commercial and McCrary stated it is not and his is the only commercial property on the street.

Erica Gottholm stated it was their understanding their house is zoned the same as McCrary's building. Martin is using it for a law office, it got hit by lightning last year, and there is a sink hole in front of the house. Edwards asked if the structure has any signage on it and Gottholm stated no. Setzer asked if there is a shared driveway between the two houses and Gottholm stated yes.

Gottholm stated they sent an email to Sigmon stating they do not have problems with the sign. Martin tried to get Lifespan to move the white van so that you could see his sign and they would not move it. You could not see the law sign coming down the street because of the white van. Martin is a different type of attorney, is older, retired from the army, and takes the cases he wants. Setzer asked if signage will be put up for your husband's office? Gottholm stated she hopes the house becomes a residence.

Edwards asked if we approve this request, can a condition be put in place that any replacement sign must start this process again for size, material, etc. and Wanman stated it could be put in as a condition especially with the risk of wind damage to a hanging sign.

Sigmon stated the commissioners needed to think about the specific wording in the findings of fact if answering yes or state specific conditions of the property in the motion to approve if the commission interprets the material as not listed in the standards.

There was discussion regarding staff approval of routine repair and replacement of existing signs if they are like for like. New signs or replacement signs with a different design, material or dimensions must come before the commission.

Vice-Chairman Wanman declared the public hearing closed.

Findings of Fact

Wanman stated that the Commission must either answer all five Findings of Fact in the affirmative or determine that such finding does not apply to the specific project under consideration. The Findings of Fact results are as follows for each item:

- 1. The historic character of the property will be retained and preserved.
Yes

Anna Campbell – Yes	Barry Edwards - No	Total
Glenn Setzer – Yes	Jessica Arnold – Yes	Yes - 3
John MacPhail – No		No - 2

- 2. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features has been substantiated by documentary, physical, or pictorial evidence.
N/A – Unanimous

- 3. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest method possible.
N/A – Unanimous

- 4. Archeological resources will be protected and preserved in place. If such resources must be disturbed, the applicant has shown that mitigation measures will be undertaken.
N/A – Unanimous

- 5. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize the property. The new work will be differentiated of the old and will be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment.
No

Anna Campbell – Yes	Barry Edwards - No	Total
Glenn Setzer – Yes	Jessica Arnold – No	Yes - 2
John MacPhail – No		No - 3

Wanman stated a vote for COA23-05 is not needed because the findings of fact with the board members answers do not support enough affirmatives to move forward with a vote.

McCrary stated he is not adding anything construction wise to the building in Finding of Fact 5 and Wanman stated it is an exterior alteration. Edwards stated if the sign was in the front yard, it might be different, but it is this mounted to the structure and an exterior alteration. Setzer stated it is not really mounted, it is not permanent, and is removable. Wanman stated we agree that you need a sign. But this particular sign material is an issue because the guidelines clearly specify wood, stone, or metal.

Edwards stated an analogy of if a vinyl shutter is put on a house, it does not meet our standards. It is not permanent. Are vinyl shutters allowed on a structure? It is bolted in and it may not be permanent. It could be changed to wood in the future, but vinyl does not meet the standards.

Setzer asked how this material is different from hardie plank, other than it is a cement-based material and Wanman stated it may be a very good material to allow, but the guidelines do not say wood, stone, metal or something simulating these, it just says wood, stone and metal.

Edwards stated this street, regardless of zoning of each property, has a residential feel to it. This sign takes on a commercial feel on a residential street. You cannot take into account any of the businesses on the corners because they are in a different jurisdiction. Kelly Street and Mulberry Street have a residential feel to them, which is quaintness, and the smaller signs are in scale and pedestrian scale to the neighborhoods. We are starting to lose the historic feel of this one.

McCrary asked if he could come back and petition this committee for a monument sign that is five feet wide and Sigmon stated as long as it does not protrude into the right of way of the street. McCrary asked if he has a five foot wide monument sign on my street, would it meet standards if it was stone or wood and Wanman stated it would not be more visible and there would still be issues with cars parked along the street. McCrary asked Edwards how a five foot wide brick monument sign does not line up with the other residences on Kelly Street, Mulberry Street and Oakhurst Street. Edwards asked how the UDO would dictate a sign on that street in a historic district and Sigmon stated there are height and width restrictions, but it is based on the square footage of the parcel that faces the street for a monument sign. Edwards asked if it is from the structure to the street, to the right of way, to the sidewalk, or the entire lot size and Sigmon stated in Central Business (CB) zoning, it is from the front corner to the other front corner of the parcel. Wanman stated if the applicant came back with an application for a monument sign or other type of sign and it met the UDO sign regulations and met all the HPC guidelines, we would be obligated to approve it. Edwards asked for the maximum height for a monument sign and Sigmon stated she does not have the UDO with her but usually it is six feet. Sigmon pointed to the map on the screen and stated it is calculated from this point to this point of the parcel to get the length and that is how you get the square footage allowed for a monument sign. Edwards asked if she has any idea what that would be and Sigmon stated she does not, it is probably 25 square feet, but she could be wrong. Edwards asked if that includes just the sign and the apparatus it would hang from and Sigmon stated the UDO does include all the apparatus, but in certain districts like this district, it includes the signage part only.

Wanman stated the commission may change the regulations for sign materials, but it is not going to happen in the next months, but in the meantime, you need a sign. So until then what about using wood? Keep your sign and come back with a request when the changes to the guidelines are made.

McCrary asked the commission to reconsider for an exception that his is the only business on Kelly Street, the sign looks like wood, and there is no parking in downtown since the fire. Wanman stated I do not think anybody here argues with this, which may be a very good product, but right now it is not in the guidelines as an approved product. The guidelines have to be changed and that is going to take time because we are not going to make all the changes at one time.

Wanman stated the majority of the commission has determined the request does not meet the findings of fact, therefore we cannot approve the COA.

Edwards made a motion to return Erika Gottholm, seconded by Setzer. The motion carried unanimously.

Consideration for a Certificate of Appropriateness (COA23-07) from Phil Fowler to install

a privacy fence in the side yard on the property located at 325 Armfield Street; Tax Map 4734-93-6249.

Marci Sigmon gave the following Staff Report:

The house located at 325 Armfield Street was constructed ca. 1920 and is a one-story bungalow structure. The house has broad, low gables, overhanging eaves with extended, decorative plates, trim on the gable peaks, and bungalow style windows. An offset front porch extends eastward to form a porte-cochere. The 1999 architectural survey states the upper porch posts have been replaced with ironwork.

Past Certificate of Appropriateness approvals include during 2013 replacing the side door and sidelights, reroofing the structure with asphalt shingles, removing and reinstalling the sidewalk, and removing siding to reveal the original siding material.

The owner, Mr. Philip Fowler, is requesting to remove the chain link fence in the west side yard and install a six-foot-tall wooden privacy fence and install six-foot-tall fencing and a gate at east rear yard connecting with the corner of the house. The privacy fence in the west side yard would measure thirteen feet six inches and connect to the house to provide security and privacy for the property. The fence design would be dog-eared. The east rear yard fencing and gate request would include adding twenty feet six inches of wooden fencing including the proposed six-foot-wide gate. The gate would encompass two doors, each measuring three feet wide and be six feet tall extending to seven feet tall at the center of the gateway to create an arc-shaped design leading into the rear yard. Please see the drawing of the proposed gate in the application packet.

In addition, the owner plans to remove all the chain link fencing in the rear yard and replace it with six-foot-tall wooden privacy fencing. The rear yard portion of the request can be approved by staff.

The commission must consider the following pages in the Design Guidelines when rendering their decision: Chapter 2 District Settings & Site Features, Pages 20-21: I. Fences and Walls

Setzer asked if the wood fence would replace the same footprint of the chain link fence and Sigmon stated yes. Arnold asked if they are approving only the corner and Sigmon stated the commission is also approving the west elevation at the back and the gate.

Edwards asked if the fence will be a privacy or staggered fence and Sigmon stated it will be a total privacy fence. Edwards asked if there is only one gate and Sigmon stated yes, it has a double door gate with one opening.

Vice-Chairman Wanman declared the public hearing open.

Edwards asked if the support structure will face the inside of the property and Phil Fowler stated yes. Fowler showed a sample of the hinges to the commission and Edwards asked if there are three hinges on each side of the door and Fowler stated there will be two on each side with a total of four. MacPhail asked if the fence would be stained or unfinished and Fowler stated it will be painted.

Vice-Chairman Wanman declared the public hearing closed.

Findings of Fact

Wanman stated that the Commission must either answer all five Findings of Fact in the affirmative or determine that such finding does not apply to the specific project under consideration. The Findings of Fact results are as follows for each item:

1. The historic character of the property will be retained and preserved.
Yes – Unanimous
2. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features has been substantiated by documentary, physical, or pictorial evidence.
N/A – Unanimous
3. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest method possible.
N/A – Unanimous
4. Archeological resources will be protected and preserved in place. If such resources must be disturbed, the applicant has shown that mitigation measures will be undertaken.
N/A – Unanimous
5. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize the property. The new work will be differentiated of the old and will be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment.
Yes – Unanimous

Edwards made a motion to approve Certificate of Appropriateness (COA23-07) from Phil Fowler to install a privacy fence in the side yard on the property located at 325 Armfield Street as submitted citing Fences and Walls guidelines 3 and 5, seconded by Campbell. The motion carried unanimously.

Edwards asked Fowler about the in-process new construction in the rear yard and Fowler stated it is a shed. Edwards stated to please contact staff in order to receive a COA for the new construction.

Other Business

The commission discussed the recent fire downtown.

The commission discussed the status of houses with violations for sale, a new owner on Walnut Street and a house damaged by fire.

Sigmon stated she has completed a grant application for the Garfield/Green Street area for an architectural survey and potentially a nomination for the national registry. If the grant is not approved, it will be up to the City Council to move forward and hopefully there will be notification of grant awards by June or July 2023. The grant received by the Iredell County Library will expire June 30, 2023.

The next HPC meeting will be May 18, 2023.

There being no other business, Vice-Chairman Wanman asked for a motion to adjourn.

Setzer made a motion to adjourn, seconded by MacPhail. The motion carried unanimously.