

**CITY OF HENDERSONVILLE**  
**Historic Preservation Commission**

**Minutes of Meeting of November 18, 2009**

**Commissioners Present:** Staci Blatt, Bette Carter, Ralph Freeman (Chair), Cheryl Jones, Barbara McCoy, Brooke Tate, Jo Tyler

**Commissioners Absent:** George Henry, John Ogletree

**Staff Present:** Tim Murphy, City Planner; Sue Anderson, Planning Director; Lu Ann Welter, Administrative Assistant

- I Call to Order.** The Chair called the monthly meeting of the Hendersonville Historic Preservation Commission to order at 5:00 p.m.
- II Agenda.** *On motion of Commissioner Carter, seconded by Commissioner McCoy, the Commission approved the revised agenda as mailed out.*
- III Minutes.** *On motion of Commissioner Blatt, seconded by Commissioner Tyler, the minutes of October 21, 2009 were approved.*
- IV Finding of Fact and Conclusions of Law.** Mr. Murphy explained this item is based on the Certificate of Appropriateness for 418 N. Main Street, Dancing Bear, heard at the October 21, 2009 meeting. *Commissioner Tate moved the Commission to adopt the findings of Fact and Conclusions of Law for file number H09-40-COA. Commissioner Blatt seconded the motion which passed unanimously.*
- V 418 N. Main Street, Certificate of Appropriateness.** After swearing in potential witnesses for all three hearings, the Chair said Commissioner Jones has asked to be excused from Agenda Item 7 because of a professional conflict. *Commissioner Blatt moved the Commission excuse Commissioner Jones from participating in Agenda Item 7. The motion was seconded by Commissioner Tate and passed unanimously.*

The Chair opened the public hearing. At the request of Tim Murphy, City Planner, Commission File No. H09-44-COA was admitted into evidence and the Commission took official notice of the Code of Ordinances of the City of Hendersonville and the Commission's Design Guidelines. Mr. Murphy gave the following background:

The Planning Department is in receipt of an application for a certificate of appropriateness from Dartha B. Ashe to undertake the following work at 1622 Kensington Rd.:

1. Remove 6 hemlocks and 2 fruit trees along the driveway and replace them with landscaping.
2. Remove 2 oaks along the rear property line.

This application has been forwarded to the Historic Preservation Commission for review as a "major work" since staff was unable to conclusively determine if the trees were diseased and did not identify any immediate threat to person or property.

The subject property is listed as **contributing** in the *Druid Hills Local Designation Report*. The property is described as: **1622 Kensington Road. Harry C. Price House. Contributing. by 1926.** Two-story bungalow with an irregular floor plan. Steeply pitched side gable roof with shed roof dormer at the northwest corner. Original brick veneer appears to have been stuccoed over on the first floor, with aluminum siding on the second floor. Siding has been replaced in soffits also. Engaged entry porch at northwest corner, with a replacement balustrade. Windows are double hung, but may be replacements. Front door is multi-light. Located on a hill above the street with granite slab steps to the front walkway.

The subject property is listed as **contributing** on the National Register and described as: **1622 Kensington Road. Harry C. Price House. Contributing. by 1926.**

Two-story bungalow with an irregular floor plan. Steeply pitched side gable roof with shed roof dormer at the northwest corner. Original brick veneer appears to have been stuccoed over on the first floor, with aluminum siding on the second floor. Siding has been replaced in soffits also. Engaged entry porch at northwest corner, with a replacement balustrade. Windows are double hung, but may be replacements. Front door is multi-light. Located on a hill above the street with granite slab steps to the front walkway.

The applicant intends to remove 6 hemlocks and 2 fruit trees along the driveway and 2 oaks along the rear property line. The locations of the trees to be removed are shown on a site sketch provided by the applicant.

The applicant has indicated that the 6 hemlocks and 2 fruit trees along the driveway are healthy but need to be removed because they shade the driveway which causes ice to accumulate in the winter. The trees along the driveway are proposed to be replaced with landscaping. A dogwood located along the driveway between the 2 fruit trees will remain. Numerous trees are located along the side property line on the opposite side of the driveway.

The 2 oaks to be removed are located along the rear property line. The applicant has informed staff that the oaks are diseased and need to be removed because they are a hazard to nearby utility lines and adjacent property. Staff noticed a large trunk wound on the southernmost oak (see photo 7 & 8) but otherwise was unable to identify any obvious health concerns. Staff visited the site on October 29<sup>th</sup> and the extent of healthy foliage coverage could not be determined. Staff has requested that the applicant provide documentation from a licensed arborist stating that the 2 oaks are diseased and need to be removed.

Mr. Murphy referenced the sketch provided by the applicant and noted the second Oak to be removed is not shown but located near the property line behind the noted "Oak to remain". Mr. Murphy reported the applicant did not meet with the Design Review Advisory Committee. The Chair asked if there were any questions of staff. The Chair asked if there were any questions of staff from the audience.

The Chair asked if the applicant would like to say anything. Dartha Ashe of 1622 Kensington Road said she has lived there 17 years. The neighborhood was laid out when families only had one car and now cars are parked all along the street. With the trees shading the driveway, ice stays on the drive during the winter making to hazardous to come out of the drive and not hit a car parked on the street. Ms. Ashe said Photo 1 shows the shading, Photo 2 shows down the driveway and Photo 4 is where it reaches the road and is all shaded. Concerning the oaks, Ms. Ashe said an arborist has said to take down the oaks and Duke Power has said the debris will affect the neighbors. Duke Power said they won't clear away the debris. The Chair asked if the applicant had a letter from an arborist saying the oaks needed to come down. Ms. Ashe said no. The Chair asked

if she had a landscaping plan for where the hemlocks are to be replaced. Ms. Ashe said no. The Chair said she needed a landscape plan to show replacement plantings and trees that won't have leaves on them during the winter. Ms. Ashe said she did not see where in the Design Guidelines a landscape plan was required. The Chair said she needs to sketch the plantings and provide a letter from an arborist. Ms. Ashe asked if a letter was needed for the hemlocks. Commissioner Tate said no, only for the oaks. The Chair said they need a plan for the driveway. The Chair asked if anyone else would like to speak. No one came forward. The Chair closed the hearing.

The Chair said he feels a letter is required from an arborist for the oaks. He said the hemlocks may get attacked by the Woolly Adelgid unless they are sprayed. Commissioner Blatt said they have not required a plan in the past. Commissioner Tate said the hemlocks are a hazard. Commissioner Blatt said the Commission approved a healthy tree to be removed two months ago because it was close to a house. The Chair said that staff had requested the arborist letter. Commissioner Carter said trees may or may not be used in the new landscaping but the situation is hazardous.

The Chair reopened the hearing and asked if a letter has been required in the past. Mr. Murphy said the application on Clairmont did have a letter from an arborist. Commissioner Blatt asked if there was a new planting plan for that COA. Mr. Murphy said no. Commissioner Jones asked why this is a major work and not a minor one. Mr. Murphy said it is major as the trees are not obviously diseased. The Chair closed the hearing.

Commissioner Carter said the application could be put off until there is a letter. Commissioner Tate said she would not want to hold up the applicant and is okay with removing the trees along the driveway so it is safe this winter.

***Commissioner Blatt moved the Commission to find as a fact that the proposed application for a certificate of appropriateness, as identified in file number H09-44-COA, if constructed according to the plans reviewed at this meeting, is not incongruous with the character of the Druid Hills District for the following reasons: 2.2.4 replace missing or deteriorated site features with new features that are compatible with the character of the site and the historic district, if applicable and 2.2.5 replace a seriously diseased or severely damaged tree or hedge with a new tree or hedge of a similar or identical species. In the absence of a substantial threat to person or property, it is not appropriate to remove, damage or disfigure healthy, mature trees or established hedges or large shrubs and to defer the removal of the two oak trees until a new COA is filed with a letter from an arborist. The motion was seconded by Commissioner Tate and passed unanimously.***

V **1107 Hyman Avenue, Certificate of Appropriateness.** At the request of Mr. Murphy, City Planner, Commission File No. H09-45-COA was admitted into evidence and the Commission took official notice of the Code of Ordinances of the City of Hendersonville and the Commission's Design Guidelines. Mr. Murphy gave the following background:

The Planning Department is in receipt of an application for a certificate of appropriateness from Janet Holbert Jones to undertake the following work at 1107 Hyman Avenue:

Replace all existing wooden windows with vinyl windows.

This application has been forwarded to the Historic Preservation Commission for review as a "major work" since the applicant is proposing to install windows that do not match the material of the original windows.

The subject property is listed as **non-contributing** in the *Hyman Heights Local Designation Report*. The property is described as: **1107 Hyman Avenue. Built late 1940s.** A one-story stone and board ranch house.

The subject property is listed as **non-contributing** on the National Register and described as: **1107 Hyman Avenue. House, after 1954.** One-story Ranch style house with a side gable roof extending over a carport. Masonite board, plywood, and stone veneer walls. Projecting front gable roof covering at front entry. Corner lot. Good condition. (Sanborn maps).

The applicant has informed staff that this house was actually built in the 1970's. Staff has checked Henderson County's property data records and confirmed that the house was built in 1971.

This house is located at the intersection of Hyman Ave. and N. Main St. The front façade facing Hyman Ave. has 3 sets of windows (see photographs). The side façade facing N. Main St. has 2 windows. The rear façade opposite Hyman Ave. has 3 windows. A single window is located on the side façade opposite N. Main St. that faces the attached carport.

The applicant intends to replace the existing wooden windows with XACT vinyl windows. A brochure for XACT vinyl windows has been provided along with the application. A letter provided by the applicant states that the existing windows need to be replaced because they are drafty and are not energy efficient. The application states that the grille (or muntin) pattern used by the proposed vinyl windows will match the pattern of the existing wooden windows. The XACT window brochure documents that the grille will be installed between the glass panes.

The installation of vinyl windows has been addressed by the Historic Preservation Commission on several occasions. The Commission's Artificial Materials Policy (see attached pgs. 26-28 of the Residential Design Guidelines) specifies that the Commission should consider the "historic integrity of the structure, the condition of the original materials, the availability of replacement materials, economic hardship, and the visibility of features proposed to be replaced" when determining if vinyl materials are appropriate. In August 2008, the Commission Chairman requested that a committee be formed to address the use of vinyl materials in local historic districts. The subsequently formed Vinyl Material Committee prepared a memo dated November 14, 2008 that was presented to the Commission at their November 19, 2008 meeting. Specifically applicable to the current proposal is the Vinyl Material Committee's recommendation that windows on non-contributing properties be replaced with in-kind materials. The Commission voted on November 19, 2008 to better abide by the specifications of the Design Guidelines.

Mr. Murphy reported the applicant did not meet with the Design Review Advisory Committee. The Chair asked if there were any questions of staff. Commissioner Tate asked if the existing windows were wood or aluminum. Mr. Murphy said wood.

The Chair asked if the applicant would like to say anything. Larry G. Jones said they are considering new windows to be more energy efficient. The current windows have poor insulation and this will lower the heating costs helping everyone by helping the environment. He said he worked 37 years with the EPA and knows something about this. Mr. Jones said the house was built in 1971 and is not historic like other homes in the district. He understands the commission has a job to do and that is to keep historic homes looking historic and this one sticks out like a sore

thumb. It is a seventies modern and will continue to look like a seventies modern with vinyl windows. He questioned if there is a need for separate review criteria for non-contributing homes.

Bud Hadley of 1129 Hyman Avenue and Windows and Door Specialty said he is here to answer questions. He said he was not aware of the 2008 change. Commissioner Tate said there was no change made in 2008 just that the Commission just decided to better abide by the Design Guidelines as written. Mr. Hadley said at least 50% of the homes on this street have vinyl windows. The Chair clarified the Commission may not have followed the no vinyl policy as it should have in the past. Mr. Hadley said wood windows are not as efficient. Commissioner Tate said wood windows can be just as efficient as vinyl. Mr. Hadley said wood windows are more expensive and the government has incentives for vinyl. The Chair said it is not the Commission's place to discuss costs.

Janet Jones of 1107 Hyman Avenue said her 93 year old mother lives there and needs it to be cost effective. She recognizes keeping the character of the district but cost comes into the picture. She pointed out that across from this house is a sign saying it is a historic district and in that front yard are lawnmowers and a car for sale and up the street is a mobile home. The Chair said that would be handled by another entity. Commissioner Jones asked if the current windows are single pane. Mr. Hadley said yes. Ms. Jones said wood windows would cost \$6,000 and vinyl windows would cost \$3000. The Chair said there are other alternatives such as sash kits. Ms. Jones said they would not be as energy efficient. The Chair closed the hearing.

Commissioner Blatt pointed out this is a non-contributing structure. Commissioner Tate said the Commission decided a year ago to follow the Guidelines when it comes to vinyl. Commissioner Tate said this house would be listed as historic in ten years. Commissioner Blatt referenced the Artificial Materials Policy that does allow artificial materials if they match the look. Commissioner Tate said that the Guidelines allow for artificial materials when it is not technically feasible to replace with in-kind materials which is not applicable in this case.

The Chair asked for comments from the Commissioners. Commissioner Blatt said she have no problem with this application. Commissioner Carter said they need to follow the Design Guidelines. Commissioner McCoy said she agreed with Commissioner Blatt. Commissioner Tyler said that aluminum clad windows are as expensive as wood windows. The Chair said economics is not a factor. Commissioner Tate agreed vinyl is cheap. Commissioner Jones said she is sympathetic to the homeowners but the Design Guidelines say to replace in-kind. The Chair said there are other alternatives. Commissioner Blatt said applications like this have been approved in the past. Commissioner Tate said she would deny this. Commissioner Tyler said no. Commissioner Blatt said she would approve this as a non-contributing structure. Commissioner Tate said if the application was approved then the Guidelines should be amended. The Chair said he would vote to stick with the rules. Commissioner Carter agreed. Commissioner McCoy said she would approve vinyl for non-contributing structures. Commissioner Jones said she would deny based on the Guidelines.

***Commissioner Tate moved the Commission to find as a fact that the proposed application for a certificate of appropriateness, as identified in file number H09-45-COA, if constructed according to the information reviewed at this hearing and any representations made by the applicant on the record of this hearing, is incongruous with the character of the Hyman***

*Heights Historic District for the following reasons: 3.7.6 if replacement of a deteriorated window or door unit is necessary, replace the unit in kind, matching the design and the dimension of the original sash or panels, pane configuration, architectural trim, detailing, and materials. Consider compatible substitute materials only if using the original material is not technically feasible. Commissioner Tate also cited the Vinyl Materials Committee memo of November 14, 2008 which says for Non-contributing Properties; replace windows, doors, siding, trim and other exterior materials in kind. Commissioner Tyler seconded the motion which passed five in favor and two opposed.*

**VII 1221 Hyman Avenue, Certificate of Appropriateness.** At the request of Mr. Murphy, City Planner, Commission File No. H09-46-COA was admitted into evidence and the Commission took official notice of the Code of Ordinances of the City of Hendersonville and the Commission's Design Guidelines. Mr. Murphy gave the following background:

The Planning Department is in receipt of an application for a certificate of appropriateness from Cynthia M. Stroud to undertake the following work at 1221 Hyman Avenue:

Increase the height of the previously approved wooden fence and gate between the house and the fence on the side property line from 4.5' to 6'.

On October 21, 2009, the Historic Preservation Commission approved a certificate of appropriateness application from Cynthia Stroud to do the following: (1) Install a 6' privacy fence along the property line shared by 1221 Hyman Ave. and 1225 Hyman Ave, (2) install a 4.5' wooden fence with a gate between the house and the proposed fence along the side property line and (3) install a 6' wooden fence along the rear property line.

The proposed fencing was installed in late October. Ms. Stroud has notified staff that the fence and gate between the house and the fence along the side property line was not built at 4.5' as specified in the previous application but was constructed at a height of 6', matching the height of the fence along the side property line. Since the constructed fence does not meet the specifications of the previously approved application, Ms. Stroud has submitted a new application to increase the height of the fencing between the house and the side property line from 4.5' to 6'.

The subject property is listed as non-contributing in the Hyman Heights Local Designation Report. The property is described as: 1221 Hyman Avenue. Built ca. 1980, vinyl sided dwelling.

The subject property is listed as non-contributing on the National Register and described as: 1221 Hyman Avenue. House. ca. 1980s. Modern infill building with a shallow front gable roof and aluminum siding. Good condition.

The built fence deviates from the approved application in that the height of the fence between the house and the side property line is 6' instead of 4.5' and the top of the gate is not concave. The applicant has provided a letter documenting why the fence and gate could not be built according to the previously approved specifications. The applicant intends to install landscaping that includes 2 evergreen trees in the front yard to reduce the visual impact of the fence.

Mr. Murphy reported the applicant did not meet Design Review Advisory Committee. The Chair asked if there were any questions of staff.

Cynthia Stroud of 1221 Hyman Avenue said when she came home one day, Asheville Fence had already built the gate as it is now. She said that was not what they had agreed on or signed a contract on. She said it was explained to her that the gate presented at the last meeting could not be built as shown and this was the only way to do a fence with the lattice used in the fence. She said once the plantings are in and the fence painted white with the copper caps it should look better. Commissioner Carter asked if the yard felt claustrophobic. Ms. Stroud said no and it has been really good for her daughter. Commissioner Carter clarified they are being asked to approve it as it has been built.

*Commissioner Blatt moved the Commission to find as a fact that the proposed application for a certificate of appropriateness, as identified in file number H09-46-COA, since it is constructed according to the information reviewed at this hearing and any representations made by the applicant on the record of this hearing, is not incongruous with the character of the Hyman Heights Historic District for the following reasons: 3.2.8 Introduce compatible new fences and walls only in locations and configurations that are characteristic of the historic landmark or district. Keep the height of new fences and walls consistent with the height of traditional fences and walls in the district. Commissioner Carter seconded the motion which passed unanimously.*

**VIII** Request that the Commission enter closed session to consult with the City attorney to preserve the attorney-client privilege between the attorney and the Commission as provided under North Carolina General Statutes '143-318.11(a)(3). *At 6:23 p.m., the Chair moved Commission to enter a closed session to consult with the City Attorney. A unanimous vote of the Commission followed. Motion carried.*

*Commissioner Tate moved to exit the closed session at 6:50 p.m. No action was taken.*

**IX** **Façade Grant Procedure Amendment.** Mr. Murphy gave the following background:

Staff has received input that the following sentence in the Façade Grant Procedure has been misinterpreted as stating that the façade grant program will cover the entire cost of improvements up to \$ 1,000 without requiring a match:

"Projects are eligible for a grant reimbursement of \$1 for each \$1 expended by the applicant with a maximum match of \$1,000 for each project."

To avoid any further confusion, staff suggests that the preceding sentence be replaced with the following language from the façade grant brochure. Additions are underlined and deletions are ~~struck through~~:

Projects are eligible for a grant reimbursement ~~of \$1 for each \$1 expended by the applicant with a maximum match of \$1,000 for each project~~ for 50% of the project cost up to a maximum match of \$ 1,000.

Staff does not believe that it is necessary for Downtown Hendersonville, Inc. to review the suggested change because the proposed language was taken from the façade grant brochure which was already reviewed and approved by Downtown Hendersonville, Inc.

*Commissioner Blatt moved the Commission to adopt the amended Historic Preservation Commission / Downtown Hendersonville, Inc. Façade Grant Program Procedure as proposed. Commissioner Tyler seconded the motion which passed unanimously.*

**X. Summary of Historic Preservation in Hendersonville.** Mr. Murphy gave a slide presentation of the preservation history in Hendersonville. Commissioner Carter said it would be good to get this information to the public. The Chair suggested it be put on the HPC website.

**XI Committee Reports**

**Designation Committee** – Ms. Welter referenced the Policy Statement Memo saying the Commission and Designation Committee have not been following this procedure. The Chair suggested the committees be evaluated in January.

**Community Affairs** – Ms. Welter said she is looking for lofts that could be open for a downtown loft tour in May.

**District Improvements** – No report.

**XII Commissioners Comments.** None

**XIII Staff Comments.** Mr. Murphy report that City Council was informed of the Commission's decision not to move forward with the expansion of the Main Street District. Councilmember Caraker reminded the Commission they could use the Local Landmark status to add protection to a building.

Mr. Murphy informed the Commission the state grants for preservation projects are due in February and asked if the Commission would like to pursue any monies. The Chair, Commissioners Tate and Jones agreed to meet with staff to discuss grant possibilities.

Mr. Murphy announced there would be a training on quasi-judicial hearings on January 28. This is offered by the city to the HPC and Board of Adjustment.

Mr. Murphy referenced the Dancing Bear COA and questioned if they would be eligible for a Façade Grant since work has already been completed. Commissioner Blatt said yes it would be eligible as the restoration work has not begun.

Mr. Murphy referenced the book catalog from the State and asked if the Commission would like to add on to the library. A list of potential books will be brought to the next meeting.

**XIV Financial Report.** *The Financial Report was passed by consensus.*

**XV Adjournment.** *The meeting adjourned at 6:25 p.m.*