

Minutes
Capitol-Medical Center Improvement and Zoning Commission
April 28, 2017
8:15 a.m.
Will Rogers Building, Rm. 216
Oklahoma City, Oklahoma

A meeting notice was given and an agenda was posted in accordance with the Open Meeting Act.

MEMBERS PRESENT: Tiana Douglas
Brian Downs
Hillary Farrell
Joshua Greenhaw
Jeremiah Jordan
Paul Manzelli
Ken Phillips
Dan Ross
Sarah Welch

MEMBERS ABSENT: Reginald Johnson
Jerry Winchester

STAFF/GUESTS: Ben Davis, OMES Zoning Administrator, Director of Planning
Karl Kramer, AAG, Oklahoma Attorney General Office

A. Roll Call:

The meeting was called to order by Chairman Ross at 8:15 a.m. Roll call was taken and a quorum was established. Chairman Ross was advised that notice of the meeting was given and an agenda posted in accordance with the Open Meeting Act.

B. Minutes:

1. Approval, disapproval and/or amendment of the minutes of Mar. 17, 2017 meeting.

Mr. Downs moved to approve the meeting minutes of March. Ms. Douglas seconded the motion, the motion passed and the following votes were recorded:

Ms. Douglas, yes; Mr. Downs, yes; Ms. Farrell, yes; Mr. Greenhaw, yes; Mr. Jordan, yes; Mr. Manzelli, yes; Mr. Phillips, yes; Mr. Ross, yes; Ms. Welch, yes.

C. Special Public Hearings:

Chairman Ross recused himself from the hearing due to conflict of interest in having a personal friendship with the appellant. Mr. Ross entrusted the position of Chairman to Commission member, Brian Downs for this special hearing. Mr. Ross exited meeting.

1. Discussion and possible action regarding an appeal to overturn the Historical Preservation and Landmark Board of Review's January 5, 2017 decision to deny CA-16-17-13, Request by Scott Henderson for a Certificate of Appropriateness approving the replacement of exterior doors at 418 NE 15th Street in the Wilson-Harn Historic District, Oklahoma City.

Before moving forward with the hearing Mr. Kramer, AAG to the Commission explained the proceedings.

Scott Henderson – Appellate, Exhibit 1:

Mr. Henderson admitted into evidence Appellate Exhibit 1, a packet with a cover page listed as, Commission, April 28, 2017. The exhibit provides supporting documentation defending his appeal to the Commission.

Mr. Henderson informed the Commission that on the last page of his packet, was a letter from the construction company that restores doors, dated April 27, 2017. He explained when submitting his initial Certificate of Appropriateness (CA) application, he put in a great deal of time preparing around forty pages the same week it was due. He gave himself recognition for the fact that the two doors were the only thing he missed.

Mr. Henderson perceived that, given the situation in the home with a baby and his wife pregnant, he had to make an executive decision to change the doors, by reason of the existing doors, especially the front door, was rotted, very inefficient and posed safety concerns. Mr. Henderson shared a testimony of his wife and his life story.

In closing, Mr. Henderson wanted the Commission to know he had made an honest error and requested the Commission grant him a variance for relief.

Ben Davis – State Exhibit 1:

Mr. Davis admitted into evidence State Exhibit 1, a staff report attached to an agenda packet. The staff report is responding to the claims in the appellant's appeal, as well as supporting documentation showing various communications with the appellant.

Mr. Davis reported that the appellant is petitioning to retain both doors that were installed illegally prior to the application and to make some minor alterations to the doors.

Mr. Davis reported between July and December 2016, Mr. Henderson replaced the two exterior doors on the north façade, street facing side of the home. During that time he received a notice of violation from the City of Oklahoma City for failing to obtain a Certificate of Appropriateness (CA) from the Historical Preservation and Landmark Board of Review (HPLBOR). On December 20, 2016, the appellant submitted an application for a CA, which was heard by the HPLBOR at the January 5, 2017 meeting. The Board unanimously voted to deny the CA, finding that the proposed work would have an adverse effect on the character of the home and the district.

Mr. Davis gave some additional background on his interactions with Mr. Henderson. Last summer in 2016, Mr. Henderson applied for his first CA for other work to be done on his home, which was heard at the HPLBOR July 7, 2016 meeting. All items were approved with a few conditions. He also applied for another CA at the beginning of 2017, which was heard at the HPLBOR February 2017 meeting and the work on that application was also approved.

Mr. Davis noted that, from the perspective of the Commission and staff, the primary purpose of historic preservation is to preserve the original elements of the homes in the district, which are outlined in the rules. The application process requires photographic evidence of the advance deterioration or loss on the items in question. The Board, then, can make a decision on whether the deterioration warrants replacement.

Mr. Davis addressed the six main claims that were made by Mr. Henderson in his appeal letter to the Commission:

One: The existing doors were unrepairable. The application for the doors stated that the main entry door was chipped and unsmooth. A few photos were provided, however, they did not show any issues that appeared to be unrepairable.

Two: One of the existing doors was historically inappropriate and the neighborhood has a number of historic inappropriate doors. Staff's opinion was the main door was original to the home, the secondary entry door was a replacement door and not original. The application process provides an opportunity for staff to interact directly with the applicant and review the proposed work items so staff can advise about appropriateness of the items that are being proposed before the work is done. Mr. Henderson never gave staff the opportunity because the work had been completed before the application was submitted.

Three: The members of the HPLBOR do not have expertise in architectural history. The Commission's rules do not require specific expertise, but they do require members to hold specific professions, which are registered architect, licensed real estate broker, historian, city planner/landscape architect, attorney, a seat designated for the Chairman of the Historical Preservation and Landmark Commission of Oklahoma City or designee, a seat designated for a member of the Zoning Commission and two seats that are designated for residents that live within the Historical Preservation districts within the larger district. The current membership meets all the requirements that are outlined in the rules.

Four: The denial based on compatibility is subjective and that the HPLBOR and staff's reasoning for denial have discrepancies. Mr. Davis referenced to the staff report for the

application in January and spoke about compatibility from the perspective of appropriateness, and in looking at compatibility as secondary to the primary goal in preserving the original features of the home. Before staff thinks about if the change is appropriate for a house, we look at should it be changed at all. Mr. Davis defined the meaning of compatibility and appropriateness as listed in the rules and definitions, and to make aware that this is what staff measures against, whenever staff reports are written for a Certificate of Appropriateness applications. The main entry way of Mr. Henderson's home is Colonial Revival in style. The replacement doors were Rustic /Gothic in style, which made them incompatible or inappropriate for the entryway of the home.

Five: Mr. Henderson contacted a group of consultants provided by the State Historic Preservation Office and sent them a survey about different architectural styles of doorways throughout the district. They could not come to a consensus on what the style was on several of the doors. Mr. Davis found this irrelevant to the case, since the Zoning Commission has exclusive authority over the land use and zoning issues within the district. The Commission established the Historic Preservation Board over forty years ago and delegated the management of historic preservation issues to that board. The Commission's authority is established by Oklahoma Statute, Title 73 § 82.1 through 83.14. The Historic Board's authority is established by the Oklahoma Administrative Code, Title 120, Subchapter 10.

Six: There are a number of homes in the district that are noncompliant with the Historic Preservation Standard and Guidelines and they warrant citations. Mr. Davis agreed that there are a number of houses in the district that are noncompliant with the standards and guidelines. The standards and guidelines were recently developed in 2016 and adopted. It is relatively new that staff and the HPLBOR are applying the standards and guidelines in the review process. The standards and guidelines are used to inform staff's recommendations to the Board. They are not used to inform decisions about the work that was done before they were put in place. In time, the standards and guidelines will work through the established application process to eliminate those noncompliant elements within the district and will ensure that new work done in the future is compliant. Potential violations are inspected by the City of Oklahoma City. The City is not proactive and does not go out and look for violations, they respond to complaints made by citizens. The only time a property receives a citation or violation from the City is when someone turns them in to the Action Center and asks for an inspection of that property's perceived violation.

Commissioner Welch made known that she reviewed the approval process, trying to understand the connection between the criteria and the decision that was made by the HP Board on how they derived to their decision. She noted that, the proposed standard and guidelines, although adopted, are not in effect yet and does not feel the Commission should take them in to consideration when arriving to a decision on this case. The Chairman of the HP Board, Commissioner Greenhaw, provided Ms. Welch with additional information for her to consider in the matter of this case.

Mr. Greenhaw was present at the meeting when the application was denied and made known that the Board's first consideration was the staff report prepared by Mr. Davis

and his presentation to the board. In the presentation, the Board considered, the style of the home, the look of the prior door, and the look of the new door that was installed before the application or certificate was made. One of the considerations and concerns the Board had, was, the prior door has a large light in the middle of it, in keeping with the pattern of the side lights and the openings in the front of the home, the new door is a solid piece of wood that the Commission thought was appropriate for various homes, just not for that home. It is not a style that would be appropriate because of its construction, lack of glass, placement, and the home itself. The Board took into consideration the staff recommendation and the motion was made to deny the CA.

Mr. Greenhaw made evident, at least two of the members of the HP Board have degrees in architecture and from his personal experience he was required to take at least four courses in architectural history and has devoted a lot of time to studying it. Those on the Board who have this education, many members have experience with historic preservation consideration and it was unanimous that the door did not fit and was not appropriate in construction, color or its placement in that particular home.

The Commission had several questions for both parties and received answers that helped them to derive to their decision that the door was not appropriate to the home.

Mr. Greenhaw motioned to deny appeal and instruct staff to work with the City of Oklahoma City in holding off processing of code violations until the appellant can reapply for a Certificate of Appropriateness at the July Historical Preservation Board Meeting. The decision is to deny the appeal and the uphold the decision of the Historical Preservation Landmark and Board of Review based on the door in question being historically inappropriate and incompatible with the style of the home, as suggested in the initial staff report. Mr. Jordan seconded the motion, the motion passed and the following votes were recorded:

Ms. Douglas, yes; Mr. Downs, yes; Ms. Farrell, yes; Mr. Greenhaw, yes; Mr. Jordan, yes; Mr. Manzelli, yes; Mr. Phillips, yes; Ms. Welch, yes.

After a ten minutes recess, Mr. Ross returned to the meeting and assumed his position as Chairman.

- D. Rezoning Request:** None.
- E. Conditional Use Permits:** None.
- F. Building Permits:** None.
- G. Miscellaneous:**

- 1. Discussion and possible action to enter into an agreement with the City of Oklahoma City to provide zoning code enforcement on behalf of the Capitol-Medical Center Improvement and Zoning Commission for Fiscal Year 2018, July1, 2017 through June 30, 2018.**

Ms. Douglas moved to approve. Mr. Manzelli seconded the motion, the motion passed and the following votes were recorded:

Ms. Douglas, yes; Mr. Downs, yes; Ms. Farrell, yes; Mr. Greenhaw, yes; Mr. Jordan, yes; Mr. Manzelli, yes; Mr. Phillips, yes; Mr. Ross, yes; Ms. Welch, abstain.

2. Discussion and possible action to appoint an Attestation Officer and an Alternate Attestation Officer as required by the Administrative Procedures Act. The appointee may be a member of the commission or may be an individual appointed to attest on behalf the commission.

Mr. Greenhaw moved to appoint Ben Davis as Attestation Officer and Dan Ross as the Alternate Attestation Officer pursuant to the Administrative Procedures Act. Ms. Farrell seconded the motion, the motion passed and the following votes were recorded:

Ms. Douglas, yes; Mr. Downs, yes; Ms. Farrell, yes; Mr. Greenhaw, yes; Mr. Jordan, yes; Mr. Manzelli, yes; Mr. Phillips, yes; Mr. Ross, yes; Ms. Welch, yes.

3. Discussion and possible action to confirm Susan McCalmont to serve on the Historical Preservation and Landmark Board of Review as the designee for the chair of the Oklahoma City Historic Preservation Commission.

Mr. Davis explained he recently contacted the Chair of the Oklahoma City Historic Preservation Commission to ask if he would serve on the Historic Preservation Board because the rules outline he has a seat on the Board. He accepted but Oklahoma City's legal department advised against it due to conflict of interest serving on two boards. They asked him to designate someone in his place.

He selected Ms. McCalmont who recently moved in to the Lincoln Terrace Neighborhood. She has previous experience in historic preservation and was on the Oklahoma City Commission in the 1980's and served as a staff member for the economic development division in a city in Virginia, being the staff person that dealt with historic preservation districts. Mr. Davis believes she would be a great addition and her term would end in June 2020.

Ms. Douglas moved to approve. Mr. Jordan seconded the motion, the motion passed and the following votes were recorded:

Ms. Douglas, yes; Mr. Downs, yes; Ms. Farrell, yes; Mr. Greenhaw, yes; Mr. Jordan, yes; Mr. Manzelli, yes; Mr. Phillips, yes; Mr. Ross, yes; Ms. Welch, yes.

H. Reports and possible discussion from Commissioners or Director: None.

I. Adjournment:

There being no further business, Mr. Downs made the motion to adjourn. Mr. Phillips seconded the motion. Seeing no opposition, the meeting adjourned at 9:36 a.m.