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**Title:** Option A: Concur with Petitioners’ request to overturn the Historic Preservation Commission’s denial of COA #23-4821 thereby permitting two additional window openings, vinyl replacement windows on the first floor, replacement of the existing cedar siding with Hardie Board siding, and the additional demolition which has been completed at 223 Center Street; or

Option B: Deny Petitioners’ request to overturn the Historic Preservation Commission’s denial of COA #23-4821

**Sponsors:**

**Indexes:**

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**Attachments:** 1. Appeal Letter to City Council COA 23-4821, 2. Application COA 23-4821, 3. Architectural Plans COA 23-4821, 4. Public Comment COA 23-4821, 5. 12\_15\_23 Photo of Illegal Demolition 1, 6. 12\_15\_23 Photo of Illegal Demolition 2, 7. COA 23-3770 Packet, 8. January 25 2024 DRAFT HPC Meeting Minutes

Date	Ver.	Action By	Action	Result
2/20/2024	2	City Council	denied	Fail

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Option A: Concur with Petitioners’ request to overturn the Historic Preservation Commission’s denial of COA #23-4821 thereby permitting two additional window openings, vinyl replacement windows on the first floor, replacement of the existing cedar siding with Hardie Board siding, and the additional demolition which has been completed at 223 Center Street; or

Option B: Deny Petitioners’ request to overturn the Historic Preservation Commission’s denial of COA #23-4821

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Brad Iwicki, Assistant Planner

**BOARD/COMMISSION REVIEW:**

On January 25, 2024, the Historic Preservation Commission (HPC) considered a request for a Certificate of Appropriateness (COA) for the property owned by Moses Khalil, MKJH Remodeling, LLC (together referenced herein as “Petitioners”). The COA sought approval to allow the demolition of the primary façade that went beyond the scope of approval of the HPC, and additional exterior changes that the Petitioners propose to the primary façade of the home at 223 Center Street. The HPC denied COA #23-4821 (denied 5,0). The Petitioners have appealed HPC’s denial to the City Council, seeking approval of the additional demolition that was already completed as well as

additional changes proposed to the front elevation.

### **BACKGROUND:**

The subject property is an approximately 7,500 square foot parcel south of North Avenue and on the west side of Center Street, with a common street address of 223 Center Street. The property is zoned R2 (Single-family and Low Density Multiple-Family Residence District) and is currently improved with a two-story upright and wing style home (as identified by the 2008 Architectural and Historical Survey), shed, and a detached garage located near the rear of the property. The subject property is listed as a “contributing” structure in the 2008 Architectural and Historical Survey for the Historic District.

Significant features of the residence include the two-story front gable bay with south side gable wing. Prior changes to the original structure include a two-story rear addition, replacement front porch, south chimney addition, double door added to the south wall of the front bay (under porch), replacement windows in the original window openings, and installation of fixed shutters and aluminum siding.

### ***Prior COA Approvals for 223 Center Street***

The Historic Preservation Commission (HPC) approved the following COAs:

- COA 22-4462 was approved to increase the height of the roof, remove the south deck, and improve the home with a two-story rear addition. The scope of work approved with this COA was never initiated.
- COA 23-3770 was approved to increase the height of the roof and install replacement windows in new window openings and a change in material (see attached).

### **DISCUSSION:**

#### ***Illegal Demolition Activity***

Following approval of COA 23-3770 on October 26, 2023, the City issued a building permit for the subject property. The drawings submitted with the building permit were consistent with the plans approved through COA 23-3770.

During an inspection conducted by City staff on December 15, 2023, it was determined that the demolition work that had been undertaken at the subject property exceeded the scope of work approved through COA 23-3770, as well as the approved building permit.

At that time, a Stop Work Order was posted on the property by Code Enforcement and the project was stopped after foundation backfill was completed.

On December 18, 2023, City staff met with Petitioners, Moses Khalil and Khaled Hasan, to discuss the current state of the project and steps to rectify the illegal demolition at 223 Center Street. Staff informed the Petitioners that a new COA request is required, including a new COA application and revised plans to reflect the scope of demolition and construction work proposed on site. Petitioners were also informed that they were required to amend the building permit plans accordingly for review by plan review staff.

Lastly, no additional work was to be completed at the subject property until a revised COA and building permit are issued.

### ***New COA Request***

On January 3, 2024, the Petitioners submitted a new COA application and revised plans for the subject property (COA 23-4821). Architectural plans for the revised scope of demolition and the new construction proposed are provided in the attachments. The current COA request includes:

- **Additional Demolition:** COA 23-3770 approved demolition of a portion of the primary façade in order to increase the height of the roof system. The Petitioner's demolition exceeded the approved COA and included demolition of the front porch roofing and rafters, the primary façade (east wall) above the porch overhang, and the walls on the north and south elevation of the residence. The current COA seeks approval of the additional demolition work that has already been completed on site.

The 2008 Architectural and Historical Survey for the Historic District identified the home at the subject property as an upright and wing style home. The Survey lists the two-story front gable bay with south side gable wing as significant features of the home. The Petitioner states that the gable roof features will remain.

- **New Windows:** The Petitioner is requesting approval of a COA to allow the construction of two new window openings and installation of new windows on the second floor east wall above the porch overhang, as well as replacement of three first floor windows using vinyl material. The windows to be installed are double-hung, vinyl windows featuring thermopane and low-e glazing to improve energy use.

The Historic Building and Design Manual encourages retaining and preserving windows in their original location, size, type, and design, and with their original materials and pane division. It appears that the applicant is proposing to add two second floor window openings to match the design and size of the existing openings and replace three existing first floor windows. The applicant plans to install vinyl windows; however, vinyl and fiberglass window material and adding new non-original window openings to the primary façade are discouraged in the Historic District per the Historic Building and Design Manual. The addition of two window openings on the east wall above the front porch overhang was briefly discussed at the October 26, 2023 HPC meeting, where the Commission showed support for this potential improvement.

- **New Siding:** During discussions of the proposed COA during the HPC meeting, the Petitioner confirmed that they intend to remove the existing cedar siding from the front façade of the structure. While the Petitioner noted that the side elevations of the structure were previously sided with aluminum, the Petitioner confirmed that they do intend to utilize Hardie Board siding on the front façade following the HPC meeting.

The Historic Building and Design Manual permits the replacement of original wood siding with new fiber cement board (Hardie Board) siding provided that the new siding match the original in size, pattern, form, and reveal.

### ***HPC Review***

The HPC reviewed the COA for the primary façade change at its January 25, 2024, meeting. Four members of the public spoke during public testimony voicing concern over the Petitioners deviating from the approved plans and what to expect moving forward.

The Commission recommended that the Petitioner retain an architect that has experience in historic preservation, building historic structures, and navigating the proposed plan. The HPC expressed concern that the front elevation may eventually fall on its own, specifically due to the shoring of the façade (note: the Petitioners have further secured the front elevation since the HPC meeting).

The HPC shared further concerns about the Petitioners' ability to complete the project as proposed and believes there is a disconnect between their experience and Historic District requirements. The HPC denied the COA request (denied, 5-0). The HPC's findings of fact are listed below.

### ***HPC Findings of Fact***

Section 6-11-8:5 of the City's Code (Certificate of Appropriateness Required) establishes the factors for consideration of a COA application. Based on the discussion held at the meeting, the HPC submitted findings for each of the factors, as provided below. In addition to the findings, a draft of the meeting minutes is included in the attachments. The HPC recommended denial of COA #23-4821 based upon the following findings:

### ***HPC's Response to Factors for Consideration of a Certificate of Appropriateness Application:***

5.1. Compatibility With District Character: The Commission and Zoning Administrator shall consider the compatibility of the proposed improvement with the character of the historic district in terms of scale, style, exterior features, building placement and site access, as related to the primary facade (s), in rendering a decision to grant or deny a Certificate of Appropriateness.

*HPC Analysis: The HPC previously issued a COA for the subject property which permitted alterations to the front façade, as well as limited demolition. Through the previous COA, the Petitioners noted their intent to convert the structure from a duplex to a single-family home. Upon review of the illegal demolition and proposed improvements, the Historic Preservation Commission (HPC) found that the demolition work completed at the subject property exceeds that granted by the prior COA and may impact the ability to preserve the remaining structure. In addition, some HPC members expressed concerns regarding the additional windows proposed for the front façade finding that they are not in keeping with the original design of the front facade. The Commission shared further concerns about the ability to complete the project as proposed and has concerns regarding the Petitioner's lack of prior construction work on a historic property. The Commission expressed concerns regarding the impact that illegal demolition work has on the integrity of the subject structure, as well as the overall preservation of the Naperville Historic District.*

5.2. Compatibility With Architectural Style: The Commission and Zoning Administrator shall consider the compatibility of the proposed improvement with the historic architectural style of the building or structure to be modified by the Certificate of Appropriateness request.

*HPC Analysis: The HPC found that the proposed design is generally compatible with the vernacular style, but the majority of the HPC believed that the proposed design is incorporating elements not in line with the original design of the building's primary façade and incompatible with the vernacular style. This is demonstrated by, most significantly, the demolition of a portion of the primary façade without in-kind replacement at the location where the new second-floor windows are proposed. The HPC noted a contradictory statement made by the Petitioner at the January 25, 2024, meeting. The proposed plans submitted for this COA request for the primary façade call for siding to match existing aluminum siding, the Petitioner stated Hardie Plank material would replace the existing cedar wood*

siding. The HBDRM states that fiber cement board is acceptable only when matching the original cedar siding in size, pattern, form, and reveal. The Commission recommended that the Petitioner work with an architect that has experience in historic preservation and building historic structures to ensure that the design is appropriate and to ensure that the remaining structure is structurally stable and can be preserved with the remainder of the proposed construction.

5.3. Economic Reasonableness: The Commission and the Zoning Administrator shall consider the economic reasonableness of any recommended changes determined to be necessary to bring the application into conformity with the character of the historic district.

*HPC Analysis: Since the additional demolition work has already been completed by the Petitioner beyond the scope of the previously approved COA, there is no standard of economic reasonableness to consider. The Commission expressed concerns with the additional windows proposed, finding that they may not be in line with the original design of the building's primary façade and incompatible with the vernacular style. Elimination of the proposed windows would have no impact on economic reasonableness, as the additional cost to the Petitioner would be eliminated if the windows were not added.*

5.4. Energy Conservation Effect: In making its determinations, the Commission and Zoning Administrator shall consider the effect that any recommended changes may have on energy conservation.

*HPC Analysis: The majority of the Commission found that the new vinyl 2<sup>nd</sup> floor windows will not be a detriment to the energy efficiency of the home. If the primary façade remained as it did prior to work being done, no adverse impact on energy conservation would be anticipated due to the major interior renovations and work to the secondary façades.*

5.6. The City's Historic Building Design and Resource Manual may be used as a resource in consideration of the above.

*HPC Analysis: The majority of the Commissioners felt the proposal did not meet the specifications listed in the Historic Building Design and Resource Manual (HBDRM). The additional demolition was not appropriate. The Petitioner's demolition exceeded the approved COA and included demolition of the front porch roofing and rafters, the primary façade (east wall) above the porch overhang, and the walls on the north and south elevation of the residence. The Commission found the proposed new window openings were not compatible with the original building, although the placement of the windows is appropriate for the vernacular architectural style. The vinyl window material is discouraged by the HBDRM and wood or wood clad windows are preferred. At the meeting the Petitioner stated Hardie Plank material would replace the existing cedar wood siding. This is discouraged unless matching the original cedar siding in size, pattern, form, and reveal.*

## **City Council Review**

### **Option A**

If the City Council chooses to overturn the HPC's denial of COA #23-4821, it can approve the COA as requested or provide direction regarding the two new windows requested, the replacement vinyl windows, and the proposed Hardie Board siding. Whether the City Council approves the COA as presented or recommends specific changes to any element of the COA requested, no additional review is required by the HPC.

### **Option B**

If the City Council does not believe that the remaining façade can comply with the Historic Building Design and Resource Manual overall recommendations for a vernacular structure, it may choose to uphold the HPC's denial of the requested COA. In this scenario, the City Council should provide feedback as to specific concerns that the Petitioners should address on the façade. The Petitioners will then be required to return to the HPC with a new COA request.

It should be noted that staff does not believe that the façade (with or without the additional changes noted above) is in conflict with the Historic Building Design and Resource Manual. Further, staff recommends issuance of a COA, in some form, to allow the Petitioners to proceed with construction and remediate the current state of disrepair.

Unfortunately, whether the COA is denied or approved, it will be impossible for the Petitioners to restore the portion of the façade that was illegally demolished; however, this violation is being addressed through the citation issued and further described below.

### ***Applicable Fines***

On Friday, February 9, 2024, the City issued a citation to the Petitioners in accordance with Section 6-11-12 (Historic Preservation Fines and Penalties) in reference to the illegal demolition completed at the subject property. This citation is subject to a hearing and issuance of fines by the DuPage County Circuit Court and carries a minimum fine of \$10,000.

In addition to the citation, the City will assess double inspection and administrative fees, per Section R113.4 Violation Penalties, to the Petitioners for the work that was completed outside of the approved permit.

### **Key Takeaways**

- Petitioners own a residence at 223 Center Street in the City's Historic District which residence is denoted as a "contributing structure" in the Historic District.
- Petitioners demolished portions of the primary façade of the residence at 223 Center Street which was not included in the scope of the approved Certificate of Appropriateness.
- After a stop-work order was issued by the City, Petitioners sought an after-the fact COA (COA #23-4821) seeking approval of the demolition and proposed exterior façade changes. Petitioners indicated that they were not familiar with the COA field change procedures.
- The Historic Preservation Commission reviewed COA #23-4821 on January 25, 2024 and voted to deny the COA request (denied, 5-0) because the demolition to the primary façade was not appropriate under the Municipal Code and the City's Historic Building Design and Resource Manual.
- In accordance with Section 6-11-8:4.6 (Appeals to City Council) of the Municipal Code, the Petitioners have appealed the HPC's denial of COA #23-4821 to the City Council.

### **FISCAL IMPACT:**

N/A