

## Legislation Details (With Text)

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**On agenda:** 12/15/2020      **Final action:** 12/15/2020

**Title:** Option A: Concur with Petitioners' request to overturn the decision made by the Historic Preservation Commission and approve COA #20-3281 permitting the stone applied over the existing brick at the base of the primary façade at 219 North Ellsworth Street, which was installed without an approved COA, to remain in place.

Option B: Concur with the Historic Preservation Commission and deny Petitioners' request to overturn the Historic Preservation Commission's denial of COA #20-3281, thereby requiring the stone applied over the existing brick at the base of the primary façade at 219 North Ellsworth Street, which was installed without an approved COA, to be removed.

**Sponsors:****Indexes:****Code sections:**

**Attachments:** 1. Appeal Request Letter, 2. HPC Findings of Fact, 3. HPC 10.22.2020 Draft Meeting Minutes, 4. COA Application with Responses to the Factors of Consideration, 5. Elevations, 6. 2008 Architectural and Historical Survey

Date	Ver.	Action By	Action	Result
12/15/2020	1	City Council	denied	Pass

**CITY COUNCIL AGENDA ITEM****ACTION REQUESTED:**

Option A: Concur with Petitioners' request to overturn the decision made by the Historic Preservation Commission and approve COA #20-3281 permitting the stone applied over the existing brick at the base of the primary façade at 219 North Ellsworth Street, which was installed without an approved COA, to remain in place.

Option B: Concur with the Historic Preservation Commission and deny Petitioners' request to overturn the Historic Preservation Commission's denial of COA #20-3281, thereby requiring the stone applied over the existing brick at the base of the primary façade at 219 North Ellsworth Street, which was installed without an approved COA, to be removed.

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Kathleen Russell, Community Planner

**BOARD/COMMISSION REVIEW:**

On October 22, 2020, the Historic Preservation Commission (HPC) considered an after-the-fact request for a Certificate of Appropriateness (COA) for the property owned by Joseph and Courtney Alvarez (together referenced herein as "Petitioners"). The COA sought to maintain exterior façade changes that the Petitioners made to the base of the home at 219 N. Ellsworth Street without an

approved COA. The HPC denied COA #20-3281 (denied 5-2). The Petitioners have appealed HPC's denial of COA #20-3281 to the City Council, seeking to allow the changes made to the exterior façade to remain. It is this appeal of COA #20-3281 that is now pending before the City Council.

### **BACKGROUND:**

Petitioners own a residence located at 219 N. Ellsworth Street on the west side of North Ellsworth Street just north of School Street in the City's Historic District. The property is approximately 6,875 square feet, zoned R2 (single family and low-density multiple family residence district) and is improved with a two-story Craftsman house and detached garage.

In July 2020 Petitioners altered portions of the front façade of the residence by covering the existing red brick on the façade (including the brick knee walls) with natural cast Bristol stone. The City's Code Enforcement Team issued a Stop Work Order once it became known work was being done without a COA. However, the work was largely completed by the time staff visited the site. Petitioners indicated that they were not aware of the requirement to obtain a COA or of the need to obtain a building permit before undertaking the façade alterations. City staff advised Petitioners that they would be required to seek approval of a COA in order to maintain the façade as currently completed and that an After-the-Fact building permit would also be required to be submitted.

Petitioners submitted an After-the-Fact request for issuance of a COA with the HPC seeking authorization to allow the exterior façade changes to remain in place. As noted above, the HPC denied the requested COA. As permitted by Code, Petitioners have filed an appeal of the HPC's denial with the City Council. The City Council may choose to concur with the HPC and uphold the denial of COA #20-3281 or it may concur with Petitioners and approve COA #20-3281.

### **DISCUSSION:**

The COA is required because of the change in materials on the primary façade of a structure in the Historic District as described in Section 6-11-8 (see the attached photos for the proposed materials). The 2010 Historic Building Design and Resource Manual encourages the retention and preservation of the original masonry materials. It is acceptable to replace the original material with brick that matches the original in size and texture, as well as mortar joint profile and width. It is discouraged to cover the masonry or use veneer to imitate the masonry. Wood, stone or stucco are considered typical siding for Craftsman homes. The brick knee walls are considered a significant feature of the home and are a part of the portion of the façade that has been changed to stone.

### **HPC Review**

The HPC reviewed the COA for the primary façade change at its October 22, 2020 meeting. One member of the public spoke during public testimony recommending denial of the request. The HPC noted that the proposed request would not have been approved if it had been brought before the work started because the materials used would not have been "like for like," as is required for new materials in the Historic Building Design and Resource Manual. The HPC also asked staff about the potential for fines and the history of the property's permits. The HPC denied the COA request (5-2). The HPC's findings of fact are listed below.

### **HPC Findings of Fact**

Section 6-11-8:5 of the Municipal 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. In addition to the findings, a draft of the meeting minutes is included in the attachments.

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

1. The petitioner failed to apply for a Building Permit or an HPC COA for the proposed work.
2. The residence is identified as a "contributing" structure in the 2008 Architectural and Historical Survey for the Historic District and notes a significant feature as the front gable porch with brick knee walls.
3. Had the petitioner filed for a COA before undertaking the change to the primary façade of their home, the latest vote outcome would indicate that the COA would have been denied.
4. The reason for the HPC's denial is clear: the porch knee wall material was not a "like for like" material replacement.

5.1. Compatibility with District Character: Both 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.

*Analysis: The replacement of materials were not "Like for Like" and are not appropriate for the Craftsman Style structure, goes for both stone and sill material replacement.*

5.2. Compatibility with Architectural Style: Both 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.

*Analysis: The stone selection is not appropriate and as stated in the Historic Building and Design Resource Manual, " encourages the retention and preservation of the original masonry materials. It is acceptable to replace the original material with brick that matches the original size and texture, as well as mortar joint profile and width."*

5.3. Economic Reasonableness: Both 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.

*Analysis: Understanding that the cost to return the structure back to the appropriate style may be large. However, because this work was done without a COA or Building Permit, I find this Factor- Not Applicable.*

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.

*Analysis: N/A - negligible benefit*

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

*Analysis: Had this been referred to, and proper applications made, none of this would need to be addressed. The stone selection is not appropriate and as stated in the Historic Building and Design Resource Manual, " encourages the retention and preservation of the original masonry materials. It is acceptable to replace the original material with brick that matches the original size and texture, as well as mortar joint profile and width."*

If the City Council concurs with the HPC's recommendation to deny the COA, the petitioners will be required to either (1) return the façade to its prior condition or (2) submit a new COA, subject to HPC review and approval, seeking alterations consistent with the Historic Building Design and Resource Manual. Per Petitioners, the new stone façade was affixed with mortar to the existing brick. Accordingly, the new stone can likely be removed, however, it is unclear if the bricks underneath will have sustained any irreversible damage.

### Applicable Fines

City staff will pursue applicable fines and fees noted below for the Petitioners' failure to obtain a building permit or COA prior to completing work at 219 N. Ellsworth Street.

### 6-11-12: - HISTORIC PRESERVATION FINES AND PENALTIES:

#### 2. Illegal Construction or Alteration:

2.1. It shall be unlawful to complete any construction or alteration to any landmark or any improvement located within an historic district unless specifically permitted through the certificate of appropriateness issued for that property.

2.2. Property owners will be subject to the following fines and penalties for any and all illegal construction or alteration to any landmark or any improvement located within an historic district:

2.2.1. A fine of no less than five hundred dollars (\$500.00) and no greater than one thousand dollars (\$1,000.00), per violation.

### Section 109.4 Work Commencing Before Permit Issuance:

Any person who commences any *work* on a building structure, electrical, gas, mechanical or plumbing system before obtaining the necessary *permits* shall be subject to penalties as prescribed by law and/or subject to *permit* fees, including double the cost for inspections and administrative fees as outlined in [Title 1 <https://library.municode.com/il/naperville/codes/code\\_of\\_ordinances?nodeId=TIT1AD>](https://library.municode.com/il/naperville/codes/code_of_ordinances?nodeId=TIT1AD), Chapter 9, Article H, Fees for Construction, in the Naperville Municipal Code, or a fee of \$500, whichever is greater.

For *work* that has been completed *without a permit* and for which required inspections cannot be completed, the City may require the *permit* applicant to submit verification from a third-party contractor that said *work* has been completed per Naperville Code requirements.

### Key Takeaways

- Petitioners own a residence at 219 N. Ellsworth Street in the City's Historic District which residence is denoted as a "contributing structure" in the Historic District.
- Petitioners made alterations to the primary façade of the residence at 219 N. Ellsworth Street (replacing brick with stone) without seeking a Certificate of Appropriateness.
- After a Stop Work Order was issued by the City, Petitioners sought an After-the Fact COA (COA #20-3281) seeking approval of the alterations. Petitioners indicated that they didn't

know that a COA was required.

- The Historic Preservation Commission reviewed COA #20-3281 on October 22, 2020. The HPC took a vote on the COA request which resulted in denial (vote: 5 opposed, 2 in favor) because the materials used to make the primary façade alterations were not appropriate under 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 #20-3281 to the City Council.

**FISCAL IMPACT:**

N/A