

Minutes
HISTORIC DISTRICT COMMISSION
Wednesday, March 5, 2008, at 7:00 PM

MEMBERS PRESENT: Chair Jessica Dockery, Vice Chair Mark Rhoades, Mark Bell, Joseph Council, Emily Eidenier, and Holly Snyder.

ABSENT: Pete Yeganian.

STAFF: Senior Planner Tom King, Planner Stephanie Trueblood.

WITNESSES: David Sakin, David Taylor, Fred Steward, Sara Turner, Andrew Remaly, and Laura Simmons.

ITEM #1: Call to order, roll call, and confirmation of quorum.

Ms. Dockery called the meeting to order at 7:02 p.m., and Mr. King called the roll and confirmed the quorum.

ITEM #2: Reading of the Commission's Mission Statement.

Ms. Dockery read the Commission's Mission Statement and provided information on the Commission's processes.

ITEM #3: Additions to the agenda and agenda adjustment.

Mr. King said he had two physical surveys to include: one for Item #8, the Sara Turner application, showing the corrected fence location; and the other for Item #9, the Kim Kaplan application, which gave a better idea of the site layout. No adjustments were made to the agenda.

ITEM #4: Approval of minutes from the February 6, 2008 meeting.

MOTION: Mr. Bell moved to approve the minutes of February 6, 2008 as submitted.

SECOND: Ms. Eidenier.

VOTE: Unanimously approved.

ITEM #5: Application for a Certificate of Appropriateness for the Orange County Housing and Community Development Department to replace the existing metal windows and install vinyl insulated windows at 225 West Orange Street (TMBL 4.18.D.2B).

Ms. Dockery swore in Mr. King and David Sakin. Mr. King provided some information on the architecture of the structure, built in the 1950's, noting the proposed work was to remove the existing metal windows and install 6/6 vinyl insulated windows with an interior grid pattern, white with 3/4" contour. He displayed a layout of the structure and various photos.

Mr. King said the Standards that applied were C for materials, I for exterior color, and J for proportions, and the Guidelines that applied were Windows and Doors.

Mr. Sakin said they wanted to put in vinyl windows because the siding on the home was vinyl, which would make the exterior maintenance free. He said the windows were larger in the bedrooms for egress according to the Fire Code, and the window in the bathroom would be removed. Using the plan, Mr. Sakin pointed out the windows to be enlarged and removed.

Ms. Snyder asked what was underneath the vinyl siding. Mr. Sakin said it was likely masonite or wood, but was not sure. Ms. Snyder said if it was wood, the use of wood windows would be more in keeping with the original house, so if the siding was ever removed the wood windows would be there to be compatible.

Ms. Snyder asked were they planning to keep the windows 48" wide and then move to 54". Mr. Sakin stated it would be a large window. Ms. Snyder said she was concerned about the proportion, because the HDC had to think about what was compatible in the historic district. She said if they were kept at 44" tall, it would be compatible with the house.

Mr. Council shared the same concerns, and asked about the likelihood of the siding being removed in the near future. Mr. Sakin responded it was unlikely, noting there was likely masonite underneath and not in good condition.

Mr. Bell said for clarification was there an issue for the HDC of going from metal to vinyl windows in a noncontributing house. Ms. Dockery stated it had not been allowed before, since the Standards called for replacing "like with like". She said if they wanted to replace the old windows with new metal windows, the HDC would not even need to look at it unless the size was changed.

Ms. Eidenier said on page 19 of the Design Guidelines, it talked about replacing in kind and that sometimes it may not be technically feasible to do that. She wondered if the concern about the air leakage and water damage would be a reason to question the feasibility of replacing in kind. Ms. Dockery said she did not believe so, since more modern metal windows would not have those issues.

Ms. Dockery asked Mr. Sakin had he checked into the use of metal windows. Mr. Sakin replied no, but knew they were used mostly for commercial applications.

Mr. Rhoades asked had the HDC allowed wood windows with vinyl clad in the past. Ms. Dockery stated just once on a noncontributing house, but it had only storm windows with no windows underneath to base an "in kind" replacement on, so it was considered an exception.

Mr. Rhoades agreed that the general preference would be for wood; however, the Design Guidelines allowed them to replace in kind with existing materials, so that would mean replacing metal with metal.

Ms. Dockery said that using like for like was the best choice in this case, but if research indicated that metal windows were not appropriate he could come back and they would readdress that. She said if Code Enforcement approved, they would prefer that the size of the windows not be changed. Mr. Sakin asked for a letter to that effect that he could provide to the Inspector.

Ms. Trueblood said the applicant would have to come back to the Board if the pane configuration was changed unless the Board stipulated otherwise. Mr. King said the proposal was for 6/6.

Mr. Bell asked could that be done as a staff approval. Ms. Trueblood responded yes, if that was the Board's preference.

MOTION: **Ms. Dockery** moved to find as fact that the Orange County Housing and Community Development Department application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C, I and J, and the Design Guidelines for Windows and Doors.

SECOND: **Mr. Council.**
VOTE: Unanimously approved.

MOTION: **Ms. Dockery** moved to approve the application with the following conditions:

- metal windows, in kind;
- pane configuration 1/1 with horizontal orientation, or if not available staff could approve 1/1 vertical orientation;
- change to 48" window approved by staff; otherwise, come back to HDC for any other size change;
- removal of bathroom window approved;
- Vinyl siding installed after removal of bathroom window to match existing siding.

SECOND: **Ms. Eidenier.**
VOTE: Unanimously approved.

Mr. Sakin asked if he could not find a metal window and they had to go to wood, could the panes be 6/6, or did they have to be 1/1. Ms. Dockery said they had to be 1/1. Mr. Sakin said they may be difficult to find.

ITEM #6: Application for a Certificate of Appropriateness for Orange County to place/replace exterior parking area and street lighting at the proposed Justice Facility Expansion Project, 106 East Margaret Lane (TMBL 4.36.D.1).

Ms. Dockery swore in David Taylor with Corley Redfoot Zack. Mr. King provided some information regarding the architecture and other details of the building, built in 1953 and 1954. He said the proposal was the placement and replacement of exterior parking area and street lighting at the Justice Facility.

Mr. King said the Standards that applied were C for materials, I for exterior color, N for scale, O for appurtenant fixtures, and S for maintenance of pedestrian scale, and the Design Guideline that applied was Exterior Lighting.

Mr. Taylor said this was a replacement of exterior lighting that had been removed by Duke Power because they were obsolete. He said they were replacing them with an up-to-date fixture that may appear different than what was seen at the Sheriff's Office or the Government Services Building, although those would be replaced over time as well so that the entire campus was consistent.

Mr. Taylor noted one change to the plan, which was that three light fixtures just to the north of the parking lot would not be installed because there was an archeological area of interest in that location.

Ms. Dockery said she believed that the 12' posts were typical and had no other concerns.

Mr. Rhoades asked about the conduits, Mr. Taylor indicated that the old conduits would be removed and new ones installed through the parking lots. Mr. Rhoades asked about the wattage. Mr. Taylor replied that the lamp Duke Power was proposing was a 100 watt high pressure sodium fixture which was the same wattage and material of the fixtures at the Sheriff's Office and the Government Services Building. Mr. Taylor added the new fixtures were of the same acorn style, but were an updated version.

Mr. Bell asked how many fixtures were being replaced. Mr. Taylor said he did not know the exact number. Mr. Bell said from the plan, it appeared that light would be thrown up into the air. Mr. Taylor replied that this particular fixture was not a "cut off" fixture. He said that Duke Power did have "cut off" fixtures, but they were significantly different and were lantern-like rather than acorn style. Mr. Bell said that sky glow and light pollution were big problems, and if there were 10 fixtures that would be 1,000 watts of light. He requested that they look at other options that would provide the appropriate lighting for safety that did not create the sky glow.

Mr. Taylor displayed pictures of the different kinds of fixtures, noting the lights were leased from Duke Power and they provided only a certain selection to

choose from. He said he understood that the ordinance required cut off fixtures, but they had proposed the acorn style because they already existed in the downtown area. Mr. Taylor said he would assume that based on a 100 watt high pressure sodium, that the same number of fixtures would be required if the acorn style was not used.

Ms. Dockery said she believed Mr. Bell had made a good point, since that area may have night activities that did not need a glowing sphere.

Mr. Rhoades said he believed the acorn style would be compatible. Mr. Council agreed, as did Ms. Eidenier. Ms. Snyder said she had a concern about the glow, but did not believe it was the HDC's place to consider that. She said she believed the acorn style was more in keeping with the district.

Ms. Dockery said it was within their purview to address the lighting and where it shined.

Ms. Dockery determined that no one in the audience wanted to speak for or against the application.

MOTION: **Mr. Rhoades** moved to find as fact that the Orange County Justice Facility Expansion Project application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C, I, N, O and S, and the Design Guidelines for Exterior Lighting.

SECOND: **Mr. Council.**

VOTE: Unanimously approved.

MOTION: **Mr. Rhoades** moved to approve the application as submitted with no conditions.

SECOND: **Ms. Dockery.**

VOTE: The vote was 5-1, with **Mr. Bell** voting Nay.

ITEM #7: **Application for a Certificate of Appropriateness for Stephen and Nancy Demorest to: 1) replace deteriorating brick pavers around the existing swimming pool with a new, scored, terracotta pigmented concrete patio; 2) replace the deteriorating masonry and wood wall around the swimming pool with a new red brick wall; 3) relocation of the existing pool equipment; and 4) replacement of the deteriorating rose arbor with a new, wood rose arbor stained dark green with the addition of a new dark green, stained wood covered outdoor dining structure with a silver metal roof at 318 North Churton Street (TMBL 4.19.F.1).**

Ms. Dockery swore in Fred Stewart. Mr. King provided some information on the architecture of the structure, built in 1908. He said the proposed work was to replace deteriorating brick pavers around the existing swimming pool with a new,

scored, terracotta pigmented concrete patio; replace the deteriorating masonry and wood wall around the swimming pool with a new red brick wall; relocation of the existing pool equipment; and, replacement of the deteriorating rose arbor with a new, wood rose arbor stained dark green with the addition of a new dark green, stained wood covered outdoor dining structure with a silver metal roof.

Mr. King said the Standards that applied were A, B, C, D, E, F, G, H, I, K, M, N, O, P, Q and R, and the Design Guidelines that applied were Masonry, Wood, Paint and Exterior Color, Roofs, Utilities and Energy Retrofit, New Construction of Outbuildings and Garages, Fences and Walls, and Site Features and Plantings.

Mr. King indicated one area on the plans where wood was to be used instead of brick.

Ms. Dockery asked if the brick wall needed to be 8' tall. Mr. Stewart said possibly not, but it was an outdoor shower and if it were on that upper level the wall needed to be tall enough to provide privacy.

Ms. Eidenier asked about the change from brick to concrete on the patio. Mr. Stewart said cost was an issue, but the brick that was there was sinking and creating a hazard. He said if they did brick, they would need to put it on a concrete slab to prevent it sinking in the future. Mr. Stewart said he had a fair amount of experience with pigmented concrete slabs that were scored and grouted to look like large tile, and believed that was a less expensive and in some ways more compelling appearance than having individual brick. He said another issue was the difficulty in working brick into a curve on a horizontal plane.

Ms. Eidenier clarified that the brick was not original to the house. Mr. Stewart said that was correct, noting the brick was put in when the pool was added.

Mr. Bell complimented Mr. Stewart on the design, noting it was very articulate and compatible with the district. He asked if the canopy roof was standing seam. Mr. Stewart replied it was actually 5V, in that it was so flat a pitch and was protected by such heavy vegetation on the side that they did not need to go to the expense of a true standing seam.

Mr. Council stated he shared Ms. Dockery's concern about the height of the wall on the east elevation, although that may be mitigated by the concerns expressed regarding privacy of the outdoor shower. Mr. Stewart said it might be possible to drop the plane somewhat to lessen the height. He indicated that the area would be heavily planted so that would also lessen the look of height.

Ms. Snyder said the solid brick wall around the 40 foot long dining structure did not seem very residential, and wondered if it was planned for special or public events. Mr. Stewart said its purpose was for a fairly large dining table. He noted that both residents were writers, and they wanted to use the area for outside

writing desks as well as a hammock. Mr. Stewart said there was no plan for it to be used for events beyond normal private use. He said they had felt that the size of the lot, the size of the house, and the distance from the street would allow for a structure of that size.

Ms. Eidenier asked had any of the neighbors objected to the view of the 8' brick wall. Mr. Stewart said not that he knew of, noting that the height of the fence at Churton Street was 6', and was also a less substantial fence along the south and east boundary, likely at about 6' as well.

Ms. Dockery determined that no one in the audience wanted to speak for or against the application.

MOTION: **Mr. Council** moved to find as fact that the Stephen and Nancy Demorest application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards A, B, C, D, E, F, G, H, I, K, M, N, O, P, Q and R, and Design Guidelines for Masonry, Wood, Paint and Exterior Color, Roofs, Utilities and Energy Retrofit, New Construction of Outbuildings and Garages, Fences and Walls, and Site Features and Plantings.

SECOND: **Ms. Snyder.**

VOTE: Unanimously approved.

MOTION: **Mr. Council** moved to approve the application as submitted wit no conditions.

SECOND: **Mr. Rhoades.**

VOTE: Unanimously approved.

ITEM #8: **Application for a Certificate of Appropriateness for Sara Turner to modify a previously issued Certificate of Appropriateness by: 1) not adding a ground level window on the west side of a new rear addition; 2) adding a 3 foot high retaining wall extending out from the southwest rear corner of the rear addition and to the south; 3) on the east side of the new addition, adding a 4 foot tall brick retaining wall extending along the side of the rear addition and past the edge of the rear addition and to the south; 4) using brick pillars (part of the eastern retaining wall) instead of wood posts to support the new pressure treated wood rail porch on the east side of the home; 5) use of slate instead of brick for the rear patio; and 6) revising picket fence placement along the eastern property line to extend from the end of, and be in line with, the eastern retaining wall at 315 West Tryon Street (TMBL 4.29.E.8).**

Ms. Dockery swore in Sara Turner. Mr. King provided some information regarding the architecture of the structure, and noted that the application was to modify an existing COA as follows: to not add a ground level window on the west side of a new rear addition; to add a 3 foot high retaining wall extending out

from the southwest rear corner of the rear addition and to the south; on the east side of the new addition, add a 4 foot tall brick retaining wall extending along the side of the rear addition and past the edge of the rear addition and to the south; to use brick pillars, part of the eastern retaining wall, instead of wood posts to support the new pressure treated wood rail porch on the east side of the home; the use of slate instead of brick for the rear patio; and, to revise the picket fence placement along the eastern property line to extend from the end of, and be in line with, the eastern retaining wall.

Ms. Dockery asked was this an “after the fact” COA application. Mr. King replied yes, and the applicant was requesting a Special Exception Permit from the BOA to be heard at its March 12 meeting. Ms. Trueblood said any motion for approval made by the HDC would have to be under the condition of approval from the BOA for that Special Exception Permit.

Mr. Council asked where the special exception was. Mr. King said the special exception was for the addition and the retaining walls that were built into the setback. He said on the west side the addition was 9’4” to the siding of the southwest corner of the addition, 9’2” to the back corner of the retaining wall, on the eastern side it was 7’9” to the retaining wall, and 11’6” to the siding.

Mr. Council said that he thought that because of the height of the structure there was a 10’ legal requirement. Mr. King said because this was a nonconforming lot, the setbacks could be reduced by 40% of the lot width, which was 10 feet.

Ms. Turner apologized to the Board for this coming to them after the fact. She said throughout the building process they had always tried to seek the HDC’s approval prior to building anything, and had strived to design their addition to be consistent with the HDC guidelines. Ms. Turner said after review of her paperwork and details, she recognized these additional issues that needed to be addressed by the HDC, noting they had occurred through miscommunication between herself, the builder and the architect. She said she understood that what had been done was not proper, and was not trying to slide anything by.

Ms. Snyder said she, too, wondered how the issue with the setbacks had occurred. Ms. Turner said the setbacks would be addressed by the BOA.

Mr. King noted that the zoning permit issued that the builder signed had contained a condition that said a site visit with zoning staff would be scheduled when the foundation inspection was done by Building Inspections, and that did not occur. He said when they were called for the CO in mid-February, the Code Enforcement Officer went out and found that the foundation survey showed that the 10’ boundary had been violated and no site inspection had been done.

Mr. Council said he had not seen anything that would cause him to believe that what they had done would not fit within the standards and guidelines. He said in

fact, the replacement of the wooden columns underneath the staircase with brick was actually more pleasing.

Ms. Eidenier asked was there a landscaping plan. Ms. Turner said yes, noting she had planned to plant rosemary against the fence to soften it. She noted that although the plans said 3' and 4' high, that was on the outside due to the slope on the inside of the retaining wall.

Mr. Bell said he personally felt that the changes that had been made, even though made after the fact, were in keeping with the HDC's standards and design guidelines. He said in general the changes made were compatible.

Ms. Eidenier agreed with Mr. Bell, but it was unfortunate that this had happened.

Ms. Trueblood stated that John Williams, the architect, had come in last fall after the initial approval to asked if they needed to go back to the HDC if they had to add a 3' to 4' brick retaining wall, and she had replied that the chances were that it could be handled as a minor work by staff, and had asked that he bring in a site plan for review. She said that was just before she left on maternity leave and she had not seen a site plan. But, she said, what Mr. Williams might have understood was that it was likely okay, and had proceeded accordingly. Ms. Trueblood said she had requested to see the retaining wall plans before granting approval. She reiterated that she had considered looking at it as a minor work, but they had never gotten to that step.

Ms. Turner said that would make sense with what her builder had told her, in that the follow through was not there on Mr. Williams' part.

Ms. Dockery determined that no one in the audience wanted to speak for or against the application.

MOTION: **Mr. Council** moved to find as fact that the Sara Turner application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards A, B, C, D, F, I, J, K, M, N, O, P, Q and R, and the Design Guidelines for Additions to Existing to Existing Buildings, Fences and Walls, Walkways, Driveways, Of-Street Parking, Masonry, and Windows and Doors.

SECOND: **Ms. Eidenier.**
VOTE: Unanimously approved.

MOTION: **Mr. Council** moved to approve the application as submitted with no conditions.

SECOND: **Mr. Rhoades.**
VOTE: Unanimously approved.

Ms. Dockery reminded Ms. Turner that the HDC approval was for materials, and the BOA would decide the setback issue. Ms. Turner said that was understood.

ITEM #9: Application for a Certificate of Appropriateness for Kim Kaplan to modify a previously issued Certificate of Appropriateness by: 1) adding a 300 square foot rear addition onto the left rear side of the existing house instead of a 196 square foot sunroom and deck; 2) adding a wood rear deck and screened porch to the proposed new rear addition; 3) replace all existing windows in the house with 6 over 6, double hung, cellular PVC windows instead of wood frame, Prairie style windows as previously approved; 4) replace existing aluminum siding with Hardiplank beaded siding (7" to 8" reveal rather than 6" as previously approved); 5) replace existing white asphalt roof shingles with "Weatherwood" colored asphalt shingles; 6) install fiberglass shutters on the front windows of the house; 7) replace the existing front door with a wood door with brick molding trim; 8) replace the existing door on the left side of the house with a steel cased, solid glass pane door; 9) not installing decorative gables on the front of the house as originally proposed; 10) not replacing the existing aluminum soffit and trim with wood as previously proposed; and 11) not making changes to the proposed driveway as previously proposed at 223 West Orange Street (TMBL 4.18.D.2A).

Ms. Dockery swore in Andrew Remaly. Mr. King provide some information regarding the architecture of the 1950's structure, and noted that the application was to modify a previously issued COA in April 2007 as follows: adding a 300 square foot rear addition onto the left rear side of the existing house instead of a 196 square foot sunroom and deck; adding a wood rear deck and screened porch to the proposed new rear addition; replacing all existing windows in the house with 6/6, double hung, cellular PVC windows instead of wood frame, Prairie style windows as previously approved; replacing existing aluminum siding with Hardiplank beaded siding, 7" to 8" reveal rather than 6" as previously approved; replacing existing white asphalt roof shingles with "Weatherwood" colored asphalt shingles; installing fiberglass shutters on the front windows of the house; replacing the existing front door with a wood door with brick molding trim; replacing the existing door on the left side of the house with a steel cased, solid glass pane door; not installing decorative gables on the front of the house as originally proposed; not replacing the existing aluminum soffit and trim with wood as previously proposed; and, not making changes to the proposed driveway as previously proposed.

Mr. King stated this application would have to go to the BOA for a Special Exception Permit as well, due to the encroachment into the 11' setback. He said the Standards that applied were A, B, C, D, F, G, H, I, J, K, M, N, O and P, and the Design guidelines that applied were Additions to Existing Buildings, Decks, Wood, Paint and Exterior Color, Exterior Walls, Windows and Doors, Roofs, Porches, Entrances and Balconies, and Utilities and Energy Retrofit.

Ms. Dockery asked about the existing roof elevation versus what was proposed. She said it was confusing as to how it had gone from a side gable to almost a rear gable, or, was it just the perspective of the drawing. Mr. Remaly explained that you still had the gable, but the addition had a slant roof so the original roof line was behind the shed roof. Ms. Trueblood said the issue was that the ridge line was not shown on the drawing, and that needed to be changed.

Ms. Dockery asked about material for the front door. Mr. King stated the applicant would like the option of steel or wood.

Ms. Dockery asked why the 8" reveal as opposed to the 6" for the Hardiplank, and was it just to match the masonite. Mr. Remaly stated when he had written down 8" Hardiplank, that was not the reveal but the size of the material, and then there was a 1" lap, so it really came out at about a 7" reveal on the Hardiplank. Ms. Dockery asked if the shutters were functional. Mr. Remaly replied no, they were decorative.

Ms. Dockery stated she had an issue with the 6/6 windows, noting the current windows had a horizontal orientation, and 1/1 horizontal orientation was more in keeping with that style of house, but 1/1 vertical orientation was closer than the 6/6. She asked if he was willing to change that. Mr. Remaly replied that Ms. Kaplan actually preferred the 1/1.

Ms. Dockery asked about the sidelights on the front shown on the drawing. Mr. Remaly said they had not purchased the door as yet, and did not know if it would have sidelights or a transom. Mr. Remaly said he was fine with removing the transom and sidelights from the application.

Ms. Dockery said fiberglass shutters were not something that had been approved, so that may need to be discussed.

Mr. Rhoades said regarding the windows, was it normal to have vinyl with a wood jam. Mr. Remaly stated he had brought a sample for the Board to review, stating it was a wood frame window but with cellular PVC so it could be painted. He said the sash was PVC as was the trim on top and the base.

Ms. Dockery stated in the past the Board had approved wood with vinyl or PVC over it, but not vinyl windows. Mr. Remaly stated that these were very upscale windows coated with a vinyl or aluminum cladding that was paintable and would not rot. He said there was also an egress problem with the current windows, noting that current Code would call for the window to be lower. Mr. Remaly stated the windows proposed tilted, which made egress easier.

Mr. Rhoades said they were inclined to replace in kind, but the present material was aluminum so replacement with aluminum windows was preferred. He said barring that, wood would be the preferred material.

Ms. Dockery stated if they replaced metal with metal, the HDC would not have to approve that unless the size of the windows changed. She said they had previously agreed to a change of 46" to 48" without having to come back to the HDC, and could do the same in this case. Mr. Remaly said he believed they would use wood windows rather than aluminum, since they definitely did not want to replace in kind.

Mr. Council said since wood windows would likely be used, now was a good time to think about using wood shutters rather than the proposed fiberglass shutters to keep the materials consistent. Mr. Remaly said just down the street at the corner of North Wake and Orange, there was a fairly new house with vinyl shutters.

Ms. Dockery said they would have to go by their guidelines. Mr. Council said he believed the materials should be consistent. Ms. Dockery responded that the shutters currently on the house were some kind of metal.

Ms. Snyder said this was a better design than the previous one, and it was in keeping with many of the guidelines. She said she would feel more comfortable if they knew what those columns would look like. Mr. Remaly said they were using treated 6x6 posts, with paint and trim. Ms. Snyder suggested that Mr. Remaly visit various homes in the historic district to see what types of columns had been used on similar homes of a similar age.

Mr. Council said he would like to see a wood door, wood shutters, and wood windows to be completely consistent, although steel was already approved. He said in his view fiberglass shutters were inappropriate, especially with wooden windows.

Mr. Bell asked about the gables. Mr. Remaly stated the gables were not approved originally, and the suggestion originally had been to move the porch down since it was off-center. He said the gable he was proposing was at the location of the existing porch.

Mr. Bell asked if the applicant would consider wood shutters. Mr. Dockery said they would not insist on wood shutters but that would leave the applicant with metal as an "in kind" replacement. Mr. Bell said he was inclined to agree that wood windows were more appropriate and to be consistent, wood shutters would be preferable.

Ms. Dockery went through the materials to be used and asked if the Board was agreeable with each choice.

Ms. Snyder questioned the use of the Hardiplank with beading, noting she had not seen that come up before. Mr. Remaly noted it gave the appearance of masonite, but it was pressed Hardiplank. He said it gave a line about 3/8" to 1/2" above that

created the shadow and the bead look. Ms. Snyder said it did give the appearance of masonite, and she questioned that. Mr. Remaly stated it was unfair to discredit it just because a product like a masonite emulated something that was very traditional and had been used for many years.

Mr. Council asked would it look less like masonite if it were dropped to 6" reveal instead of 7". Mr. Remaly said he did not believe it would, adding it was difficult to tell the difference between cedar or even cypress and Hardiplank. He said he believed it emulated the traditional look much better than just plain.

Ms. Snyder asked were details required for such things as the deck hand rails. Ms. Trueblood said all the details of the exterior changes were required with the plans. Ms. Snyder stated for the deck, she would look for a bottom rail with pickets rather than the modern 2x2 coming down into the band and cut at a 45 degree angle. Mr. Remaly stated in the plans they were showing a bottom rail up three inches, then a 2x4.

Ms. Dockery clarified that the deck railing would be pressure treated 2x4 railings, a base rail, and 2x2 balusters. Mr. King noted that they needed to discuss the ½' offset of the proposed porch and deck off the rear western corner not shown in the plans. Mr. Remaly said the deck would still be flush with the proposed addition on the east side.

MOTION: **Ms. Dockery** moved to find as fact that the Kim Kaplan application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards A, B, C, D, F, G, H, I, J, K, M, N, O and P, and Design Guidelines for Additions to Existing Buildings, Decks, Wood, Paint and Exterior Color, Exterior Walls, Windows and Doors, Roofs, Porches, Entrances and Balconies, and Utilities and Energy Retrofit.

SECOND: **Mr. Council.**
VOTE: Unanimously approved.

MOTION: **Ms. Dockery** moved to approve the application with the following conditions:

- shutters of wood, metal, or none
- windows be 1/1, metal or wood
- doors wood or steel as previously approved
- ½' offset of the proposed porch and deck off the rear western corner not shown in the plans is approved
- up to 7" reveal for the Hardiplank
- remove sidelights and transom

SECOND: **Mr. Council.**
VOTE: Unanimously approved.

ITEM #10: Application for a Certificate of Appropriateness for Richard and Laura Simmons to modify a previously issued Certificate of Appropriateness by: 1) replacing wood windows on the front of the house with new wood windows; 2) replacing the wood windows on the sides and rear of the home, including the new rear dormer, with white, aluminum clad, windows; 3) not replacing the existing 2nd story window with 3 windows on the right side of the house; 4) reversing the placement of the existing windows on the right side of the 1st story of the house and moving the rear window 1-foot closer to the rear of the house; and 5) replacing the previously proposed transom window in the newly added rear dormer with a small window at 309 Mitchell Street (TMBL 4.19.H.15).

Ms. Dockery swore in Laura Simmons. Mr. King provided some details of the architecture of the house, and noted the proposal was to modify a previously issued COA from August 2007 as follows: replacing wood windows on the front of the house with new wood windows; replacing the wood windows on the sides and rear of the home, including the new rear dormer, with white, aluminum clad, windows; not replacing the existing 2nd story window with 3 windows on the right side of the house; reversing the placement of the existing windows on the right side of the 1st story of the house and moving the rear window 1-foot closer to the rear of the house; and replacing the previously proposed transom window in the newly added rear dormer with a small window.

Mr. King said the Standards that applied were C for materials, I for exterior color, and J for proportions, and the Design Guidelines that applied were Windows and Doors.

Mr. King noted that the windows had already been ordered and received, but the original proposal was to use wood windows. Ms. Simmons provided some explanation of why the changes were being requested, including suing her original contractor for Breach of Contract. She said the windows were suppose to be wood over wood true divided light, but what she got was aluminum clad, simulated divided lights. Ms. Simmons said the issue was she had \$8,000 of windows, although the windows for the front to the house had not yet been ordered. She said everything you saw at the front of the house would be solid wood windows with true divided light, but was asking to use the aluminum clad windows already purchased on the sides. Ms. Simmons added that aluminum clad windows was consistent with the neighborhood. She said this was an unfortunate situation for everyone, and said after meeting with the NC Licensing Board for General Contractors her former contractor would be loosing his license.

Ms. Simmons stated the contractor had installed a transom window in the rear of the house which was not consistent with a house built in 1952, so they were proposing a small, double hung bathroom window. She said she did not yet know the size, because the wall the contractor had installed was not structurally sound and would have to be removed.

Ms. Dockery asked if the casements would be just in the kitchen. Ms. Simmons said that was correct, and they would use the same 6/6 pane configuration used now.

Ms. Snyder asked had Ms. Simmons attempted to return the windows. Ms. Simmons stated they were specially ordered and not returnable. Ms. Snyder asked had she tried to get compensation from the builder. Ms. Simmons replied the contractor had disappeared, but they were considering applying to the NC Homeowners Recovery Fund. Ms. Snyder asked had Ms. Simmons considered trying to sell the windows. Ms. Simmons said the problem was they were living in New Hampshire, and they were making quick trips to Hillsborough to try and solve the issues with the house.

Ms. Snyder stated the HDC had to consider the house and the neighborhood and not so much the owner. She said they would like to see more continuity in the materials. Ms. Simmons replied the storm windows would be removed, but unfortunately the money to remove the siding was now gone.

Mr. Council said from the perspective of the HDC, he had issues with mixing wood windows in front with otherwise on the back.

Mr. Bell said he was okay with all the changes except for the material on the windows.

Ms. Eidenier stated that the casement windows planned for the kitchen could be done in wood. Ms. Simmons said she was willing to use wood casement windows in the kitchen.

Mr. Rhoades asked what the existing side windows were made of. Ms. Simmons replied wood. Mr. Rhoades asked if the replacement windows for the side of the house were aluminum clad or aluminum windows. Ms. Simmons said they were wood on the interior and aluminum clad on the exterior. Mr. Rhoades, referring to the guidelines, said in this situation the windows that would be most evident, those facing the street, would be of wood. He said the side windows were not of the preferred material but had been approved in the past. He said he was comfortable in this case to approve that.

Ms. Dockery said the only side windows that would be aluminum clad would be the far side. Ms. Simmons said they were replacing all other windows, noting they were rotted.

Mr. Bell stated the existing windows were wood, and the original COA specified wood windows, but the builder had purchased aluminum clad windows. Ms. Simmons stated that was correct. She added that they had also been approved for Hardiplank, but the builder had ordered siding with a different reveal that was not

the same as the house, and it looked like a painted pressed particle board. Ms. Simmons said they would not be using that material, but would be using Hardiplank.

Mr. Bell asked would Ms. Simmons consider selling the aluminum clad windows, perhaps on E-Bay. Ms. Simmons said she would try to sell them or perhaps swap them. Mr. Bell said perhaps the Recovery Fund would help offset any loss.

Mr. Council suggested that they could receive some compensation from the builder. Ms. Simmons replied he had filed for bankruptcy. Mr. Council said at this point he would be willing to support the application, given the placement of the windows, the HDC's actions in previous cases, and the actions and installations of the neighbors in the neighborhood. He said if she was unable to sell or trade the windows, he believed an argument could be made that she keep them and use them. Ms. Simmons said she would like to get approval to use the windows, but try to get her new contractor to take those windows off her hands and then purchase wood windows. Mr. Council said he would support an either/or option.

Ms. Snyder said she would not like to see those aluminum clad windows installed in that house, although she understood that Ms. Simmons was in a bad situation. Ms. Simmons said she would try to dispose of the aluminum clad windows, but needed options if she was unable to do that.

Ms. Snyder pointed out that one of the properties at the back side of this house on Cameron was owned by a gentleman who had already purchased vinyl windows and the HDC had required that he use metal. Mr. Bell said those were vinyl windows where these were aluminum clad. Ms. Trueblood stated that person had aluminum windows in his house and wanted to replace them with full vinyl windows. She said the HDC had required that he replace them in kind with aluminum or with wood, and there was no discussion about aluminum clad.

Ms. Dockery said the HDC had to be comfortable that the aluminum clad, wood windows were compatible and in keeping with the guidelines, and not consider that the windows had already been purchased.

Mr. Council agreed, and noted that in the past the Board had said that aluminum clad over wood was superior to solid vinyl, which had been approved in the past with noncontributing houses, so the argument was there to support it.

Mr. Council said since Ms. Simmons was willing to try and sell or swap the aluminum clad windows, could the HDC phrase their language so that that was the first option, and that going with the current windows was a back-up. Ms. Dockery agreed they needed to do that.

Mr. Council stated that if they were going to do that, the Board should say definitively that Ms. Simmons was to check with her new contractor, and if he could not swap for solid wood on the sides and back, then the alternate option would be to go with the windows already purchased, because of precedent in the neighborhood, because of precedent in other areas of the historic district, and because the product was superior to the product that was recently denied to the neighbor.

Ms. Dockery said specifically, those windows could go only on the side and rear elevations. Mr. Council said the half-moon window above the front door had not yet been ordered, but that needed to be wood.

Ms. Trueblood noted that all three windows in the kitchen would be 6/6 wood casement. Ms. Simmons agreed.

MOTION: **Mr. Council** moved to find as fact that the Richard and Laura Simmons application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C, I and J, and the Design Guidelines for Windows and Doors.

SECOND: **Mr. Bell.**

VOTE: Unanimously approved.

MOTION: **Mr. Council** moved to approve the application with the following conditions:

- half moon window over the front door, the front windows, the three 6/6 casement kitchen windows and the bathroom double hung 6/6 windows shall be wood, assuming that the applicant can swap the in-stock windows purchased in error with wood; all remaining windows would be of wood; however, if the applicant's new contractor cannot switch the in-stock windows for solid wood windows, the in-stock windows shall be used in the side and rear only.
- All other conditions as submitted.

SECOND: **Ms. Eidenier.**

VOTE: Unanimously approved.

Ms. Simmons said she was trying to hire a contractor, and asked how soon she would be able to receive a copy of the minutes from tonight's meeting. Ms. Trueblood responded at least 3 weeks, noting the Board would likely adopt them at its next meeting the first week of April. She said Ms. Simmons would receive a COA within a few days which would spell out the conditions of the approval.

Ms. Dockery said she wanted to thank Mr. King for his cheerful and wonderful help while Ms. Trueblood was on maternity leave, and welcomed Ms. Trueblood back.

ITEM #11: Commission and Staff Reports/Updates

Mr. King stated the joint meeting with the BOA was scheduled for March 17, but the time had not yet been determined. He said that 7:30 p.m. appeared to be the most appropriate time.

Ms. Trueblood stated for the next meeting she would prepare a list of issues the HDC needed to work on, adding she believed that at some point they would need to write guidelines for noncontributing buildings.

Mr. Bell stated that at the recent training, one of the interesting things was about the applicant versus the homeowner and whether they needed to be consistent. Ms. Trueblood stated that their attorney had indicated it was not an issue, and that the Town's process was legally defensible.

Mr. Bell said he was thinking about the Hopper application and what had happened, what the Board had done wrong, and how they had not adjusted to make sure they did not have situations like that in the future. He said focusing on that during the training session; the attorney had indicated that having pre-written statements read at the meeting had worked to their detriment in that they could be construed as bias, unless they were questions. Mr. Bell said that was what the attorney for the Hopper's had argued.

Mr. Council said the problem was that it was taken out of context, and the attorney had not bothered to read his or Ms. Snyder's comments, which he believed were legally defensible as not being biased or being actual comments on the application.

Mr. Bell said the other issue was the procedural issue of asking the audience if they had comments, which was necessary even with contentious applications, to keep them out of trouble.

Ms. Trueblood said the other issue was that the language and the words you choose to explain your reasoning as HDC members was of paramount importance. She said she was pleased to hear tonight that the Board was careful to use words like compatible or incompatible, congruent versus incongruent, consistent in the district, and the like.

Ms. Dockery reminded the Board that they were required to take training, and they had not had that for two years. Ms. Trueblood stated the staff had undergone its required training, and there was suppose to be two Commissioners undergoing training. She said what had happened the last two years was that Ms. Dockery

had done two trainings, but that was not counted as two Commissioners being trained.

Mr. Council asked if he attend a CLE (continuing legal education) on construction law, would that satisfy the requirement. Ms. Trueblood asked that he send her the information and she would see if it would work. She asked that she be sent information about any workshops or seminars the members attended that were related so that she could determine if it would satisfy the training requirement.

Ms. Dockery said ideally they would all get training. Ms. Trueblood stated the CAMP training in the fall was generally fun, and it was a good way to spend the day and talk about issues that came up again and again.

A general discussion took place about an upcoming meeting to discuss lighting of the Town Clock, and whether or not the HDC wanted to offer comments. Mr. Council said he believed it was a really bad idea because it would not be historically accurate. Ms. Dockery said then that should be their comment, since you did not need flood lights to see the clock. Ms. Trueblood said if the meeting was during the day, she would attend and get any information she could. She reminded the Board that this was just the first meeting to discuss the possibility.

ITEM # 12: Adjourn

Ms. Dockery moved to adjourn the meeting at 9:57 p.m., seconded by Mr. Council. The vote was unanimous.

Respectfully submitted,

Stephanie Trueblood, Secretary