

## **MEMORANDUM**

TO: Chapel Hill Board of Adjustment

FROM: Judy Johnson, Operations Manager  
Jake Lowman, Senior Planner  
Becky McDonnell, Planner II

SUBJECT: 306 N Boundary Street: Appeal of Historic District Commission Decision  
(PIN 9788-59-9778, Project #19-080)

DATE: September 12, 2019

## **APPEAL SUMMARY**

Walter Woodrow Burns, Jr is appealing the Historic District Commission's (HDC) decisions on April 9, 2019 and April 22, 2019, and filed with the Planning Department on May 30, 2019, to approve a portion of an application for a Certificate of Appropriateness (COA) for the renovation and construction of additions on the south and east elevations of the existing single-family home.

The appellant's argument is that the HDC and Town Staff made multiple errors and that the appellant's due process rights were violated, as specified in detail in the appellant's Statement of Justification (Attachment 4).

## **EXISTING CONDITIONS**

The 1.32 acre subject lot is located at 306 N Boundary Street, north of the intersection of N Boundary Street and North Street, and is located in the Residential – 1 (R-1) zoning district and the Franklin-Rosemary Historic District (HD-1). The improved lot contains a single-family residence and gravel driveway.

## **BACKGROUND**

September 13, 2018 Subject property acquired by Stephen Cumbie and Druscilla French.

December 12, 2018 A COA application was submitted for (1) an addition to the southern elevation, (2) an addition to the eastern elevation, and (3) construction of a new, detached garage with an accessory dwelling unit located above.

January 8, 2019 The HDC first heard the case and continued the public hearing to the February 12, 2019 meeting, in order to allow the applicant time to provide additional information requested by Commission members.

February 12, 2019 The HDC discussed the case during the public hearing, and again continued the item to the March 12, 2019 meeting.

March 12, 2019	The HDC discussed the case during the public hearing, and again continued the item to the April 9, 2019 meeting.
April 9, 2019	The HDC <b>approved</b> the addition to the southern elevation, closed the public hearing, and set a special meeting for April 22, 2019, to continue discussion of the addition on the eastern elevation and the detached garage.
April 22, 2019	The HDC reopened the public hearing, received additional testimony, closed the public hearing, <b>approved</b> the addition to the eastern elevation, and continued the discussion of the detached garage to the May 14, 2019 meeting.
May 14, 2019	The HDC reopened the public hearing, received additional testimony, closed the public hearing, and made a <b>motion to deny</b> the garage. The motion failed by a vote of 4 yes – 2 no and no other action was taken on the item. At this time, staff acknowledged that the garage would be approved once the time limit for taking action expired.
May 30, 2019	Town staff determined that current voting procedures set forth in Section 8.4.9 of the Land Use Management Ordinance are in conflict with North Carolina General Statutes for voting requirements related to quasi-judicial hearings. The Town Attorney issued an opinion that the vote taken on May 14, 2019, in fact, constituted a <b>denial</b> of the garage, and subsequently, the HDC's Written Decision was issued to <b>approve</b> the two additions and <b>deny</b> the garage.
July 1, 2019	Applicant submitted an application appealing the denial of the detached garage.

## DISCUSSION

Attached materials include two resolutions: Resolution A would grant the appeal and overrule the HDC's decision and Resolution B would deny the appeal and uphold the HDC's decision.

The Board's options are not limited by these draft resolutions. Based on the record of the HDC decision and the Board's own hearing, the Board could consider taking some other action (for example, remanding the case to the Commission with instructions to approve the application, but also affording the Commission an opportunity to include conditions or to require adjustments to the application as proposed).

## ATTACHMENTS

1. Resolution A (overruling the HDC's decision)
2. Resolution B (upholding the HDC's decision)
3. Procedure for Appeals
4. Application Materials
5. Area Map of the Subject Property