

MEMORANDUM

TO: Chapel Hill Board of Adjustment

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

SUBJECT: 313 E Franklin Street: Appeal of Historic District Commission Decision
(PIN 9788-58-1261, Project #19-128)

DATE: January 9, 2019

APPEAL SUMMARY

Epsilon Beta of Chi Omega Foundation, Inc., owner, and David L. Phillips, applicant, represented by attorney Samuel Slater, are appealing the Historic District Commission's (HDC) decision on October 15, 2019 to deny an application for a Certificate of Appropriateness (COA) for the after-the-fact replacement of a brick walkway with concrete pavers.

The appellant's argument is that the HDC made multiple errors and was influenced by bias in violation of the applicant's due process rights, and was based in part on an inaccurate determination of applicable law, as specified in detail in the appellant's Statement of Justification (Attachment 4).

EXISTING CONDITIONS

The 0.88 acre subject lot is located at 313 E Franklin Street, east of the intersection with Hillsborough Street, and is located in the Residential – 6 (R-6) zoning district and the Franklin-Rosemary Historic District (HD-1). The improved lot contains a sorority house with a parking area located in the rear of the lot.

BACKGROUND

July 1, 1965	Subject property acquired by Epsilon Beta of Chi Omega Foundation, Inc.
August 12, 2019	An after-the-fact COA application was submitted for the replacement of brick walkways with concrete pavers. Town Staff had determined that the recently completed project required a COA, as the appearance and materials had changed from the original red brick.
September 10, 2019	The HDC opened the public hearing for the item, received testimony, and determined that the new concrete pavers were not an in-kind replacement. The HDC continued the public hearing to the October 15, 2019 meeting.

- October 15, 2019 The HDC received additional testimony from the applicant and discussed the congruity of the new concrete pavers. The HDC then denied the after-the-fact COA.
- November 12, 2019 Applicant submitted an application appealing the denial of the concrete paver walkway.

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. Record of HDC Decision
6. Area Map of the Subject Property