

MEGAN BARRY  
MAYOR



## METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

Metropolitan Historic Zoning Commission  
Sunnyside in Sevier Park

### METRO HISTORIC ZONING COMMISSION (MHZC) MINUTES

November 15, 2017

**Commissioners Present:** Chairman Brian Tibbs, Vice-Chair Menié Bell, LaDonna Bell, Eric Brown, Kailtyn Jones, Elizabeth Mayhall, Ann Nielson

**Zoning Staff:** Sean Alexander, Melissa Baldock, Paul Hoffman, Melissa Sajid, Jenny Warren, Robin Zeigler (historic zoning administrator), Tim Walker (executive director), Quan Poole and Susan Jones (Metro legal counsel)

**Applicants:** Manuel Zeitlin, Adam Dread; Don Knarr, Blue Chip Restoration; Todd Austin, Andrew Ripp, Tyler Loveday, William Smallman, Mary Margo Turner, Ed Meyer, Andrew Chapman, Ke Qin, Jason Holleman, Ben Powell

**Councilmembers:** None present

**Public:** Tim Richardson, Rita Richardson, Elizabeth Smith, Nell Levin, Heather Mortenson, Raymond Russell, David Pomeroy, Bill Brewer, Joey Jackson, Greg Troyan, Ava Mire, Richard Lazarus, Sam Naff, Jeannette Nichols and Michael Nichols, Kevin Williams, Jayson Wyatt, Frank Hashiguchi, Chris Czysneck, Lawrence Kamm, Keri Pagetta, Tom Larson, Glen Kuykendall, Scott Hutchinson, Judy Rose, Warner Hodges, 'Dimples'; Dave Fowler, Nathan Colburn, Tony Harris, Craig Freiberg

Chairman Tibbs called the meeting to order at 2:05 p.m.

#### I. ADOPTION OF AGENDA

**NOTICE TO THE PUBLIC:** Items on the agenda may be removed or moved at this time. New items will not be added.

Historic zoning administrator, Robin Zeigler, noted that 3614 Richland, Broadway Design Guidelines, Second Ave of Design Guidelines and the Downtown Design guidelines were deferred. She recommended moving the violation agenda to the end to accommodate the number of public here for the Forrest case.

**Motion:**

**Vice chairman Bell moved to approve the agenda. Commissioner Brown seconded and the motion passed unanimously.**

#### RECOGNITION OF COUNCILMEMBERS

None present

**Chair explained public hearing process and appeals.**

#### II. APPROVAL OF MINUTES

a. October 18, 2017

**Motion:**

**Chairman Bell moved to approve the minutes and submitted. Commissioner Nielson seconded and the motion passed unanimously.**

**III. CONSENT AGENDA**

**NOTICE TO THE PUBLIC:** Items on the Consent Agenda will be voted on at a single time. No individual public hearing will be held, nor will the Commission debate these items unless a member of the audience or the Commission requests that the item be removed from the Consent Agenda.

**b. 3614 RICHLAND AVENUE**

Application: New construction-infill and outbuilding  
Council District: 24  
Overlay: Richland-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Jenny Warren

**c. 3612 RICHLAND AVENUE**

Application: New construction-infill  
Council District: 24  
Overlay: Richland-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Jenny Warren

**d. 2701 WOODLAWN DRIVE**

Application: New construction-addition and outbuilding  
Council District: 18  
Overlay: Hillsboro-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Baldock

**e. 2805 27<sup>TH</sup> AVENUE SOUTH**

Application: New construction-addition  
Council District: 18  
Overlay: Hillsboro-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Baldock

**f. 2807 27<sup>TH</sup> AVENUE SOUTH**

Application: New construction-addition  
Council District: 18  
Overlay: Hillsboro-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Baldock

Staff member, Jenny Warren, read the items on consent, noting that 3614 Richland Ave was deferred. Two members of the public requested removal of 2807 27<sup>th</sup> Avenue S and 2701 Woodlawn Drive from the consent agenda.

**Motion:**

**Commissioner Nielson moved to approve all consents items, with the exception of 3614 Richland, 2807 27<sup>th</sup> Avenue S, and 2701 Woodlawn, with their applicable conditions. Commissioner Boyd seconded and the motion passed unanimously.**

**IV. OVERLAY RECOMMENDATIONS & DESIGN GUIDELINE ADOPTIONS**

**g. BROADWAY DESIGN GUIDELINES**

Application: Revision of existing design guidelines  
Council District: 19  
Overlay: Broadway Historic Preservation Zoning Overlay  
Project Lead: Robin Zeigler

Deferred

**h. SECOND AVENUE DESIGN GUIDELINES**

Application: Revision of existing design guidelines  
Council District: 19  
Overlay: Second Avenue Historic Preservation Zoning Overlay  
Project Lead: Robin Zeigler

Deferred

**i. DOWNTOWN DESIGN GUIDELINES**

Application: Revision of existing design guidelines  
Council District: 19  
Overlay: Downtown Historic Preservation Zoning Overlay  
Project Lead: Robin Zeigler

Deferred

**V. PREVIOUSLY DEFERRED ITEMS**

The items below were deferred at a previous MHZC meeting at the request of the applicant.

None.

**VI. PRELIMINARY & FINAL SP REVIEW**

None.

**VIII. MHZC ACTIONS**

**d. 2701 WOODLAWN DRIVE**

Application: New construction-addition and outbuilding  
Council District: 18  
Overlay: Hillsboro-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Baldock

**e. 2805 27<sup>TH</sup> AVENUE SOUTH**

Application: New construction-addition  
Council District: 18  
Overlay: Hillsboro-West End Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Baldock

Staff member Melissa Baldock presented the cases for 2701 Woodlawn Drive and 2805 27<sup>th</sup> Ave S, removed from the consent agenda together. 2701 Woodlawn is an application for an addition and an outbuilding, and is the same applicant as 2805 27<sup>th</sup> Ave S. The property is at the corner of Woodlawn and 27<sup>th</sup> Ave South. The existing house is one story and the addition is a true one story addition, the house is approximately 1,300 square feet on an 11,000 square foot lot. The addition will be about 3'6" taller than the historic house. Staff finds this to be appropriate because the lot slopes up, the ridge of the existing house is only about 14' at the front, so the resulting addition is only about 18'6" at the highest point and is still within the average range of the existing historic houses. The addition is entirely behind the historic house. The setbacks and materials are all appropriate. The footprint of the addition will more than double the footprint of the existing house, going from 1,300sq ft to approximately 1,840sqft. Staff finds this to be appropriate because the proposal is a true one story addition - given the existing one story house - therefore all the new construction needs to occur on the ground level. Also, because of the relatively modest footprint of the existing house on the large lot, the addition will have less of an impact because of the large lot.

The outbuilding will not be used as a DADU. It is one story in height, subordinate to the historic structure and meets all the base-zoning setbacks.

Staff recommended approval of 2701 Woodlawn with the following conditions:

1. Staff approve the final details, dimensions and materials of windows and doors prior to purchase and installation;
2. Staff approve the roof color, dimensions, and texture;
3. All window openings with two or more window have a four to six inch mullion in between them; and
4. The HVAC be located behind the house or on either side, beyond the mid-point of the house.

With these conditions, staff finds that the project meets Section II.B. of the Hillsboro-West End Neighborhood Conservation Zoning Overlay.

2805 27<sup>th</sup> Avenue South is a one story brick bungalow constructed about 1940, the lot has a slope that the applicant has used to include an attached garage, which Staff finds appropriate in this instance because it is entirely on the basement level and inset from the wall of the house. The addition's foundation and eave heights will match the historic house, while the ridge height will be lower. The addition will add about 1,200 sqft to the house, to about double the footprint of the historic house. The setbacks, roof form and materials are all appropriate.

Staff recommended approval 2805 27<sup>th</sup> with the following conditions:

1. Staff approve the final details, dimensions and materials of windows and doors prior to purchase and installation;
2. Staff approve a brick sample;
3. Staff approve a stone sample;
4. Staff approve the roof shingle color, material, and texture; and
5. The HVAC be located behind the house or on either side, beyond the mid-point of the house.

With these conditions, staff finds that the project meets Section II.B. of the Hillsboro-West End Neighborhood Conservation Zoning Overlay.

Manuel Zeitlin, architect for the project, stated he was available for questions.

Tim Richardson, 2705 Woodlawn, expressed concerned about demolition of the right bay of 2701 Woodlawn, which already has a Preservation Permit. He wanted to know when the next plans for the associated projects will come up and stated his concerns about digging, blasting and an NES easement.

Mr. Zeitlin stated that there is not an NES easement. The projects were not all submitted at once because they didn't finish them but the additional houses will likely be presented next month. There will not be any blasting. There will not be much in the way of excavation.

Rita Richardson, 2705 Woodlawn, was concerned about procedure and NES access to poles. She is also speaking for her neighbor. They are worried that the new house, not on today's agenda, will be 2-stories.

Mr. Zeitlin explained the subdivision of the property and removal of the bay.

**Motions:**

**Motion for 2701 Woodlawn:**

**Commissioner Nielson moved to approve the project with the following conditions:**

1. **Staff approve the final details, dimensions and materials of windows and doors prior to purchase and installation;**
2. **Staff approve the roof color, dimensions, and texture;**
3. **All window openings with two or more window have a four to six inch mullion in between them; and**

**4. The HVAC be located behind the house or on either side, beyond the mid-point of the house; finding that with these conditions the project meets Section II.B. of the Hillsboro-West End Neighborhood Conservation Zoning Overlay. Vice-chair Bell seconded and the motion passed unanimously.**

**Motion for 2805 27<sup>th</sup> Ave South:**

**Commissioner Nielson moved to approve the project with the conditions that:**

- 1. Staff approve the final details, dimensions and materials of windows and doors prior to purchase and installation;**
- 2. Staff approve a brick sample;**
- 3. Staff approve a stone sample;**
- 4. Staff approve the roof shingle color, material, and texture; and**
- 5. The HVAC be located behind the house or on either side, beyond the mid-point of the house;**

**finding that with these conditions the project meets Section II.B. of the Hillsboro-West End Neighborhood Conservation Zoning Overlay. Commissioner Brown seconded and the motion passed unanimously.**

#### **I. 1621 FORREST AVENUE**

Application: Demolition

Council District: 06

Overlay: Lockeland Springs-East End Neighborhood Conservation Zoning Overlay

Project Lead: Paul Hoffman

Staff member, Robin Zeigler, presented the request to demolish a historic home at 1621 Forrest that was damaged by fire, based on economic hardship.

The home was constructed in 1925 and is a contributing building to the district. The lot is #46 on the Plan of Lockeland, a subdivision of Chadwell Place in east Nashville. The first known occupants were Ernest and Alice Latham. Ernest was clerk for US Dept of agriculture and Alice was a teacher. The craftsman style and bungalow form of the house are typical of this development period for the neighborhood. The construction of bungalows began to replace the construction of the then more dominant Neoclassical-style houses in the 19-teens. Most of the bungalows in the neighborhood are craftsman style, as is this one.

We don't see these types of cases very often so I'd like to review what economic hardship is as I scroll some of the post-fire photographs. Economic hardship is not about the financial hardship of the property owner but the hardship of the property itself. In this way we ensure that people are not treated differently; although their property might be because each property is different. The process requires a property owner to establish that disapproval of demolition denies them of all reasonable beneficial use or return on the property. In the past, that has been reviewed as the cost of the basic actions needed to meet code plus amount paid for the property vs. current estimated post-rehab value of like buildings in the overlay. Expenses not associated with the fire are not appropriate for an economic hardship calculation.

I'd also like to review the different roles in this process. It is not the role of staff to prove that there is or there isn't economic hardship, as that is the role of the applicant. Please understand that this is not a situation of staff vs. the applicant. It is simply our role to analyze the information we have been given. In this case, we attempted to assist by asking our sister-non-profit to pay for two consultants to provide additional information.

In this case, we have four 4 experts in their respective fields stating that the front half of the building is rehab-able. To be honest, we have never had that amount of agreement in an economic hardship case, in my memory. We also have 4 experts providing conflicting information and guidance because we are all working from incomplete information. We are told that a true estimate can take up to 20 hours to prepare, that a more complete engineer report is needed and the estimates from sub-contractors is needed. To our knowledge, this has not yet been done.

Our analysis is not to an attempt to create a revised estimate for rehab but to reinforce that we are all working with incomplete information. For instance, public comment received noted a math error in the staff report showing a loss with one of the estimates provided and a potential profit gained with the other. With such wildly different numbers provided by two consultants, with information from one consulting appearing to contradict another, with the

consultant of the high estimate claiming that he did not have enough information to put together an accurate estimate, with the inclusion of costs that are not relevant to an economic hardship review and with the fact that this is the only economic hardship case we can remember where everyone agrees a portion of the house is a candidate for rehab, we just do not feel that there is enough information to provide a recommendation for approval. Your report provides a more detailed analysis.

With the information provided, Staff recommends disapproval of the application for full demolition finding that it does not meet Section III.B.2.a for appropriate demolition.

Lisa George who is referenced in your staff report is here today. She is primarily here for any questions you may have. But she is going to introduce herself and provide some general information now.

Lisa George said she was asked by the Commission to do an observational walk-thru of the house. She spent about an hour, or an hour and a half at the most, observing the fire damage. She has done fire restoration for 20 years. Based on her observation there are many parts of the building that are salvageable by cleaning. Parts will need to be replaced but that will be evident after cleaning. For the roofing system, it's probably not even half of the framing members that need to be replaced. It was her observation that the house is save-able.

Adam Dread, 691 Harpeth Trace Drive, representing the applicant, said he spoke with CM Withers. He explained the background of the case and the process they went through. He claimed that the staff report is flawed and the building should be demolished to the foundation. There are false claims such as the bead-board is historic and should not be replaced. They request a full demolition. The report says a lot is salvageable and frankly, it just is not. The applicant just wants to go home. They have more than 10,000 citizens signed a petition in favor of the demolition.

Don Knarr, Blue Chip Restoration, said that State Farm considers the home to be a total loss. The report from Tony Lock, a structural engineer stated that the entire roof system should be removed and replaced. Also that the front part of the house has some salvageable structural framing, but that the wood post piers would require reinforcement, therefore replacement of the entire residence would be easier and less costly. He provided information from the engineer and consultant, Mr. Pierre Howell, also suggesting replacement of all roof components but indicating that approximately one-third of the house might be salvageable. The cost to save the building will put the applicant in economic hardship. He will not be able to restore the house to pre-fire conditions. The house is more than 66% destroyed and rehab is cost prohibitive.

Mr. Austin, property owner, provided information about his history in the neighborhood. The loss of his home has been devastating and the trauma has been overwhelming. The cost of repairs estimated by staff is \$100,000 more than a replacement structure and more than he is getting from insurance. There is a moral issue. The overlay is not to push out residents. It is more than architecture but about the people who live there. No one in this room will ever mourn the loss of the home more than him. He claimed Mr. Howell told him that he loves the old homes but sometimes common sense comes into play.

Elizabeth Smith, 1800 Russell Street, said she was representing the Lockeland Springs Neighborhood Association. This is a difficult situation because they consider themselves to be a tight group of neighbors and they do understand the emotional loss. She read a letter submitted to the Commission via email.

Nell Levin, 1611 Forrest, said that she held a fundraiser to assist the applicant. She read and studied the staff report. MHZC does not have an accurate rehab estimate because there is not a complete engineer's report. She has been there for 20 years and she supports the purpose of the overlay. The best way for him to stay in the neighborhood is to rehab, which is likely cheaper than full new construction.

Heather Mortenson, 1621 Forrest Ave, said she is speaking for those who signed the petition but were not present. She noted that Lisa Jorge was missing a certification and that the report included an engineer's report and a reconstruction report. She thinks staff has been malicious and money-driven and that there is no oversight or regulation on the MHZC.

Speaking in opposition: Raymond Russell, 1317 Riverwood Drive; David Pomeroy 1813 Cedar Lane; Bill Brewer, 709 Vale Court; Joey Jackson, 6006B Don Allen Road; Greg Troyan, 3552 Glen Falls Drive; Ava Mire, 1805 Rosebank Ave; Richard Lazarus, 201 Baltise Railroad (?); Sam Naff, 1213 Firefly Road, Hermitage; Jeannette Nichols and Michael Nichols, 834 Near Top Drive; Kevin Williams, 4001 Omaha Court, Mt. Juliet; Jayson Wyatt, 702 Wedgewood Park; Frank Hashiguchi, 5401 Country Drive; Chris Czysnscek, 1111 California Drive, Murfreesboro; Lawrence Kamm, 2205 State Street; Keri Pagetta, 2703 Bluefield Avenue; Tom Larson, 1907 Holly Street; Glen Kuykendall, 1505 Beechwood; Scott Hutchinson, 1012 Seymour Ave; Judy Rose, 1615 Forrest Ave; Warner Hodges, 652 River Rouge Drive, 'Dimples', 314 East Thompson Lane; Dave Fowler, 1151 Birdwell, Gallatin.

Summary of opposition points: '64 corvette was destroyed in fire; problem is bureaucratic; applicant's intent is to honor the historic character but he doesn't have enough money; to deny demolition will send the wrong message to property owners; applicant has lost his possessions and his home; delays have cost him money; applicant is not a developer; the community loves the applicant; the fire was not the fault of the applicant; a just God would say what would you do?; not reasonable since the applicant doesn't have money; the property owner really cares about his property, the insurance company's rent reimbursement ends at the end of December; rehab is possible but practical; the house was remuddled in the 1950s; the applicant is an asset to the beautification committee; bird houses can be made by boy scouts of the salvaged wood; asked that the commission pay more attention to who the applicant is rather than the numbers; rehab is an undue burden; fire was caused by bad wiring; the applicant was a pioneer in the neighborhood before it became the desirable place it is; the applicant is a true friend; the important history of the neighborhood is the people, such as the applicant; the cost of exterior rehab will require them to cut-corners on the interior or in other areas; it's wrong that the applicant should have to endure the process; applicant has been an advocate for the neighborhood for twenty years; there have already been changes to the building; it's a middle class house and because of alterations, its historical value is questionable; the percent of historic materials left will be small, so what's the difference; staff said plans were needed for the application; reconstruction will be preserving the home; it will cost more to clean the wood than to rebuild house; speaker doesn't like the new construction approved in the neighborhood; the insurance company is \$100,000 below the amount required for reconstruction; because a lot of people are insured by State Farm their numbers should be realistic; the applicant is a perfect neighbor; staff's estimates are incomplete and inaccurate; the old wood is not important, the neighbors want the owner back in his house; applicant took care of his home and will take care of the new home.

*Commissioner Mayhall arrived at 3:29pm during the public comment. Chairman Tibbs left the meeting at 3:39pm, at the end of public comment. Vice-chairman Bell took over as Chair.*

In rebuttal, Mr. Dread clarified that they sent plans for a replica. There are nearby houses with non-historic elements such as garage doors and skylights. Consultant requested a fee to provide an estimate.

Legal counsel, Quan Poole, explained that Commissioner Mayhall would not take part in the discussions or vote, since she was not present at the beginning of the case.

Chairman Bell commented that the applicant clearly has much support, that the Commission is bound by the guidelines, but that this is not a personal issue. The Commission must review impartially to be fair to all.

In response to questions by Commissioner Nielson, Staff clarified that: the design guidelines were adopted in 1986 and this property was contributing at the time of designation and is also part of the National Register district, per Mr. Walker; the fire started in the back of the house, in the basement; if the property is allowed to be demolished, a reconstruction is a possibility.

Commissioner Jones watched the news footage of the fire. Fire started in basement, in the back. It was a very large fire and the house was doused with water. The whole attic has been compromised by smoke. In her opinion you cannot get the smoke smell out because it is in every crevice of the home. She feels the entire roof will have to be replaced, as well as doors and windows. She is concerned that there will not be much left to be saved.

Chairman Bell noted that she has also been through a fire and appreciates the emotional distress. She is concerned that they may not have enough information. Commissioner Jones noted that you cannot really get an estimate until you start to demo and start to clean.

Chairman Bell asked if the contractors have renovation experience.

Commissioner Boyd expressed concern with the building in the state it is in now. If the home is demolished and rebuilt, what would be the contributing factors. A full demo with reconstruction is likely a better solution.

Staff clarified that if the building is reconstructed, it would no longer be a contributing structure.

Commissioner Jones again expressed concern that with the replacement of the roof, doors, windows, flooring and siding, she was unsure what would be left to salvage.

Ms. Zeigler stated that Staff was concerned that the estimates were so different, and that one of the contractors stated that he could not provide a true estimate without a complete engineering report. Some of the costs included in the estimates were beyond what would be needed to bring the structure up to code.

Commissioner Nielson pointed out that they could set a precedent, not just with the decision, but with what they will require/accept as acceptable evidence for future projects.

Chairman Bell asked what has been required in the past, such as number of engineer reports. Mr. Walker, director, explained that every case is a different so more has been required in some and less in others. After bringing in two experts, with two different opinions, Staff wanted more information to make a decision. Charred beams can be sistered onto and used, wanted to be sure to completely review the situation, no one has gotten up and done a depth test on the roofing members. The damage was centralized on the ridge. The expert, Lisa Jorge, was brought in because of her recent rehabilitation work on the fire damaged firehall on Gallatin Road. Mr. Walker stated that he wished the department had the funds to pay an engineer to assess the damage, but as it does not, this would have to be provided by the applicant.

Commissioner Jones stated that she feels that Staff does a good job of being sticklers to the guidelines, but that the reason for the appointed Commission is for citizens to evaluate situations on a case-by-case basis, otherwise all decisions would be staff-level and very cut and dry.

**Motion:**

**Commissioner Boyd moved to allow the applicant full demolition of the property, based on the information provided today and the ability to rebuild according to guidelines set forth by this Commission, for which the applicant shall return to the Commission for approval.**

**Commissioner Brown seconded. Commissioner Jones voted in favor of the motion. Commissioners Nielson and Bell voted against the motion. Without 4 concurring votes, the motion failed.**

Susan Jones from Metro Legal clarified that since the motion failed, the Commission could continue discussion and perhaps a new motion could be made.

Discussion resumed. Commissioner Boyd asked for Commissioners Nielson and Bell's reasoning for voting against the motion. Both explained that they had properties which had partially burned and that they were, in fact, able to rehabilitate.

There was discussion about possibly asking if the applicant would be willing to defer, and if so, what further information the Commission would specifically request.

Commissioner Jones agreed that "anything is possible" but is it reasonable and keeps the property owner from losing money. She went through a list of points that she agreed with and that she didn't agree with. If those numbers are added back in, the case has not been made.

Susan Jones from Metro Legal announced that she came to relieve Quan Poole – Ms. Jones reminded the Commission that four concurring votes are required for a motion to pass, but that also, that any motion that does not have four votes, is considered a non-action. Failure of the Commission to act, is deemed as an approval. So, if the Commission fails to act tonight, the application will be approved as submitted. If the vote on record from earlier stands, there is a non-action and the application is approved.



After discussion, the Commission determined to let the existing motion stand. The application was approved by non-action of the Commission.

The commission took a break, returning at 4:47pm.

**m. 1707 HOLLY STREET**

Application: New construction-outbuilding/detached accessory dwelling unit  
Council District: 06  
Overlay: Lockeland Springs-East End Neighborhood Conservation Zoning Overlay  
Project Lead: Paul Hoffman

Staff member, Paul Hoffman presented the case for a DADU at 1707 Holly Street. The location, materials and roof form all meet the design guidelines. The footprint of the structure is proposed at 689 sq. ft. The proposed ridge height is 21 feet from grade, which is taller than the ridge height of the home from finished floor, 18 feet from floor to ridge. To meet the design guidelines, the overall height should not exceed 18 feet. The application includes an uncovered balcony that is eleven feet (11') wide and five feet (5') deep, or 55 sq ft.

In June, Staff presented an application for 933 Fatherland Street, which included a similar balcony. Staff recommended that upper level balconies on outbuildings and DADUs be permitted and not be included in either the footprint square footage allotment or the dwelling unit square footage allotment if they meet the following criteria:

- They are located either facing the principal house or the rear of the lot; they would not be permitted facing the side property lines;
- The outer facing railing meets the base zoning setbacks;
- The footprint is limited to thirty square feet (30 sq. ft.) or less;
- The balcony is uncovered; and
- The balcony does not have posts to the ground.

Accordingly, staff recommends that the balcony for this project meet the same criteria.

Staff recommends approval of the detached accessory dwelling unit with the following conditions:

1. The ridge height is reduced to 18 feet, while maintaining the same roof pitch as proposed;
2. Staff approve the final details, dimensions and materials of roofing, windows and doors prior to purchase and installation;
3. The balcony is reduced in size to 30 square feet and moved to the front or rear of the building;
4. New drawings are submitted reflecting these conditions;
5. Staff receive a copy of the filed restrictive covenant for the detached accessory dwelling unit prior to issuance of a permit.

With these conditions, staff finds that the detached accessory dwelling unit will meet Ordinance Section 17.16.030.G. and Section II.B.8 of the Lockeland Springs design guidelines.

Tyler Loveday, Van Pond Architect, provided background information and the reason for the design.

Andrew Ripp, 1707 Holly Street, the owner thanked the Commission for hearing the case. He explained that due to the grade of the site, the overall ridge height of the proposed DADU would be lower than that of the house.

Commissioner Jones asked about the grade change and the balcony issue from June. Mr. Hoffman explained that the outbuilding is measured in proportion to the house rather than grade.

Ms. Zeigler provided a background on outbuildings. In the past, upper level balconies were not allowed on outbuildings at all, but in June, the Commission made a concession to allow the one on Fatherland, provided that it met the above listed criteria. To maintain consistency, the recommendation in this case requires the balcony on Holly Street to meet those same criteria that were allowed on Fatherland.

**Motion:**

**Commissioner Nielson moved to approve the detached accessory dwelling unit with the following conditions:**

- 1. The ridge height is reduced to 18 feet, while maintaining the same roof pitch as proposed;**
- 2. Staff approve the final details, dimensions and materials of roofing, windows and doors prior to purchase and installation;**
- 3. The balcony is reduced in size to 30 square feet and moved to the front or rear of the building;**
- 4. New drawings are submitted reflecting these conditions;**
- 5. Staff receive a copy of the filed restrictive covenant for the detached accessory dwelling unit prior to issuance of a permit;**

**finding that with these conditions, the detached accessory dwelling unit will meet Ordinance Section 17.16.030. G. and Section II.B.8 of the Lockeland Springs design guidelines. Commissioner Mayhall seconded and the motion passed unanimously.**

**n. 1515 BEECHWOOD AVENUE**

Application: New construction-outbuilding/detached accessory dwelling unit  
Council District: 18  
Overlay: Belmont-Hillsboro Neighborhood Conservation Zoning Overlay  
Project Lead: Paul Hoffman

Staff member, Paul Hoffman presented the case for a DADU. The infill and outbuilding were approved and built in 2012. At that time, the Commission followed different design requirements. DADUs, first reviewed in 2011, were required to be no more than 25 feet tall, with dormers covering no more than 50% of the roof. The application at that time was a garage and studio, with no dwelling space proposed. The 28 feet height and full width dormer were approved in this case, as they were subordinate to the house.

Although the outbuilding's overall height is less than that of the house, Staff finds that the ridge height 28 ft and eave height 15 feet 6 inches, exceed what is permitted by Code. Section 17.16.030.G.7: The height shall not exceed the height of the principal structure as measured to the eave line, with a maximum eave height of...17 feet for 2-story detached accessory dwellings. The eave height on its own does not exceed the maximum, but it is taller than the eave height of the residence, which averages 11.75 ft.

The design guidelines and this section of Code also state that dormers "shall be subordinate to the roof slope by covering no more than 50% of the roof." This wall dormer takes up the entire width of the building on this side. The only exterior change proposed to the outbuilding is a new door on the east side

In conclusion, Staff recommends disapproval, finding that the height, eave height and roof will not meet section 17.16.030.G of Code or Section II.B.1.i of the Belmont- Hillsboro design guidelines for outbuildings.

Manuel Zeitlin, architect for the project, explained that the original plan was for a studio and half bath and now they would like it for an apartment. He said that the Councilmember wouldn't oppose the request and there are two neighbors who emailed their support. They are willing to reduce the dormer width to meet that requirement but they cannot lower the ridge height.

There were no requests from the public to speak.

Commissioner Nielson stated her reservation that if this property is approved as a DADU, that a precedent will be set.

Commissioner Jones asked for clarification on the issues. Ms. Zeigler explained that the dormer is too large and the ridge and eave heights are too high to meet the DADU requirements.

**Motion:**

**Commissioner Mayhall moved to disapprove the project, finding that the height, eave height and roof will not meet section 17.16.030.G of Code or Section II.B.1.i of the Belmont- Hillsboro design guidelines for outbuildings. Commission Nielson seconded and the motion passed unanimously.**

**o. 1400 ORDWAY PLACE**

Application: New construction-infill

Council District: 06

Overlay: Lockeland Springs-East End Neighborhood Conservation Zoning Overlay

Project Lead: Melissa Baldock

Staff member, Melissa Baldock presented the case for 1400 Ordway. 1400 Ordway is an application for new infill with a side setback determination. The site at 1400 Ordway Place is vacant except for an existing outbuilding. It is located at the southwest corner of North 14th Street and Ordway Place.

Until recently, the lot was part of a double lot at 1402 Ordway Place. In February 2017, the applicant applied to MZHC to construct infill on the vacant portion of the lot, where an old lot line would be re-established to create two separate lots. As part of that review and approval, MHZC determined that the existing house at 1402 Ordway Place can have a right side setback that sits on the re-established lot line.

In February 2017, MHZC approved, with conditions, an infill that was 1.5 stories in height. The applicant did not start construction on that infill.

The applicant is now proposing a two-story infill instead of a one-and-a-half story infill. Staff finds that while the overall height of the house 28'2" from grade could be appropriate, the proposed two story form does not meet the immediate historic context.

The predominant historic character of the 1400 block of Ordway Places is one to one-and-a-half story houses. On the top right is the house immediately adjacent to the proposed infill at 1402 Ordway. The other photos show the houses on the South side of Ordway place.

Across the street, the historic houses are also all one to one-and-a-half stories in height.

Immediately across North 14th Street from the site is the school yard for the Nashville Classical School. Cattycorner from the site are two, two-story historic houses at 1309 and 1311 Ordway. 1311 Ordway can be seen on the bottom photo. Staff finds that even though there are two-story houses on the 1200 and 1300 Block of Ordway, a two-story house on this 1400 block is not appropriate. Because North 14th Street is a wide, major street, those two-story houses that are located on Ordway Place, on the other side of North 14th Street, have less of an impact on the immediate historic context than the, closer, one-and-a-half story houses. Also, the two story houses on the other side of North 14th Street are on wider lots of seventy-five feet (75'), helping to keep their scale appropriate. Staff finds that the immediate context is one-and-half stories, and therefore a two-story house is not appropriate.

Staff has other concerns about the infill's design, roof form, setbacks, and fenestration pattern. However, the primary concern is the fact that the infill is two stories.

As stated previously, the proposed height is approximately twenty-eight feet, two inches (28'2") tall from grade. While staff finds that the overall ridge height meets the historic context, the two-story form and the twenty-one foot, nine inch (21'9") tall eave height do not meet the historic context and the design guidelines.

The width of the house is approximately thirty-four feet (34') in the front, with a maximum width of thirty-seven feet, eight inches (37'8"). While this width might be appropriate for a one-and-a-half story house, staff finds it is not appropriate for a two-story structure. Two-story structures are typically narrower, particularly on fifty-foot (50') wide lots. For instance, the nearest two-story house on a fifty-foot (50') wide lot is 1420 Ordway, and its width is significantly narrower at just thirty-one feet (31). Staff finds the proposed width to be inappropriate for a two-story house on a fifty foot wide lot.

The existing house at 1402 Ordway Place sits on the side property line. There is an access easement to allow the owners of 1402 Ordway Place to use part of the lot at 1400 Ordway to access the side of the house. Because of this access easement and placement of the house at 1402 Ordway Place, the buildable space on the lot at 1400 Ordway is reduced. The applicant is proposing to situate the new infill six feet (6') from the wall of 1402 Ordway Place. The average distance between homes on the south side of the block is approximate twelve feet (12'). Because of the

close proximity of the new building to the existing house at 1402 Ordway, Staff finds the width of a 2-story massing to be inappropriate.

The applicant is also asking for a change to the side setback along North 14th. The applicant is proposing to situate the house approximately six feet (6') from the 14th Street side property line. Base zoning requires that houses on corner lots like this one be a minimum of ten feet (10') from the side street property line. In February 2017, MHZC approved a side setback of six feet, six inches (6'6") for the one-and-a-half story infill. Because the side setback is proposed to be reduced from the previous approval and because the new infill is larger in scale, the project requires a new side setback determination.

Even though in February, the Commission determined that a side setback of six foot, six inches (6'6") was appropriate for a one-and-a-half story structure, staff finds that a side setback of six feet (6') is not appropriate for a two-story structure. In staff's recommendation from February, staff analyzed the North 14th Street setbacks of historic one-and one-and-a-half story houses nearby. Staff found two nearby one-and-a-half story houses that had North 14th Street side setbacks less than ten feet (10'). For a two story house proposed for 1400 Ordway, staff now needs to analyze the North 14th Street side setbacks for nearby two-story historic houses.

The nearest two-story house is cattycorner at 1311 Ordway; it is over thirteen feet (13') from the side property line (Figure 7). 1312 Stratton, two blocks to the north is approximately eleven feet (11') from the North 14th Street property line (Figure 8). Since the historic two story houses along North 14th Street all meet the ten foot (10') side setback, staff finds that the proposed side setback of six feet (6') does not meet the historic context.

Staff also has concerns about the proposed front setback. The infill's front wall on the left side is five feet (5') forward of the front wall of the adjacent property at 1402 Ordway Place, which is not appropriate. The negative impact of the infill's front setback will be compounded by two factors. One, the infill's wall is two stories in height and the historic house's front wall is just one story in height. Two, the infill and the historic house are located just six feet (6') apart. These two factors result in a front setback that will have a large, negative impact on the historic house next door at 1402 Ordway.

As mentioned previously, staff's primary concern is about the two-story form of the house. However, staff does have several secondary concerns. One secondary concern staff has is that the house's roof form does not meet the design guidelines. The applicant is proposing a hipped roof form with a slope of 4/12. The design guidelines state that an infill's roof slope should match those roof slopes of the immediate context and should be between 6/12 and 12/12. Staff finds that the low-sloped 4/12 pitch for the hipped roof does not match the historic roof forms of the immediate context and therefore does not meet the design guidelines.

Staff also has concerns about the proportion and rhythm of openings on the infill's side façades. On the 14th Street elevation – shown on the top - the low window on the first floor, at about the midpoint, is not appropriate. Its location, so low on the wall, is not appropriate as it does not meet historic conditions for rhythm of openings. In addition, on this façade, which will be highly visible from North 14th Street, more window openings are needed to ensure a more regular window pattern and to ensure that there are no large expanses of wall space without a window opening. Lastly, a four to six inch (4"-6") mullion is required in between the two windows towards the rear.

On the right elevation there should be a window opening on the brick portion, first level, near the front of the house. In addition, the picture windows towards the back of the house are not twice as tall as they are wide, and therefore do not meet the historic proportion of window openings.

Staff finds that the proposed proportion and rhythm of openings do not meet Section II.B.7. of the design guidelines.

Again, I would like to emphasize that items like the roof form, window pattern, side setback, etc are secondary to the larger reason why staff finds that the project does not meet the design guidelines. The main issue is that staff does not find that a two-story house meets the immediate historic context.

Staff recommends disapproval of the project, finding that the proposed infill does not meet Sections II.B.1. (Height), II.B.2. (Scale), II.B.3. (Setback & Rhythm of Spacing), II.B.5. (Roof), and II.B.7. (Proportion and Rhythm of Openings) of the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay.

The applicant for the project, William Smallman, 1512 Paris Avenue, stated that he disagreed with the following items:

- The height is only analyzed based on the buildings touching this one but the guidelines state it should be compatible with “adjacent” buildings which is defined as “surrounding or in close proximity”. He provided 7 examples of homes that do not have 2-stories next door but were approved anyway.
- Staff found that the scale of the proposal was too wide for a two-story home. He provided 11 examples of two story homes, with 8 that are wider than the house he proposes.
- The problem with the side setback is not a problem with his property, but rather with the neighboring property, which encroaches one foot over the property line. The average separation between houses is twelve feet and the proposed minimum separation for this project is six feet. He feels he has done the best he can maintain the appropriate distance.
- His property is being called ‘too large’ and ‘out of scale’, but 1411 Ordway, the nearest new construction infill approved by the Commission, is 20% larger.
- He has complied with the same front setback approved previously.
- The six foot side setback along 14<sup>th</sup> Street is comparable to other nearby houses.
- He believes his roof is compatible and doesn’t contrast greatly with surrounding roofs.

He is happy to make the suggested window changes.

Elizabeth Smith, representing the Lockeland Springs Neighborhood Association, noted that a letter had been submitted by the president. She read the letter.

William Smallman returned to explain the definition of “adjacent.” He is not asking to use precedent with the house across the street but he is relying on staff’s guidance that said the project was appropriate.

Ms. Baldock clarified that the front setback was not previously approved where it is currently shown, a condition of the previous approval was that the setback be relocated to align with the house next door at 1402 Ordway.

Commissioner Jones said that in the immediate adjacency, she did not think the size/scale were appropriate.

Commissioner Mayhall disclosed that she received a message from the owner of 1411 Ordway that wanted her to say that their lot is wider than the proposed. She also noted that the design didn’t seem to fit within the historic context.

**Motion:**

**Commissioner Jones moved to disapprove the project, finding that the proposed infill does not meet Sections II.B.1. (Height), II.B.2. (Scale), II.B.3. (Setback & Rhythm of Spacing), II.B.5. (Roof), and II.B.7. (Proportion and Rhythm of Openings) of the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay. Commissioner Nielson seconded and the motion passed unanimously.**

**p. 1408 PARIS AVENUE**

Application: New construction-addition and outbuilding; Partial demolition  
Council District: 18  
Overlay: Belmont-Hillsboro Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Sajid

Staff member, Melissa Sajid, presented the case for an addition and outbuilding. The house located at 1408 Paris Ave was built c. 1930 and contributes to the character of the Belmont-Hillsboro neighborhood. The application has been revised from last month and is for alterations to the historic house that are considered partial demolition, an addition, and a detached accessory dwelling unit. The photo on the left is the earliest known photo of the house and dates to c. 1968 and the photo on the right is more recent. The revised plan no longer proposes changes to the front stoop overhang.

The applicant proposes to demolish an existing enclosed rear porch, which was originally an open covered porch as indicated by the 1957 Sanborn map, which is shown here on the right. Staff finds that the addition's date of construction, location at the rear of the house, roof form, materials, and design do not contribute to the historic character of 1408 Paris Avenue or to the Belmont-Hillsboro Neighborhood Conservation Zoning Overlay.

The plan also proposes to enclose the existing open porch on the left side façade with windows, which could be appropriate as the floor to ceiling windows create a sense of openness on the side porch.

The plan proposes to replace paired windows on the left side façade of the historic house with a sliding glass door shown here on the right. While windows are considered character defining features of historic homes, the Commission has permitted the alteration of windows on the side façades of a house beyond the midpoint. In this case, the proposed window alteration is beyond the midpoint, but the proposed opening is inappropriate as it is a type of opening that is more often found on rear façades and is too large for the proposed location. Given the location and size of the proposed opening, staff finds this window alteration does not meet the proportion and rhythm of openings that are typically seen on side façades of historic homes and does not meet Section V.2 for demolition.

The applicant also requests to replace the existing siding and other windows. Staff finds replacement of the existing siding to be appropriate as the current siding is painted asbestos shingle siding. The other windows to be replaced will retain their existing dimensions and grid patterns. Staff would recommend also retaining the original window casings.

The plan proposes a rear addition that is wider than the historic house and also includes a single-story side addition on the right side. The footprint of the additions more than doubles the footprint of the historic house and nearly doubles the depth.

At one hundred thirty feet (130') deep, the lot is somewhat shallower than lots that often are before the Commission, but is typical of lots on this block of Paris Avenue and so is not an unusual condition. This map shows the 1400 block of Paris Avenue and lot dimensions.

The plan proposes a rear addition that incorporates a ridge raise, extends wider than the historic house, and a side addition. As proposed, the addition is no longer both taller and wider at the same time. A ridge raise could be appropriate for this historic house. However, the design guidelines state that "*The purpose of a ridge raise is to allow for conditioned space in the attic and to discourage large rear or side additions.*" Staff finds that since the application also incorporates a large rear addition as well as a side addition, the ridge raise as proposed does not meet the design guidelines for ridge raises.

The addition also extends wider than the historic house on the right side by five feet (5'), and the wider portion is single-story. An addition that is wider than the historic house could be appropriate in this instance because the primary massing of the house is relatively narrow and is shifted to the right of the lot. The plan also proposes a single-story addition on the right side, which could be appropriate in this case since the lot is wider than sixty feet (60'). The proposed side addition is single-story, located beyond the midpoint of the historic house, narrower than half of the historic building width, and has a side gabled roof form, which meets the design guidelines for side additions.

While the application has been revised so that the addition is no longer both taller and wider than the historic house, the proposed depth and footprint of the addition are unchanged from the design that was previously disapproved. The footprint of the addition more than doubles the footprint of the historic house and nearly doubles the depth. Staff finds that a slightly larger footprint than typically allowed could be appropriate since the house is relatively small in scale; however, the application proposes a two-story addition to a single-story house that includes a ridge raise, a side addition, and a rear addition that goes wider than historic house. Altogether the scale of the addition overwhelms the single-story historic house.

The plan also proposes a detached accessory dwelling unit that meets the design guidelines and ordinance for everything except the separation between the primary structure and DADU and dormers. The dormer on the rear façade exceeds 50% of the roof plane, so staff recommends a condition that the dormer be no larger than 50% of the

roof plane. The plan incorporates a single garage door instead of two single doors, which was approved by the Commission in October.

Last month, the commission approved the DADU with a condition that the separation between the house and DADU be increased to 10'. The revised plan does not incorporate the approved 10' separation and instead shows the DADU located 6' from both the rear and side of the proposed addition. While the design guidelines and ordinance require a separation of at least twenty feet (20') between outbuildings and DADUs, in the past, the commission has required at least ten feet (10') in cases where it is difficult to achieve the full twenty feet (20') due to site conditions. In addition, outbuildings are generally required to be located in the rear yard. The depth of the proposed addition creates a situation where the DADU is partially located in the side yard.

Staff finds that the proposed reduced distance between the DADU and the addition is inappropriate and is driven by the scale of the proposed addition rather than by site conditions. At one hundred and thirty feet (130') deep, the lot is somewhat shallow; however, the depth is typical of lots on this block of Paris Avenue A separation between the DADU and addition of less than twenty feet (20') may be appropriate, but staff finds that the proposed six feet (6') is driven by the depth of the proposed addition. Staff finds that the proposed six foot (6') distance between the house and the DADU does not meet Section II.B.i.2 of the design guidelines and 17.16.30.G. 4 of the ordinance but would meet the design guidelines and ordinance with the condition that the distance between the DADU and addition be increased to ten feet (10'), which is consistent with the Commission's conditions of approval from last month.

Staff recommends disapproval of the addition, finding that that the addition's height, scale, and rhythm and proportion of openings do not meet Sections II.B.1.a, b, c, e, and g and Sections II.B.2.a, e, and f of the Belmont-Hillsboro Neighborhood Conservation Zoning Overlay design guidelines. Furthermore, staff recommends disapproval of the proposed changes to the existing side windows on the historic house as they do not meet Section V.1 for appropriate demolition and meet Section V.2 for inappropriate demolition. Staff recommends approval of the detached accessory dwelling unit with the following conditions:

1. The distance between the house and DADU shall be increased to ten feet (10');
2. The dormer on the rear elevation of the DADU shall not cover more than 50% of the roof plane;
3. Staff shall review the materials for the windows, doors, and roof color prior to purchase and installation;
4. The HVAC shall be located on the rear façade, or on a side façade beyond the midpoint of the house; and
5. The restrictive covenant for the DADU shall be submitted prior to issuance of the preservation permit.

Staff finds that, with these conditions, the DADU meets Section II.B.1.i of the design guidelines and ordinance 17.16.030.

Mary Margo Turner, owner of the property, explained that condition #2 was a mistake and they will make that change. They have discussed different alternatives with staff regarding #3. They also concur with condition #4. She provided a handout which bullet pointed the hardships of the property and explained each. She provided information about other historic homes on the block. In summary, she requested a six foot separation between the house and DADU, ridge raise, side addition, rear addition 138 feet more than the existing footprint on the existing house.

William Smallman, 1512 Paris Avenue, stated that he liked the proposed addition. The applicants have reached out to neighbors and what they are asking for is better preservation of the home than the direction they could go.

Commissioner Jones stated that it isn't a hardship to have a small house on a small lot. Commissioner Nielson agreed.

Chairman Bell noted that there are lots of requests that don't meet the design guidelines, it is wider, longer, they want a shorter distance between the house and DADU than the guidelines allow, which provides a challenge for the decision.

Susan Jones clarified that the Commission's charge is to determine appropriateness, not whether there is a hardship.

**Motion:**

**Commissioner Nielson moved to disapprove the addition, finding that that the addition's height, scale, and rhythm and proportion of openings do not meet Sections II.B.1.a, b, c, e, and g and Sections II.B.2.a, e, and f of**

**the Belmont-Hillsboro Neighborhood Conservation Zoning Overlay design guidelines. Furthermore, staff recommends disapproval of the proposed changes to the existing side windows on the historic house as they do not meet Section V.1 for appropriate demolition and meet Section V.2 for inappropriate demolition. Staff recommends approval of the detached accessory dwelling unit with the following conditions:**

- 1. The distance between the house and DADU shall be increased to ten feet (10’);**
- 2. The dormer on the rear elevation of the DADU shall not cover more than 50% of the roof plane;**
- 3. Staff shall review the materials for the windows, doors, and roof color prior to purchase and installation;**
- 4. The HVAC shall be located on the rear façade, or on a side façade beyond the midpoint of the house; and**
- 5. The restrictive covenant for the DADU shall be submitted prior to issuance of the preservation permit.**

**Staff finds that, with these conditions, the DADU meets Section II.B.1.i of the design guidelines and ordinance 17.16.030. The motion passed unanimously.**

**q. 1404 CEDAR LANE**

Application: New construction-addition and outbuilding

Council District: 18

Overlay: Belmont-Hillsboro Neighborhood Conservation Zoning Overlay

Project Lead: Jenny Warren

Staff member, Jenny Warren presented the case for an addition and outbuilding at 1404 Cedar Lane. 1404 Cedar Lane is a circa 1938 one-story bungalow which contributes to the Belmont-Hillsboro Neighborhood Conservation Overlay. This application is for the construction of a rear addition and the construction of a new garage.

The house has two previous rear additions, which create a U-shaped plan. Both are rear-gabled. The proposed addition will connect these two wings to create a unified floorplan and a partial second floor. Some partial demolition will occur: portions of the original rear elevation and portions of the existing additions will be demolished to accommodate the new addition.

Then on the west elevation, two small windows will be enlarged on the prior addition. Staff finds all of the proposed demolition to be appropriate as the majority of the work is occurring on non-historic portions of the house that are not visible from the street. Further, the proposed window alterations are occurring beyond the midpoint of the house.

Staff finds the proposed addition to be appropriate in terms of materials and setbacks, as detailed in your report. This image shows the proposed work as seen from the front elevation. The existing roofline is indicated in red. The blue dashed line indicates the proposed ridge raise, which will be two feet high and inset two feet on either side, as permitted by the guidelines. The purple dotted line is a second ridge which will be added forty-six feet back, connecting the two prior additions. Staff finds this second ridge to be appropriate from this viewpoint b/c it is set so far back and only a small portion of it is visible.

You can see how a second side gable is being added, with a shed dormer off the back. On the west elevation, the existing rear wing was already 17ft high, Staff finds that the proposed additional 3ft of height, behind the ridge raise, is fairly modest, is designed to be subordinate to the house and creates the appearance of a one and a half story house. Staff finds this work to be appropriate. The depth of the west elevation will not increase.

On the east elevation, the existing depth is increasing by a total of 18ft. The footprint of the new addition will be inset by 2ft, as required. Staff finds the increase in depth to be appropriate because the addition is occurring at the rear, the overall depth of the house is only increasing by 6ft and the majority of the increased depth will be a semi-open screened porch. In terms of height, the existing wing on the east is only 13ft6in high. The more significant increase in height on this elevation is problematic, causing the proposed design on this elevation to read as a two-story house. Further, the portion of low sloped roof connecting the two side gables at the Bonus Room is an inappropriate roof form for the neighborhood.



The applicant and Staff have worked together to resolve this issue and have made improvements that are reflected in the submitted design in your packets. At this point, Staff requests that the portion of wall outlined in the slide here be inset a full 2ft rather than the proposed 6inches. This will lessen the visibility of the inappropriate roof form and will help to further mitigate the impact of the addition on this historically one-story home. With this condition, Staff finds that the addition meets the guidelines.

The applicant is proposing a four-car garage off the alley in the rear yard. The footprint of the garage meets the square footage requirements for a lot this size. The height, eave height and materials all meet the guidelines. However, the siting is problematic. As per the proposed site plan, the garage will be only 8ft from the rear of the house. The guidelines require a 20ft separation. The Commission has allowed exceptions to this 20ft policy in the past, but in those cases there have been site constraints or other special circumstances. Recently, this very applicant was granted an exception and allowed to construct an addition that was 5ft from an existing garage. However, in that case, the lot was 140ft long vs this 170ft lot, that lot also narrowed in the back and there was a restrictive easement across the property – all factors that restricted the buildable area in the rear of the lot. In this case today, Staff finds that the request is driven by the massing of the garage and the preferred orientation, rather than any particular site constraint.

Staff suggests that if the applicant wishes to maintain the proposed two-car depth of the garage, perhaps it could be rotated 90 degrees on the site, which would create approximately 18ft of separation.

In conclusion:

Staff recommends approval of the addition with the following conditions:

1. The side wall of the second floor bonus room shall be inset two feet (2') rather than six inches (6")
2. Staff shall approve the final windows and doors prior to purchase and installation.
3. Staff shall approve the roof color and foundation material.
4. The HVAC shall be located on the rear façade or on a side façade beyond the midpoint of the house.

Staff recommends disapproval of the garage, finding that it does not meet the 20ft separation from the main house as required by the guidelines.

Tyler Loveday, with Van Pond Architect, explained the reason for the design proposed and the alterations made based on staff's advice. He explained the reasoning for the placement of the garage.

Commissioner Nielson noted that again, the issue of setting a precedent by making an exception has arisen, with regard to allowing a shorter distance between a house and an outbuilding.

Ed Meyer, owner of the property, stated that they spoke to staff prior to purchasing the home and received general approval for the overall proposal.

The Commissioners asked Staff clarifying questions regarding the wall inset on the second floor and the ridge heights.

Commissioner Mayhall said that she felt that Staff had made several concessions and were not asking the applicant for a lot.

#### **Motion:**

**Commissioner Mayhall moved to approve the addition with the following conditions:**

- 1. The side wall of the second floor bonus room shall be inset two feet (2') rather than six inches (6");**
  - 2. Staff shall approve the final windows and doors prior to purchase and installation.**
  - 3. Staff shall approve the roof color and foundation material;**
  - 4. The HVAC shall be located on the rear façade or on a side façade beyond the midpoint of the house;**
- finding that it meets the design guidelines and to disapprove the garage, finding that it does not meet the 20ft separation from the main house as required by the guidelines. Commissioner Boyd seconded and the motion passed unanimously.**

**r. 134 SECOND AVE NORTH**

Application: Signage  
Council District: 19  
Overlay: Second Avenue Historic Preservation Zoning Overlay  
Project Lead: Sean Alexander

Staff member, Sean Alexander presented the case for 134 Second Ave North.

The building is a contributing building, part of the intact row of Italianate style commercial buildings and warehouses on Second Avenue that date from the 1880s. The buildings on this block extend the full depth of the block and although they have two street-facing facades, the 1st Avenue facades are generally more utilitarian and are considered secondary to those facing 2nd Avenue.

The building is being rehabbed, with window replacement on both facades and signage on 2nd Avenue reviewed and approved by Staff.

The proposal before the Commission presently is for signage on the 1st Avenue façade.

There are currently two painted signs on the façade (or one two-part sign). The new sign will be applied over the existing sign, matching the location and size.

Under Section IV Guideline, secondary facades may have painted signage of up to 125 square feet

The proposed signage includes two parts:

- 1- “Duluth Trading” 122 square feet
- 2- “Men’s & Women’s Gear” 116 square feet
- Total area of proposed signage 238 square feet

The type and location of sign are appropriate, but the proposal exceeds the allotment for painted signs. Therefore Staff recommends that the sign be limited to 125 square feet. Since that would not cover the entire existing sign, Staff would ask to approve the method by which the remainder of the existing sign would be removed or covered.

No lighting of the sign is proposed.

Staff Recommends approval of new painted signage with the conditions that it not exceeds one hundred, twenty-five square feet in area and that the method of removal of the existing signage not covered shall obtain final approval from staff. With these conditions, Staff finds that the project meets section II for Rehabilitation and Section IV for signage.

Andrew Chapman, representing the applicant, expressed concern with removing the sign and referenced the ghosting of signage that was attempted to be removed next door. To remove the sign they would have to repaint the sign entirely.

Commissioner Mayhall welcomed the company and said she was happy to have some retail in the area. Commissioner Nielson said that the guidelines have been well thought out regarding signage and she feels they need to meet and stick to the design guidelines for the area. Commissioner Mayhall agreed but expressed concern about the fact that the signage is already there.

**Motion:**

**Commissioner Jones moved to approve new painted signage with the conditions that it not exceeds one hundred, twenty-five square feet in area and that the method of removal of the existing signage not covered shall obtain final approval from staff. With these conditions, the project meets section II for Rehabilitation and Section IV for signage. Commissioner Nielson seconded and the motion passed unanimously.**

**s. 506 ACKLEN PARK DRIVE**

Application: New construction-infill

Council District: 24  
Overlay: Richland-West End-Addition Neighborhood Conservation Zoning Overlay  
Project Lead: Melissa Sajid

Staff member Melissa Sajid presented the case for 506 Acklen Park Drive. This is a request to construct a new two-family residence at 506 Acklen Park Drive. A permit was issued in November of this year to demolish the existing non-contributing house.

The plan before you meets the design guidelines for height, scale, setbacks and rhythm of spacing, materials, roof shape, orientation, and rhythm and proportions of openings. As proposed, the infill is oriented to Acklen Park Drive. There is no alley access, so the units will be accessed via a curb cut off of Acklen Park Drive. The carports shown on the site plan are not included with this application. They will be submitted at a future date.

The structure is one and one-half stories with a maximum height of 30'-4". The historic context ranges from 22'-31' and includes primarily one and one-half story historic homes.

Staff recommends that the front dormer not be connected to the front facing gable and that the material change occur where the floor level changes. The applicant agreed to both of these conditions and has already submitted revised plans that address them.

In conclusion, staff recommends approval of the infill with conditions as the request meets the design guidelines. The applicant has agreed to the conditions and has submitted revised plans that satisfy them.

Ke Qin, 1025 Southside Court, applicant, explained that they have agreed to all conditions and have submitted revised drawings to Staff.

There were no requests from the public to speak.

**Motion:**

**Commissioner Nielson moved to approve the proposed infill with the following conditions:**

- 1. Staff shall review the materials for the roof color, windows, doors, trim, porch floor and steps, porch posts, porch railings, walkways, and the driveway prior to purchase and installation;**
- 2. Staff approve a brick sample;**
- 3. The HVAC shall be located on the rear façade, or on a side façade beyond the midpoint of the house;**
- 4. The front dormer shall be separated from the front facing gable and shifted to the right;**
- 5. Material changes shall occur at floor level and shall not emphasize a taller second level; and**
- 6. New drawings shall be submitted prior to issuance of a permit, addressing conditions;**

**finding the project to meet the design guidelines. Commissioner Mayhall seconded and the motion passed unanimously.**

**VII. VIOLATIONS**

**j. 422 BROADWAY**

Application: Signage  
Council District: 19  
Overlay: Broadway Historic Preservation Zoning Overlay  
Project Lead: Robin Zeigler

Item deferred at the request of the applicant.

**k. 144 WINDSOR DRIVE**

Application: New construction-addition  
Council District: 23  
Overlay: Belle-Meade Links Triangle Neighborhood Conservation Zoning Overlay  
Project Lead: Robin Zeigler

Ms. Zeigler explained that this is a two-part case and she presented the first part. She explained that the applicant is arguing that the Preservation Permit is not needed but that it meets the definition of “new construction” and “additions” of the design guidelines and is included in the Commission’s powers and duties, as noted in the ordinance. The greatest concern is that the rear setback was reduced by 50% when the addition was approved several years ago and that the new addition further constrains the rear setback and therefore requires a rear setback determination.

Commissioner Jones asked about the Codes comments received. Ms. Zeigler confirmed that the Codes Department agreed that it is a violation.

Jason Holleman, 4800 Charlotte Avenue, legal counsel for the applicant handed out a memo. He claimed that the structure is art, as deemed by chancery court. As such, it should be exempt from setback regulations and is outside of the jurisdiction of the Commission. He also mentioned that the structure is not visible from the public right-of-way and is less than 100 square feet.

Nathan Colburn, 120A 17<sup>th</sup> Ave, N attorney for the property owners 121 A, B and C Lincoln Court, located behind the applicant’s property. He handed out a court case. The construction is clearly visible from Lincoln Court as opposed to Windsor Drive.

Tony Harris, 121 Lincoln Court, noted that a preservation permit is required for the project. The typical homes on this block have 83’ of rear setback and this one has only 10’ and now is pushed 2’ further into the 10’ setback. This is his side setback.

Craig Freiberg, 121 Lincoln Court, one of the owners of the property behind this property stated that he has not responded to the aggressive email threats of the applicant. He asked that the Commission apply common sense and noted that the project can be seen from a public right-of-way, specifically Lincoln Court. He said that the situation has reached a disgusting and narcissistic stage.

Mr. Holleman, said that the Commission received a letter of support from former councilmember Emily Evans.

Counsel, Susan Jones, informed the Commission that they have done some enforcement on this property in the past but that is not what they are here to discuss today. She disclosed that she has talked with the adjoining property owners, Mr. Powers and attempted to return calls from Mr. Holleman. It is Metro Legal’s position that the board does have jurisdiction, based on your powers and duties 17.40.410.C.1, 2, 3, and 5, which includes determining appropriate alterations, features, size, setback and height. She has also heard from the Codes Department that from their perspective, the setback is the sole jurisdiction of the Historical Commission.

**Motion:**

**Commissioner Jones moved to approve the requirement of a Preservation Permit, finding that the addition meets the definition of “new construction” and meets section 17.40.410.C. for powers of the Commission. Commissioner Brown seconded. The motion passed unanimously.**

Staff member Melissa Baldock, presented the case for an addition at the property. Staff has reviewed the project as new construction, specifically as a rear addition, since it is located at the rear of an existing house. The addition has sides and a roof and extends taller than the existing addition to the house. It extends into the rear setback. In its 2011 approval of the previous addition, MHZC reduced the rear base zoning setback from 20 feet to ten feet. This addition further reduces the rear setback by two feet, leaving a rear setback of just 8 feet, which is 12 feet less than what base zoning typically requires.

Because the addition is so small, it could fall into the category of additions that are not typically reviewed by the Commission; however, in this case, the addition intrudes into the rear setback so a setback determination is required. Staff does not support the setback determination. The property owner has installed a rear addition that projects into the already reduced rear setback by two feet (2’), leaving a partial rear setback of just eight feet (8’) on a block where the average rear wall of homes sets back eighty three feet (83’) from the rear property line and bulk standards call for at least a twenty-foot (20’) rear setback. Setback determinations are typically

granted when there is a physical reason to do so, such as a truncated lot or an oddly shaped lot. Staff does not find that there is any reason for a setback that is less than what is allowed by bulk standards. In addition, in this case, there is no rear alley to provide further buffer between this property and the one that is behind it. Staff finds that a further reduction of the rear setback does not meet the design guidelines.

Staff also has concerns about the height and scale of the addition. The design guidelines call for the open space of new construction to be compatible with surrounding historic buildings. The average lot coverage of the historic context of the block-face is approximately twenty-three (23%). When the 2011 addition was approved it covered approximately forty percent (40%); however it appears to cover forty-seven (47%) of the lot since the interior courtyard is enclosed on all sides. Since the previously approved addition already greatly exceeds the typically lot coverage for the area, staff does not find additional construction to meet the design guidelines.

In terms of the height, the addition extends above the back all of the previously-approved addition by several feet. It is lower in height than the green screen at the rear. The green screen was originally installed without a permit, but was approved to remain at the rear by MHZC in May 2017. The green screen was approved, in part, because it was open in design. The new addition is a solid mass, and therefore the extra height is not appropriate.

In conclusion, Staff recommends disapproval of the addition, finding that it does not meet Section II.B.2.a of the design guidelines for placement, Section II.B.1.b for scale II.B.1.a for height and Section II.B.1.c for setbacks.

Ben Powers, 4800 Charlotte Ave, also legal counsel for the applicant, described the project. They have provided an engineer's report to Bill Herbert with the Codes Department, as requested. This is no different than a basketball goal and protrudes as much as a basketball goal. The code contemplates art under the signage code and art is an exempt type of signage. He provided information about the court case. He stated that the structure is not visible from the overlay, is not an addition, has been deemed art and is not in violation of any code per Bill Herbert. He concluded with the argument that it is appropriate art that is not violating the setback requirement.

Nathan Colburn read from the MHZC handbook. This has been a pattern with the Daniels, where they act and then ask for forgiveness later.

Craig Freiberg, stated that he has a letter from a neighbor that contradicts what Mr. Powell stated. He read a letter from Steven John. Bartek, home owner of 120 Lincoln Court. Bartek supports the staff recommendation. 144 Windsor is unlike other neighbors in that it encroaches on the setback. The murals and sculptures are inappropriate and teach a poor example to neighborhood children.

Tony Harris, 121 Lincoln Court said that assuming the structure is an addition, plywood is not appropriate and it doesn't have the required corner boards. The materials section of design guidelines requires smooth siding, not embossed, such as the shark head.

Jason Holleman returned for rebuttal. He provided the background for how the Commission came to have the authority to review setbacks. That doesn't preclude allowable setback obstructions. One of those is a sculpture or similar objects of art.

Commissioner Jones and Boyd stated that they found it to be a new construction piece that impedes on the setback and that it is inappropriate.

**Motion:**

**Commissioner Jones moved to disapprove the addition, finding that the project does not meet section II.B.2.a of the design guidelines for placement, section II.B.1.b for scale, section II.B.1.a. for height, and section II.B.1.c. for setbacks. Commissioner Nielson seconded and the motion passed unanimously.**

## **IX. OTHER BUSINESS**

**t. CLG TRAINING**

Deferred

**X. ADMINISTRATIVE ACTIONS & UPDATES**

**u. ADMINISTRATIVE PERMITS ISSUED FOR PRIOR MONTH**

*Meeting adjourned at 7:25 pm*

RATIFIED BY COMMISSION ON 12/20/2017