



# METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

Metropolitan Historic Zoning Commission  
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## METRO HISTORIC ZONING COMMISSION SUMMARY MEETING MINUTES January 18, 2012

**Present were Commissioners:** Brian Tibbs, Chairman; Ann Nielson, Vice Chair; Menié Bell; Barri Bernstein; Richard Fletcher; Ben Mosley; and Judy Turner.

**Zoning Staff:** Robin Zeigler (Historic Zoning Administrator), Sean Alexander, Melissa Baldock, Doug Sloan, Metro Attorney

**Applicants:** Rhonda Burnette, Franklin Clark, Mitch Hodge, Jimmy Kincaid, Alan Lowe, Joe Kovalick, Lynn Taylor, Michael Ward.

**Public:** Don O'Donniley, Joseph Johnston, David Tarpley, Sarah Tarpley.

Chairman Tibbs called the meeting to order at 2:05p.m. and read aloud the process for appealing the decisions of the Metro Historic Zoning Commission.

### I. APPROVAL OF MINUTES

Chairman Tibbs asked the Commissioners if they had read the minutes and if they had any corrections or additions.

**Motion:**

**Hearing no corrections, Commissioner Fletcher moved to approve the minutes. Commissioner Nielson seconded the motion and it was approved without objection.**

### II. CONSENT AGENDA

Chairman Tibbs announced that 1206 Woodland Street has been removed from the hearing's agenda, and that 2812 Oakland Avenue will be removed from the consent agenda and presented individually. Staff member Melissa Baldock presented the remainder of the consent agenda:

1805 Forrest Avenue—Demolition of a non-contributing building

1808 Ordway Place—New construction of an addition

3815 Central Avenue—New construction of an addition

316 South 11<sup>th</sup> Street—New construction of an addition

700 Russell Street—New construction of an addition and permanent landscape features and a reduction to the setback.

Ms. Baldock noted that all of the items on the consent agenda, with their respective conditions, meet the design guidelines for their districts, and that staff recommends approval of the consent agenda.

**Commissioner Nielson moved to approve the consent agenda, and Commissioner Bernstein seconded the motion. The Commission approved the motion unanimously.**

## **II. NEW BUSINESS**

### **2812 Oakland Avenue**

**Application: Demolition of existing addition, construction of a new addition, and restoration of front porch.**

Ms. Baldock presented an application to demolish a non-contributing rear addition, construct a new rear addition, and reconfigure the front porch on a contributing bungalow in the Belmont-Hillsboro Neighborhood Conservation Zoning Overlay. She pointed out that the addition will extend four feet wider than the historic house on the south side. She stated that staff finds this additional width appropriate because the house is shifted and slanted towards the north side of the lot, there is a five foot deep structural alcove that is inset from the sidewalls of the house before the wider portion of the addition, the addition is five feet shorter than the house, and its roof form is a side-gable. Ms. Baldock summarized that staff recommends approval of the project with the conditions that are listed in the staff recommendations.

The architect for the project, Michael Ward of Allard Ward Architects, addressed the Commission. He noted that the added width of the addition enables the addition to not extend too far into the rear yard of the house, and he stated that he is fine with the staff recommendations. Joe Kovalick, the owner and developer of the site, introduced himself. Don O'Donniley, an attorney representing David and Sarah Tarpley who live adjacent to 2812 Oakland Avenue, expressed concern about the project. He stated that he is concerned about the portion of the addition that extends four feet beyond the wall of the house and about the fact that the neighbors did not receive notice of the project. He noted that the house is about 32 feet wide and is not significantly shifted to one side of the lot, and therefore he believes the addition should be set in two feet from sidewalls of the house. Mr. Donniley also questioned the calculations in the staff recommendations and noted that that it was not clear if the FAR had been calculated. He distributed materials to the Commissioners. Commissioner Mosley noted that FAR calculations are not something the Commission or the guidelines take into consideration.

Sarah Tarpley, who lives next door to 2812 Oakland, then expressed concern about the four feet extension and how it will affect her privacy and light and air. She believes that the addition does not meet the guidelines because the building is over 30 feet in width. She explained that she did not receive written notice but did receive an email notifying her of posting of the agenda and that she was able to review the staff recommendations and plans on the website prior to the meeting date. David Tarpley also expressed opposition to the project, noting that the house measures 32 feet, and he reiterated that they did not have much notice on the hearing. Joseph Johnston, who lives near the project on Belmont Boulevard, spoke to express concern that he did not receive written notice of the hearing and the application. He referenced a 2003 court case, *Metropolitan Government of Nashville and*

*Davidson County v. Hudson*, in which, according to him, the courts recognized the statutory requirement that the Commission must provide written notice 21 days in advance. He requested that a copy of the court case be made part of the record, as well as the documents submitted by the Tarpleys and Mr. Donniley.

Ms. Zeigler clarified that individual notification to neighboring property owners of the hearing was not required in this instance because the project does not involve any changes to the bulk zoning or the required setbacks. The project meets all of the bulk zoning requirements. [Notice of the public hearing was posted at the MHZC offices, on Metro's online calendar, on the MHZC's website and mailed to neighborhood associations and metro council members.] Ms. Baldock also clarified that staff was aware that the house is more than 30 feet in width. However, staff found that the project meets the design guidelines because the house is shifted slightly on the lot and skews away from the left property line. Mr. Donniley added that he did not think the shift of 3 feet to the left side of the lot merited the wider addition. In response to a question from Commissioner Mosley, Ms. Zeigler noted that MHZC does not consider the FAR and so staff did not calculate the FAR for the project. She added that MHZC does take lot coverage into consideration and the project meets the Codes' requirement for lot coverage.

In response to a question from Commissioner Turner, Ms. Baldock stated that the house will be 6 feet from the south property line and 7 feet from the north property line, both of which meet Codes' required 5 foot setback. Mr. Ward was invited to address the public's concerns, and he stated that one of his goals was to keep the addition from extending too much into the rear yard. He also noted that the Commission has approved similar projects that extend wider than the existing house in the past.

#### **Motion**

**Commissioner Mosley moved to approve the project with the conditions that the existing porch columns be kept, if they are structurally sound; that if photographic or documentary evidence of what the front façade originally looked like is found, then the applicant restore the front façade to its original appearance; that staff review the exposed front façade, once the existing enclosure is removed, to determine if any original openings and/or materials should be preserved; and that staff review and approve a stone sample, the asphalt shingle color, deck railing material, and the window and door specifications and material prior to purchase and installation. Commissioner Fletcher seconded the motion. Commissioner Bell voted in opposition to the motion, but the other Commissioners voted in favor of it. The motion was therefore approved.**

#### **1701 Woodland Street**

**Application: New construction—Appeal of staff decision, accessory structure, and setback reductions.**

Staff member Sean Alexander presented a project to appeal a staff decision regarding an accessory structure in the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay. He explained that there is an existing garage in the rear of the property, and in November 2011, staff approved a carport addition to the garage. However, it was discovered through a staff inspection that the structure that was under construction did not meet Codes' base zoning requirements for setbacks. The applicant is now proposing to reduce the side setback for the addition to the accessory structure from 10 feet to 5 feet and to continue the construction work. Mr. Alexander noted that Commission has been reluctant to reduce setbacks when there is a safety issue for sight-lines, particularly on corner lots like this one. Staff determined that there did not seem to be a need for a setback reduction in this instance, and staff therefore recommends disapproval of the setback reduction because it does not meet the design guidelines nor the commission's policy for setback reductions.

Franklin Clark, the contractor for the project, noted that he had poured the foundation for the project before he realized the structure did not meet the setbacks on the side property line. He noted that the structure would be 5 feet from the sidewalk line but there are an additional couple of feet between the sidewalk and the curb. He submitted examples of other recent accessory structures that received side setback reductions. Rhonda Burnette, the property owner, then noted that the garage door is beyond the 10 foot setback line. She referenced 1401 Forrest Avenue, which received both a rear and a side setback reduction at the April 2011 MHZC hearing. She also noticed that the structure will be behind a fence.

In response to a question from Commissioner Mosley, Ms. Zeigler noticed that the policy on reducing setbacks was developed because of concerns about safety when reducing setbacks and ensuring that setback reductions meet the context of the neighborhood. In response to a question from Chair Tibbs, Mr. Alexander clarified that from the inside edge of the sidewalk, which is typically where the property line is, is 5 feet to the proposed structure and approximately 9 feet to the vehicle doors. He noted that Codes' measures setbacks to the footprint of the structure, not to the vehicular doors. Mr. Alexander also pointed out that there is an additional discrepancy between what was approved and what was under construction; aluminum trim was added to the structure and is not a material the Commission approves. Commissioner Bell noted that approving this application would set a precedent for similar future setbacks that do not meet the Commission's policy for setback reductions. Commissioners Mosley, Nielson, and Bell noted that the original permit that was approved did meet the setbacks and they did not follow that permit. In response to a question from Commissioner Fletcher, Ms. Zeigler noted that the setback reduction issued for 1401 Forrest Avenue was one of the projects that led to the concern about reducing setbacks and the development of the setback reduction policy. Metro counsel Doug Sloan added that the fact that the Commission has approved a setback reduction in the past in a similar case does not prevent it from enforcing its policy and denying the setback reduction in this case.

#### **Motion**

**Commissioner Bell moved to disapprove the setback reduction and application to retain the work constructed in violation of permit 2011-258, finding the constructed building not to meet the design guidelines for outbuildings in the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay, and not finding the criteria for setback reductions to have been met. Commissioner Nielson seconded the motion, and the motion passed unanimously.**

#### **1413 Russell Street**

##### **Application: Infill**

Mr. Alexander presented an application for new two-story, single-family house on a vacant lot in the Lockeland Springs-East End Neighborhood Conservation Zoning Overlay. He noted that the site's grade level for the location of the house is several feet below the street level, making the height appropriate. Mr. Alexander also stated that there are some errors and inconsistencies in the drawings, and those need to be fixed prior to issuing a permit. He indicated that the proposed materials all meet the design guidelines, with the exception of the chimney, which is proposed to be clad in siding but should be clad in a masonry material. Mr. Alexander further remarked that the front door and porch railing are not in keeping with the style of house, and that staff requests more information on these details. Finally, he pointed out that the windows pattern on the left elevation needs to be reconfigured in order to meet the design guidelines, and staff needs to review the details for any appurtenances on the site. Mr. Alexander noted that that the applicant was not present at the hearing, but that he had indicated via a phone call that he accepts all of the staff's recommended conditions for approval.

In a response to questions from Commissioner Mosley, Mr. Alexander remarked that the third story attic window design was found in a house design catalogue dating from the 1920s. The porch and porch railing design were also inspired by the catalogue, but staff believes the execution of these porch details needs additional work before they can be approved. Commissioner Mosley also cautioned that some of the details need to be worked out in order to allow for adequate water drainage. Chair Tibbs reiterated that the applicant needs to submit adequate drawings before a permit can be issued.

#### **Motion**

**Commissioner Mosley made a motion to approve the project with the conditions that the drawings be corrected so that all measurements and labels match and show any appurtenances including but not limited to paving, lighting, fences and utility connections; that the porch beam be increased to a minimum of twelve inches (12”); that the water-table band be lowered so that the top of the band aligns with the porch floor level; that the chimney material be masonry, or shortened to resemble a “box-bay;” that the front door and porch design be Craftsman-style, appropriate to the general style of the house; that the two windows nearest to the front on the left elevation be moved back from the front corner of the house; and that the first story window be lowered to align with the other first story windows. Commissioner Fletcher seconded the motion, and the motion passed unanimously.**

#### **0 Forrest Avenue**

##### **Application: Infill**

Ms. Zeigler presented an application to construct two houses on a wooded, vacant, interior lot in Lockeland Springs that has no street frontage. The lot will be accessed from Lakehurst Avenue, but has a Forrest Avenue address. The site slopes steeply upward from Lakehurst to Forrest. Ms. Zeigler noted that the Planning Commission has approved the subdivision of the lot for the construction of two houses, and that the houses, once constructed, will only be minimally visible. Mr. Zeigler pointed out that the context for the site is unusual since it does not have street frontage; along Lakehurst, the context is primarily that of the Spanish Revival houses of Little Hollywood, while Forrest Avenue has several non-contributing buildings, as well as typical buildings representing the earlier development of Lockeland Springs. She noted that the height, scale, proportion of rhythm of openings, and materials all meet the guidelines. She indicated that while garages are typically detached and placed behind the primarily houses, this application has placed garages facing north, near the access from Lakehurst. Because there is not a typical street façade for these houses, staff finds the placement of the garages to be appropriate. Staff recommends that the driveway be reduced to be a maximum of fourteen feet (14’) across.

Commissioner Mosley asked whether reducing the width of the driveway will still allow for emergency vehicles to have access to the site. Ms. Zeigler replied that the Public Works Department suggested the 14 foot width originally and that the department found that this width meets the necessary regulations. Mitch Hodge, the architect for the project, then addressed the Commission, and he explained that originally the lot was zoned for a duplex development. He also noted that the lot is challenging because it slopes approximately 22 feet from the front to the back of the lot.

#### **Motion**

**Commissioner Fletcher moved to approve the application with the conditions that the applicant seek final approval from staff for windows, pedestrian and vehicular doors, and roof color and that the driveway be no more than fourteen feet (14’) across. Commissioner Turner seconded the motion, and the motion passed unanimously.**

## 1512 Beechwood Avenue

### Application: New Construction—Accessory building

Mr. Alexander presented a proposed accessory structure in the Belmont-Hillsboro neighborhood. He explained that the structure is under 700 square feet, is 23 feet tall, meets all the required setbacks, and is scaled appropriately for the neighborhood. The materials all meet the design guidelines, with the exception of the windows, which are proposed to be vinyl windows with interior muntins and which are not appropriate for the district. Mr. Alexander noted that the Commission has disapproved vinyl windows and windows with interior muntins on several occasions. He stated that the applicant has provided more information on the foundation material and the window and door trim, so those conditions outlined in the staff recommendation have been met.

In response to questions from Commissioner Bell, Mr. Alexander clarified that the applicant is still proposing to install vinyl windows with interior muntins, and that the accessory structure is located so that the garage doors do not face the alley. He reiterated that the project meets the required setbacks. In response to questions from the Commissioners, Mr. Alexander stated that there is no indication that the structure will be used as a dwelling unit, and Ms. Zeigler added that the issue of use is primarily an issue for Codes, not for the Metro Historic Zoning Commission. The applicant and owner for the project, Jimmy Kincaid, then addressed the Commission and stated that the proposed windows are made by Pella and are high quality. In response to a question from Commissioners, Mr. Alexander noted that one-over-one Pella windows would be appropriate, as long as the material was also appropriate.

### Motion

**Commissioner Mosley moved to approve the application with the conditions that a brick sample shall be provided to staff for approval and the windows shall be an appropriate material, to be approved by staff. Commissioner Nielson seconded the motion, and the motion passed unanimously.**

## V. OTHER BUSINESS

Ms. Zeigler made announcements for upcoming events: The African American Historic Conference at TSU will be held on February 10<sup>th</sup>. The Tennessee Preservation Trust's annual conference will be held in downtown Nashville on May 31<sup>st</sup> – June 2<sup>nd</sup>, and will include all-day training for Commissioners on June 1<sup>st</sup>. Finally, the National Alliance of Preservation Commission's bi-annual forum will be held in Norfolk, VA, from July 18<sup>th</sup> – 22<sup>nd</sup>.

In response to a question from Commissioner Fletcher, Ms. Zeigler noted the Commission does not need to review or permit projects that cannot be seen at all from the street. She also noted that staff typically directs applicants to tuck the addition behind and set in from the historic house as much as possible, but that there are times when wider structures can be appropriate, particularly if their visibility is minimized.

**Commissioner Mosley made a motion to adjourn the meeting, and Commissioner Bernstein seconded the motion. The Commissioners unanimously approved the motion to adjourn the meeting at 3:32 pm.**

RATIFIED BY COMMISSION ON FEBRUARY 15, 2012.