

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: November 10, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: Resolution Regarding Board of Architectural Review Appeal Bar 15-336 210 S. Washington Street

PUBLIC HEARING DATE:

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Josh Crump	Completed	11/05/2015 3:20 PM
Anthony Williams	Completed	11/05/2015 3:21 PM
Eden Freeman	Completed	11/05/2015 3:32 PM

Approved as to form:

Josh Crump

Josh Crump, Planner

11/5/2015

By: _____

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Eden Freeman

Eden Freeman, City Manager

11/5/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: November 10, 2015
Re: Resolution Regarding Board of Architectural Review Appeal Bar 15-336 210 S. Washington Street

THE ISSUE:

An appeal of a BAR decision pertaining to window replacement at 210 S. Washington Street. City Council must hold a public hearing within 60 days of the date of appeal filed on July 17, 2015. The Public Hearing was held on September 22, 2015.

RELATIONSHIP TO STRATEGIC PLAN:

Vision: To be a beautiful, vibrant city with a historic downtown, growing economy, great neighborhoods with a range of housing options and easy movement.

Goal #2: Promote and accelerate revitalization of catalyst and other areas throughout the city.

BACKGROUND:

See Attached Resolution.

BUDGET IMPACT:

None

OPTIONS:

1. Uphold the decision of the Board of Architectural Review to approve the request, in full based upon a finding that the applicant undertook the work without BAR approval and that the Board properly applied the standards for window replacement and gave the applicant reasonable amount of time to complete the work;
2. Modify the decision of the Board of Architectural Review to allow the replacement of wooden windows with vinyl for only the sides of the house; or,
3. Partial Reversal of the decision of the Board of Architectural Review, in full based upon a finding that the BAR erred in applying the standards established for the BAR.

RECOMMENDATIONS:

Option 1. See Attached Resolution.

RESOLUTION REGARDING BOARD OF ARCHITECTURAL REVIEW APPEAL BAR 15-336 210 S. WASHINGTON STREET

WHEREAS, SECTION 14-3 of the Winchester Zoning Ordinance requires that the erection, reconstruction, structural alteration, restoration, or demolition of a building or structure within the Historic District requires the issuance of a Certificate of Appropriateness; and

WHEREAS, Section 14-9 of the Winchester Zoning Ordinance provides for appeals from decisions of the Board of Architectural Review (hereinafter "BAR") concerning the issuance of a Certificate of Appropriateness to Common Council; and

WHEREAS, the applicants in this matter are the owners of the property located at 210 S. Washington Street (hereinafter "the building") which is located in the Historic District; and

WHEREAS, it was discovered during a city inspection after a citizen complaint that many of the original wooden windows of the building had been replaced with new vinyl windows as well as other exterior changes without having first obtained a Certificate of Appropriateness (hereinafter "COA"); and

WHEREAS, the owner (at the time of issuance of the Notice of Violation) was issued a Notice of Violation for performing such work without first having obtained a COA; and

WHEREAS, this matter came before the BAR as a single matter - Case No.: BAR15-310 on June 4, 2015 wherein the BAR split its consideration of the issuance of the COA into two motions - (1) approving the exterior changes for the roof materials and door and shutter colors, and (2) denying the replacement vinyl windows due to being an inappropriate use in the Historic District and providing options for the applicant to resubmit a request for the issuance of a COA upon mitigation of the nonconforming window installation as memorialized in a June 5, 2015 disposition letter issued concerning BAR-15-310 and

WHEREAS, the applicant re-applied for a COA without having mitigated the nonconforming windows claiming that replacement would be a financial hardship; and

WHEREAS, the BAR considered this matter as BAR 15-336 and issued its determination as memorialized in a June 25-2015 letter (**Exhibit A**); and whereas the applicant then appealed this matter to Common Council in accordance with Section 14-9 of the Winchester Zoning Ordinance; and

WHEREAS, Common Council did properly review all materials associated with this BAR appeal and did receive presentations, public hearing, and comment from City Staff and the applicant in compliance with all requirements of Section 14-9; and

WHEREAS, in consideration of and in applying the current Historic District Standards as required under Section 14-9-1.3

BE IT hereby RESOLVED that Common Council does affirm and uphold the determination made by the BAR in BAR 15-336 as memorialized in (**Exhibit A**) and summarized requiring that the owner act forthwith as follows:

- Replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application;
- the one vinyl window on the side of the house to be left as is;
- the windows on the back of the house to be replaced with vinyl windows with simulated divided lights;
- the windows in the front of the house to be replaced within one year;
- the windows on the side of the house to be replaced within two years.

BE it FURTHER RESOLVED that the applicant shall be appraised by City Staff of his rights under 14-9-2.1 of the Winchester Zoning Ordinance to appeal this final decision of Common Council to the Circuit Court for review as follows:

14-9-2.1 Any applicant or any of the petitioners aforesaid aggrieved by a final decision of the City Council, or any opponents to the final decision of the City Council, shall have the right to appeal such decision to the Circuit Court for a review; provided, such appeal is filed within a period of thirty (30) days after the rendering of the final decision by the City Council, and that, in the case of opponents to the final decision of City Council, there is filed with the appeal a petition in writing signed by at least twenty-five persons owning real estate within the Historic Winchester District. Such appeal shall be taken by filing a petition at law, setting forth the alleged illegality of the action of the governing body. The filing of said petition shall stay the decision of the Council pending the outcome of the appeal to Circuit Court, except that the filing of such petition shall NOT stay the decision of the Council if such decision denies the right to raze or demolish a building which existed in the Historic Winchester District seventy-five (75) years ago or prior thereto. (12/11/79, Ord. No. 030-79).