

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 8/25/15 (work session) CUT OFF DATE: 8/19/15
9/8/15 (regular mtg/public hearing)

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

Appeal of BAR Decision regarding window replacement for Sam Simpson at 210 S. Washington St. (BAR-15-336)

STAFF RECOMMENDATION:

Modify the decision of the Board of Architectural Review

PUBLIC NOTICE AND HEARING:

Public hearing for 9/8/15 Council Meeting

ADVISORY BOARD RECOMMENDATION:

This is an appeal of a decision by BAR to approve a request to replace windows

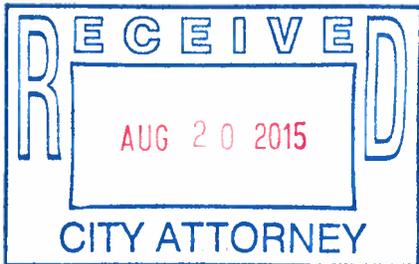
FUNDING DATA: N/A

INSURANCE: N/A

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.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning & Inspections, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: (Planning Dept) [Signature] 8/19/15



APPROVED AS TO FORM: [Signature] CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Timothy Youmans, Planning Director
Date: August 19, 2015
Re: Simpson Appeal of BAR Decision (BAR-15-336) to City Council

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.

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:

During a city inspection after a citizen complaint, replacement of windows with new vinyl windows, as well as other exterior changes, was observed at 210 S. Washington Street. Much of the exterior work was already completed and many of the original wooden windows were already replaced with vinyl windows after an extensive renovation project undertaken by the owner, Sam Simpson.

Mr. Simpson was cited by the City's Zoning and Inspections department for not having a certificate of appropriateness (COA) from the BAR for the exterior work and applied for a COA for this work on May 22nd. The first BAR case for this property (BAR-15-310) was heard on June 4, 2015 (see attached minutes of the June 4, 2015 meeting). The Board split the COA for the property into two motions; the first motion approved the exterior changes for the roof materials and door and shutter colors. The second motion denied the replacement vinyl windows due to being an "inappropriate use in the Historic District". During the meeting, it was brought up by Chairman Rockwood of the Board if "replacing the front windows [with wooden windows] would keep the spirit of the District." A decision letter was sent on June 5, 2015 (see attached letter dated June 5, 2015) by Planner I Josh Crump, describing the Board's decision and three options to mitigate the window issue which included; replacing all vinyl windows with wooden windows; replacing the five front vinyl windows with wooden windows; or appealing the BAR's decision to City Council. Mr. Simpson opted for the second option and applied for a COA to replace the five front windows with wooden windows on June 8, 2015.

The BAR heard this matter (BAR-15-336) at its June 18, 2015 meeting (see attached minutes of the June 18, 2015 meeting). At the BAR meeting, Mr. Simpson proposed to remove the five front vinyl windows and replace them with wood windows. He explained it would be a financial hardship to replace all the windows in the house at the same time. The Board indicated they would like to see wood windows on the three sides of the house that are visible and consider the rear of the house a separate issue. The Board suggested a staggered replacement schedule where the front façade windows would be replaced first and then give a lengthy period of time to replace the remainder windows on the sides. The Board's decision in BAR-15-336 approved a COA to 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 with simulated divided lights: The windows in the front of the house to be replaced within one year and the windows on the side of the house to be replaced within two years. The rear would be left with vinyl windows since it is not visible from public view and one vinyl window on the side since it was originally vinyl when Mr. Simpson purchased the house.

On July 17, 2015, Mr. Simpson submitted an appeal of the BAR's decision from the June 18th meeting (see attached letters). In a follow up letter, Mr. Simpson clarified his appeal stating that he is appealing the provision in the BAR's decision to replace the side windows with wooden windows and utilizing the vinyl windows that replaced the original windows without a COA. The letter also states Mr. Simpson is willing to replace the windows on the front of the house with wooden windows.

The appeal of the BAR decision and required fee were submitted in accordance with Section 14-9-1 of the Winchester Zoning Ordinance. The Clerk has sixty (60) days to schedule a public hearing with City Council from the date of the appeal. The Zoning Ordinance states that during this review of the appeal, "[t]he same standards shall be applied by Council as are established for the Board of Architectural Review. The Council may affirm, reverse or modify the decision of the Board, in whole or in part."

Chapter 3, page 5 of the Winchester Historic District Design Guidelines, discusses windows as part of Residential Rehabilitation. Portions of the guidelines read: "1. Retain existing windows if possible." "2. Repair existing windows..." "4. Replace existing windows only when they are missing or beyond repair." "5. Do not use materials or finishes that radically change the sash, depth of reveal, muntin configuration, the reflective quality of color of the glazing, or the appearance of the frame." "

While the Board gave Mr. Simpson a lengthy period of time to replace the windows on the house due to the financial circumstances involved, the key part of this case is whether the public views from the side of the house portray the same significance as the public view from the front of the house within the Historic District. Section 14-2-1 of the Zoning Ordinances defines 'Exterior Architectural Appearance' to include "*architectural character; general arrangement of the exterior of a structure; general composition, including the kind, color, and texture of building material; and **type and character of all windows, doors, light fixtures, signs, and appurtenant elements, subject to public view from a public street, public way, or other public places.***"

Attached are Google Street View images taken approximately in July 2014 of 210 S. Washington Street simulating driving or walking past the house. These images show the original window before the replacement windows were installed in early 2015. From the street it is hard to distinguish the material from the window. Further, during the spring and summer months when foliage is still on surrounding landscaping, views to the side of the house from the public view shed are reduced.

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 preclude the replacement of wooden windows for only the sides of the house; or,
3. Reverse 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:

Staff recommends that Council consider Option #2



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June 25, 2015

Samuel Simpson
210 S. Washington Street
Winchester, VA 22601

Dear Mr. Simpson:

On Thursday, June 18, 2015, the Board of Architectural Review acted on the following request:

BAR-15-336 Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

On a vote of 5-0, the Board approved **BAR-15-336** with the following comments:

- 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.

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely yours,

Joshua Crump

Joshua Crump
Planner I

7/17/15
I would like to appeal this decision

Samuel E. Simpson
Samuel E. Simpson

I would like to appeal the B.A.R.'s decision to replace the newly installed vinyl windows with wood in the front and both sides. I would like only to replace the front of home with wood and leave the sides vinyl. I do not think the sides ~~of the~~ being vinyl take away from the historic value or look of home.

Thank you.

Samuel E. Simpson
210 S. Washington St.
Winchester, VA

Applicant was not present.

*Mr. Walker made a motion to table **BAR-15-304** until the next meeting. Ms. Jackson seconded the motion. Voice vote was taken and the motion passed 7-0.*

BAR-15-308 Request of Jonathan Sladek for a Certificate of Appropriateness for an accessory building at 436 Lafayette Place.

Mr. Sladek explained that his shop on North Cameron Street had closed and he needed a place to store his tools. He used all reclaimed wood siding and windows to build his shed. Vice Chairman Bandyke said the only issue he had was with the asphalt shingles. Mr. Sladek said he matched them with what was on his house. He scaled down the shed to have the same dimensions as his house. Vice Chairman Bandyke said it was considered a new structure even though it was constructed to look like an old structure. He outlined the rules for roofing materials in the Historic District. Mr. Sladek said he would have done a metal roof if his house had a metal roof. He had to put the shingles up in order to protect his tools inside the shed.

Board members asked questions about the foundation and the materials to be used around the outside of it. Mr. Sladek asked about fencing around his property. He has had several intruders and would like to protect his property better. Chairman Rockwood said the Board could work with him on fencing if it is visible from the public right-of-way. The Zoning office could provide guidelines for construction of one.

The Board members asked questions about visibility of the building from the public right-of-way. Vice Chairman Bandyke asked Ms. Schroth, since she had seen the building, how prominent the roof of the shed is from the right-of-way. She stated that if you are coming down the street from either direction, it is not visible until you are right in front of it. The trees surrounding it are pine so it is not visible during the winter. Chairman Rockwood said if they required a metal roof, it would not have any relation to other structures around it.

*Mr. Serafin made a motion to approve a Certificate of Appropriateness for **BAR-15-308** using half round gutters and having paint colors approved through the Zoning Department. The foundation is to be parged or covered with stone. Shingles are approved as submitted. Vice Chairman Bandyke seconded the motion. Voice vote was taken and the motion passed 7-0.*

BAR-15-310 Request of Sam Simpson for a Certificate of Appropriateness to change the windows, roof and exterior paint at 210 South Washington Street.

Mr. Simpson stated that he was unaware his house was in the historic district until he found a notice on his door. He said he had tried to stay within the period the house was built. There were already some vinyl windows in the home when he had bought it. Some of them were nailed shut. One had a cut out for an air conditioner. He was unaware it was inappropriate to use vinyl windows.

The Board members asked questions about the location of the windows and which had been replaced. Mr. Simpson said he had replaced all but one window. He tried to keep the same look of the home. Vice Chairman Bandyke asked how long Mr. Simpson had owned the home. Mr. Simpson said he bought the home in November 2014 and started the project January 1, 2015. Vice Chairman Bandyke asked if there was any indication when he bought the house that it was in the Historic District. Mr. Simpson said none of the paperwork he received said anything about it. His neighbors had complimented him on bringing the house back to life but they never said anything to him. He did not know until he found the

red notice on his door. He received the postcard from the City eight days before he was given the notice.

Chairman Rockwood said this situation has happened before with other properties. People do renovations without actual knowledge of the policies of the Board. The Board has drawn a firm line on it. Mr. Crump said the guidelines discourage the use of vinyl but they are just guidelines and are there for their accommodation. Vice Chairman Bandyke said he wanted to go on record that vinyl windows are unacceptable in the Historic District. They have never approved vinyl windows. If they disapprove them and City Council makes a decision to reverse it that is their decision. The Board does not accept PVC, composite or vinyl windows. They are efficient, long-lasting products but they are not included in the Historic District. If these windows are approved, it will start a precedent. Mr. Simpson said he kept the same look as the original windows. Chairman Rockwood said he agreed and from the street, it was hard to distinguish. The problem is not all houses are situated like his and it is a recurring problem that comes before the Board. He wondered if replacing the front windows would keep the spirit of the District.

Mr. Simpson said he had put a lot of work into a home that needed it and thought he had done a great job. He apologized for not following procedure and wanted to straighten it out and try to comply with what the Board wanted.

Mr. Serafin said the windows that could be seen from the street should be replaced. If he had brought the project to them beforehand, they would have rejected the vinyl windows. Mr. Simpson asked how home owners are made aware their home is in the Historic District. He has not had anything since the postcard. Chairman Rockwood said if you were going to buy a property anywhere, one of the things that should be looked at is the zoning and where the property lies. A question that should be asked is what are the zoning requirements on a parcel. Mr. Simpson said in the past he has not needed permits for a roof, paint colors or windows until he found out he was in the Historic District. He said Mr. Crump had given him the literature for the District and he is now aware. However, he will be losing money with having to replace the windows. Chairman Rockwood said if he had brought this project before them before starting work, they would have told him what type of windows to use and given him guidance. The Board agreed he had done a nice job on the house. Mr. Simpson said he had grown up in Winchester but had not lived here in 15 years. He thought he was doing the right thing in fixing up the home. He does not live in the house right now due to personal circumstances. Vice Chairman Bandyke asked questions about the roofing, front door and paint colors. The Board decided to make separate motions for the windows and remaining items.

*Vice Chairman Bandyke made two separate motions for **BAR-15-310**.*

*Motion #1- To approve a Certificate of Appropriateness for **BAR-15-310** for the following:*

- *Roofing materials and paint colors as submitted.*

Ms. Jackson seconded the motion. Voice vote was taken and the motion passed 6-0. Ms. Schroth abstained.

*Motion #2-The Board denied a Certificate of Appropriateness for **BAR-15-310** for the following:*

- *The vinyl windows are inappropriate for use in the Historic District.*

Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 6-0. Ms. Schroth abstained.



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June 5, 2015

Sam Simpson
439 Historic Packhorse Trail
Hedgesville, WV 25427

Dear Mr. Simpson:

On Thursday, June 4, 2015, the Board of Architectural Review acted on the following request:

BAR-15-310 Request to change the windows, roof and exterior paint at 210 South Washington Street. The board split the Certificate of Appropriateness into two motions:

Motion #1- On a vote of 6-0, the Board approved a Certificate of Appropriateness for **BAR-15-310** for the following:

- Roofing materials & colors for the door and shutters as submitted.

Motion #2- On a vote of 6-0, the Board denied a Certificate of Appropriateness for **BAR-15-310** for the following:

- The vinyl windows are inappropriate for use in the Historic District.

City staff would encourage you to review the Winchester Historic District Design Guidelines, specifically Chapter 3, titled "Residential Rehabilitation" regarding windows. It is highly suggested that replacing the installed vinyl windows with materials, such as wood, is more appropriate to the Historic District guidelines. To mitigate the window issue, there are three options we are advising.

Option A: Resubmit a Certificate of Appropriateness application for the Board of Architectural Review replacing all vinyl windows with wooden windows.

Option B: Resubmit a Certificate of Appropriateness application for the Board of Architectural Review replacing the five front vinyl windows facing South Washington Street with wooden windows.

Option C: Appeal the BAR decision to Winchester City Council. As per section 14-9-1.1 of the Winchester Zoning Ordinance (copy enclosed), the decision of the Board may be appealed in a notice in writing (along with a \$75.00 fee) to the Common Council of the City of Winchester within 30 days of the Board's decision (due by July 6, 2015).

Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely,

Joshua Crump
Planner I

"To provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners."

**BOARD OF ARCHITECTURAL REVIEW
MINUTES**

The Board of Architectural Review held its regularly scheduled meeting on Thursday, June 18, 2015, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Rockwood, Mr. Serafin, Mr. Walker, Ms. Jackson, Ms. Elgin, Ms. Schroth

ABSENT: Vice Chairman Bandyke

STAFF: Josh Crump, Aaron Grisdale, Carolyn Barrett

VISITORS: Sam Simpson, Samuel Leinbach, Alexander Kilimnik

APPROVAL OF MINUTES:

Chairman Rockwood called for corrections or additions to the minutes of June 4, 2015. Hearing none, Chairman Rockwood called for a motion. Ms. Jackson moved to approve the minutes as submitted. Mr. Walker seconded the motion. Voice vote was taken and the motion passed 6-0.

CONSENT AGENDA:

None

NEW BUSINESS:

BAR-15-327 Request of Samuel P. Leinbach Jr. for a Certificate of Appropriateness to replace and add new storm windows at 317 Fairmont Avenue.

Mr. Leinbach presented his project and gave information about the windows he would like to use. The board members asked questions about the window details. Mr. Leinbach said he was going to replace six windows in the sleeping porch upstairs to start with.

*Mr. Walker made a motion to grant a Certificate of Appropriateness to **BAR-15-327** as submitted for the new storm windows and flush mount installation style. Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 6-0.*

BAR-15-336 Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

Mr. Simpson proposed to remove the front vinyl windows and replace them with wood windows. He explained it would be a financial hardship to replace all the windows in the house at the same time. Each window is a different size and custom made for the opening it is in. He would have to remove and reframe the openings for standard sized windows. Mr. Serafin said custom-made wood windows are available. Mr. Simpson said he was having a hard time finding them and the board members named several businesses that carried them.

Mr. Walker said the Board was in a tough position because the windows had already been replaced with vinyl. If they granted a Certificate of Appropriateness, it would set a dangerous precedent for that kind of action to continue. There are guidelines they have to adhere to. He would like to see wood windows on the three sides of the house that are visible and consider the back of the house a separate issue.

Mr. Simpson said he had exhausted all funds making renovations to the house and was in danger of losing it. Had he known the house was in the Historic District, he would not have used vinyl windows. Mr. Serafin said the monetary aspects of a case cannot bear on their decision. They would have to verify financial hardship on every case. Chairman Rockwood suggested the front façade be changed and then give a lengthy period of time to replace the remainder. Mr. Simpson asked what would happen if he had to sell the home. Chairman Rockwood said he could appeal to the City Council. Staff can advise what steps he would need to take to do so. After further discussion by the Board, Chairman Rockwood called for a motion.

*Mr. Serafin made a motion to grant a Certificate of Appropriateness to **BAR-15-336** to 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 with simulated divided lights. 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. 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. Mr. Walker seconded the motion. Voice vote was taken and the motioned passed 5-0. Ms. Schroth abstained.*

BAR-15-334 Request of Alexander Kilimnik for a Certificate of Appropriateness for the addition/repair of a deck at 107 East Cecil Street.

Mr. Kilimnik spoke about the project and his intentions for the home. He started work in October 2014. He was not aware of the Historic District requirements when he replaced the windows. Mr. Grisdale gave a description and timeframe of the repairs and zoning violations that have occurred on the property since May 2015.

Mr. Kilimnik said he had assumed only houses that had historic plaques needed prior approval for work and his neighbors had the same assumptions. He talked about measures he had taken to protect the house while the stop work order is in effect. He spoke about the condition of the house when he purchased it. Chairman Rockwood asked how many doors and windows had been replaced. Mr. Kilimnik said eight windows and three doors and described their condition before replacement.

Mr. Kilimnik explained his reasons for purchasing the vinyl windows. He had observed similar windows in other parts of the Historic District. Chairman Rockwood pointed out that what was seen on the street may have been done before the BAR existed or could have been a like-for-like replacement. He explained the guidelines concerning integrity of materials and gave examples.

*Mr. Serafin made a motion to table **BAR-15-334** until the application is revised and resubmitted. Ms. Jackson seconded the motion. Voice vote was taken and the motioned passed 5-0.*

Ms. Schroth departed the meeting at 5:05pm.

OLD BUSINESS:

BAR-15-196 Request of 309 BRAD LLC for new construction at 309 North Braddock Street.



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June 25, 2015

Samuel Simpson
210 S. Washington Street
Winchester, VA 22601

Dear Mr. Simpson:

On Thursday, June 18, 2015, the Board of Architectural Review acted on the following request:

BAR-15-336 Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

On a vote of 5-0, the Board approved **BAR-15-336** with the following comments:

- 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.

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely yours,

Joshua Crump
Planner I

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Edit



Before



After





