

COMMISSION OF ARCHITECTURAL REVIEW

DECEMBER 11, 2014

Members Present

Susan Stilwell
Michael Nicholas
Robin Crews
Richard Morris

Members Absent

Sarah Latham
Robert Weir

Staff

Renee Burton
Shanta Hairston
Clarke Whitfield

Chairman Stilwell called the meeting to order at 3:30 p.m.

ITEMS FOR PUBLIC HEARING

1. *Request for a Certificate of Appropriateness to replace attic dormers with brown clad windows and painted Azek trim at 878 Main Street.*

Mrs. Stilwell opened the Public Hearing.

Mr. Whitfield stated they would like to have this tabled.

Mrs. Stilwell asked would anyone like to bring any motions forward to table it? They're bringing another application for another iron work on their patio.

Mr. Nicholas asked are they asking for permission or forgiveness?

Mrs. Burton stated we need to close the Public Hearing.

Mrs. Stilwell closed the Public Hearing.

Mrs. Burton stated forgiveness on the dormers and the windows; potential conditions for railings in January.

Mr. Nicholas made a motion to table the request until January's meeting. Mr. Davis seconded the motion. The motion was approved by a 4-0 unanimous vote.

2. *Request for a Certificate of Appropriateness to rebuild front porch with new decking boards, steps and rails at 893 Pine Street.*

Mrs. Stilwell opened the Public Hearing.

Mr. Charlie Petty and Ms. Cameron James were present on behalf of the request.

Mr. Petty stated I had my porch done and the man I had hired to do it came to me and he quoted what he would do it for. He wanted to put down the new board and said he would take care of it. He gave me a price and he left to come back two weeks later and

say everything is straight and I need the money to buy the materials. We went on and brought the materials and he came and put it down.

Mrs. Stilwell stated he misled you definitely it sounds like.

Mr. Petty stated then after he got it down, I said well what are you going to do about the rest of it? He wanted to change the columns and everything, but I didn't want that changed. He said well I don't know if I can change the columns. I said now wait a minute you went down to see about changing the boards, it looks like you would've seen about changing the columns and everything to fix the porch. He came back with a different price. I paid him \$3000. He told me that he would get it straight and he would see me- well this was on a Friday- he said I'll come back and start on Monday to get it straight and finish the rest of it. I'm assuming that he had been here. I know he got my money and I can't find him. I've called him and been by his house. So now I've got a porch and he put the banisters up and it doesn't look that bad. I assumed he had been by to get permission because he knew that. He has a contract working down in the Historic District.

Mr. Nicholas asked did he put the old banisters back in?

Mr. Petty stated yeah he put the old banister back in.

Mr. Nicholas stated let me show you a picture.

Mrs. Burton stated as of last week when I took the photos it had not been done.

Mr. Nicholas stated here's a picture of your house in 09; you see on the bottom here they've got those banisters on the bottom.

Mr. Petty stated this is new, but that was old.

Mr. Nicholas stated my question is those banisters here?

Ms. James stated no he hauled all of the old wood off.

Mr. Nicholas stated okay so you don't have the decorative ones that go down the bottom?

Mrs. Stilwell stated that go down the stairwell.

Mr. Nicholas stated well they've got the ones that go down the stairwell it's the last ones on the bottom that they don't have.

Mrs. Burton stated just a point for the Commission to let you know, we have been working with Mr. Petty and building inspections and investigating this contractor.

Mr. Nicholas asked what is the staff's position? It sounds like this occurred at no fault of his own. If he doesn't have the decorative one at the bottom, what's staff's position on it?

Mrs. Burton stated that would be determined by the Commission whether or not you guys are okay with them to leave it as it is.

Mrs. Stilwell asked but the City is investigating the contractor who misled him?

Mrs. Burton stated we are in the process of an investigation, yes. Mr. Petty did come into the office as soon as he was made aware of the situations that seemed to occurred without knowledge to him, so we've been working together to try and bring some kind of recourse we hope.

Mrs. Stilwell asked any comments from the Commission?

Mr. Nicholas asked have you had any contact with him since?

Ms. James stated he's not answering the phone. He's been by his home but he's not returning any messages. He's not available at all. We haven't seen him or anything.

Mr. Nicholas stated okay.

Ms. James stated this has been ever since we received the letter. Even before he came to speak to the staff, he went to his home first to see what was the issue because he let him know from the beginning that the home was in the Historical District and there were certain guidelines that he had to follow. He said he would take care of it because the first proposal that he gave he mentioned something about changing the banister and that he was going to try to get someone to make those and then when he came back he said that he couldn't get anybody to make them in the time frame that he had allowed himself to do the job. So he put the old ones back up.

Mrs. Stilwell stated well we are pleased that he put the old railings around the porch back up because we try to make sure people retain. Sometimes you have to replace one or two of those upright pieces or it's usually the top handrail that rots first- the uprights don't. But it sounds like you've been severely tricked by him. Would the Commission like to make any recommendations?

Mrs. Stilwell closed the Public Hearing.

Mr. Nicholas stated I have no problem approving the porch. It sounds like this gentleman did everything he could. There's no chance we're getting that decorative stuff back, right?

Mrs. Burton stated I'm not sure what kind of time frame we would find him. I suspect we will but I can't tell you a timeframe.

Mr. Nicholas stated I think the guy acted in good faith and did what he was supposed to do.

Mr. Nicholas made a motion to approve the request as submitted. Mrs. Crews seconded the motion. The motion was approved by a 4-0 vote.

3. *Request for Certificate of Appropriateness to replace existing t&g decking on the front porch with pressure treated decking boards at 879 Pine Street.*

Mrs. Stilwell opened the Public Hearing.

Mr. Micah Robinson was present on behalf of the request.

Mr. Robinson stated my name is Micah Robinson. Some of you know me as I have several buildings that I have restored to be historically correct. Tongue and groove porch flooring is one thing that I have a big problem with especially when it's being advised to use locally bought tongue and groove. Not only cosmetically does it not match the existing- it's grossly different- but it's also a number of problems associated with it. Let me give you a couple of photos for all of you to look at. One of those photos is a comparison between the local tongue and groove porch flooring, but as far as I know the only thing locally available for tongue and groove porch flooring is pine and the problem with it is it holds the water and soaks it in which I'm sure a lot of you are familiar with. It starts to buckle and rot.

Mr. Nicholas asked excuse me, where are you getting that we're requiring that it be local?

Mr. Robinson stated I'm not done yet first of all.

Mr. Nicholas stated I understand that but you said there's the preferences or the emphasis that it be local.

Mr. Robinson stated from my understanding I'm basically comparing what I'm trying to get. I'm trying to compare my solution that I'm requesting opposed to locally bought tongue and groove flooring which is being recommended to homeowners which is being installed. I know from personal experience that there's an issue with tongue and groove flooring. From my experience with locally bought, I'm not saying there's not other solutions I'm aware that there's other solutions that would cost thousands and thousands of dollars. For someone that's on a fixed income, they don't have that money and what you see is dozens and dozens of people in historic land districts changing over their decking without asking permission and changing over not trying to be historical because they're trying to be practical as homeowners and install something that's going to last for them and not continue with problems.

Mr. Nicholas stated right and you're raising a very important issue and that who in the world is telling you that it needs to be local. I'm not challenging you, I'm concerned on your behalf because that is not a requirement in the guidelines.

Mr. Robinson stated I could get tongue and groove mill for this particular project which is a decaying, crumbling porch on a Victorian gothic house which needs a mass of my work. I'm trying to work with him. He's on a fixed income and is an elderly gentleman. Yes I could for this twelve by twelve area I could spend another couple thousand dollars which would eat up all my profits from this job; I would go into the red pretty much. So he's on a fixed income. My point is I would like to pass around the photos and basically let me get to the point instead of rambling on and then you guys can ask questions. The

local tongue and groove flooring is not an option for me because it's grossly different in width and thickness as you can see from the photo. The modern style tongue and groove flooring will cause short and long term problems for the homeowner starting with in a couple of years including buckling, splitting, rotting, and premature peeling. I understand that may or may not be an issue for the Architectural Board of Review but that's definitely an issue for the homeowner. I am aware that I can get specialty mill from North Carolina but that's not an affordable option and that's not an option for a lot of people. Synthetic material can be used but that's not wood and it would cost just as much. My solution is to rip down and plane down pressure treated boards as you can see from the photo, and I lined up the existing tongue and groove with those boards so you can see they look very similar, minus the tongue and groove of course, which I think is a good thing because when water sits in wood it can cause buckling even if it doesn't rot. Well eventually it will rot even if pressure treated but the paint won't hold and by the way there's all kinds of coding of paints from Sherwin-Williams and others where pressure treated can be painted after it seasons. As you see from the photos it fills in the holes to basically make it look pretty like the same width of the existing minus the tongue and groove. You guys don't happen to have any water? I should have brought my own. I have some other notes but I'm going to let you all speak now. I'm going to stop talking.

Mr. Nicholas stated staff has made recommendation that we allow transition from a three and a half inch to a five and a half inch tongue and groove board. What's your position on that?

Mr. Robinson stated my position is that it's grossly different as you can see from the photo and it's a grossly different width and thickness. It will buckle, peel, and rot. As you can see from the photos those are locally bought and three to five years later they are buckling, peeling, and rotting. No one is going to take the time to soak them in a bath for 72 hours and even then it's not a guarantee that we won't have a problem. They can stain individually I understand, but because I'm tying specifically into this situation there's a reason why I can't go with this locally bought wood because of the financial difficulties of the man I'm trying to work with. I'm trying to get to the really important structural stuff. I want to put everything back the way historically - the columns, the box beams, all the little decorative themes- everything back the way it was. The only thing I need some compromise on is the porch floor.

Mr. Nicholas asked what about non locally bought wood? You keep saying locally bought wood for tongue and groove is expensive. What about non locally bought wood?

Mr. Robinson stated I guess you're talking about specialty milled tongue and groove. It would be about three dollars a foot.

Mr. Nicholas asked and how much is the locally bought?

Mr. Robinson stated locally bought pine I forget because it's been such a long time since I bought it. I hate the stuff. I think it's terrible for a homeowner. It causes all kinds of structural damage because the water soaks into and across the floorboards and whatever is pressure treated it will rot into those too. Older, original tongue and groove

would stand up better because it's thicker but as you see from that photo right there it will eventually peel, buckle, and rot as well. I see dozens and dozens of houses being converted over and maybe you guys catch some people here and there but you can't catch them all. I'm just saying if we had a more realistic, affordable option other than spending thousands and thousands of dollars that these people don't have or going synthetic, which then costs a lot of money, then I think it's going to be a problem. I'm hoping we can at least compromise and if we can't compromise then I'm open to suggestions.

Mr. Nicholas stated aesthetically for what you want to do, how would the porch look compared to that?

Mr. Robinson stated exactly the same. I'm going to get a drink. Is there a fountain around here?

Mrs. Stilwell stated I think what he means is commercially available versus specialty milled.

Mr. Nicholas stated okay then I'm thinking of something completely different in terms of art.

Mr. Davis stated it's \$1.98 for tongue and groove.

Mrs. Stilwell asked which one is it going to look like?

Mr. Nicholas asked \$1.98 a foot?

Mr. Davis stated yes.

Mr. Robinson asked what's \$1.98 a foot?

Mrs. Stilwell stated what's locally available commercially.

Mr. Davis stated it's \$1.98 per square foot versus \$3.00 a linear foot because the milling places go by linear feet. So it'll be \$15 a square foot versus \$1.98 a square foot.

Mrs. Stilwell asked is this what it's going to look like or is this what it's going to look like? I'm confused.

Mr. Robinson stated that one. (points to picture) That's just a random house, I couldn't tell you where it's at. I'm assuming it was approved. In my opinion it's just way, way wider and that one is way, way thinner and it just doesn't match at all. It's going to cause the homeowner problems in the future. If someone did my porch I would probably request the specialty mill lumber and do that, but considering the circumstances maybe he could change it later. Maybe if he changes the whole porch he can switch over to tongue and groove, but right now this house is in desperate need of attention. Getting a sound, structural base is my main concern so I can get on to the really important things and make sure everything else is historically correct and accurate, but I can't do that until I get this down.

Mr. Nicholas asked is Raleigh Wright here?

Mrs. Stilwell no. Let me comment. This is Dr. Stokes' house in the Pines correct? This is the Italianate-Gothic house, 1875 I think is the date. It's in the 52 landmarks and there are some serious problems that do need some attention. In my opinion the flooring on the decking is not nearly as important. He's got trees growing out of the gutter. There's barge boards that stick out that need to be replaced. There's a lot of work that this house needs.

Mr. Nicholas stated it seems to me that this does not meet the design guidelines so let me ask staff this. If we were operating in the new system which we're not yet, do you have a problem with this request from an aesthetic point of view, recognizing that it does not meet the guidelines? Do you think it fails to maintain or maintains the historical aesthetic of the district?

Mrs. Burton stated if we were operating under the new guidelines then I think the porch could be slightly altered so that the skirting is going to be that change on that end viewpoint which is your view if you're walking from the sidewalk- you're going to be able to see that difference. There's a large bush there now, but that could be removed at any point. You're going to see tongue and groove, tongue and groove then also you're going to run into this rectangle area that's going to be pressure treated lumber. Maybe that could be altered in some manner, so it's not quite as obvious but I think it would stick out.

Mr. Davis asked are you looking to do the entire porch or just some of it?

Mrs. Burton stated it's just a twelve by twelve area.

Mr. Robinson stated at some point that could be possible if it's within his financial means because right now he's on a fixed income. Do you see the photo? It does blend in rather well I think, I mean one is tongue and groove and one is not but they fit the same way. My thing is it blends in a lot better than the tongue and groove three quarter inch thick but if I need to go with that, I will do that. I will say no other licensed contractor that knows what he's doing would even touch this project, so it's either this house decays and is torn down like all the rest or I continue with this project. And I do want to comply, but I'm wondering you're talking about what is in the letter of the law as far as the guidelines. I am more than happy to follow all of the architectural details, but in my opinion the guidelines being cosmetically correct as far as tongue and groove if you look close at it; I'm wondering how we're going to deal with this in the future. On West Main people have historic houses that are converting over all the time, so are you going to go after all of them?

Mr. Nicholas stated the answer to that question in my opinion is that right now as we sit here today, we are constrained by the guidelines. You either meet them or you don't and you have extenuating circumstances. Finances alone are not genuinely enough of extenuating circumstance. There is a measure pending before City Council that alters the legitimacy this board has to follow. That is we can find that you don't meet the guidelines, but what you want to do does substantially comply with historical character

of the district, which really sounds like what your argument is. When we are able to operate under that, which if all goes well will be the January meeting, then I believe your request is well taken. Does that make sense to you? They're changing the rules to make it more lenient to be exactly what you want it to be.

Mr. Davis stated it may be best for us to table this and ask that you come back next month.

Mr. Nicholas stated that was my next question. If we take a vote today and I can only speak for myself, technically I feel that we have to deny this because we have to apply the rules as written. We don't have the authority from Council to give wiggle room when some responsible contractor such as yourself present a case as you do.

Mr. Robinson asked can there be a waiver of any kind?

Mr. Nicholas stated there can be once the new rules are set.

Mr. Robinson asked in other words is there a waiver of time where you guys can say six months from now, or can it be a temporary repair so I can move on with the other work on the house that needs to be structurally done? So I can start getting it historically correct so this house stops falling apart with holes in there the size of a basketball.

Mr. Nicholas stated the only thing before us is the porch.

Mr. Robinson stated yes it's the porch floor but I need to move on to the other structural elements.

Mr. Nicholas asked what is stopping you from doing that?

Mr. Robinson stated well it would be a lot more difficult working on the pressure treated choice as opposed to a platform.

Mrs. Burton stated the decking boards had already been removed so there's a hole in the porch at this point.

Mr. Robinson stated I did not remove the decking boards by the way. I came on the scene, he was desperate for someone to do this, and I didn't want to do this but I felt sorry for him because he's an elderly guy and obviously he's on a fixed income. No one's going to touch this with a twenty foot pole. It's either me or no one. I'm going to try and help him out and do this one step at a time.

Mr. Nicholas stated I know you want to do the right thing, I'm just trying to find a way to do it.

Mr. Davis stated you brought up the word temporary and if this is going to be a temporary relief, if plywood is put down to make the worksite safe during his working and readdress the area he's working in and remove the plywood and then go back and readdress the porch situation because the plywood would be temporary.

Mrs Burton stated at this point he has an active application before the Commission so there are no outstanding violations and that would not create a violation because he is in the process of having his application reviewed.

Mr. Whitfield stated all he's doing with the plywood is creating a safe area or platform.

Mr. Davis stated because it is temporary then he could do that and have it removed later.

Mr. Whitfield stated then he would have to remove it or it would be a violation otherwise.

Mrs. Burton stated so when you hear the case again after being postponed, you could address that in your motion to ensure that it is removed.

Mr. Nicholas stated here's where this is all leading. Do we need to approve a plywood platform?

Mr. Whitfield stated no because it's temporary.

Mr. Nicholas stated the only vote we would make today is to carry this case over and continue it until January. City Council will hopefully pass the new rules to give us the wiggle room that you're asking as compromise on December 16th then we'd come back in January to do this again. Then we're not constrained by the literal laws.

Mr. Davis stated in the meantime you can put a piece of plywood down for your safety and meet your requirements that you need to keep you safe.

Mrs. Stilwell asked so does he need to withdraw or do we need to table? What do we need to do?

Mrs. Burton stated you just need to table it.

Mr. Nicholas asked are you okay with this solution to the problem?

Mr. Robinson stated my only question - and I appreciate you working with me - is a couple pieces of plywood I would probably have to pressure treat. I guess what I'm getting to is that material I have would almost be not much more expensive than putting some of that down instead. Could that be done?

Mrs. Burton stated to me that would be a permanent application if you were to put down decking boards. Not just lay down a sheet of plywood because you are cutting them specifically and installing them specifically.

Mrs. Stilwell stated and labor wise that's more expensive to do that.

Mr. Whitfield stated the plywood is your temporary construction material tool. It's nothing more than a platform so that you can go get the other work done and then bring this back to us.

Mrs. Stilwell stated then bring this back to us.

Mr. Nicholas stated what will end up happening in the new system is we will take a vote to see if this meets the new guidelines. I anticipate- and I can't speak for anyone else- that the vote will be no it doesn't. In the new system, we can take a vote that says it doesn't meet the guidelines, but it does maintain the design characteristics of the historical district which is what your argument has been. If that vote passes, then you get your Certificate and you get what you ask for. We can take it up in that system in January.

Mr. Davis stated yeah, right now it's coming down to timing. Our hands are tied.

Mrs. Stilwell stated we are under the 1971 guidelines. And of course in 1971 none of this was expensive, we had Danville lumber doing mill work here, it wasn't the problem it is today. You can't buy those products today; they don't exist unless you pay custom prices.

Mrs. Burton stated if you were to be denied today, it would be at least a year before you could bring your application back.

Mrs. Stilwell stated so this is a better wrinkle of course.

Mr. Robinson stated just out of curiosity- and I know I rambled on, I'm sorry for that- the tongue and groove flooring, am I making any sense to you guys with that?

Mr. Davis and Mrs. Stillwell stated I totally understand.

Mr. Nicholas stated I understand now that it has been explained.

Mrs. Stilwell stated most of these people have tongue and groove porches so they understand.

Mr. Robinson stated I do to on my Holbrook house, I like tongue and groove it's just the thinner wood is not a good option.

Mrs. Stilwell closed the Public Hearing.

Mr. Nicholas made a motion to table the request until the January meeting. Mrs. Crews seconded the motion. The motion was approved by a 4-0 vote.

4. Request for a Certificate of Appropriateness to install a natural gas generator in the common area at 306 Sutherlin Place. The generator is located in the grassy area along West Green Street.

Mrs. Stilwell opened the Public Hearing.

Present on behalf of the request was Mr. Michael Behler.

Mr. Nicholas stated is there anywhere that you can put this so you won't be in violation?

Mr. Behler stated we looked at everywhere even on the inside of the fence. According to code it has to be six feet from any opening or any major electrical appliances from what

we understand. You have to see the backyard, I guess I should have taken some pictures of it. There's really nowhere from inside the fence where we could put it.

Mrs. Stilwell asked how about to the left in a common screened area that currently contains other equipment which was suggested by staff? I haven't been on the inside but I understand as Mr. Nicholas lives across the street.

Mr. Behler stated we have a picture there of where the generator is sitting. On the left you see the generator with the staircase behind it. On the right you see the generator with the staircase under it. If you took that staircase and you followed it up into the backyard, the backyard is behind the building like this. Then the one to the next door sits like this and it's as wide as that staircase, the distance between the two areas. It goes up and it goes back to the building with a fence here and a fence here to separate the two yards. Inside that area, there are four compressors sitting for the heating and air conditioning. With those sitting there from the front of the unit to the edge of the building is exactly 36 inches and that's the requirement that this has to have for those compressors. They take up that whole entire area. So now when it comes out to where those gates come out to that common area to come outside, there's only a four by four foot area that both of the tenants can walk into to come out that back gate and down those steps. So there's really no room in the back that it would fit. We even thought about elevating it, but the generator people told us that it wasn't a good idea.

Mr. Nicholas stated alright well let me ask staff. Is there a place where he could put it that would meet code?

Mrs. Burton stated from our standpoint it would be from behind the wall. Now what is on the other side of the wall, I can't speak of as far as I'm concerned it's probably a patio area with outside living space. The installation guidelines for this particular generator does require a 36 inch clearance front and sides but 18 inches minimum distance on the rear. It appears there is enough room in the back of that wall where it would not be visible from the back of that street.

Mr. Davis asked how deep is that actual backyard?

Mr. Behler stated it's about eight feet.

Mr. Davis asked so is this their three by two and a half here then or is this a four by three unit?

Mr. Behler stated it's about four foot long.

Mr. Davis stated so 48 inches minimum to the front of the unit, so that's four feet from the back of the wall to the front of the unit, then you need an additional three feet clearance and it has to remain open so technically that takes it to seven feet so effectively constrains your backyard to one foot.

Mrs. Burton stated it's 18 inches.

Mr. Davis stated if the unit is 30 inches deep, it's 18 inches from the back so that would be four feet plus seven feet of unusable space. Plus there's this six foot major appliance zoning because of magnetic electrical fielding that can take place and cause disruptions. So if their kitchen is actually on the backside of that wall and they have an electric range, that range is actually decreased even more so that major electrical appliance will fall inside that. I am assuming that's where a kitchen would be is on the backside.

Mrs. Burton stated I don't know the interior design.

Mr. Nicholas stated and according to this, there can be more than one front yard within the Zoning Code.

Mrs. Burton stated correct. As long as the yard abuts a public street, it is considered a front yard. So this unit is actually placed in the front yard.

Mr. Nicholas stated that no one but Zoning officials and lawyers would ever understand.

Mrs. Burton stated until you are beside someone that puts something in a front yard within a structure view then you understand, but yes. Just as a corner lot, a corner lot is the same as with the two front yards.

Mr. Nicholas stated assume for a moment that there is no place in code that they could put this generator behind the wall, what is staff's position?

Mrs. Burton stated it appears that this is something that is an obstruction. If you're driving on West Green Street it's very obvious. It is also an equipment that we as a Commission have made precedence that they are to be in the rear yard or in as far back toward the rear yard and the side yard and as screened from the view as possible. Even that in this particular situation when you're up against the brick wall, a screening of four or five boxwoods, it's still going to be extremely obvious; it's not going to be a natural screening. Staff is recommending to deny.

Mr. Nicholas asked is there a place on the side yard where this could go?

Mr. Behler stated not that we know of.

Mr. Nicholas asked has that possibly been investigated?

Mr. Behler stated well we looked at just about everything unless the association you're calling it the front of the house, the association doesn't want it on the front of their house so besides the front and the back we really don't have any other place to put it.

Mrs. Stilwell asked so the front yard of the townhouse would be a violation also because it's a front yard?

Mrs. Burton stated no.

Mrs. Stilwell stated that's not a public front yard, it's a private front yard.

Mrs. Burton stated correct, that is not by Zoning Code a front yard.

Mr. Davis stated but then that becomes an issue with the development.

Mrs. Burton stated potentially but i don't have an answer to that. I mean there is a homeowner's association.

Mr. Davis stated it seems like this is also overlaying a Zoning issue more than falling into the CAR.

Mrs. Stilwell stated it looks pretty bad on the street there.

Mrs. Burton stated it's not technically a structure, which structures are not allowed in the front yard, but it is equipment.

Mr. Nicholas stated alright now let me ask this. If this was not the historic district, does staff have a problem with this? Does he need to go to BZA for a variance? The only reason we're here is it because it's the historic district or is this stop one of two?

Mrs. Burton asked you would not happen to have any kind of building violation with this location, is that correct?

Mr. Walter Lucas was present on behalf of the City's Inspections Division.

Mr. Lucas stated no there wouldn't be as long as they've met the manufacturer's installation instructions as far as placing away from the structures and openings of buildings. It's strictly going to be electrical permit required on it.

Mrs. Stilwell stated I thought it was a gas generator.

Mr. Behler stated well the City already put the gas line in.

Mrs. Stilwell asked to this location?

Mr. Behler stated right.

Mr. Nicholas stated wait a minute. The City put a gas line in and now objects to it?

Mrs. Burton stated what has occurred as I understand it is the generator was placed where you see it now in this location. The gas division was contacted about running a gas line and that was approved by the gas division. now in order to actually connect the device, they do need a permit. The permit itself was not issued. That is where we stopped the process.

Mr. Behler stated the gas line was put in first.

Mrs. Burton stated because the permit is not required. It's not actively connected at this point because we stopped the process.

Mr. Behler stated I'm doing this for the customer. She wanted to do this because of her physical problems. So we decided to go ahead and find out. We called Generac and got their salesman to come up to give us the price and he told us that he would handle the permits and everything. They have a gas propane tank out there, the gentleman said at

the time if we were going to use propane then we would have to get a bigger tank. Well we don't have room for a bigger tank so we decided to go into the City to see if they would put a gas line in. So when they said that they would she decided well go ahead and get the generator because we've got the gas to hook it up to. The gas was already there, then they brought the generator and set it in place and then was going to go down and get the permit so we could start hooking everything up. So it's just sitting there right at the moment.

Mr. Nicholas asked if you had to move it, would you have to run a new gas line?

Mr. Behler stated well yeah because we're going to have to hook it up, but the one we have now we're about five or six feet away from.

Mrs. Stilwell asked the gas line is about five or six feet from the generator at this time?

Mr. Behler stated yes. It's within Code, whatever the Code was. I think his name was Mr. Turner told us where we would have to set the generator in Code away from the City meter.

Mr. Nicholas asked did a City official tell you where to set the generator or did you pick that?

Mr. Behler stated no we picked that. We sort of talked to them about the best place of where it could go, so it was kind of a collaboration of everybody's mind on where it should be. The generator company come up and told us the rules and regulations that it has to be so far from the door, so we're out there taking measurements trying to find the best place to put it.

Mr. Nicholas asked so when were you told this was in violation?

Mr. Behler stated well actually we weren't told that it was in violation. When they come to get the permits, they called us back on the phone and sent a letter saying it was in the Historic District. We didn't know that.

Mr. Nicholas asked how many different City people did you talk to about this before Generac went and applied for it?

Mr. Behler stated just Mr. Turner. I think he's the Engineer for the City.

Mrs. Stilwell stated I mean it is very unsightly, but it's not going to be there forever. I look at it that way. It's a piece of medical equipment for a resident who needs that medical equipment. I mean it could be there for twenty years, five years, two months.

Mr. Nicholas stated here's my problem.

Mr. Whitfield stated should we close the Public Hearing before we hear your concerns.

Mrs. Stilwell closed the Public Hearing.

Mr. Nicholas stated here's my concern. When somebody acts in good faith and goes to the City and says I need a generator, where can we put it, where does it meet Code,

where can we draw the lines to hook it up, why is it not until the very end until they've got the location and they've got the thing there and they're ready to hook it up but nope sorry. Does the left hand not know what the right hand is doing? Why do we get to this point where now I think residents have a legitimate gripe of we didn't just do this but we talked to the City, we worked with the City, if we had known this at the very beginning it would have saved a lot of time and energy.

Mrs. Stilwell stated and money.

Mrs. Crews stated but that's not what Mr. Behler said though. Mr. Behler said that Mrs. Miller could not get a propane tank of a larger size so she opted into purchasing a Generac gas.

Mr. Nicholas stated but didn't purchase it until after.

Mrs. Crews asked is that what you said?

Mr. Behler stated no the reason she purchased the gas is because we were going to get the propane because we've got the propane tank there but the Generac guy said that we would have to have a larger tank. There's no place to put a larger tank. So we asked if there was a possibility of getting gas, and we opted to get a gas line.

Mrs. Crews stated no City yet, you see that.

Mr. Nicholas stated right, but my point was not getting the gas. My point was the location. When you decided to put this where it sits today, did you talk to the City first?

Mr. Behler stated we talked to everybody. It was the City that told us where they were going to put the meter.

Mr. Nicholas asked did you buy the generator before or after you talked with the City?

Mr. Behler stated we bought the generator after the gas line was put in.

Mr. Nicholas asked was that after you talked to the City?

Mr. Behler stated yeah, after they put the gas line in. We were talking about buying it, but we didn't know where we were going to put it and everything. So really the gas line helped us determine where to sit it if we could sit it up.

Mr. Davis asked and putting it in green, there is around the generator now you're saying unsightly because it's not matching the rest of the green on the outside?

Mrs. Burton stated correct. In this particular situation when installing a generator, the permit is needed to do the actual connection. And that is the case even for an HVC unit, it would be a connection.

Mr. Lucas stated the way it would work with utilities, just like if you were building a new house, you call water and gas and you tell them where you want the sewer line connected to the main sewer in the City. That's when they put your sewer tap. You tell them where you want the gas meter, where you want the generator, and they run the

gas within so many feet of the appliance. The City's only responsible up to the meters. From the meter to the appliances is the property owner's requirement, so before water and gas can put that pipe in which does not require a permit, somebody had to tell them where the generator was going to be placed so they would know where to dig their trench. Whoever the contractors were and the way we got involved in it was water and gas called us to go out and inspect a hookup. We had no electrical permit to install the generator nor a gas permit to install a gas pipe. That's where we got involved and we got involved in the whole thing. Nobody came to the inspections office first to see what needed to be done.

Mr. Nicholas stated then I withdraw my previous tongue lashing. I apologize for that.

Mrs. Burton stated apology accepted.

Mrs. Burton stated not that I didn't have a conversation with the gas division about items like this as well.

Mrs. Crews stated if we moved to Susan's point then with it being a temporary medical necessity, what implications would that lead to?

Mrs. Burton stated we have done that in the past. We do currently have a handicap ramp that is on a front yard on Green Street that does have the condition upon the death of the current resident it is to be removed. It is affixed to the motion ultimately.

Mrs. Stilwell stated I would say death or relocation of the resident needing the disability equipment.

Mr. Nicholas asked does she own this property?

Mr. Behler stated yes.

Mr. Nicholas stated then when ownership of the property changes. If she sells it, she'll lose the Certificate. If she passes, then she'll lose the Certificate because then the ownership changes. So we can condition approval on ownership remaining unchanged.

Mrs. Burton stated you can, yes.

Mrs. Crews asked what is the staff's position on that?

Mrs. Burton stated that it is extremely hard to regulate. I do not know Mrs. Miller. With her passing, I wouldn't know. Not that I'm wishing hardship on anyone.

Mr. Whitfield stated if she wins the lottery and moves to the Bahamas tomorrow...

Mrs. Burton stated if she does move to the Bahamas who's to say she doesn't want to rent this unit. It doesn't change ownership. She still owns it but she still lives in the Bahamas and Jim Smith still lives there. It's just difficult.

Mr. Nicholas asked is there a covering? If there were already giant crepe myrtles surrounding this thing and you couldn't see it would it still be a violation?

Mrs. Burton stated it would still be a violation, yes.

Mrs. Stilwell stated it's not permitted to be in a front yard.

Mrs. Burton stated it might not be as obvious, but it would still be a violation because it was installed within public view without a Certificate of Appropriateness.

Mr. Whitfield stated I assume what he's saying is assume the crepe myrtles are something you can't see.

Mr. Nicholas stated if you're standing on the road and you can't see it through the trees, is it still in violation?

Mrs. Burton stated it is not in violation if it is not within view. Once the tree dies, it could be a twenty year old generator that I've now sighted for violation.

Mr. Nicholas asked what could we use for cover so that she can get what she needs? I know we asked in the very beginning, but is there nowhere within that brick wall? Because this solves the problem if this can go within the brick wall then you don't need a Certificate from us.

Mr. Behler stated there's a walkway between the two buildings, but I'd have to check with building inspection I guess to see if it fits within that walkway.

Mrs. Stilwell asked that's where they bring their trash cans out on the steps right?

Mr. Behler stated the walkway is on the other end of the yard.

Mr. Nicholas asked is that walkway visible from the right of way?

Mr. Behler stated yes, but it would be on the inside of the wall. I don't know that you'd be able to see it.

Mrs. Burton stated I don't know what is behind the wall, it simply could be a patio set.

Mr. Behler stated if you look on the picture right here on the edge where there's a gate right there and some wrought iron going around, it's on the inside of that. But now on both sides, the walkway I'm going to say is about 40 inches, maybe four foot wide. You have on one side a slope that goes up to Mr. and Mrs. Miller's house that I'm going to say is about five foot then on the other side the little area that's about three foot. So if this thing started up, the people who live on the other side of that building right there, their front door is right there. So they would definitely be hearing this thing.

Mrs. Stilwell asked but this is emergency backup in case of power outage right? This is not something that she's going to be using as electricity.

Mrs. Burton stated right, generators will run on occasional basis for general testing.

Mr. Behler stated it's supposed to run once a week for like fifteen minutes or something like that. Supposedly I'm just telling you what the generator company told us, it's not

loud and nobody should be able to hear it over top of the wall. But you know, if it's in that little cove right there I believe those people may be able to hear it when it starts up.

Mrs. Stilwell asked can we table this and have you come back with a possible interior location? I know she's worried about having this backup, I can understand if you need it. What do you all think about that?

Mr. Davis stated if she puts it in the back wall the only thing is it's going to be 18 inches off the wall plus it would be 32 inches that she would lose. Technically she's not supposed to be within three feet of that.

Mr. Behler stated this is what we measured. Then because of the six foot from any interior opening, that's one of the reasons why it won't fit. Six feet off the door then you're looking at 36 inches off the wall is not a lot.

Mrs. Stilwell stated but just off the walkway there's a slope of about five feet that could have a leveled path.

Mr. Behler stated yes on the other side of the building. Right. Now I can go and check that but now here again the problem is they're trying to keep the neighbors happy because their front door is right there.

Mrs. Stilwell asked like five feet away?

Mr. Behler stated oh yeah.

Mr. Nicholas stated if it's visible from a public right of way then it doesn't solve the problem.

Mr. Davis stated their front yard would still be visible from Holbrook.

Mrs. Burton stated if it's visible from Holbrook then we would still need to hear the case. But if it's technically in what she calls her front yard then it would be just a matter of whether or not you could see it by sidewalk of Holbrook. If it could be relocated to what she determines as the front of her unit and screened or placed there without being viewed, it could be a different scenario.

Mr. Behler asked is there anything that could be built around this? For example you've got brick wall. What would happen if we set it and come out further, and instead of those trees we built a brick wall?

Mr. Nicholas asked you could match the brick wall?

Mr. Behler stated we could try. That's some pretty old brick.

Mrs. Stilwell stated it's not that old, but it's like American National Bank brick. They make it in Lawrenceville. It's not cheap. But is that then going to encroach into the City right of way if they were to bring a wall out?

Mrs. Burton stated yes it could be no taller than four feet.

Mrs. Stilwell asked well this is less than four feet isn't it?

Mr. Behler stated yes.

Mr. Nicholas asked if they built a wall around this, would that cause any other issues requiring any other form of approval?

Mrs. Burton stated no it would simply be a fence or wall no taller than four feet is allowable by Zoning Code.

Mr. Nicholas asked and there's no setback issues?

Mrs. Burton stated just that it is set back from the public right of way on to private property. It's a maximum height of four feet.

Mr. Nicholas stated it could be lower than four feet. It could be three feet.

Mr. Behler stated or just high enough just to the top of that.

Mrs. Burton stated as long as it does not come any closer to the right of way line. As long as you're just going to encase it in that three foot clearance, you're not going to do that. That would be allowed by Zoning Code.

Mr. Behler asked and I could get someone to mark that up and come down and check it just to make sure?

Mrs. Burton stated sure.

Mr. Behler stated I don't know what it would cost. What would you like it made out of, brick? Would you want it out of lumber?

Mr. Nicholas stated to make it easiest, the closest you could match it to what's there.

Mrs. Crews stated we're being very presumptive to assume that the Homeowner's Association will accept this as well.

Mr. Behler stated I know we've got to get that ok'd.

Mr. Whitfield stated that also gives them time to come up with other solutions if you table it.

Mrs. Stilwell stated that's what I'm thinking. Table it then come back with other alternatives if there are any. We certainly understand when people have medical problems, they need some leeway.

Mr. Nicholas stated maybe we're going too far down. What if we just condition on her ownership and her occupancy of this building. If she sells it or passes then it changes.

Mrs. Crews stated I would have for her to have a medical emergency during a power outage in January.

Mr. Nicholas made a motion to approve the request conditioned on Sue Miller continuing to own and occupy 306 Sutherlin Place. Mrs. Crews seconded the motion. The motion was approved by a 4-0 vote.

APPROVAL OF THE MINUTES

There were no minutes submitted for approval. Minutes for October 23, 2014 and November 6, 2014 will be presented at January meeting.

OTHER BUSINESS

The Design Guidelines are set to go before City Council on December 16, 2015.

Election of officers will be held during the January 22, 2015 meeting. There will be a January meeting.

The vacancy on the Commission has been filled by Jeffrey Bond whose first meeting will be in January.

There are still a few outstanding violations including the decking at 879 Pine Street, the satellite dish at 155 Holbrook, and a violation on 245 Jefferson Ave.

Mrs. Burton informed the Commission that there have been issues with contractors not doing proper work and that the City plans to take actions to help control this.

With no further business the meeting adjourned at 4:46 p.m.

Approved