



**OAK RIDGE HISTORIC PRESERVATION COMMISSION MEETING
JUNE 10, 2015 - 7:00 P.M.
OAK RIDGE TOWN HALL**

MINUTES

Members Present

Ann Schneider, Chair
Debbie Shoenfeld, Vice Chair
Mac McAtee
Ron Simpson
Michelle Davidson
Kristin Kubly, Alternate (Not sitting)

Staff Present

Sandra Smith, Town Clerk/HPC Staff
Bill Bruce, Planning Director
Bruce Oakley, Town Manager
Michael Thomas, Town Attorney

Members Absent

Caroline Ruch, Alternate
Paul Woolf, Alternate

1. CALL MEETING TO ORDER

Chair Ann Schneider called the meeting to order at 7:00 p.m. After welcoming attendees and introducing Commission members and staff, Schneider read a brief statement on the purpose, duties and responsibilities of the Commission. She explained that the COA to be heard is a quasi-judicial proceeding rather than a public hearing, and that members of the public would be invited to speak during the citizen comments portion of the meeting.

2. APPROVE AGENDA

Mac McAtee made a **motion** to approve the meeting agenda. **Ron Simpson** seconded the motion, and it was passed unanimously (5-0).

3. APPROVE MINUTES OF THE MARCH 11, 2015 AND APRIL 8, 2015, MEETINGS

Debbie Shoenfeld made a **motion** to approve the meeting minutes. **Mac McAtee** seconded the motion, and it was passed unanimously (5-0).

4. OLD BUSINESS

A. Town Council report. Shoenfeld drafted the report and Schneider presented it at the last Town Council meeting. Shoenfeld was asked to draft the report for the next month's Council meeting, and Schneider said she would present it.

B. COAs approved/reviewed at staff level.

None

C. COAs approved but not completed.

Staff reported that the only outstanding COA at this time is for the Lowes Foods renovation, which is underway.

5. **NEW BUSINESS**

A. **Swearing in of new HPC member.**

Town Clerk Sandra Smith administered the oath of office to HPC alternate Kristin Kubly and had her sign a copy of it for the record.

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Schneider stated that the Design Guidelines are designed to provide recommendations for design aesthetics within the Oak Ridge Historic District. The goal of the Commission is to see that any proposed changes are not incongruous with the special character of the Historic District. Since the Commission will be conducting a quasi-judicial evidentiary hearing, the Commission is tasked with being impartial. She said the Commission members' individual opinions should not be expressed and the individual opinions of others should not be taken into consideration; the Commission should take the evidence presented, apply it to the Historic District Design Guidelines, make findings of fact and render a decision accordingly. The Commission may approve, disapprove or continue consideration of the COA request, but a decision must be made within 180 days.

Schneider said each COA applicant will be invited to make an introductory statement regarding their application and can include additional information on how the application meets the Design Guidelines or provide a brief update and clarifications; presenting major changes to what was submitted in the application would not give the Commission sufficient time to consider them adequately and, in general, would not be considered. Schneider said that, as noted previously, there would be an opportunity during citizen comments to make comments, but otherwise discussion would be limited to the Commission. While she hoped it would not be necessary, Schneider said she would give a verbal warning, gavel, then a second verbal warning if there are interruptions within the context of the Commission's discussions. She asked Commission members to cite the applicable sections of the Design Guidelines in their discussions on which to base their decisions or, in the case of an amended COA application, to refer to previous COAs granted to help make findings of fact. In the interest of time and for organizational purposes, she asked Commission members to pose any questions they had to the entire Commission for review before asking the applicant.

B. **COA-05-13A: Oak Ridge Foundation/Kevin James requests approval of an amended COA for COA-05-13, dated 8-23-13. The project is at Holt Hall, located on the campus of Oak Ridge Military Academy, 2317 Oak Ridge Road, tax parcel 0162858, zoned PI.**

Schneider asked all Commission members to disclose any potential conflict of interest, and said the other Commission members would decide if such a conflict existed and if that Commission member should be recused. Such conflicts could include having fixed opinion; having discussions or communications about a case

outside of these proceedings with the applicant, staff or other parties; having a close business, family or other relationship to the applicant or others involved in the case; or having a financial interest in the outcome of the case. Each Commission member was polled, and no conflicts were disclosed.

Smith swore in applicant Kevin James and Planning Director Bill Bruce.

James handed out a packet of information, which is hereby incorporated by reference and made a part of the minutes. He said he was trying to complete the COA for Holt Hall. He said originally when Irvin Angel had requested that the Commission approve the addition to Holt Hall, Angel had asked that the existing landscaping be replicated. James said when he got involved in the project, he realized the existing landscaping consists of Nellie Stevens hollies.

James pointed out information in the packet provided that shows the size to which Nellie Stevens hollies grow, and said they grow too large to be placed in front of the dorm. James said in the past, there had been problems with students jumping out of the windows and climbing down the bushes, hiding behind them, and smoking or doing other activities, so the bushes – which grow to a height of 30 feet – had been cut back. He noted photos provided in the packet that showed just how large the hollies had been originally, while other photos showed them after Angel had requested that they be cut back so the building could be painted. He said even after the bushes were trimmed back significantly, students were still jumping out the windows onto the bushes to get out of the building. He referred to yet another photo, which showed the holly bushes drastically trimmed as they appear now.

James said three of the Nellie Stevens hollies had been removed from the end of the building in order to construct the new restroom addition. James said that he is a landscape contractor, is on the Academy's Board of Trustees for buildings and grounds, and that he brings employees from his company to the Academy each month to work on the grounds. Although the approved COA said the landscaping around the building would be replicated, his plan – if approved – was to come back in the fall and remove all the Nellie Stevens hollies along the front of the building and re-landscape with more period-appropriate plantings. He said he was in the process of obtaining old photos from the Academy's archives to see what was planted in front of Holt Hall when the building was constructed.

James said Town Clerk Sandra Smith had reached out to the president of the Academy regarding the completion of the COA, and the president had asked James to handle it. James said Smith had explained that if he would plant the hollies in front of the new building addition, the COA would be complete; however, he said he felt if he could hold off until the fall and then plant something more appropriate, that would be a better option. He also provided information in the packet on Green Mountain boxwoods, saying he thought that was a more period-appropriate planting because he believed it was similar to what had been in front of Linville Chapel. He said he understood landscaping needed to be done in order to complete the approved COA, and while he was willing to plant Nellie Stevens hollies, he hated to plant something inappropriate only to come back later and remove it.

Schneider said the information presented by James had been very helpful. She said the Commission would call him back up to the podium if it had additional questions. She said the COA request seemed somewhat unusual because, while it made a lot of sense, what it was really asking for was the ability to come back later and provide more information. Bruce said staff's original concern was that this was an unfinished COA, and that Smith had contacted the applicant to indicate what needed to be done to complete it, which had resulted in the amended COA request. He said staff was not aware of any timeframe to replace the plantings, although James had provided a rough plan for when the replacement bushes would be installed. Bruce said he thought it was up to the Commission to decide if that was an appropriate time period to wait to apply the standards of the Guidelines.

Shoenfeld said that this fall was being discussed, and that she had no problem with the applicant submitting a new landscaping plan or planning to do the work then, but what she would like to see was a landscape plan which specifically stated the work would be done this fall. McAtee said he would go even further and request a date certain that the new plan be submitted to town hall or that the previously approved COA be enforced.

Schneider said her concern was that typically, the Commission would need to know specifically what plants would be installed. She said looking at the original plantings sounded like it would be consistent with the historical nature of the building and would conform to the purpose and intent of the Design Guidelines, but she saw the issue as one where (a) the Commission should approve the amended COA request and require another amended COA, or (b) the Commission should defer a decision until the full information on the plantings has been received.

Simpson said his problem was that he thought the amended COA request was incomplete because it says the applicant does not want to plant the hollies, but it doesn't really say that the applicant has another plan in mind and intends to submit another landscape plan in the fall. He said the request before the Commission does not really tell the full story, and he did not know if the Commission could amend that during its proceedings or if it just needed to ask the applicant to provide a more complete description of what he intended to do. Simpson said that had been done verbally during the presentation, but he was unsure whether the Commission could cobble all that information together to determine that this was a complete application.

Schneider said the Commission needed to determine the eligibility and completeness of the application. Town Manager Bruce Oakley said that the Commission could possibly continue the matter until the application is complete, and Schneider added that one of the Commission's options is always to defer its decision. She again said the Commission needed to decide if the application is eligible and complete.

Michelle Davidson said she thought the applicant was requesting permission to plant Green Mountain boxwoods, and James said that was correct. James said that perhaps in the early 1980s, Claudia Whitaker (a local resident and Garden Club member) had a landscape architect create a landscape plan for the front of Linville Chapel and that she had photos and other information on that plan. He said

Whitaker had told him at the recent Linville Chapel rededication that there had been boxwoods in front of Holt Hall as well. He said his landscape plan was to simply replace the Nellie Stevens hollies with boxwoods. James said although the original bushes were likely American boxwoods, that particular specimen was no longer recommended and that Green Mountain boxwoods were a good substitution. He compared planting American boxwoods to planting Leyland cypresses, saying that practice is not typically recommended now. He apologized if he had not adequately explained his plan, but said the boxwoods would simply replace the Nellie Stevens hollies along the front of the building.

Davidson mentioned the root system of a holly, and said she owned at least seven holly bushes and hers were at least 15- to 18-feet tall. She said it was a pretty tough kid who could climb down a holly, but said she could see that it could happen. Davidson thanked James for coming and explaining the situation, for realizing that the original approved plan might not work, and said she appreciated that James was respectful enough to come back before the Commission.

Schneider said this was an unusual situation because the Commission was being provided with a key piece of information at the meeting. Bruce said that James had said in his letter that accompanied the application that he would like to submit a landscape plan for approval at a later date. Bruce said he thought that would come before the Commission later; he noted that what staff was concerned about now was that typically if a COA is in violation, staff would proceed with enforcement. Bruce said James was saying that he needed more time to submit a landscape plan that contains more appropriate plantings for the Commission's approval. Bruce said staff needs to know if it is appropriate to now proceed with enforcement regarding the missing plantings or instead wait for a date certain for the Commission to review an amended landscape plan.

Schneider said that information was helpful, but that the Commission was considering two pieces of information that are somewhat conflicting. She said while the applicant saying that he would like to plant boxwoods instead of hollies sounds like it is probably a good idea, it is not actually a landscape plan, especially since it would change all the plantings in front of the building. However, the applicant has said he would submit a complete plan.

McAtee again said he did not think the Commission should just agree that work be done in the fall but that a date should be specified or enforcement of the original COA should begin. Schneider asked if McAtee was suggesting the Commission provide a date, and McAtee said the applicant should provide a date that he would submit the plan to town hall. Davidson asked about HPC's meeting schedule, and Schneider said meetings were held on the second Wednesday of each month. Oakley said the Commission could rule that the information must be submitted in time to be discussed at the August meeting. Schneider said that seemed the simplest thing to do, and McAtee said the Commission was not sure of the applicant's schedule and whether his schedule would permit that. Schneider said if the applicant intends to install the landscaping in the fall, turning in the information to be reviewed at the August meeting seemed like it might be the simplest thing to do. Simpson said he agreed in principle, but that he would like to hear from the applicant whether that is reasonable.

Shoenfeld asked how many days the Commission has if it defers a decision, and Schneider said she thought Shoenfeld was asking about the 180-day provision; Town Attorney Michael Thomas said that what staff was saying was that the Commission would be just deferring enforcement of a COA that had already been issued. Thomas said that would hold in abeyance any enforcement and allow the applicant an opportunity to submit a plan that the Commission could approve or not approve.

Simpson said he understood Thomas was saying that the Commission still preserves the right to enforce the original COA, but that it forebears it for a period of time; Thomas said that was correct.

Shoenfeld said she felt the Commission should defer a decision on the amended COA until later. McAtee asked if the Commission could ask James if the August meeting was suitable for his schedule, and Schneider said she thought the Commission should set the parameters. She said the applicant had mentioned fall and boxwoods, and she thought the Commission should ask the applicant for more detail and to refer to the Design Guidelines on what constitutes a full landscape plan; as a landscape architect, she said she felt sure James was familiar with those requirements, but that the Commission would like to know specific placement, numbers, and types of plantings. Shoenfeld said she thought the application should include not just that the applicant wants to remove the Nellie Stevens hollies, but that they want to submit a new landscape plan. Schneider said she thought what the Commission was saying was that it would defer a decision on the submitted revised COA application and that the applicant should provide additional materials including a supporting landscape plan, including dates, type and placement of plant materials. She said the burden of the responsibility was on the applicant to conform to the Design Guidelines and to submit a landscape plan that is in conformance with the Guidelines.

Schneider asked someone to state the findings of fact, and Oakley said he did not think that was required since the decision was being deferred.

Mac McAtee made a **motion** to defer enforcement of the previously approved COA until the Commission's meeting on August 12, 2015, with the understanding the applicant will submit a landscape plan to be considered at that meeting on the landscaping work done at Holt Hall; if the landscape plan has not been submitted, enforcement actions will begin as scheduled. **Debbie Shoenfeld** seconded the motion, and it was passed unanimously (5-0).

James asked about the Design Guidelines, saying that although he did historic landscaping work all over the Charlotte area, he was not familiar with the document. Schneider referred James to where the Guidelines can be found on the Town website and said he should refer to the landscaping section under Guidelines that refer to existing structures, as well as broad concepts that apply. She said James could also reach out to Town staff with any questions he might have.

- C. **Case COA-10-12A:** CMT Commons requests approval of an amended COA for COA-10-12, dated 10-17-12. The project is located at 8309 Linville Road, tax parcel 0165098, zoned CU-LB.

Schneider read the property description into the record and asked Commission members about possible conflicts of interest with this case, specifically stating what might be considered a conflict. McAtee, Davidson, Schneider, Shoenfeld and Simpson each individually said they had no conflicts, although Schneider and Simpson both said they had discussed procedural issues with staff. Since this case has a good deal of history, Schneider clarified the parameters of the discussion, saying that in addition to the applicant's amended COA request, the Commission had received the following, which is hereby incorporated by reference and made a part of the minutes:

- A staff report, which summarizes work done to date on the building.
- A copy of the findings of fact in support of COA-10-12, which state the findings of fact based on the Design Guidelines. Unless the applicant has cited a basis in the Design Guidelines for their current request, Commission members may rely on those findings of fact.
- Informal meeting minutes from April 13, 2015, in which the applicant received feedback from Town staff and counsel regarding the type and level of supporting information, the proposed work, and supporting documentation from the Guidelines to assist the applicant in preparing the COA request. Schneider said the informal meeting was a fairly unusual effort, and she thanked both staff and the applicant for taking part.

Schneider asked Bruce if he had anything to add to the staff report; Bruce did not, but said he was available to answer questions.

Schneider then invited Chad Gimbert and Julie Curry to come forward and be sworn in so that they could testify. Gimbert said Curry was going to speak for CMT Commons, but that he would also be sworn in. Town Clerk Sandra Smith swore in Gimbert, Curry and Town Manager Bruce Oakley, noting that Planning Director Bill Bruce remained sworn from the previous case.

Schneider asked Curry, representing CMT Commons, to present additional information on how the application meets the Design Guidelines, or to provide updates on the project or clarification regarding the application. Schneider asked Commission members to again hold their questions until the entire Commission had the opportunity to determine the eligibility of the application and discuss it. She welcomed CMT Commons to the meeting, and told Curry she welcomed her comments.

Curry took the podium, and said Gimbert would pass out some recent photos, which are hereby incorporated by reference and made a part of the minutes. She said CMT Commons had addressed each item on the COA-10-12, which was included in the application and is hereby incorporated by reference and made a part of the minutes. She said the first photo was intended to supplement the packet to document the proposed amended COA request. She said she thought the applicant had addressed each of the original COA conditions in the application as well as provided an update, and she said they would address any questions the Commission might have. Schneider explained that the Commission would try to ask as few questions as possible, but they would take Curry up on her invitation if needed.

Schneider asked Commission members to note any concerns with the eligibility of the application, whether it falls within the scope of the Design Guidelines, and if sufficient information has been supplied to enable the Commission to make findings of fact and render a decision on the application.

Shoenfeld said she felt the application was complete enough to be discussed. Schneider asked if sufficient information had been supplied to render a decision, and Shoenfeld said yes. McAtee agreed. Schneider said there was not a lot of information, and that the photographs supplied by the applicant previously were helpful. Simpson said he found the application to be minimally adequate and sufficient to proceed, although he added that in the course of discussion, the Commission may determine that the information supplied is not sufficient. He said he was on the fence, but that he was giving the benefit of the doubt to the applicant. Schneider said she agreed that the information supplied was minimally sufficient, since much of what is contained in the informal meeting minutes emphasizes the need to provide grounding in the Design Guidelines for the requested changes to the COA.

Davidson said she did not think there was enough information included, so she would be anxious to hear from the applicant. She said she had been seated on the Commission after COA-10-12 was issued, and the Town and the applicant might have different interpretations of what needs to be done. She said she did not see that the application fully addresses the points that still seem to be the source of disagreement. She said she was intrigued by the photos and eager to hear what the applicant had to say about them, thinking that would be helpful. Schneider said generally, the Commission is asking applicants to provide information in the COA application and during their presentation, and the Commission can ask questions if necessary. She said the applicant has been given the opportunity to speak and address any issues, and Davidson said then she needed to hear a little more about the application. Schneider said the Commission would wait until there was agreement among its members and it is ready to pose specific questions.

Schneider asked Simpson to begin the discussion, since he had commented that the application was minimally sufficient. Simpson said he was mindful of the extensive notes taken during the meeting between staff and the applicant's representatives, and that he was mindful that counsel had emphasized over and over the importance of the applicant making its case if they sought to do something different from what had been approved. Simpson said as the Commission goes through the application, he thought in some cases it would find that had been done and in others, that may be questionable.

Schneider suggested the Commission start with item number 1, which refers to the overhead front and side large doors and smaller personnel doors. She said the application had said the personnel doors would be fitted with a reflective pane on the top half of the door and the large front doors would be painted to match the appearance in the rendering. She said the work appeared to have already been done, but it had been done with paint, not with reflective panes. She referred the Commission to the findings of fact regarding the original requirement pertaining to overhead front and side garage doors. She asked Commission members for comments.

Shoenfeld said she thought the findings of fact state that the doors are not to human scale, they are not compatible with the surrounding buildings, the windows do not meet the requirements in the Guidelines, and therefore these items are incongruous with the historic district. Schneider agreed, and said there are some false windows in the historic district, but there are no buildings with false windows and no other windows at all, and there are no buildings that have no glass panes on them at all. McAtee said the false windows he had observed in the district all have window sills, frames around them, muntins and glazing, although it might be opaque. If a false window were to be approved, McAtee said what he sees in the photo submitted and what is seen driving by is something painted on the door. He said it did not look like a window, and the Commission did not approve a false window; one of the conditions in the original COA said windows were to be installed, McAtee said, not false windows.

Schneider agreed, saying that the previously approved findings of fact establish that windows are required and there is no precedent for not having windows. She asked if there were additional comments on the windows, and McAtee stated that it had probably already been pointed out there are no buildings on Linville Road that do not have windows. Schneider added that there are no buildings in the historic district without windows.

Schneider asked if there were comments on the large overhead doors, since the original COA required them to be reduced in size to match the height of the smaller entry doors. She added that all entry doors were to have the same single- or cross-brace architectural detail. Shoenfeld said that again, the findings of fact clearly state that the overhead doors are not human scale and are incongruous with the historic district. Schneider asked if there were additional comments on the doors, saying that the concern with the original COA was the oversize doors in the middle of the front of the building and on the sides.

Simpson said, in fairness, that the applicant had done something, but he said he absolutely agreed that the application of paint or a decal was not consistent with the findings of fact that the Commission considered when it granted the COA, which was based on the rendering that was presented to the Commission by the applicant.

Schneider said her concern was that she was open to being persuaded that there is another way, as she thought Town staff and counsel emphasized during the April informal meeting. She said she hoped, and knew, that Commission members were open to a different argument that would provide a different basis for the Commission's decision, but in the absence of an argument that is grounded in the Design Guidelines, it is difficult for her to see past the findings of fact, which came out of long and difficult consideration, had been carefully documented, and were well grounded in the Design Guidelines. She said the Design Guidelines are what the Commission needs to look to in making its decisions.

Davidson said she was interested in hearing from the applicant why they have stickers instead of windows. Davidson said she was not saying that she could not be persuaded. She said while there are no other buildings in the historic district

without windows, she said there have been some modifications allowed, and Tractor Supply had been an exception regarding the door.

Schneider said the applicant had been given an opportunity to speak with staff, and Davidson said she had not heard from the applicant since she was not a member of the Commission (when COA-10-12 was approved). Town Manager Oakley said the applicant had been given an opportunity to make their argument in the application. Schneider said the applicant had been given the opportunity to address the issue and give the grounds both in the presentation earlier in the meeting and in the application, but said that she was open to hearing a different opinion from the majority of the Commission. Schneider said this was a case with a lot of history, and she did not want to engage in a back-and-forth that did not move things forward.

Simpson said he agreed that Davidson was at a disadvantage because this is an extraordinary case because of the length of its existence and the fact that she had not been involved from the beginning. He said he had been on the Commission for three years, and the case was already in motion prior to that time. He added that it would be difficult to get on board the train when it was already moving down the track. Schneider said that the idea of using paint or decals instead of windows is a completely new development. Davidson said she had the application to refer to, but that she had not been a member of the Commission as long as other members had; Schneider said she understood that.

Schneider asked if other Commission members wanted to hear from the applicant or have a question posed, or if they felt they had sufficient information to proceed. McAtee said he felt there was sufficient information for the Commission to do its job. Schneider said the matter would be kept under consideration, but asked the Commission to move on and see if members had other questions they wished to ask.

Schneider read the second item on the conditional COA, which said the secondary roof structures/cupolas with modifications suggested by the applicant would include faux louvers on the front and the color of the building would be matched on all sides through either the use of paint or an approved material. She said the application states that the item has been completed, but the staff report mentions that the faux louvers have been installed but they do not match the color of the building. Simpson said the applicant said in the application that the changes were in process, so it might be useful to determine whether the applicant planned to do any more work or if they are finished. Schneider said that was an area that the applicant might be questioned on.

Regarding item number 3, the COA says all architectural details on the loft doors would be made to match the other doors on the structure, through either single- or cross-buck bracing. Schneider noted that the applicant says that item is complete, and the staff report concurs.

Schneider then read the fourth item on the conditional COA, which said the front faux hay loft doors would be made of trim materials, installed at the same height as the side hay loft doors, and include architectural details/bracing consistent with all other doors. She said the application says the hay loft doors were being installed and should be completed by June 10, which Schneider noted was the day of the

meeting. The staff report concurred that the faux hay loft doors have been installed and are the same size as the side hay loft doors, but they are not at the same height; she opened that issue for discussion. She said that item is also addressed in the findings of fact. She noted that the Commission is using the 2010 version of the Design Guidelines, since those are the guidelines in force when COA-10-12 was approved.

Shoenfeld said she did not understand why the front hay loft doors were not installed where they were required to be. Schneider asked if she was referring to why the doors were not installed at the same height as the side doors, and Shoenfeld said yes. Schneider commented that the findings of fact discuss the issue on page 8; she said she thought that finding was grounded in the consistency of the design, noting that architectural elements and details are of paramount importance in maintaining a characteristic atmosphere.

Shoenfeld said there was also the issue of symmetry, adding that she thought the hay loft doors (on the sides) that were installed initially set the location of where the front hay loft door should be located. She said they, in their current location, do not follow the design concepts of balance and symmetry.

Schneider said her concern with the front and side hay loft doors being located at different heights was that it is visually jarring, and she agreed with Shoenfeld that their placement is in conflict with the primary design concepts. She said that the placement of the front hay loft doors just didn't make sense visually because when you generally look at a barn and see the hay loft doors, it is at sort of a second story to the barn. She added that she believed the placement of the front faux hay loft doors has led the applicant to say that they cannot or are unwilling to install the wind bracing on the front because the two elements would not work together. Schneider said those details, as established in the findings of fact, are essential and are key in establishing the look of a historic barn as the concept for this building.

McAtee said the original design concept presented to the Commission was one of a typical horse barn seen throughout the countryside. He said the hay loft doors were one of the features that would suggest that, and that the doors would look as though they would function. Schneider asked specifically what McAtee was referring to, and he said the rendering given to the Commission when it was asked to consider construction of the building.

Regarding this particular item and a couple of other elements, Simpson said that the applicant has said the fly bracing would not be functional, but that is not a relevant point in this situation. As the Town Attorney had said on several occasions, the HPC was interested in form, not function. As such, the Commission is only interested in how a building looks. He said his opinion was that saying something was not necessary because it was not functional is not relevant in this case.

Schneider said Simpson had a good point, and she thought Simpson was suggesting that items 4 (faux hay loft doors), 5 (wind/fly bracing under the front and side gables) and 7 (the four wind/roof braces above the doors on the front elevation) are all connected because they are all architectural features and are dealt with extensively in the findings of fact; they refer to the Design Guidelines and the

importance of exterior features, including the architectural form and style, the arrangement of the building, the pattern and style of the windows, doors and other architectural details. She agreed with Simpson that the Commission does not consider those details important from a functional viewpoint, and therefore she did not see any grounding in the Design Guidelines for omitting those details.

McAtee referred the Commission back to page 45, section G of the 2010 edition of the Design Guidelines, which refers to windows and doors and says buildings in the Historic District are generally well ordered in this respect, with most of the older structures having a symmetrical arrangement of doors and windows. He said he did not think the term "symmetrical" was served by the front faux hay loft doors, which seem out of place compared to the other faux hay loft doors on the building, which can be seen from the street. He said if the front hay loft doors were moved down to where they should be and where the Commission had determined they should be in its findings of fact, then there would be room for the fly bracing above the hay loft doors.

Schneider asked if the basis for requiring the fly bracing was the same as that stated for the front hay loft doors, and Shoenfeld said architectural details are important, which is stated in the findings of fact. She said that applies to all the wind/fly bracing and the framing around the ventilation system, which all have to do with architectural details. As for the ventilation system trim, Shoenfeld said the Commission was trying to improve the aesthetics for something that wasn't even located on the side of the building (on the approved drawing).

Schneider said the applicant was arguing that since the louvered vents were installed per county building code, they did not need to meet the findings by HPC. Schneider asked if the louvers were supposed to be painted, and Shoenfeld and Simpson both said there was supposed to be framing installed around the outside of the louvers. Schneider said she did not think installing the framing would be incompatible or out of compliance with county codes. McAtee said the applicants were asked to put framing around the outside of a square hole, and installing that on the outside of the vent would not have any effect on the louvers or their functionality. Schneider said she thought the point was that complying with county code is a separate issue from complying with the Design Guidelines and the Historic District. She said in other words, applicants who choose to build within the Historic District also choose to abide by the Design Guidelines, which could sometimes place a higher demand on the applicant.

Davidson said the application says the intention was to move the front hay loft doors now that the sign has been repainted. Schneider said there was no plan now to move the hay loft doors. Davidson asked if that was because the application had been submitted before the work to repaint the sign and install the hay loft doors had been completed, and Schneider said yes. Schneider said the problem that had been raised was that the side hay loft doors are significantly lower than the front hay loft doors, which have been confirmed in the staff report and can be seen from the road. McAtee said the photograph submitted by the applicant showed the location of the doors, but Schneider said the photograph did not show the location of the side hay loft doors, and McAtee agreed.

Schneider asked if the Commission had additional comments about the architectural details – items 4 through 7 on the application; she said the applicant’s argument for items 5 and 7 are the same – that those details are not functional, although they were also arguing that the wind/fly bracing on the front of the building would impede the view of the front hay loft door, something they called a more authentic feature. She said she thought the conditional approval the Commission had previously given was to include all the features, not to allow the applicant to pick and choose. Shoenfeld said she agreed.

Schneider said the applicant had indicated the final item (item number 8) had been completed regarding the downspouts being allowed to remain painted white. Shoenfeld said there was actually no work to be done on that item.

Schneider said the condition previously approved was that the signage would either be weathered as proposed by the applicant or the gray background removed so that the sign background would match the building. Schneider read from the October 2012 COA where the Commission encouraged the applicant to propose a sign more consistent with the size approved on the original COA in recognition of discrepancies between the size of the sign approved (101 square feet) and the size installed (193 square feet) as allowed by the Town’s sign ordinance. She referred the Commission to an email in the packet from the sign painter, which confirmed that the sign is now in compliance with the 101-square-foot limit. She said the staff report notes that the “Mustang Fitness” script had been repainted in a smaller size, and no other changes to the sign have been made.

Schneider asked the Commission to look at the photos provided by the applicant, and noted that the “Mustang Fitness” is now smaller. She asked if the oval containing “CrossFit” was originally white or if it had been changed in some way. McAtee said he believed the background of the oval had been changed to gray, but the Commission had found that either the sign needed to appear weathered or the gray should be removed and the background painted the same color as the building. Schneider said the COA does specifically note that the gray background should be removed. She asked if that particular issue were referred to in the findings of fact. The Commission did not note any findings that specifically referred to that issue.

Shoenfeld said although what had been done to the sign was different from what was required in the original COA, the applicant had come into compliance with regard to the size of the sign. Schneider said the sign now looks much less overwhelming and competing; she thought one of the points made originally was that the sign competed too much with other signs in the district, so having smaller script helped a great deal. She commented that the sign still had a very large logo because it essentially had two logos on it. She said the changes did not comply exactly with the COA, and she could see that the sign would be less obtrusive if it had a tan background. She asked if the Commission thought the sign was out of compliance because it had a gray background, and said she thought it could be found to be acceptable.

McAtee said the COA had said the sign should be weathered or to remove the gray background, so the applicant did have an option on the treatment of the sign. He said neither option had been completed, so he did not think the sign complied with

the COA. Schneider asked if McAtee felt the background of the oval was still a problem, and McAtee said yes because the applicant had been given two choices. Schneider said the applicant had provided no argument for why they had not chosen either option.

Shoenfeld asked the Commission to revisit item number 2 (regarding the cupolas). She asked if the work was complete, and Simpson and Schneider said the applicant would be given an opportunity to respond to that question. Shoenfeld asked Planning Director Bruce or Town Manager Oakley to respond; Oakley said the louvers had been installed but the remainder of the cupolas had not been painted, and Bruce agreed. Schneider referred the Commission to the photos submitted by the applicant.

Schneider began to summarize the Commission's discussions so far, saying that on item number 1, which referred to the front and side doors and the issue of the windows, the Commission would reiterate the findings of fact that had been documented. Davidson noted that a Commission member had asked to hear from the applicant on this issue, and McAtee said to not leave out the matter of the reduction of height of the three larger doors, which was part of COA-10-12 also. In summary, Schneider said the Commission had confirmed that the previously adopted findings of fact were still applicable, and McAtee agreed. She was curious about why the applicant had completed the work before the revised COA was approved, but she saw no point in asking that question.

Davidson strenuously disagreed, saying the applicant was sitting right there at the meeting, that they should be asked those questions since they had provided photos, and she was new to the Commission since the original COA was first heard. Schneider thanked Davidson and said she was listening, but requested a majority of the Commission to agree to question the applicant on the matter. Davidson argued that she did not think she needed a majority of the Commission to be able to ask the applicant a question.

Schneider asked for the Town Attorney's opinion, and Thomas said that it was the Board's decision. He said he understood from the discussion thus far that the Board was going to go back down the list and allow questions and answers as the Board deemed necessary. He said the procedure, as outlined earlier, was that it is the applicant's application and they would present and argue for it, and then the Commission could discuss it. The Commission could go back to the applicant for more information, which he thought was what Davidson was asking about. He said he thought Schneider had indicated earlier that they might do that, but specifically when to do that was up to the Commission chair. He was it was certainly appropriate for the Commission to ask additional questions. Schneider asked if it was also appropriate for the Commission as a whole to agree whether to ask additional questions, and Thomas said it was up to the Commission.

Schneider said if a majority of the Commission would like her to ask additional questions of the applicant, she was happy to do so. Simpson said he had asked to hear a status on the cupolas, so he would like to hear from the applicant on that. Shoenfeld and McAtee said they had no questions, but McAtee said he thought the Commission should ask questions if they have any. Davidson said she had a question

about the doors, and also wanted to ask about the fly bracing. She referred to the application where the applicant requested that the front and side gable wind/fly bracing not be required, saying that it is not functional and it impedes the view of the front hay loft doors, and she said that statement conflicted with what was in the informal meeting minutes from April 13, 2015. She said she would like to know why this had changed. Schneider said the informal meeting was a month before the application was turned in, and she thought the Commission could assume that the applicant decided to make that change.

Schneider said if the Commission was willing, she would ask Curry to come forward and answer the questions, but she would like to hear that from the Commission. Davidson said she lived in this community and that she hears from people who are members at CrossFit. Schneider said she was willing to take a roll-call vote of the Commission whether to ask the applicant the questions, but that the Commission needed to work together in harmony because the process was difficult. Davidson asked what harmony was. Schneider asked for the vote to be taken without interruptions.

Schneider asked McAtee if he was agreeable to having the applicant respond to the three questions, and McAtee said yes. Schneider said she knew Davidson was agreeable. She asked Simpson, and he agreed to the questions. Schneider then acknowledged that a majority of the Commission wanted to hear from the applicant on those three items.

Schneider asked Curry or Gimbert to take the podium and respond to the questions. She asked Davidson to pose her question on the windows, and Davidson said she would just like to hear from the applicant on that issue because it seemed like a source of huge contention for everyone involved. Gimbert said Davidson was very perceptive because the windows were a matter of contention that had been going on for three years and he did not even know where to start. Schneider asked Gimbert to just answer the question briefly, since it was not the intent of the Commission to rehash history. Gimbert said he would answer the question, but that the Commission had mentioned several times that the building was different from the approved plan. He asked Oakley or Bruce to produce the original approved plan and the original COA (which was included in the Commission's packet). Schneider again said the Commission would only entertain an answer to the question, and Gimbert asked what the question was.

Davidson said there was still a major question regarding the windows in the doors, as had been documented, and Gimbert agreed. She said the original plan that was brought before the Commission – before she was a member – showed windows in the doors. She asked why the applicant had instead applied stickers on the doors rather than installed windows so that the Commission could hear the rationale and move on. She said that there was absolutely no wiggle room in the Design Guidelines regarding windows. Gimbert said there was, because the drawing or rendering of the building that was presented to and approved by the Commission had no windows in it. He said there were never to be any windows in the building, as had been previously discussed. Gimbert said he had an email with him, but Schneider asked him to only reply to the question because the findings of fact had already determined that windows are required. She said if there is alternate evidence in the

Design Guidelines that say that windows are not required, Gimbert could cite that. She said if Gimbert would like to explain why he chose the path taken over actual windows, he could explain that briefly.

Gimbert said they had chosen that path because there are other examples of faux windows in the Historic District on other buildings. He added that they were led to believe that as long as they were making the building look like the approved plan, then that was sufficient. He said that was what they had done.

Schneider said the next question was about the louvers, and she asked Simpson to pose his question. Simpson said he understood from the staff report and also in the photos submitted that the cupolas have louvers now, but he did not see where they had been painted. He asked if Gimbert intended to do that. Gimbert said the louvers were never going to be painted, but that the sides of the cupolas were going to be painted tan. He said nothing had been done to either side of the building, pending approval of the amended COA request. He said once approval had been received, they would make the changes to the doors and other things on the sides of the building. For clarity, Simpson asked if Gimbert intended to do something more to the sides of the cupolas, but that further action hinged on approval of other elements of the application. Gimbert said yes. Simpson asked if they had gone on and done some of the things, and Gimbert said they had made the front of the building look like the approved rendering, and that they had put the louvers on the cupolas.

Schneider said she thought Simpson's question was about the fact that the cupolas were to be painted to match the rest of the building, so she asked if Gimbert planned to paint the cupolas to match the rest of the building. Gimbert said they would paint the two sides of the cupolas to match the rest of the building, which was shown on the side elevation of the approved plan.

Regarding the third question from the Commission, Schneider said the application said the applicant requested that the wind/fly bracing not be required based on the fact that it is not functional and it would impede the view of the front faux hay loft doors. She asked if Gimbert had anything to add. Gimbert said yes, that the fly bracing was never intended to be functional, and that it was merely decorative. He said the Design Guidelines state in a couple of places, although he could not cite the exact location, that decorative features on new construction that are faux are discouraged. He said there are no other new buildings in the Town that have decorative fly bracing, and it especially did not look right on his commercial building. Gimbert said that was why they asked for that condition to be removed.

Schneider said she thought that answered all the Commission's questions for now. Gimbert asked if there were no questions about human scale (of the doors), and Schneider said the Commission had discussed that and there did not appear to be any questions on that issue at that time.

Davidson asked for clarification on the fly bracing. She said even though it had been stated by the applicant that they were willing to install the fly bracing, Gimbert's statement indicated that they were now asking to not have to install the fly bracing at all. Gimbert said yes, because in the informal meeting with staff, it was

communicated to him that they had the ability to request an amended COA, even though they had an approved COA with conditions. He said they were now asking for an amended COA and the removal of those three things.

Regarding the findings of fact previously documented, Schneider asked if the responses from the applicant regarding the decision about the faux windows changed anything. McAtee said in his opinion, nothing had changed. Davidson said she appreciated hearing from the applicant, and if he believed they had a plan that showed a building without any windows, the Design Guidelines are clearly stated on that issue. She said she was interested if there were some kind of structural issue that they were trying to deal with. Shoenfeld agreed that the findings of fact have already been addressed in this situation and they still apply. Simpson said he believed the doors are nonconforming and the findings of fact continued to be accurate.

Schneider asked the Commission to discuss the items concerning architectural details, addressing the faux hay loft doors first. Regarding the height of the front hay loft doors, she said she had not heard an argument to convince her to rely on anything other than what was in the findings of fact. She asked for comments from the Commission.

Shoenfeld said she agreed with the findings of fact, which are grounded in the Design Guidelines. Davidson asked if the wind/fly bracing, which the applicant is asking to remove in the amended COA, would affect the hay loft doors. She said the applicant is asking that the wind/fly bracing be removed because there is no other example of it in the district; if the Commission agrees with that, would that impact the hay loft doors.

Simpson said the hay loft doors do not open, so it would not be a matter of the doors swinging into the bracing. He added that the architectural features such as the supports and fly bracing were all added to make the building look like a barn. He said the applicant had staked out a very difficult task for themselves three years ago: they wanted to build a gymnasium, but they wanted it to look like a barn, so they chose features to make it look not like a modern barn, but a historic barn. He said the bracing traditionally would have supported a pulley system to bring hay up to the loft. He said the features have no function on this building, but that they give the appearance of a historic barn. He said those architectural features matter, and he did not think the fly bracing was going to impede a hay loft door that did not open. Simpson said he did not find merit in the applicant's argument.

Schneider said she thought what the applicant was arguing was because the hay loft door was higher on the wall than originally shown, it and the fly bracing would now be bunched up close together in that area. She said she did not imagine that it would be easy for the Commission to approve that aesthetically based on the Commission's knowledge of architectural features, because those features were integral to the style of many historic structures that use nonfunctional, merely decorative features to create an architectural style compatible with the historic district. She said she strenuously disagreed with the applicant's statement that faux features are discouraged. She said she thought if the Commission had been presented with a building design that showed the side hay loft doors low, and the front ones up

higher and with a little bit of fly bracing all bunched up together, she doubted it would have been approved. She said the Commission did approve the design with the front faux hay loft doors installed at the same level as the others, which made them look more convincing. Shoenfeld asked if Schneider was referring to the applicant's argument that the faux front hay loft doors now would not leave room for the fly bracing, and Schneider said yes, adding that Simpson had made an eloquent argument for that.

Schneider suggested that, based on the discussions to date, the Commission has established that the architectural details including the height of the front hay loft doors, and the architectural details referenced in items 2, 3, 5 and 6, are all supported by the findings of fact previously approved. She asked if there were any other findings of fact that should be applied here. McAtee said he thought the findings of fact had already been worked out in the original COA, and Shoenfeld agreed.

Schneider said that covered items 2, 3, 5, 6 and 7, and the Commission had also addressed item number 4 regarding the front hay loft doors. She said she was assuming, according to the staff report, that the downspouts had already been painted and that was complete.

Regarding the signage, Schneider said the Commission had established that the color is different from what had been proposed. She said one opinion was that the applicant had not complied with their choice of either the sign's weathering or matching the background to the building as stated in the original COA, although she said she had suggested she did not think that was as big of an issue as the other items. Schneider also said she was appreciative that the size of the "Mustang Fitness" had been reduced in size. Simpson said he had no objection to the sign now.

McAtee asked if it would not be incumbent upon the applicants to request an amended COA to cover noncompliance with the original COA. He said he did not think the Commission should take a vote to waive that COA. Schneider said the applicant had said that they had complied with the original COA requirements for the sign, but McAtee was saying that they had not complied. Oakley said staff considered the sign as it exists now a part of the amended COA request that the Commission was now considering. Schneider asked if that also meant the color of the sign, and Oakley said that was staff's interpretation. Schneider said that seemed reasonable, and that it might seem overly bureaucratic to require a second COA request for that. Bearing that in mind, Schneider asked McAtee for his comments, and McAtee said he did not think the applicants were in compliance with the COA, and they had not addressed why they had not chosen either option. Davidson said she did not have a problem with the sign.

Schneider said the findings of fact, in this case, were that the applicants had not complied with the original COA, but the Commission considered them to have requested to use the gray background color on the sign. McAtee asked if they had made the painting appear weathered, and Schneider said they had not.

Schneider asked if the Commission was ready to make a motion based on the findings of fact if there was no more discussion. She said the Commission typically

does not want to break apart a COA request, but asked if it was appropriate to do so in this case – perhaps specifically regarding the sign – and approve or disapprove the rest of the COA separately. Thomas said it should be one decision that covered all the items.

Schneider said the Commission has eight items before it, and McAtee corrected her that there were actually nine items. She said if any of the items were found to not be in compliance, then the Commission has the option of disapproving the application or deferring a decision. She said in this instance, the Commission had not found the application to be incomplete, so she did not know that the Commission had a basis for deferring it.

Simpson said he was somewhat confused, and asked if this was an “all or none” situation or if the Commission could exempt certain items. Thomas explained that the Commission had nine items to consider, and that it needed to address each of those items in a single decision – something like a checklist.

Debbie Shoenfeld made a **motion** to include the staff report as part of the findings of fact as well as the previous findings of fact, which were adopted for COA-10-12. **Mac McAtee** seconded the motion, and it was passed unanimously (5-0).

Debbie Shoenfeld made a **motion** to deny the request for a revised COA-10-12A for CMT Commons, 8309 Linville Road, tax parcel 0165098, zoned CU-LB, based on the following:

- Item number 1 does not comply with the findings of fact, nor do items 2, 3, 4, 5, 6, 7 and 9.
- Item number 8, the downspouts, complies because it is the only item where there was no work to be done.
- Item number 9, the sign, is out of compliance with the request that the background color of the logo be painted to match the building.

Mac McAtee seconded the motion, and it was passed unanimously (5-0).

Schneider said she was sorry to say that the application was denied, and she felt it deserved comment. Gimbert said it deserved a lot of comments, and Schneider asked that the Commission not be interrupted. She said an extraordinary effort had been made to accommodate the application, and the Commission, the Town Council, the Board of Adjustment, and the entire Town had endured a court battle of over two years that ultimately upheld the HPC's ability to require this applicant to construct a building that conforms with their original COA presentation and that is not incongruous with the Historic District in which the applicant chose to locate their new building. She said the lawsuit had caused a lot in terms of process and procedure, and the Commission had been glad to learn from it. She said the Commission and Town staff have always welcomed questions and have willingly provided extensive input to all who have asked and perhaps to this applicant more than any other. Schneider said extensive documentation of the most recent meeting with this applicant reflects truly what is necessary for a successful COA application. She said it is very difficult for the Commission to deny any COA application, but she thought it was incumbent upon the Commission to be consistent, both with the Design Guidelines and the Historic District. She commended other HPC members for their careful consideration, not just in this case, but in every case, because the Commission members are volunteers and they are given a very difficult task. She said HPC is an independent commission, and its members love their Town. There is a small staff that works extraordinarily hard, and the

Commission members are very appreciative of that. She said they are also appreciative of all the businesses in the Town, but they need to all be able to work together and play by the same rules in order to have successful results.

6. COMMITTEE REPORTS/UPDATES

A. Budget updates

The 2014-15 budget update is hereby incorporated by reference and made a part of the minutes.

Schneider said the 2015-16 budget was approved at the June Town Council meeting, and it includes \$5,000 for the historic preservation grant program proposed by HPC. She said she appreciated how responsive the Finance Committee and Town Council were to the new idea.

B. Historic inventory/Markers

Schneider said the subcommittee has been reviewing locations for possible historic markers, and they have talked with Myra and Gary Blackburn, owners of the Larkins house on N.C. 150. They have said they are willing to sign a license form to place a marker there, which would be purchased this budget year and installed next budget year if that is amenable to the Commission.

Schneider said the intention is to then install the Ai Church marker (which has already been purchased) after the one for the Larkins house. They have also talked to and visited with Steven Lantz and Tony Cooler, owners of the Col. Zack Whitaker house. The research has not yet been completed, and although the house has a simpler plan, it still meets all the criteria established in the Commission's 5-year plan. If the Commission is amenable, she said the subcommittee would continue to move forward with purchasing markers for these two historic properties.

C. Communications outreach

No report

D. Display case

Smith said she had spoken with the PTO president and they still planned to do a display commemorating the 90th anniversary of Oak Ridge Elementary School.

E. Land Use Plan Update

Schneider gave an update on the ongoing Land Use Plan Update committee's activities.

7. CITIZEN COMMENTS

- Chad Gimbert said he recognized that the Commission members were all volunteers, and that the applicants had endured three years of this issue as well. He said they were extremely disappointed; they thought that they had the ability and the right to request an amended COA from the approved COA, which was based on a not-to-scale rendering with no detail. No windows were ever discussed in the process, he said. He said changes had been made to the building to make it look as closely as they could to the rendering. Gimbert said they had spent thousands of dollars in the last several years. He said he knew the Town had spent money too, but the difference was that was Town money, not the Commission members' money. To have the Commission act as if they had no right to request that the sign be accepted without a tan background – while the permitted sign background was actually white – was extremely frustrating. He said he did not think they would ever get to where they need to get with this particular Commission, with the exception of Davidson. He said he thought the opinions of Commission members were so deep and to hear the Commission talk, it was as if they were saying that the applicants must do exactly what the Commission says or they will never get their COA approved. If he had hung fly bracing, he asked if the COA application would have been approved, or if the Commission would have then said the doors are not human scale. Gimbert said the door he walked through that night at Town Hall was not human scale because it included a 9- or 10-foot transom at the top. He said there were a lot of misleading things, and that the original COA had been approved based on one piece of paper, which they call a rendering. He said the Commission kept referring to findings of fact that rewrite history a little bit, and he has 2,000 emails in the record to prove some of that. Gimbert said he was flabbergasted that the Commission had given them virtually no credit at all for what they had done. He said that, quite frankly, he did not know what they were going to do next. He said this was not what was discussed in the (informal) meeting, and it was not what they expected to have happen when they came here.

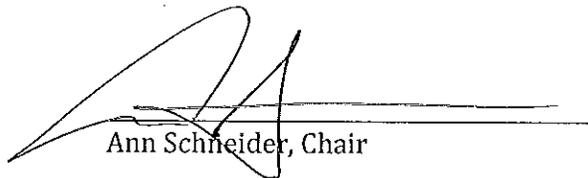
8. ADJOURNMENT

Mac McAtee made a motion to adjourn the meeting at 8:54 p.m. Debbie Shoenfeld seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:



Sandra B. Smith, CMC, Town Clerk



Ann Schneider, Chair