

**Minutes of the
New Bern Historic Preservation Commission
June 16, 2021 – 5:30 P.M.**

The New Bern Historic Preservation Commission (HPC) held its regular meeting on Wednesday, June 16, 2021, in the conference room of the Development Services Department, 303 First St.

1. OPENING OF MEETING WITH ROLL CALL

Meeting called to order by Chair Cox at: 5:30 pm.

Members Present: Dr. Ruth Cox, Chair
Tripp Eure, Vice-Chair
George Brake
Peggy Broadway
Christian Evans
Joseph Klotz
Ellen Sheridan
Annette Stone

Members Excused (E)/Absent (A): James Bisbee (E)

A quorum was present.

Staff Present: Matthew Schelly, AICP, City Planner, Historic Preservation Administrator

City Attorney Present: Jaimee Mosley

Others Present: Sarah Afflerbach

2. APPROVAL OF MINUTES OF PREVIOUS MEETING(S)

Motion to waive reading of the minutes: Commissioner Evans; Second by Commissioner Brake. The motion carried unanimously.

3. PRESENTATION OF CERTIFICATE OF APPRECIATION (EVANS)

Chair Cox presented Commissioner Evans with a Certificate of Appreciation for her service to the HPC and the community for having served as a Commissioner on the HPC.

4. HEARINGS ON CERTIFICATES OF APPROPRIATENESS:

A. Hearings: Introduction, Swearing-In, Summary of Process

Chair Cox explained the HPC and the quasi-judicial hearing process and Staff Schelly swore in one witness with the following oath:

“Do you swear to tell the truth to the best of your knowledge?”

Sarah Afflerbach responded in the affirmative.

APPLICATIONS

Chair Cox called to begin the hearings for the applications for a Certificate of Appropriateness.

B. 311 Bern St. – to include the installation of new, wood window blinds and new, wood, 4-foot-high fencing in the Primary AVC.

Staff Schelly indicated that the applicant has requested to withdraw this application.

No further action was taken.

45
46 **C. 808 E. Front St.** – to include the following changes to the approved CoA in all of the
47 AVCs: change the foundation to a solid brick foundation with flood vents, add a third
48 floor front balcony, increase the height of the side walls, remove the roof dormers,
49 change single columns at the rear porches to triple columns.
50

51 **Staff Comment**

52 Staff Schelly indicated that the application is the same as the one approved several
53 months prior and the applicant is requesting some modifications as an amendment to the
54 approved design. He then provided a review of the application and internal review
55 documents. The applicant was asked to clarify some changes. The existence of a staff
56 recommendation was indicated.
57

58 **Applicant Comment**

59 Chair Cox asked Sarah Afflerbach of GO Architectural Design, LLC, authorized
60 representative for the applicant, if she had any additional comments. Ms. Afflerbach
61 indicated she had no additional comments.
62

63 **Conflict and Completeness**

64 Chair Cox asked the Commission if anyone has a conflict of interest for this project.
65 There was no response. Chair Cox asked the Commission if anyone had any issues with
66 the completeness of the application. There was no response.
67

68 **Public Comment**

69 Chair Cox noted that there were no other people in attendance and so there would be no
70 comments and no rebuttals.
71

72 **Staff Recommendation**

73 Staff Schelly submitted the description of the project and the following Historic District
74 Guidelines, Statements of Reason, and Recommendation as appropriate to this
75 application:

76 **Development Pattern**

77 2.1.1

78 2.1.2

79 2.1.3

80 **Design Principles**

81 3.1.1

82 3.1.2

83 3.1.3

84 3.1.4

85 3.1.5

86 **Infill Construction**

87 3.4.1

88 3.4.2

89 3.4.3

90 3.4.4

91 **Foundations**

92 4.1.3

93 4.1.4

94 **Walls, Trim and Ornamentation**

95 4.2.4

96 **Windows, Doors and Openings**

97 4.3.3

98 **Entrances**

99 4.4.4

100 **Roofs**

101 4.5.4

102 **Decks and Patios**

103 4.6.2

104 **Masonry**

105 5.1.3

106 5.1.5

107 5.1.6

108 **Metals**

109 5.3.3

110 5.3.4

111 **Paint**

112 5.4.2

113 5.4.3

114 5.4.4

115 5.4.6

116 **Statements of Reason**, based on the information contained in the application, in Staff's
117 judgment are:

- 118 1. The project is located in the Narrow Stitch development pattern;
- 119 2. The proposal is an infill project;
- 120 3. The proposed design, components, and materials meet the requirements of the Guidelines;
- 121 4. The Zoning Administrator and the Chief Building Official have reviewed this project
122 and commented accordingly;
- 123 5. The project is not incongruous with the Guidelines.

124
125 **Staff recommends** the Commission approve this application for construction of a new
126 infill house.

127
128 **Public Comment**

129 None

130
131 **Commissioners' Questions and Comments**

132 Chair Cox asked the Commissioners if they had any questions or comments.

Commissioner Broadway noted that the application includes a fence in the Primary AVC and asked if the HPC has dealt with a situation where there could be a variety of fencing styles. Some discussion about the fencing ensued.

Applicant Afflerbach indicated that the fencing should have been removed from the application because the design is for a new client. The fencing was desired by the previous client.

Chair Cox clarified that the motion for the application should include a mention that the fencing has been removed from the application by the applicant.

Chair Cox asked for any other questions from the Commissioners. None were heard.

MOTION by Commissioner Stone to find the application **Not Incongruous** with New Bern's Code of Ordinance sections 15.411 – 15.429 and New Bern's Historic District Guidelines based on the following specific guidelines and findings of fact:

Development Pattern

2.1.1

2.1.2

2.1.3

Design Principles

3.1.1

3.1.2

3.1.3

3.1.4

3.1.5

Infill Construction

3.4.1

3.4.2

3.4.3

3.4.4

Foundations

4.1.3

4.1.4

Walls, Trim and Ornamentation

4.2.4

Windows, Doors and Openings

4.3.3

Entrances

4.4.4

Roofs

4.5.4

Decks and Patios

177 4.6.2

178 **Masonry**

179 5.1.3

180 5.1.5

181 5.1.6

182 **Metals**

183 5.3.3

184 5.3.4

185 **Paint**

186 5.4.2

187 5.4.3

188 5.4.4

189 5.4.6

190 **Findings of Fact are:**

- 191 1. The project is located in the Narrow Stitch development pattern;
- 192 2. The proposal is an infill project;
- 193 3. The proposed design, components, and materials meet the requirements of the Guidelines;
- 194 4. The Zoning Administrator and the Chief Building Official have reviewed this project
- 195 and commented accordingly;
- 196 5. The project is not incongruous with the Guidelines.

197 **Approval includes the following condition:** the applicant has withdrawn the previously

198 approved fencing and will return for approval of fencing.

199 Commissioner Klotz seconded the motion.

200 Chair Cox asked if all Commissioners understood the motion. No comments were heard.

201 **Motion passed:** Unanimously

202 Chair Cox clarified that an amended COA does not need a vote to issue the amendment.

203

204 Commissioner Broadway asked if the roadway behind 808 E. Front St. will be widened. Ms.

205 Afflerbach replied that no, the road will not be widened; the turning radii for the road have

206 been confirmed several times.

207

208 **5. OLD BUSINESS (non-hearing items tabled or continued from a previous meeting)**

209 None

210

211 **6. GENERAL PUBLIC COMMENTS**

212 None

213

214 **7. NEW BUSINESS**

215 **A. PDBN Work Group membership**

216 Staff Schelly reported that the recent resignations from the HPC has created

217 vacancies on the PDBN and HiP work groups. Commissioner Evans would like to

218 continue on the PDBN Work Group after her term ends in a few weeks. We do not

219 have non-HPC members on that work group at this time. The HiP work group,

220 however, was set up with the intention to include non-HPC members.

Commissioner Stone asked what the PDBN Work Group does. Staff Schelly responded that the work group works through many of the issues for the DBN cases such as: following and discussing the few cases on the agenda this evening; helping the staff to work through the DBN case tracking sheet to figure out the status of each of the cases on file; and discussing ways to expedite and streamline the process. Commissioner Broadway added that it is shocking to see how many cases have been dropped. Assistant City Attorney Mosley asked for clarification. Staff Schelly reported it seems that many are forgotten due to staff turnover in both the Preservation and Building Inspections areas, plus workloads due to hurricanes and pandemics.

Commissioner Klotz noted that the work group does not make any binding decisions but rather recommendations to the HPC, which can make binding decisions, and therefore he supports appointing non-HPC members to the work groups.

Assistant City Attorney Mosley clarified that there is no legal prohibition against appointing non-HPC members to the work groups.

Vice Chair Eure indicated his understanding that the Chair has the authority to decide and appoint whomever they would like, including non-HPC members or even the use of consultants, to the various work groups of the HPC.

Consensus was that the Chair has the authority to decide and appoint whomever or whatever they would like to serve with the various work groups of the HPC and there is no legal prohibition of such.

B. Work Group assignments

The Chair reappointed Christian Evans to the Prevention of Demolition by Neglect (PDBN) Work Group, even after her term on the HPC has ended.

The Chair reappointed George Brake to the Historic Property (HiP) Owners Support Work Group, even after his term on the HPC has ended.

The Chair reappointed Christian Evans to the Awards Work Group, even after her term on the HPC has ended.

8. HPC ADMINISTRATOR'S REPORT

A. Report on CoAs Issued 5/11/2021 – 6/7/2021

Chair Cox introduced the list in the agenda (below). Cox also indicated that between meetings many of the Minor CoAs are discussed using email with her and Vice Chair Eure before approving to verify if certain projects are minor work or what we want to do.

Chair Cox asked if there were any questions on these. There was no reply.

MAJORS and AMENDMENTS:

1. 809 Broad St. (Country Biscuit) – new masonry veneer below windows in the Primary and Secondary AVCs.
2. 402 Dunn St. – new shed in the Secondary and Tertiary AVCs.

- 263 3. 508 Johnson St. – replacing rear porch steps with wood landing, steps, and railing,
264 removing a portion of screening and all vinyl ceiling on the upper porch, adding new
265 screening and screen doors on both the lower and upper porches in the Tertiary AVC.
266 4. 509 Broad St. – new accessibility ramp to front entrance in Primary and Secondary AVCs.

267 MINORS and AMENDMENTS:

- 268 1. 100 Middle St. ROW – Tree replacement
269 2. 115 Middle St. ROW – Tree replacement
270 3. 244 Middle St. Amendment: Cell antenna equipment on rear wall, in equipment room
271 4. 308 Metcalf St. – 14 items
272 5. 312 Avenue A ROW – Tree replacement
273 6. 407 Metcalf St. ROW – Tree replacement
274 7. 504 Middle St. – Front landscaping
275 8. 505 E Front St. ROW – Tree replacement
276 9. 512 Queen St. – Small front picket fence
277 10. 609 E Front St. – Rear access ramp, driveway pavement, playset, tree removals
278 11. 610 Metcalf St. – Rear garden fence
279 12. 614 Craven St. – Temporary plantings
280 13. 704 E Front St. – Rear fence
281 14. 728 Queen St. – Replace 2 front windows

282 **B. Report on CoA Extensions Issued since the Prior Regular Meeting:**

283 None

284 **C. 221 E. Front St.**

285 Vice Chair Eure reported there was a meeting on Friday, June 11 that included the owner.
286 Discussion included the sequencing of work and assigning a schedule to that work
287 sequence. The owner will be coming to the July Design Review meeting to introduce
288 himself and answer questions.

289 Vice Chair Eure reported that he was present in a walk-through of the house on Tuesday,
290 June 15. The prior owner is making progress in moving out. The finished attic is empty,
291 second floor is mostly empty, but first floor needs some work. They assessed window
292 sashes and noted they are remarkably intact. They talked about the work to get the windows
293 done. At the Design Review meeting you should hear about the masonry work at the
294 parapets and roofing to get the house weathertight.

295 **D. 104 Johnson St.**

296 Staff Schelly reported there is nothing new to report since the last meeting.

297 **E. 715 E. Front St.**

298 Staff Schelly reported the PDBN Work Group discussed this property and determined the
299 staff should begin the process for DBN and contact the owner to inform them.

300 **F. Other Items and Updates**

- 301 1. Commissioner Stone asked about the status of **219 E. Front St.** Staff Schelly reported
302 that some changes have occurred up to about 3 to 4 months ago when the owner was
303 seen directing some workers on site. Schelly also reviewed some of the ways he has
304 helped the owner make progress, including finding him a siding material to replace the
305 removed and broken asbestos shingles. The owner has had some issues with the
306 drainage out of the yard area and also coordinating his steps to the sidewalk.

Commissioner Klotz asked if the owner needed an extension. Schelly responded that a COA does not expire once the work has started. Commissioner Klotz raised the issue that maybe this needs to be revised.

Schelly reviewed the case for **715 E. Front St.** where the construction had started, so the COA will not expire, however, construction has halted and not restarted for almost a year. So, that is why the PDBN Work Group has asked staff to begin the DBN process by contacting the owner.

Commissioner Klotz said he is afraid the City would lose a DBN case in court when a **COA is still valid but the construction has stopped.** Klotz asked Assistant City Attorney Mosley for her opinion. Mosley responded that the ordinance says the applicant shall comply with the COA within one year, but that can be interpreted in several ways. Mosley then went on to say that DBN is only one of several ways to address such situations, including Minimum Housing Code enforcement. Mosley clarified that the HPC cannot be the ones to decide the interpretation of “comply.” She would like to discuss this with the City Attorney because there may be case law or other factors to consider. Chair Cox asked Mosley to report back to us on this.

Commissioner Sheridan asked Mosley **if the HPC can invite an owner to appear** to discuss their progress. Mosley responded that the HPC may invite, but if the owner refuses, the HPC does not have subpoena power. State statute, she continued, allows the City to give the HPC such power, however, the Aldermen have not done so.

Mosley was asked what the HPC could then do. Mosley explained that a project that is not completed according to the COA can be **enforced as a violation of the code.**

2. **Fence height measurement.** Chair Cox began the discussion by introducing the issue: do we want to more clearly define how to measure fence height? Commissioner Klotz said we have to and to do so with consideration for varying conditions. Klotz said the standard may need to consider varying ground levels, commercial areas as opposed to residential properties. He added that the guideline should not allow someone to alter their property to gain additional fence height. Chair Cox asked everyone to think about this before the next Design Review meeting when we will discuss this again. Vice Chair Eure went to the whiteboard to sketch and discuss several of the issues that would need to be addressed when devising a standard for fence height, including topography and varying ground levels on each side of a property line. Commissioner Klotz added that the situation is similar when a fence is built on top of a wall. Vice Chair Eure indicated that it will also be difficult to explain these kinds of requirements to an applicant and then also the difficulties to review their proposal. There was a tangent discussion about site drainage.

9. COMMISSIONERS' COMMENTS:

None

10. ADJOURN:

Motion to adjourn the meeting: Commissioner Evans; Second by Commissioner Klotz

Motion passed: Unanimously

The meeting was adjourned at 6:47 pm.

Minutes approved: July 21, 2021


Dr. Ruth Cox, Chair


Matthew Schelly, City Planner, Secretary



NEW BERN
CITY OF NEW BERN

HISTORIC PRESERVATION COMMISSION

REGULAR MEETING

Wednesday, June 16, 2021, 5:30 PM

SWORN SIGN-IN SHEET

Name (printed legibly)

Address

Sarah Atterbach

406 Hancock Street