

Appeal of the Denial of a Certificate of Appropriateness - 91099

Standing Seam Metal Roof – 1123 Jenifer Street (Third Lake Ridge Historic District)
Appellant: William and Kathryn Gustafson, Owners

I. Introduction

This appeal presents a straightforward question: **Did the Landmarks Commission apply Chapter 41 as written, or did it deny a compliant project based on assumptions and criteria that appear nowhere in the ordinance?**

The record shows the latter. The Commission’s denial rests on speculation about historic materials, selective disregard of district examples as comparables, and an interpretation of §41.25(4)(b)(2) that narrows the ordinance far beyond its text. The Common Council’s role is to correct that error. For clarity, §41.25(4)(b)(2) states that “Replacement materials shall replicate the appearance of historic roofing materials found on the structure or be compatible with roofing found on historic resources in the district.”

The proposed standing seam metal roof **meets every applicable standard**. The denial should be reversed.

II. The Standard on Appeal

Under MGO §41.20, the Council may reverse a Landmarks Commission decision when it is **contrary to the applicable standards** in §§41.18 and 41.25. The Council is not asked to decide whether it *likes* the project; it is asked to determine whether the Commission followed the law.

For exterior alterations in a historic district, the controlling standards are (summarized):

- **§41.18(1)(c)** – The alteration must meet the district’s adopted standards.
- **§41.18(1)(d)** – The alteration must not frustrate the public interest in conserving historic resources.
- **§41.25** – The Third Lake Ridge district standards governing roof alterations.

The question is whether the project satisfies these standards. It does.

III. The Project Meets the District Standards (§41.25)

A. Roof Form, Style, and Features (§41.25(4)(a))

The ordinance requires that alterations maintain:

1. A roof style compatible with the existing roof
2. The existing roof form
3. Historic decorative or functional features

The proposal changes **none** of these. The roof form remains intact. No historic features are removed. Only the surfacing material changes. This is in full compliance with §41.25(4)(a).

B. Roofing Materials – The Key Standard (§41.25(4)(b)(2))

This is the heart of the case.

The ordinance provides **two independent paths** to approval:

“Replacement materials shall **replicate the appearance of historic roofing materials found on the structure** or be **compatible with roofing found on historic resources in the district.**” (emphasis added)

The project satisfies the **compatibility** path. The Commission’s denial contradicts the plain language of the ordinance.

1. The record does not establish asphalt as the original roofing.

The Commission’s conclusion that the house “likely” had asphalt shingles in 1910 is unsupported by any period documentation. Asphalt shingles were still emerging in the early 1900s, with widespread adoption occurring later toward the 1920’s and 1930’s. Wood shingles remained common, and metal roofing—including standing seam—was historically used on residential structures.

A denial cannot rest on speculation about a material the record does not confirm.

2. The Commission added restrictions not found in the ordinance.

§41.25(4)(b)(2) does **not** limit comparables to:

- Residential buildings only

- Main roofs only
- Projects staff “would approve today”

Yet staff and the Commission applied all three limitations. These extra-textual filters rewrite the ordinance and improperly narrow the compatibility standard.

3. Standing seam metal roofing exists on historic resources in the district.

The record includes examples of standing seam metal roofing on historic resources and nearby structures within the Third Lake Ridge district (sections V and VI below). The ordinance directs the Commission to consider what is **found** in the district—not what it prefers or what it would approve now.

4. Predictable, text-based decision-making is essential for homeowners.

Chapter 41 is designed to give homeowners **clear, predictable, text-based standards** so they can understand what is required before undertaking repairs or improvements. When the Commission adds unwritten criteria or disregards district examples the ordinance expressly allows, it undermines that predictability and erodes public confidence in the preservation process. Homeowners deserve decisions grounded in the ordinance—not in shifting interpretations.

5. The compatibility path exists precisely for cases like this.

The compatibility option in §41.25(4)(b)(2) is not an afterthought; it is an intentional safeguard. It exists **specifically** to address situations where original materials are uncertain, undocumented, or historically varied. Many structures in the district lack definitive roofing records, and the ordinance provides a clear, lawful route to approval by allowing materials compatible with those found on historic resources in the district. Refusing to apply this path defeats the very purpose for which it was created.

6. The Commission’s proposed alternative underscores the problem with adding unwritten restrictions.

During the review, the Commission suggested that the owner could instead install a metal shingle roof. That material is **\$20,000 to \$50,000 more expensive** than the proposed standing seam roof and presents practical challenges for future solar installation. While solar panels *can* be mounted on a roof with metal shingles, doing so requires placing panels between custom-cut shingles during installation, making the process more complex and less flexible over time.

Nothing in §41.25(4)(b)(2) requires homeowners to choose the most expensive or least practical version of a historically compatible material. Forcing homeowners into a significantly costlier and more complicated alternative underscores why predictable, text-based standards matter and why the ordinance’s compatibility path must be applied as written.

IV. Illustrated Design Guidelines

The Illustrated Design Guidelines are interpretive tools, not binding law. They cannot override or narrow the ordinance. Where staff used the guidelines to exclude district examples that §41.25(4)(b)(2) expressly allows, the guidelines were applied beyond their proper role.

The project maintains the roof's form and historic features and uses a material compatible with roofing found on historic resources in the district. It aligns with the guidelines' purpose and the ordinance's text.

V. Responses to the Commission's Arguments

The Commission offered reasons for denying the internal appeal. Each fails under the ordinance.

1. "The house is a historic resource."

Correct—but this adds no restrictions beyond those in §41.25. The project meets those standards.

2. "The roof is a key architectural feature."

The definition of "architectural feature" is descriptive, not prescriptive. The project preserves the roof's form and historical features, satisfying §41.25(4).

3. "For the roof, it appears to have always had an asphalt shingle roof of some variety." Heather Bailey, Landmarks Commission meeting on 12 JAN 2026

There is no documentation supporting this claim. Roofing history suggests multiple plausible materials in 1910, including wood, slate, and metal. Asphalt shingles were not invented until the early 1900's, and were not in common use before the 1920's. It is pure conjecture to claim that our house had asphalt shingles during the period of significance, which for this home was from the point of construction in 1910 until 1929. A denial cannot rest on conjecture.

4. "Examples elsewhere in the district are not relevant."

This contradicts the ordinance. §41.25(4)(b)(2) explicitly allows compatibility with roofing "found on historic resources in the district." Excluding such examples rewrites the standard.

- 517 S Baldwin: Heather Bailey states this property "was approved under the old ordinance." "It was an extensive remodel and partial demolition, but it never historically had a metal roof." She used these points to say why this couldn't be considered as a comparable property.



- Historic resources in the Third Lake Ridge Historic District are defined as:
 1. Designated Landmarks
 2. Designated Landmark Sites or
 3. Properties constructed during the period of significance 1850-1929.
- The property at 517 Baldwin was built in 1884 during the period of significance and is a historic resource by definition.
 - The ordinances do not allow “historic resource” status to be arbitrarily ignored for properties that have undergone modification.
 - There is no language that allows “historic resource” status to be arbitrarily ignored if the current materials used on a house were not originally on the house during the period of significance.
 - There is no ordinance that allows alterations approved by previous Landmarks Commission members to be ignored.
- For this reason, 517 S. Baldwin is a historic resource in the district that has a standing seam metal roof that was approved by the Landmarks Commission, and it should be retained as a relevant comparable.
- 943 Williamson: This is an additional example of a standing seam metal roof on a historic resource within the district.



VI. Post-2022 code revision example of approved standing seam metal roof in the district

The Commission has approved standing seam metal roofing for new construction within the district. While new construction is governed by §41.27, approvals under the new code revision demonstrate that the material is not inherently incompatible with district character, and is in fact an acceptable roofing material in the district. The denial of the proposed standing seam metal roof at 1123 Jenifer reflects an overly narrow interpretation of ordinance, not a material-based concern.

- 826 Williamson Street: New construction approved under current ordinances.



- Heather Bailey acknowledged that standing seam metal roofing over the bay windows on the property was approved by the Landmarks Commission. She stated that new construction is held to a different standard in the current ordinances and tried to use this as a reason that standing seam metal roofing could be approved for this new construction. Heather Bailey acknowledged that the Commission approved the standing seam metal roofing over the bay windows because the roof there is “slightly pitched” and “**minimally visible** from the public right of way.” (Landmarks Commission meeting 12 JAN 2026)
- The ordinances for roofing materials on new construction are actually more restrictive than ordinances for roofing on historic resources.
 - Ordinance for roof materials on new construction

- §41.27(4)(b)(1): Roof materials shall replicate materials found on historic resources **within two hundred (200) feet.** (Emphasis added)
 - Note, no such radius is referenced for comparable resources for alterations to historic resources.
 - §41.27(4)(b)(2): Any roofing material shall be permitted on flat or slightly pitched roofs **not visible from the developed public right of way.** (Emphasis added)
 - This standing seam metal roofing was approved despite there being no historic resources with standing seam metal roofing within 200 feet of the property line. This standing seam metal roofing was approved under the current guidelines even though, as Heather Bailey acknowledged, the roofing material is visible from the developed public right of way.
 - The fact that this roofing material was approved under more restrictive new construction ordinances despite not abiding by the relevant ordinances is further evidence that this material is generally deemed appropriate for the district.
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VII. Reference: Points of Discussion from the January 12th Landmarks Commission meeting

Heather Bailey says she feels that adding a standing seam metal roof would be introducing a conjectural architectural feature without historic precedent on the building site. As mentioned earlier, asphalt shingles are likely “without historic precedent on the building site” as well, as they were only invented a couple of years before the house was constructed, and were not yet mass-produced in 1910. Speculation about what may have historic precedent on the roof is not a meaningful distinction when deciding appropriateness of roofing material for the district. Heather also believes that a metal roof would not be keeping with the original design and character of the building, but as stated earlier there is no documentation as to what roofing was originally on the building, so there is no way to know. She is using this ordinance to require us to keep with the character of the building as it has existed since, perhaps, the 1950’s—outside of the period of significance and therefore outside the jurisdiction of these ordinances.

Heather correctly cited §41.25(4)(b)(2) as the ordinance covering roofing materials, and read the ordinance aloud to the Commission. She then states that we “didn’t (past tense) have standing seam metal roofs on historic resources in the district.” Note, there is no portion of the ordinance that allows newer previously-approved roofs on historic resources to be ignored when discussing appropriate materials for the district.

Katie Kaliszewski was asked to bring up the language from the ordinance. She only shared the ordinance pertaining to the general standards for alteration (§41.25(1)(b)(1) and (3) and §41.25(1)(c), NOT the standards governing roofing material, which are relevant to the request.

During the open discussion portion of the meeting, Jacob Morrison stated that he “didn’t see a compelling reason to circumvent the standards for alterations as described.” He noted that each precedent had different conditions, but didn’t mention that the new construction standards are tighter, and failed to question the discounting of historic resources.

Richard Arnesen stated that this was “a complete non-starter” and that he didn’t see “any situation where we’d approve a standing seam metal roof on a victorian built in the 1920’s and 1930’s.” It’s worth noting that he misidentified the age and style of the house, calling into question his ability to apply relevant ordinances.

Molly Harris stated that she believed that other options were laid out that would be acceptable to the Landmarks Commission, but neglected to acknowledge that these alternatives would cost the homeowners substantially more money—roughly a 50% increase in cost—none of which can be supported by any grants or tax reductions as the property does not qualify for state or national landmark status because it is too altered.

Maurice Taylor notes correctly that there are a few roofs in the district that are metal, and that he would have no problem approving this roof for this house. Katie Kaliszewski responded that “we have to follow the ordinance,” and then says the ordinance does specifically say we should be using buildings within the district as comparisons. Maurice correctly points out there’s new construction right down the street that has a metal roof. Katie tries again to draw the distinction that the home at 1123 Jenifer is not new construction, ignoring the fact that the ordinances for new construction are tighter when introducing materials, and discounting Maurice’s implied conclusion that if standing seam metal roofing was allowed on new construction under current ordinances, its appropriateness for the district is supported. Katie notes that historic houses have different standards “just as a reminder.” She fails to cite how they’re different and fails to note that new construction requires roofing materials to be on historic resources within 200 feet, where historic houses in the district have no such radius. Maurice closes his discussion by stating correctly, “there are metal roofs in that neighborhood.” This statement supports the appropriateness of standing seam metal roofs within the district.

VII. Conclusion

The Commission’s denial is contrary to the applicable standards because it:

- Imposes restrictions not found in §41.25(4)(b)(2)
- Relies on unsubstantiated assumptions about original materials
- Disregards district examples the ordinance expressly allows
- Overlooks that the project preserves roof form, style, and historic features
- Undermines the predictability and fairness that text-based standards are meant to ensure
- Ignores the purpose of the compatibility path, which exists to guide decisions when original materials are uncertain
- Pressures homeowners toward significantly more expensive and less practical alternatives not required by the ordinance

The proposed roof **meets the ordinance**. The denial does not.

The Common Council should reverse the Landmarks Commission’s decision and approve the Certificate of Appropriateness for a standing seam metal roof at 1123 Jenifer Street.
