

Bailey, Heather

From: Bailey, Heather
Sent: Monday, August 05, 2019 1:30 PM
To: 'Ann Kox'
Cc: Van Berkel, Adrian
Subject: RE: 3/11 Landmarks Commission

Ann,

We'll see you at 10:30am on Wednesday!



Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development
Planning Division
215 Martin Luther King, Jr. Blvd.; Suite 017
PO Box 2985
Madison WI 53701-2985
Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: Ann Kox <annkox@gmail.com>
Sent: Monday, August 05, 2019 11:08 AM
To: Bailey, Heather <HBailey@cityofmadison.com>
Cc: Rummel, Marsha <district6@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Kurt Hartjes <kurt@waunakeeremodeling.com>; Agni, Chet <Chet.Agni@legis.wisconsin.gov>; Brian Kox <bbkox4040@gmail.com>
Subject: Re: 3/11 Landmarks Commission

How about 10:30?

Thank you,

Ann

Sent from my iPhone

On Aug 5, 2019, at 9:40 AM, Bailey, Heather <HBailey@cityofmadison.com> wrote:

What time would you like us to come by on Wednesday?

The Landmarks Commission asked about the lead paint because your application used that as one of the reasons for wanting to replace the windows, so they were asking if there was evidence of there being lead. If you're able to get the paint tested prior to the meeting, I think that would be beneficial.

<image001.jpg>

Heather L. Bailey, Ph.D.

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Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: Ann Kox <annkox@gmail.com>

Sent: Friday, August 02, 2019 2:52 PM

To: Bailey, Heather <HBailey@cityofmadison.com>

Cc: Rummel, Marsha <district6@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Kurt Hartjes <kurt@waunakeeremodeling.com>; Agni, Chet <Chet.Agni@legis.wisconsin.gov>; Brian Kox <bbkox4040@gmail.com>

Subject: Re: 3/11 Landmarks Commission

Dear Heather,

Actually, Wednesday morning might be a better if that can work for you and the inspector.

Also, in the report from the last meeting the question of whether there is lead in the paint was raised. I am certain there is lead in the paint, based on what I was told when we purchased the property in 2007. Would it help our case to have this tested in advance?

Ann

On Fri, Aug 2, 2019 at 2:42 PM Ann Kox <annkox@gmail.com> wrote:

Dear Heather,

I like the idea of meeting at the house with you and the building inspector so that we are all looking at and talking about the same thing. We are out of town for the weekend. Can we meet there Tuesday afternoon, August 7th? That would allow a bit of time to still gather any other things before the meeting on the 12th, if need be.

I can also confirm that we would like to be on the agenda and that we plan to appear.

Thank you,

Ann

On Fri, Aug 2, 2019 at 10:37 AM Bailey, Heather <HBailey@cityofmadison.com> wrote:

Ann,

If you want to be on the August 12, 2019, Landmarks Commission agenda without updating application materials, we can accommodate that. I want to clarify that a large submission does not

equate to a sufficient application. At their March 11 meeting, the Landmarks Commission said that the application materials did not convey the necessary information for them to evaluate if each window was deteriorated beyond repair and if the proposed replacement for each window replicated the existing. They asked for you to return with a clarified submission and a hierarchy of what windows could be repaired and what needed to be replaced. They made this request per their precedent of window reviews and the guidance from the City Attorney's Office. You have not provided those materials, therefore neither staff nor the commission have taken any further action. I can include a memo for your item with this correspondence and a statement that you will not be supplying the requested materials and are requesting the commission to make their determination based upon the materials already submitted.

Here is a link to the action report for your agenda item from the March 11, 2019 meeting:

<https://madison.legistar.com/View.ashx?M=F&ID=7099799&GUID=F4EEDED7-90EA-4F19-A9AC-F069D7E13E99>

Your request to be included on the August 12 agenda comes after the submission deadline. But since Kurt is already going to be representing another project at that meeting and you are not submitting updated materials, we can accommodate your request. I would encourage you to attend the meeting to be able to discuss the project with the commission.

Please confirm that this is how you would like to proceed.

I would like to also offer that I and a building inspector come out to look at the windows in person and provide some of the missing documentation. Then you get both a preservation and building code assessment of the situation.

<image001.jpg>

Heather L. Bailey, Ph.D.

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Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: Ann Kox <annkox@gmail.com>
Sent: Thursday, August 01, 2019 4:13 PM
To: Bailey, Heather <HBailey@cityofmadison.com>
Cc: Rummel, Marsha <district6@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Kurt Hartjes <kurt@waunakeeremodeling.com>
Subject: Re: 3/11 Landmarks Commission

Dear Heather,

I met with Kurt Hartjes today, and he showed me that 200+ pages that were submitted in application for the window project on 1229 Jenifer St. There were 3 views of each window, in addition to a ton of other information. Neither he nor I know what you mean when you say that the information has not been provided. He took more photos today and was clearly dismayed at the state of the windows. The last winter was terrible, and this project has been frozen, meanwhile the windows are further rotting and deteriorating. I do not feel that I should have to replace aluminum storm windows that were not original to the house when I do not want aluminum storm inserts. I want quality windows, which is why I put \$10,000 down over a year ago to fully replace all windows on the house.

After meeting with Kurt today I have contacted Lawton and Cates, S.C. and have asked them to take my case. I have invested in the foundation and basement of the apartment, and replaced all of the floors in both apartments. I have no intention of being a slumlord, though I feel that I am being forced into a situation where I am just that. The windows were part of a multi-year project that also included updating the exterior (which is currently aluminum that is most certainly over rotting wood). It has been very discouraging to be unable to make these important improvements to the property.

Please let me know if we will be on the Aug 12 agenda, as Kurt has asked. I would be delighted to appear in person on that day.

Ann Kox

Bailey, Heather

From: Kurt Hartjes <kurt@waunakeeremodeling.com>
Sent: Thursday, August 01, 2019 3:02 PM
To: Bailey, Heather
Cc: Ann Kox
Subject: 1209 Jenifer St.

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon Heather,

I am emailing you regarding property 1229 Jenifer St. Madison, property owned by Ann Kox. Ann is back in the states for a short time frame and would like to be put on the 8/12 meeting agenda. She emailed me yesterday and requested I come look at her property. I was out there and this is what I found.

1. Significant more damage than what I even realized from the pictures my rep took. These windows are practically falling out in some of the areas, but every single window in this house needs replacing.
2. Poorly installed aluminum clad house wrap had trapped moisture and is rotting out the bull nose of the frame.
3. All these windows have lead paint.
4. Other homes in this area have clearly done upgrades that would never be approved. I am shocked no one has said anything.
5. 1209 Jenifer was just approved in June for windows not even half as bad.

I am emailing you because we are at actually a critical point in this process for this home. In my opinion all the windows, aluminum cladding, and aluminum siding need to be ripped off before there is a bigger issue. Ann has been trying for 4 years to upgrade this property and it is a travesty that is hasn't been done.

I have submitted a successful application and this was reviewed in March. Based on the condition of the property and like the issue with Jayne's property no one is going to want to touch this house. They're no grids, and no historical value to this property.

Please get this on the 8/12 agenda so Ann & Brian can attend and state their major pains.

Thank you,

KURT HARTJES
SALES MANAGER
WAUNAKEE REMODELING
608-850-2127
WWW.WAUNAKEEREMODELING.COM



From: Bailey, Heather <HBailey@cityofmadison.com>
Sent: Tuesday, May 28, 2019 8:51 AM
To: 'Agni, Chet' <Chet.Agni@legis.wisconsin.gov>; 'annkox@gmail.com' <annkox@gmail.com>; Fruhling, William <WFruhling@cityofmadison.com>
Cc: Rummel, Marsha <district6@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Kurt Hartjes

<kurt@waunakeeremodeling.com>; Brian Kox <bbkox4040@gmail.com>; Strange, John <JStrange@cityofmadison.com>

Subject: RE: 3/11 Landmarks Commission

Ann,

I am again attaching the Wisconsin Historical Society's interpretation of the new statute and I'll reiterate the process. The commission must first determine if replacement is the appropriate treatment for the project you've proposed. In the attached memo, WHS explains this process as: "During the commission's COA review process, the commission should first determine if repair or replacement is a component of the application." In this instance, the commission and staff have indicated that repair is likely to be the appropriate treatment for most of the windows. We have clarified with WHS that this is still the role of the commission. We are complying with both our ordinance and the State statutes.

When replacement is the appropriate treatment, then the replacements that Waunakee Remodeling is recommending are an acceptable material (and one that the commission has approved on many projects). The commission asked you at their March 11, 2019, meeting for information on the windows you're proposing to replace in order for them to determine what windows need repair and what need replacement. Until you provide information for a complete application we cannot finish this process. This is true of all Planning processes.



Heather L. Bailey, Ph.D.

Preservation Planner
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From: Agni, Chet <Chet.Agni@legis.wisconsin.gov>

Sent: Saturday, May 25, 2019 1:18 PM

To: Bailey, Heather <HBailey@cityofmadison.com>

Cc: Rummel, Marsha <district6@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Kurt Hartjes <kurt@waunakeeremodeling.com>; Brian Kox <bbkox4040@gmail.com>

Subject: Re: 3/11 Landmarks Commission

Hi all,

I would just like to clarify that the interpretation of AB771 cited by Anna Knox below is my own interpretation, not the representative's.

Best,

Chet Agni

The Office of Representative Chris Taylor

From: Ann Kox <annkox@gmail.com>

Sent: Saturday, May 25, 2019 3:41 AM

To: Bailey, Heather

Cc: Rummel, Marsha; Fruhling, William; Agni, Chet; Kurt Hartjes; Brian Kox

Subject: Re: 3/11 Landmarks Commission

Dear Heather, Marsha, William and Chet (from Representative Chris Taylor's office),

It seems that we all agree that the materials I have requested are appropriate. Heather, you have not addressed the contents of AB771 in your review of the case. It is under that law what I am requesting the Certificate of Appropriateness (CoA). My reading and Rep. Chris Taylor's reading of the law clearly states I can replace my windows as long as I have the CoA. My understanding of the the CoA is that it is not at all about the condition of the current windows, but rather concerns the appropriateness of the proposed windows.

Here is an excerpt from my correspondence from Rep. Chris Taylor's office:

...the bill should allow you to renovate your property as long as you use materials that are true to the original appearance/style of the building. In [the summary memo on the law](#), it says:

"The Act requires cities, villages, towns, and counties to allow owners of property that is designated as a historic landmark or included within a historic district or neighborhood conservation district, when repairing or replacing such property, to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities."

And this pretty much just reiterates/confirms your interpretation of the section of the state statute that you highlighted in your original email to Rep. Schraa's office. But based off of what it says on the City of Madison's Landmarks Commission website, it seems as though the you do need a Certificate of Appropriateness. Do you know the reasoning behind the Preservation Planner's refusal to provide you with that certificate? Do they not believe that the materials you intend to use in your repairs and renovations are similar enough in design and color of the original appearance of the building? Or are they not even considering whether or not they are similar? Because if they are disregarding whether or

not the renovation would restore the property to its original appearance, then I think they would be in violation of this law.

It feels to me that you are ignoring AB771 and what it was designed to allow, and that you are acting as if this law does not exist. The advice I am receiving is that I should be granted this Certificate of Appropriateness and should be allowed to replace the windows in my property, even if they are all perfectly new. The current condition of the windows is not relevant.

Before I pursue the next steps in this unpleasant journey, I would like to understand from your perspective how AB771 changed the process and requirements as it relates to my request.

Here is one of the relevant areas of AB711:

Section 4. 60.64 (2m) of the statutes is created to read:

1560.64 **(2m)** In the repair or replacement of a property that is designated as a
16historic landmark or included within a historic district or neighborhood conservation
17district under this section, the town board shall allow an owner to use materials that
18an ordinary observer would perceive, when viewed from the centerline of an adjacent
19highway, as having a substantially similar appearance to the original material.

Kind Regards,

Ann Kox

On Fri, May 24, 2019 at 10:42 PM Bailey, Heather <HBailey@cityofmadison.com>
wrote:

Ann,

I have read back through your application, the photographs you provided with the application, and all previous correspondence. The photographs you provided show wood windows, not aluminum, and those windows appear to be historic. Staff has consistently provided guidance on how to make a complete and strong application. We included you on the May 11, 2019, Landmarks Commission agenda at your insistence despite staff believing you had not provided the information required in the ordinance in order for the commission to be able to apply the standards for review. The commission concurred. At the commission meeting, they referred your project to a future meeting for you to provide the information that they need to be able to either approve or deny your proposal. I am attaching the minutes from that meeting.

The commission asked for a hierarchy of repair for what could be repaired vs. what needed to be replaced. They wanted more photos and details on the windows proposed for replacement. We have not received any items from you to be able to put you on an agenda for another meeting. The Landmarks Commission cannot provide a Certificate of Appropriateness without a complete application.

I am also attaching the guidance from the Wisconsin Historical Society on the state statute in question. In short, preservation commissions must first decide if a feature requires replacement. If they make that determination, then they have to discern if the proposed replacement accurately replicates the original materials. The window replacements you are proposing do meet that criteria (which we stated at the meeting) and are an excellent window replacement product for properties in historic districts. However, we need the information on whether all of the windows require replacement (which is a very difficult case to make). Additionally, I am attaching the guidance from the City Attorney's office, which is what the Landmarks Commission uses to review window proposals (and this was included in the March 11 Landmarks meeting).

In terms of other projects in the Third Lake Ridge Historic District being allowed to replace their windows, of the Certificates of Appropriateness are either for one or two deteriorated windows, repair of all windows, or replacement of nonhistoric windows. If people are completing work without a permit, then they are subject to enforcement action.



Heather L. Bailey, Ph.D.

Preservation Planner

Neighborhood Planning, Preservation + Design Section

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Email: hbailey@cityofmadison.com *Phone:* 608.266.6552

From: Heiser-Ertel, Lauren

Sent: Monday, May 20, 2019 8:08 AM

To: Bailey, Heather <HBailey@cityofmadison.com>; 'annkox@gmail.com' <annkox@gmail.com>

Cc: Rummel, Marsha <district6@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>

Subject: FW: 3/11 Landmarks Commission

Hi Ann,

I am passing your email along to the Preservation Planner, Heather Bailey.

Thanks,

Lauren

From: Ann Kox <annkox@gmail.com>

Sent: Saturday, May 18, 2019 3:35 AM

To: Heiser-Ertel, Lauren <LHeiser-Ertel@cityofmadison.com>

Cc: Kurt Hartjes <kurt@waunakeeremodeling.com>; Rummel, Marsha <district6@cityofmadison.com>

Subject: Re: 3/11 Landmarks Commission

Dear Lauren and Marsha Rummel,

It was almost a year ago that I put \$10,000 down to have my windows replaced at 1229 Jenifer St (aluminum clad, inefficient, ugly and far from original). I have been given the run-around so have reached out to Rep. Chris Taylor's office about AB 771 to replace the windows (and I'd also like to replace the ugly, non-original siding with top-quality siding that has been approved for other houses in this same district). Please see the response I received from Rep. Chris Taylor's office and please let me know why the Landmarks Commission will not provide me with a Certificate of Appropriateness to use materials that are used in other houses within this historic district and would restore the property to its original beauty.

To me, it sounds like the bill should allow you to renovate your property as long as you use materials that are true to the original appearance/style of the building. In [the summary memo on the law](#), it says:

“The Act requires cities, villages, towns, and counties to allow owners of property that is designated as a historic landmark or included within a historic district or neighborhood conservation district, when repairing or replacing such property, to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.”

And this pretty much just reiterates/confirms your interpretation of the section of the state statute that you highlighted in your original email to Rep. Schraa's office. But based off of what it says on the City of Madison's Landmarks Commission website, it seems as though the you do need a Certificate of Appropriateness. Do you know the reasoning behind the Preservation Planner's refusal to provide you with that certificate? Do they not believe that the materials you intend to use in your repairs and renovations are similar enough in design and color of the original appearance of the building? Or are they not even considering whether or not they are similar? Because if they are disregarding whether or not the renovation would restore the property to its original appearance, then I think they would be in violation of this law.

Please let me know the reason for not providing a Certificate of Appropriateness, or provide me with that certificate. Also let me know if there is someone else who I should be asking. I am doing all I can to avoid legal pathways. The stonewalling is difficult to understand when other properties within the district have been dramatically improved, while I am forced to keep my property in an inferior condition.

Kind Regards,

Ann Kox

Sent from my iPhone

On Mar 7, 2019, at 7:10 PM, Heiser-Ertel, Lauren <LHeiser-Ertel@cityofmadison.com> wrote:

Hi Ann,

Attached please find the staff report for the item that will be reviewed by the Landmarks Commission on March 11.

The agenda for the meeting can be found here:

<https://madison.legistar.com/View.ashx?M=A&ID=640630&GUID=DD12182C-4F8B-48D2-BF4F-8A492F71B554>

A project representative should be in attendance at the meeting to answer any questions.

Best,

Lauren

<image001.png>

Lauren Heiser-Ertel

Administrative Clerk

Department of Planning & Community & Economic Development

215 Martin Luther King Jr Blvd

PO Box 2985

Madison, WI 53701-2985

608-266-4807

lheiser-ertel@cityofmadison.com

<54857 - 1229 Jenifer STAFF REPORT 03-11-19.pdf>

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Ann Kox

Bailey, Heather

From: Bailey, Heather
Sent: Monday, April 15, 2019 4:20 PM
To: 'Kurt Hartjes'
Cc: Fruhling, William
Subject: RE: Window projects

Kurt,

I would also like us to have stronger communication. One of the points of clarification is in regards to the new State statute. As I stated at the March 11 Landmarks meeting the windows you're proposing are replacements that meet both the state statute language as an appropriate replacement and the review requirements for our landmark properties. Where we are stalled out is if the windows require replacement. The language of the historic preservation ordinance specifies the priority of preservation of historic materials. If the Landmarks Commission determines that repair and maintenance is not an option, then the State statute comes into play in terms of appropriate replacement materials. That is not in question.

I would caution your applicant from deciding that the State statute language empowers her to proceed without securing a Certificate of Appropriateness or that it allows her to replace any exterior element of her building without the required permits from the City.



Heather L. Bailey, Ph.D.

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Neighborhood Planning, Preservation + Design Section

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From: Kurt Hartjes
Sent: Friday, April 12, 2019 1:30 PM
To: Bailey, Heather
Subject: Window projects

Good Afternoon Heather,

I am emailing you because homeowners are starting to push me on why they can't replace their broken, unfixable, an inefficient windows. Attached is a letter for Ann Kox on Jenifer St. that she wanted me to pass along. Jayne Miller called me this week and requested who she needed to email to get some resolution, which you received her emails.

We now have another homeowner on Rutledge having issues and has contracted with us to replace windows in like.

It is at the point where homeowners are looking into laws as you seen with AB 771 from last year. Obviously I am aware of what was passed last year as well, but want to go through the proper channels. I did talk with Ann about getting pricing on restoring what might be salvageable, which she agreed to let me do for her. I am working on helping her

with that because she is in Europe. She wants them all to look the same though, which is in the best interest of the home as well.

I am trying to open communication on how things like this can be avoided and streamlined better. I can completely respect the value of restoration and preserving historical items in most cases. When I can replicate exactly what is in the home, this shouldn't be an issue. I have invited you to have real conversation and to see what we propose to homeowners to help them.

It will come to a point where homeowners are going to contract with people that don't go through the proper channels and will just put them in on a Sunday afternoon over a couple weekends. Which happens quite often and nothing is done about that. Obviously we have always gone through the channels needed, but have never seen the resistance we have had over the last few years. When we worked with Kitty we passed windows through that were identical almost all the time. This was before I was the Sales Manager and Ben Lindberg and her worked together on projects. I would like to think we could have the same relationship. If you don't know what we do and how we do it that can be difficult though. We have always had a great relationship with City of Madison. We pull permits for everything we do and always do what is right for homes and homeowners.

Thank you for reading my email again. I hope we can have a discussion regarding these two/three jobs and the districts in general. Have a great weekend.

Kurt Hartjes
Sales Manager
Waunakee Remodeling
608-850-2127