



**Project Name/Address:** 710 Orton Court  
**Application Type:** VARIANCE (PUBLIC HEARING)  
**Legistar File ID #** [43523](#)  
**Prepared By:** Amy L. Scanlon, Preservation Planner  
**Date Prepared:** July 11, 2016

## Summary

**Project Applicant/Contact:** Andrew Rubsam  
**Requested Action:** The Applicant is requesting a variance from the Third Lake Ridge historic district ordinance standards to allow the removal of two sidewalls flanking the front steps.

## Background Information

**Parcel Location:** The subject site is located in the Third Lake Ridge Historic District.

### Relevant Historic Preservation Ordinance Section:

#### 41.19 VARIANCES.

- (4) Economic hardship variance. The Landmarks Commission may grant a variance from a standard under sec. 41.18 if all of the following apply:
  - (a) Strict literal application of the standard would deny the property owner a reasonable rate of return on investment, or would impose upon the property owner an unreasonable and unnecessary financial hardship.
  - (b) The circumstances justifying the variance are unique to the property in question, and,
    1. Were not caused by the owner's failure to maintain the property as required by this chapter; and
    2. Does not apply to a substantial portion of the historic district or historic resources within 200 feet of the subject property; and
    3. Will not alter the historic character of the historic district or historic resources within 200 feet of the subject property.
  - (c) The property owner documents the circumstances justifying the variance. The Landmarks Commission may publish evidentiary guidelines to assist property owners, and to ensure the Commission receives adequate documentation for variances granted under this subsection. Required documentation includes:
    1. Property purchase costs;
    2. Rental income;
    3. Real estate listings, disclosure statements, asking prices, and purchase offers;
    4. Tax assessments and real estate listing for comparable properties;
    5. Improvements made, and improvement costs incurred, during ownership;
    6. Routine maintenance costs incurred during ownership;
    7. Costs to comply with the standard from which a variance is requested;
    8. Other documentation reasonably requested by the Landmarks Commission

- (5) Historic design variance. The Landmarks Commission may grant a variance allowing, as part of the alteration of an existing structure, elements otherwise prohibited under sec. 41.18 if all of the following apply:
  - (a) The property owner provides photographic or other evidence to show that other local structures, of similar age and style, incorporated similar elements as part of the original design.
  - (b) The proposed alteration complies with all other applicable standards under sec. 41.18.
  - (c) The alteration will not destroy significant architectural features on the building.
- (6) Alternative design variance. The Landmarks Commission may grant a variance allowing, in a new or altered structure, elements that are otherwise prohibited under sec. 41.18 if all of the following apply:
  - (a) The elements will enhance the quality of the design.
  - (b) The design complies with all other applicable standards under sec. 41.18.
  - (c) The design does not allow material deviations from historic district standards and guidelines that would undermine the character or purpose of the historic district.
  - (d) The design will have a beneficial effect on the historic character of the area within 200 feet of the subject property.

## Analysis and Conclusion

The Applicant received a Certificate of Appropriateness from the Landmarks Commission on May 16, 2016 to repair the front porch with the exception of the removal of the sidewalls flanking the front porch steps. The Applicant requested a variance to allow the removal of the sidewalls from three different variance options. A discussion of each variance type and its applicability is provided below:

### (4) Economic Hardship Variance

The application of the economic hardship variance does not seem to apply to this request. The economic hardship variance provision in a historic preservation ordinance is used in situations where the owner demonstrates that they would otherwise be denied all reasonable use of the property due to the hardship imposed by the strict application of the ordinance standards and the associated costs related to the property. The 10% increase in the cost (\$1640) for the project is reasonable since the property is still able to be used as a residence. This variance provision is not to be used to compensate for instances when the scope of the work costs more than what is budgeted by the property owner for the project or for instances where the property owner doesn't want to maintain the feature. The property owner purchased the subject property three years ago and it is presumed that these conditions were present and known upon the time of purchase.

### (5) Historic Design Variance

- (a) The Applicant claims that most local properties with porch designs similar to the subject property do not have side walls. Staff noted multiple sidewalls in the immediate area on structures of similar age and some of similar style. Staff found that sidewalls are fairly common architectural features on other structures in the historic district, but are more typically constructed of masonry to relate to a brick or stone or stucco foundation or building wall. Sidewalls constructed of siding are not as common.

The majority of the residential structures in the Third Lake Ridge local historic district were constructed between 1890 and 1910. Given the predominant styles of that time period, the majority of these buildings are Queen Anne or American Foursquare styles. Many of these structures have side walls which are presumed to be original features and are characteristics of the Queen Anne and American Foursquare styles in this historic district. In a quick windshield survey of the nearby blocks of Rutledge Street, the following sidewalls were observed:



1224 Rutledge, constructed 1905



1040 Rutledge, constructed 1917



1314 Rutledge, constructed 1902



1326 Rutledge, constructed 1897

Other sidewalls were found at, 1107, 1115, 1121, 1212, 1225, 1319 and 1339 Rutledge.

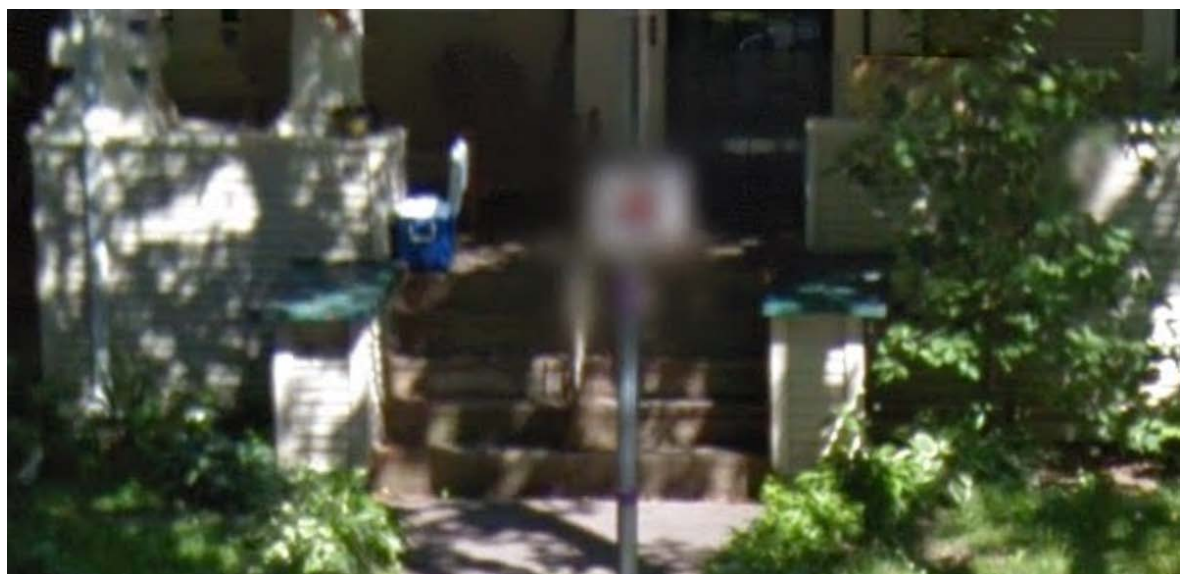
The subject property was constructed in 1914. A residence with similar architectural style to that of the subject property is located at 1134 Spaight and according to the Assessor's information the building was constructed in 1912. The sidewalls are stucco to relate to the stucco building walls, foundation, and porch railing. This example shows the typical use of the selected exterior material on all elements (building walls, foundation, porch railing and

sidewalls) related to this vernacular style. The subject property has a similar use of selected exterior material on the same elements.



1134 Spaight, Google street view

A literal example of sidewalls constructed with siding is located at 1148 Spaight and according to the assessor's information the building was constructed in 1904 which is a similar age to the subject property. The overall style is that of a typical Queen Anne and therefore it is not literally similar in style to the subject property, but does show that sidewalls constructed with siding exist in the historic district on residences constructed at a similar time.



Detail of sidewalls at 1148 Spaight, Google Street view

- (b) The proposed alteration complies with all other applicable standards under sec. 41.18 for the purposes of this discussion.
  - (c) The proposal removes an architectural feature that is very common in the historic district and that exists on buildings with similar dates of construction. The integrity of the historic district relies on the retention of architectural character and features on each property within the district. The ordinance defines Architectural Feature to mean “the distinguishing exterior elements of a building or structure including shape, size, design, style, fenestration, materials and decorative details.” The issue becomes whether the sidewalls are considered by the Commission to be “significant” to this residence.
- (6) Alternative design variance. The application of the Alternative Design Variance does not seem to apply to this request. The removal of an architectural feature that is part of the character of a structure in the historic district will not enhance the quality of the design as it is counter to the policy and purpose of the historic preservation ordinance to “safeguard the City’s historic resources and investment in them by establishing an obligation to maintain them and encouraging the vigorous enforcement of this ordinance” and the preservation of the character of the historic district. The removal of an architectural feature in the historic district will not benefit the historic district.

## Recommendation

As outlined above, the Applicant requested a variance from three different variance options provided in the Historic Preservation Ordinance. Given the requests, staff does not believe applicable standards have been met for the Economic Hardship (4) and Alternative Design (6) Variances and recommends that the Landmarks Commission deny the variance request based on those variance options.

The Historic Design Variance (5) standards allow the Commission to consider the request under this type of variance. Staff believes that the sidewalls were likely part of the original design and are significant to the building style and therefore recommends that the variance request based on the Historic Design variance be denied.