



**Project Name/Address:** 15 East Gilman Street  
**Application Type:** Certificate of Appropriateness for exterior alteration  
**Legistar File ID #** [53073](#)  
**Prepared By:** Heather Bailey, Preservation Planner, Planning Division  
**Date Prepared:** May 13, 2019

## Summary

**Project Applicant/Contact:** Ken Miller & Waunakee Remodeling, Inc.  
**Requested Action:** The Applicant is requesting that the Landmarks Commission approve a Certificate of Appropriateness for proposed window replacements.

## Background Information

**Parcel Location:** The subject site is located in the Mansion Hill historic district.

### Relevant State Statute Section:

**Wisc SS 62.23(7)(em)2m.** In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this paragraph, a city shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.

### Relevant Landmarks Ordinance Section:

#### **41.12 CONSTRUCTING, ALTERING, OR DEMOLISHING STRUCTURES IN HISTORIC DISTRICTS.**

No person may do any of the following in a historic district without a certificate of appropriateness issued under Subchapter F:

- (1) Construct a new structure.
- (2) Materially alter the exterior of an existing structure.
- (3) Demolish or relocate an existing structure.
- (4) Install a sign.
- (5) Divide any lot, consolidate any lot, or voluntarily grant any easement on any lot if doing so may distract from the historic character of the district.

**41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS.** A certificate of appropriateness shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.

- (1) New Construction or Exterior Alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
  - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
  - (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.

- (c) In the case of exterior alteration or construction on any property located in a historic district, the proposed exterior alteration or construction meets the adopted standards and guidelines for that district.
- (d) In the case of any exterior alteration or construction for which a certificate of appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.

**41.21 PENALTIES FOR FAILURE TO OBTAIN CERTIFICATE OF APPROPRIATENESS.**

- (1) Permits. The Building Inspector shall not issue a permit allowing alteration, construction, demolition, removal, or for any other action for which a certificate of appropriateness is required unless the certificate has been approved by the Commission and issued by the Preservation Planner or designee.
- (2) Prohibition. No owner, operator, or person in charge of a landmark, landmark site or structure within an historic district shall cause or permit any painting of signs, alteration, construction, demolition or removal for which a certificate of appropriateness is required unless such Certificate has been approved by the Commission.
- (3) Penalty for Work Done Without, or in Violation of, a Certificate of Appropriateness. In addition to any other penalty provided in this chapter, the Landmarks Commission, may order the removal or modification of any alteration, construction or other work that was performed without a required certificate of appropriateness, or that was not performed in compliance with the conditions of a lawfully issued certificate of appropriateness, when such work does not meet the applicable standards for a certificate under Subchapter F of this ordinance. Alternatively, the Commission may order renovation to make such work comply with those standards.

**41.22 MANSION HILL HISTORIC DISTRICT.**

- (1) Purpose and Intent. It is hereby declared a matter of public policy that a specific area of the City be identified, designated, and protected because of its special character and historical interest. This area, to be called the Mansion Hill Historic District, shall be described in general by the map and specifically by the legal description on file in the City Clerk's office. The purpose and intent of this ordinance shall be to designate this area in accordance with Subchapter D of this chapter.

**Analysis and Conclusion**

The applicant is requesting a Certificate of Appropriateness to replace 14 windows at 15 E Gilman St., in unit #7. The applicant submitted in September 2018 and has been working with City staff since then to compile a complete application. The original application had a plan showing 11 window locations. Of the attached photos, only some of them had identifiers and some had incorrect identifiers. Per the photos, there are two types of windows: twelve 6-over-1 double-hung wood windows with decorative window horns on both the upper and lower sashes; and two 6-light side-hinged casement window. City staff asked for clarification of why all the windows needed replacing, where exactly all of the windows were located, and product sheets that reflected both types of windows proposed for replacement.

The most recent submittal was to supplement the original application, identifying only the windows that required replacement, with the remainder to be repaired (see attached correspondence). The actual submission was again for all 14 windows, and 9 of those windows are now missing their lower sashes. As most of those sashes appear in the September 2018 photo documentation, staff asked the applicant team where those windows were. Staff has received conflicting information about whether those lower sashes still exist.

Additionally, the new submittal has different numeric identifiers for the windows and the bedroom numbering is different. Based upon appearance alone, staff matched the new photos to the old as best as possible. There appears to be at least two windows that do not have matching photos from the September submission.

Two of Waunakee Remodeling's customers (including this applicant) have referenced WI Act 280 claiming that it allowed them to replace all windows without City approval. Staff has provided guidance to both Waunakee Remodeling and the applicants that the statute still requires compliance with City permitting processes and that they still need to make a case for why the windows require replacement rather than repair.

A discussion of the relevant ordinance sections follows:

**41.12 CONSTRUCTING, ALTERING, OR DEMOLISHING STRUCTURES IN HISTORIC DISTRICTS.**

No person may do any of the following in a historic district without a certificate of appropriateness issued under Subchapter F:

- (1) N/A.
- (2) If the applicant has destroyed 9 windows, then they have materially altered the exterior of the structure.
- (3) N/A.
- (4) N/A.
- (5) N/A.

**41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS.** A certificate of appropriateness shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.

- (1) New Construction or Exterior Alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
  - (a) N/A
  - (b) N/A
  - (c) See discussion of Mansion Hill Historic District below.
  - (d) Removing character-defining windows which are repairable will frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources. Please see the attached memo from the City Attorney's office.

**41.21 PENALTIES FOR FAILURE TO OBTAIN CERTIFICATE OF APPROPRIATENESS.**

- (1) Permits. The building inspector has not issued any recent building permits for this property. So any work that may have taken place was done so without the necessary permits.
- (2) Prohibition. If the applicant destroyed the 9 sashes or removed them, then that was done without a Certificate of Appropriateness.
- (3) Penalty for Work Done Without, or in Violation of, a Certificate of Appropriateness. If the 9 sashes are no longer extant, then the Landmarks Commission may require their replication. If the sashes are located, the Landmarks Commission may require them to be reinstalled.

**41.22 MANSION HILL HISTORIC DISTRICT.**

- (1) Purpose and Intent. Removing and substantially altering the windows of this building would be contrary to the intent of the Mansion Hill Historic District as the buildings in the district are to be "protected because of its special character and historical interest."

## Recommendation

Based upon the submittal materials, staff believes the standards for granting a Certificate of Appropriateness for replacing 14 windows at 15 E Gilman have not been met. Staff recommends that the Landmarks Commission ascertain from the applicant team if the 9 missing sashes are available for reinstallation. If they are, then staff recommends the Landmarks Commission refer this project to a future meeting for a complete application that details:

1. What windows require replacement and what will be repaired
2. A complete key showing locations of windows
3. A description of each window type that includes dimensions of the window and its components
4. Product sheets for any replacements
5. A narrative that discusses how the dimensions of the new and the old match

If the sashes have been destroyed, then staff recommends:

1. All remaining windows be repaired
2. Replacement of the missing sashes must match the original both in dimension and of the decorative window horns

If the sashes have been destroyed, then City Building Inspection will take enforcement action.