

A regular meeting of the Troy Planning Commission was held remotely Wednesday, June 10, 2020, at 3:30 p.m. Attendance was remote by Zoom. Members participating: Kappers, Titterington, Westmeyer, Wolke, Oda, McGarry, and Ehrlich; Staff attending: Zoning Inspector Watson, Development Director Davis, Assistant Development Director Harris. Mr. Kappers, Chairman, chaired the meeting.

The Minutes of the May 27 meeting were approved upon motion of Mr. Wolke, seconded by Mrs. Ehrlich.

HISTORIC DISTRICT APPLICATION FOR 210 E. MAIN STREET, ROOF REPLACEMENT. OWNER/APPLICANT: MITCHELL AND PHYLLIS MEIRING. Staff reported: zoning is B-3, Central Business District; house was constructed 1847 and had additions in 1860 and 1862; it is not on the historic register; application is for replacement of existing shingled roof with asphalt shingles in the color of Aged Cedar; garage to have same shingles applied; and staff recommends approval based on the findings of:

- The proposed alterations are in keeping with the historic nature of the district.
- The proposed style of the building product will maintain the visual relationship of the streetscape;
- The alteration does not alter any of the historical or architectural features of the property.

A motion was made by Mayor Oda, seconded by Mr. Titterington, to approve the historic district application as submitted for 210 E. Main Street based on the shingle type and color submitted, and based on the findings of staff that:

- The proposed alterations are in keeping with the historic nature of the district.
- The proposed style of the building product will maintain the visual relationship of the streetscape;
- The alteration does not alter any of the historical or architectural features of the property.

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION FOR THE DEMOLITION OF THE RESIDENTIAL AND GARAGE STRUCTURE LOCATED AT 126 SOUTH CHERRY STREET; OWNER: FIRST UNITED METHODIST CHURCH; APPLICANT: LINDA BOZICK, TRUSTEE CHURCH. Staff advised that the staff report is as presented at the May 13 Meeting:

“BACKGROUND:

The applicant requests a certificate of appropriateness from the Troy Planning Commission regarding the demolition of the residential and garage structure located at 126 South Cherry Street. The property is zoned OR-1, Office-Residential District and is located near the south end of the block on the west side of South Cherry Street (near the S. Cherry Street/W. Canal Street intersection).

DISCUSSION:

The OHI describes the building as a two-story High Victorian Italianate design built in 1878. Important features listed on the OHI include the double moulded door crowned by a shaped moulded and bracketed cap. A polygonal bay in the left bay was box cornice with brackets on a paneled frieze. The OHI references the ugly porch on the front and states the structure is “a fine house but for the bad porch.” This building is not eligible nor listed on the National Register for Historic Places. The OHI form has been attached to this report and labeled as Appendix A.

The property was purchased by the First United Methodist Church on October 1, 2013. It was the intent to rent the property as a single-family residential unit to offset the mortgage and maintenance costs until a final use was decided for the property. The property was in use as a residence until the Ohio Department of Health (ODH) found that there was lead paint in the residence and garage structure. The church was informed by ODH that the property could not be occupied as residential use until the lead paint was abated. The church considered renting the property with a commercial use but advertisement of the property has been unsuccessful. The report from ODH has been attached to this report and labeled as Appendix B.

The church has received estimates for the removal of the lead-based paint, provided by Allied Environmental Services, INC, at a cost of a minimum of \$150,000. This report has been attached to this report and labeled as Appendix C.

A Structural Evaluation has been provided by Tracy S. Mitchell of Consulting Engineers, Corp., which states “The structural reinforcements and repairs to this property are extensive. This is in addition to the cosmetic repairs typically required and the possibly of lead paint and asbestos with the house to be removed professionally. A financial review of the repairs required should be weighed against the possibility of demolition of the property.” This report has been attached to this report and labeled as Appendix D.

The church obtained a repair estimate from Westfield Construction Co., LLP, for the electrical, mechanical, interior and exterior repairs. The cost provided by the estimate is listed as \$223,504.80. This report has been attached to this report and labeled as Appendix E.

Lastly, an estimate was provided by Foundation Services LLC, for repairs to the back porch, portions of the foundation and support beams. The cost provided for the services is listed as \$33,500. This report has been attached to this report, labeled as Appendix F.

STANDARDS FOR DEMOLITION OR REMOVAL:

Section 1143.22(f)(10) requires that demolition permits shall not be issued unless accompanied by an approved certificate of appropriateness and a certificate of appropriateness may only be approved if clear evidence that two or more of the following conditions exist:

- I) The structure has incurred extensive damage to its basic structural elements such as the roof, walls, and foundation requiring substantial reconstruction and presenting an immediate danger to the public safety as declared by the Chief Building Official.
- II) The structure is listed as non-qualifying or is not consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback or mass.
- III) The square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and improved structures in the historic district.
- IV) The structure is contributing and has been declared a public nuisance and its removal will not adversely affect the architectural or historic integrity of the streetscape.

When reviewing these standards:

- I) In absence of the Chief Building Officials declaration, the structure is not an immediate danger to the public, therefore not meeting the standard for a certificate of appropriateness for demolition.
- II) The second standard has been met as the property is listed as non-qualifying (see Appendix A). However, it is worthy to note the property is consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback and mass. There are numerous homes in the historic district that have similar construction material, character, and architectural style. Appendix F shows addresses of similar character and of the same architectural style of High Victorian Italianate. Staff feels this standard for a certificate of appropriateness for demolition has been met.
- III) The second standard has been met as the property is listed as non-qualifying (see Appendix A). However, it is worthy to note the property is consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback and mass. There are numerous homes in the historic district that have similar construction material, character, and architectural style. Appendix F shows addresses of similar character and of the same architectural style of High Victorian Italianate. Staff feels this standard for a certificate of appropriateness for demolition has been met.

- IV) The second standard has been met as the property is listed as non-qualifying (see Appendix A). However, it is worthy to note the property is consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback and mass. There are numerous homes in the historic district that have similar construction material, character, and architectural style. Appendix F shows addresses of similar character and of the same architectural style of High Victorian Italianate. Staff feels this standard for a certificate of appropriateness for demolition has been met.
- V) The third standard requires the square foot cost of meeting the minimum building code would exceed the square foot market value of similar structures in the historic district. The information provided by Allied Environmental Services Inc., shows a cost of a minimum \$150,000 to eliminate the lead-based paint that currently exist. Additionally, an estimate to repair the foundation provided by Foundation Services, LLC, estimated at \$33,500. In addition, the cost for electrical, mechanical, interior and exterior repairs has been quoted as \$223,504.80. The combined \$407,004 estimated cost is more than double the Miami County Auditors value of \$179,800 for this property. Staff has compared the cost of similar buildings to determine an average cost per square foot (Appendix H). The costs of the seven comparable nearby properties was determined at \$67.5 per square foot. The cost to bring the property into compliance with the minimum building code would exceed the square market value of similar structures. Staff feels this standard for a certificate of appropriateness for demolition has been met.
- VI) The fourth standard requires the structure to be declared a public nuisance with no adverse impact on the historic integrity of the streetscape. The property has been posted with an Order to Vacate by the ODH. The posting states "This property contains lead hazards and has been declared unsafe for children under six years of age and pregnant women as ordered by the Director of the Ohio Department of Health." According to Chapter 3767.41 of the Ohio Revised Code, Buildings found to be "public nuisance" means "a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment."

As stated above, the property has been declared a public nuisance by ODH. The second criteria is whether demolition will result with an adverse effect in the architectural or historic integrity of the streetscape. The property is located in the middle of the block which already has been broken up by the removal of a house at 118 South Cherry Street many years ago. Therefore, the streetscape will not be negatively impacted as a "missing tooth" already exists. Staff feels this standard for a certificate of appropriateness for demolition has been met.

For reference, Section 1143.22(11) provides criteria to determine substantial economic hardship. The applicant believes they meet these criteria due to:

- 1) That the square foot cost of meeting the minimum building code and requirements of the Ohio Department of Health exceeds the market value of the property.
- 2) No reasonable alternative exists consistent with the architectural standards and guidelines due to the costs of remediation and repairs for reuse of the building.

Ordinance section 1143.22(12) gives criteria for unusual and compelling circumstances which the applicant believes they meet based on:

- 1) The property has little or no significant historic and architectural significance and is listed as non-qualifying for the National Register.
- 2) No reasonable means of saving the home due to the extravagant cost associated with the remediation and repair needed to reuse the home.

REUSE PLAN:

The applicant has submitted a reuse plan that results in creating a green space with the lot being leveled off with dirt and returned to grass by planting seed after demolition. Please know that any future plans for development will be required to come before the Planning Commission for a Historic Review. The applicant feels the reuse plan mitigates any negative effects to the streetscape and the historic district as other neighboring parcels have had buildings removed and replaced as green space.

This application has been reviewed for compliance with all requirements of the zoning code except for the additional design standards imposed by the historic district regulations and has been found to comply with same.

RECOMMENDATION:

Staff recommends approval for the demolition of the existing residential and garage structure, with the condition that a performance bond is posted with sufficient funds to insure completion of the demolition and reuse plan. This finding is based upon the following:

- o The property meets the criteria listed in the Historic Preservation Overlay District, Section 1143.22(f)(10) demolition standards;
- o The property is not listed on the National Register;
- o The proposed demolition will not negatively impact the historic or architectural significance or integrity of the surrounding area or streetscape;
- o The property has little or no significant historical or architectural value;
- o The property is not eligible for inclusion on the National Register;
- o A minimal reuse plan has been submitted."

SPEAKING REGARDING THE APPLICATION WERE:

Primary speaker for opponents of the demolition	Bill McGraw	5 minutes
Primary speaker for proponents of the demolition	Jose Lopez	5 minutes
Secondary speaker #1 for opponents to the demolition	Evanthia Owen	3 minutes
Secondary speaker #1 for proponents to the demolition	Ann Baird	3 minutes
Secondary speaker #2 for opponents to the demolition	Patrick Hansford	3 minutes
Secondary speaker #2 for proponents to the demolition	Arthur Haddad	3 minutes

Mr. McGraw commented regarding the purposes of the historic district, deficiencies in the staff report, and the role of the Commissioners. He commented: demolition will destabilize the neighborhood and reduce property values; staff did not mention the owners' failure to maintain the property and then seek demolition; there is no declaration that the property is a public nuisance; he does not feel the applicant has provided clear evidence of meeting two of the four standards in the ordinance; staff has become an advocate for the applicant; other demolitions approved by the Commission were found not historically or architecturally significant and had reuse plans that were laudable with public property goals; this re-use/rescue plan is dirt and grass seed; one of the claims of the applicant is lead based paint, which is not unusual in older properties and can be handled; and this would be approving demo of a property that qualifies to be on the historic register.

Ms. Owen, adjacent property owner, noting that she does not doubt the generosity of the church or its outreach programs, stated she believes there are mistakes of the church regarding this application -- purchasing the property and failing to make inspections; renting without inspections was risky; ignoring the health department's request to make repairs resulted in a loss of revenue; failing to notice the value of the house; submitting an application with inconsistencies with high cost estimates; failure to justify demolition with a rescue plan; ignoring the ordinances regarding the historic district; and just because the church made a poor business decision is not reason for the demolition.

Mr. Hansford spoke regarding the history of Troy that led to construction of homes in what is now considered the Historic District; stated this house is eligible to meet the criteria for being on the Historic Register; this house is the only example of a front gabled Italianate architecture house in Troy; if approved the Commission must mediate the impact on the surrounding properties; and the Church has not filed an appropriate reuse plan.

Mr. Lopez spoke that no indication of lead based paint was provided to the applicant by the prior owner; the house cannot be rented out; the church received only one bid for remediation of lead based paint of \$150,000; over for the last ten years there have been the approved applications for demolition; the cost to repair far exceeds the value; the condition is not the fault of the church; there is not historic value, this property has been identified by the Dept. of Health that it cannot be rented in the condition that exists; it would be an economic waste for the church to embark on the remediation; the time and season for this property has expired; and the owner has the constitutional right to make the best application for the property. Mr. Kappers asked about a comment from prior owner that indicated the wiring had been redone. Mr. Lopez said that was not correct.

Mrs. Baird spoke that the house is not a historic house while located in the historic district; it was rented at one time and the church then found issues the prior owner had not listed; problems will continue to be found with older homes; the lead paint and asbestos abatement is more than the value of the house; and the costs of making repairs is impacting the ability of the Methodist Church to carry out other missions.

Mr. Haddad spoke that the application is consistent with the long-range plan of the church, which includes the church remaining in the downtown; the church has purchased adjacent properties for land for future church uses; and the Methodist Church has been a good steward in the downtown and the community.

Discussion. Mr. Kappers commented that he hopes all parties understand that the decision is difficult for the Commission; and that the Commission members have looked at the information provided by both sides and have studied the Ordinances. He commented that he personally received a letter from Mr. Lopez asking that he recuse himself based on relationships with both the applicant and opponents. Regarding serving as closing officer for the church, Mr. Kappers commented that he only handled the financial arrangement for the closing and not the details. Mr. Kappers stated that he and Mr. McGraw had worked for the same law firm, but that relationship ended with his retirement more than a year ago; however, he and Mr. McGraw do have a shared interest in a property and two bicycles in Florida. Mr. McGraw did represent him in an estate matter and that matter has been closed. Regarding his relationship with Hayner Cultural Center, a prior approved applicant for a demolition, questioned by Jeff Schilling, Mr. Kappers stated he was involved in the purchase of property for Hayner and advised the Hayner Director, but did not participate in any discussion or vote of the Commission on the Hayner demolition application. Mr. Kappers stated he has consulted Ohio Ethics Commission rulings and does not believe he has a conflict of interest in considering this application.

Mrs. Ehrlich, commenting that she is a newer member, stated she read all communications and studied the ordinances. She asked staff if staff accepted the costs stated in the application. Mr. Davis stated he did, and noted staff participated in some inspections, and noted inspections were by a certified professional.

A motion was made by Mr. Westmeyer, seconded by Mr. Titterington, to approve a Certificate of Appropriateness for the demolition application of 126 S. Cherry Street as submitted, and based on the findings of staff that:

- o The property meets the criteria listed in the Historic Preservation Overlay District, Section 1143.22(f)(10) demolition standards;
- o The property is not listed on the National Register;
- o The proposed demolition will not negatively impact the historic or architectural significance or integrity of the surrounding area or streetscape;
- o The property has little or no significant historical or architectural value;
- o The property is not eligible for inclusion on the National Register;
- o A minimal reuse plan has been submitted.

Motion corrected on 6-24 to be:

“A motion was made by Mr. Westmeyer, seconded by Mr. Wolke, to approve a Certificate of Appropriateness for the demolition application of 126 S. Cherry Street as submitted.” and to delete any reference that the motion included the report of staff as that was not included in Mr. Westmeyer’s motion.”

VOTING: YES – Oda, Titterington, Wolke, Ehrlich, Westmeyer NO – Kappers, McGarry MOTION APPROVED.

There being no further business, the meeting adjourned at 4:33 p.m. following motion of Mr. Titterington, seconded by Mr. Wolke.

Respectfully submitted,

_____Chairman

_____Secretary

AMENDING MINUTES OF JUNE 10 MINUTES. Three corrections were discussed regarding the demolition application of 126 S. Cherry Street:

1. The proper term is Certificate of Appropriateness.
2. Mr. Kappers noted that he and Mr. McGraw have an interest in are two bicycles in Florid and not also a property.
3. The wording of the motion did not include a reference to the findings of staff.

A motion was made by Mr. Kappers, seconded by Mr. Titterington to amend the minutes of the June 10, 2020 minutes regarding 126 S. Cherry Street to read as follows:

On page 3, under Discussion and the comments of Mr. Kappers, the minutes should reflect: “...shared interest in two bicycles in Florida.”

The motion is to read as follows:

“A motion was made by Mr. Westmeyer, seconded by Mr. Wolke, to approve a Certificate of Appropriateness for the demolition application of 126 S. Cherry Street as submitted.” and to delete any reference that the motion included the report of staff as that was not included in Mr. Westmeyer’s motion.

MOTION TO AMEND MINUTES APPROVED BY UNANIMOUS ROLL CALL VOTE”