

**TOWN OF BOONE  
HISTORIC PRESERVATION COMMISSION  
MEETING MINUTES  
December 13, 2022, 3:00 p.m.  
WebEx Video Conferencing**

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**Historic Preservation Commission Members in Attendance:**

Chair Eric Plaag, Vice-Chair Bettie Bond, Chuck Watkins, and James Sharp

**Council Liaison:** Virginia Roseman

**Town Staff in Attendance:**

Jessica Mitchell-Long-Range/Special Projects Planner, Christy Turner-Senior Planner, and Marlene Crosby-Board Secretary

**Others in Attendance:** Allison Meade-Town Attorney, Mr. Jim Deal-Attorney from Deal, Moseley and Smith, John Winkler-Winkler Organization, Judah Goheen-Winkler Organization, Sarah Long-828 Real Estate, Matt Long-Capehart & Washburn, LLC, and Scott Macintosh-Allen Tate Realty, Jodie Feimster

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**CALL TO RECONVENE**

Chair Eric Plaag reconvened the HPC Quasi-Judicial meeting, held via WebEx, from December 6, 2022, to order at 3:01 p.m.

**CASE Z05737-052522 – Wilcox Warehouse – COA – Modification of Previous COA**

John Winkler, on behalf of Howard Street Ventures II, LLC (Wilcox Warehouse), has requested to modify a Certificate of Appropriateness for Major Work (COA) for the façade at 173 Howard Street (Watauga County PIN 2900-79-8147-000). The applicant proposed to install siding on the upper portion of the façade with the same type of siding as the lower portion.

Chair Plaag swore in Ms. Jessica Mitchell, Long-Range/Special Projects Planner, and Ms. Christy Turner, Senior Planner.

Chair Plaag opened this case by confirming that Mr. Jim Deal from Deal, Moseley, and Smith, represented the applicant, Mr. John Winkler, from Howard Street Ventures. Chair Plaag asked Mr. Deal if he anticipated having any witnesses for this case. Mr. Deal noted that possibly Mr. Judah Goheen from the Winkler Organization might speak, but he did anticipate that Mr. Winkler would be called a witness.

Chair Plaag asked the Historic Preservation Commission members three questions. Did any commissioner have a fixed opinion about the case that is not susceptible to change; does any commissioner have a conflict of interest regarding this case, including any financial interest in the outcome of the case or a close familial relationship with any person affected by the outcome of the case; and third, has any commissioner engaged in any undisclosed ex parte communication regarding this most recent application? There were no answers in the affirmative.

Chair Plaag asked Mr. Deal if he had any objections to the materials provided to them in advance of the hearing. Mr. Deal said he had no objections to the material in the meeting packet.

Chair Plaag pointed out a change in the staff report for this case. He referred to packet page 60 and under the section for the Request by the Applicant. He said the last sentence should read, "The applicant proposes to install siding on the upper portion of the facade with the same type of siding as the lower

portion.” Chair Plaag asked Mr. Deal if he objected to this change. Mr. Deal had no objection to the proposed change.

Chair Plaag asked Mr. Deal if he wanted to make an opening statement for this case; Mr. Deal replied yes, and proceeded with his opening statement.

Mr. Deal reviewed some of the past discussions of the HPC regarding the replacement of the stucco, and how the brick might be restored, and to keep the brick on the upper part of the façade of the building. He said that Mr. Winkler had contacted a person working on a historic brick building in West Jefferson, North Carolina. He noted that Mr. Winkler had asked that person to come and look at his building. He explained that at one of the HPC discussions, specifically one of the HPC members, maybe Member Watkins, thought the brick on the building was compromised to such an extent that it could not be reasonably restored. He said that Mr. Winkler had returned to the HPC because it was a condition from the prior approval that if the brick could not be restored, Mr. Winkler would need to return to the HPC for further discussion regarding modifications for this case. Mr. Deal anticipated that Mr. Winkler would need to come back to the HPC for further discussion, considering the condition of the brick.

Mr. Deal said that Mr. Winkler had not worked on the upper-floor level of the east side of the façade yet because they were not sure what they would do on the south side. He said Mr. Winkler felt he should appear before the HPC to discuss options for the pending situation with the south side of the façade.

Mr. Deal said Mr. Winkler is requesting to install the cedar board and batten siding over the deteriorated brick on the upper-level portion to match the lower-level portion of the façade. He said the applicant would work with the HPC on the appropriate colors to be applied to the façade in the historic district. He stated that Mr. Winkler and the HPC had previously discussed an awning and if it would be attached to the building. He said that Mr. Winkler wants to work with the HPC to meet the awning installation requirements.

In conclusion, Mr. Deal tendered Mr. Winkler for any questions that the HPC or Staff might have on this request. He noted that Mr. Winkler wanted to work with the HPC to fix the façade on the south side. He said then we could address what needs to be done, if anything, on the east side, which is the elevation that does not face the street, but is over the top of the other building.

Chair Plaag noted that the meeting packet on page 59 was a short letter from New River Custom Builders, Inc. He said he could not read the signature on the letter. He said he had questions regarding the note and confirmed with Mr. Deal that he should direct those questions to Mr. Winkler. Mr. Deal agreed that Chair Plaag should direct his questions to Mr. Winkler.

Chair Plaag asked Mr. Winkler to state his full name for the records. Mr. Winkler said his full name was John Thomas Winkler. Chair Plaag swore in Mr. Winkler.

Chair Plaag asked Mr. Deal if he had a list of evidentiary questions, he would like to ask Mr. Winkler. Mr. Deal asked Mr. Winkler to explain whom he contacted to evaluate the brick to see whether or not it could be restored. Mr. Winkler stated that the individual he got to assess the brick was Mr. Greg Testerman, who has much experience restoring brick; Mr. Winkler said Mr. Testerman is restoring the brick at the Historic West Jefferson Hotel. Mr. Winkler added that he had submitted some photos of the work at the Historic West Jefferson Hotel. He continued to explain that after Mr. Testerman evaluated the brick, he told Mr. Winkler there was no way to restore the brick. Mr. Winkler said after the HPC’s ruling today that Mr. Testerman would come back and look at the east side and evaluate it. Mr. Winkler said Mr. Testerman has a special tool to remove stucco from brick, and Mr. Testerman told Mr. Winkler that it was difficult to know if the stucco had penetrated the brick’s surface. Mr. Winkler said Mr. Testerman would try to tell if the stucco can be removed at a future date and restore the brick. Mr. Winkler said that once we figure

out what to do with the façade on the south side, we can explore what to do on the east side. Mr. Winkler said that Mr. Testerman seemed knowledgeable about historical materials and felt that Mr. Testerman had done good work on the Historic West Jefferson Hotel.

Chair Plaag opened the floor to questions from the HPC for Mr. Winkler pertaining to this case. Chair Plaag asked Mr. Deal if Mr. Testerman was not attending this meeting to testify. Mr. Deal stated that it was correct that Mr. Testerman was not present at this meeting. Chair Plaag asked Mr. Deal if he depended on the letter in the meeting packet for evidence of the brick's status. Mr. Deal said yes, and that Mr. Testerman had told Mr. Winkler to relay his information to the HPC.

Chair Plaag referred to the meeting packet on page 50, and he read the requirements from the checklist for this application, which was to cite the applicable sections of the design standards related to the proposed request. He pointed out that this section of the checklist was not checked off. He said he did not see information specifically referring to the proposed design standards, which is placing siding over the upper floor of the south elevation brick. Chair Plaag asked Mr. Deal if the meeting packet contained information on this topic. Mr. Deal explained that this request is a continuance of the previous hearing due to the determination of the building materials for the facade. He said that the things that would be included in a new application are not included in the application submittal. Mr. Deal further explained that the determination to replace what is on the lower level was made in conjunction with previous meetings with the HPC. He said he did not feel it would be appropriate because we are continuing to discuss what was put on the lower-floor level. Mr. Deal concluded that is why every box was not checked on the application.

Chair Plaag pointed out that it is good practice for an applicant, or anyone else making an application, and if an applicant appears again on a topic that has already been discussed, to be prepared to discuss the standards. He explained that the HPC would make their decision based on those design standards that apply to a case. He said it would be helpful for the HPC to see the standards the applicant thought supported their proposal to help persuade the HPC to understand the rationale behind the request from the applicant.

Chair Plaag asked Mr. Deal if Mr. Winkler had design standards to present to the HPC for this case. Mr. Deal said that Mr. Winkler is requesting the same proposed work on the upper level of the building as the lower level that the HPC previously approved. Mr. Winkler thought the same design standards would be applied to the upper level.

Chair Plaag noted that the HPC reviewed two different sets of standards in the previous discussion on the lower level. He said one set of standards reviewed was for the specific situation of the earlier storefront version. He said there was much discussion on the upper-level floor portion of the façade, and the HPC relied on a couple of standards that specifically applied to the upper floor. He said those standards differed from those used to justify the board and batten siding on the lower-level floor.

Chair Plaag asked Mr. Deal if he had other evidence to present to the HPC for this case. Mr. Deal said they did not have other evidence to present, but he was willing to review the specific standards if the HPC wanted him to for this case.

Discussion ensued on evidence for this case. Chair Plaag asked the Staff if they had other evidence to present to the HPC for this case. Ms. Turner said the Staff did not have additional evidence to present.

Chair Plaag asked the HPC if they had any questions for Staff regarding this case.

Vice-Chair Bond asked Chair Plaag if the HPC needed to discuss the windows and the awning for this case. Chair Plaag said it is his understanding that the latest iteration of the application on packet page 55 references an awning type. He noted that the photograph of the awning appears to show that aluminum

cables are adhering to the awning of the building. He pointed out that the visible portion of the exterior of the awning appears to be aluminum. Chair Plaag said there was no specific reference to a change with the windows in the proposal.

Chair Plaag asked Mr. Deal if he was correct in his statement about the windows. Mr. Deal said the proposal states that the window trim should match the existing façade window and door trim on the lower level. Chair Plaag asked Mr. Winkler about the existing trim on the window and door on the lower level. Mr. Winkler said there is no window trim because it all has been destroyed. Mr. Winkler said he wanted to use earth tones for the trim, but he was waiting on the HPC's direction. Mr. Deal referred to the proposal on packet page 51. He pointed out that the upper floor's window trim will match the existing façade window and door trim on the lower-level floor. Mr. Winkler agreed with Mr. Deal's statement about the window and door trim on the façade. Mr. Winkler said the proposed trim material is cedar. Chair Plaag confirmed with Mr. Winkler that he was proposing the cedar wood material for the surrounding and outward-facing trim around the windows. Mr. Winkler agreed with Chair Plaag on where he wanted to put the cedar wood material on the lower and upper floors. Chair Plaag noted that the only real element in the proposal about the upper-level floor windows is that any trim used would match the surround for the windows and doors, and the cedar trim element already in place on the upper level where the work on the lower-level floor has begun. Chair Plaag noted that Mr. Winkler is asking the HPC what color the trim and surround would be painted. Mr. Deal pointed out that the existing approval included that if the windows were not replaced, then the trim would be replaced with wood elements and not with vinyl elements in accordance with the previous approval.

Mr. Deal referred to packet page 68 for Design Standard 1.4, Commercial Properties within the District, Standards for Commercial Properties within the District, Architectural Components and Details, [Design Standards p. 61-67] Storefronts, Upper Facades, Side Elevations, and Rear Elevations. He said the proposed request falls under this standard. He explained that part of the problem is that the surrounding buildings have stucco on them. He said the HPC had previously decided they did not want stucco back on the building. Chair Plaag referred to Design Standard 1.4 and said the HPC would need to know whether it is true that the upper-floor level façade cannot be reconstructed based on the available documentary evidence.

Chair Plaag asked the HPC if they had any questions for Staff on this case. The HPC asked no questions of Staff.

Chair Plaag asked if there was any other interested party to speak or present evidence supporting the application; if there was any non-party witness to speak or present evidence supporting the application; if there was any interested party to speak or present evidence in opposition to the application; if there was non-party witness to speak or present evidence in opposition to the application. There were no answers in the affirmative.

Chair Plaag said that since no evidence had been presented in opposition, he confirmed with Mr. Deal that he did not need to rebut any evidence.

Chair Plaag asked the Staff if they wanted to present a closing statement. Ms. Turner said the Staff does not have a closing statement.

Mr. Deal gave a brief closing statement. He said it is challenging to figure out what to do on the upper-level floor façade. He said the intent was to have a person experienced in brick evaluate the south side to see if it could be restored. He said that since Mr. Winkler found out that the brick cannot be restored, Mr. Winkler wants to ask for guidance from the HPC on the colors and a black or bronze awning. Mr. Deal said Mr. Winkler wants to work with the HPC on the issues outlined in this hearing.

Chair Plaag closed the testimony phase of the hearing.

Chair Plaag opened the floor for the HPC to discuss the evidence at hand and the standards or findings of fact that apply to them. Chair Plaag suggested that the HPC highlight the standards that appear most relevant to what the applicant is requesting.

Vice-Chair Bond appreciated Mr. Winkler and his team taking the time to work on this project because its decisions will affect the Howard Street Project. She felt the decisions would set a standard for how the Howard Street Project could proceed.

Chair Plaag voiced his concerns about the proposal specifically related to the standards. He reminded the HPC that the rationale was determined that the lower-level floor's historic components had been destroyed and nothing was existing to preserve the original appearance. He said we did not have explicit knowledge of what that appearance was for that building. He added that various renovations in the 1990s had destroyed any remaining lower-level floor elements, other than a small amount of brick on the far edges of the lower-level elevation. He said the HPC had thought it was a very different situation than the upper-floor façade that retained its brick underneath the stucco; he said some of the stucco had been removed. He said most of the HPC thought the brick was historic to the period of significance of the building. Based on the standards, he said the HPC saw a design element that should be preserved in place instead of covered over or removed. He said there was one HPC member that did not agree with this interpretation of the application of the standards.

Chair Plaag talked about Mr. Winkler's request to cover the brick on the upper-level floor. Chair Plaag referred to Design Standard 1.4, previously read by Mr. Deal.

When original or early storefronts or upper facades no longer exist, are too deteriorated to save, or cannot be reconstructed based on the available documentary evidence, retain the commercial character and any salvageable architectural details through a contemporary design that is compatible with the scale, materials, color, style, design, and texture of the surviving and surrounding historic buildings.

Chair Plaag talked about whether the original upper-level façade cannot be reconstructed based on the documentary evidence. He explained that he knows that this is a running bond red brick on the upper-level façade. He said we know the brick is not wire cut and it is replicable with the like-kind materials. He noted that Design Standard 1.4 would not apply because it is not a situation where the upper-level façade cannot be reconstructed.

Chair Plaag read Design Standards 2.2,

It is NOT appropriate to cover or remove rather than repair or replace in kind such features when they are deteriorated. If replacement is necessary, the new materials should match the materials being replaced in composition, design, texture, color, and other visual qualities. Original architectural features that are covered should be uncovered, exposed, repaired and/or restored, and maintained.

Chair Plaag also read Design Standards 4.2,

Whenever feasible, historic masonry, including decorative masonry features, should be repaired rather than replaced or covered. When replacement is necessary, it should always be completed using traditional materials of like composition, size, color, shape, pattern, texture, and quality to the originals that are being replaced.

He explained that, in his view, covering the upper level with board and batten on the south side would not be a congruous solution for the historic district because it violates these two standards.

Vice-Chair Bond felt that making the lower-level and upper-level façade all board and batten would not meet the design standards. She noted that using brick on the façade to make the façade look more original would be expensive.

Member Sharp asked Chair Plaag if this type of proposed change occurred in other commercial buildings on both the upper and lower levels of the façade. Chair Plaag said he is unaware of a two-story building with board and batten applied to it. He said he knew of two one-story buildings with board and batten applied to them. He said one of the buildings is where the Imprints business is located. Still, he explained it was applied after the period of significance for the district. He said another building he is aware of is the Boone Mini Mall, which on its main façade is a one-story building with a high parapet, and it had board and batten applied sometime in the 1990s. He stated that with these examples, they were not during the district's period of significance. Chair Plaag further explained in the Downtown District where the Portofino's building is located, at one time were two-story buildings with board and batten.

Chair Plaag said he did not think the use of board and batten is out of character with the district, as there was other warehouse type of buildings along Howard Street during the period of significance that used board and batten design. He noted that Vice-Chair Bond had stated earlier that it is out of character for Mr. Winkler's building for the entire south façade to be board and batten because it is not historic to the building.

Mr. Winkler mentioned the cinder block building next to his building currently discussed in this hearing, has a ten- or fifteen-foot strip with no brick on its façade, but it does have stucco. He said something needs to be done about that building façade all the way up to the roof.

Member Watkins reminded everyone that he voted against this case in the very beginning based on his expectation that it would create a new façade on this building. He said there is a proposal to put board and batten on the upper-floor level, or new brick could replace the old spalled brick. He said that, in his opinion, in both cases, you end up with artificial constructions of the façade of that building. He said whether you propose to put board and batten on the upper-floor level or to replace the existing damaged brick on the upper-floor level, you end up with an appearance that did not exist in its historical context. He said there is no evidence that the building was half brick and half board and batten, just like there is no evidence for the building to be board and batten on the upper-floor and lower-floor levels. He felt that neither of these scenarios were historically accurate. He said he was not persuaded that either proposed solution would get an appropriate result. He said this is the reason he voted to replace the stucco because it was a verifiable treatment.

Chair Plaag pointed out that stucco was not an early treatment for this building; it was a post-1994 treatment. Member Watkins said, nonetheless, it was a documented treatment. He said whether pre-or post-1994, he felt he was not in a position to say, but it was verifiable.

Vice-Chair Bond said that she thought the HPC could agree that the original appearance of the lower-level floor no longer exists. She said to have the brick on the upper-level floor does represent a time of historical significance. She said it would be a new façade because nothing tells us what was there originally.

Chair Plaag indicated that if there is a concern for the replacement of the brick on the upper-floor level and the lower-floor level being board and batten looking unattractive, the applicant could probably make a case for re-cladding the entire building in a brick that matches the brick that is on the upper-floor portion of the façade. He said the materials used would still be congruous with the historic district, design a new storefront as allowed by the Design Standards, while also replacing the upper-floor portion of the façade with a brick that matches what was originally there. In the photos in the meeting packet, he pointed out that it looks like the cedar siding had already been adhered to the lower floor prior to having the brick on the upper floor evaluated.

Mr. Deal pointed out that to lay brick properly; there must be a foundation to support the weight of the brick. He said the HPC had talked about starting halfway up the façade of the building. He also pointed out that the walkway in front of the building impacts all businesses. He said he disagreed with Chair Plaag's interpretation of the Design Standards; he felt that Chair Plaag had been fairly selective to the standards that he wanted to apply, and he was ignoring the other standards. Mr. Deal asked the HPC how can we all work together with the Town Council to create the most attractive Howard Street possible. He asked what appearance the HPC and Council wanted for Howard Street. He asked Chair Plaag what the next best thing for Mr. Winkler to do for this building was.

Ms. Meade pointed out that Mr. Deal stated many opinions and is not a witness and cannot provide testimony. She stated that he is the only one that has offered opinions about the structural integrity and capacity of brick to be added to the façade. She pointed out that the historic standards are clear about the need to replace like for like where there is masonry. She also pointed out that there has been no contractor testimony to provide evidence on what can and cannot be done to this building. She added that the opinions given about the building are speculation that brick veneer will not have sufficient support on this building. She noted that she is concerned about these things and the precedent it could set if the HPC were to make decisions based on speculation from an attorney.

Mr. Deal asked Chair Plaag and Ms. Meade if it would be feasible to continue the hearing on this case to allow Mr. Winkler, a licensed general contractor, to investigate and gather information on possible alternatives for the facade. Ms. Meade responded that the HPC could continue any case. She expressed her concern that the HPC needs evidence presented to them. She pointed out that Mr. Winkler is the applicant and the property owner. She stated she was unsure if Mr. Winkler could supply the expert and independent competent evidence to persuade the HPC to decide one way or the other, which is what is needed for this case. She noted she is uncomfortable that much of the information offered had been hearsay or speculation and is not permissible evidence that the brick cannot be restored. She expressed her concerns about the Commission being requested to act upon this. She told Mr. Deal it was on him and his client, Mr. Winkler, to provide sufficient evidence for this case.

Chair Plaag agreed that the next step should be for Mr. Winkler to invite a competent structural engineer to the next meeting who can testify about whether constructing a whole new brick façade, or a partial brick and partial board and batten façade, is feasible. Chair Plaag reminded Mr. Winkler and Mr. Deal that this building was originally a cinder block with brick applied with some support system. He said he did not hear evidence stating that the footings do not currently exist. He explained that the HPC needs to hear that evidence if there is no support system for the brick. He voiced his concern that the only evidence submitted was a short, signed letter and the HPC had no opportunity to cross-examine the person who signed the letter. The HPC had not been presented with credentials for that person to see if he was an expert in the preservation field. All that had been submitted were photos regarding the person's work on a building in West Jefferson. He said the next time Mr. Winkler comes back to the HPC, if a continuance is granted, Mr. Winkler needs to bring expert witnesses.

Mr. Winkler stated that the expert he talked to suggested a solution to replace the damaged brick to match the old brick. Mr. Deal responded that the reason for the request for a continuance is so he and Mr. Winkler could discuss contacting some other experts about the options that can feasibly be done for the façade and bring that information back to the HPC to review.

Mr. Winkler reiterated about the adjacent building with a ten- or fifteen-foot section where the stucco is falling off. He hoped a decision could be made to address the stucco issues and felt that that section presented safety concerns. Ms. Meade stated that nothing prevented Mr. Winkler from seeking a permit from the Planning Department to address any immediate safety issue on his other property.

Chair Plaag told Mr. Winkler that the HPC had not seen a proposal about the adjacent building. Chair Plaag told Mr. Winkler that if he wanted the HPC to review the issue with the adjacent building, he would need to submit a COA application if required. He explained that the HPC could review both cases at the same time, but only if an application had been submitted for both.

Mr. Deal and Mr. Winkler said both buildings would be addressed in the case hearing. Ms. Meade said that is not how the process works. She said the buildings are reviewed on a building-by-building analysis. She told Mr. Deal that the information he stated was not accurate, and that she disagreed with Mr. Deal. Mr. Deal disagreed with Ms. Meade about how the process works and that the buildings are reviewed on a building-by-building analysis. Ms. Meade stated that it is not the fault of this Commission; only the one building had been the subject of a permit request by Mr. Winkler. Mr. Deal said the process does not allow for conversation to occur and makes decisions to occur under a certain quasi-judicial proceeding. He pointed out that no one on the HPC can explain what Howard Street will look like. Ms. Meade said it is not the HPC's job to tell Mr. Deal what Howard Street will look like. Ms. Meade told Mr. Deal that the Design Standards would have shown him what could have been approved for this case, and that for the record she disagreed with his statement. Mr. Deal disagreed with Ms. Meade regarding the Design Standards that would have shown him what could have been approved for this case. Mr. Deal said he would also note for the record he and Mr. Winkler want a continuance to work with the HPC to develop Howard Street with the community's preferred appearance.

Chair Plaag noted that Mr. Deal had requested a continuance for this case. He said he supported continuing this case to the next scheduled quasi-judicial meeting on January 17, 2023, at 3 p.m. via WebEx. There were no objections from the other HPC members regarding continuing this case.

Chair Plaag advised Mr. Deal to be prepared to address the possible solutions and evidence that justifies what proposal Mr. Winkler presents to the HPC. Chair Plaag explained that the HPC was not aware of what Mr. Winkler said about removing and replacing some of the damaged bricks because that information was not included in the letter in the meeting packet. Chair Plaag said he would be open to hearing more about possibly replacing the individual damaged brick. He said that would be less expensive and easier than the other two discussed solutions. He said the replacement of the bricks could potentially be done in a way that would be historically appropriate.

Mr. Winkler asked Mr. Deal to ask Ms. Meade if the damaged stucco could be removed from the adjacent building. Mr. Deal explained to Mr. Winkler that he would have to address this issue with the Planning and Inspections Department and determine if it was a safety issue.

Ms. Turner said that the Staff would need the revised information for this case by December 27, 2022. Mr. Deal said it is unlikely they would be able to get a structural engineer to contact them before Christmas. Mr. Deal told Ms. Turner that they would get the revised information to the Staff as soon as possible and would begin contacting engineers that day. Ms. Turner stated that as soon as they provide the information, Staff would work with them as quickly as possible.

At 4:17 p.m., Chair Plaag said that hearing no objection from the other HPC members of the applicant, at the applicant's request, he continued this case until either the quasi-judicial hearing scheduled for January 17, 2023, at 3 p.m., via WebEx, or such a later date as may be necessary based upon when the applicant can provide the required material to continue hearing the case.

#### **CASE Z06199-102522 – 828 Loft Rooftop and Handrails – COA**

Matthew and Sarah Long, on behalf of 828 Property Adventures, LLC, have filed an application for a Certificate of Appropriateness (COA) for major work for 766 W. King Street in the Downtown Boone Local Historic District for a renovation to the façade and roof.

Vice-Chair Bond pointed out that she is the next-door neighbor of Mr. and Mrs. Long. She felt that she would be unbiased and had no financial interest in the applicant, nor was she related to the applicant. Chair Plaag asked the HPC if they objected to Vice-Chair Bond continuing to hear this case. No Commission member had an objection to Vice-Chair Bond continuing to hear this case. Chair Plaag asked Ms. Meade if she saw a legal reason for Vice-Chair Bond not to continue to hear this case. Ms. Meade replied that this is a somewhat gray area because there is a personal association. Still, Ms. Meade continued that as long as Vice-Chair Bond feels that she can be impartial and would be able to deny the application, if necessary, then it is appropriate for Vice-Chair Bond to continue to hear this case. Ms. Meade said if Vice-Chair Bond does not think she can do this, it would be best for her to recuse herself. Vice-Chair Bond said she would deny the application if necessary.

Chair Plaag asked the Historic Preservation Commission members if any commissioner had a fixed opinion about the case that is not susceptible to change; had any commissioner had a conflict of interest regarding this case, including any financial interest in the outcome of the case, or a close familial relationship with any person affected by the outcome of the case. There were no answers in the affirmative. Chair Plaag asked Ms. Sarah Long if she had legal representation present for this case. Mrs. Long said she and her husband, Mr. Matthew Long, were self-representing themselves in this case.

Chair Plaag swore in and asked for Mr. and Mrs. Long to state their name for the record. Mrs. Long responded that her full name is Sarah Byerley Long. Mr. Long responded that his full name is Matthew Capehart Long.

Chair Plaag asked Mr. and Mrs. Long if they objected to the material presented in the meeting packet for this case. They did not have objections to the material in the meeting packet.

Chair Plaag asked Mr. and Mrs. Long if they had an opening statement for this case. Mr. Long said they are requesting to install a safety railing around the outer perimeter of the flat rooftop to access the second-story apartment space. He explained that this portion of the building is the tertiary elevation on the back rear side and rear side of the building off of King Street.

Chair Plaag asked Mr. and Mrs. Long if they had witnesses to speak on behalf of what they were proposing for this case. Mr. Long said no, they did not have witnesses for this case.

Chair Plaag asked the Town Staff if they had evidence to present for this case. Ms. Turner said that the Town building inspector had indicated that the proposed railings must be installed at least three feet in height for safety reasons, as a requirement of the North Carolina Building Code. Chair Plaag asked Ms. Turner to clarify, if the building inspector is saying some railings must be installed to that height, and that is what is triggering the COA process, or is the building inspector saying if you install railings, they have to be three feet in height. Ms. Turner stated that railings have to be installed on the upper portion of the building for the use of the upstairs apartment. Chair Plaag further clarified that the Town is, in a way, initiating the railing part of the proposed change to bring the applicant into compliance with the North Carolina Building Code. Mr. Turner told Chair Plaag that he was correct regarding the Town bringing the applicant into compliance with the said code.

Chair Plaag asked Ms. Meade if it was appropriate, since counsel is not present for this case, for the HPC to begin questioning the applicant. Ms. Meade confirmed that the property is in an LLC and the business is owned singly by Ms. Sarah Long. Mrs. Long said she had been a real estate agent for 15 years in Boone, and they live in Downtown Boone. She owns 828 Real Estate, and she and Mr. Long recently purchased the building and want to preserve it.

Ms. Meade advised Mr. Long to state his credentials which would be pertinent to his testimony. Mr. Long said he is a licensed General Contractor and owns Capehart Construction. He said he is physically renovating the upstairs apartment in the building. Mr. Long noted that he had read through the Downtown Boone Design Standards, and he tried to locate sections within the document specific to adding safety railings on a flat rooftop. He said he struggled to find specific sections that relate to that topic. He said he did reference some sections that are somewhat related to adding safety handrails to the rear flat roof addition to the building. He said they have a rear stairwell with existing steel stairs and a railing that goes up to the upper portion of the building. He said they are trying to match the existing railing with a similar black railing nearly invisible from King Street.

Ms. Meade asked Mr. and Mrs. Long if there was any proposal to remove or modify any existing architectural elements of the building; Mr. and Mrs. Long replied no. Ms. Meade asked if they were expanding any walkway or sitting area in any way as part of this proposal. Mr. Long responded that there is a metal grate walkway on the roof that goes from the rear stairs to the rear entry of the upstairs apartment. He said they want to change the metal grating to a more user-friendly, safer walking surface that can be maintained in winter. He explained that there are some seating areas on the roof membrane, along with a protective rug. Ms. Meade asked if they wanted to put down sleepers or wooden pieces that would hold up the new walkway. Mr. Long said that was correct, they wanted to put down sleepers to hold up the new walkway. Ms. Meade asked if those sleepers would rest directly or be attached to the roof, and said Mr. Long should clarify which way it would be. Mr. Long clarified that these are the only new attachments that are being proposed in this application other than the railing. Mr. Long explained that the railing would be attached to pressure-treated wood sleepers on a walking surface, not to the roof membrane or the building itself. He said the reason is that the roof membrane can be maintained over time.

Ms. Meade asked Ms. Turner to clarify why this proposed application was presented to the HPC for review. Ms. Turner said it was because the railings could be seen from King Street. Ms. Meade confirmed that the proposed application was not considered minor work. Ms. Meade asked Ms. Turner to verify that the addition of the railings changing the appearance of the building was the reason for this application to be reviewed by the HPC. Ms. Turner pointed out that in Appendix D, if there is any change to roofing material, the HPC must review the change. Ms. Meade said the applicant is not changing the roofing material; they are adding sleepers on top of the current roof material and not changing the roofing material.

Ms. Meade confirmed with Mr. Long that the sleepers are pressure-treated wood that holds something on top of them by its weight.

Chair Plaag referred to the drawing on packet page 92 and read that it was proposed to be a new walking surface over existing TPO roofing with new Trex decking on PT sleepers; he asked Mr. Long to describe the Trex decking material. Mr. Long said it is a composite decking board with recycled plastic and wood fiber content. He explained that the purpose of the Trex decking is to allow them to have a safe walking surface where they can shovel snow. He said it would also protect the roof membrane below the decking material from being damaged.

Chair Plaag read Design Standards Section 13, Additions to Existing Buildings in the District, Design Standards Section 13.1 of the Design Standards, and voiced his concern regarding new additions.

New additions should be compatible with the original building in scale, placement, proportion, and design, including roof shape, materials, color, location and design of windows and doors, cornice heights, and other design elements. Synthetic, non-traditional materials are not permitted in alterations to existing buildings, and the use of the highest-quality, historically appropriate, exterior-facing materials is encouraged.

He explained that synthetic, non-traditional materials are not permitted in alterations to the existing building. He asked Mr. Long if, instead of using Trex, which is not historical to the district, would it be possible to use pressure-treated lumber on the pressure-treated sleepers as a decking material. Mr. Long said they could use pressure-treated lumber over the pressure-treated sleepers. Mr. Long pointed out that he interpreted Section 13.1 as a change in a roofing or façade material. Mr. Long said they want to put a protective layer over the flat membrane roofing and are not proposing to put Trex decking up the front stairs to Mrs. Long's office from King Street. Mr. Long reiterated that they are proposing a material to protect the roof membrane that can be more easily maintained. He explained that they proposed the composite material for longevity and that it does not require maintenance such as staining or chemical treatment. Mrs. Long added that the Trex composite material does not get the slick coating from mold or mildew like pressure-treated wood. She felt safer walking on the Trex material, especially in bad weather.

Chair Plaag asked Mr. Long if the sleepers would be attached to the existing TPO roof. Mr. Long said they would be free-standing on the roof material. Chair Plaag asked Mr. Long if it was a fair description to say that it is sort of like taking a grill grate and setting the sleepers down onto the roof. Mr. and Mrs. Long agreed with Chair Plaag's description. Chair Plaag asked if the Trex material would be physically attached to sleepers but not physically attached to either the TPO roofing or the outer walls of the building; Mr. Long replied they would not be attached, but be free standing on the roof material. Chair Plaag asked Mr. Long, given his background, if he would consider this proposed change a permanent or a temporary movable element put on top of the building. Mr. Long explained that the Trex is moveable and not an affixed addition to the building. He said it would be a newly added layer of protection for walking across the roof surface. He said, unfortunately, the way to access this apartment space is to walk across a flat roof; if you wandered off the path, someone could fall off the rooftop. He added that the railings would attach to the sleepers and the decking material. He said the whole assembly he just described could be removed if the membrane needed to be replaced in the future.

Chair Plaag reviewed the following Design Standards, Section 7.6 see below:

7.6 Rooftop additions to existing commercial buildings, including those intended to accommodate elevator shafts, bars, decks, kitchen prep areas, social areas, or solar arrays, or to otherwise enable recreational use of open rooftops, are generally not appropriate if any portion of the rooftop addition is visible from the street-level right of way adjacent to the primary elevation.

Chair Plaag pointed out that in the following Design Standards, Section 7.6, which refers to rooftop additions to existing commercial buildings, could apply to this proposed change. He said this section of the standards includes social areas. He said he understood that the proposal does not include adding a new social area. He said the proposed decking change of the floating sleeper/decking system would increase the social area, and people can now step on any part of the decking with the sleepers installed, not the TPO roof. Mrs. Long said the sleepers would not go over the entire TPO roof. She referred to the photo on packet page 95 that showed the proposed area for the decking material.

Chair Plaag reviewed the following Roof Sections 7.6.A, 7.6.B, 7.6.C, and 7.6.D see below:

- 7.6.A. Rooftop additions should never be more than one story (10 feet) in height from the roof surface of the existing building.
- 7.6.B. Rooftop additions should never destroy or damage character-defining features of an existing building, and they should be designed to be compatible with both the size, scale, color, material, form, style, and character of the building on which they are erected and the historic district as a whole. Rooftop additions should be subordinate to the existing building in size and design, and compatible with its massing, scale, materials, and features. Nevertheless, additions should be sufficiently differentiated as new elements from original components of the existing building.
- 7.6.C. Rooftop additions should be positioned on the roof to eliminate the possibility of the structure being visible from the street-level right of way located along the building's primary elevation. For buildings located on corner lots, additions should not be visible from the streetside secondary elevation, either. In the vast majority of cases, this will mean positioning the addition within the one-third portion of the rooftop located closest to the tertiary elevation of the existing building. In many cases, rooftop additions are most feasible on buildings at least four stories in height located adjacent to taller buildings or existing high party walls that will help shield the rooftop addition from street-level view.
- 7.6.D. Rooftop additions should maintain the lowest possible profile in their construction, so that walkways, decks, seating areas, solar arrays, and similar components are built as close as functionally possible to the original roof surface of the existing building.
- 7.6.E. Rooftop additions must be approved through the Conditional District zoning process prior to being considered under the Certificate of Appropriateness process associated with these Standards.

Chair Plaag asked Mr. and Mrs. Long some questions regarding these sections of their proposal. He referred to Section 7.6.A and asked Mrs. Long if the railing would be more than ten feet in height. Mrs. Long said the railing would be three-feet in height. He referred to Section 7.6.B and asked if they were destroying or damaging the character-defining features of an existing building. Mrs. Long said no, they are trying to preserve it. He referred to Section 7.6.C and said that to the extent possible, the railing and the sleepers and decking are designed to be behind the gabled roof and positioned to be in the tertiary portion of the roof and not visible. He asked Mrs. Long, when standing in front of the building on King Street can the railing or decking be seen. Mrs. Long said not if you are standing in front of the building, but if you go into the neighboring parking lot, you could see the railing. Mr. Long added that the top portion of the railing could probably be seen but not the decking. Chair Plaag referred to Section 7.6.D and asked if the intention was to maintain the lowest possible profile in their construction, along with meeting the requirements of the North Carolina State Building Code. Mr. Long said they intend to meet the said code requirements.

Chair Plaag referred to Section 7.6.E and asked Ms. Meade if this request is considered a rooftop addition and, if so, does it have to go through the Conditional District (CD) zoning process. Ms. Meade explained that Staff determined that it did not need to go through the CD zoning process because the use preceded the change that requires the CD zoning approval by Council. She said if it had not been for the railings, which could be considered to change the streetscape or the aesthetic of the building, that this request would have been appropriate for approval as minor work by Staff for the precise reason that nothing is being changed. She said there is no structural addition or fixture, architectural elements of the building

are not being modified or changed because of the sleeper construction, and none of the Trex system would be viewable from any public place.

Chair Plaag opened the floor for the HPC to ask questions of Mr. and Mrs. Long. The HPC asked no questions.

Chair Plaag asked if there was any other interested party to speak or present evidence supporting the application; if there was any non-party witness to speak or present evidence supporting the application; if there was any interested party to speak or present evidence in opposition to the application; if there was non-party witness to speak or present evidence in opposition to the application. There were no answers in the affirmative.

Chair Plaag informed Mr. and Mrs. Long that they have the right to rebut any evidence for this application. He pointed out that there was no evidence to rebut for this application.

Chair Plaag informed Mr. and Mrs. Long that they might take the opportunity to give a summary or closing statement for their case. Mrs. Long stated that she and Mr. Long could answer any questions on their application; otherwise, she felt everyone was clear on their proposal.

Chair Plaag asked the Staff if they wanted to make a closing statement for this case. Ms. Turner said the Staff did not wish to make a closing statement for this case.

Chair Plaag explained that the HPC would discuss the evidence at hand for this application. Chair Plaag asked Ms. Meade if the HPC needed to make a finding of fact regarding the attachment method of the railings, sleepers, or decking material. He said that since no contradictive evidence was presented, he asked if it is acceptable to proceed that the evidence is accurate. Ms. Meade said it is undisputed; therefore, a finding of fact is not necessary. She advised Chair Plaag that he could reference this information in the final legal conclusion.

Chair Plaag began a discussion on the conditions of approval and referenced that there are an automatic set of three conditions found on packet page 110 see below:

**Conditions of Approval:**

The following conditions are automatically included and a part of any approval.

- Where there is a conflict between the application information (October 25, 2022), and the plans (October 25, 2022), the plans control. Insignificant deviations may be permitted to comply with the Requirements of the UDO.
- Any commitments and representations concerning the proposed exterior modification made by the Applicant or its (his or her) representatives at the public hearing shall also become a condition of the Permit, and a basis for a stop work order and/or permit revocation if violated.
- The applicant shall submit the necessary applications, plans, details, and specifications which meet the Requirements of the Town Code, UDO, Building Code and any other applicable codes for review and Approval necessary to issue Zoning and Building Permits.

Chair Plaag asked Mrs. Long if she objected to any of the automatic conditions in the meeting packet. Mrs. Long said she had no objection to the said automatic conditions.

Chair Plaag asked if any HPC member had other conditions with reference to the Design Standards to be placed on this case. The HPC discussed no other conditions for this case.

**Motion and Vote:**

Member Watkins made a motion, seconded by Member Sharp, that the HPC grants the requested Certificate of Appropriateness because it meets the Design Standards as discussed, and the HPC finds the proposed work is congruous with the Historic District.

**Vote:** Aye – All

Nay – None

**The motion passed.**

**ADJOURNMENT**

Member Sharp made a motion, seconded by Vice-Chair Bond, to adjourn the meeting at 4:58 p.m.

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**Eric Plaag, Chair**

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**Marlene Crosby, Board Secretary**