

MINUTES
TOWN OF FORT MILL
HISTORIC REVIEW BOARD
July 11th, 2023
112 Confederate Street
4:30 PM

Present: Chairwoman Megan Brinton, Vice chairman David Booth, Scott Couchenour, Hynek Lettang, Elizabeth Leventis, Joanne Walker, Planning Director Penelope Karagounis, Senior Planner Alex Moore

Absent: Jessica Scarlett

Guests: Shaw Kuester, James Maynard

CALL TO ORDER

Chairwoman Megan Brinton called the meeting to order at 4:30 PM.

APPROVAL OF MINUTES

Chairwoman Megan Brinton entertained a motion to approve the minutes from the June 13th, 2023, HRB meeting. Vice chairman David Booth made a motion to approve the minutes. Joanne Walker seconded the motion. Then, by a vote of 6-0, the minutes for the June 11th, 2023, HRB meeting were approved.

OLD BUSINESS

1. Request to modify a Certificate of Appropriateness (COA)

The first item on the agenda included a request to modify a certificate of appropriateness (COA) at 219 & 221 Main Street. The applicant, Kuester Commercial, was scheduled to be on the agenda for the June HRB meeting. However, they decided to defer their request until the July 11th, 2023, HRB meeting. At the June 13th meeting, by a vote of 4-0, the HRB voted to defer action on this request until the July meeting.

Senior Planner Moore gave an overview of the request to modify the COA at 219 and 221 Main Street. He noted that the applicant was originally granted a COA on September 14th, 2021, by the HRB.

As part of the approval, the HRB stipulated as a condition that the unpainted portion of the demising wall between 219 & 221 Main Street remain unpainted. This condition was tied to the drawing on page 8 of the staff report. Later, during the rehabilitation of this property, the unpainted portion of the demising wall was painted and covered with TPO roofing. Subsequently, Kuester Commercial was informed of this issue with the demising wall. During this time, it was also discovered that the demising wall between 219 & 217 Main Street had been painted. Pictures of both demising walls are found on pages 9 & 10 of the staff report.

Page 11 of the staff report indicates the actions that occurred at the HRB meetings in November 2022. At the November 29th, 2022, HRB meeting it was determined that the applicant would provide a report, as stipulated, on what would be entailed to remove the paint and TPO from the demising wall along with any anticipated damage such removal would cause.

In the meantime, Kuester Commercial did test an area of the painted demising wall with sandblasting. With this testing, Kuester noted the brittle nature of the original brick. The results of this testing are illustrated on pages 15 & 16 of the staff report. I would note that while this testing was not within the anticipated scope of action, it is certainly illustrative of why sandblasting does not meet the Secretary of Interior's Standards for rehab of historic properties.

Senior Planner Moore then summed up the application in noting that the purpose of the current HRB meeting was to gain closure on the case so that final Bailey Bill certification may proceed. "Final certification" means a property has met the following conditions: (a) the owner of the property applies for and is granted historic designation by the HRB; (b) the *completed* rehabilitation receives approval from the HRB; and (c) the minimum expenditures for rehabilitation were incurred and paid (20% of pre-rehab FMV). (d) In this instance, that would mean \$230,00.00 in expenditures.

Senior Planner Moore then asked HRB if they had any questions about this information.

Chairwoman Brinton then asked Shaw Kuester and James Maynard, representing Kuester Commercial, why the painted section of the demising wall was sandblasted as this was not what the HRB had prescribed.

James Maynard, the project architect, responded that he was not aware that the contractor had covered the previously unpainted/uncovered demising wall until near the end of the project. Mr. Maynard then stated that at this juncture he advised Shaw Kuester that the best thing to do would be to see what the National Park Service (NPS) recommended regarding this issue. Mr. Maynard stated that the NPS should have the final say since they wrote the standards which have now been adopted and applied within historic districts around the country.

David Booth then replied that Mr. Maynard, as the architect of record for the project, should be responsible for ensuring that the contractor is following historic district standards.

Mr. Maynard replied that construction administration was not part of his contract for this project, and thus he would not have known about the painting and covering of the unpainted portion of the demising wall.

Mr. Booth indicated that he found it hard to believe that Mr. Maynard would not have known about problems with the project.

Shaw Kuester then interjected that he had been prepared to leave the issue entirely after having done three years of work on the project and that he was not going to do anything else in trying to appease the HRB.

Mr. Booth then asked if there was a response from the South Carolina State Historic Preservation Office (SCSHPO) regarding the demising wall issue.

Mr. Maynard responded that SCSHPO had provided approval of part three.

Chairwoman Brinton asked Mr. Maynard what he meant by this.

Mr. Maynard responded that this meant that SCSHPO had approved the rehabilitation.

Joanne Walker asked Mr. Maynard if SCSHPO was aware of what had transpired with this project.

Mr. Maynard responded that SCSHPO had photographs of the project. He indicated that SCSHPO looks at the project as a whole and that there were some things that they had to go back an address per the review. However, the issue of the demising wall was never brought up by SCSHPO.

Hynek Lettang then asked for clarification on several items, including the area of the demising wall which was supposed to remain unpainted. Mr. Lettang then asked what the root cause of the error was.

Mr. Maynard responded that he believed the problem was that individuals in the field did not read the drawings properly.

Mr. Lettang responded that he believed this was not really a root cause. He then asked why these individuals did not read the drawings.

Mr. Maynard indicated that it was the contractor's responsibility to see that the drawings were understood by those on site doing the work. However, Mr. Maynard also noted that the contractor did what was perfectly acceptable if this was a new building.

Mr. Lettang then noted that the instructions, which illustrated that the wall was not to be painted, were not followed. This resulted in substandard execution which led to an irreversible process. He then asked about the ramifications of not properly following instructions. Mr. Lettang asked if there are penalties placed upon those who do not following instructions in the historic district.

Planning Director Penelope Karagounis replied that fines and penalties were not available to be levied on contractors who do not follow instructions in the historic district. She indicated that the town's review policies have been tweaked due to this incident and have resulted in Alex Moore visiting the historic district to ensure that contractors are properly following the plans as approved by the HRB. Additionally, Alex Moore is visiting projects for a final inspection prior to a certificate of occupancy being issued by the town.

Planning Director Karagounis then noted that Mr. Kuester did come before the HRB in November 2022 to ask forgiveness for the covering of the demising wall. In that Mr. Kuester was now telling the HRB that he was not going to do anything else, there was no other mechanism available.

Mr. Lettang then asked if the paint on the brick would protect the brick more over time.

Vice chairman David Booth responded that because it was a painted application, the brick would now be prevented from properly breathing. The result would be degradation via moisture being retained within the brick. This would ultimately lead to the brick being brittle and falling apart.

Mr. Maynard then asked if it was known if the paint which was applied to the brick was a breathable one.

Vice chairman Booth responded that such information would have been helpful in months past, but that the HRB has never received any such specifications regarding the brick.

After some discussion, it was determined that a letter had previously been received from the painting contractor which indicated that removing the paint would be likely to damage the underlying brick.

Ms. Walker stated that it was her understanding that once brick was painted then its integrity would always be compromised.

Mr. Maynard responded that he agreed, and that this building may be even more adversely affected because the demising wall was comprised of handmade, sun-dried bricks. This would make the brick even softer, and more susceptible to damage from attempting to remove the paint from them. He stated, that in his opinion, that attempting to remove the paint from the brick would result in much more damage than if you just leave the brick as is. While this may not be optimal, it is the best option. Mr. Maynard went on to state that since the NPS and SCSHPO have approved the project, he frankly didn't understand why HRB could not move forward with amending what was previously approved.

Ms. Walker followed up and asked Mr. Maynard that perhaps it was approved because NPS and SCSHPO were not aware of the mistake. Ms. Walker indicated that this paint was never going to be able to be removed without damaging the brick. Her primary concern, however, was that this case sets a bad precedent for future contractors coming to HRB and begging forgiveness for blatant mistakes that they have made within the historic district. She asked what the recourse was at that point.

Planning Director Karagounis responded that this is why the department has initiated weekly reviews of the historic district so that hopefully problems can be resolved quickly. Beyond that, Ms. Karagounis stated that we could look at having more regulations in the historic district. However, she noted that both planning commission and town council would have to be amenable to this.

Hynek Lettang interjected that his experience in dealing with Charlotte Paint indicates that it would be improbable that they would apply an inappropriate paint-type to brick.

Senior Planner Moore then read the contents of a letter previously prepared by Charlotte Paint, the painting contractor for the project. This letter was written by Lucan Allen, a project manager with Charlotte Paint Company, and is quoted and italicized as follows: *"I have spoken with my contact about the coating removal on main street Fort Mill. He feels confident that he can do it but like anything, there's some risks. Not only does it remove the coating or contamination being targeted, it also profiles and scars the underlying substrate in the process. This could cause a physical disorientation with the brick. I am concerned that attempting to remove such a small area will damage the surface and also discolor any other coating on other parts of the building itself. The brick itself doesn't concern me as much as the mortar. With this building being old I am afraid that the mortar would weaken and cause bricks to become loose."*

Chairwoman Brinton responded that she had previously spoken with SCSHPO and that they were not happy that the demising wall had been painted. She stated that she asked SCSHPO what the HRB should do in response, and they indicated that they could not tell the HRB to do without looking at it. Additionally, they stated that there could not be consequences unless they were written into our town code. Chairwoman Brinton also noted that within the municipality for which she previously served on a historic review board, the penalties for not following approved plans included monetary fines and even the potential for jailtime. She pointed out she was not advocating for putting people in jail, but that it would be good if the town did have some written deterrents in our code.

Planning Director Karagounis concurred with the sentiments as expressed by Chairwoman Brinton.

There was then discussion regarding the findings of SCSHPO within this review process. David Booth noted that it would have been helpful if the board had known that SCSHPO did not penalize the project during their review for historic rehabilitation tax credits. Additionally, Mr. Booth stated that the HRB now needed to determine how to take care of the section of the wall that had been sandblasted.

Ms. Walker then discussed the section of the wall that had been test sandblasted. She indicated that it would be her preference that it be left as is.

Mr. Lettang then asked about why there was not similar concern over those buildings in the downtown that were previously painted.

Chairwoman Brinton responded that these buildings had been painted prior to there being a review body such as HRB to oversee the historic downtown area.

Mr. Lettang then asked why the HRB was now worried about removing the paint on the subject demising wall.

Planning Director Karagounis then stated that Kuester Commercial had been kind enough to come before the HRB this evening. However, Mr. Kuester had not received the answers that the HRB initially asked for in November 2022. Thus, at this point there was nothing else that could be done.

Ms. Walker then asked what the goal of this meeting was.

Senior Planner Moore replied that this project was heading toward application for final Bailey Bill certification. As part of that, the applicant was now seeking to gain approval on what had been done up to this point, including the demising wall in question.

There was then general discussion of the parameters and advantages of the Bailey Bill among staff and HRB members.

Mr. Couchenour then noted that there were three items that needed to be discussed to finalize things. One included the roof membrane covering a portion of the demising wall. He indicated that he hated to see the HRB try to do anything with this. Additionally, the other two items included the painting of the demising wall between 219 & 221 Main Street along with the covering of the demising wall of 217 Main Street with paint and TPO roofing. He stated that his desire was that the HRB move on from the painting of the demising wall between 219 & 221 Main Street. Mr. Couchenour then stated that he wanted the owner of 217 Main Street to gain satisfaction with the issue of his demising wall having been covered.

Vice Chairman Booth then stated that he believed the point of what the HRB was asking of Mr. Kuester at the last meeting was for him to provide documentation which would give support for amending the COA as approved for this property. This would provide clarity and understanding regarding leaving the demising wall as is.

Planning Director Karagounis then stated that she apologized and that moving forward, specifically once the HRB has conditions, not to waste the time of the HRB or the applicant if those conditions and documentations are not provided.

Vice Chairman Booth then made a motion to approve the proposed modification to the COA, which was issued on September 14th, 2021, with the following conditions:

- The applicant may now proceed with the submittal to the HRB for final Bailey Bill certification with the stipulation that documentation be included with this application citing likely negative outcomes of removal of paint and TPO roofing material from the brick (See Attached).
- The applicant shall also include a letter indicating the appropriate manner for repairing and/or stabilizing that portion of the brick which was sandblasted.

Ms. Walker then seconded the motion.

Then by a vote of 6-0, the HRB voted to approve the request for a COA modification at 219-221 Main Street with the conditions as noted.

There being no other business, Chairwoman Brinton adjourned the meeting at 5:46 PM

Respectfully submitted,

Alex J. Moore, AICP

Senior Planner

August 31st, 2023