

Date June 11, 2012

RESOLUTION REVERSING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO CONDITIONALLY APPROVE A CERTIFICATE OF APPROPRIATENESS FOR THE CONSTRUCTION OF A DECK AT 1957 ARLINGTON AVENUE

WHEREAS, on April 18, 2012, the Historic Preservation Commission conditionally approved an application from Donald Crouch for a Certificate of Appropriateness to construct a deck along the northwest corner of his residence at 1957 Arlington Avenue, subject to the following conditions:

1. The balustrade (*deck railing*) shall be constructed of wood or a composite wood material.
2. Compliance with the building code and obtainment of all necessary permits for construction.

WHEREAS, Donald Crouch has appealed the Commission's decision to the City Council pursuant to §58-31(f) of the Des Moines Municipal Code, and seeks permission to use a vinyl material for the deck railing.

WHEREAS, on May 21, 2012, by Roll Call No. 12-0778, it was duly resolved by the City Council that the appeal be set down for hearing on June 11, 2012, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on May 24, 2012, and a copy of the notice was provided to Donald Crouch; and,

WHEREAS, in accordance with the said notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code provide that on an appeal such as this, the City Council shall consider whether the Historic Preservation Commission has exercised its powers and followed the guidelines established by the law and ordinance, and whether the Commission's decision was patently arbitrary or capricious; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The public hearing on the appeal is hereby closed.
2. The portion of the decision of the Historic Preservation Commission requiring that the deck railing be modified to satisfy the two conditions identified above is hereby reversed. A Certificate of Appropriateness is hereby granted for the construction of the deck with the

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railing as proposed, subject to compliance with the applicable zoning and building codes and to receipt of any required permits.

3. The City Council hereby finds that the decision of the Historic Preservation Commission to require the modification of the deck railing to satisfy the two conditions identified above was patently arbitrary or capricious for the following reasons:
 - a) The vinyl deck railing (balustrade) proposed by the applicant is preferable to the wood or wood composite products required by the Historic Preservation Commission because the vinyl product is less expensive than wood composite products and does not require painting like wood.
 - b) The deck is sufficiently set back from the public street to mitigate the difference in the appearance between the vinyl product proposed by the applicant and the wood or wood composite products required by the Commission.

(Council Communication No. 12- 281)

MOVED by _____ to adopt, and reverse in part the decision of the Historic Preservation Commission as identified above.

FORM APPROVED:


 Roger K. Brown
 Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk