



Date May 23, 2016

RESOLUTION **AFFIRMING** THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO DENY IN PART, GRANT A REVISED APPLICATION IN PART, AND GRANT SUBJECT TO CONDITIONS IN PART, AN APPLICATION FOR CERTIFICATE OF APPROPRIATENESS FOR PROPERTY AT 1805 OAKLAND AVENUE.

WHEREAS, on March 16, 2016, in Case Number 20-2016-9.26, the Historic Preservation Commission denied in part, granted a revised application in part and granted subject to conditions in part, an application for a Certificate of Appropriateness from John Wise and Jeremy Collins regarding property at 1805 Oakland Avenue in the River Bend Historical Neighborhood District. A portion of the decision granted a certificate to replace a vinyl picture window on the main level of the front façade of the house, subject to the following conditions:

1. The replacement window shall be constructed of wood with no metal cladding.
2. The replacement window shall have the same general shape and dimensions as the existing historic windows.
3. Review and approval of the selected window product by staff prior to installation.

WHEREAS, John Wise, an owner of the affected property, has appealed the Commission's decision to the City Council pursuant to Section 58-31(f) of the Des Moines Municipal Code and seeks to retain a vinyl window that has already been used as a replacement window at this property; and

WHEREAS, on May 9, 2016, by Roll Call No. 16-0769, it was duly resolved by the City Council that the appeal be set down for hearing on May 23, 2016 at 5:00 p.m. in Council Chambers; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on May 12, 2016 and due notice was mailed to the applicant and appellant; and

WHEREAS, in accordance with the notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given an 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 from action of the Historic Preservation Commission, "the city council shall consider whether the commission has exercised its powers and followed the guidelines established by law and ordinance and whether the commission's action was patently arbitrary or capricious."

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



.....
Date May 23, 2016

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby finds that the commission has exercised its powers and followed the guidelines established by law and ordinance, following both the Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, including specifically the Department of Interior's Preservation Brief # 16.
3. The City Council hereby finds that the decision of the Historic Preservation Commission regarding the application for Certificate of Appropriateness for 1805 Oakland Avenue is not patently arbitrary or capricious and should be upheld for the following reasons:
 - (a) Before the existing vinyl window was installed as a replacement window, the River Bend Local Historic District was designated a historical district. The district was designated by Ordinance No. 15,075, which was published and became effective on February 3, 2012.
 - (b) The window was replaced without benefit of consulting with city staff. Had city staff been consulted, the modifications to the material that would be necessary to qualify for a Certificate of Appropriateness would have been determined before the window was installed.
 - (c) The Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts state that "any replacement windows should duplicate the original window in type, size, and material." The Commission was not patently arbitrary and capricious when it found that the installed this vinyl window does not duplicate the original wood material.
 - (d) Preservation Brief # 16 promulgated by the Secretary of the Interior, and adopted by the city's guidelines state that substitute materials must be comparable in "composition, design, dimensions, durability, color, texture and visual properties" as the original historic material. The Commission was not patently arbitrary and capricious when it found that this vinyl window was not an acceptable substitute material for the original wood window.



Roll Call Number

Agenda Item Number

58A

Date May 23, 2016

- 4. The City Council affirms the March 16, 2016 decision of the Historic Preservation Commission in Case Number 20-2016-9.26.

Moved by _____ to adopt, and affirm the decision of the Historic Preservation Commission

(Council Communication No. 16-265)

APPROVED AS TO FORM:

Thomas G. Fisher Jr.

Thomas G. Fisher Jr.
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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

CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION
MEETING SUMMARY

DATE: March 16, 2016
TIME: 5:30 P.M.
PLACE: City Council Chambers
City Hall, 400 Robert D. Ray Drive

COMMISSIONERS PRESENT: York Taenzer (Chair), Patricia "Pat" Barry, Breann Bye, Martha Green, Elaine Estes, Scotney Fenton (Vice Chair), and Craig McCoy.

COMMISSIONERS ABSENT: Robert "Bob" Griffin, Susan Holderness, Denny Marchand, Aaron Todd and Teresa Weidmaier.

STAFF PRESENT: Anuprit Minhas, City Planner and Bert Drost, Senior City Planner.

DISCUSSION SUMMARY OF AGENDA ITEM #4

4. Request from John Wise and Jeremy Collins to allow the following work at 1805 Oakland Avenue in the River Bend Local Historic District. (20-2016-9.26)
 - A) Replacement of the picture window on the main level of the front façade of the house with a vinyl picture window product.
 - B) Replacement of a wire fence with a taller fence of the same design in the rear yard.

Chair York Taenzer: Read the agenda description for item #4.

Anuprit Minhas: Displayed an aerial map and photographs of the property. Presented the staff report and staff recommendation.

Breann Bye: Asked for clarification on the proposed fence material.

Anuprit Minhas: Clarified that the existing wire fence would be replaced with a taller fence of the same design.

Chair Taenzer: Asked the applicant to come forward.

John Wise, 1805 Oakland Avenue: Stated he has a puppy that has figured out how to get over the existing wire fence and that it is in need of repair. The new wire fence would be 4 feet tall.

Chair Taenzer: Noted the existing fence has a vintage design. Asked Mr. Wise if he had an example of the proposed fence.

John Wise: Replied that Des Moines Steel Fence is going to replace it with a taller wire fence of a design that exactly matches the existing fence. Noted that he intends to reuse the existing gate

frame and has not finalized a post design but was considering cedar posts. Currently the fence has metal t-posts.

Breann Bye: Stated metal posts should be used with a metal fence.

Chair Taenzer: Expressed agreement that metal posts were the better choice.

John Wise: Replied that he was okay with metal posts and that he was only concerned with having something better than metal t-posts.

Chair Taenzer: Asked if the fence was going to be painted black.

John Wise: Replied that it would be a natural color and that the existing fence has never been painted.

Elaine Estates: Stated that historically, wire metal fences were not always painted. Suggested that Mr. Wise save the existing fence for their reuse or use by someone else as it is a rare product that is hard to find.

John Wise: Replied they intent to keep the existing fence in case they need it in the future.

Chair Taenzer: Asked the applicant about the window.

John Wise: Stated the window they replaced was broken. It was a vinyl window that was installed 15 years ago and the new window is identical to the previous vinyl window. Trim and siding were not altered. Noted that the front of the house has vinyl windows and that installing a wood window would look out of place.

Chair Taenzer: Stated our intent is to bring things into compliance with the design guidelines as changes are made.

Breann Bye: Expressed support for Mr. Taenzer's statement.

Chair Taenzer: Asked if there was any additional questions for the applicant.

No additional questions were asked.

Chair Taenzer: Asked if there was anyone in the audience that wished to speak on the item.

No members of the public came forward to speak.

Elaines Estes: Moved approval of the staff recommendation with the addition that the applicant save the existing wire fence for reuse and that the selected fence and posts be reviewed by staff prior to installation.

Breann Bye: Seconded the motion.

VOTE: A vote of 7-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye	X			
Griffin				X
Green	X			
Holderness				X
Estes	X			
Fenton	X			
Marchand				X
McCoy	X			
Taenzer	X			
Todd				X
Weidmaier				X

ACTION OF THE COMMISSION:

DECISION 1 – Part A

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Denial of the request as proposed as it would not meet the requirements set out in the Historic District Ordinance, the Secretary of Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines’ Standard Specifications.

Granting a revised application subject to conditions would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines’ Standard Specifications.

CONDITIONS:

1. The replacement window shall be constructed of wood with no metal cladding.
2. The replacement window shall have the same general shape and dimensions as the existing historic windows.
3. Review and approval of the selected window product by staff prior to installation.

DECISION 2 – Part B

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to conditions would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines’ Standard Specifications.

CONDITIONS:

1. The fence shall be no taller than 5 feet.
2. Review and approval of the selected fence and post product/design prior to installation by staff.
3. The existing wire fence shall be reused or stored for reuse to the extent possible.

CITY OF DES MOINES HISTORIC PRESERVATION COMMISSION
STAFF REPORT AND RECOMMENDATION
Wednesday, March 16, 2016

AGENDA ITEM #4

20-2016-9.26

Applicant: John Wise and Jeremy Collins (owners).

Location: 1805 Oakland Avenue (River Bend Historic District).

Requested Action: Part A) Replacement of the picture window on the main level of the front façade of the house.

Part B) Replacement of a wire fence with a taller fence of the same design in the rear yard.

I. GENERAL INFORMATION

- 1. Site Description:** The subject property measures 75 feet by 158 feet and contains a 2-story building built circa 1865. It also contains a 12-foot by 20-foot garage in the rear yard.
- 2. Sanborn Map:** The 1901, 1920 and 1957 maps show the general footprint of the main portion of the house, excluding the south addition. A full front porch is shown on the map. A rear porch is not shown.
- 3. COA History:** None.

II. APPLICABLE DESIGN GUIDELINES

1. Architectural Guidelines for Building Rehabilitation (windows):

- a. Existing windows should be retained, reconditioned and well maintained to be energy sound.
- b. Any replacement windows should duplicate the original window in type size, and material. The shape of the original window subdivisions should not be changed. New muntin bars and mullions should duplicate the original in size and profile shape.
- c. Windows with true divided lights should be used in places where this type of window was used originally. Snap in muntin bars should not be used.
- d. Every effort should be made to keep original doors, restoring as necessary.
- e. The original size of all door and window openings should be restored and replacement windows should match the shape of the original openings.
- f. Existing door and window openings should not be blocked down to accommodate stock sizes.
- g. Air conditioners should not be put in the windows of any primary façade.

- h. Any new openings constructed should be at the side or back and the size, shape and placement should relate to the existing pattern of door and window openings.

The applicant replaced the picture window on the main level of the front façade with a vinyl window product that matches the vinyl window that was previously in the opening. This work was done without a Certificate of Appropriateness (COA). Staff understands that the glass in the previous window was broken and that the only way to address the situation was to install a complete unit as the glass could not be effectively replaced independent of the window frame. Since the previous window could not be repaired and had to be replaced in its entirety, a COA is required.

The house was originally constructed with wood windows. It contains a mix of wood windows and vinyl windows that were installed prior to the establishment of the River Bend Local Historic District. The proposed vinyl window does not comply with the design guidelines, specifically guideline “b”, which states replacement windows should duplicate original windows in type, size, and material.

In addition to the local design guidelines, the City Code states the Commission shall utilize the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building. The National Park Service produces documents known as Preservation Briefs. These documents are intended to assist in the interpretation of the Secretary of the Interior’s Standards, which provide broad direction.

Preservation Brief #16 (The Use of Substitute Materials on Historic Building Exteriors) provides guidance on the use of substitute materials. Utilizing this information, the Commission reviews substitute materials to insure that they are comparable in composition, design, dimensions, durability, color, texture and visual properties as the historic material. The following chart compares the vinyl window that was installed against a typical wood window.

	Proposed Vinyl Windows
Composition	Vinyl does not have the same composition as wood.
Design	The subject window is a picture window design, which is appropriate for a window opening of this size. However, the visual properties and shape of the framing are not the same as a wood window.
Dimensions	The dimensions of the frame components are not the same. There is minimal depth between the framing and the glass.

Durability	In general, modern replacement windows constructed of vinyl or wood are not as durable as historic windows constructed of old growth lumber. In this case a historic wood windows is not proposed to be replaced
Color	The vinyl windows have a glossy white appearance typical of a vinyl window product, which does not match the appearance of a typical window.
Texture	Vinyl has a different textural quality than wood when touched or visually inspected.
Visual Properties	The variations in visual properties of the proposed product are noticeably different from those of a wood window due to the differences in dimensions and design.

The proposed vinyl product does not substantially match the composition, design, dimensions, color, texture and visual properties of a wood window.

2. Fence Design Guidelines (fence):

- a. The rear yard fence, both open and solid, should be a maximum of six feet in height.
- b. A gate is recommended from an enclosed back yard to an alley or another back yard.
- c. A gate is recommended between two side yards when the fence runs the entire length of the front and back yard.
- d. The fence should step along a grade change at intervals set by the length between posts (rather than at variable lengths or with a continuously straight top edge).
- e. The post and rail side should be facing the homeowner's yard while the picket side should face the street, neighbor or alley.
- f. Simple designs should be used with simplistic houses and more elaborate designs should be used for more elaborate houses. Catalogs can be found through iron manufacturers
- g. Metal fences usually come in four to ten foot segments that are to be attached to metal posts or masonry pillars.
- h. Woven wire:
 - 1) Small wire fences with rounded top edges were typically used with smaller houses.
 - 2) Members of these fences should be of substantial thickness (not thin).

The northeast portion of the rear yard is enclosed by fencing, the garage and the house. The segment of fencing that runs from the northwest corner of the

garage to the rear of the house consists of a traditional woven wire fence. The applicant wishes to replace this segment of fence with a taller fence of the same design. Staff recommends approval subject to the fence being no taller than 5 feet in height as woven wire fences were traditionally modest in scale.

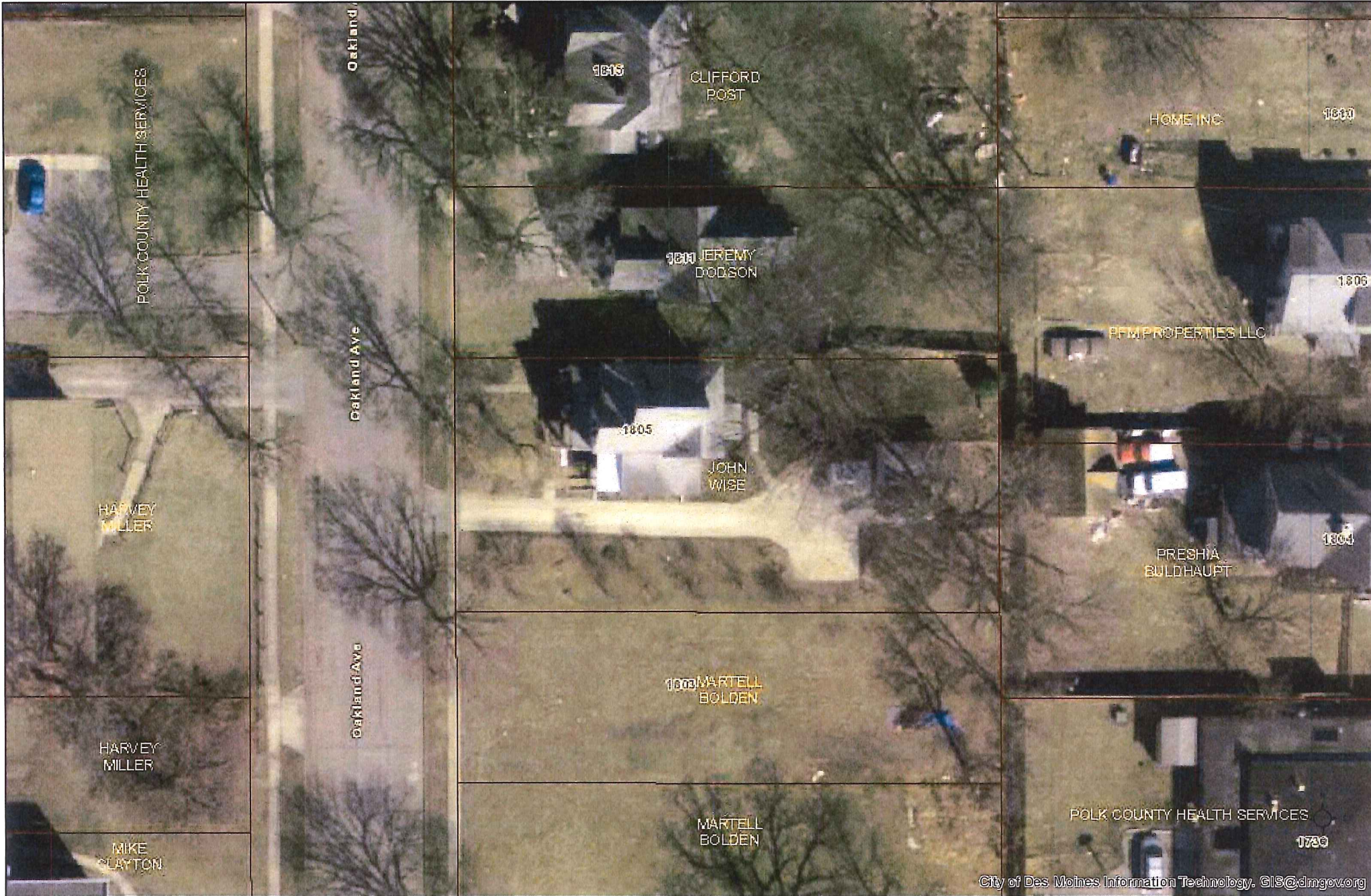
III. STAFF RECOMMENDATION

Part A) Staff recommends denial of the request as proposed as it does not comply with the Architectural Guidelines for Building Rehabilitation. Staff recommends approval of issuing a Certificate of Appropriateness subject to the following conditions:

1. The replacement window shall be constructed of wood with no metal cladding.
2. The replacement window shall be of the same general style, shape and dimensions as the existing historic windows.
3. Review and approval of the selected window product by staff prior to installation.

Part B) Staff recommends approval of issuing a Certificate of Appropriateness subject to the fence being no taller than 5 feet.

Des Moines



City of Des Moines Information Technology. GIS@dm.gov

It is understood that while the City of Des Moines' Geographical Information Systems Division has no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the GIS personnel make no warranty or representation, either expressed or implied, with respect to the information, or data displayed.

Note: Public property represented on this map is not intended to be inclusive.
For information about Zoning data: please contact the City of Des Moines' Community Development Department.

3/9/2016







SECURITY BY

02.29.2016 10:11



April 14, 2016

John Wise
1805 Oakland Avenue
Des Moines, IA 50314

RE: 1805 Oakland Avenue – COA 20-2016-9.26

Dear Mr. Wise:

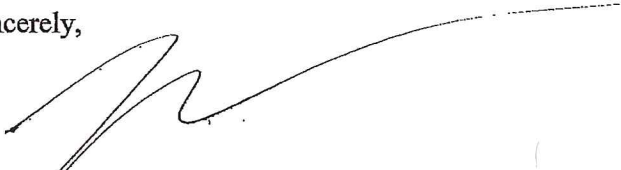
A copy of Certificate of Appropriateness #20-2016-9.26 is attached. Please note that the vinyl window that was installed must be removed and replaced with a window that complies with the conditions listed on the Certificate. In cases where work is necessary to abate a violation, the work must be completed in 90 days unless a mutually agreeable timeline is reached between the property owner and City staff. The remaining work can be performed on a schedule of your choosing so long as the Certificate has not expired.

If you believe that the Commission's action was arbitrary or capricious, you may appeal their decision to the City Council. Appeals must be in writing and filed with the City Clerk no later than ten business days after the filing of the above-mentioned decision. Your Certificate was filed on April 14, 2016. An appeal must be submitted no later than April 28, 2016.

If no appeal is received, you will have until July 13, 2016 (90 days) to remove the vinyl window and install a window that complies with the conditions listed on the Certificate. The approved fence project can be implemented on a schedule of your choosing so long as your Certificate has not expired.

Please contact me at 515-283-4147 or at jmvanessen@dmgov.org if you have any questions or would like to discuss an alternative timeline.

Sincerely,


Jason Van Essen, AICP
Senior City Planner

FILED
2016 APR 27 PM 1:34
CITY CLERK
DES MOINES, IA

HISTORIC PRESERVATION COMMISSION
CITY OF DES MOINES
CERTIFICATE OF APPROPRIATENESS
In the Following Matter

This Certificate of Appropriateness is valid for one year from the meeting date

REQUEST FROM: : CASE NUMBER: **20-2016-9.26**
: :
JOHN WISE AND JEREMY COLLINS : :
: :
PROPERTY LOCATION: : MEETING DATE: **MARCH 16, 2016**
: :
1805 OAKLAND AVENUE : :

This Decision of the Historic Preservation Commission does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

SUBJECT OF THE REQUEST:

- A) Replacement of the picture window on the main level of the front façade of the house with a vinyl picture window product.
- B) Replacement of a wire fence with a taller fence of the same design in the rear yard.

DECISION 1 – Part A

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Denial of the request as proposed as it would not meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

Granting a revised application subject to conditions would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

CONDITIONS:

1. The replacement window shall be constructed of wood with no metal cladding.
2. The replacement window shall have the same general shape and dimensions as the existing historic windows.
3. Review and approval of the selected window product by staff prior to installation.

VOTE: A vote of 7-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye	X			
Griffin				X
Green	X			
Holderness				X
Estes	X			
Fenton	X			
Marchand				X
McCoy	X			
Taenzer	X			
Todd				X
Weidmaier				X

DECISION 2 – Part B

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to conditions would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines’ Standard Specifications.

CONDITIONS:

1. The fence shall be no taller than 5 feet.
2. Review and approval of the selected fence and post product/design prior to installation by staff.
3. The existing wire fence shall be reused or stored for reuse to the extent possible.

John Wise and Jeremy Collins
~~400 Franklin Avenue~~
20-2016-9.26

March 16th, 2016

VOTE: A vote of 7-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye	X			
Griffin				X
Green	X			
Holderness				X
Estes	X			
Fenton	X			
Marchand				X
McCoy	X			
Taenzer	X			
Todd				X
Weidmaier				X

Approved as to form:



Michael Ludwig, AICP
Planning Administrator



Phil Delafield
Community Development Director

Date Filed: 4/14/16

Filed By: JV

Dear Council Members,

The following is a letter of appeal to the historic decision on my COA #20-2016-9.26 regarding me repairing/replacement of my front picture window. Yes the window is a vinyl window but this house has had vinyl windows before this area was a historic neighborhood, I replaced the window with a direct replacement, no thing about the new window is different from the broken window.

When I moved into this house, yes it was known to me that the area was a historic area but nothing was communicated to me that they are special rules and procedures that had to be followed in order to things. Almost 95% of the windows in my house are vinyl windows that were put in prior to the area becoming a historical neighborhood.

The neighborhood association keeps its meetings secret as to when and where they are being held, No one in this neighborhood knows who is on the association let alone who is on it. The association does nothing for the neighborhood and the historic commission also does nothing for the neighborhood, drugs are rampant, cars doing in excess of 60mph going down the street. I would also like the council and or the historic commission to explain as to why only certain houses are included or not included in the historic boundaries. It appears that the more money you have in the neighborhood the more things you are allowed to do or get away with. I am a disabled veteran who fought for this country and this is how I get treated for just replacing a broken window. If there are going to be specific rules that need to be followed then those rules need to be handed out to everyone in the neighborhood. My neighbors who just moved here from Arkansas had no idea about the historic commission let alone the neighborhood association. Why are these things kept secret?

I appeal to the council that the window that was put in is allowed to stay it does not change the appearance of the home from what it looked like prior to me replacing the window. The window that was broken was a vinyl window that was put in place prior to the change to a historic area, the new window is a direct

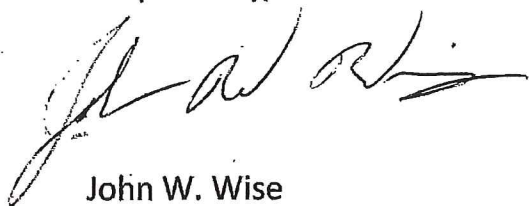
replacement and has no metal cladding and does not change the appearance of the home.

I have no issue with abiding by the historic commission's rules and guidelines now that I know what they are. I know that ignorance of the rules is not an excuse for violating the rules, but if a person does not or is not aware that specific rules or guidelines exist then that person should not be penalized for breaking such rule.

So in closing I am asking for the council to grant my appeal and allow the window to stay it is a direct replacement nothing was changed.

Thank you for your time in handling this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "John W. Wise". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John W. Wise

1805 Oakland Ave

Des Moines, IA 50314

515 777 0713