

City of Shelbyville Historic District Commission

315 Washington Street
Shelbyville, KY 40065

HDC Meeting Minutes

June 11, 2024

Call to Order: 5:32 p.m.

Approval of Previous Minutes:

Motion: Henson **Second:** Magan **Approved:** Yes

<u>Members:</u>	<u>Present</u>	<u>Guests Present:</u>
Deborah Magan	X _____	
Stephen Collins	_____	
Rachel Wells	X _____	Steve Gregory, Shelbyville City Attorney
Tom McGinnis (Chair)	X _____	
Jim Henson	X _____	
Michele Floyd Richardson	X _____	
Julie Mulcahy	X _____	
Brian Cushing (HDC)	X _____	

Old Business:

Updated HDC brochures are ready, printing and graphic design by Wizard Graphics. Commissioners each received and reviewed a copy and agreed that they are an improvement.

New Business:

COA Application by Jordan Burk for The Point Acupuncture at 403 Third St. They are not permitted to affix a sign to the building by their landlord, Chris Perry, so they have done as well as they could with a sign fixed to posts in front of the house. While this could be considered a temporary sign in some cases and therefore prohibited to act as a permanent sign, this one conforms to every other guideline and has the appearance of a permanent sign. Motion to approve: Commissioner Magan. Second: Commissioner Mulcahy. All in favor.

Note- the photos of the sign also revealed a handrail that was not approved by the HDC and is not in compliance with guidelines. Cushing will follow up.

COA Application by Alex Doyle for 726 Main.

Black Windows/No Grid/Aluminum. Approved on a previous application.

Cavity trays for brick extensions under windows: Denied. Motion to deny: Commissioner Wells. Second: Commissioner Mulcahy. All in favor

R7.0 Retain and preserve windows that define the historic character of the building. Features can include the frames, muntins/mullions, sash, glazing, heads, sills, hoodmolds, paneled or decorated jambs and moldings and exterior shutters.

R7.3 Preserve the size and proportion of a historic window opening.

Part 4, R7, Inappropriate: Radically changing or removing windows that define the overall character of the building.

Brick entrance patio, pavers underneath porch; exterior doors stainable fiberglass on top, side, back; commercial entry front door; recessed front door. Insufficient information: property owners must meet with the Historic District Commission in person and present a plan that includes the specific door and brick products to be used and the brick bond pattern(s) that will be used. Commercial front door discouraged and not likely to be approved. These portions of the application tabled.

Other Business:

City Attorney Steve Gregory discussed the situation at 516 Third Street where property owner Melvin Terry Nethery installed vinyl siding, changed the size, shape, and materials of the windows, and concealed decorative window details with no approval from the Historic District Commission. Cushing mailed Mr. Nethery a letter explaining the requirements and how he could comply. Nethery visited Cushing's office and stated his intentions not to comply. Cushing and Police Chief Gentry placed a stop work order on the building. Mr. Gregory stated that Nethery has retained attorney David Bullock to fight this. Gregory attempted to work with Bullock to bring Nethery into compliance with Historic District Guidelines, including informing him of the opportunity to obtain matching funds to correct and complete his project. Nethery stated that he will not accept taxpayer funds and intends to sue the City of Shelbyville on constitutional grounds, implying that the City has overstepped individual property rights. No lawsuit has been filed yet and work cannot continue while the stop work order is in place; if it does, Nethery could be cited by the police and/or the HDC could enforce an injunction. Commissioner Wells expressed concern over the precedent this would set in the district if work without a COA and in violation of the Historic District Ordinance and guidelines is allowed to continue. Commissioner Richardson has been monitoring the situation every day as part of her commute.

If we are sued, the decision to fight it will ultimately be in the hands of Mayor Ethington and the City Council; Gregory is going to advise the mayor to take this up in a closed session. The issue would then be sent to the Kentucky League of Cities, where it would be evaluated for coverage under insurance; they would also appoint an attorney. Gregory will keep Cushing informed and he will keep the commissioners informed.

Further discussion:

- Gregory asked if there is any barrier to Nethery undertaking work to the interior of the building? No, but Commissioner Mulcahy clarified that this work could not be of a nature that would continue to impact the exterior of the windows.
- Gregory stated that if fines were to be imposed for the ordinance violation, the amount could range from \$50-\$500 and that each day it is not corrected constitutes a separate offense. He advises to work within reason, though. There is precedent for the HDC issuing fines, which could result in a lien on the property.
- Commissioner Magan raised the possibility of a compromise of keeping some of the vinyl siding if the window issue was corrected; she does not want to see us get sued, loose, and in turn lose the authority of the HDC completely. Commissioner Richardson expressed willingness to consider this. Gregory advised that such a compromise could result in diminished authority of the HDC. Chairman McGinnis raised the issue of such a compromise establishing a harmful

precedent. Gregory stated that while it could be a special exception, other property owners could successfully argue that they should be allowed to do the same in the future.

- Nethery has a history of conflict with the HDC. Documentation on file goes back to 1996. Historic District Coordinator Gail Reed had him sued for demolishing the rear of his building at 304 Main St. without a COA ca. 2008. There were also issues regarding lack of maintenance. His attorney at that time attempted (unsuccessfully) to invalidate the Historic District Ordinance based on a wording technicality. Where this ended is unclear- the rest of the building was not demolished but it has also not been maintained.
- Gregory reported that Nethery also attempted to do work on one of his buildings in the Fall of 2023 without going through the correct permitting channels through Code Enforcement. This was eventually resolved but all of this appears to be as much about making a point as about his personal property rights.
- Chairman McGinnis asked about similar cases in other historic districts and how they were handled; further research on this is warranted.
- Commissioner Henson asked if insurance would cover the city's litigation costs. Gregory said yes, based on a previous lawsuit involving Layson Hall.

The Historic Commission has been asked to consider recognizing Judge Ison in some way for the restoration of the Old Courthouse. The commissioners agreed that a letter would be appropriate. Cushing will draft and all will sign as they are able.

A new property owner in the district asked if fibrex, a wood composite, would be a suitable replacement window material. He said he worked with other historic districts that allowed it. Cushing will follow up with other districts to see what their experience has been.

Commissioner Magan asked about the status of a building material workshop we discussed several months ago. Cushing reported that his contact he was working with had not been in touch recently so he will seek another.

Adjourn: Motion: Commissioner Wells **Seconded:** Commissioner Magan **Approved** **Time:** 6:56 p.m.