



# HISTORIC PRESERVATION COMMISSION

## APPROVED MINUTES

July 12, 2022, 9:00 a.m.  
Virtual Meeting

### I. Call to Order

Chair Bouchard called the meeting to order at 9:00 a.m.

### II. Roll Call

#### Members Present:

Matt Bouchard, Chair  
Faye Calhoun  
Andrew Goolsby, Vice Chair  
Katie Hamilton  
Rakeem Chambers  
Alva Horton

#### Excused Members Absent:

April Johnson

#### Staff Present:

Grace Smith, Planning Assistant Director  
Karla Rosenberg, Senior Planner  
Amanda Holmes, Clerk  
Don O'Toole, City Attorney's Office  
Chris Peterson, Technology Liaison

- ### III. Adjustments to the Agenda
- With regards to time and commissioner early dismissals, City Attorney Don O'Toole stated that the order in which the cases are heard should be switched to ensure quorum. Namely, COA2200031 216 & 218 Rigsbee Avenue - Demolition should be heard first and COA2200025 1223 Vickers Avenue – Modifications, New Accessory Structure, and Site Work should be heard second.

Chair Bouchard acknowledged City Attorney Don O'Toole's statement and affirmed that the cases would be heard in that order.

### IV. Approval of Summary Minutes for June 14, 2022.

The commission did not vote to approve the minutes due to lack of quorum. Of the six commissioners present at today's meeting, only four were eligible to vote. Commissioner Chambers observed the previous meeting but did not participate and Commissioner Horton was not a member of the board at the previous meeting.

Chair Bouchard, per his discretion, stated that voting on the minutes would be postponed until the next meeting.

Planning Assistant Director Grace Smith noted that Commissioner Chambers was present and had observed the previous meeting. She also noted that Commissioner Horton could watch the previous meeting and/or read the minutes. Given these factors, Commissioner Chambers and Commissioner Horton would be eligible to vote on the June 14, 2022 minutes at the next meeting.

**V. Swearing-In of Witnesses**

Chair Bouchard read the opening HPC statement and asked if there were any early dismissals required by Commission members or Commission members who might have a conflict of interest with the cases presented today. Vice Chair Goolsby stated that he would be recusing himself from COA2200031 – 216-218 Rigsbee Avenue – Demolition due to a conflict of interest. He stated that his firm is the architect for the project and that he is currently working on that project.

Commissioner Hamilton stated that she would need to leave at 10:30 a.m.

Vice Chair Goolsby stated that he would need to leave at 10:45 a.m.

Karla Rosenberg stated that Commissioner Johnson had notified the board at the last meeting of her upcoming absence from the July 12, 2022 meeting due to being away at a conference.

**MOTION:** Excuse the absence of Commissioner Johnson from the July 12, 2022 HPC meeting  
(Hamilton, Goolsby)

**ACTION:** Motion carried, 6–0

The Clerk to the Board administered the oath to all Citizens and staff who wished to speak at today's meeting.

**VI. Certificates of Appropriateness**

**a. Case COA2200031 – 216-218 Rigsbee Avenue – Demolition**

**PRECEDING REMARKS:** City Attorney Don O'Toole stated that, in 2020, there was question as to whether North Carolina law allowed quasi-judicial proceedings to be held over a virtual platform like Zoom. The North Carolina legislature remedied that by passing statute 166A-19.24., which allowed quasi-judicial proceedings to be heard remotely when certain conditions were met. One of the first conditions was that there needed to be an emergency order in place that governed the locality where the meeting would be held.

Since 2020, Governor Cooper has had an emergency order in place that covered the entire state of North Carolina. However, on July 11, 2022, Governor Cooper issued a press release that indicated his statewide emergency order will cease on August 15, 2022. As such, the emergency order is still in effect and allows a remote meeting today.

City Attorney Don O'Toole then proceeded to read an additional requirement under statute 166A-19.24.

The requirement states the following: “all persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and consent to the remote meeting.”

City Attorney Don O’Toole stated that that particular requirement means that if people have standing to participate in the hearing, then they must consent to that meeting going forward. O’Toole noted that, as seen in the agenda for today’s meeting, a letter was submitted by an attorney who represents nearby neighbors of parcel 216-228 Rigsbee Avenue. The letter stated that the neighbors, who have standing to participate in the quasi-judicial hearing, do not consent to the online platform of today’s meeting. The attorney and neighbors also did not want to attend a virtual hearing to determine if they have standing. O’Toole noted that an internal discussion was held and it was decided that the HPC would be asked if this matter could be referred back to staff, such that a live hearing would be heard on this matter.

Attorney Jeffrey Roether, from Morningstar Law Group and representing the Eleanor Condominium Association, spoke and affirmed City Attorney Don O’Toole’s aforementioned statements. He stated that the Eleanor Condominium Association is the building next door to the subject property, specifically it shares a party wall with the building that is proposed to be demolished. Roether reiterated that the HPC meeting is a quasi-judicial hearing that is taking place virtually under general statute 166A-19.24., and thus subject to the requirement that all parties participating in the meeting must consent to the virtual platform of the hearing. Roether stated that, per letters that his law partner wrote on July 5, 2022 and July 8, 2022, on behalf of their clients they object the hearing being heard virtually as well as object to any remote proceedings to adjudicate their clients’ standing.

Chair Bouchard then allowed the applicant to respond regarding the present issue. Nish Evans, president and CEO of Lennox and Grae Construction, contested that since their project would not consist of a demolition of the party wall as objected to by the Eleanor Condominium Association, then the objection no longer had basis and the hearing should proceed.

City Attorney Don O’Toole noted that Nish Evans contested the objection based on the proposed demolition not occurring and that Attorney Roether indicated that he objected to the meeting being heard virtually.

City Attorney Don O’Toole recommended the matter be referred back to staff so that it could be scheduled for an in-person hearing.

**MOTION:** Commissioner Hamilton made a motion for COA2200031 – 216-218 Rigsbee Avenue – Demolition to be referred back to staff at the next commission hearing held in person.

(Hamilton, Calhoun 2<sup>nd</sup>)

**ACTION:** Approved 5–0 (Commissioner Goolsby recused)

**b. Case COA2200025 – 1223 Vickers Avenue – Modifications, New Accessory Structure, and Site Work**

**Staff Report:** Karla Rosenberg presented the case.

**Speakers:** Noel Gonzalez spoke in support. No one spoke in opposition.

**Discussion:** Noel Gonzalez gave a brief overview of the proposed project of 1223 Vickers Avenue – Modifications, New Accessory Structure, and Site Work. The Commission discussed the compatibility of the architectural style of the greenhouse with respect to the primary structure.

**Staff Recommendation:** Staff recommended approval of the application.

**MOTION:** The Durham Historic Preservation Commission finds that, in the case COA2200025, 1223 Vickers Avenue – Modifications, New Construction, and Site Work:

- The applicant is proposing modifications to a contributing structure as well as two new accessory structures.
- A new screened porch measuring 356 square feet (with new 240–square foot attached deck) will replace the existing screened porch; to accommodate its height, a section of the home’s original rear roof overhang will be removed.
- A sauna measuring 30 square feet and approximately 7 feet in height, constructed of cedar wood, glass panels, and asphalt roof shingles, will be located to the side and rear of the primary structure; a greenhouse measuring 96 square feet and nearly 8 feet in height, constructed with resin framing and clear polycarbonate panels, will be located immediately behind it.

Therefore, the conclusion of law is that the proposed addition and alterations are consistent with the historic character and qualities of the Historic District and are consistent with the Historic Properties Local Review Criteria, specifically those listed in the staff report, and the Durham Historic Preservation Commission approves the Certificate of Appropriateness for case COA2200025, 1223 Vickers Avenue – Modifications, New Construction, and Site Work, with the following conditions:

1. The improvements shall be substantially consistent with the plans and testimony presented to the Commission at this Commission hearing and attached to this COA;
2. The improvements may require additional approvals from other City or County departments or state or local agencies; the applicant is responsible for obtaining all required approvals relating to building construction, site work, and work in the right-of-way; and
3. A compliance inspection shall be performed immediately upon completion of the work approved herein. (Bouchard, Hamilton 2<sup>nd</sup>)

**ACTION:** Approved 6–0

**VII. Old Business –**

- a) Newsletter: Focus will be accessory dwelling units. Chair Bouchard and Karla Rosenberg will discuss whether the current topic is feasible or may decide to select another.

**VIII. New Business**

- a) Amanda Holmes will provide a Minor COA report via e-mail by Friday
- b) Large docket for August meeting. There will be six cases. Commissioners are advised to clear their schedules for the entire morning.

**IX. Adjournment**

The meeting adjourned at 10:00 a.m.

Respectfully Submitted,

Amanda Holmes, Clerk  
Historic Preservation Commission