



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-3036  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 5/1/2017  
**Title:** A-17-096: An appeal by Nathan Bailes of the Historic Preservation Officer's denial of a Certificate of Appropriateness to allow the installation of vinyl windows and wooden window screens, located at 314 Donaldson. (Council District 7)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-17-096 Appeal, 2. photos, 3. BOA17-096NPA maps, 4. 314 Donaldson HDRC COAs

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-096  
**Applicant:** Nathan Bailes  
**Owner:** Maria Vargas  
**Council District:** 7  
**Location:** 314 Donaldson  
**Legal Description:** Lot 24, Block 38, NCB 1931  
**Zoning:** "R-6 H RIO-1 AHOD" Residential Single-Family Monticello  
Park Historic River Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl, AICP, Senior Planner and Lauren Sage,  
Historic Preservation Specialist

### Request

An appeal of the Historic Preservation Officer's denial regarding an application for a Certificate of Appropriateness to allow the installation of vinyl windows and wooden window screens.

The applicant is appealing the decision of the Historic Preservation Officer to deny a request submitted April 2017, after the fact, to install vinyl windows with wood screens for the property located at 314 Donaldson. The request was submitted to OHP as the result of illegal installation of the vinyl replacement windows.

### Case Summary:

In April 2016, the Historic Preservation Officer approved with stipulations a request to replace 20 wood windows with new wood windows the same size and profile. The stipulations were that the 5 of the 20 windows located on the primary façade be repaired and retained. Also, the applicant was to provide specifications on the wood windows to be installed to staff prior to receiving the Certificate of Appropriateness, maintain the original

dimension and profile, feature clear glass, and maintain the original appearance of window trim and sill. These stipulations have not been met.

In January 2017, the Office of Historic Preservation received a report that all of the original wood windows at 314 Donaldson were removed and replaced with vinyl windows. The vinyl windows were installed illegally and installation was not in compliance with the provisions of UDC Article IV. The owner was notified regarding the violation and in response submitted a request to keep the vinyl windows and to install wood screens. In accordance with authority given by the UDC Article VI, the Historic Preservation Officer denied the request. The decision to deny is in keeping with the Secretary of Interior Standards, consistent with the Historic District Guidelines and in accordance with Unified Development Code.

### **Findings:**

1. The stipulations given to the applicant in response to the request submitted in April of 2016 were not met and no Certificate of Appropriateness was issued. No permits to remove and replace windows have been issued. The applicant installed 15 vinyl windows without proper permits, in direct violation of the scope of work requested by the applicant and approved by the HDRC and OHP.
2. According to the Guidelines for Exterior Maintenance and historic wood windows should be repaired or, if beyond 50% deteriorated, should be replaced with a window to match the original in terms of size, type, configuration, material and details. The vinyl one over one windows are not consistent with the Guidelines.
3. The wood window screens are a feature that could have been used in a home of this age and style, but no photographic evidence was submitted to show that wood screens were installed historically. Nonetheless, wood windows screens are installed but are designed to be easily removed. OHP staff and the HDRC find that window screens are not a solution to conceal inappropriate replacement windows and should not be allowed to circumvent the review process.

### **Staff Recommendation**

The application to remove original wood windows and to install vinyl windows and wood screens at 314 Donaldson does not following the Secretary of Interior Standards for Rehabilitation #6 nor Preservation Brief # 9 The Repair of Historic Wooden Windows; is not Consistent with Historic Design Guidelines, Chapter 2, Exterior Maintenance and Alterations; and is not in compliance with Article IV and Article VI of the City's Unified Development Code. The work was done is direct violation of the approval the applicant received regarding the property.

Staff recommends that the Board of Adjustment uphold the March 10, 2017, decision by the Historic Preservation Officer to deny the request to approve the removal of original wood windows and installation of vinyl windows and wood screens at 314 Donaldson. The decision is consistent with all applicable code references.

### **Unified Development Code Sec. 35-450. - General Rules.**

Area of Jurisdiction. A certificate of appropriateness is required and shall be secured by a party prior to the issuance of a permit from the department of development services before said party will be allowed to undertake activities affecting a designated historic landmark, property within a designated historic district, a state archaeological landmark, a recorded Texas historical landmark, property within a National Register

Historic District, property listed on the National Register of Historic Places, a National Historic Landmark, property within the river improvement overlay district, property within a mission protection overlay district, public property, public rights-of-way, or public art.

Unified Development Code Sec. 35-451. - Certificate of Appropriateness.

Applications proposing work or changes to the exterior of a landmark, in a historic district or in a river improvement overlay district, shall require review for appropriateness with the provisions of this article, and any adopted design guidelines. In addition, the demolition or relocation of any structure designated historic shall also require review for appropriateness in the same manner.

Unified Development Code Sec. 35-610. - Alteration, Restoration, Rehabilitation, and New Construction.

In considering whether to recommend approval or disapproval of an application for a certificate to alter, restore, rehabilitate, or add to a building, object, site or structure designated a historic landmark or located in a historic district, the historic and design review commission shall be guided by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation and provisions adopted by city council as provided in this article. The historic and design review commission shall also utilize the Historic Design Guidelines as adopted by the city council, and any specific design guidelines adopted pursuant to the Unified Development Code and this article. If conflicting provisions of this chapter and city council approved guidelines have been approved, the city manager or the city manager's designee shall reconcile the conflict if possible so that effect may be given to each. If the conflict is irreconcilable, this chapter shall prevail. Applications shall be reviewed for consistency with the historic or district specific design guidelines adopted by city council. The application shall be reviewed for conformance to the general rules and principles contained in the guidelines. Applications should be approved if in general conformance with the guidelines but denial of an application by the city manager or the city manager's designee may be based on any inconsistency or nonconformance with the approved guidelines. Non-public interior spaces are exempt from this section. The only interior spaces to be considered for review, and therefore not exempt, are those publicly owned spaces that are, or were, accessible to the public (e.g., lobbies, corridors, rotundas, meeting halls, courtrooms), and those spaces, both public and privately owned, that are individually designated and are important to the public because of any significant historical, architectural, cultural or ceremonial value.

Architectural Features: Doors, Windows, and Screens

**A. MAINTENANCE (PRESERVATION)**

- i. Openings-Preserve existing window and door openings. Avoid enlarging or diminishing to fit stock sizes or air conditioning units. Avoid filling in historic door or window openings. Avoid creating new primary entrances or window openings on the primary façade or where visible from the public right-of-way.
- ii. Doors-Preserve historic doors including hardware, fanlights, sidelights, pilasters, and entablatures.
- iii. Windows-Preserve historic windows. When glass is broken, the color and clarity of replacement glass should match the original historic glass.
- iv. Screens and shutters-Preserve historic window screens and shutters.

**B. ALTERATIONS (REHABILITATION, RESTORATION, AND RECONSTRUCTION)**

- iii. Glazed area-Avoid installing interior floors or suspended ceilings that block the glazed area of historic windows.

- iv. Window design-Install new windows to match the historic or existing windows in terms of size, type, configuration, material, form, appearance, and detail when original windows are deteriorated beyond repair.
- v. Muntins-Use the exterior muntin pattern, profile, and size appropriate for the historic building when replacement windows are necessary. Do not use internal muntins sandwiched between layers of glass.
- vi. Replacement glass-Use clear glass when replacement glass is necessary. Do not use tinted glass, reflective glass, opaque glass, and other non-traditional glass types unless it was used historically. When established by the architectural style of the building, patterned, leaded, or colored glass can be used.
- vii. Non-historic windows-Replace non-historic incompatible windows with windows that are typical of the architectural style of the building.
- ix. Screens-Utilize wood screen window frames matching in profile, size, and design of those historically found when the existing screens are deteriorated beyond repair. Ensure that the tint of replacement screens closely matches the original screens or those used historically.

#### Interpretation for requests of window replacement

The Historic & Design Review Commission approved a window policy document called the Guidelines for Windows: Replacement, and New Construction on December 16, 2015. On page 4 it states that historic wood windows should be repaired; if the window is deteriorated beyond 50%, then the window could be replaced in-kind, matching original materials; maintaining the original dimension and profile, featuring clear glass, and maintaining the original appearance of the window trim and sill detail. Historically, if an applicant is requesting window replacement of original wood windows, OHP staff recommends repair based on the existing condition of the windows. OHP staff will recommend approval to replace if the window is deteriorated beyond 50%, meaning there are 50% or more of the components missing, and only if the replacement windows are consistent with the Guidelines for Windows.

In regards to window screens, according to the Guidelines for Exterior Maintenance and Alterations, 6.B.ix., screen window frames should match in profile, size, and design of those historically found when the existing screens are beyond repair.

#### **Unified Development Code Sec. 35-481 - Appeals to Board of Adjustment.**

##### **(a) Applicability.**

(1) Generally. Except as provided by subsection (2), any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

- A person aggrieved by the decision; or
- Any officer, department, board, or bureau of the city affected by the decision.

##### **(b) Initiation.**

(1) Application. Such appeal shall be taken by filing with the director of planning and development services and with the board of adjustment, within the time provided by this chapter, a notice of appeal specifying the particular grounds upon which the appeal is taken and the payment of the fee specified in Appendix "C." Upon receipt of a notice of appeal, the director of planning and development services shall transmit to the board of adjustment all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed from was based.

(2) Automatic Stay. An appeal from an order of the director of planning and development services to the board of adjustment shall stay all proceedings unless the director of planning and development services certifies

that, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by the board of adjustment or a court of proper jurisdiction.

(d) Decision.

(2) Hearing. The board of adjustment shall consider the appeal at a quasi-judicial public hearing pursuant to section 35-404. Pursuant to V.T.C.A. Local Government Code § 211.009(b), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official. Pursuant to V.T.C.A. Local Government Code § 211.009(b), the concurring vote of seventy-five percent of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official.