

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

August 20, 2014

Meeting	Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.
Roll Call	Roll call showed the following Board Members present: Mike McFarland, David Berrett, Mark Browning, and Carrie Arblaster. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.
Absence	Chairman McFarland moved to excuse Mr. Isaac Buehler from the meeting , seconded by Mr. Berrett and unanimously approved. Motion carried.
Citizens signing the registrar	Citizens attending the meeting: Ron Re', Eve Combs, Mark Lester, Lena Hechman, Jeff Monce, Stan Evans, Jason Heckman, Paul Bathgate, Sandra Beard, Freddie Haas, Karen Kuziinsky, and Joel Gruber.
Board Minutes 07-16-2013	Chairman McFarland asked for discussion. Chairman McFarland noted that the Chairman's introduction had changed and to note that in the minutes. There being none, Chairman McFarland moved to approve the July 16, 2014 meeting minutes as amended , seconded by Mr. Berrett. Motion carried. Ayes: McFarland, Berrett, Browning, and Arblaster. Nays: None.
Citizens Comments	There was none.
Administration of Oath	Mrs. Patterson swore in citizens and Mr. Spring.
Chairman's Introduction	Chairman McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant that any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the court of common pleas as provided in ORC Chapters 2505 and 2506.
New Business Case No. 10-14 Hughes Setback Variance Request	Case No. 10-14: Jason Heckman – Bright Ideas for Ronald Hughes, Owner - 634 Thornburg Place - Lot: Inlot 2241 – The applicant requested a variance of 16.7' to the required rear setback of 30' noted in Table 154.04-7 for Other Principal Use Types within the R-3 Multi-Family Residential Zoning District. Zoning District: R-3 Multi-Family Residential Zoning District Zoning Code Section(s): Table 154.04-7

Mr. Spring stated that in association with a proposed expansion of the condominium (single-family) residence located at 634 Thornburg Place (sunroom addition), the applicant requests a variance of 16.7' to the required rear setback of 30' noted in Table 154.04-7 for Other Principal Use Types within the R-3 Multi-Family Residential Zoning District.

Table 154.04-7 indicates that the minimum rear yard setback (Other Principal Use Types) within the R-3 Multi-Family Residential Zoning District is 30 feet. The proposed residential expansion would be 13.3' from the rear property line; therefore a variance of 16.7' ($30 - 13.3 = 16.7$) is needed.

Review Criteria §154.03(K)(4)

(4) Review Criteria

Decisions on variance applications shall be based on consideration of the following criteria:

(a) Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

(vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(c) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Spring noted the following:

- The proposed addition would be ± 12' x 16' (± 192 sq. ft.) and ± 10.6' tall.
- The property included 5' utility easements on the side and rear property lines. The proposed addition would not encroach into these easements.
- An existing 10' x 14' (± 140 sq. ft.) in the area of the proposed construction would be removed as a part of this project.
- The applicant would be required to obtain approved zoning and building permits prior to the start of any proposed construction.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any additional neighbor's comments received. There were none.

Mr. Jason Heckman, 5600 Poe Avenue, Dayton, approached the dais. Mr. Heckman stated that Mr. Ronald Hughes the home owner was requesting an additional two feet all around to increase functionality and would not encroach onto other properties.

Board members found the following: Existing structure was nonconforming; no permit for existing structure was found on file; built approximately 15-20 years ago, current structure was not insulated. The new addition would be four seasons; wrapped in brick to match existing home and would increase property value; structure to be 52 sq. feet. The neighboring condo did have a small sunroom structure.

Chairman McFarland asked if there was anyone present who wished to speak in favor. There was none.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. There was none.

Chairman McFarland asked if there were any further questions for Mr. Heckman. There was none.

Chairman McFarland asked for further Board Member comments.

Variance 1

Mr. Berrett moved to grant a variance of 16.7' to the required rear setback of 30' noted in Table 154.04-7 for Other Principal Use Types within the R-3 Multi-Family Residential Zoning District for the condominium (single-family) residence located at 634 Thornburg Place, seconded by Mr. Browning. Motion carried. Ayes: Berrett, Browning, Arblaster, and McFarland. Nays: None.

**Case No. 11-14
Beard
Three Variance
Requests**

Case No. 11-14: Sandra Beard - 104 E. Dow Street - Lot: Inlot 65 – The applicant requested three variance requests: 1) 3' to required setback of 3' for fences 2) 2.5' to the maximum height of 3.5' for fences 3) 50% to the requirement that fencing in front yard be at least 50% transparent. **Zoning District:** R-2 – Two-Family Residential Zoning District **Zoning Code Section(s):** 154.06(A)(4)(i)(vi)(A), 154.06(A)(4)(i)(vi)(B) and §154.06(A)(4)(i)(iii)(B).

Mr. Spring stated that in association with the installation of ± 91.5 linear feet of 6' tall vinyl privacy fence, the applicant sought the following variances for the single-family residential home located at 104 E. Dow Street, which is located on a corner lot of E. Dow Street & S. Second Street.

Variance 1

Mr. Stated that the applicant requested a variance 3' to the required setback of 3' for fences located in front yards and corner side yards within residential zoning districts noted on Code §154.06(A)(4)(i)(vi)(A). The applicant proposed the installation of ± 65 linear feet of 6' tall vinyl privacy fencing within the front (north) yard, with a setback of 0' from the front (northern) property line.

Code §154.059(D)(13)(f)(1) states:

The following shall apply to fencing, walls, and hedges in residential zoning districts and the CD District:

A. All fences, walls, and hedges shall be set back a minimum of three feet from any front lot line.

Mr. Spring also stated that the applicant proposed fencing 0' from the front property line (0' setback), therefore a variance of 3' was required (3 – 0 = 3).

Variance 2

Mr. Spring stated that the applicant requested a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code §154.06(A)(4)(i)(vi)(B). The applicant proposed the installation of ± 91.5 linear feet of 6' tall vinyl privacy fencing within the front (east) yard.

Code §154.06(A)(4)(i)(vi)(B) states:

The following shall apply to fencing, walls, and hedges in residential zoning districts and the CD District:

B. Fences, walls, and hedges shall not exceed 42 inches (3.5') in the front yard or along any lot line that is adjacent to a street. For double frontage lots, fencing in the rear yard may exceed 42 inches if the fencing is set back a minimum of 50 feet from the right-of-way but in no case shall it exceed six feet in height.

The applicant proposed a fence 6 feet in height, therefore a variance of 2.5 feet is required ($6 - 3.5 = 2.5$).

Variance 3

Mr. Spring stated that the applicant requested a variance of 50% to the requirement that fencing in the front yard shall be at least 50 percent transparent as determined by viewing the primary face of the fence or wall as noted in Code §154.06(A)(4)(i)(iii)(B). The applicant proposed the installation of ± 91.5 linear feet of 6' tall vinyl privacy fencing (100% opaque) within the front yard/corner side yard.

Code §154.06(A)(4)(i)(iii)(B) states:

Fencing in the front yard shall be at least 50 percent transparent as determined by viewing the primary face of the fence or wall. The ratio of solid fencing to open areas in the fence shall not exceed a one-to-one ratio.

Mr. Spring also stated that the applicant proposed the installation of ± 91.5 linear feet of 6' tall vinyl privacy fencing (100% non-transparent) within the front yard, therefore a variance of 50% is required ($100 - 50 = 50$).

Review Criteria §154.03(K)(4)

(4) Review Criteria

Decisions on variance applications shall be based on consideration of the following criteria:

(a) Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

(vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(c) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Spring noted the following:

- The fence in question has already been installed.
- If the requested variances are granted, the applicant will be required to obtain an approved Zoning Compliance Permit.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any additional neighbor's comments received. There were none.

Ms. Sandra Beard, 104 E. Dow Street, approached the dais. Ms. Beard stated that she replaced an existing picket fence that had been in that particular location for 32 years. The reasoning for the height of the new fence was because of an existing swimming pool that had been on the property for 17 years and there were more children in the neighborhood and was concerned with their safety. Ms. Beard said she did not know about the fifty percent transparency rule and was ignorant of the code.

Ms. Beard noted that her neighbor behind her on corner of Dow and First also had a privacy fence made of wood on her side yard. Ms. Beard also noted that across from this neighbor on First and Dow also had a 6' privacy fence in his front yard. Ms. Beard made mention of another neighbor across from her that also had a 6' privacy fence in her side yard and when she saw these existing 6' privacy fences she did not think that hers would be an issue.

Board members found the following: The rear yard would be also be completed in 6' vinyl privacy to the garage with a lock on the gate; the swimming pool had a fence around it on a connected deck but when the deck was repaired and replaced that fence was destroyed.

Chairman McFarland asked if there was anyone present who wished to speak in favor. Mr. Freddy Haas, 104 E. Dow Street, approached the dais. Mr. Haas stated that the back fence was approximately 20' from the alley way and did not think that would impact visibility. Mr. Haas also stated that they were just replacing an old dilapidated fence.

Mr. Berrett inquired if Mr. Haas or Ms. Beard had received the mailer that accompanies the utility bill once a year that reviews permits specifically required by residents. Mr. Haas said that he did receive the mailer and noted that he was not aware that his side yard counted as a front yard due to being a corner lot.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. There were none.

Chairman McFarland asked if there were any further questions for Ms. Beard. There were none.

Chairman McFarland asked for further Board Member comments. Chairman McFarland inquired if the 3' setback was from the edge of the sidewalk or the curb. Mr. Spring stated neither and that the property line in this particular case was 1' behind the sidewalk and that for a fence to be legal had to be positioned about 4' behind the sidewalk and that the current fence in question was directly on the property line at 1' behind the sidewalk.

Staff was unaware of any existing permits for existing fence or pool. Ms. Arblaster inquired what fence requirements were for around the pool. Mr. Spring stated that the fence had to be 6' with a locked gate.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. There were none.

Chairman McFarland asked for further Board Member comments. There was none.

Variance 1

Mr. Berrett moved to grant a variance of 3' to the required setback of 3' for fences located in front yards and corner side yards within residential zoning districts noted on Code §154.06(A)(4)(i)(vi)(A) for the single-family residential home located at 104 E. Dow Street, seconded by Chairman McFarland. **Motion carried.** Ayes: Arblaster, Berrett, Buehler, McFarland, and Browning. Nays: None.

Variance 2

Mr. Browning moved to grant a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code §154.06(A)(4)(i)(vi)(B) for the single-family residential home located at 104 E. Dow Street, seconded by Mr. Berrett. **Motion carried.** Ayes: Browning, Berrett, Arblaster, and McFarland. Nays: None.

Variance 3

Ms. Arblaster moved grant a variance of 50% to the requirement that fencing in the front yard shall be at least 50 percent transparent as determined by viewing the primary face of the fence or wall as noted in Code §154.06(A)(4)(i)(iii)(B) for the single-family residential home located at 104 E. Dow Street, seconded by Chairman McFarland. **Motion carried.** Ayes: Arblaster, McFarland, and Browning. Nays: Berrett.

**Case No. 12-14
Masonic Lodge
Appeal**

Case No. 12-14: Ron Ré, Trustee – Tippecanoe Masonic Lodge #174 - 108-110 E. Main Street - Inlot: Pt. IL 22 & Pt. IL 23 – The applicant was appealing the 7/22/14 decision of the Restoration and Architectural Board of Review regarding a requested Certificate of Appropriateness for the installation of 8 exterior windows and 1 exterior door on the northern (front) façade of the structure located at 108-110 E. Main Street.

Zoning Districts: CC/RA- Community Center/Old Tippecanoe City Restoration and Historic District

Zoning Code Section(s): §154.052

Mr. Spring stated that the applicant was appealing the 7/22/14 decision of the Restoration and Architectural Board of Review regarding a requested Certificate of Appropriateness for the following:

- The removal of 8 the existing standard wooden windows and the associated storm windows on the 2nd and 3rd floors of the northern façade.
- The removal of the 3rd floor standard & storm window/door at the fire escape.
- The replacement of the 8 the existing standard wooden windows with Gilkey® double-pane low e-glass vinyl windows.
- The replacement of the 3rd floor standard & storm window/door at the fire escape with a Gilkey® double-pane low e-glass vinyl door to match the look and configuration of the other windows.

On July 22, 2014, the Tipp City Restoration Board denied an application for a Certificate of Appropriateness for the window/door removal/replacement project (4-1 vote).

Mr. Spring also stated that the Board's denial of the requested Certificate of Appropriateness was based upon the following facts:

- 108-110 E. Main Street was within Tipp City's Restoration District, which was formally known as the Old Tippecanoe City Restoration and Architectural District.
- Any exterior construction or alteration within the Restoration District, such as a the installation of an external facing ATM requires an approved Certificate of Appropriateness per Code §154.05(C)(2)(a) which states:

No person shall make any exterior construction, reconstruction, alteration, or demolition on any property within the district unless a certificate of appropriateness has been issued by the Restoration Board or Zoning Administrator, as may be applicable.
- Restoration Board review of request for Certificates of Appropriateness are based upon Tipp City Code and the *Old Tippecanoe City Restoration and Architectural District Design Manual* adopted by the City Council on March 17, 2014. Code §154.05(C)(5) states:

In addition to any applicable standards of the underlying base zoning district or standards found in this section, any construction, modification, expansion, or other changes subject to a certificate of appropriateness review shall be subject to the applicable design standards and guidelines that are established in the Old Tippecanoe City Restoration and Architectural District Design Manual, as adopted by City Council. The manual shall hereafter be referred to as the design manual.
- Regarding window replacement, the design manual states:

The replacement of wood windows with vinyl windows shall be prohibited. The replacement of wood windows with vinyl clad windows may be permitted if the applicant demonstrates that the replacement windows will not detract from the historic character and style of the building, as determined by the Restoration Board.

Accordingly, on January 28, 2014, and based upon the parameters denoted in the *Guidelines for the Old Tippecanoe City Restoration and Architectural District* and the Tipp City Code, the Restoration Board denied the requested Certificate of Appropriateness.

Procedural Requirements

The Board of Zoning Appeals has jurisdiction to hear the appeal as noted above per the following:

Code §36.041(B)

Appeals from decisions made by the Restoration Board shall be made to the Board of Appeals in accordance with the standards of § 154.052(M) and §§ 154.151 through 154.155 (sic) of the Tipp City Zoning Code.

Code §154.02(E)(3)(a)

Roles and Powers of the BZA

The BZA shall have the following roles and powers to:

Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the Zoning Administrator, Planning Board, or Restoration Board.

Mr. Spring noted that the appeal was received within the required 10 day appeal period as required by Section §154.03(M)(4)(a)(i): Meeting Date – July 22, 2014 Appeal Received - July 23, 2014.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any additional neighbor's comments received. There were none.

Mr. Ron Re', 26 W. Dow Street, representative for the Masonic Lodge, approached the dais. Mr. Re' stated that when looking down Main Street that there were approximately eight other businesses that have vinyl windows; some installations did not have approval from the Restoration Board. Mr. Re' submitted the construction of the window that he wanted and used neighboring structures as comparison. Mr. Re' noted that the windows would be replaced on the second and third

floors. In the rear of the Masonic building already had vinyl windows that were installed before the Restoration Board was created. Mr. Re' stated that the building was being painted and would make the downtown look better than it already did. Mr. Re' noted that he had additional estimates for the windows but were twice as much as the vinyl. He noted that the Lodge did a lot for charities and in order to get the money raised for the installation of these windows the members were asked to donate toward the costs. Mr. Re' asked the Board to remember that the windows were on the second and third floors and who was going to walk by and say the material was wood or vinyl.

Mr. Re' stated that he came before the Board with additional members of the lodge to ask to consider the request and to help out the community and the city as a whole. Mr. Re' thanked the Board for their time.

Mr. Berrett inquired if the Masons owned the building. Mr. re' stated they did.

Mr. Berrett also inquired if the businesses on the first floor whose windows were not made of wood had to go before the Restoration Board. Mr. Re' stated that the businesses on the first floor were remodeled by Mr. Shearer who was the Fire Chief of Tipp city many years ago. That was the reasoning for the blue panels, which had to be implemented on the first floor and that there were metal beams in there with rods that run through the entire building and can see from the basement where the basement front wall had been reinforced and all was completed in the early 1960's long before the Restoration district was formed.

Mr. Browning noticed that there were storm windows. Mr. Re' stated that there were storm windows and from the Downtown Streetscape there was mud in between the windows and storm windows and was unable to clean them being on the second and third floors; an additional reason for the request.

Chairman McFarland asked if there was anyone present who wished to speak in favor.

Mr. Eric Combs, 606 Primrose Lane, current Lodge Master, approached the dais. Mr. Combs stated that he would like the Board to consider some history associated with the case and that this particular Lodge had been voted the best lodge in the state of Ohio more than once and had won the grand masters award for twelve years. Mr. Combs also stated that the Lodge was very community oriented and within the 3rd District which comprises all of Miami County they were losing Lodges at a rate of one to two per year and the major reason was due from cost. Mr. Combs expressed the significance of being financially responsible with the dues collected from current member and exclusively do restorations

from those funds and at the same time serve the community. Mr. Combs welcomed everyone for a tour of the lodge.

Paul Bathgate, 1940 Cider Mill Way, approached the dais. Mr. Bathgate stated that he had three little girls; a sixty year old; a four year old; and a two year old that still trust him and that he wouldn't be here if this wasn't important and that his time was kind of limited. Mr. Bathgate also stated that the lodge was important to him and about two hundred other guys. Mr. Bathgate noted that he was the vice president of the lodge and part of his responsibility was to get ready for next year and go over the budget. Mr. Bathgate also noted that he has had a pleasant time doing that and that one of the line items that he recognized was what the lodge was paying for heating and that cost was astronomical. Mr. Bathgate mentioned that the lodge gives so much money to the community that every charity that comes their way they donate; scholarships; needy basket and that the windows was one expense that they were trying to save themselves some money. Mr. Bathgate stated that he looked up to Mr. Re' like a father and trusted him and hoped that the Board did too.

Jeff Monce, 555 Judith Drive, approached the dais. Mr. Monce stated that he had been a Tipp City resident since 1960 and was very impressed and very pleased with the job that Tipp City Offices did of maintaining the downtown area and to retain the historical character. Mr. Monce also stated that the Masons were very proud to be located downtown in that area but it troubled him with the inconsistencies of the zoning laws especially with windows had been applied. Mr. Monce noted that he understood that the Board and the Tipp City didn't have the resources to police all of the happenings that go on downtown. Mr. Monce also noted that the proposed window replacement would not detract from the historic charm or character that folks try to maintain downtown; there are existing windows like the proposed already downtown. Mr. Monce stated that he thought that the denial of the vinyl windows was excessive and was on the second floor and no one would be able to tell if the windows were vinyl, vinyl clad or wood and would not detract from the Board or the character of downtown which was supported. Mr. Monce expressed that the Masons were a charitable institution and that there were many commercial entities downtown that have vinyl windows who certainly had more resources to comply with regulation than the Masons. Mr. Monce asked the Board to please reconsider because the Masons did not have the resources.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. There were none.

Chairman McFarland asked if there were any Restoration Board Members present. Joel Gruber, 341 N. Third Street, approached the dais. Chairman McFarland inquired as to the reasons the Restoration Board

denied the request from the Masons. Mr. Gruber stated that per the Guidelines that are provided to the Restoration Board it simply states that there are no vinyl windows should be approved in the district.

Chairman McFarland also asked if there was any consideration given to the fact that there were other vinyl windows in the district. Mr. Gruber stated that the Guidelines do not state that and was something that the Restoration Board deals with on a regular basis; people coming before the Board saying that they are not the only ones which is true. Mr. Gruber noted that he walks downtown and all that he can say is that the Board did not approve the changes. Mr. Gruber stated that he had been on the board for the past year and he had not approved any vinyl windows himself and whatever had happened previously happened in the past and that he could not control that.

Mr. Berrett stated that the first floor obviously did not have wooden windows so the building already does not conform to the Restoration Board Guidelines and was curious to if the windows look the same he couldn't see trying to drive people to wooden windows because they were astronomically expensive.

Ms. Arblaster asked if Mr. Gruber's current Restoration Board had ever approved vinyl windows. Mr. Gruber stated no and the Guidelines as it is written is very clear with one sentence "should not have vinyl windows in historic district period". Mr. Gruber stated that there were no acceptations to that rule.

Mr. Gruber noted that his personal feeling on the rule especially with the group was that the Masons were a great group and that do a lot for the community and what they give back and that Tipp City was better to have them but as a Board Member that does not factor in to his decision when the Guidelines states "you cannot approve vinyl windows in the district period".

Ms. Arblaster inquired if Mr. Gruber's feelings were shared among other Board Members. Mr. Gruber stated that he would not want to speak for everybody but the discussions that were held centered on that. Mr. Gruber noted that one thing that he did hear at tonight's meeting that he did not recall hearing at the Restoration Board meeting or it wasn't brought up which was a good point was that the downstairs did not conform and did not take that into consideration at all.

Mr. Browning asked right after the statement "The replacement of wood windows with vinyl clad windows shall be prohibited" the proposed windows were not considered vinyl clad because they were all vinyl. Mr. Spring stated that was correct and that vinyl clad was essentially a wood window with vinyl overlay. Mr. Browning noted that the vinyl clad still had vinyl over it and couldn't tell from the exterior whether the window was

a vinyl clad or a one hundred percent vinyl window. Mr. Brown also stated that he believed that he read in one of the reports was that the proposed window had a faux wood finish on the exterior. Mr. Re stated that was correct. Mr. Gruber stated that the Restoration Board had the ability to amend a Certificate of Appropriateness if there was a material change from what was originally submitted and in this case there was no discussion of amending the request and there was not a vote on vinyl clad it was simply vinyl and did not have that second option.

Chairman McFarland agreed as to how one could tell if the window was vinyl clad or vinyl.

Mr. Berrett mentioned that he would not be climbing up to the second floor to inspect. Mr. Gruber stated that vinyl clad windows do not look pretty from the first floor and before the Restoration Board meeting Mr. Gruber did go and looked at the windows and without a doubt agreed they do need replaced.

Stan Evans, 231 W. Main Street, approached the dais. Mrs. Patterson administered the Oath to Mr. Evans. Mr. Evans stated that he had been in Tipp City 1959 and owns a business that was started by Harry Favorite in 1898 and he also lived in the Historic District. Mr. Evans noted that he has been a devoted Mason for seven years and is their trustee and also serves on the Board of the Springfield Masonic Home and he takes his membership as a Mason very seriously. Mr. Evans noted that the Masonic Lodge being the oldest organizations in Tipp City and because the Masons feel very strongly about the history of Tipp City it was the main drive regarding the window issue because they plan on being there for a long time and would rather spend their monies on the community and not on windows.

Chairman McFarland asked for further Board Member comments. There were none.

Mr. Berrett **moved to overrule the denial of the Certificate of Appropriateness of the Restoration Board as rendered July 22, 2014 for 108-110 E. Main Street**, seconded by Mr. Browning. **Motion carried.** Ayes: Berrett, Browning, Arblaster, and McFarland. Nays: None.

Mr. Re' thanked the Board for their vote.

**Case No. 13-14
Peachey
Off Street Parking**

Case No. 13-14: Betty Peachey - 104 N. First Street - Lot: Pt. II 2 – The applicant requests a variance of 4 off-street parking spaces to the requirement of 4 off-street parking spaces for a proposed 2-guest room – bed and breakfast to be located at the single-family residence at 104 N. First Street.

Zoning District: R-2 – Two-Family Residential Zoning District

Zoning Code Section(s): Table 154.10-1

Mrs. Peachey withdrew her request.

Old Business

There was none.

Miscellaneous

There was none.

Adjournment

There being no further business, Mr. Berrett **moved to adjourn the meeting**, seconded by Chairman McFarland and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 8:08 p.m.


VICE Board Chairman, Mike McFarland
DAVIS BERRETT

Attest: 
Mrs. Kimberly Patterson, Board Secretary

