

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address:	402 Tulip Avenue, Takoma Park	Meeting Date:	10/23/2019
Resource:	Contributing Resource Takoma Park Historic District	Report Date:	10/16/2019
Applicant:	Tony Camilli	Public Notice:	10/9/2019
Review:	HAWP	Tax Credit:	n/a
Case Number:	37/03-19SS	Staff:	Dan Bruechert
PROPOSAL:	Window installation (retroactive), sill replacement, and soffit restoration		

RECOMMENDATION

Staff recommends the HPC approve the HAWP application.

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Takoma Park Historic District
STYLE: Vernacular
DATE: c1900-10s

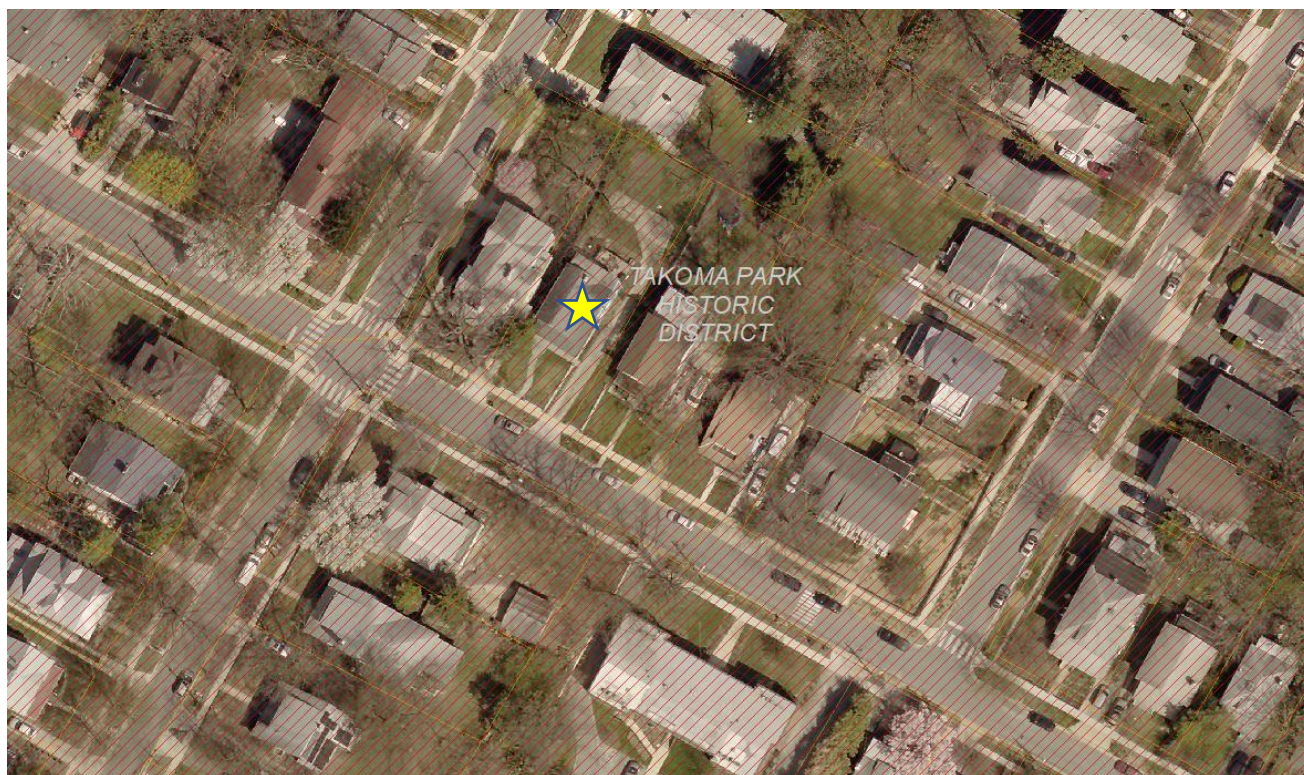


Figure 1: 402 Tulip is located on the block between Willow and Spruce Ave.

BACKGROUND

Applicants came before the HPC in 2016 for a preliminary consultation and HAWP for a rear addition. In 2017, the HPC reviewed and approved a HAWP for modifications to the rear addition and to a rear porch; and in August 2018 the HPC approved additional revisions to the previous HAWP.

On March 27, 2019 the applicant presented a HAWP for the replacement windows. Staff recommended denial, however, the applicant requested to be considered as a preliminary consultation and sought the HPC's advice on any solutions or mitigating measures that could be undertaken.¹ The HPC signaled a willingness to consider the windows installed in the addition as an acceptable substitute material in this instance (as provided in the *Design Guidelines*).

April 24, 2019² the HPC heard the proposal for a site wall and approved the aluminum clad windows installed in the addition. At that time, the HPC knew that the historic wood windows had been removed without a HAWP and that the applicant was working with Staff and the window company to determine a solution.

PROPOSAL

The applicant seeks approval for the removal of the wood windows in the house and the installation of new wood windows. The applicant further seeks approval for work to replace the sills in the historic section of the house, and to restore the soffit as part of a gutter replacement project.

APPLICABLE GUIDELINES

When reviewing alterations and additions for new construction to Contributing Resources within the Takoma Park Historic District, decisions are guided by the Takoma Park Historic District Design Guidelines (*Design Guidelines*) and Montgomery County Code Chapter 24A (*Chapter 24A*), and the Secretary of the Interior's Standards for Rehabilitation (*the Standards*).

Takoma Park Historic District Design Guidelines

There are two very general, broad planning and design concepts which apply to all categories. These are:

The design review emphasis will be restricted to changes that are at all visible from the public right-of-way, irrespective of landscaping or vegetation (it is expected that the majority of new additions will be reviewed for their impact on the overall district), and,

The importance of assuring that additions and other changes to existing structures act to reinforce and continue existing streetscape, landscape, and building patterns rather than to impair the character of the district.

Contributing Resources should receive a more lenient review than those structures that have been classified as Outstanding. This design review should emphasize the importance of the resource to the overall streetscape and its compatibility with existing patterns rather than focusing on a close scrutiny of architectural detailing. In general, however, changes to Contributing Resources should respect the predominant architectural style of the resource. As stated above, the design review emphasis will be restricted to changes that are *at all visible from the public right-of-way*, irrespective of landscaping or vegetation.

¹ This Staff Report was not posted, however, the recording of the meeting can be heard here: http://mnccppc.granicus.com/MediaPlayer.php?publish_id=c6796337-56ea-11e9-ae3-0050569183fa.

² <https://montgomeryplanning.org/wp-content/uploads/2019/04/II-402-Tulip-Avenue-Takoma-Park.pdf>

All exterior alterations, including those to architectural features and details, should be generally consistent with the predominant architectural style and period of the resource and should preserve the predominant architectural features of the resource; exact replication of existing details and features is, however, not required

Minor alterations to areas that do not directly front on a public right-of-way such as vents, metal stovepipes, air conditioners, fences, skylights, etc. – should be allowed as a matter of course; alterations to areas that do not directly front on a public way-of-way which involve the replacement of or damaged to original ornamental or architectural features are discouraged, but may be considered and approved on a case-by-case basis

While additions should be compatible, they are not required to be replicative of earlier architectural styles.

Some non-original building materials may be acceptable on a case-by-case basis; artificial siding on areas visible to the public right-of-way is discouraged where such materials would replace or damage original building materials that are in good condition

All changes and additions should respect existing environmental settings, landscaping, and patterns of open space.

Montgomery County Code, Chapter 24A Historic Resources Preservation

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

- (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
 - (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or
 - (5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or
 - (6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.
- (d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Secretary of the Interior's Standards for Rehabilitation

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, space and spatial relationships that characterize a property will be avoided.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in

design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

STAFF DISCUSSION

The applicant seeks approval for the removal and replacement of the historic wood windows with new wood windows, reconstruction of the windowsills, and the restoration of the aluminum covered soffit.

Window Removal and Replacement

In February 2019 it was called to Staff's attention that all 17 (seventeen) windows in the historic portion of the house had been removed and replaced. There were 13 wood sash windows, one fixed wood window, and three vinyl windows. Staff conducted a site visit and spoke with the contractors and verified that the windows had, in fact, been removed and replaced. Staff verified in the on-site stamped and approved construction drawings that no window replacement was proposed in the historic section of the house.

Staff found one remaining sash in the dumpster on site and verified that the profiles of the new window sashes matched the historic. The rest of the windows had been removed and disposed of. The new window sashes were wood and matched the profile of the historic wood windows, however, the new windows were narrower due to the fact that they were constructed to operable with jamb liners. The applicant seeks to remediate the vinyl jamb liners and seeks approval of the replacement windows.

There are three main problems with the work undertaken by the applicant. First, is the removal of the historic wood windows. This work is contrary to the *District Guidelines*, Chapter 24A, and the Secretary of the Interior's Standards for Rehabilitation (specifically Standards 2 and 6). Had the applicant proposed removal and replacement of the windows in the original HAWP, Staff would have steered him away from this proposal and/or required the applicant to demonstrate that the windows were deteriorated beyond repair.

The second issue with the work undertaken was that the new windows do not match the dimensions of the historic wood windows. This was verified on site, however, a comparison of the two windows was not necessary, as the historic windows were installed traditionally with sash cords or chains, and the new windows utilize jamb liners. By Staff's estimate, this had the effect of narrowing each sash by approximately 2" (two inches). That amount may not seem significant, but most of the windows facing the street are either in a pair or are tripled, effectively multiplying the visual effect of the narrower sashes. The tri-partite sash window on the second floor now has an additional 6" (six inches) of solid surface.

The third issue is that the jamb liners installed are vinyl, a material that is incompatible with traditional historic building materials. As stated in the March 23, 2019 Staff Report, the challenge with vinyl's compatibility is not really its current appearance, but what occurs over time. This jamb will not darken or fade for several decades and will remain bright white from now until the time it fails. If the windows are ever painted (which they can be, because they are wood), the appearance of the jamb liners will become more significant.

In searching HAWP files, Staff has only found two instances of a window removal without a HAWP. In 2008, the HPC evaluated a retroactive HAWP for 4103 Stanford St., (*Davidson House #35/129*), an individually listed Master Plan Site, which had been given a stop work order from DPS after it was discovered that all the historic wood windows had been removed, disposed of, and replaced. The HPC required that all of the new windows had to be removed and replaced with custom milled replacement windows and doors that matched the historic in materials, appearance, and operation. There are two principle differences between the windows at the Davidson House and the current HAWP. First, the Davidson House is an individually listed Master Plan Site, which is significant enough on its own that it

was placed on the Master Plan for Historic Preservation. Absent the surrounding neighborhood, 402 Tulip Ave. would not eligible to be listed on the Master Plan. Second, the windows in the Davidson House were tall, multi-lite casement windows with half round tops. The windows were much more significant to the character of the house than the one-over-one sash windows at issue in the present case. The second instance of a window replacement without a HAWP is at 9925 Sutherland Dr., Silver Spring and has yet to be resolved. The multi-lite steel casement windows in this house were removed and replaced with single-lite vinyl sliding windows. In this instance, both the window material and the window configuration were incompatible with the historic character of the house and surrounding district. Additionally, in the Polychrome houses the decoration elements in the exterior concrete aligns with the window divisions, making the windows integral to the overall design of the house. As the replacement windows at 9925 Sutherland Rd. are incompatible for the material, configuration, and operation, Staff and the HPC have determined that the vinyl windows will need to be removed with compatible windows installed only after the HPC reviews and approves the proposal.

In consultation with the window company, the applicant proposes to install a new trim piece into the jamb liners as a mitigating measure. This is shown in the applicant's 'Exhibit 3' and will be available for in-person inspection the week prior to the October 23rd HPC meeting. What is shown in the photographs is the trim piece only 'press fit' into the jamb liner, if approved, the trim pieces will be flush with the surrounding trim and permanently affixed. As shown in the photo, the trim piece fully obscures the vinyl jamb liner. It effectively turns these double-hung windows in to single-hung windows, because only the lower sash will be operable. Staff finds that this proposal successfully mitigates the issue of the exposed vinyl in the jamb liners and utilizes a material that will weather over time keeping a consistent appearance with the other window trim and sashes; and will be able to be re-painted at a future date.

The jamb liners were only one of three identified problems with the removal and replacement of the historic wood windows. Left unresolved are the fact that the historic wood windows were removed at all and are unrecoverable; and that the new sashes are narrower than the historic configuration. In addressing the removal and disposal of the historic wood windows. There is nothing the applicant or the HPC can do to bring these windows back. Recognizing this, Staff requests that the HPC identify any additional alterations or mitigation to approve this HAWP.

Staff has explored potential solutions to the narrower appearance of the new windows, but none seem entirely satisfactory. Attempting to salvage historic sashes was one consideration. The challenge with that is finding sashes that are the correct size and profile to fit the historic window openings. It could be years until replacements for all of the windows are found. Additionally, many architectural salvage locations are no longer accepting historic window sashes due to lead paint concerns. Staff determined finding replacement wood sashes was infeasible.

Another option was to have new traditional sashes milled, constructed, and installed. While this would create the most desirable outcome in terms of appearance, Staff rejected this for several reasons. First, because this is a 'Contributing Resource' to the district, the level of review is supposed to be more lenient than that applied for 'Outstanding Resources' and that evaluations should "emphasize the importance of the resource to the overall streetscape and its compatibility with existing patterns rather than focusing on a close scrutiny of architectural detailing." Because the evaluation of the proposal is supposed to focus on existing patterns, requiring the applicant to remove the new windows and exactly match the historic windows seemed like it was a closer level of scrutiny focused on the architectural detailing and wasn't giving primary focus to the impact of the surrounding streetscape

A second consideration was to try to identify another window manufacture that had either traditional sashes for sale or ones that had narrower hardware, so the resulting ratio of glass to solid would be closer to the historic windows. Staff rejected this proposal for many of the same reasons that it rejected milling new wood windows. Additionally, Staff determined that the district and the public would not be better served by

requiring the removal of another set of windows from the subject property and dumping them in the landfill. The windows at issue were custom fabricated, which means that they cannot be returned and will not be re-used. Their only destination would be the trash. Staff recommends approval of the replacement windows under 24A-8(b)(6).

Windowsill Construction

At some point the historic wood windowsills were removed and/or damaged. The applicant has been unable to ascertain exactly when this occurred. Prior to this larger rehabilitation project, the entirety of the historic house had been covered in aluminum siding (this likely occurred in the 1970s as an energy efficiency project) including the windowsills. During the recently completed rehabilitation the aluminum wrapping the sills and window frames was removed. It is unclear which contractor undertook this work, and the applicant has been unable to identify who was present when this work occurred.

It is possible that the sills had been removed as part of the aluminum siding installation, because they interfered with the aluminum. It is also possible that the sills were removed when the wood windows were removed and the new windows were installed during the current rehabilitation.

Regardless of when the damage to the windowsills occurred, the applicant seeks approval for replacement of the sills in all of the historic window openings. Using the neighboring house (404 Tulip, which appears to be a twin of 402 Tulip Ave.) as a template, the applicant has matched the profile and dimensions of the sills and seeks approval for the replacement sills. A mock-up of the sill is shown in the application under the section identified as Exhibit 2. Staff has conducted a site visit and verified that the dimensions and profiles of the proposed nearly match the neighboring house. Staff finds that the new sills are appropriate under 24A-8(b)(2) and generally comports with Standard 6 and recommends approval of the windowsills.

Soffit Restoration

The exiting soffit was wrapped in aluminum siding, likely the same time that the house was covered in aluminum. As part of the gutter replacement, the applicant proposes to remove the aluminum siding and restore the wood soffit. The aluminum soffit is not a historic material, so its removal should be approved as a matter of course. The replacement of this feature in wood will only bring the appearance of the house closer to its historic appearance. Staff finds that this is an improvement of the appearance of the house and recommends approval under the *Design Guidelines*, and Chapter 24A-8(b)(1) and (2).

STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application under the Criteria for Issuance in *Chapter 24A-8(b)(6)* having found that the proposal will not substantially alter the exterior features of the historic resource and is compatible in character with the district, the *Takoma Park Historic District Design Guidelines*, and the purposes of *Chapter 24A*;
and with the *Secretary of the Interior's Standards for Rehabilitation* #2 and #6,

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable, to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that final project design details, not specifically delineated by the Commission, shall be approved by HPC staff or brought back to the Commission as a revised HAWP application at staff's discretion;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans. Once the work is completed the applicant will

contact the staff person assigned to this application at 301-563-3400 or dan.bruechert@montgomeryplanning.org to schedule a follow-up site visit.



HISTORIC PRESERVATION COMMISSION
301/563-3400

DPS - #8

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Email: anthony.camilli@gmail.com Contact Person: Owner
Tax Account No.: 01079736 Daytime Phone No.: Owner
Name of Property Owner: Anthony/Sara Camilli Daytime Phone No.: 610-207-4993
Address: 402 Tulip Ave, Takoma Park, MD, 20912
Contractor: Shumaker and Daughters, Inc. Phone No.: 301-575-6825
Contractor Registration No.: _____
Agent for Owner: Eric Saul Daytime Phone No.: 301-270-0395

LOCATION OF BUILDING/PROJECT

House Number: 402 Street: Tulip Ave
Town/City: Takoma Park Nearest Cross Street: Willow Ave
Lot: 5 Block: 8 Subdivision: 025
Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- ☐ Construct ☐ Extend ☐ Alter/Revitalize
☐ Move ☐ Install ☐ Wreck/Raze
☒ Revision ☐ Repair ☐ Revocable

CHECK ALL APPLICABLE:

- ☐ A/C ☐ Slab ☐ Room Addition ☐ Porch ☐ Deck ☐ Shed
☐ Solar ☐ Fireplace ☐ Woodburning Stove ☐ Single Family
☒ Fence/Wall (complete Section 4) ☒ Other: Windows

1B. Construction cost estimate: \$ _____

1C. If this is a revision of a previously approved active permit, see Permit # 37/03-16VV & 37/03-17X

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 ☐ WSSC 02 ☐ Septic 03 ☐ Other: _____
2B. Type of water supply: 01 ☐ WSSC 02 ☒ Well 03 ☐ Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height 2 feet 6 inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- ☐ On party line/property line ☒ Entirely on land of owner ☐ On public right of way/assessment

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Anthony Camilli

Signature of owner or authorized agent

April 4, 2019

Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: _____ Date Filed: _____ Date Issued: _____

Edit 6/21/99

SEE REVERSE SIDE FOR INSTRUCTIONS

**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**

1. **WRITTEN DESCRIPTION OF PROJECT**

- a. Description of existing structure(s) and environmental setting, including their historical features and significance:

SEE ATTACHED

- b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

SEE ATTACHED

2. **SITE PLAN**

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- a. the scale, north arrow, and date;
- b. dimensions of all existing and proposed structures; and
- c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. **PLANS AND ELEVATIONS**

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- a. *Schematic construction plans*, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- b. Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. **MATERIALS SPECIFICATIONS**

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. **PHOTOGRAPHS**

- a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. **TREE SURVEY**

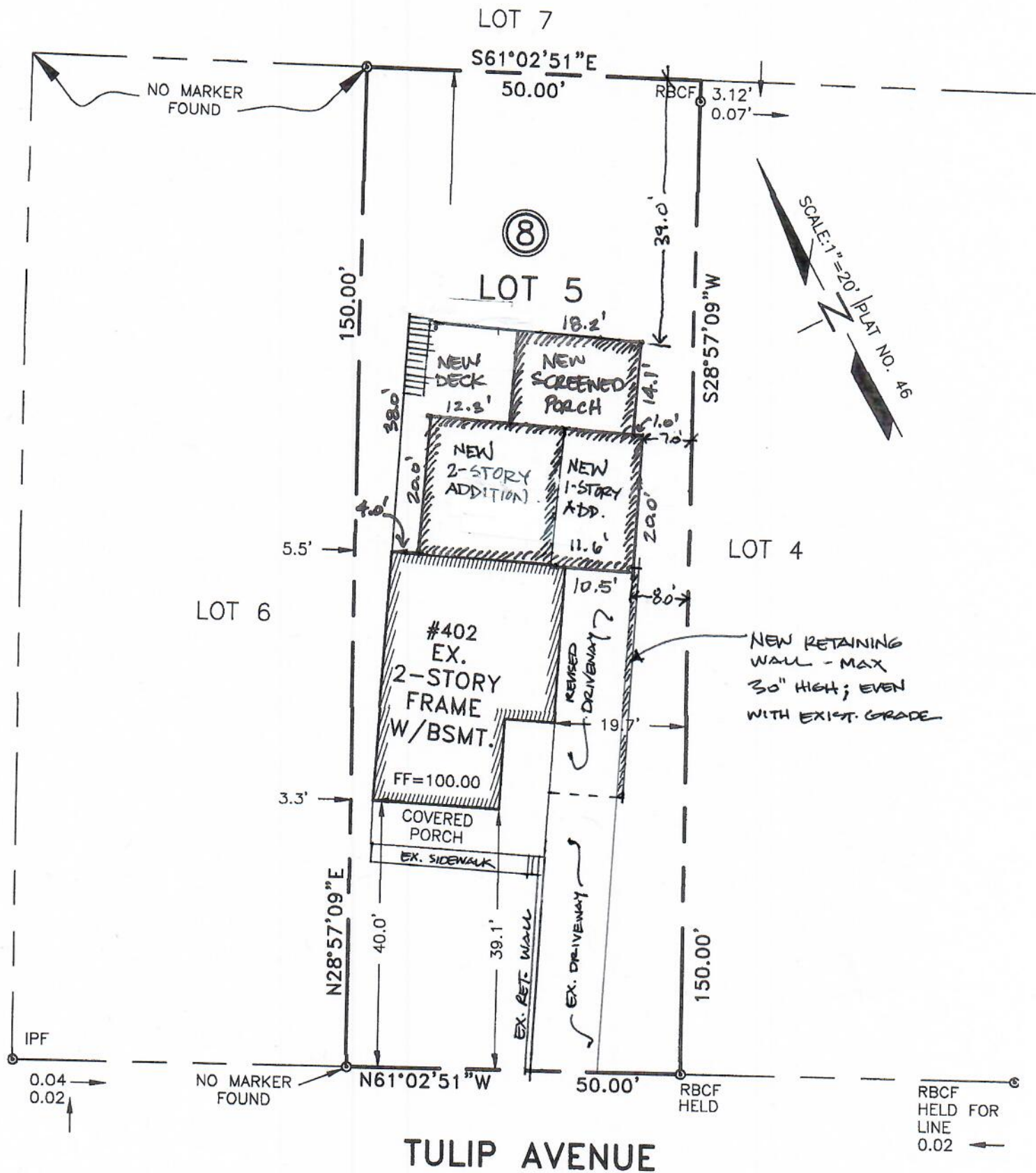
If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. **ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS**

For ALL projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question.

HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING
[Owner, Owner's Agent, Adjacent and Confronting Property Owners]

Owner's mailing address 402 TULIP AVE TAKOMA PARK, MD, 20912	Owner's Agent's mailing address ERIC SAUL SAUL ARCHITECTS 8114 CARROLL AVE TAKOMA PARK, MD, 20912
Adjacent and confronting Property Owners mailing addresses	
CALVIN & JULIE NEWPORT 7201 WILLOW AVE TAKOMA PARK, MD, 20912	JENNIFER SATLIN 404 TULIP AVE TAKOMA PARK, MD, 20912
SCOTT SMALLWOOD AMANDA LENHART 7205 WILLOW AVE TAKOMA PARK, MD, 20912	LIN & LJ MOYER 7129 WILLOW AVE TAKOMA PARK, MD, 20912



LEGEND:

- ⊙ RBCF = REBAR W/CAP FOUND
- ⊙ IPF = IRON PIPE FOUND

Introduction

This application is a request to amend our approved HAWPs (Case No. 37/03-16VV & 37/03-17X). Our project is in the final stages of construction and this application is a request for approval to modify our prior approved HAWPs. More specifically, our construction team misinterpreted the HAWP staff reports and failed to advise us properly on the materials that were approved in our construction permit. As a result our prior wood sash windows were replaced with new wood sash windows.

None of these mistakes were intentional, but, rather, they were a product of confusion and neglectful communications by our entire construction team. We incorrectly relied upon our window vendor's expertise and judgment and assumed that they had reviewed our permit drawings, communicated with our architect and/or general contractor, and would advise us accordingly on choosing permissible windows for our project.

As discussed during our last consultation with the HPC, we are remorseful for this oversight and want to correct this error in a reasonable way. We have worked closely with the HPC staff to develop a plan that we believe will be compatible with traditional materials used in a historic district, yet avoid the unnecessary environmental waste of throwing out new wood windows only to be replaced with more, new wood windows.

Section 1.a.

Our house is a 1923 vernacular-style farmhouse with a front porch that is located in the Takoma Park historic district. The house is very similar to the neighboring home (i.e. 404 Tulip Avenue) and does not possess any historical, cultural, architectural or design significance for which we are aware. The original house had many non-historic alterations that have been removed as a result of our project: for example, prior to our project some of the windows were made of vinyl and all of the wood windows had non-original aluminum storm windows. We have replaced all of these vinyl windows with wood windows and removed all of the aluminum storm windows from the original home. We also restored a 24-lite diamond window in the historic home.

Section 1.b.

Replacement Windows

Sashes from thirteen (13) wood windows were removed and replaced with new wood sashes. Also, one (1) small fixed wood window with a diamond pattern in the attic was replaced with an equal-sized replica. Three (3) vinyl replacement sash windows were also removed and

replaced with new wood sashes. It is also unknown to us whether the prior windows were original to the house or were replacements themselves for the original windows.

Although these windows were replaced, the replacement sashes and fixed window in the attic made by Weather Shield are also made of solid wood and in the exact same style as the prior sashes (i.e. 1 over 1). Attached hereto and marked as Exhibit 1 are drawings from our architect showing the measurements for these Weather Shield wood replacement sashes. As shown in the drawings, the replacement sashes measure very closely in size to our neighbor's windows, which are the closest approximation to our prior windows.

Replacement Sills

During the course of replacing the wood windows our exterior sills were damaged. These sills were wrapped in aluminum and we are uncertain as to their condition or material. We had our architect and builder review the damage and design a mockup sill made solely of wood. Attached hereto and marked as Exhibit 2 are pictures of a damaged sill and a mockup of the proposed new sills constructed of solid wood.

Vinyl Jamb Liners

Staff from the HPC have inspected all of our windows and have informed us that although they are solid, painted wood, the jamb liners are made of vinyl. We were dumbfounded by this as we were informed by our window vendor that the windows they recommended were 100% wood. We have worked closely with the HPC staff to find a way to cover the vinyl jamb liners with a wood trim piece. Attached hereto and marked as Exhibit 3 are pictures of a window with this piece of trim that fully covers the vinyl jamb liners. We note here, as shown in our plat map, that the closest windows in our house to the road are more than 40-feet away. If the HPC approves the installation of these trim pieces, we will also be unable to operate the upper sash of each wood window--a compromise that we are willing to accept.

Restoration of Wood Soffits

As further support of our commitment to preserving our house and the fabric of our historic district, we seek your approval to replace the non-historic aluminum soffits with wooden soffits. This is another step that we are taking to restore the rest of our house to its original historic materials. Attached hereto and marked as Exhibit 4 are photos of the current non-historic soffits that we seek to replace with wood. We are committed to restoring the rest of the house with historic-appropriate materials over the next few years to include the original lap siding.

Conclusion

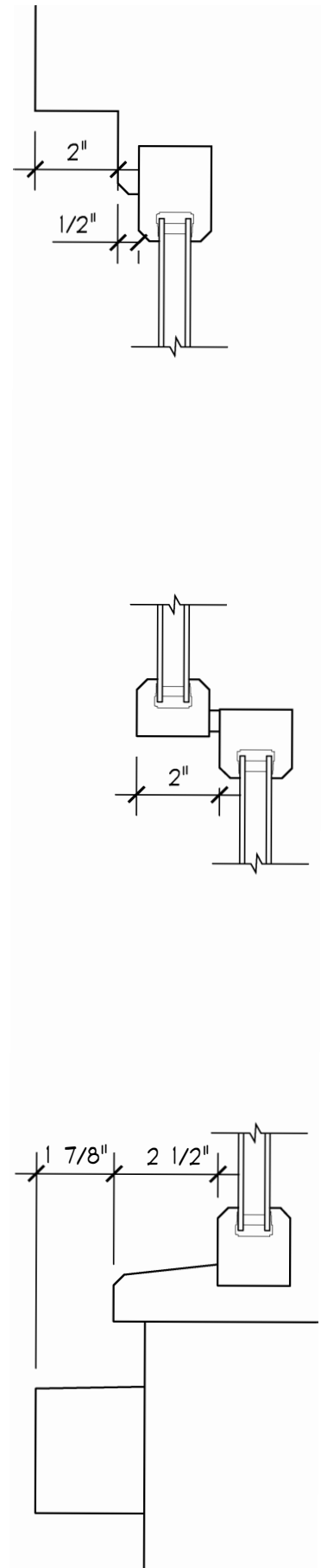
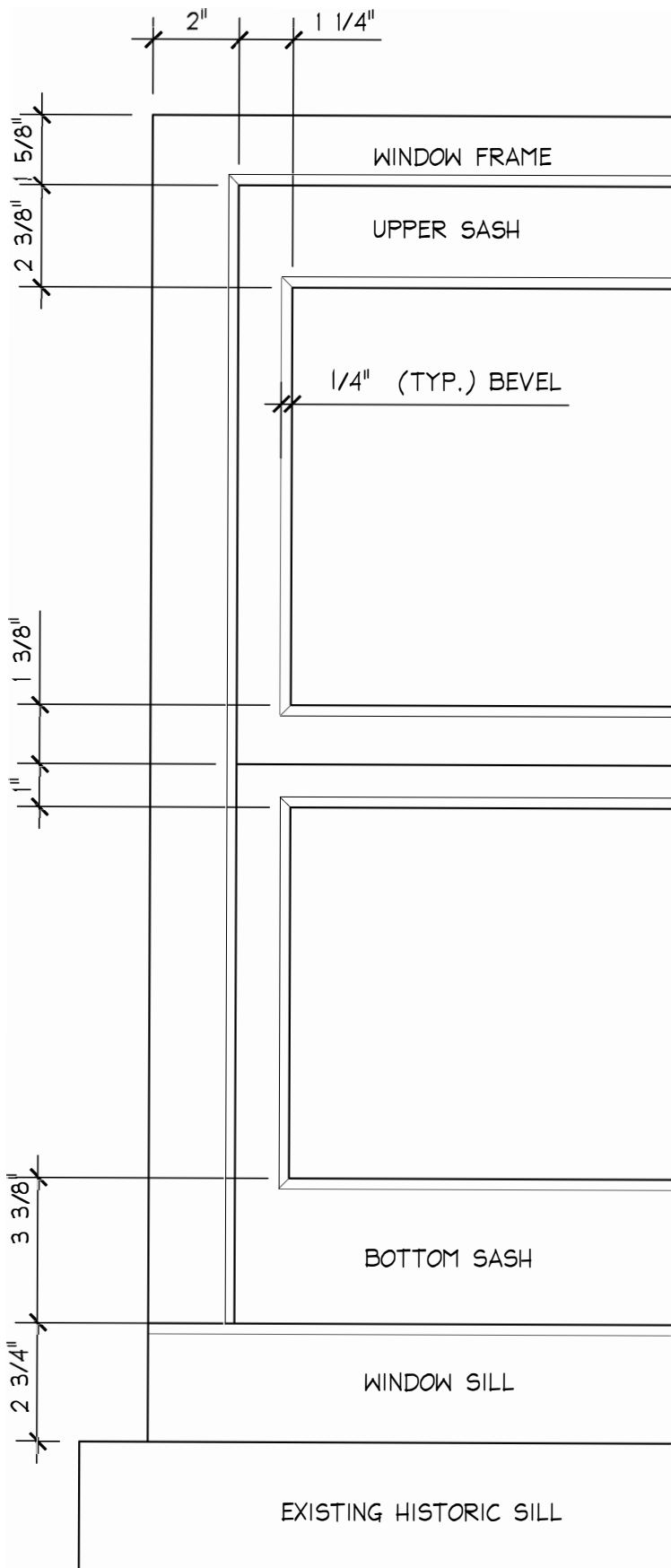
We love and support the historic character of Takoma Park; and we have now invested a significant amount of money to rehabilitate our historic home. During rehabilitation of our house, we found and repaired foundational and structural problems in our house that might have resulted in the collapse of the home over time. We ask that the HPC be reasonable in its review of our application.

As noted in the Takoma Park historic district guidelines, exact replication of existing details and features is not a requirement of contributing resources such as our home, and some non-original building materials may be acceptable on a case-by-case basis. We also wish to share an opinion from the Montgomery County Attorney's Office on the weight that the HPC should give to the various guidelines identified in its regulations as criteria for approving an application a historic area work permit. The opinion stated that the HPC must consider the guidelines, where pertinent, but it is not bound by them. A copy of this legal opinion is attached hereto and marked as Exhibit 5.

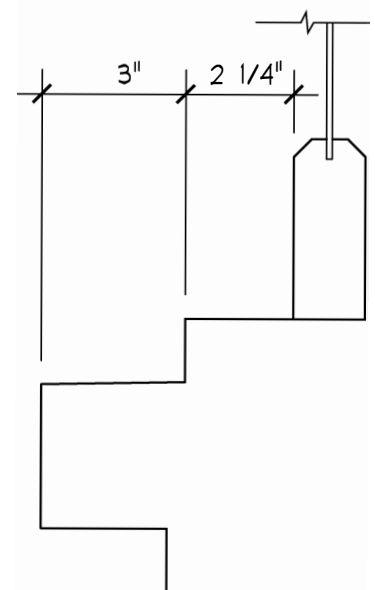
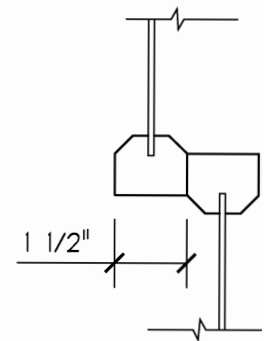
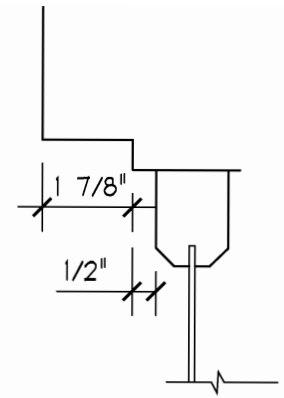
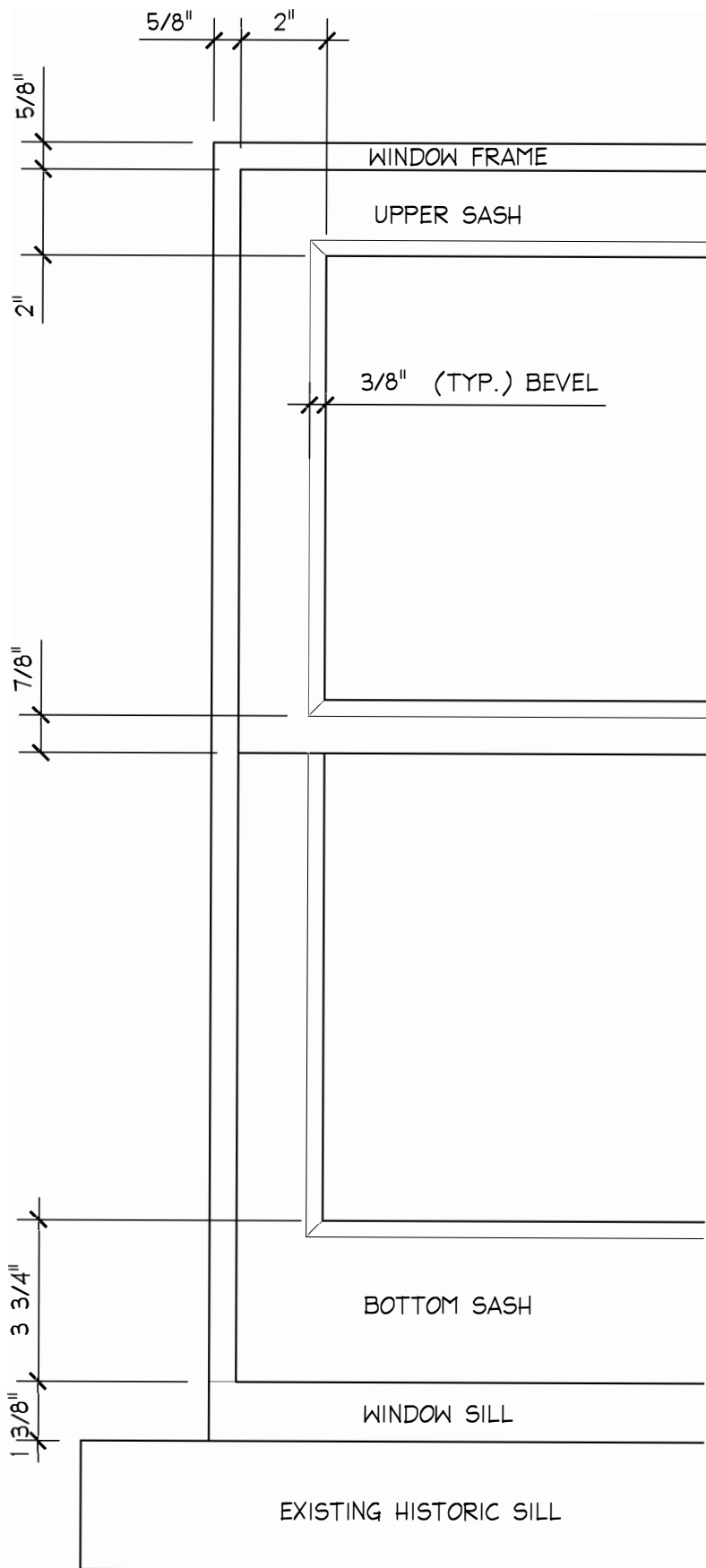
We are very sorry for the mistakes that occurred, and we have learned an important lesson about the importance of regular communication with the HPC staff. We are in regular contact with the HPC staff on all aspects of restoring the rest of our house. At this point in our lives we have been unable to move forward on our project due to this outstanding matter and we seek an amenable closure. Thank you for your time and consideration of our application.

Sincerely yours,
The Camilli Family

EXHIBIT 1



INSTALLED WINDOWS



NEIGHBOR WINDOWS

EXHIBIT 2



Damaged window sill that was previously wrapped in aluminum



Mockup of new window sill constructed of solid wood

EXHIBIT 3



Close-up view of trim piece covering jamb liner

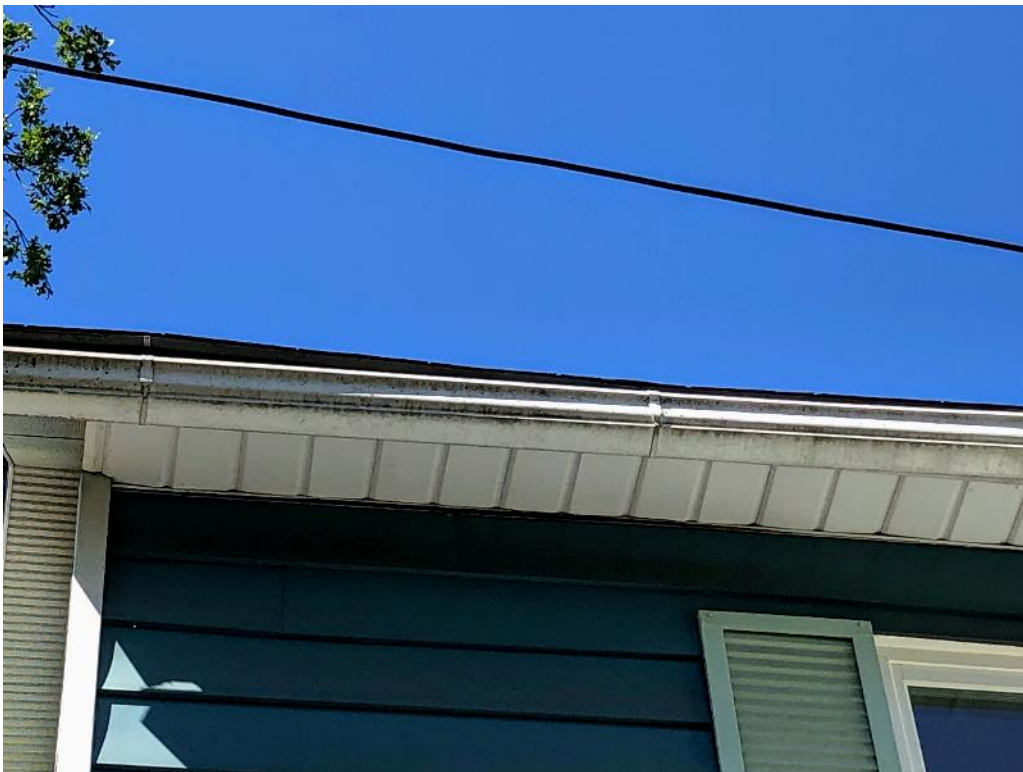


Window with wood jamb liner cover next to window with exposed jamb liner

EXHIBIT 4



View of non-historic aluminum eave soffit



View of non-historic aluminum eave and rake soffits



View of non-historic aluminum rake soffit



View of non-historic aluminum soffit and new wood soffit for addition

EXHIBIT 5



OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr.
County Attorney

MEMORANDUM

Via Facsimile (301-563-3412) and Interoffice Mail

Privileged and Confidential

TO: George Kousoulas, Chairperson
Montgomery County Historic Preservation Commission

FROM: Edward B. Lattner *EBL*
Associate County Attorney

DATE: December 22, 1998

RE: **Use of Guidelines in HAWP Approval**

You have asked what weight the Commission should give to the various guidelines identified in its regulations as criteria for approving an application for an historic area work permit (HAWP). In my opinion, the Commission must consider these guidelines, where pertinent, but it is not bound by them. Where the Commission's decision deviates from the guidelines, it should explain why it has done so.

The regulations make a distinction between those criteria that the Commission "shall utilize" when taking certain types of actions and those criteria that the Commission "shall be guided by" when taking other types of actions. Reading the regulations as a whole, I believe that the deliberate use of "shall utilize" in some instances and "shall be guided by" in others requires two distinct levels of conformity.

When recommending that the Planning Board place an historic resource on the Master Plan for Historic Preservation (either as an historic site or district), § 3.1(i) states that "In formulating a recommendation, the Commission **shall utilize** the criteria listed in [Code §] 24A-3(b)" (emphasis added). Similarly, when recommending an update to the Locational Atlas and Index of Historic Sites, § 3.2(h) states that "In formulating a recommendation, the Commission **shall utilize** the criteria listed in [Code §] 24A-3(b)" (emphasis added). Conversely, when passing upon a HAWP, § 1.5 provides that the Commission "**shall be guided by**" certain criteria (emphasis added). And § 2.4(a) states that the Commission "**shall be guided by**" that same criteria in their discussion of Preliminary Consultation requests" (emphasis added).

I believe the term "utilize" requires adherence to the standards identified in the regulations. The intentional use of a different term elsewhere in the regulations, "guided by,"

indicates a more flexible approach, allowing deviation from the stated guidelines.

Moreover, when describing the criteria that the Commission “shall be guided by,” the regulations either refer to them as guidelines or instruct the Commission to seek “pertinent guidance” from those criteria. Section 1.5(a) of the regulations state:

- (a) The Commission shall be **guided** in their review of Historic Area Work Permit applications by:
 - (1) The criteria in § 24A-8.^[1]
 - (2) The Secretary of Interior’s Standards and **Guidelines** for Rehabilitation.
 - (3) Pertinent **guidance** in applicable master plans, sector plans, or functional master plans, including categorization of properties in historic districts by level of significance — if applicable. Such categories will be defined and explained clearly in the applicable plans.
 - (4) Pertinent **guidance** in historic site or historic district-specific studies. This includes, but is not limited to, the 1992 Long Range Preservation Plans for Kensington, Clarksburg, Hyattstown, and Boyds.

(Emphasis added). Finally, the guidelines identified in §§ 1.5(a) and 2.4(a) are typically written in permissive language. These guidelines often encourage certain types of repairs or “suggest” that developers avoid certain types of development or construction. The guidelines do not use stark prohibitions.

The legislative history is not illuminating. When the then-proposed regulations were published for comment, one response (from the law firm of Wiles, Artis, Hedrick and Lane) questioned the requirement that the Commission “shall be guided” by the Secretary of Interior’s Standards and Guidelines for Rehabilitation in their review of HAWP’s because those guidelines were adopted primarily to assist the federal government in reviewing applications for federal tax credits. In its response, the Commission stated that the Secretary’s Guidelines were not adopted solely for tax credit review. There are no other comments regarding this issue.

In conclusion, I believe that the Commission must consider the guidelines identified in its regulations when reviewing a HAWP application, but its decision need not be in conformity with those guidelines. If the Commission strays from the guidelines, it should give cogent reasons for its decision.

¹The Commission must follow criteria set out in its statute because a regulation cannot amend or alter a statute.

George Kousoulas
December 22, 1998
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I hope you find this helpful.

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cc: Marc P. Hansen, General Counsel Division Chief ✓
Christopher E. Hitchens, Assistant County Attorney
Sherry A. Glazer, Assistant County Attorney
Gwen Marcus Wright, Historic Preservation Planner

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March 27, 2019 Preliminary Consultation Staff Report

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address:	402 Tulip Ave., Takoma Park	Meeting Date:	3/27/19
Resource:	Contributing Resource Takoma Park Historic District	Report Date:	3/20/19
Applicant:	Sara & Anthony Camilli	Public Notice:	3/13/19
Review:	HAWP	Tax Credit:	n/a
Case Number:	37/03-190	Staff:	Dan Bruechert
Proposal:	Window Replacement and Window Selection		

STAFF RECOMMENDATION

Staff recommends the HPC **deny** the HAWP and determine corrective measures for a future HAWP submission.

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Contributing to the Takoma Park Historic District
STYLE: Vernacular
DATE: c.1900-10

The subject property is a two-story, wood-sided, gable-L house with a one-story porch that wraps around the right side of the building. The front façade is four bays wide with a left door and replacement vinyl one-over-one windows. Original wood windows are still present on the façade and certain locations on the side elevations as noted in the attached drawings and narrative. The house has a narrow setback from the lot line to the left and a driveway to the right.

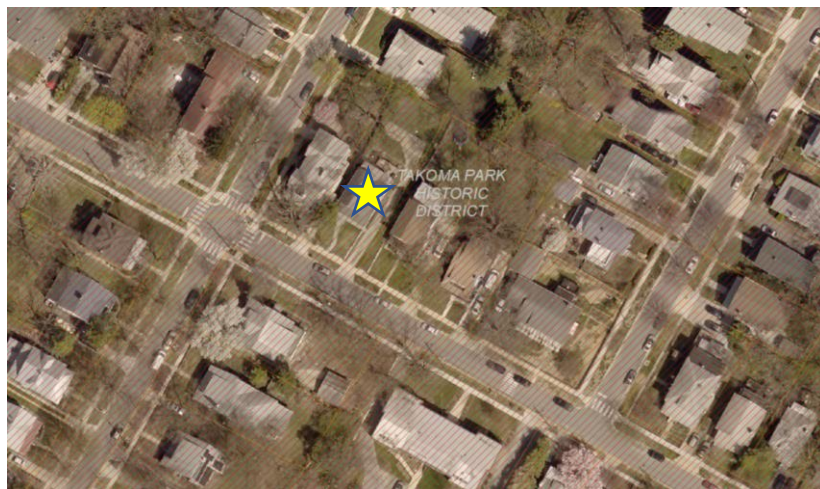


Figure 1: 402 Tulip is located on the block between Willow and Spruce Ave.

BACKGROUND

Applicants came before the HPC in 2016 for a preliminary consultation and HAWP for a rear addition. In 2017, the HPC reviewed and approved a HAWP for modifications to the rear addition and to a rear porch; and in August 2018 the HPC approved revisions to the previous HAWP.

PROPOSAL

This is a retroactive HAWP for window replacement at 402 Tulip Ave. Though the windows have been installed, all retroactive work is to be evaluated as if it was proposed work. There are two main items for review in this HAWP:

- 1) All of the historic wood windows, including sills and other exterior wood components, were removed from the original house and replaced with new windows and sills.
- 2) The windows installed in the addition were not the windows approved for installation at their HAWP in 2017.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Takoma Park Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the historic preservation review guidelines in the approved and adopted amendment for the Takoma Park Historic District (*Guidelines*), Montgomery County Code Chapter 24A (*Chapter 24A*), and the Secretary of the Interior's Standards for Rehabilitation (*Standards*). The pertinent information in these documents is outlined below.

Takoma Park Historic District Design Guidelines

There are two very general, broad planning and design concepts which apply to all categories. These are:

The design review emphasis will be restricted to changes that are at all visible from the public right-of-way, irrespective of landscaping or vegetation (it is expected that the majority of new additions will be reviewed for their impact on the overall district), and,

The importance of assuring that additions and other changes to existing structures act to reinforce and continue existing streetscape, landscape, and building patterns rather than to impair the character of the district.

Contributing Resources should receive a more lenient review than those structures that have been classified as Outstanding. This design review should emphasize the importance of the resource to the overall streetscape and its compatibility with existing patterns rather than focusing on a close scrutiny of architectural detailing. In general, however, changes to Contributing Resources should respect the predominant architectural style of the resource. As stated above, the design review emphasis will be restricted to changes that are at all visible from the public right-of-way, irrespective of landscaping or vegetation.

Some of the factors to be considered in reviewing HAWPs on Contributing Resources include:

All exterior alterations, including those to architectural features and details, should be generally consistent with the predominant architectural style and period of the resource and should preserve the predominant architectural features of the resource; exact replication of existing details and features is, however, not required

Minor alterations to areas that do not directly front on a public right-of-way such as vents, metal stovepipes, air conditioners, fences, skylights, etc. – should be allowed as a matter of course; alterations to areas that do not directly front on a public way-of-way which involve the replacement of or damaged to original ornamental or architectural features are discouraged, but may be considered and approved on a case-by-case basis

Major additions should, where feasible, be placed to the rear of existing structures so that they are less visible from the public right-of-way; additions and alterations to the first floor at the front of a structure are discouraged, but not automatically prohibited

While additions should be compatible, they are not required to be replicative of earlier architectural styles

Original size and shape of window and door openings should be maintained, where feasible

Some non-original building materials may be acceptable on a case-by-case basis; artificial siding on areas visible to the public right-of-way is discouraged where such materials would replace or damage original building materials that are in good condition

Alterations to features that are not visible from the public right-of-way should be allowed as a matter of course

All changes and additions should respect existing environmental settings, landscaping, and patterns of open space.

Montgomery County Code, Chapter 24A Historic Resources Preservation

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

- (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
- (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or

Secretary of the Interior's Standards for Rehabilitation

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, space and spatial relationships that characterize a property will be avoided.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

STAFF DISCUSSION

The applicant has installed windows in the under-construction addition that contravene the approved design and stamped drawings. Additionally, the applicant removed the historic wood windows and installed new wood windows with vinyl jamb liners without HPC review and approval. Staff finds the changes to be inconsistent with the required guidance and recommends denial of the HAWP.

Windows in the Approved Rear Addition

The previously approved addition is currently under construction as demonstrated in the photos detailing the existing condition. The 2017 HAWP and 2018 amendment approval called for the use of wood sash windows in the new rear addition. The HPC delegated final review and approval authority to Staff for these windows.

The windows that were installed are aluminum clad wood windows with vinyl jamb liners and vinyl exterior components.

Staff finds that the configuration and profiles are consistent with the approval. The outstanding issue has to do with the appropriateness of the material under the *Design Guidelines*, chapter 24A, and the Standards. The two relevant *Guidelines* provisions are:

- All exterior alterations, including those to architectural features and details, should be generally consistent with the predominant architectural style and period of the resource and should preserve the predominant architectural features of the resource; and
- Some non-original building materials may be acceptable on a case-by-case basis; artificial siding on areas visible to the public right-of-way is discouraged where such materials would replace or damage original building materials that are in good condition.

Staff finds that the new windows are compatible in design with the house and the pre-rehab photos. Additionally, the HPC has generally allowed the use of aluminum clad wood windows in additions and new construction the Takoma Park Historic District. This, however, is subject to analysis is to be undertaken on a case by case basis. Staff finds that the windows are removed from the street and are on construction that is sufficiently differentiated from the historic. The only part of the new addition that gives Staff pause is the fact that there are a triple set of sash windows that project beyond the historic wall plane and will be highly visible from the public right-of-way. Staff does not find that the front-facing windows on the addition detract from the historic character of 402 Tulip Ave.



However, the other material used in these windows is the vinyl jamb liner. The front-facing surface of the jamb liner is painted; however, the interior is exposed vinyl (this is visible in the window detail below). This feature will remain bright white and will not darken or fade over time and if and when the windows are painted, the brightness of the jamb liners will become even more apparent. The HPC has consistently approved aluminum clad windows in new construction and additions, however, the Commission has also been consistent in not approving vinyl elements on these new windows. Staff finds this material to be incompatible with the historic character of the house and surrounding detail and cannot recommend approval of this replacement window.

Windows in the Historic House

A total of 17 (seventeen) windows were removed without approval from the historic house as part of this project. There were 13 wood sash windows, one fixed wood window, and three vinyl windows. The original HAWP indicated that the windows were inoperable and would be “repaired (or replaced as needed)” and that “if replacement is necessary to a window we will seek approval from the commission staff...” The final HAWP approving the addition, window, door, and siding alterations was approved on August 15, 2018. Permit drawings were reviewed and stamped as approved by Staff on August 22, 2018. The approved plans showed no replacement windows for the historic house massing.

Historic Preservation Staff was alerted that the windows at 402 Tulip Ave. had been removed and replaced with vinyl windows in mid-February 2019. Upon viewing the windows, HP Staff thought that the windows had been replaced with vinyl, however after reviewing them on-site, with the aid of the contractors, and owners, determined that the historic windows had been removed and replaced with new vinyl jamb liners and wood window sashes, in what is

commonly referred to as a sash-pack replacement. The original wood sills had also been removed as part of the window installation. The HPC neither approved the window removal nor the replacement window. Staff finds that removal of the historic windows is inappropriate and recommends denial of this work. Staff additionally finds the replacement window units to be incompatible and recommends denial of the replacement windows.

Window Removal

A full window evaluation and survey was not undertaken. Staff has no reason to doubt the applicant's assessment that the windows were inoperable. Deferred maintenance and build-up of paint can lead to this condition. However, wood windows of this apparent vintage are repairable and can frequently be placed back into working order, and when combined with a storm window are just as (or more) energy efficient as new windows. This work would have qualified for both State and Montgomery County historic preservation tax credits. The *Design Guidelines* emphasize the importance of the overall resource to the streetscape and its compatibility with existing patterns rather than focusing on a close scrutiny of architectural details. If that were the only guidance provided for the evaluation of historic resources within the district, Staff may find that the work is appropriate, however, Chapter 24A-8(a) states,

“The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.”

Additionally, Standard 6 states, “deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials...”

Staff finds that the removal of the historic windows, absent any evidence that they had degraded beyond repair, is detrimental to the preservation of the resource. The removal of the historic wood windows cannot be supported under the applicable guidelines as the proposal contravenes Chapter 24A-8(a) and Standard 6. Staff recommends the HPC deny the removal of the historic wood windows.

Replacement Windows

The applicant replaced the wood sashes with replacement sashes and new vinyl jamb liners. The materials submitted in support of this HAWP divide the discussion of the sashes from the liners, however, Staff feels that one cannot be separated from the other, because they act as a single unit. Additionally, the window sills were removed as part of the project and have not been installed. Staff finds that the new windows installed in the historic openings significantly shrink the openings and change the proportion and recommends denial of the window replacement.

Staff was able to examine a historic sash recovered from the dumpster on site and verified that the profiles and dimensions are similar, but not exact. Staff is more concerned, however, about the installation of the vinyl jamb liners. Jamb liners replace the historic window stops and make

new window sash installation easier. They are installed directly inside of the exiting jamb. This has the effect of narrowing the window opening.



Figure 2: Detail of the exposed jamb liner.



Figure 3: Detail of new window.

It is challenging to determine how much the window opening has been shrunk because we don't have detailed before photos or measured drawings of the historic windows. Based on the drawings submitted by the applicant, the new jamb liners are 1 3/8" (one and three-eighths inches) wide. From a total dimension perspective, it would be reasonable to assume that the previously installed stop was no more than 1/2" (one-half inch). This means that the window openings are now approximately 2" (two inches) narrower. As an absolute number, this may seem relatively insignificant, however, it is the cumulative effect of this change that needs to be evaluated. This is best demonstrated in the photo below of the tri-partite sash window on the second floor. If each of these window openings is 2" (two inches) narrower, as Staff contends, then the result is a half-foot (six inches) more solid surface than there was in the historic appearance.



Figure 4: Detail showing the tri-partite sash window under the principal front-facing gable. The windows have been furred into the original framed openings with significant gaps where original trim was removed.

As to the material of the jamb liners, the front-facing portion of the sash is painted wood, but the interior of this feature is vinyl. This is visible in the window detail photo above. The challenge with this material compatibility is really not its current appearance, but what will happen over time. This jamb will not darken or fade for several decades and will remain bright white from now until the time it fails. If the windows are ever painted, the appearance of the jamb liners will become more significant. This is just one of multiple reasons this type of material replacement is not approved within the historic district.

The other alteration that occurred with the window replacement is the window sills were all removed. The photos from the previous proposal make it difficult to assess their appearance. No details or specifications were provided for the treatment of the sills. Staff finds that this detail need to be addressed regardless the outcome of this HAWP.

The applicant further states that the windows will have screens covering them approximately nine months of the year. Staff doesn't find this argument compelling for two reasons. First, screens have not been submitted for evaluation, so Staff cannot determine the degree that the storms will impact the visual character of the new windows and reduced opening. Second, Staff

feels that the windows should be evaluated without the screen for the same reason that a proposal that would be obscured by trees or landscaping is to be evaluated as though those features were not there. The proposal should be evaluated on its merits, not mitigated by something that may or may not be there in the future.

Staff closes the analysis of the discussion of the windows by responding to some of the assertions made in the conclusion section of the applicant's exhibit, because Staff finds they are mis-applied. First, as historic windows are virtually always considered character defining feature to a historic house, the removal and replacement of all of the historic windows is a substantial alteration both in terms of significance and materials altered. Second, the applicant argues that the approval is necessary so that they are not forced to suffer undue hardship. The undue hardship provision of County Code (24A-8(b)(5)) exist so that the HPC may not make requirements of the applicant that would unfairly restrict the use of the property or would require the owner to make changes to the project that would constitute an economic hardship. Because County Code or our regulations do not spell out what constitutes an "undue hardship" Staff interprets this to mean economic hardship as it is commonly understood in a historic preservation, homeowner context. This means that absent the approval, the owner would need to demonstrate that they have been denied all reasonable use of the property. Additionally, and most significantly, the hardship cannot be self-created, as is the case in this instance. As with all elements of a HAWP, the burden of proof is on the applicant.¹ Third, the applicant states there is a public benefit by granting the proposal. Staff finds this argument is inapplicable as the general public will not utilize this resource, the public will neither be hindered or benefit from this proposal one way or the other.

While the HPC is not bound by precedent, however, this is a type of work that has not previously been approved within any district or historic site. Staff has concerns that an approval would also set a precedent either for future HPC decision or for decision by the Board of Appeals. Any approval of this work would likely offend notions of fair play and substantial justice for residents of historic districts throughout Montgomery County.

In 2008, the HPC evaluated a retroactive HAWP for 4103 Stanford St., (*Davidson House* #35/129) which had been given a stop work order from DPS after it was discovered that all the historic wood windows had been removed, disposed of, and replaced. The HPC required that all of the new windows had to be removed and replaced with custom milled replacement windows. and doors that matched the historic in materials, appearance, and operation.

The HPC may determine that a jamb liner with no exposed vinyl would be sufficient, however, Staff does not feel that level of remediation is sufficient.

No specific treatment was proposed for the removed sills. Staff request the applicant return with an amended HAWP demonstrating the condition of the window sills prior to their removal and a detailed proposed treatment for the sills as an amended HAWP for evaluation.

¹ Staff has included *Assessing Economic Hardship Claims Under Historic Preservation Ordinances*, from the National Trust for Historic Preservation as additional guidance.

STAFF RECOMMENDATION

Staff recommends the HPC deny the HAWP and determine corrective measures.

DOUBLE-HUNG WINDOW COMPONENTS

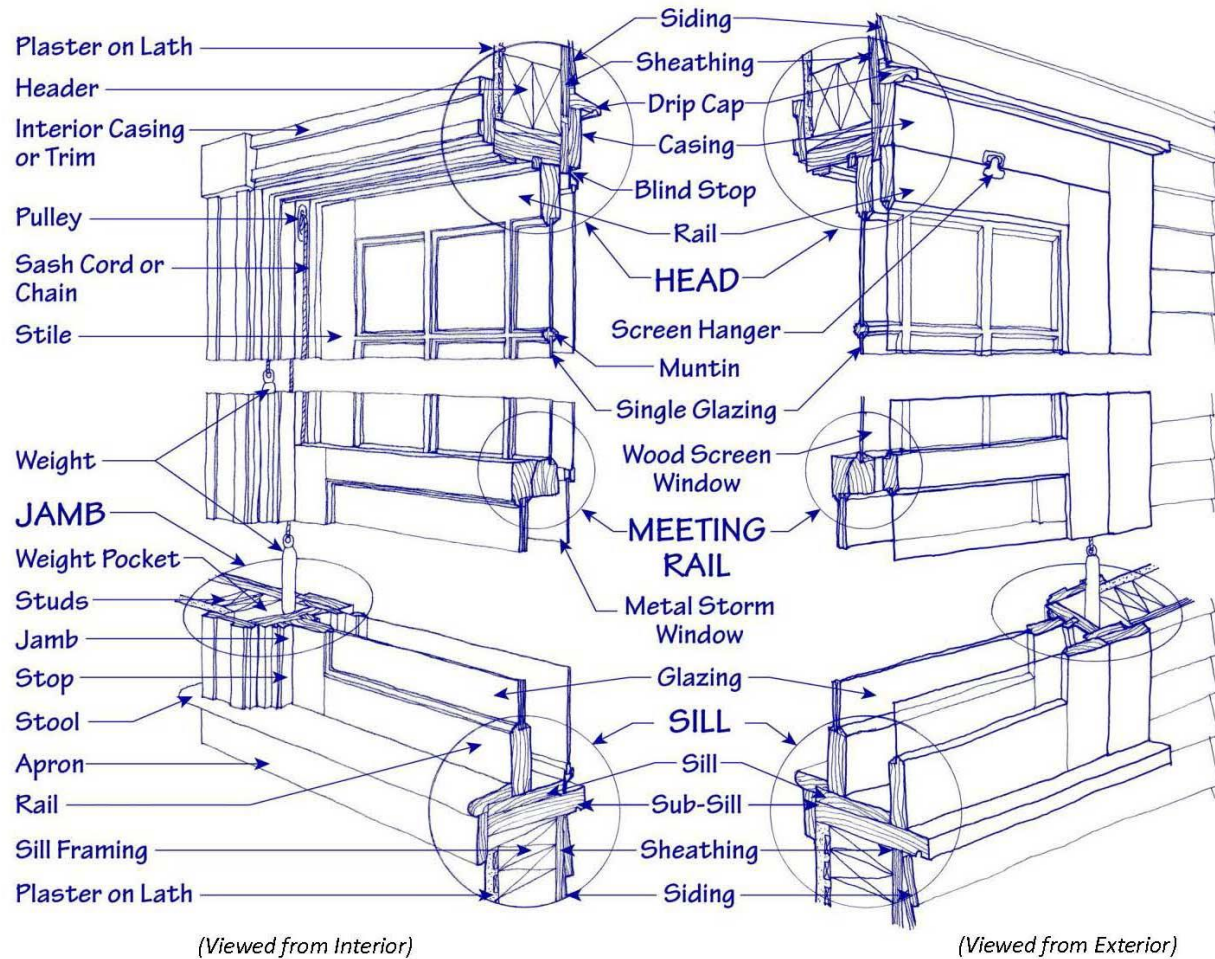


Figure 5: Traditional wood window detail, for reference.