



STAFF REPORT
Board of Adjustment
November 7, 2024

Item No. IV.B. 1.

Case No.15744: An Appeal by Brandon Wesbury of the decision of the Historic Preservation Commission regarding the condition of approval for Case No HPCA-24-00007, in the HP Historic Preservation District, located at 3233 North Harvey Parkway. Ward 2.

I. GENERAL INFORMATION

A. CASE HISTORY:

This is a new appeal application.

B. ZONING ORDINANCE:

Chapter 59, Section 4250.4.K of the Oklahoma City Municipal Code, 2020, as amended, states that an applicant can appeal a decision of the Historic Preservation Commission to the Board of Adjustment, who can affirm, reverse, or modify the decision of the Commission.

II. BACKGROUND

On August 7, 2024 the Historic Preservation Commission approved a Certificate of Appropriateness to construct a pergola at the rear of the applicant's home with the following condition:

1. That revised design illustrating the pergola as detached from the primary dwelling and without a solid roof be submitted to staff prior to release of the Certificate of Appropriateness.

III. SUMMARY OF APPEAL

The applicant is appealing the condition of approval.

Staff has provided the Board with the following information:

- 1) Evidence submitted by the appellant in support of the appeal.
- 2) The Staff Report, application and photos presented to Historic Preservation Commission by Planning Staff.
- 3) Minutes from the Historic Preservation Commission meeting on August 7, 2024

IV. **DISCRETIONARY REVIEW PROCEDURES – APPEALS**

§ 59-4250.4. Historic Preservation Review.

K. Appeals.

- (1) Any person aggrieved by a decision of the Historic Preservation Commission shall have such right of appeal, as may be otherwise provided by law.
- (2) *Appeal to the Board of Adjustment.*
 - (a) *Right of Appeal; Effect of Certificate of Appropriateness Prior to Expiration of Appeal Period.*
 1. Any person aggrieved by any decision of staff or the Historic Preservation Commission in granting or denying a Certificate of Appropriateness may appeal said decision to the Board of Adjustment. No Certificate of Appropriateness granted by the Historic Preservation Commission shall become effective until the expiration of the appeal period provided for in this chapter.
 - (b) *Method of Appeal.* All appeals to the Board shall be taken within ten days from the date of the decision by filing a Notice of Appeal with the Clerk of the Board of Adjustment and by paying the required filing fee at the time the Notice is filed. The Notice of Appeal shall specify the grounds for the appeal. Upon receipt of Notice of Appeal, the Clerk shall forthwith transmit to the Board all papers and other materials constituting the record in the case, together with the written Order of the Commission. The appeal shall be heard by the Board of Adjustment as soon as said matter can be placed upon the agenda by the clerk of the Board of Adjustment in the regular course of business.
 - (c) *Effect of Appeal.* An appeal to the Board of Adjustment from a decision by the Historic Preservation Commission shall stay all proceedings in furtherance of the decision being appealed.
 - (d) *Decision on Appeal by Board of Adjustment.* The appeal shall be heard and tried do novo by the Board, provided such appeal shall be limited to the issues and evidence presented to and decided by the Commission, and the grounds specified in the Notice of Appeal. In deciding an appeal, the Board shall use the same standards and criteria of review as set forth in the Historic Preservation Ordinance. Upon review, the Board may affirm, reverse or modify the decision of the Historic Preservation Commission; or the Board shall remand the case to the Commission based upon new evidence in the event that new evidence is presented. Any person aggrieved by the ruling of the Board on said appeal shall have such further rights of appeal as provided by law.
 - (e) *Right of Appeal to Board of Adjustment Not Exclusive Method of Appeal.* The right of appeal to the Board of Adjustment, as provided for herein, shall not be

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the exclusive method of appeal from decisions of the Historic Preservation Commission. Any person aggrieved by any decision of the Historic Preservation Commission shall have such other rights of appeal, as may be provided by law.

Upon review, the Board may affirm, reverse or modify the decision of the Historic Preservation Commission; or the Board shall remand the case to the Commission based upon new evidence in the event that new evidence is presented.

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