

# CITY OF ORANGE HISTORIC PRESERVATION COMMISSION

**DATE:** May 17, 2017

**NUMBER:** 10-2017

**TITLE: A RESOLUTION OF THE CITY OF ORANGE TOWNSHIP HISTORIC PRESERVATION COMMISSION GRANTING CERTIFICATE OF APPROPRIATENESS TO WALTER LALVAY AND JAIME MOROCHO FOR BLOCK 5903, LOT 22 FOR REPLACEMENT OF ROOF AND SIDING (463 HILLSIDE AVENUE)**

**WHEREAS**, Walter Lalvay and Jaime Morocho (“Applicant”) have applied to the Historic Preservation Commission of the City of Orange Township for approval of a Certificate of Appropriateness for work to be done on their property located at 463 Hillside Avenue, Orange, New Jersey, and designated as Block 5903, Lot 22 on the Tax Map of the City of Orange Township; and

**WHEREAS**, the Application consisting of an Application form dated February 22, 2017 signed by Walter Lalvay, together with a UCC Building Subcode certification signed by Vingini Tawni listing the contractor as Lalvay Brothers with an address of 520 Park Avenue, Orange, New Jersey describing the work, essentially, as “Replace existing vinyl siding; replace some of the damaged vinyl windows; whole house shingles; roof replace[ment]; install HVAC system”; and

**WHEREAS**, the Commission received and reviewed the Application and attachments as described above from the Applicant, together with photographs labeled as Exhibit A-1 (consisting of 14 photos) as well as any memoranda from the Department of Public Works, Planner, Engineer, Construction Code Official, Fire department, Police department, and any appropriate division or officer thereof, and any other agencies and provided an opportunity for comments from the public and interested parties; and

**WHEREAS**, the Application was the subject of public notice by virtue of the publication of the agenda of the Historic Preservation Commission, and all members of the Commission voting on this resolution have attended the public hearing(s) or have certified that they have read the transcript(s) or listened to the tape(s) of the hearing pursuant to N.J.S.A. 40:55D-10.2; and

**WHEREAS**, the Commission reviewed the application, exhibits and plan(s) (if any) and any other submission of the Applicant and is granting approval in reliance upon the representations made in the application, plans, notes on the plans and testimony in the public presentation by the Applicant and/or the Applicant’s professional(s); and

**WHEREAS**, the Commission, after carefully considering the evidence submitted by the Applicant, its own professionals and City’s professional staff, and the general public, makes the following findings of fact and conclusions of law:

## **I. FINDINGS OF FACT**

- A. On the subject property, Block 5903, Lot 22, also known as 463 Hillside Avenue, is a single-family residential home in the Montrose - Seven Oaks Historic District.
- B. The following witnesses were sworn and offered testimony: Walter G. Lalvay (March 15, 2017) and Jaime Morocho (April 19, 2017). They were represented by counsel, Julio Sanchez,

Esquire at the March 15, 2017 hearing. Commissioner Velez translated for Mr. Morocho, who did not speak English, at the April 19, 2017 hearing, after he was sworn by Attorney Bauer to translate truthfully and accurately.

- C. The Applicant obtained permits some months ago from the City in good faith, and paid over \$6,000 for the material (vinyl siding) which was delivered to the job site. In accordance with plans based on the permit, the Applicant removed the then-existing vinyl siding from the house. The roof is now replaced and the windows have been replaced. The vinyl siding was not completed but the material was purchased. Mr. Lalvay testified that the vinyl siding was on the house before his purchase of it.
- D. The Applicant introduced an exhibit, A-1, consisting of 14 different photographs of the home, front and rear and various areas needing work, and a second exhibit, A-2, which was a survey by William held Assoc., Inc. dated March 1, 2017.
- E. There was a discussion of what proofs are required to be demonstrated, and the Commission was referred to #2 of the Design Guidelines which have been incorporated into the HPC enabling ordinance by references.
- F. A question was raised as to the decorative millwork, and the Applicant was requested to keep it intact.
- G. Based upon the representations of the Applicant, the house needs roof replacement in portions where damage has occurred. The Applicant agreed to replace the roof with the same color and materials that exists now. The shingles and sheathing will be ripped off in areas where there are holes and the damaged portions will be cut out and replaced with plywood where needed; these areas will be re-sheathed and re-shingled with three-tabbed asphalt shingles in a color that will match the existing light gray (Applicant showed the Commission an Owens Corning Aspen Grey shingle).
- H. As to the vinyl siding, Attorney Bauer re-read the three-prong test from the section from the Design Guidelines which was previously read and which was set forth in the minutes of the March 15, 2017 meeting, describing what Mr. Lalvay and Mr. Morocho were required to prove to the Commission, which as noted had been pointed out to Applicant at the March 15, 2017 meeting.
- I. The Commission agreed that the Applicant would not endanger the structure by the application of the new vinyl siding, however there was debate as to whether he would be allowed to obscure the trim, which was the second prong of the test.
- J. Ultimately, the Applicant agreed to install, repair or replace the wooden front scallop materials with like kind wood materials, to replace the windows, window casings and trim around the windows with wood, to clad the “tower” portion of the house in wood, and to install, repair or replace the transition area in the front of the house between the siding and the scalloped area with wood, such that the only area that may be clad in vinyl siding is the lower portion of the exterior front of the house, and the exterior sides and rear walls.
- K. Based upon the compromise reached by the Commission because of the previously-issued City permit, the Commission believed that the Application and plans are consistent with and meet all of the requirements of the City of Orange Township Historic Preservation Commission Ordinance Number 22-2-15, and Chapter 210, Article X, adopted 9-3-2013 by Ordinance Number 34-2013, and the standards therein, and the City Master Plan.

## **II. CONCLUSIONS OF LAW**

- A. The Commission first finds that the Applicant has demonstrated by virtue of the Application and accompanying materials that the roof must be replaced or repaired and that doing so with

like kind materials will not impair the historic significance of the district, will not encroach upon nearby properties within the historic district, and will not cause substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance, and that the compromise reached on the application of new vinyl siding was appropriate because the Applicant agreed to install, repair or replace with wood, the windows, casings, as much trim as possible, the scallop-type shakes and the transition area between the scallop-type shakes and the siding in front of the house.

- B. Therefore, a Certificate of Appropriateness is appropriate to issue under the Historic Preservation Commission ordinance and the development ordinance of the City of Orange Township, recited above, the Master Plan Historic Preservation Element, and the Municipal Land Use Law (MLUL). The Commission concludes that the benefits of granting the Certificate of Appropriateness substantially outweigh any detriments.
- C. Therefore, it is appropriate and that the Historic Preservation Commission hereby APPROVES the issuance of a CERTIFICATE OF APPROPRIATENESS to the Applicant.

### III. CONDITIONS OF APPROVAL

- A. **AS A CONDITION OF THIS APPROVAL, THE CONSTRUCTION MUST PROCEED IN STRICT COMPLIANCE WITH THE PLANS AND/OR REPRESENTATIONS MADE IN THE TESTIMONY SUBMITTED, AS THOSE PLANS AND THE REPRESENTATIONS MADE BY THE APPLICANT IN HIS, HER OR ITS TESTIMONY ARE WHAT IS APPROVED BY THE COMMISSION. SHOULD ANY CHANGE BE MADE INCONSISTENT WITH THE PLANS OR TESTIMONY, THE APPLICANT MUST RETURN TO THE HISTORIC PRESERVATION COMMISSION FOR AN AMENDED CERTIFICATE OF APPROPRIATENESS. "FIELD ADJUSTMENTS" THAT RESULT IN ANY SIGNIFICANT CHANGE WILL NOT BE TOLERATED AND A STOP WORK ORDER WILL ISSUE, NECESSITATING A RETURN APPEARANCE BEFORE THE COMMISSION AT THE FOLLOWING MONTHLY MEETING. ANY DELAY OR DELAY DAMAGES ASSERTED BY THE CONTRACTOR OR OTHERS WILL BE STRICTLY THE FAULT OF THE OWNER, APPLICANT AND/OR CONTRACTOR FOR NOT PROPERLY EXECUTING THE PLANS OR ABIDING THE TESTIMONY SUBMITTED WHICH RESULTED IN THIS APPROVAL.**
- B. **PLANS:** All revisions to the Application as described and the papers submitted, including plans and drawings (if any) after the first submission must be properly identified on subsequent submissions and submitted for review and become part of the file for this property at the City of Orange Township.
- C. **UTILITIES, PROTECT ADJACENT CONSTRUCTION, AND INHABITANTS/NEIGHBORS:** Comply with all applicable requirements of governing authorities including, but not limited to, public utilities (provide mark-out and 24 hour notification of any discontinuity of utility services with owner). Provide temporary facilities, service utilities, and protection as required to safely execute all work.
- D. **CONSTRUCTION DEBRIS:** Contractor shall be responsible to remove and legally dispose of all materials from the job site. A permit may be required to place a unit for storage of debris at the job site or in the street. This is the Applicant's responsibility to obtain.

- E. **PLANS AND DRAWINGS:** The contractor shall prepare and maintain a complete set of record construction drawings (if any) indicating all actual work, modification and revisions to the work delineated on the construction drawings as well as any concealed construction work. Include any other information which would be helpful to the owner, at the site.
- F. **SUBSTANTIAL COMPLETION:** At project closeout, contractor shall procure final certificate of occupancy upon completion of the project and forward same to the owner. Contractor shall clean premises, test applicable systems, and leave ready for occupancy.
- G. **PERMITS:** The Applicant shall be responsible for obtaining and paying for all the required permits, inspections, etc.
- H. **PROJECT COMPLETION:** Upon FULL completion of the project, architect and/or contractor to submit certificate of occupancy or continued certificate of occupancy approved by the Building Department to the owner.
- I. **CODE AND STANDARDS COMPLIANCE:** All work, materials, and equipment shall meet the latest requirements of all applicable state & local building codes, regulations, the requirements of the authorities having jurisdiction, and the standards of the Secretary of Interior for Rehabilitation. Where applicable, comply with all requirements of the NJUCC Barrier Free Subcode and/or Americans With Disabilities Act (ADA).

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Orange Township Historic Preservation Commission that the Application for a Certificate of Appropriateness for the work described in the Application and, including any photographs, is approved and granted subject to the foregoing conditions in Section II. A-I, hereof, and the following additional conditions, where applicable:

**IV. PLAN REVISIONS AND SUBMISSIONS**

Prior to signing the final site plan approval, Applicant shall submit any requested revisions to the plans or otherwise provide studies, plans, or documents, as follows:

- A. The Applicant should address all of the findings, if any, in the comments and reports made by the City Engineer, Police Department, Fire Department, and any other relevant departments and agencies, in addition to the Department of Public Works and all of its officers and divisions, if any.
- B. Pursuant to City of Orange Township municipal ordinance, prior to the issuance of building permits, the Applicant shall have installed or shall have furnished any required performance guarantees for the ultimate installation of all streets, street signs, curbs, gutters, sidewalks, street lighting, shade trees, storm drains, sanitary sewerage and utilities, monuments, and/or top soil required, if any, by this approved work.
- C. The Applicant shall ensure that its general contractor and subcontractors do not damage the roadway pavement, curbing, sidewalk, grass strip between the curb and the sidewalk or any other improvements in the public right of way, whether on the public right of way or the privately owned property including but not limited to slate or bluestone sidewalks and walk

ways. A note shall be added to the plans stating, "Any damage to the right of way including the sidewalk must be repaired / installed to equal standards."

D. **OTHER APPROVALS.** Prior to signing the final site plan, Applicant shall submit any requested revisions to the plans or otherwise shall obtain and comply with the requirements of all outside agencies from which approval is required, and it shall be Applicant's duty to determine whether such further approvals are required, including but not limited to:

1. Final approval of the Essex County Planning Board, if required.
2. Final approval from and comply with the requirements of the Union County Soil Conservation Service, if required.
3. All other necessary approvals from applicable county, state, regional and federal agencies.

V. **TAXES**

Applicant shall pay any outstanding real estate taxes and assessments within fourteen days of this Resolution and provide proof by an official search for municipal liens.

VI. **FEES**

Applicant will post an escrow fee to cover and pay for the professionals' review of this application and preparation of this Resolution in accordance with City ordinance. Applicant will pay all outstanding escrow and application fees within fourteen days of the Resolution and receipt by Applicant of the bills for such charges including those that arrive after the Resolution is memorialized. No construction permits will be issued until this section is satisfied.

VII. **INSPECTION FEES**

Applicant shall post inspection fees, in an amount to be determined by the City Engineer, before any improvements are installed, if and as required by the City.

VIII. **OTHER REQUIREMENTS**

A. Applicant will post a notice of decision in the Official Paper and provide an affidavit of publication to the Planning and Development Department.

IX. **SATISFACTION OF CONDITIONS**

This approval of the Certificate of Appropriateness shall not be deemed satisfied and construction permits shall not be issued until such time as the Director of the Department of Public Works and/or his designee and/or the City Engineer finds that all conditions of approval have been satisfied.

**ROLL CALL ON THE MOTION TO APPROVE:**

|                  | Yes          | No    | Absent |
|------------------|--------------|-------|--------|
| Keith Carrol     | <u>  x  </u> | _____ | _____  |
| Kathy Dowd       | <u>  x  </u> | _____ | _____  |
| Jody Leight      | <u>  x  </u> | _____ | _____  |
| Brandon Matthews | <u>  x  </u> | _____ | _____  |

|                    |                   |                   |                   |
|--------------------|-------------------|-------------------|-------------------|
| Bruce Meyer(moved) | <u>  x  </u>      | <u>          </u> | <u>          </u> |
| Janice Morrell     | <u>  x  </u>      | <u>          </u> | <u>          </u> |
| Yolanda Silverio   | <u>          </u> | <u>          </u> | <u>  x  </u>      |
| Troy Simmons (2d)  | <u>          </u> | <u>  x  </u>      | <u>          </u> |
| Abdiel Velez       | <u>  x  </u>      | <u>          </u> | <u>          </u> |
| Karen Wells (2d)   | <u>  x  </u>      | <u>          </u> | <u>          </u> |

**MEMORIALIZATION:**

This Resolution adopted this 17th day of May, 2017 memorializes the action taken at a meeting of the City of Orange Township Historic Preservation Commission with the roll call vote on the memorialization as follows:

|                  | Yes               | No                | Absent            |
|------------------|-------------------|-------------------|-------------------|
| Keith Carrol     | <u>          </u> | <u>          </u> | <u>          </u> |
| Kathy Dowd       | <u>          </u> | <u>          </u> | <u>          </u> |
| Jody Leight      | <u>          </u> | <u>          </u> | <u>          </u> |
| Brandon Matthews | <u>          </u> | <u>          </u> | <u>          </u> |
| Bruce Meyer      | <u>          </u> | <u>          </u> | <u>          </u> |
| Janice Morrell   | <u>          </u> | <u>          </u> | <u>          </u> |
| Yolanda Silverio | <u>          </u> | <u>          </u> | <u>  x  </u>      |
| Troy Simmons     | <u>          </u> | <u>          </u> | <u>          </u> |
| Abdiel Velez     | <u>          </u> | <u>          </u> | <u>          </u> |
| Karen Wells      | <u>          </u> | <u>          </u> | <u>          </u> |

I hereby certify that the foregoing is a true copy of a Resolution of the City of Orange Township Historic Preservation Commission memorialized on May 17, 2017.

Adopted:

\_\_\_\_\_  
 Joyce Lanier  
 Secretary

\_\_\_\_\_  
 Karen Wells  
 Chair