

# CITY OF ORANGE HISTORIC PRESERVATION COMMISSION

**DATE:** JUNE 20, 2018

**NUMBER:** 9-2018

**TITLE: A RESOLUTION OF THE CITY OF ORANGE TOWNSHIP HISTORIC PRESERVATION COMMISSION GRANTING A LIMITED CERTIFICATE OF APPROPRIATENESS FOR 301 MAIN STREET, BLOCK 66, LOT 39, FOR VARIOUS REPAIRS AND REPLACEMENTS IN KIND TO FAÇADE AND TO SUBMIT PLAN FOR NEW WINDOWS ON FRONT AND SIDE FACADE TO MATCH THE DESIGN AND NUMBER OF LIGHTS IN EXISTING WINDOWS**

**WHEREAS**, 301 Main Street Associates, LLC, the owner of 301 Main Street, which is also Block 66, Lot 39 on the Tax Map of the City of Orange Township, submitted an Application to the City Historic Preservation Commission, and 301 Main Street Associates, LLC's agents, Mr. Milton Sonnenberg, Senior Property and Risk Manager for ACHS Management Corp., and Mr. Jack Cohen, appeared and testified before the City of Orange Historic Preservation Commission on May 16, 2018; and

**WHEREAS**, the Application consisted of the Application itself, six color photographs, emails dated March 29, 2018, an estimate from Hoffman's Glass & Storefronts in the amount of \$54,491.94 to remove the "old" windows and install new aluminum heavy casement-style swing-in windows with 7/8 insulated glass fixed lights, a diagram showing the proposed design of the replacement windows prepared by K.S. Lee of GAMCO Corp., Flushing, N.Y. (undated) and an estimate from Bay Restoration Corp., Woodside, N.Y. dated Sept. 2017 in the amount of \$52,000 to perform roofing work including installing a new membrane, to replace four drains with new roof drains, to repair parapets on the front façade and the Day Street façade including cleaning the bricks, removing the deteriorated stucco, installing furring channels and install furring channels and aluminum finish wall panels to cover the four (4) inch roofing membrane, to caulk all coping joints, to power wash the entire façade, to remove and replace mortar on rear and side parapets at all joints, to install a sidewalk shed after obtaining permits to do so, to fabricate and install one limestone to match that which is missing, and to install scaffolding to do façade work including patching damaged stones and to apply pointing color to match the limestone; and

**WHEREAS**, Mr. Cohen and Mr. Sonnenberg testified in favor of the Application, as did Mr. Stelios Banagos, a contractor, toward the end of the hearing, and described in detail the improvements they proposed, and the need for same, all of which was deemed acceptable to the Historic Preservation Commission members except for the design of the proposed upper story window replacements, and discussion at the hearing on the Application centered upon this aspect of the Application and this feature of the building and its centrality to the building's overall design; and

**WHEREAS**, the Commission members pointed out how significant the design of the windows is to the appearance of the structure and that the existing windows have six glass areas or "lights" to each window, meaning the two "double hung" type windows on each side, the main center light, and the three lights above; and

**WHEREAS**, Applicant and Mr. Sonnenberg was concerned about the time to custom fabricate windows to match the design of the existing windows and the pending code violations which were brought to their attention by the City's inspectors, to which Zoning Officer Richard Wolff assured Applicant and Mr. Sonnenberg that he would talk to code enforcement inspectors and inform them that the Applicant was working out a design issue with the Historic Preservation Commission which Applicant had appeared before in all good faith and for compliance purposes; and

**WHEREAS**, the Commission received no memoranda from the Zoning Officer, Department of Public Works, Planner, Engineer, Building Department or Construction Code Official, Fire Department, Police Department, and any appropriate division or officer thereof, or any other agencies; and

**WHEREAS**, the Commission 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 and photographs, emails, estimates and listened to the testimony, and after some discussion about the time and cost of matching the window design, the Applicant's representatives agreed to submit a plan showing a revised window replacement design that replicates the design of the existing windows and in particular, the number and arrangement of lights; and

**WHEREAS**, the Commission specified that the plan for the windows should address operability (whether, where and how the windows open, or not) which determination would be made in accordance with the governing Code; 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, determined to approve and grant a limited Certificate of Appropriateness in reliance upon the representations made in the Application and photographs, emails and estimates, together with the testimony of Messrs. Sonnenberg, Cohen and Banagos, in the public presentation by the Applicant; and

**WHEREAS**, the Commission, makes the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

- A. The Applicant, 301 Main Street Associates, LLC is the owner of the property located at 301 Main Street (Block 66, Lot 39) which is a commercial building in the heart of the Main Street Historic district.
- B. The Commission takes notice of and considered the Application and all appended materials including the emails, the estimates and the photographs together with the testimony.
- C. Specifically, the Application seeks to remove the "old" windows and install new aluminum heavy casement-style swing-in windows with 7/8 insulated glass fixed lights (for which an estimate was received from Hofman's Glass & Storefronts in Brooklyn, N.Y. in the amount of \$54,491.94, a diagram showing the proposed design of the replacement casement-style swing-open windows prepared by K.S. Lee of GAMCO Corp., Flushing, N.Y. (undated) and an estimate from Bay Restoration Corp., Woodside, N.Y. dated Sept. 2017 in the amount of \$52,000 to perform roofing work including installing a new membrane, to replace four drains with new roof drains, to repair parapets on the front façade and the Day Street façade including cleaning the bricks, removing the deteriorated stucco, installing furring channels and install furring channels and aluminum finish wall panels to cover the four (4) inch roofing membrane, to caulk all coping joints, to power wash the entire façade, to remove and replace mortar on rear and side parapets at all joints, to install a sidewalk shed after obtaining permits to do so, to fabricate and install one limestone to match that which is missing, and to install scaffolding to do façade work including patching damaged stones and to apply pointing color to match the limestone

- D. The Applicant through its representatives Mr. Jack Cohen and Mr. Milton Sonnenberg together with one of the contractors they wish to employ, Mr. Banagos, testified that they are desirous of improving the roof, windows and limestone façade and parapets of the building, and making other improvements and repairs, and replacements with like kind materials, some of which are for features of the structure which are in violation status and were the subject of code enforcement by the City.
- E. The Commission members observed that the structure’s façade, while deteriorated, is an excellent design that contributes materially to the significance of the Main Street Historic District.
- F. There was no specific testimony by the Applicant as to the amount and type of deterioration of the existing windows (which is the preferred design) sought to be replaced with non-matching casement-style swing-open windows.
- G. The Commission members agreed that all of the proposed repairs and replacements (with like kind materials and matching design) were appropriate and attractive, and determined to approve them and to grant a limited Certificate of Appropriateness to Applicant based on the Application and testimony, except for the proposed casement-style swing-open aluminum replacement windows, which were not approved.
- H. Discussion on the Application centered upon the design of the replacement windows, with the Applicant’s representatives testifying as to their concern about the cost and time to custom fabricate replacement windows to match the existing six-light design of the existing windows. Commission members pointed out that the design of the windows was a central feature to the aesthetic of the building itself and the façade on Main Street.
- I. Summarizing and synthesizing the discussion, it was apparent that the second story office windows as designed and existing draw attention to the second story offices in a way that the proposed casement style, swing-open windows would not. The proposed windows would not keep the character and “look” of the Main Street Historic District intact and would eliminate the central large window light in the upper floor windows. The storefront and office windows in the floor above the storefront windows was created as an overall design which the Commissioners required be maintained in any replacement windows.
- J. As one Commissioner put it, “windows make the building.”
- K. With respect to the timeline imposed by the code violations, Zoning Officer Richard Wolff commented that he would inform the code enforcement inspectors of the Applicant’s willingness to make the repairs and replacements and to get started, however, the Applicant is still working out the window design issue in good faith with the Historic Preservation Commission in order to come into compliance.
- L. After some discussion, the Applicant’s representatives agreed to submit a revised plan to the Historic Preservation Commission with details showing replacement or rehabilitated windows that match the existing design including six lights and mullions in the same places or substantially similarly arranged as the existing windows. The Commission made clear to the Applicant that matching the design or proposing a substantially similar design will be a condition of approval for a full Certificate of Appropriateness.
- M. Operability of the windows or any part thereof will be governed by the governing Code. The revised plan for the replacement windows should address operability of the new windows.
- N. Applicant may also repair the existing windows with like kind replacement materials unless there is some reason presented why that cannot be accomplished.

## **II. CONCLUSIONS OF LAW**

- A. The Commission first finds that the Applicant has demonstrated that the relief sought is warranted, i.e., the repairs, rehabilitation and replacements with like kind materials as specified in Section I. C. above, and those repairs, rehabilitations, and replacement with like kind materials is the extent of the limited Certificate of Appropriateness granted by this approval.

- B. The Commission provided guidance to the Applicant in terms of future planning and design for the upper story windows, to which the Applicant was agreeable and will return with a revised design for the upper story windows. Specifically, the Applicant will return with proposed plans and elevations or a “cut sheet” showing the Applicant’s proposed solution for the windows, as well as a color scheme, or other materials (metal etc.).
- C. The Commission made no findings about whether the proposed plan for the windows would impair or not impair the Main Street Historic District, such a finding being premature.
- D. The Commission did find that the remainder of the relief sought, and granted, would not impair the aesthetic of the Main Street Historic District and would, in fact, improve it.
- E. The Commission also found that the proposed repairs, rehabilitations and like-kind material replacements 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 same are consistent with the Master Plan and ordinance establishing the Commission, historic districts, map and regulations.
- F. Because the repairs, rehabilitations and like-kind material replacements are needed to come into compliance, the Commission concluded that the benefits of granting the limited Certificate of Appropriateness substantially outweighed any detriments.
- G. Therefore, it is appropriate and that the Historic Preservation Commission hereby APPROVES the issuance of a LIMITED CERTIFICATE OF APPROPRIATENESS to the Applicant, granting all relief sought except for the proposed window replacements, conditioned upon the terms and conditions described above.

### III. ADDITIONAL CONDITIONS OF APPROVAL

- A. **AS A CONDITION OF THIS APPROVAL, THE CONSTRUCTION MUST PROCEED IN STRICT COMPLIANCE WITH THE PLANS SUBMITTED AND/OR REPRESENTATIONS MADE IN THE TESTIMONY, 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 I. L-M, Section II., and Section III. 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.

VII. **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:**

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>NP</b>
Keith Carrol	_____	_____	x _____	_____
Kathy Dowd	x _____	_____	_____	_____
Jody Leight	x _____	_____	_____	_____
Brandon Matthews	_____	_____	x _____	_____
Bruce Meyer (mover)	x _____	_____	_____	_____
Janice Morrell	x _____	_____	_____	_____
Yolanda Silverio	_____	_____	x _____	_____
Troy Simmons (2 <sup>nd</sup> )	x _____	_____	_____	_____

Abdiel Velez	_____	_____	<u>  x  </u>	_____
Karen Wells	<u>  x  </u>	_____	_____	_____

**MEMORIALIZATION:**

This Resolution adopted this 20th day of June, 2018 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:

	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>NP</b>
Keith Carrol	_____	_____	_____	<u>  x  </u>
Kathy Dowd	_____	_____	_____	_____
Jody Leight	_____	_____	_____	_____
Brandon Matthews	_____	_____	_____	<u>  x  </u>
Bruce Meyer (mover)	_____	_____	_____	_____
Janice Morrell	_____	_____	_____	_____
Yolanda Silverio	_____	_____	_____	<u>  x  </u>
Troy Simmons (2 <sup>nd</sup> )	_____	_____	_____	_____
Abdiel Velez	_____	_____	_____	<u>  x  </u>
Karen Wells	_____	_____	_____	_____

I hereby certify that the foregoing is a true copy of a Resolution of the City of Orange Township Historic Preservation Commission memorialized on June 20, 2018.

Adopted:

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

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