

Instructions for Filing

Any person desiring to appeal a decision of the Historic Preservation Commission may do so by filing an application with the City of Concord Planning Department and submitting the associated application fee.

- When considering such an appeal the Board of Adjustment functions with very limited and narrowly defined review authority.
- In an appeal, the Board of Adjustment is limited to reviewing only evidence heard at the Historic Preservation Commission meeting, or its duly authorized representation.
- Board of Adjustment review of such an appeal involves consideration of the Historic Preservation Commission's decision with respect to the following five questions:
 - 1) Were there errors in the law?
 - 2) Were proper procedures in both statute and ordinance followed?
 - 3) Were due process rights secured (including rights to offer evidence, cross-examine witnesses, and inspect documents)?
 - 4) Was there competent material and substantial evidence to support the decision?
 - 5) Was the decision arbitrary and capricious?

The item or items the applicant is contesting shall be specified on the written appeal application in order for the appeal to be considered by the Board of Adjustment.

- The Board of Adjustment is authorized to overturn a decision of the Historic Preservation Commission, or to refer the item back to the Historic Preservation Commission only if it makes a finding in regard to one or more of the five questions. Appeal from the Board of Adjustment's decision shall be to the Superior Court of Cabarrus County.
- The appeal application fee, payable to the City of Concord, is due at the time of submission to the Planning Services Manager in the Development Services Department, 66 Union Street, South, Concord.

Staff Use Only:

Date Received: _____, 20____ Received by: _____

Check # _____ Cash amount \$ _____ Assigned Case#: _____

The application fee of \$500.00 is nonrefundable.



NORTH CAROLINA
High Performance Living

Application to

Appeal Historic Preservation Commission Decision
to the Board of Adjustment

1. Appellant Name: Robert & Mary Margaret Underwood
2. Appellant Address 94 Union Street N.
- City: Concord State: NC Zip Code: 28025
4. Appellant Telephone: Home: 704-794-8247 Work: 704-574-3800
5. Location of Subject Property:
 - (a) Street Address: 94 Union St N.
 - (b) Cabarrus County P.I.N. 5620-89-2037, 5620-89-4026
6. Name and address of owner (if different from appellant): Wells Fargo Bank, Margaret Cannon West, William Hampton West, & Mary Margaret West Underwood
7. Current Zoning Classification: RM-1 Existing Land Use: Residential
8. Date of Historic Preservation Hearing: 05/12/2021
9. Date of Filing: 5/25/2021

Appeal

I (we) hereby allege that the Historic Preservation Commission did err by granting denying an application for a Certificate of Appropriateness affecting the above premises.

9. The Historic Preservation Commission’s decision and reason(s) for the decision were: I believe the commission erred in applying the definition of an “Addition” to include a porch. As the porch is under a separate section. Our request to Extend our front Porch 5 feet, to create a non-enclosed portico was denied under Chapter 5 Section 2 Page 27, New Additions. of the City of Concord Historic District Handbook – Guidelines: Additions #2: Additions on the Front Elevation will Not be allowed.
10. I (we) contend that the Commission erred in that:
 - (a) there were errors in the law: Yes
 - (b) proper Development Ordinance and General Statutes procedures were not followed: Yes
 - (c) due process rights were not secured:

NO Several of the Board members had a huddle session and we were not privy to the discussion, A few members looked up items to help define words such as the definition of “Addition” and we were not included in this discussion either, nor have access to what they were looking up and in which documents.
 - (d) There was no competent material and substantial evidence to support the decision: NO the only point for denial was they decided the Porch is an addition. The Porch is there, with an existing stoop, and a non-enclosed extension of said porch does not constitute an addition. The Commission refused to hear new evidence brought forth in the case, citing previous cases were not allowed as evidence. We respectfully disagree. Either the previous cases were allowed that should have been denied. No discussion was had as to why the previous N Union St porches were allowed as exception to the No Front Addition Rule.
 - (e) the decision was arbitrary and capricious

Yes, without proper discussion of terms and access to definitions, the decision seemed arbitrary. I believe the decision should have been approved as the other two porches were. One member stated after the meeting she thought the decision was wrong but, voted affirmative. One board member did not recuse herself. She just happens to be one of the approved Front Porch Additions currently under construction. Expressly forbidden in our case. If those cases were rightly approved, then so ours should be.
11. Scheduled Speakers: Don Duffy –
Don’s 30+ years of experience designing private homes and renovations are a testament to his artistry. He has spent his career meeting the special demands of single-family residential projects. His technical expertise and untiring passion for design has created a long list of satisfied clients. Prior to founding DDA in 1995, Don served clients as a senior architect at Meyer-Greenson Architecture for eleven years. Don has both a

Planning & Neighborhood Development

66 Union St S ● P. O. Box 308 ● Concord, NC 28025
Phone (704) 920-5152 ● Fax (704) 786-1212 ● www.concordnc.gov



Application to
Appeal Historic Preservation Commission Decision
to the Board of Adjustment

Bachelor of Arts degree and a Bachelor of Architecture from the University of North Carolina at Charlotte. He is a member of the American Institute of Architects and The Institute of Classical Architecture and is a founding member of the Congress of Residential Architecture in Charlotte. Don served for 6 years as a member of the Charlotte Historic Commission.

Certification

I (we) hereby acknowledge and say that the information contained herein and herewith is true.

Signature of Appellant(s):
Robert S. Wood Jr.

Date:
6-1-2021

Staff Use Only

1. Scheduled for Board of Adjustment consideration:

Date: _____ Time: _____ Location: _____

2. Date advertised, written notice(s) sent, and property posted: _____

3. Record of Decision: Motion to: Approve Deny

	Yea	Nay
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

3. Planning and Zoning Commission decision is to: Reverse Refer back Affirm

4. The Historic Preservation Commission is directed to re-examine the case.

5. Planning and Zoning Commissions findings are:

6. Appellant Notified of Board of Adjustment action: _____

Date: _____