

**MARIEMONT ARCHITECTURAL REVIEW BOARD
REGULAR MEETING
FEBRUARY 22, 2023**

Chairman Peter Wren called the meeting to order at 6:00 p.m. Present were Mr. Ayer, Mayor Brown, Mr. Kintner and Dr. Lewis. Building/Zoning Official Rod Holloway and Solicitor McTigue were also present.

Mayor Brown moved, seconded by Mr. Kintner, to accept the minutes as written for the January 25, 2023, meeting. On roll call; five ayes, no nays.

An application was submitted from Phil West, for the property located at 3929-37 Beech St. OH 45227 to replace a 3-tab asphalt shingle with similar product.

Findings of the Building Department:

The building at 3929-37 Beech St. Rd. is part of the Clinton MacKenzie group and is a landmark structure as defined in Mariemont City code ordinance section 151.075 (F) and thus part of the Historical District.

§ 151.075 HISTORIC DISTRICT

(H)(1) *Limitations on issuance of building and demolition permits.* No construction, reconstruction, alteration demolition, or removal of any structure or significant exterior architectural feature, including painting and staining, and including signage, thereof to any listed landmark structure or any other building within a historic district shall be undertaken prior to obtaining a certificate of appropriateness from the Architectural Review Board (see §§ [151.021\(E\)](#) and [151.025](#)) and a permit from the Building Commissioner, if appropriate.

(H)(2) *Regulations governing site modifications: Standards for review: design requirements for certificate of appropriateness.* The Architectural Review Board, in deciding whether to issue a certificate of appropriateness, shall determine that the application under consideration promotes, preserves, and enhances the distinctive historical integrity of the landmark structure as set forth in division (F) above, as well as the historical village character of the community and would not be at variance with existing structures within that portion of the district in which the structure is or is proposed to be located. In conducting its review, the Board shall make examination and give consideration to the elements of the application including, but not necessarily limited to:

(i) Roof treatment shall be of the same type and form and the same or similar color and exterior material as found on the existing building or brought into conformity with division (H)(2)(f) above.

Mayor Brown said the issue is that the applicant has engaged in a re-roof without a building permit or a Certificate of Appropriateness. The applicant believes that because he considers this a repair a building permit and a Certificate of Appropriateness is not required.

Building Official Holloway said a roof repair entail fixing components of a roof such as pipe boots, flashing, ventilation, and more that it be leaking or causing other minor issues. Repairs may also include patching up holes and small gaps, or replacing damaged or missing shingles and other materials. Instead, of removing the roof, only a small portion of the roof is going to be worked on during a repair in order to fix a more isolated issue. Roof repair is generally a smaller, more minor fix that can be done to prolong the life of a roof. He estimates that more than 50% of the roof was repaired.

Solicitor McTigue said he has researched the matter. Mr. West's attorney informed him that if he was replacing/repairing less than 50% of the roof it qualifies as a repair as opposed to a replacement. He could not find any case law or code section to support that opinion. He believes Mr. West may be circumventing the law, but also encouraged the Village to find compromise.

Mr. West said his replacement cost was \$14,000 while the repair cost is \$6500 which is less than 50% of a new roof which he believes qualifies as a replacement. In June 2021 he was sent the historical code from Aileen Beatty. He estimates the roof to be 40 years old. The code defines historical by east/west and building name/address. He believes his building never had a slate roof. It is approximately one hundred years old. In his opinion one would take off a slate roof and replace it with asphalt shingle. His building is located on the west side with no buildings having slate roofs. In three years the Village has yet to correct the historical code reference his building. He has brought many samples in the last two years before the ARB with none being considered appropriate. As far as he can tell the building has only had 3-tab asphalt shingle. A roofer told him that the roof never had slate by inspection of the underlayment. The building has leaks. He spoke with Mr. Holloway who informed him that he did not need a permit for repair. He repaired the front roof and porch and next year will repair the back roof.

Mr. Ayer noted that there were drawings from the Mariemont Preservation Foundation of the property known as a Clinton MacKenzie Building. It is also a fact that the Village National Historic landmark nomination, from which our code is based, identifies it as a Cellarius. The drawing shows it with a slate roof. He does not believe there is sufficient evidence to prove that it never was slate. It does not make sense to him that Mr. West would replace more than 50% of the roof and then say it cost less than 50% of the roof replacement. He does not believe that 50% is being a repair – a repair is patching.

Mr. Wren said it was a debatable and moot point if the building ever had a slate roof. The applicant is feeling it is erroneous to force him to put slate on his building when he does not believe it ever had slate. He understands his point, but no one likes the methodology. He does not agree that Mr. West exhausted all the options of asphalt with the ARB. Going forward we need to make sure that we do not get to this point again. The ARB is to review what is submitted. It oversteps authority for the ARB to tell an applicant what they should submit for appropriateness.

Discussion ensued regarding past meetings and the samples Mr. West brought before the ARB that were not considered appropriate. It was further discussed that the Village needs to update the historical portion of the Code of Ordinances.

Mr. Ayer moved to issue a Certificate of Appropriateness to install 3-tab shingle Weather Gray Royal Sovereign shingle to re-roof his building. Hearing no second; the motion failed.

The meeting adjourned at 7:15 pm.

Respectfully Submitted,

Mr. Brad Lockhart
Secretary