

**Norman Historic District Commission Meeting  
Verbatim Minutes for August 5, 2013, Item 14:  
Request for Certificate of Appropriateness for 321 Duffy**

<b>HDC Commission Members:</b>	<b>City of Norman Staff:</b>
Rangar Cline Anna Eddings David John Russell Kaplan Lay Macari Chesley Potts Anais Starr – Co-Chair Scott Williams	Susan Atkinson - Historic Preservation Officer Jolana McCart – Admin Tech IV
Neil Robinson – Chair was absent	<b>Applicants: Len Cason and Trent Cason</b>

*Co-Chair Anais Starr is chairing the meeting in the absence of Chair Neil Robinson due to a family concern.*

**Chair Starr:** The next item is a request for COA for 321 Duffy. Susan you have some information for us.

**S Atkinson:** This is a Craftsman bungalow purchased by the Cason family a few months ago. They are operating as Las Casas LLC. On July 1<sup>st</sup> a Miller District property owner notified me that some windows had been replaced at this property and wondered if a COA had been issued to do this work. I immediately went out to do a visual inspection and saw that 9 wood windows on the south and east elevations had been replaced with a vinyl window product. I put a letter in the mail on July 2<sup>nd</sup> notifying the owners that they were in violation and laying out a path to compliance. I received a call the very next day from Len Cason who is with us and is the owner of the property. Mr. Cason said that his son Trent was living in the house and was managing the renovations and that Trent would be contacting me. Subsequently another 5 windows were replaced and then muntions were added to the 3 windows on the south elevation which is the front elevation. Trent did visit my office and submitted a COA application along with some photos detailing the deteriorated condition of the house and a statement of their position and intentions with regard to the future renovations of the house. I will pass these around – I did not get them electronically. I will pass them around for you to look at. In talking with Trent, he stated that neither he nor his contractor were aware that the property was located in a historic district. So the application before you is to replace 14 wood windows with a vinyl substitute. I'm sure that this sounds familiar to everybody. Again this is a very unfortunate situation that no one likes to be in. Certainly not the applicants, the Commission, or staff. But we do have an obligation to enforce our ordinance as we discussed a lot over the last month. We certainly like to encourage in every way that we can the rehabilitation of houses in the 2 historic districts. That's why we are here. To help manage that change. But at that same time we have an obligation to enforce the ordinance and to enforce it consistently. So I will take any of your questions and then again we have Len Cason and his son Trent Cason who are here. I'm sure that they will want to say

a couple of things. I'm sure the Commission will have some questions of them. May I answer any of the Commissions' questions?

**Chair Starr:** Do you have pictures of the house?

**S Atkinson:** I do. Scott do you mind getting those? Actually just leave those on and I can get them from here. OK. That doesn't help a lot. Scott can you go ahead and get that other light? So the shot on the left shows the property sometime before the Casons purchased it in the spring of this year. I think that no one will argue that the house was in very deteriorated condition. Some of the photos that Trent submitted show decades of neglect. There's no doubt about that. The shot on the right shows, and again it is a little hard to see on the left, but this is from the Tax Assessor's website and therefore the shot is right before the sale was closed. The windows in the front of the downstairs were 5-over-1 wood windows. Very typical kind of divided light pattern for a Craftsman bungalow of this age and style. Again you see a different style of windows in the shed dormer are still intact and are 1-over-1. This was not unusual that a house would have, particularly a craftsman bungalow, where the house would have different styles of windows, different sizes. Very typical. Again, the very fancy windows, the original windows, the builder went to the expense of having the 5-over-1. Those were the most visually prominent on the front of this house. This is a shot from the alley of the vinyl replacement windows. You can see that wood muntions were applied to the exterior to replicate the pattern that had been used. This is just another shot. Again, I would point out, and this is just FYI, these are single light windows in the back of the house. These have not been altered. They were changed out many years ago. Probably long before the house because part of the historic district. As you can see in the kitchen setting here these are just smaller window openings that you typically have over a sink. This is a window on the north elevation. And these are the west elevation. So altogether 14 windows have been replaced. There are still, on the second floor, as I pointed out the shed dormer and on the west side. You can still see that there are 1 or 2 windows upstairs that remain intact. So with that, if the Commission has any questions for me I will be glad to answer them and if not you can hear from the applicant.

**Chair Starr:** So I want to clarify when you were talking about the sequence of events that you did get notified that more windows were replaced after they were notified? Would that be correct?

**S Atkinson:** Yes that would be correct.

**C Potts:** And windows were the only change? Is that also a new front door?

**S Atkinson:** The windows are the only change I am acquainted with.

**Chair Starr:** I also wondered about the front door. When I drove by I thought that was a different front door.

**S Atkinson:** You can ask the applicants that when they come to the table.

**Chair Starr:** I guess if we don't have any further questions of Susan we can hear from the applicants. They are here.

**S Atkinson:** We were remiss when we did not have our previous speaker introduce himself. If you would want to pull up a chair here. Scott will you grab him a chair?

**S Williamson:** Do you want the lights back on too?

**S Atkinson:** Yes, thank you. And if we need them off for Mr. Cason we can flip them again.

**Len Cason:** My name is Len Cason. This is my son Trent. I appreciate, I know that everyone is busy, I appreciate the time and I will say this, Susan has been very professional, courteous, and responsive so whatever happens I do appreciate that. I live in Oklahoma City and am a layer in Oklahoma City and want you to know that I have lived on Chautauqua 1965 to 1972. A long time ago I went to graduate school and law school here. And so I am still a part of this down here. We bought this place – Trent came back from Iraq and wanted to start graduate school. We bought this place and I have to tell you that we had no idea...I know this is not an excuse. I know that someone mentioned that a while ago. I understand that. I'm a lawyer. I know that it is not an excuse. We did not know it was in a historic district and we had no idea there were requirements or what they were. We had a local realtor and for whatever reason we did not know and had someone come out and install a window that qualified for the tax credits and were energy efficient. And the person who did it didn't tell us. Obviously if we had known we would never have done this. I think that the windows were replaced after we got the notice from Susan because we had already busted out some of them from what I understand.

**Trent Cason:** The interior frames and everything had already been pulled off so on the outside it still had the rotted outside windows sitting in there but on the inside the construction had already begun. We were open to the air. We were sealed by duct tape.

**L Cason:** So otherwise we were trying to be responsive. I can just tell you also that Trent loves the house. We love the house. We love the neighborhood. We have done this twice before. My youngest son is in medical school and we helped him with a house. We have more in the house than it's worth but we really....that's my wife's fault mainly - it's a lovely house. We have a house for our middle son who is a lawyer and now he is in DC and left their house in the Village. It was the ugliest, worst house in the street and now it's the nicest house. We think that it improves everyone's property value. And we intend right now if we can get this worked out to do that to this house. The lawn, landscape, whatever. Just like we did to the other houses and we hope that everyone will be proud of it. If we can get to that point. We certainly are willing enough to do that. Susan said that the state of the windows when we got there...half of the windows did not have glass in them. Some of them you could put your hands through. Some of them had plexiglass

taped over. So all the windows needed to be replaced. The problem that we got is that....in fact even when we bought the house the seller gave us credit for \$4,000 to replace the windows. We spent \$8,600 to do that. And I recognize that they are vinyl. And I know that you don't like vinyl. I didn't know that. But the problem that we have at this point is that we have had a couple quotes on what it takes to replace the windows. The windows downstairs...there are 14 of them. And the estimate was about \$1,200 per window. Which would be \$16,800. The upstairs would not be quite as much but it would be quite a bit of money. More than half of that. Now we find out after we did some more investigation that because each window are 5-over-1 and sort of irregular shapes and sizes. All of these will need to be custom made and custom ordered. So the cost of putting in these windows would be prohibitive. I know that this is our problem, not your problem. But we have to decide what we are going to do. If we have to replace every one of these with wood windows then it just doesn't make any sense. And I don't know if we would sell the house if anyone else could. Because as much money as we are going to have in this house with everything else that we are going to have to do to have that much money in windows doesn't really make sense. I really don't know. This is new to me. The last couple of days of addressing this. So I don't know what we can do. My hope is that there is some way that we can work collaborately with you so that we can comply with the spirit of what the ordinance is. That we can make this house the prettiest house on the block. On the street. We intend to do that. I don't quite know how we can do that but you know the rules better than I do. We are willing to work with you. And cooperate in any way that we can but I just don't know that we can go and put in 23 custom made wood windows.

**Chair Starr:** Any questions for the applicant?

**T Cason:** It is the same front door. Apparently it never got to in here but someone replaced the front steps. Those are not the original steps. They are steep and are of different sizes. They are a death trap. They couldn't have gotten a COA for that.

**Unknown:** The steps are horrible.

**Chair Starr:** If there are no other questions we will ask you to return to your seat and we will close that portion of the discussion and return it for Commission discussion. Anybody want to start off?

**L Macari:** I just have a question about procedure. I know Trent so I don't know if I should recuse myself.

**S Atkinson:** Do you have any financial interest in dealings with Trent? Is anything about your relationship other than you might be uncomfortable or compromised by making a decision?

**L Macari:** (Answered no to both questions.)

**S Atkinson:** I don't think we have a basis for recusal. But thank you for revealing this. It's important.

**Chair Starr:** And on that note it is not unusual for us to have....because some of you live in that neighborhood...plus it's Norman and everybody knows everybody.

**S Atkinson:** Again, thank you very much for letting us know.

**J McCart:** That does bring up a good point. This is exactly the way it needs to be handled.

**Chair Starr:** Right. Just because you know that person does not mean that you automatically have to recuse yourself. Susan has put it the way we need to look at it and it needs to go on record.

Chair Starr: Any other thoughts on Duffy?

**S Williamson:** I think that it is a hard situation as the last one but I don't really think we have any leeway here because we do have it in our Guidelines that the windows have to be wooden keeping with what they were when the Guidelines were adopted.

**Chair Starr:** That is correct.

**J McCart:** Susan we have sources for wood windows. Does this cost seem about right?

**S Atkinson:** I did call Wewoka Window Works today which is again, as the name implies, a wood window manufacturer. Just to do a little checking and of course the owner was very clear that these are just ballpark figures when I described – I sent him a picture of the house. And I said 'do you think \$1,200 is the right price for a replacement of a 5 over 1 wood window?' He quoted me a price of, again very ballpark, of about \$710. That's not the installed price. That's quite a lot less than \$1,200 but I'm not saying that it is cheap. I think that another point that I wanted to make sure that the Commission is aware of is that, if you recall, for the past 5 years we have put on wood window rehab workshops. And we know a lot about rehabbing wood windows. And I would be willing to bet a pile of money that the upstairs windows in this house could be rehabbed. Would not have to be replaced. I'm not saying they aren't deteriorated. I'm not saying that there may not be some wooden parts that need replacement. But in terms of taking the number down from 23 to 14 I think that there are, and I have a list of 5 local contractors that work in the two neighborhoods all the time rebuilding and rehabbing windows. So just to take a little bit of pressure off the situation I would be willing to bet that the upstairs windows can still be saved and rehabbed. These windows were made to be worked on. Unlike vinyl replacement windows which are not made to be worked on. They are basically a disposable product. So that's a reminder to the Commission.

**D John:** Can I make a comment on the windows that they installed?

**S Atkinson:** Yes.

**D John:** If they were put in place to preserve the walls, you have made a poor decision because the wood windows had a seal that went over the outside of the stucco. These are flush against the studs inside so any leaks between the caulking and the wood will go right down that wall and start rotting the wall out. These are not a very good design in the first place.

**S Williamson:** Is this in observation of the house?

**D John:** Yes.

**Chair Starr:** If you have ever been to Yapp's workshop, you learn that often it is the case when you do a replacement such as this they don't work out real well. And particularly in trying to prevent what the homeowners think they are going to get. Like not have leakage anymore. No wind leakage. No water leakage. And it turns out that it doesn't work out very well. If you haven't had a chance to go to his workshops you really should try to go.

**S Atkinson:** I also wanted the Commission to know and I mentioned this to Trent when we visited in my office, as fate would have it about the time that this situation was unfolding I was made aware of two different non-historic district window removals that have happened where in both cases somebody involved with the project removed the windows carefully and were storing them and had contacted me to see if I knew of anyone who needed the windows. And in both cases I said well maybe. I mean. Windows are very specific to the houses in which they are installed. So that's by no means a slam dunk but I made the same suggestion to the previous applicant and I think that it was not a path they wanted to pursue. But it struck me that because of the expense of manufacturing wood windows is so high. None of us are kidding ourselves about that. But it at least warranted some investigation to figure out if any of these windows that are being stored in two different locations – one of them in the neighborhood – might be usable in this case. It just struck me that if you don't ask the answer is no. And if they were available possibly for free, though they would still have to be installed but it would save you a lot of money and reuse some old growth timber.

**Chair Starr:** Any other thoughts?

**A Edding:** To echo what has already been said, our Guidelines are really clear on replacing like with like or repairing if possible. It's hard to do anything else.

**C Potts:** Can we consider a timeframe?

**S Atkinson:** The Commission needs to take that issue up.

**C Potts:** And if we need to we can obviously do that now.

**Chair Starr:** Right. To avoid that whole situation.

**S Atkinson:** You did not set a precedent by making that decision in the previous case. Again, each case has to be considered on its own merits. However, you certainly can consider a replacement schedule based on your reading of the case and your feelings about treating all applicants consistently.

**R Cline:** Do we have to specify a timeline or just leave it and see how it goes and if it doesn't get done then we have to follow up on it?

**S Atkinson:** You have several options. You could vote to deny the application which is stated very clearly to replace those 14 windows with a vinyl substitute. And you can take a vote and a majority of you can vote to deny. In which case the applicant will certainly have the right to appeal the decision to City Council. At which point the City Council will take up the issue of yes or no and under what timetable. You could vote as you did with the previous case at the July meeting and instead of voting no to deny the application, the Commission voted yes, but with this condition that it be a wood window which again is consistent with the Guidelines. I think that resulted in a little bit of confusion. There are several different ways the Commission can vote. Did that answer your question?

**Chair Starr:** I think your third option is that we could vote yes to approve the vinyl windows but that...

**S Atkinson:** Yes. That would be a hard one to defend I think.

**R Cline:** We can vote on the existing proposal or vote on something completely different. My question is primarily regarding the timeline.

**S Atkinson:** You could do that based on our previous discussion since it is fresh in your mind or you could just take it at face value and vote up or down.

**J McCart:** Because there is a timeline automatically. Because they are not in compliance.

**L Macari:** So if we don't propose a timeline then the City Council will put a timeline in place.

**Chair Starr:** Assuming they do appeal the decision.

**S Atkinson:** That would be part of the Council's discussion. If you decide to deny the application.

**J McCart:** Actually the appeal process is not part of your purview. Your decision is whether the fact that they either are or aren't in compliance. And if not, they generally have 60 or 90 days to become in compliance or ..

**S Atkinson:** We file charges in District Court.

**R Cline:** So it's like we would do it if there were no COA. If they did not respond to the letter.

**J McCart:** Because the appeal process is their process with the City Clerk, not ours. We have a protocol to follow.

**S Williams:** I would to make a motion to deny the application as presented.

**J McCart:** But remember that if you make a motion to reject them, they will then have to come back to the Commission to request installation of different windows. So that's why the motion was made before. So you can OK a motion for wood windows so that way you have moved it along.

**R Cline:** So would be appropriate to give a COA for replacement of wood windows but they get a year to do it? Based on how the COA is worded?

**S Atkinson:** Yes. 6 months then you can ask for a 6 months extension. That's true for any application. The duration of the COA is for 6 months and at that point if the work is not done in 6 months the applicant can ask for a 6 months extension. You just ask that the work be started in 6 months and if there is progress being made, on getting that completed, then we are ok with that. That's when you approve a COA.

**R Cline:** The reason I ask is that it seems to give us a timeline.

**J McCart:** But they are not in compliance.

**S Atkinson:** That's true. That's where the issue is different.

**R Cline:** But if they come back with a proposal for wood windows, aren't you in fact granting them a COA for wood windows that they will install?

**J McCart:** No. because they still aren't in compliance.

**J McCart:** The COA would be for wood window replacement. But since you are looking at it as if they hadn't done it or a job that hasn't been done. So you can say, as before, that you can put in wood windows.

**R Cline:** So you would act as if it were an actual application and it would come with the stipulations.



**S Atkinson:** This is an unusual situation in that you have work being reviewed after the fact which the Commission is being put in the awkward position of being asked to consider as if it had not been done. And then you are trying to make a decision...I think that you have to make a decision on how to vote in being consistent with what they have asked to do. Which is what the motion was kind of tossed out there.

**S Williams:** They have come to ask for vinyl windows and I want to say no. I don't want to go anywhere else. If they want to come back...I think that the process needs to be followed. And their application says that they want vinyl windows and I think that we should vote on that. That's why I want to make the motion very simply.

**Chair Starr:** You have made the motion without a second.

**S Williams:** I would like to make a motion to reject the application as presented.

**D John:** I second.

**J McCart** took the roll call vote with the motion passing with a unanimous vote.