

STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
ADMINISTRATIVE LAW DIVISION

BETTY FORREST,
Applicant/Appellant,

v

Docket No. 98-128-HP

GRAND RAPIDS HISTORIC
PRESERVATION COMMISSION,
Appellee.
_____ /

PROPOSAL FOR DECISION

This matter involves an appeal of a decision of the Grand Rapids Historic Preservation Commission (the Commission) denying an application for certificate of appropriateness to install vinyl siding over existing cedar shingles on the second and third stories of the south side of the house located at 304 Paris S.E., Grand Rapids, Michigan, a property located in the Heritage Hill Historic District (the District).

The appeal was filed under section 5(2) of the Local Historic Districts Act (the Act).¹ Section 5(2) provides that a person who is aggrieved by a decision of an historic district commission may appeal the decision to the State Historic Preservation Review Board (the Board), which is an agency of the Michigan Department of State.

¹ 1970 PA 169, § 5, as amended by 1992 PA 96; MCL 399.205; MSA 5.3407(5).

Upon receipt of the appeal, the Board directed the Michigan Department of State, Administrative Law Division, to convene an administrative hearing for the purpose of taking relevant evidence and argument. The Administrative Law Division conducted a hearing on Tuesday, June 9, 1998, in Hearing Room No. 121, the Mutual Building, 208 N. Capitol Avenue, Lansing, Michigan. The hearing was held pursuant to the procedures prescribed in Chapter 4 of the Administrative Procedures Act.²

The Appellant in this case, Betty Forrest, appeared at the administrative hearing. Forrest was not represented by legal counsel. Sue Thompson, City of Grand Rapids Staff Liaison, appeared at the hearing as a representative of the Commission. Gary W. Brasseur, Administrative Law Examiner, Michigan Department of State, Administrative Law Division, presided at the hearing.

Issues on Appeal

By letter dated April 25, 1998, the Appellant challenged a decision of the Commission rendered on April 1, 1998. The decision had the effect of denying Forrest's application to install vinyl siding over the existing cedar shingles on the house at 304 Paris S.E., Grand Rapids. In her appeal, the Appellant asserted that the Commission's decision should be set aside because: 1) accessing the second and third stories of the house for painting is a significant

² 1969 PA 306, § 71 et seq; MCL 24.271 et seq; MSA 3.560(171) et seq.

problem, 2) the cost of maintaining cedar shingles on the south side of the house is extremely high due to deterioration from exposure to Michigan's weather conditions, 3) commissions in other communities have approved the installation of vinyl siding on a case-by-case basis, 4) another homeowner in the District was permitted to remove aluminum siding and replace it with wood carvings and multi-colored paint, and 5) contemporary manmade materials are virtually indistinguishable in appearance from natural materials.

Summary of Evidence

Section 5(2) of the Act, supra, indicates that appellants may submit all or any part of their evidence and argument in written form. In that vein, the Appellant submitted five exhibits in support of her appeal. Appellant's Exhibit No. 1 is a letter appealing the Commission's decision and outlining the reasons why the decision should be set aside. The letter was accompanied by several attachments, including: a copy of a letter by Ronald K. Spinger, Historic Preservation Officer, City of East Lansing, notifying a builder that the Commission concluded that allowing the installation of vinyl siding would be acceptable under the provisions of its ordinance; land and building sketches for 304 Paris S.E.; the Policy on Artificial Siding and Trim, Grand Rapids Historic Preservation Commission; Notice of Denial dated April 7, 1998; Application for Certificate of Appropriateness dated March

18, 1998; and a three-page informational brochure entitled "Vinyl Siding vs. Wood, The Siding Collection CertainTeed". Appellant's No. 2 consists of three photographs which depicted the following: the front (west) side of 304 Paris S.E., 24 College N.E., a house in the Heritage Hill District, and a house in the 200 block of Paris S.E. Appellant's No. 3 is a photograph of 715 Fountain N.E. Appellant's No. 4 is a photograph of the south side of 304 Paris S.E. Appellant's No. 5 is a brochure prepared by CertainTeed entitled "Cedar Impressions".

Betty Forrest testified at the hearing on her own behalf and also presented testimony from a friend and neighbor, George Seamon. Forrest testified that she had obtained three or four bids for replacing the cedar shingles on her house. Forrest said that the contractors who bid on the job used either cedar or vinyl. Forrest stated that the contractors had recommended using vinyl siding, which has been approved by the historic district commissions in both Kalamazoo and East Lansing. Forrest stated also that she would not even be thinking of using vinyl if it were not for the problem of accessing the second and third stories for painting. Forrest stated further that because of the swimming pool and hot tub, it is necessary to build a platform and scaffolding to gain access the upper stories for painting. Forrest indicated that the cost of painting the entire house in 1979 was \$3000.00, that the cost in 1984 had increased to \$5000.00, and that in 1990 the cost

to paint just one side of the house was \$3500.00. Forrest said that because of the problem accessing the upper stories and the cost of repairing weather deterioration of the 116 year old building, the shingles cannot be painted anymore. She stated that the cost to replace the cedar shingles is about the same as vinyl, but that there was an ongoing cost associated with repairing and painting wood. Forrest said that she had always been interested in maintaining her home, but the Commission must recognize and consider that there has been an improvement in the products that are now available. Forrest asserted that the Commission should look at artificial siding in light of the quality of the products that are available on the market now, but were not available when the District was created in 1979.

George Seamon testified that he has resided at 510 Paris S.E. for more than 30 years. Seamon said that he is a member of the Heritage Hills Association and participates in the District's fall tour of homes. Seamon indicated that as a homeowner, he shares Forrest's concerns about the cost of maintaining older buildings. Seamon said he felt that the Commission should take a common sense approach to historic preservation.

To counter the Appellant's evidence, the Commission submitted four exhibits into evidence at the hearing. Commission Exhibit No. 1 is page 2 of the Commission Meeting Minutes of April 1, 1998. Commission No. 2 consists of: Application for Certificate of

Appropriateness No. 9801117 submitted by Betty Forrest dated March 18, 1998; two pages of "Cedar Impressions" materials; two pages prepared by Betty Forrest in support of her application dated March 17, 1998; a letter from Dan Zondervan & Company, Inc., to Betty Forrest, dated February 19, 1998, quoting a price of \$9,000.00 to replace wood shingles on the second and third stories of the south side of 304 Paris S.E.; a proposal prepared by Hammerhead Construction dated March 2, 1998, quoting a price of \$8,250.00 to replace cedar shingles on the south side of 304 Paris S.E.; and a letter from City of Grand Rapids Fire Department to Betty Forrest dated May 1, 1997, concerning a complaint that the exterior stairway on the north side of 304 Paris S.E. presents a dangerous condition for egress in case of a fire. Commission No. 3 consists of the Grand Rapids Historic Preservation Commission Guidelines for Historic District and Designated Historic Properties pertaining to substitute siding and trim. Commission No. 4 is a copy of U.S. Department of the Interior Preservation Briefs entitled "Aluminum and Vinyl Siding on Historic Buildings".

The Commission also presented testimony from one witness, Sue Thompson, the City of Grand Rapids staff liaison to the Commission. Thompson testified that the Commission was reluctant to approve artificial siding because it is not historically accurate and also because it can cause additional damage to a structure. Thompson said that to the best of her knowledge, in the recent past the

Commission has not approved the use of any artificial siding on any building. Thompson stated that if artificial siding were approved, it would effectively prevent the building from ever being restored using natural materials.

Findings of Fact

Based on the evidence presented by the parties during the administrative hearing, the facts of this matter are found to be as follows:

A. Background

1. The Heritage Hill Historic District was established by ordinance on April 24, 1973. The ordinance was amended on July 16, 1991.

2. The circa 1882 Forrest House is located at 304 Paris S.E., Grand Rapids, Michigan, and is situated within the Heritage Hill Historic District.

B. Application For Certificate of Appropriateness

3. On March 18, 1998, Betty Forrest submitted an application for approval to install "Certain Teed Cedar Impression" vinyl siding over existing cedar siding on the south side of the second and third stories of 304 Paris S.E. (Appellant's No. 1)

4. In support of her application, Forrest asserted five reasons for covering the cedar siding with vinyl as follows: 1) accessing the siding on the south side of the upper stories for painting is extremely difficult, 2) the south side gets the

heaviest weathering, 3) the appearance of "Cedar Impressions" vinyl siding is indistinguishable from the cedar siding, particularly at the level of the second and third stories, 4) the cost of repainting the south side of the house every four or five years is very expensive (the bid to paint the south side in 1997 was \$6500.00), and 5) applying vinyl siding over the existing siding would provide additional insulation, and manmade vinyl is superior to the original cedar siding. (Appellant's No. 1)

C. Aesthetic Features/Current and Future Cost Considerations

5. Forrest is of the opinion that, given the height of the second and third stories above the ground and the design, color, and texture of the proposed vinyl siding, it would be difficult to distinguish vinyl from wood.

6. Forrest also points out that vinyl siding would provide a more permanent solution to maintenance, whereas wood replacement would involve an ongoing expense, in that wood would require repainting every few years.

7. The cost (or estimate) for painting the exterior surface of 304 Paris S.E. is as follows:

1990 - south side - \$3,700.00
1991 - north side - \$2,000.00
1992 - east side - \$2,350.00
1994 - west side & garage - \$2,800.00
1997 (estimate) - south side - \$6,500.00 (Appellant's No. 1)

8. Cost estimates for replacement (labor and materials) of the cedar shingles on the south side of 304 Paris S.E. is as

follows:

Dan Zondervan & Company, Inc. (cedar) - \$9,000.00
Hammerhead Construction (cedar) - \$8,250.00
Weatherhead & Sons (vinyl) - \$9,765.00 (Commission No. 2)

9. CertainTeed "Cedar Impressions" are molded from real cedar shingles and have the general appearance of natural cedar shingles. (Appellant's No. 5)

10. Betty Forrest is a 68 year old widow living on an unspecified fixed income. Forrest indicated that her home at 304 Paris S.E. represented a substantial portion of her estate, which she intends to leave to her daughter as a maintenance-free place for her to live.

11. The cedar siding on the second and third stores of the south side of 304 Paris S.E. appears to be weathered and in need of repair and painting. The siding does not appear to require total replacement. (Appellant's No. 4)

12. The owners of the house located at 24 College N.E. in the Heritage Hill District were permitted to remove old aluminum siding and replace these portions with wood carvings and multi-color paint. (Appellant Nos. 1 and 2B)

D. Commission Meeting/Denial of Application

13. At the Commission meeting held on April 1, 1998, Betty Forrest presented her application for a certificate of appropriateness. Following discussion, Commissioner Jeniffer Metz moved to deny the application because the proposed change would

remove distinctive features of the property and would replace the original wood siding with vinyl siding contrary to the U.S. Secretary of Interior's Standards Nos. 2 and 5. The Commission unanimously passed a motion denying the application. (Commission No. 1)

14. The Notice of Denial mailed to Betty Forrest, dated April 7, 1998, states in pertinent part:

Moved to deny the application. The proposed change would remove distinctive features of the property, original wood siding being replaced by vinyl siding. (Secretary of Interior's Standard #2 & #5). Motion carried unanimously. (Commission No. 1)

15. The Commission has consistently denied applications seeking approval for the use of "substitute siding".

Conclusions of Law

As indicated at the outset of this decision, section 5(2) of the Local Historic Districts Act, supra, allows persons aggrieved by decisions of commissions to appeal to the State Historic Preservation Review Board. Section 5(2) also provides that the Board may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. Relief should, of course, be granted where a commission has, among other things, acted in an arbitrary or capricious manner, exceeded its legal authority, or committed some other substantial or material error of law. Conversely, where a commission has reached a correct decision, relief should not be

awarded. In a proceeding such as this, appellants have the burden of proof with respect to their own factual allegations. 8 Callaghan's Pleading & Practice (2d ed), section 60.48, p 176; Prechel v Dep't of Social Services, 186 Mich App 547, 549; 465 NW2d 337 (1990).

The Appellant cites five grounds for reversing the Commission's decision. In order to appropriately address the Appellant's arguments, it is first necessary to consider the applicable federal, state and local law.

A. Federal, State and Local Laws

1. Secretary of the Interior's Standards/Guidelines

The U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1990) contain provisions which are pertinent to the subject matter of this case. In denying the Appellant's application, the Commission specifically relied upon No. 2 and No. 5 of the Secretary of the Interior's Standards for Rehabilitation.

These Standards provide as follows:

The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

* * *

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

* * *

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize

a property shall be preserved.

In addition to the two standards specifically cited by the Commission, Standard 6 which stresses repairing rather replacing deteriorated materials is also important. This Standard states:

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence. (Emphasis added)

2. Preservation Briefs

Preservation Briefs prepared by the U.S. Department of the Interior's National Park Service, Preservation Assistance Division, contain valuable information concerning the appropriateness of using aluminum and vinyl siding as substitute materials for resurfacing historic wood frame buildings. Among other things, the Briefs describe the conditions which should be present when considering replacing natural wood with manmade materials. The Briefs state in pertinent part as follows:

PRESERVATION BRIEFS

* * *

The Use of Aluminum or Vinyl Siding on Historic Buildings

The maintenance and periodic painting of wood frame structures is a time-consuming effort and often a substantial expense for the homeowner. It is therefore understandable that a product which promises relief from periodic painting and give the building a new exterior cladding would have considerable appeal. For these reasons, aluminum and vinyl siding have been used

extensively in upgrading and rehabilitating the nation's stock of wood frame residential buildings. For historical residential buildings, aluminum or vinyl siding may be an acceptable alternative (to the original wood material) only if (1) the existing siding is so deteriorated or damaged that it cannot be repaired; (2) the substitute material can be installed without irreversibly damaging or obscuring the architectural features and trim of the building; and (3) the substitute material can match the historic material in size, profile and finish so that there is no change in the character of the historic building. In cases where a non-historic artificial siding has been applied to a building, the removal of such siding, and the application of aluminum or vinyl siding would, in most cases, be an acceptable alternative, as long as the above-mentioned first two conditions are met.

* * *

Durability and Cost

The questions of durability and relative cost of aluminum or vinyl siding compared to the maintenance cost of historic materials are complex A normal application of aluminum or vinyl siding is likely to cost from two to three times as much as a good paint job on wood siding . . . On wood two coats of good quality paint on a properly prepared surface can last from 8 to 10 years, according to the U.S. Department of Agriculture. If the conservative life of seven years is assumed for paint on wood, then aluminum and vinyl siding should last 15 to 21 years before requiring additional maintenance, to break even with the maintenance cost for painting wood siding. Once painted, the aluminum and vinyl siding will require repainting with the same frequency as wood . . .
 . (Emphasis added)

Summary

. . . Because applications of substitute materials such as aluminum and vinyl siding can either destroy or conceal historic building material and features and, in consequence, result in the loss of a building's historic character, they are not recommended by the National Park Service. Such destruction or concealment of historic materials and features confuses the public perception of that which is truly historic and that which is imitative.

3. Local Historic Districts Act

Among other things, section 5(3) of the Act³ provides that in reviewing rehabilitation plans for historic buildings, commissions must follow the U.S. Secretary of the Interior's Standards and Guidelines. The section states as follows:

Sec. 5. * * *

(3) In reviewing plans, the commission shall follow the U.S. secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the bureau. The commission shall also consider all of the following:

(a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.

(d) Other factors, such as aesthetic value, that the commission finds relevant. (Emphasis added)

4. Grand Rapids Commission Guidelines

It should be noted also that the Grand Rapids Historic Preservation Commission has established Guidelines for Historic Districts and Designated Historic Properties pertaining to substitute siding and trim on existing buildings. These Guidelines state in pertinent part as follows:

GRAND RAPIDS HISTORIC PRESERVATION COMMISSION

³ See footnote 1.

GUIDELINES FOR HISTORIC DISTRICTS AND DESIGNATED HISTORIC PROPERTIES

* * *

II. Definitions

For the purpose of these guidelines, the terms "substitute siding and trim" shall be understood to encompass the use of any contemporary vinyl, metal or other man-made material intended to cover all, or any part of, an exterior wall, trim work or other building element of existing structures located within a designated historic district.

III. Policy

The Secretary of the Interior's Standards for Rehabilitation Historic Buildings recommended against:

* * *

"Removing or changing wood features which are important in defining the overall historic character of the building so that, as a result, the character is diminished."

"Using substitute material for the replacement part that does not convey the visual appearance of the wood feature or that is physically or chemically incompatible."

Removing an entire wood feature that is unrepairable and not replacing it; or replacing it with a new feature that does not convey the same visual appearance."

* * *

IV. Guidelines

A. Materials

The use of substitute siding or trim in any form on an existing building is not recommended. Substitute siding or trim rarely replicates the dimensions or appearance of original materials. The use of original or comparable building materials is the historically appropriate approach to the rehabilitation of any structure located in a designated historic district.

B. Exceptions

In order to qualify for the rare approval of substitute siding on an existing building, the application must meet **all three (3)** of the following tests:

1. The substitute siding will replace other substitute siding on the structure; OR, there are other practical reasons to approve new substitute siding, such as:
 - a) unreasonable cost of restoring the original material, judge in relation to the finished value of the property;
 - b) lack of availability of original materials (or other suitable alternative) or the skills necessary to apply those materials (an uncommon situation, probably applying only with rare masonry or shingle materials);
 - c) an emergency (probably temporary) need to provide siding in a time period which does not allow use of the original material (or other suitable alternative).

* * *
2. The substitute siding will be applied in such a manner that distinctive architectural details will be preserved or, if missing, may be recreated based on documentation.
3. The proposed installation of substitute siding shall take into account the size, shape, color, texture and linear direction of the original building materials. Substitute siding which possesses a simulated wood grain surface is not considered appropriate.

C. Information Requirements

The Commission shall review each application proposing the installation of substitute siding or trim on its merits. In any case where substitute siding is proposed, the following information should be included in the application.

1. A detailed statement of the purpose and scope of the proposed installation of substitute siding or trim.
2. Identification of any deterioration of the existing siding and trim, including the nature and extend of the deterioration, with cost estimates for repair

or replacement of existing siding or trim.

3. A detailed written description, including drawings and photographs, of exactly how all of the proposed substitute siding and trim is to be installed. Material and color samples should be submitted with this written description.

B. Accessing Upper Stories/High Cost of Maintenance

The Appellant argues first that the Commission's decision should be set aside because, given the location of the swimming pool, it is very difficult to access the second and third stores for painting. Also, because of the south side's exposure to the weather, it must be painted more frequently than other sides of the house.

The Appellant pointed out that the estimated cost for painting only the south side in 1997 was nearly \$3000.00 more than the cost in 1990. Moreover, the siding in question was in need of replacement, not merely painting. She pointed out also that while the initial cost of replacing the cedar siding with vinyl would be more expensive (\$9,765.00 versus \$8,250.00 to \$9,000.00), it would not require frequent maintenance like wood.

In denying the Appellant's application, the Commission endeavored to follow the Secretary of the Interior's Standards and Guidelines, as well as those adopted at the local level. The local guidelines were designed to be used in conjunction with the Secretary of the Interior's Standards.

It is clear from the hearing record that the Commission was

concerned that approving artificial siding would render the house historically inaccurate and that the installation could cause additional damage to the structure. The Appellant has not made a compelling case that the Commission failed to follow the Secretary of Interior's Standards and Guidelines, as well as its own Guidelines. Rather, the Appellant argues that because of the circumstances which are "unique" to her house, i.e., the difficulty in gaining access to the second and third stories for painting and the abnormal deterioration of the surface on the south side of the structure due to exposure to the weather, she believes the Commission should approve the installation of vinyl siding.

Other than the issue of access and the additional costs associated with building scaffolding to deal with that problem, it was shown that the Appellant's situation is not unlike that of other homeowners of wood structures described in the Preservation Briefs. It is understandable that as an elderly homeowner, the Appellant is particularly sensitive to the costs of maintaining a wooden structure.

Without disputing the cost involved to paint the building and the cost estimates for replacement of the existing cedar siding with either cedar or vinyl, there is insufficient evidence in the hearing record to find that the entire exterior surface of the second and third stories on the south side are in need of replacement. Based on the photographic evidence submitted

(Appellant's No. 4), it appears that while some shingles may require repair or replacement, and further, that the entire surface is in need of painting, the Appellant's evidence failed to establish that all of the shingles on the second and third stories of the residence need to be replaced.

Significantly, Standard 6 of the Secretary of the Interior's Guidelines stresses that materials in historic structures should not be removed and should be repaired rather than replaced. Only in cases where the materials cannot be repaired should they be replaced, and the replacement material should match the original material.

It is also important to consider the information contained in the Preservation Briefs regarding the relative cost of maintaining natural materials compared to manmade materials. Based on these authoritative sources, it appears that the Appellant has overstated the benefits of using "substitute siding". According to the Briefs, application of vinyl siding is likely to cost two to three times as much as a good paint job on wood. If a coat of paint lasts about seven years, manmade siding would have to last 15 to 21 years to equal the cost of painting. Moreover, once aluminum or vinyl siding is painted, it requires repainting the same as wood.

The Commission Guidelines recommend against using "substitute siding". In order to qualify for the rare Commission approval for the use of "substitute siding", an applicant must meet all three of

the tests described under the exceptions. However, these exceptions apply only when replacement is required. In this instance, evidence in the hearing record showed that total replacement is not necessary. Rather, it appears that only a limited number of shingles may require replacement and that the others require painting, not replacement.

Assuming for the sake of argument that the shingles were in need of replacement, the Appellant has failed to meet all three of the tests to qualify for approval of substitute siding. Assuming that the substitute siding would be applied in such a manner that the structure's architectural details would be preserved and installation would take into account the size, shape, color, texture and linear direction of the original materials, the Appellant submitted no evidence that the cost of replacing the original cedar shingles with cedar shingles would be unreasonable. Appellant's evidence in fact showed the contrary, i.e., that the cost for replacement cedar shingles (\$9,000.00) is not unreasonable when compared to the cost for vinyl (\$8,250.00 to \$9,765.00). Clearly, the cedar shingle are available, and there is a contractor (Zondervan) prepared to make the installation.

Evidence in the hearing record indicates that Appellant is most interested in creating a structure that will be relatively maintenance-free during her lifetime and later on for her daughter, when she inherits the home as part of the Appellant's estate,

without regard to the fact that her home is located in an historic district.

In view of the discussion above, the Appellant's argument regarding accessibility and maintenance costs must be rejected.

C. Other Districts Approved Using Man-Made Materials

The Appellant asserted also that the Commission failed to consider the merits of her application in light of the fact that other local historic districts have approved the use of man-made materials.

The fact that other local historic district commissions, notably those in East Lansing and Kalamazoo, may have approved the use of manmade materials, is not germane to the situation in the Heritage Hill Historic District in Grand Rapids. The Appellant's argument that the Commission should have considered the actions of other commissions regarding the use of artificial materials is not persuasive. Although other local historic district commissions are bound by the provisions of the Act and the U.S. Secretary of the Interior's Guidelines for Historic Preservation, the Appellant submitted no authority or evidence which suggested that the actions of those commissions should provide precedent for the decisions made by the Commission in Grand Rapids.

D. Approving Removal of Aluminum Siding Within District

The Appellant also argued that another homeowner in the District was permitted to remove aluminum siding and cover the

replaced portions with wood and multi-colored paint.

The evidence submitted showed that the Commission has consistently rejected requests by homeowners to install manmade materials on the exterior of buildings because to do so would compromise the integrity of historic structures. Replacing non-historic materials such as aluminum presents an entirely different situation than is present in this case.

There is a significant difference between replacing existing non-historic materials with other artificial materials and replacing historic materials with non-historic materials. The Briefs indicate that only in cases where non-historic artificial siding has been applied to a building is the removal of the siding and the application of replacement aluminum or vinyl siding a generally acceptable alternative to using natural materials. Also, replacement is only appropriate when the existing siding is so deteriorated that it cannot be repaired and the replacement material can be installed without damaging the architectural features of the building.

Unlike the residence at 24 College N.E. which had existing aluminum siding, the Appellant's house has cedar shingles. This important distinction renders the Appellant's argument meritless on this issue.

E. Man-Made Materials Indistinguishable From Natural Materials

The Appellant argued, lastly, that CertainTeed "Cedar

"Impressions" installed on the second and third stores of her home would be virtually indistinguishable from natural cedar at ground level. In a similar vein, the Appellant argued that the Commission should consider approving the use of contemporary manmade materials that were not available when the District was created in 1979.

Granted, the Appellant submitted evidence that "Cedar Impression" shingles molded from natural cedar shingles would not be easily distinguishable from natural shingles at ground level. If visual appearance were the sole issue, Appellant's argument would have considerable merit. The Commission's policy recommends against using substitute material that does not convey the appearance of the wood feature. The use of substitute material like "Cedar Impressions" is only an option available in those rare instances where replacement is necessary and otherwise justified. The evidence submitted did not establish that replacement of the cedar shingles in question was either necessary or justified.

The evidence showed, at most, that some of the shingles may require repair or replacement, in addition to painting. Clearly, replacing all of the shingles on the second and third stores of the entire south side of the residence is not required. According to federal, state, and local law, only those natural materials which require replacement should be replaced.

In light of the above, the Appellant's argument on this issue must be rejected.

must be rejected.

Conclusion

Evidence in the record as a whole does not support a conclusion that approval of the Appellant's application to replace existing cedar siding with vinyl siding would be in keeping with the U.S. Secretary of the Interior's Standards and Guidelines, the Local Historic Districts Act, or the Grand Rapids Historic Preservation Commission's Guidelines. The Commission could not simply limit its review to the Appellant's individual residence and the site on which it stands. The Commission was required to consider, on a broader scale, what was appropriate for the entire Heritage Hill Historic District. The Commission was also required to consider whether the Appellant's proposal would create a false sense that the structure was historically accurate. After consideration of the Appellants' application, the Commission reasonably found that permitting installation of vinyl siding would adversely affect distinctive features of the property.

In consideration of the entire hearing record developed in this case, it is concluded that the Appellant failed to show that permitting her to replace the existing cedar siding on the second and third stories on the south side of her residence would be appropriate under the Secretary of the Interior's Standards and Guidelines, the Local Historic Districts Act, and the Grand Rapids Commission's Guidelines.

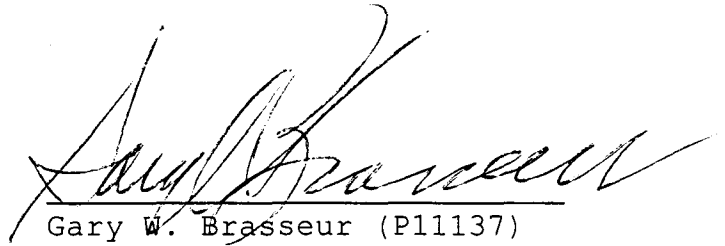
It is therefore concluded that the Commission did not act arbitrarily or capriciously, and did not violate federal, state or local law in denying the Appellant's application.

Recommendation

Having determined that the Commission did not error by rejecting the Appellant's request, it is recommended that the appeal be denied.

Dated:

August 28, 1998



Gary W. Brasseur (P11137)
Administrative Law Examiner

* * *