

COUNCIL ACTION MEMO



Resolution Ordinance Discussion

To: Honorable Mayor and Members of City Council
From: Frank Hopkins, Zoning
Subject: Request of Kyle Hopkins on behalf of property owner Karen Darby for a Conditional Use Permit under code section 17-2-5(B) pertaining to renovations in excess of 35% of the building value for a nonconforming structure during a one year period. The property is located at 417 Fairmont Ave zoned Low Density Residential (LR) and Historic Winchester District (HW).
Meeting: City Council Regular Meeting - Oct 13 2020
Regular Meeting: October 13, 2020
Presenter: Frank Hopkins, Zoning Administrator

THE ISSUE:

The CUP request is for a nonconforming structure to exceed 35% of the replacement value of the structure in a one year period. The desired renovations are in excess of 35% requiring the applicant to seek the approval of City Council to perform the work.

BACKGROUND INFORMATION:

417 Fairmont is currently a four-unit multifamily structure. The owner would like to convert the building into a single-family home. However, the structure itself does not meet the 10-foot side setbacks where the structure only sits 6 feet from the side property lines. This makes the structure nonconforming and subject to the nonconforming regulations found under article 17. Code section 17-2-5b requires non conforming structures seeking to do renovations over 35% of the building value in any one year to seek a CUP. The desired renovations are well more than 35% of the building value and therefore requires Council approval.

BUDGET IMPACT:

none

OPTIONS:

- Approve the application as submitted
- Approve with revised/additional conditions
- Deny the application

RECOMMENDATION:

City staff is in support of CU-20-440

ATTACHMENTS:

REVIEW:

Melisa Michelsen, City Attorney

Approved - Sep 17 2020

MEETING HISTORY:

CU-20-440 received a public hearing before the City of Winchester Planning Commission on 9/15/2020. The application was forwarded to City Council with unanimous approval from Planning Commission.

September 22, 2020 City Council Work Session:

Motion to forward CU-20-440 to the next City Council Regular Meeting.

RESULT: Approved to Forward

MOVER: Vice-President Clark

SECONDER: Councilor Veach

AYES: Vice-President Clark, Councilor Herbstritt, Vice-Mayor Hill, Councilor McKiernan, Councilor Sullivan, Councilor Veach, Councilor Wiley, Councilor Willingham, and Mayor Smith, Jr

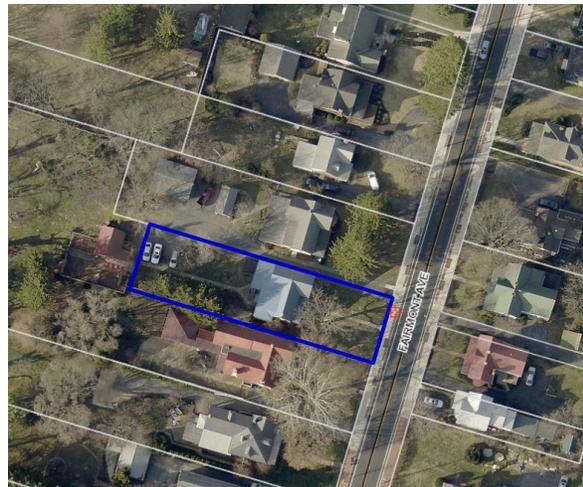
CUP-20-440 Request of Kyle Hopkins on behalf of property owner Karen Darby for a Conditional Use Permit under code section 17-2-5(B) pertaining to renovations in excess of 35% of the building value for a nonconforming structure during a one year period. The property is located at 417 Fairmont Ave (Map Number 172-01-E-12) zoned Low Density Residential (LR) and Historic Winchester District (HW).

REQUEST DESCRIPTION

Section 17-2-5(B) of the Winchester Zoning Ordinance contains regulations governing renovations of nonconforming structures. It states that renovations of nonconforming structures in excess of 35% of the building value shall require a CUP and approval by City Council. That applicant would like to perform renovations at 417 Fairmont Ave in excess of 35% of the building value. They are seeking this approval to perform this work.

AREA DESCRIPTION

The property is located on the West side of Fairmont Ave south of W. North Street and is zoned Low Density Residential District (LR) as well as being part of the Historic Winchester District (HW) overlay. The subject property is surrounded by other LR properties. All the neighboring properties feature residential uses.



BACKGROUND

The existing residence at 417 Fairmont Ave is a residential home that features four nonconforming apartments in the structure. The applicant would like to renovate that structure as a single family home, removing the existing apartments. The structure is also nonconforming to side setbacks as it projects into the north side setback by 6 feet. The buildings encroachment into the side setbacks makes it a nonconforming structure and subject to the regulations found under Article 17- Nonconformities to include the provision found under 17-2-5(B) which requires a CUP for renovations in excess of 35% of the building value.

The regulations also specify that the 35% calculation is to be made by assessing the value of the structure without the value of the underlying land. In this instance, the improvement value of 417 Fairmont Ave is \$157,000 while the estimated renovation

cost is \$250,000. This plan far exceeds the 35% cap and has necessitated a CUP request to allow for the desired renovations.

COMPREHENSIVE PLAN CONSISTENCY

The Comprehensive Plan calls out the area as 'Neighborhood Stabilization' on the Character Map. The use is consistent with the goals and objectives advocated in the Comprehensive Plan.

RECOMMENDATION

CU-20-440 was forwarded to City Council from Planning Commission on 9/15/2020 with unanimous support.

MOTION

A favorable motion could read,

MOVE, that City Council Approve **CU-20-440** because the conditional use permit as proposed, should not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood and conforms generally to the Comprehensive Plan. This CUP request would be a benefit to the neighborhood and the applicant would be creating great improvements to their property.

If the City Council determines that the request is not acceptable and would adversely affect the residents in the neighborhood, or be injurious to adjacent properties or improvements in the neighborhood, then an unfavorable motion could read:

MOVE, that the City Council deny **CU-20-440** for any specified reasons.



CASE #: CU- 20-440
 FEE AM'T: 525.00
 DATE PAID: 8/10/2020

Rouss City Hall
 15 North Cameron Street
 Winchester, VA 22601
 540-667-1815
 TDD 540-722-0782

CONDITIONAL USE APPLICATION

Please print or type all information	Kyle Hopkins
	Applicant
540 550 5458	502 Fairmont Ave
Telephone	Street Address
kyle@foursquarearchitects.com	Winchester, VA 22601
E-mail address	City State Zip

<i>Karen S Darby</i>	<i>Karen Darby</i>
OWNER'S SIGNATURE (use reverse to list additional owners)	Owner Name (as appears in Land Records)
540 333-1390	PO Box 622
Telephone	Street Address
karendarby@mac.com	Marshall VA 20116
E-mail address	City State Zip

TYPE OF REQUEST - Please mark type of request and complete information

CONDITIONAL USE Code Section: <u>17-2 (side setbacks)</u> Type of Use: <u>Single Family Residential</u>	FEE \$525 + \$50 deposit <input checked="" type="checkbox"/> \$500 <input type="checkbox"/> \$200 (if filed with site plan) <input type="checkbox"/> \$1500 Telecommunications Facility/Tower (New, Modification, or Collocation) <input checked="" type="checkbox"/> \$25 - property list <input checked="" type="checkbox"/> \$50 - sign deposit
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PROPERTY LOCATION

Current Street Address(es) 417 Fairmont Ave Zoning URT LR

Tax Map Identification - (sections, blocks, lots) 172-01-E-12

REQUIRED MATERIALS LIST

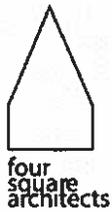
- 1 copy of application (this form completed)
- Letter addressing compliance with Section 18-2 of City's Zoning Ordinance and how impacts of use will be mitigated
- 10 copies of the Site Plans, Floor Plans, and elevations of proposed use.
- Fee (check made payable to the Treasurer, City of Winchester)
- List of adjacent property owners. List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by the City, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. **Only complete applications, which includes all the above materials, will be accepted.**

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing and that all delinquent Real Estate taxes have been paid per Section 23-9.

SIGNATURE *[Signature]* DATE 8/4/20
 APPLICANT

(rev 8/22/2013)



August 04, 2020

Attention: City of Winchester
15 N. Cameron St.
Winchester, VA 22601

Reference: 417 Fairmont Conditional Use Permit

Winchester Planning Commission,

This letter is in reference to the CUP application for 417 Fairmont Ave in Winchester, VA. The current use at 417 Fairmont is a non-conforming use consisting of a four unit apartment complex. The house, circa 1880, was built with side setbacks that do not conform to the current, newer ordinance, thus making this older building a “non-conforming structure.”

My client, Karen Darby, is planning to turn the non-conforming use into a single-family house for herself, which is a by right use in this LR district. In doing this, she has to put a significant amount of money into the renovation. The current Conditional Use section is written to require a homeowner or developer who is putting a significant amount of money (more than 35% improved value) into a non-conforming structure (significantly bettering it) to go through the laborious and costly process of the Conditional Use.

By turning a non-conforming four unit use into a single-family use, Karen is already mitigating the “impacts” of this use on neighboring properties (who are already welcoming her arrival). The side setbacks are 6’ and 6’-6” and remain the same since it was built in 1880.

As a resident of Old Town Winchester, a future neighbor of Karen, I kindly request that you approve this CUP and allow us to breathe new life into this dilapidated structure.

Thanks much,

Kyle Hopkins, AIA

Architect

Phone: 540 550 5458

Kyle@foursquarearchitects.com

Attachment: