

# ANN ARBOR HISTORIC DISTRICT COMMISSION

## Staff Report

**ADDRESS:** 217 North Fifth Avenue, Application Number HDC13-164

**DISTRICT:** Old Fourth Ward Historic District

**REPORT DATE:** October 10, 2013

**REPORT PREPARED BY:** Jill Thacher, Historic Preservation Coordinator

**REVIEW COMMITTEE DATE:** Monday, October 7, 2013

### OWNER

**Name:** Jon & Lisa Rye  
**Address:** 735 Forest Ave #308  
 Birmingham, MI 48009  
**Phone:** (248) 765-2325

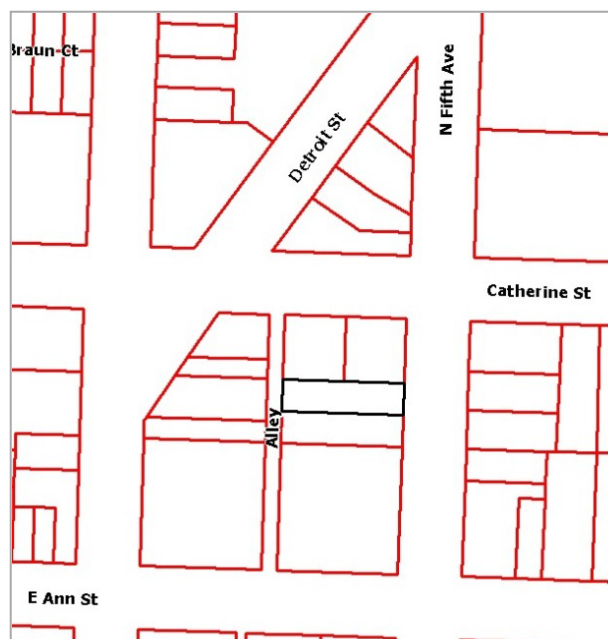
### APPLICANT

Mitchell & Mouat Architects  
 113 South Fourth Ave  
 Ann Arbor, MI 48104  
 (734) 662-6070

**BACKGROUND:** This brick two-story gable-fronter features shingles in the front and rear gables, a wood front porch, one-over-one double hung windows, and small columns flanking the recessed attic windows in each end gable. The house was first occupied in 1900 by John and Pauline Baumgardner. John was the manager of the Ann Arbor Stone Company at the same address, and had one of the city's few telephones installed in the house at that time. Baumgardner's Barn, a few lots down at 301 North Fifth Avenue (corner of Detroit, currently occupied by Jessica's Apothecary), was built in 1887 as part of John Baumgardner's Marble Works. The Baumgardners lived at 217 until 1913 or 1914, when the home was occupied by John Pfisterer, with Matilda C. Pfisterer, teacher at Christian Mack School, listed as a boarder. Matilda, and subsequently Emilie Pfisterer, occupied the house until 1966.

The 1908 and 1916 Sanborn Fire Insurance Maps show a small one-story enclosure (room) off the back door. It is not shown on the 1925 Sanborn.

In February of 2013, the HDC issued a certificate of appropriateness to re-work the rear yard, formalize two parking spaces off the alley, eliminate the driveway, and replace five windows – the HDC also denied a certificate of appropriateness for the replacement of four other windows, which are now included in this application for a notice to proceed. In March of 2013, the HDC issued a certificate of appropriateness to remove the chimney and install two shed dormers. In September of 2013, the HDC issued a certificate of appropriateness to change the window sizes in the new dormers.



**LOCATION:** The house is located on North Fifth Avenue, north of East Ann Street and south of Catherine Street.

**APPLICATION:** The applicant seeks a notice to proceed from the HDC to replace 24 wood windows with Pella replacement windows, including the four windows that were denied a certificate of appropriateness in February, 2013.

Also included with the application are a letter from the owner's attorney which describes the health concerns that are the basis for the notice to proceed request; an affidavit from Dr. Dinesh Khanna documenting the health concerns of Lisa and Calvin Rye; a window condition assessment from Blackberry Window and Door Systems; and project drawings, photos, and other supporting documents.

**APPLICABLE REGULATIONS:** The HDC may approve work (including work that does not qualify for a certificate of appropriateness) by issuing what is called a notice to proceed. There are only four circumstances under which a notice to proceed may be granted by the HDC. The property owners have indicated in their application that they are requesting a notice to proceed based on health concerns of the occupants related to the refurbishment of the existing windows with epoxy, therefore the applicable provision is circumstance (a), shown below.

#### 8:416 Notice to Proceed

- (1) Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

- (a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

If the HDC finds that the resource constitutes a hazard to the safety of the public or to the structure's occupants and that the proposed work is necessary to substantially improve or correct the condition, then a notice to proceed will be issued.

#### STAFF FINDINGS:

1. A window assessment by Blackberry Window and Door Systems is included, which indicates that 10 windows require epoxy consolidation and patching; the sash need to be replaced in 11 of the windows (there is some overlap with the epoxy consolidation windows here); and that four windows require complete replacement. Four windows on the applicant's drawings are not addressed by Blackberry (windows D, H, P, and Q). The assessment states that all of the windows being restored would require the use of some epoxy consolidation and patch. The *condition* of the windows has no bearing on the HDC's actual decision, since the HDC will approve or deny the application based only on whether the resource constitutes a hazard to the occupants and that the proposed work is necessary to substantially improve or correct the condition.
2. The window specification sheets included with the application indicate that none of the proposed double hung and fixed replacement windows meet the *Ann Arbor Historic District Design Guidelines* with respect to the viewable profile of the sash face, and the

profile between the sash face and glass. Also, the basement hopper windows do not meet the profile requirements, and the casement windows do not meet the sash face requirements. As the proposed sash profile of the new windows does not relate to the applicant's stated epoxy health hazard and would not be necessary to correct the hazard, approval of a notice to proceed should be conditioned on the applicant's use of replacement windows that meet the Design Guidelines, including sash profile.

3. Should the HDC determine that the refurbishment of the windows with epoxy constitutes a hazard to the structure's occupants, staff's opinion is that replacing the windows consistent with the Design Guidelines will correct the hazard.

## MOTIONS:

*Note that all motions are worded in the affirmative, and are only suggested.*

I move that the Commission issue a notice to proceed for the application at 217 North Fifth Avenue, a contributing property in the Old Fourth Ward Historic District, to replace 24 wood windows with replacement wood windows, upon the following conditions:

- 1) -That the applicant applies for and receives a staff approval for wood windows that meet all of the City of Ann Arbor Historic District Design Guidelines, including the guidelines for sash profile, before permits are issued.
- 2) That the need for this work is immediate because Calvin or Lisa Rye will be the next occupant(s) of the property and one or both intend to occupy the property upon completion of the work.
- 3) That if, at any time prior to completion of the work, either property owner has knowledge that neither Calvin nor Lisa Rye will be the next occupant(s) of the structure, this notice to proceed shall immediately cease to be valid for any uncompleted work, all uncompleted work must stop, and the property owner must notify the City's Historic Preservation Coordinator.
- 4) That, before permits are issued, the property owners submit an affidavit affirming that:
  - a. The need for the work requested under this notice to proceed is immediate because they intend for Calvin or Lisa Rye to be the next occupant(s) of the property once the work is completed;
  - b. If, at any time prior to completion of the work, either property owner has knowledge that neither Calvin nor Lisa Rye will be the next occupant(s) of the property, the property owners will cease all work and notify the City's Historic Preservation Coordinator as soon as practicable; and
  - c. The property owners understand that if this notice to proceed ceases to be valid, any further work will be deemed unauthorized, and the Commission may order the property owners to restore the unauthorized work to its previous condition at the expense of the property owners.

5) That, before permits are issued, Calvin or Lisa Rye (or both, if applicable) submit an affidavit affirming that:

- a. He/she intends to be the next occupant of the property once the work authorized by this notice to proceed is completed; and
- b. If, at any time prior to completion of the work, he/she has knowledge that they will not be the next occupant of the property, he/she will notify the property owners and the City's Historic Preservation Coordinator as soon as practicable.

The Commission finds that refurbishing the wood windows at 217 North Fifth Avenue with epoxy constitutes a hazard to the safety of the structure's next occupant(s), Calvin or Lisa Rye, due to their particular medical issues, and that replacing the windows with new wood windows that meet the City of Ann Arbor Historic District Design Guidelines is necessary to correct the condition.

### **MOTION WORKSHEET:**

I move that the Commission

\_\_\_\_\_ Issue a Notice to Proceed

For the work at 217 North Fifth Avenue in the Old Fourth Ward Historic District

\_\_\_\_\_ As proposed.

\_\_\_\_\_ Provided the following condition(S) is (ARE) met: 1) CONDITION(s)

The work

\_\_\_\_\_ Is necessary to substantially improve or correct the following condition: the resource constitutes a hazard to the safety of the structure's occupants, and replacing the windows is necessary to correct the condition.

**ATTACHMENTS:** Application  
 Application letter (from Saulius Mikalonis)  
 Description of work applied for at the February, 2013 HDC meeting  
 Email from city's attorney to owner's attorney  
 Physician's affidavit  
 Window condition description  
 Material safety data sheet for epoxy resin  
 Drawings, photos, window worksheets  
 Replacement window section drawings  
 Letters of Support



217 North Fifth Avenue  
(September 2013 photo)