



MEMORANDUM

DATE: JULY 9, 2024
TO: HONORABLE BOARD OF SUPERVISORS
FROM: PLANNING AND BUILDING SERVICES
SUBJECT: APPEAL OF THE MENDOCINO HISTORICAL REVIEW BOARD'S DENIAL OF MHRB PERMIT 2023-0019

On March 14, 2024, Redwood Roofers, on behalf of the Applicant/Owner, filed an appeal of the decision by the Mendocino Historical Review Board to deny permit number MHRB_2023-0019 (the "Appeal") which requested the installation of black composition shingles to replace a failing metal roofing at 10450 Lansing Street, Mendocino; APN: 119-236-05. The Mendocino Town Plan Appendix 1 lists the site, known as Shell Garage, as a Category I Historic Resource.

CHRONOLOGY AND MENDOCINO HISTORICAL REVIEW BOARD (MHRB) ACTIONS:

The subject permit was submitted on November 16, 2023 and was first heard by the Mendocino Historical Review Board on December 4, 2023, where a motion was approved to continue the item to a date certain of February 5, 2024. The continuance was to allow the applicant time to prepare a cost estimate and provide more information on the life span of the proposed composition shingles in comparison to the metal roof. The February 5, 2024 MHRB meeting was cancelled and as a result the item was moved to the March 4, 2024 meeting. On March 4, 2024, the project was again presented to the Mendocino Historical Review Board with cost estimates and life span details. A motion was made by Review Board Member Kappler to deny the request to change the metal roofing material to black composition shingles which was seconded by Chair Roth. The motion carried 2-to-1 by roll call vote, with Review Board Member Lopez dissenting. The stated basis for the decision to deny the request included comments from Board Member Kappler and Chair Roth, commenting the following:

- The roof has historically remained metal
- The change to composition shingles would be a critical loss to the historic character of the Town.

APPLICABLE DESIGN GUIDELINES/CODE SECTIONS:

The Mendocino Historical Review Board Design Guidelines (1987) speak to appropriate roofing materials in section VII(6)(c), which states that:

Any roofing material must be compatible with surrounding buildings. Wood materials are encouraged. Asphalt shingles are allowed but not encouraged. Roll roofing, built up, tar and gravel, plastic or other glass fiber roofing materials are not appropriate. On flat roofs which are not visible from public areas, roof materials may be of any type which conforms to the building and fire codes of the town.

Mendocino County Code ("MCC") Sec. 20.760.040(K) provides an exemption from MHRB review for roofing changes, which states "*changes to existing roofing materials provided that the Planning and Building Services Department has determined that the roof is to be of wood shingles, or composition or other fire retardant material, which gives the appearance of wood*".

APPEAL:

MCC sections 20.728.015 and 20.760.072 include the regulations that pertain to Appeals of Mendocino Historical Review Board (MHRB) decisions. Appeals of MHRB decisions is under the jurisdiction of the

Mendocino County Board of Supervisors. MCC section 20.760.072(B) provides the grounds for appeal of MHRB decisions and subsection (5) includes that appeals may be filed if a project was denied, as is the case for MHRB_2023-0019. In addition, MCC section 20.760.072(C) requires that where a project has been denied, the appellant must demonstrate how the denied proposal would conform with the required findings to approve the development.

The Appeal, as filed, is based upon “similar styles and types of roofs in Mendocino have had metal removed and replaced with comp shingles. Previous precedent has been set.”

The Shell building (building subject to this application/appeal) was constructed in 1923 and is designated by Appendix 1 of the Mendocino Town Plan as a Category I Landmark structure. A Category I Landmark status is assigned when the construction is dated, history has been substantiated, and only minor alterations in character with original structure has occurred. In a Historic Resources Inventory from 1987 the structure is noted as having “pressed metal siding, and roof is corrugated metal”. A past MHRB permit application sought to demolish the structure and replace it with a new structure; however, the request was denied by the MHRB. The MHRB decision to deny the demolition request of the building was supported by the National Trust for Historic Preservation via letter in 1978, which noted that “if it were one of many 1920’s buildings, the garage would not be significant; but since it is one of the few that remains among buildings of later and earlier periods, it makes an important statement about the community during that period.”

On November 6, 1989, MHRB permit #89-33 was issued to Mike Huttleston for the same structure that is the subject of MHRB_2023-0019. The application for MHRB permit #89-33 originally requested the re-roofing of the structure with an existing metal roof with galvanized, corrugated steel painted brick red but was amended to request to re-roof the structure with composition shingles. The MHRB did not approve the re-roof to composition shingles and instead included the condition that materials used be galvanized, corrugated steel painted a rust color to match the existing color, and that it not be high gloss paint. The approval was not appealed. Given this past permitting and the condition for metal roofing, Staff determined that the proposed change to the existing roofing material would require the review of the MHRB. Due to this determination by Staff, the subject MHRB permit was filed by the applicant.

As part of reviewing the County Code and history of the subject property for this Appeal, Staff consulted with County Counsel’s office regarding the plain language of MCC section 20.760.040(K) and the applicability of the 1989 MHRB permit. At the time of the 1989 permit, the County Code did not have a section specifically exempting certain types of work from an MHRB permit. Then MCC section 20-115 provided that MHRB approval was required for any remodeling or alteration of the exterior of any structure where such work requires a building permit, with no exceptions. The only exception from a MHRB permit provided for in then MCC section 20-115 related to “routine maintenance painting in the same basic shade or color.” As such, the 1989 permit was for work that did require an MHRB permit at the time. However, the 1989 permit was specific to the roof applied for at that time and did not contain any condition that the roof of the building must always be corrugated steel painted a rust color.

MCC section 20.760.040 regarding exemptions from MHRB review and permitting was added in 1995 and provides for many activities that are exempt from the provisions of Chapter 20.760, including the roofing exemption of paragraph (K) stated above. Chapter 20.760 does not provide specific regulations for Landmark structures, nor does it state that Landmark structures are ineligible for exemptions from MHRB permit requirements pursuant to Section 20.760.040. Without any continuing obligation for the roof on the subject building to remain corrugated steel painted a rust color, the exemption provided in Mendocino County Code section 20.760.040(K) is applicable to the current permit application and a MHRB permit should not have been required for the proposed roofing change. Given the error in requiring a MHRB permit be applied for, the Department recommends that the Board grant the appeal and direct staff to refund both the application and appeal fees for MHRB_2023-0019 as the permit should not have been required.

RECOMMENDED ACTION:

Grant the appeal reversing the Mendocino Historical Review Board’s denial of MHRB_2023-0019 and direct Planning and Building Services to refund the application and appeal fee for MHRB_2023-0019.

ATTACHMENTS:

- A. Appeal Form
- B. Staff Report to MHRB December 4, 2023
- C. Sverko File
- D. Memo to MHRB February 5, 2024
- E. Public Comment from MHRB Meetings