



**LEAVENWORTH PRESERVATION COMMISSION MINUTES**  
**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**WEDNESDAY, January 3, 2024, 6:00 PM**

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**CALL TO ORDER:**

**Board Members Present**

Rik Jackson  
Ed Otto  
Ken Bateman  
Dick Gibson  
Sherry Hines Whitson

**Board Member(s) Absent**

**City Staff Present**

Michelle Baragary  
Bethany Falvey

Chairman Jackson called the meeting to order at 6:00 p.m. and noted a quorum was present.

**APPROVAL OF MINUTES: June 7, 2023**

Chairman Jackson asked for comments, changes or a motion on the June 7, 2023 minutes presented for approval. Commissioner Gibson moved to approve the minutes as presented, seconded by Commissioner Bateman, and approved by a vote of 5-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. ELECTION OF OFFICERS**

Chairman Jackson called for a motion. Commissioner Whitson moved that Chairman Jackson remain as Chair and Commissioner Otto remain as Vice Chairman, seconded by Chairman Gibson, and approved by a vote of 5-0.

**2. 2024-02 LPC 1128 3<sup>RD</sup> AVENUE**

A State Law review (K.S.A. 75-2724) for proposed modifications to the property located at 1128 3<sup>rd</sup> Avenue, a contributing property located in the Third Avenue Historic District, to determine if the project meets the Standards for Rehabilitation as set forth by the Secretary of the Interior.

Chairman Jackson called for the staff report.

City Planner Bethany Falvey stated this is a State Law review (KSA 75-2724) for the proposed modifications to the property located at 1128 3<sup>rd</sup> Avenue, a property located in the Third Avenue Historic District, under the Secretary of the Interior's Standards for Rehabilitation. The scope of work includes the installation of 31 roof-mounted solar panels.

The property is located in the Third Avenue Historic District, which was listed in the Register of Historic Kansas Places and National Register of Historic Places in 2002. The wood frame house is a two-story Queen Anne style house. The property is a Contributing structure to the district. The nomination notes the attached garage was added in c. 1970.

The proposed 31 roof-mounted solar panels are proposed on three sides of the primary house hipped roof (east, south, and west side), including the front facing roof on both sides of the gabled roof attached garage.

**REQUIRED REVIEWS:**

The proposed project shall be reviewed utilizing the Standards for Rehabilitation as set forth by the Secretary of the Interior:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

*No such change is proposed.*

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.

*The proposed roof mounted solar panels on the front (east) side will be highly visible from the street, altering the historic character.*

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

*No such change is proposed.*

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

*No such change is proposed.*

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

*No such change is proposed.*

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.

*No such change is proposed.*

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

*No such change is proposed.*

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

*No ground disturbing work is proposed.*

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

*The proposed solar panels will be differentiated but not compatible on the front side.*

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

*No such work is proposed.*

#### **ACTION /OPTIONS:**

- Motion, to determine that the proposed changes to 1128 3<sup>rd</sup> Avenue do not damage or destroy the Third Avenue Historic District.
- Motion, to determine that the proposed changes to 1128 3<sup>rd</sup> Avenue does damage or destroy the Third Avenue Historic District.
- Motion, to Table item until the next meeting for the purpose of gathering additional information.
- Motion, to forward to the SHPO for review.

Chairman Jackson called for questions about the staff report.

With no questions on the staff report, Chairman Jackson opened the public hearing.

Brady Luxford, with Invictus Solar, stated the only panels that would be visible from the street are the three front facing panels on either side of the dormer.

Commissioner Whitson asked what the lifespan is for the product.

Mr. Luxford stated there is a production and manufacturer warranty of 25 years.

Commissioner Whitson stated it would not be an eyesore now but is concerned about preserving the integrity of the home for the future use. After the 25 warranty is up, will it be upgraded.

Mr. Luxford stated they can be. The panels are guaranteed to be working at 100% within the first 25 years. The panels are complete black facing so they kind of blend in with the roof, and the panels stick about 6" off the face of the roof. The efficiency of the panels will decrease after 25 years but the system itself with the aluminum frames will not rust to make it unusable.

Commissioner Gibson asked what color the roof is.

Mr. Luxford responded dark brown.

Commissioner Gibson stated the black panels will stand out on the brown roof.

Commissioner Whitson asked if the contractor has a mockup picture.

Mr. Luxford provided a rendering for the commissioners to view.

Commissioner Gibson asked if this many panels are required for the square footage of the home or if they will be selling power back to the utility company.

Mr. Luxford stated this is under 100% of the usage, and they never try to go above that because the power company does not pay a very good percentage back (only about 1/3 of what the customer paid for).

Commissioner Whitson asked if the contractor has installed these panels on another house in the area.

Mr. Luxford responded in the affirmative.

Commissioner Whitson stated she would like to see those houses.

Staff stated that the board has the option to table the issue to give them time to view the other houses in Leavenworth that have these solar panels installed on the roof.

Commissioner Whitson reiterated that she would like to see the panels that are existing on other homes because the integrity of the historical area is very important to her, and she is thinking about the longevity of the panels from an aesthetic standpoint.

Mr. Luxford stated he could get photos to provide to the board for their review.

Commissioner Gibson asked the homeowner the current age of the roof.

Fritz Schultes, 1128 3<sup>rd</sup> Avenue, stated the roof was just replaced today. The roof had hail damage so it needed to be replaced, and thought this would be a good time to install the solar panels. Kept the roofing material the same color. Will be frustrating if this is denied because of the roof color since the roof was just replaced today. Additionally, if the board votes against this, they are setting a precedent that historical homes cannot have solar.

Commissioner Otto asked if any other historical home in Leavenworth has solar panels.

Ms. Falvey stated not residential dwellings. However, staff approved a Minor Certificate of Appropriateness for solar panels at 600 Shawnee. It is a flat roof with parapet so it is not visible, which allowed the approval at staff level.

Planning Assistant Michelle Baragary asked the contractor if he has pictures of other historical homes outside of Leavenworth that he has installed solar panels on.

Mr. Luxton responded he has done a number of projects in the KCMO historical districts that have solar panels.

Commissioner Whitson stated that would be helpful to see those photos.

Mr. Schultes stated there would not be solar panels on the main roof of the north facing side but they would be on the roof of the carport. Additionally, the house backs up to an alley so anything on the southwest facing side

of the house would not be visible from the street. The neighbor to the west of the subject property has a lot of vegetation, which would also screen the panels from being visible from the west.

Commissioner Bateman stated he feels that it is set back sufficiently enough to not become an eyesore, and does not have an issue with the panels.

Commissioner Otto agrees with Commissioner Bateman.

Commissioner Gibson asked if the panels on the front could be suspended in the backyard.

Mr. Schultes replied there is not enough room in the backyard to do so without drastically taking out his backyard.

Mr. Luxton stated with the vegetation in the backyard, a ground-mount solar system could not be installed without cutting down a lot trees. Additionally, the north roof face would not give the production that the east side would due to the shading.

Commissioner Whitson asked if the board were to table this item, time wise how much would this set the property owner back.

Mr. Schultes responded that he has already put one-third down payment toward the solar system so he is financially vested already.

Commissioner Whitson asked the property owner if he thought about this prior to putting a down payment towards the solar panels.

Mr. Schultes stated he did not know he was part of the Third Avenue Historic District. When he purchased his home 7 years ago, there was no documentation stating the property was part of a historic district.

Commissioner Whitson stated she does not want to hold the project up, however, integrity of historical neighborhoods are so important. With that, Commissioner Whitson moved to table the item for additional information, to include pictures of other houses that are historical that have the roof mounted solar panels.

Chairman Jackson asked if there is a second to Commissioner Whitson's motion to table the item. With no second, the motion fails. Chairman Jackson asked if there is a motion to approve the project.

Commissioner Gibson stated there are two parameters in question, which are numbers 2 and 9 of the Standards for Rehabilitation. Commissioner Gibson asked staff if the board approves this, what would they be establishing overall.

Ms. Falvey responded that it will set a precedent moving forward that the board would allow solar panels on the fronts of buildings.

Commissioner Otto stated there are all kinds of houses in Leavenworth that have solar panels, and it is unfair to allow them on certain houses but not on others.

Chairman Jackson asked if there is a motion. Commissioner Bateman moved to approve the proposed modifications at 1128 3<sup>rd</sup> Avenue, and seconded by Commissioner Otto.

Prior to voting, Chairman Jackson asked staff in the verbiage to approve the project, if the board would be able to mention that it is on a case-by-case basis so anyone else who may want to install solar panels would know that their project will need to be review by this commission.

Commissioner Whitson stated she understands that times change and they need to adapt but there is a reason we have preservation committees and commissions in neighborhoods, which is also to preserve things. She further believes that if this commission is going to do case-by-case that it should not be included in the minutes at this meeting for this particular case. Feels that is a broader spectrum that is going to need to be rewritten somewhere else.

With no further discussion, Chairman Jackson asked Commissioner Bateman if he would like to move forward with his motion. Commissioner Bateman stated he does not want to make any modifications to his motion. Commissioner Otto seconded the motion to approve the proposed modifications at 1128 3<sup>rd</sup> Avenue, and approved by a vote of 4-1 (Commissioner Whitson voted nay).

Chairman Jackson closed the public hearing.

### **OTHER BUSINESS/CORRESPONDENCE**

#### **1. MINOR STATE LAW REVIEW AND/OR MINOR CERTIFICATE OF APPROPRIATENESS**

Ms. Falvey noted there are 24 minor state law reviews included in the agenda packet, which does not require action from the commission.

With no further discussion, Chairman Jackson called for a motion to adjourn. Commissioner Whitson moved to adjourn, seconded by Commissioner Otto and approved by a vote of 5-0.

Meeting adjourned at 6:31 p.m.

Minutes taken by Planning Assistant Michelle Baragary.