

**NARRATIVE DESCRIPTION**

**IN CONNECTION WITH A  
REQUEST FOR AN INTERPRETATION  
REGARDING A DECISION BY THE  
CHIEF PLANNING OFFICIAL**

**Application No: BLDG20-22435  
No. 41 SOUTH PINE AVENUE  
ALBANY, NY**

**Applicant: WILLIAM STANLEY**

Prepared by:

**Hershberg & Hershberg  
Consulting Engineers and Land Surveyors**

18 Locust Street  
Albany, NY 12203-2908  
(518) 459-3096  
Fax (518) 459-5683  
[hhershberg@aol.com](mailto:hhershberg@aol.com)

January 18, 2021

## INTRODUCTION

Hershberg & Hershberg, Consulting Engineers and Land Surveyors, were retained by William Stanley (hereinafter the “Applicant”) to assist with his building permit application to reconstruct a dilapidated porch at No. 41 South Pine Avenue. On November 27, 2020, the Applicant, made an application for a building permit and this application was denied based upon an interpretation of the Unified Sustained Development Ordinance (hereinafter “USDO”) in a letter from Erin M. Glennon, Senior Planner (for the Director).

## REASONS CITED IN LETTER FOR DENIAL

The denial letter was based upon three sections of USDO listed below:

**FIRST** 375-4(G)(3): **Infill construction**, including principal structures, accessory structures, and building additions, shall be designed to be no greater than the average setbacks, heights, and building bulk of buildings with similar principal uses on the same block face and the facing block face to the maximum degree practicable. Furthermore, building characteristics such as roof pitches, gables, and the inclusion (or not) of porches, shutters, and other exterior elements shall conform to the residential buildings on the same block face and the facing block face to the maximum degree practicable, in order to preserve the character of the block face. *(Emphasis added)*

**SECOND** 375-4(G)(4)(a): Original materials shall be retained, maintained, repaired or uncovered **wherever possible** and to the **maximum extent feasible**. New buildings and **alterations shall be composed of materials that complement adjacent facades and are compatible with the quality and appearance of traditional materials.** *(Emphasis added)*

**THIRD** 375-4(G)(4)(d)(i): All porches shall be retained in **their original style** with **appropriate supports**, balusters, railings, and framed latticework to the maximum extent practicable. *(Emphasis added)*

**REASON FOR APPLICANT’S REQUEST FOR INTERPRETATION OF DECISION  
BY THE CHIEF PLANNING OFFICIAL**

The USDO at §375-1(G) states:

The Chief Planning Official shall be authorized to **interpret the provisions of this USDO, including but not limited to** the location of zoning district boundary lines, unless a different City official is specifically designated in this USDO to make a particular interpretation. **The decisions of the Chief Planning Official are subject to appeal to the Board of Zoning Appeals.** An applicant may request a formal written interpretation of this USDO be made by the Board of Zoning Appeals. *(Emphasis added)*

The USDO at §375(C)(1)(b) describes Chief Planning Official as follows:

**CHIEF PLANNING OFFICIAL**

**(i)GENERAL**

The Chief Planning Official is the City official responsible for administering provisions of this USDO.

**(ii)POWERS AND DUTIES**

The Chief Planning Official shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 375-5-1 Summary of Development Review Procedures). In addition, the Chief Planning Official shall have the following additional powers and duties under this USDO:

- A. To establish requirements for the contents and format of development applications reviewed under this USDO, and a schedule for the submittal and review of such applications;
- B. To develop, adopt, and amend an Administrative Manual that may specify detailed submittal and procedural requirements for various development applications (e.g., application forms, application fees, checklists for plans and other documents to be submitted with applications, the content and scale/format of such plans and documents, schedules and timelines for application review steps), summarize development review procedures and standards to facilitate the use and understanding of them, and include detailed specifications and

- illustrations identifying how this USDO's standards for landscaping, public infrastructure, and other aspects of development may be met;
- C. To maintain the official Zoning Map and related materials;
  - D. To serve as or assign professional staff to the Planning Board, Historic Resources Commission, and Board of Zoning Appeals;
  - E. **To assist in enforcing this USDO in accordance with Section 375-5(G) (Enforcement and Penalties);**
  - F. **To interpret the provisions of this USDO in accordance with Section 375-3(A)(3),**
  - G. Section 375-6(A) (Definitions and Rules of Construction), and the intent and purpose statements included in this USDO;
  - H. To provide expertise and technical assistance to the City's review and decision-making bodies on request;
  - I. To maintain on file a record of all development applications reviewed under this USDO and make copies available on request through the City's Public Records request process;
  - J. To assist the Planning Board in preparing, maintaining, and amending the City's Comprehensive Plan;
  - 1. To perform such other functions specified in Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.  
*(Emphasis added)*

### **DESCRIPTION OF WORK UNDER PROPOSED BUILDING PERMIT**

The Applicant observed that the bases of the wood columns supporting the roof of the front porch at 41 South Pine Avenue had become deteriorated and the wood was rotten. The Applicant in order to provide **appropriate support** as called for in 375-4(G)(4)(d)(i): cited above determined that masonry base sections could be provided to support the original wood columns above thereby retaining **their original style** as called for in 375-4(G)(4)(d)(i): cited above.

Style is defined in USDO in §375(6)(B) as follows:

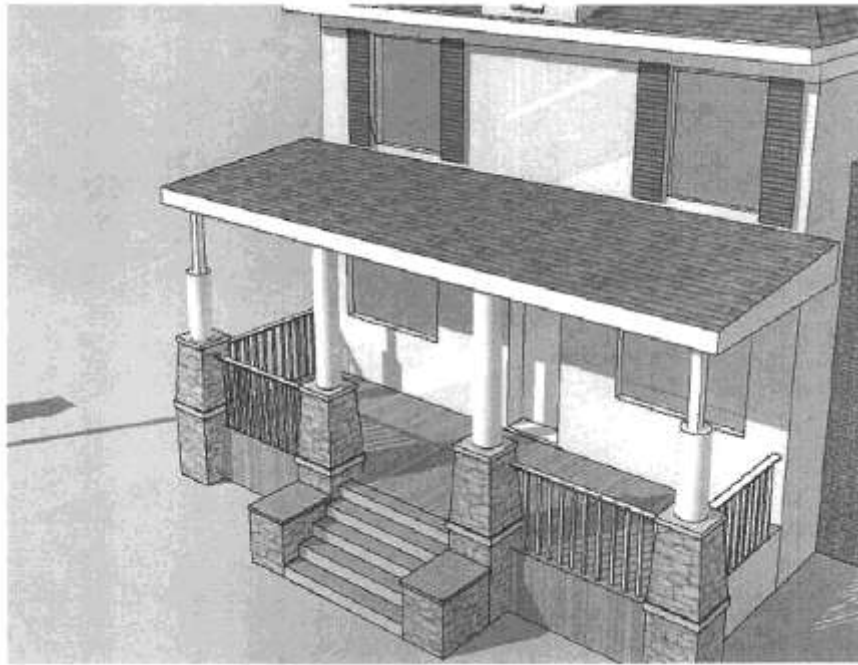
**STYLE**

For **purposes of historic resource regulations**, a type of architecture distinguished by special characteristics of structure or ornament and often related in time; also, a general quality of distinctive character.

The Applicant believes that since style is not defined except for the “purposes of historic resource regulations” the term should not be applied to 41 South Pine Street, since it is not an historic structure as defined in USDO. However, if the Board of Zoning Appeals determines to interpret style as applying to other structures not subject to historic resources regulations, the Applicant believes that the proposed changes to the porch are for the purpose of providing appropriate support and do in fact, retain its original style. By way of example, the existing porch and the proposed repair and restoration are shown below. The building plans for 41 South Pine Avenue are from a set of plans nationally marketed as “American Foursquare Homes” which had a large number of variants which could be chosen by builder or home buyer.



Existing 41 South Pine Avenue



Proposed revision applied for by building permit

Materials and elements of construction which remain unchanged or which will be replaced with materials matching the existing porch:

- Width of porch
- Depth of porch
- Height of porch above ground
- Height to roof
- Number of risers from ground
- Slope of roof
- Top portion of columns
- Balusters and railings around porch

Materials and elements of construction which will be changed from the existing porch:

- Column Bases will be replaced with bluestone
- Location of steps which will be restored to their historic location
- Side walls of steps will be replaced with bluestone
- Latticework will be replaced with solid wood paneling.

All of these changes result in building which are similar to other “American Foursquare Homes”, a traditional style, as shown below:



Note stone bases for wood columns



Note stone bases for wood columns



Note the center stair location which existed on this building in 1950's

### **JUSTIFICATION FOR APPEAL OF INTERPRETATION**

The Applicant offers the following justification for reversal of the interpretation by the Chief Planning Official from based upon the three referrals to USDO itemized above:

**FIRST** 375-4(G)(3): This applies to “Infill construction”. The proposed building and its porch do not meet the definition of infill (see definition quoted above) construction. This interpretation should not be supported by the Board of Zoning Appeals.

**SECOND** 375-4(G)(4)(a): Original materials have been retained and repaired where their condition allowed. As displayed by other “American Foursquare Homes” the materials and location of steps are a traditional style. This interpretation should not be supported by the Board of Zoning Appeals.

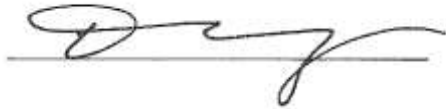
**THIRD** 375-4(G)(4)(d)(i): The proposed porch is for the most part retained or replaced with matching materials as indicated above including portions of columns, spacing of columns, balusters and railings. This interpretation should not be supported by the Board of Zoning Appeals.



**CONCLUSION:**

It is the Applicant's conclusion, based upon the information detailed above, that the interpretation of the Chief Planning Official should not be supported by the Board of Zoning Appeals. The Applicant requests that the Chief Building Official be informed that the building permit, as submitted, shall be approved.

Prepared by:



HERSHBERG & HERSHBERG  
Daniel R. Hershberg, P.E. & L.S.

file/dan/ narrep20200001 INTERPRETATION.doc