

RECEIVED  
TOWN CLERK  
TOWN OF ACTON, MA

2023 MAY 22 AM 11: 14

TOWN OF ACTON  
HISTORIC DISTRICT COMMISSION  
472 Main Street, Acton, MA 01720

**RE: APPLICATION 2306**

Pursuant to Chapter 40C of the General Laws of Massachusetts and the Historic Districts Bylaw of the Town of Acton, the Acton Historic District Commission hereby issues a

**CERTIFICATE OF HARDSHIP**

**For the work described in the Application 2306 requiring approval**

Applicant: Sarah and Owen McBride

Telephone: 617-803-8619

Address: 446 Main Street, Acton, MA 01720

Email: smcbride324@gmail.com

Owner: Same as Applicant

Location of Work: 446 Main Street, Acton, MA      District: Center X West    South   

Description of Proposed Work: Replacement of slate roof.

**A.      CERTIFICATE OF APPROPRIATENESS**

**Pertinent Provisions governing Determination of the Appropriateness:**

**Massachusetts General Law, Ch. 40C, Historic Districts, Section 2:** The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

**Local Historic District Bylaw, Ch. P:**

**P1. Purpose:** The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Acton, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the historically significant architecture existing in the Local Historic District(s) when this Bylaw was first adopted in 1990. This Bylaw does not seek to establish an architectural museum, but instead to inform concerning the historical process of architectural growth and adaptation to heighten a sense of educated pride in our heritage.

P8. Criteria for Determinations Sec. 8.1: In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

**Acton Historic District Commission DESIGN GUIDELINES, Roofs, p.10:** While most roofs were originally constructed of wood shingles or slate the vast majority have since been replaced with asphalt shingles. Because of the expense of the original materials this will continue to be an allowable practice, but especially where existing slate roofs are present every effort should be made to preserve and repair the existing rather than considering replacement.

**CRITERIA FOR HISTORIC DISTRICT COMMISSION DECISIONS:**

1. The historic character of a property, and its contribution to the character of the district as a whole, shall be retained and preserved. The removal of historic materials or alteration of features that distinguish a property diminishes its integrity, and shall be avoided. Distinctive details, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved. ...
3. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
4. When possible, deteriorated historic features shall be repaired rather than replaced. Replacement of missing or unsalvageable features shall be substantiated by documentary, pictorial, or physical evidence.

**Massachusetts Historical Commission, A GUIDEBOOK FOR HISTORIC DISTRICT COMMISSIONS:**

**Roofs, p. 31:** Whether it is a gable, flat, hipped, gambrel, shed, or mansard, a roof is an important character-defining feature of a building.

**Roofing, p.31:** As character-defining features, it is preferable to retain roofing materials such as cedar shingles and slate. If such materials cannot be repaired, replacement in-kind should be pursued.

**Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR Sec. 68.3 – Standards, Part (b) Rehabilitation:**

- (2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces and spatial relationships that characterize a property will be avoided. ...
- (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

#### Findings:

1. The building in question is a Greek Revival, wood-frame house built in approximately 1840. See MACRIS, Act. 106.
2. The house is located on Main Street in what is the heart of Acton's Center Historic District, encompassing what was originally known as Acton Village. In the vicinity of the house is the Town Hall and Memorial Library – both 19th century buildings with slate roofs – as well as many other mid-19th century Greek Revival houses originally built for artisans and professionals. MACRIS, Act. 106, Form B-106.
3. Acton Village, or Acton Centre as it came to be called, developed as the civic and institutional center of what came to be a large sprawling town which has two other 19th century village centers, both local Historic Districts. MACRIS, Act. 106, Form B-106.
4. Known historically as the Horace Tuttle House, the house was the residence of Horace Tuttle and then his son, Luke, both of whom farmed the surrounding property from the mid-19th century into the 20th century. The Tuttle and their many relatives were active in Acton commerce, initially with Acton Centre's first store and later becoming involved with a commercial dry-goods business in South Acton. MACRIS, Act. 106, Form B-106.
5. The house is eligible for the National Register for (a) "its association with the development of the suburban civic center of Acton and the cohesion that it contributes to the listed district" and (b) "its representation of the architecture popular at the time of development and that is integral to the listed district." MACRIS, Act. 106, National Register Criteria Statement.
6. Given its location, architecture and history, the building has significant historic value both by itself and as part of Acton's Center National Register Historic District.
7. The house has a slate roof, one of the three remaining buildings in the Center Historic District with slate roofs, the other two being Town Hall and Memorial Library, both of which are located nearby, also on Main Street.
8. Although many of the buildings in Acton originally had slate roofs, according to the Town Assessor's Office, there are only 30 buildings in Acton that currently have slate roofs. Examination of the property cards of each shows that twelve of the 30 are in one or another of the three Historic Districts; eight of those twelve buildings are residential (one multi-family, one duplex and six single-family residences).
9. The house fronts on Main Street, and the slate roof is plainly visible to those who walk or drive past it. According to Corey York, Head of Acton Department of Public Works, on average more than 18,000 vehicles per day travel on Main Street, past the house. Given

its proximity to the Town Hall, Memorial Library, Acton Congregational Church and nearby homes, many pedestrians pass by it as well.

10. The roof's slate tiles are laid over and fastened to a wood-shingle roof, which is somewhat unusual and is evidence that the slate roof was not original. There seem to be no records of its addition, but the slate overlay may have been added to the house in the late 19th or early 20th century, when slate roofs were popular additions to homes. If not original, the slate roof on this house has been there for many decades and, by virtue of both time and the historic provenance of this house, acquired historic significance in its own right.
11. The slate roof appears from the street to be in reasonably good condition. However, the Applicant reports that the fasteners holding the slate tiles to the underlying shingles have begun to fail, resulting in slate tiles becoming loose, many falling to the ground. The Applicant reports that this problem is exacerbated by snow on the roof, which causes ice dams and requires even modest snowfall to be raked off. According to the Applicant, the loose, broken, and fallen tiles have resulted in rot to the underlying wood shingles and caused leaks into the house.
12. The roof is in need of repair. According to the Applicant, in spite of significant effort to repair and maintain the roof, it is beyond repair. That may be, but to date no documentary evidence or professional opinion has been offered to support Applicant's assertion in that regard. It is worth noting, however, that slate ordinarily has a life-span of from 100 to 150 years, and this slate roof is probably over 120 years old.
13. According to the Applicant, the house has structural problems that are exacerbated by the weight of the slate roof. In one of the two elements of the house, at some point a ceiling was removed to create a cathedral ceiling, leaving that element of the house without the attic joists to hold opposite walls together. The Applicant stated that a structural engineer retained by the Applicant recommended that structural support be added to a metal tie and iron brackets already in place to address this and similar structural problems. However, due in part to the estimated \$25,000 cost of such measures, professional action was not taken.
14. The governing way is Main Street, Acton, MA 01720.

**Conclusion:** The HDC finds that the application, including its supporting materials, does not support the conclusion that it is appropriate to remove the slate roof from the house and replace it with asphalt shingles for the following reasons:

1. While the slate roof in question is in need of repair, in such a case, the local, state and federal guidelines all point in the same direction. As put by **Acton Historic District Commission Design Guidelines**, "especially where existing slate roofs are present every effort should be made to preserve and repair the existing rather than considering replacement." Roofs, p. 10.

2. These guidelines are consistent in their respective mandates – that deteriorated historic features should be repaired rather than replaced, and, where repair is not possible, that replacement use in-kind materials. See Acton’s **Criteria for Historic District Commission Decisions**, para. 4: “When possible, deteriorated historic features shall be repaired rather than replaced.” Massachusetts Historical Commission, **A Guidebook for Historic District Commissions, Roofing**, p. 31: “As character-defining features, it is preferable to retain roofing materials such as cedar and slate. If such materials cannot be repaired, replacement in-kind should be pursued.” **Secretary of the Interior’s Standards for the Treatment of Historic Properties**, 36 CFR Sec. 68.3 - Standards, (b) Rehabilitation, para. 6: “Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.”
3. This approach, favoring repair over replacement (or, if repair is not possible, replacement in kind), is particularly applicable to slate roofs in Acton, which have dwindled to 30 in the Town. Twelve of these slate roofs are in one or another of the three Historic Districts, this house being a prominent example. The house is a mid-19th century Greek Revival situated on Main Street in the heart of Acton’s Center Historic District. Known as the Horace Tuttle House, this house – a mid-19th century slate-roofed, Greek Revival house in the center of the early village – represents “architecture popular at the time of development ... that is integral to the listed district.” National Register Criteria Statement, cited at MACRIS, Act. 106. Coupled with its “association with the development of the suburban civic center of Acton and the cohesion that it contributes to the [Center Historic District],” this architecture, of which the slate roof is a character-defining feature, make it eligible for the National Register. *Id.*
4. The Applicant points out that, given the shingle roof underneath the slate tiles, the slate roof is not original and thus asserts that it is not subject to the preservation protections of Bylaw P. However, even assuming that the slate was installed at some point after the house’s original construction, the slate roof is a feature of the house consistent with its historic provenance that has acquired historic significance of its own. As such, the **Criteria for Historic District Commission Decisions**, para. 3, provides that it “shall be retained and preserved.”
5. The Applicant asserts that repair or replacement of the slate roof is not practical due to its expense. Although the Applicant has yet to provide documentation of these costs compared to those of replacing the slate with appropriate asphalt shingles, that is a matter which applies to eligibility for a Certificate of Hardship under Bylaw P, Sec. 7.6.1, which the Commission has yet to, but will, address.

Accordingly, for the reasons set forth above, after a public hearing commencing March 28, 2023 and continued to April 11, 2023, by a vote of four to zero, Application #2306, seeking a

Certificate of Appropriateness for the replacement of the slate roof on the house at 446 Main Street, is DISAPPROVED.

## **B. CERTIFICATE OF HARDSHIP**

### **Pertinent Provisions governing Determination of the Hardship:**

**Massachusetts General Law, Ch. 40C, Historic Districts, Section 10 (c):** If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate, or in the event of an application for a certificate of hardship, the commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this chapter. If the commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or in the event of failure to make a determination on an application within the time specified in section eleven, the commission shall cause a certificate of hardship to be issued to the applicant.

**Local Historic District Bylaw, Ch. P, Section 7.6.1:** If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.

## **Findings:**

### **1. Whether the asserted Hardship is owing to conditions especially affecting the building involved but not affecting the District generally:**

(a) As detailed in the structural engineer's report that Applicant submitted on the issue of hardship, the house is severely under-structured to support a slate roof. In particular, the second-floor master bedroom is braced with a single tie-rod where there appears to have been attic floor joists connecting two opposing walls. The engineer concluded that "this condition appears under braced considering the weight of the snow and slate roof," observing that the exterior wall braced by the tie rod "has moved noticeably toward the exterior which is an indication that the rod is not doing the full job when fully loaded with snow." Report of Rene Mugnier Associates, p. 4. The engineer goes on to point out that the ceiling in this bedroom is "under supported." Id. On the other side of the house, the engineer noted that the rafters run perpendicular to the attic joists, "creating a situation where the rafters are not properly preventing [the walls] from spreading laterally." Id.

(b) These structural problems are not surprising. Prior to the slate roof, the house had a wood-shingle roof. At some point, the slate roof was added, a roof that the house was not built to support. Beyond the above-noted under-sized, mis-aligned, or missing structural components, the house does not even have a ridge beam.

(c) A slate roof built over a wood-shingle roof is quite rare, one roofing contractor estimating that he has only seen it in five percent of the slate-roofed houses on which he has worked, and it has resulted in the rotting of underlying shingles. This rot has not only created a serious leakage problem in the house, but – in the view of the roofing contractors – has made it necessary to replace the slate and underlying cedar shingles rather than simply repairing the damaged slate.

(d) The above-noted problems are not due to the current owners' neglect but were apparently the result of a previous owner(s) ill-considered construction decisions.

(e) Given these unique circumstances, the necessity to replace the existing slate roof is owing to conditions that especially affect this house but do not affect other houses or buildings in the District generally.

### **2. Whether the Failure to approve the Application would involve Substantial Hardship to the Applicant:**

(a) The Applicant obtained the following quotes for replacing the existing roof with slate from three experienced roofing contractors: Apex Roofing Co. (\$100,940), Olde Mowhawk Historic Preservation (\$96,000), and Historic Slate Roofing Co. (\$89,000), the average of which is \$95,313. The tight bunching of the three quotes underscores their credibility. Additionally, Applicant obtained a quote for a cedar-shingle roof

from Olde Mowhawk (\$78,000). In contrast, Apex Roofing proposal would replace the slate roof with architectural shingles for \$14,988. The average quote for replacement with slate is 6.36 times more expensive than replacement with architectural asphalt shingles. The quote for replacement with cedar shingles is 5.2 times more expensive than replacement with architectural asphalt shingles. Although one might expect slate to be twice, maybe even three times as expensive as asphalt shingles, and cedar shingles to be maybe twice as expensive as their asphalt counterparts, the difference between slate or cedar shingles on the one hand and architectural asphalt shingles on the other is by any measure "substantial."

- (b) There would also be the added expenses (unknown) of a structural engineering or architect consultant and the structural reinforcement work required to accommodate the weight of a slate roof.
- (c) While the issue of hardship is individualized with the analysis necessarily differing depending on the applicant (e.g., if the applicant is an income-producing entity, a municipality or even a private home owner in different circumstances) for this applicant, a private homeowner who has lived in the house for 15 years and intends to continue living in the house for many more, requiring replacement of this roof with either slate or cedar shingles as opposed to architectural asphalt shingles – given these cost differences – would involve substantial hardship.

**3. Whether the Application may be approved without substantial detriment to the public welfare:**

(a) The house in question is one of three residential buildings in the Central Historic District that, at least until recently, had a slate roof. The other two are, or were, nearby. One, a stone house located at 450 Main Street, effectively Applicant's backyard, was built as a barn to store apples around 1900 by Luke Harry Tuttle, the last Tuttle owner of Applicant's house. This barn was subsequently sold and converted to a residence. The other, a mid-19th century house now located at 74 Nagog Hill Road, was originally located at the site of Acton Memorial Library, but in the late 1880s it was moved to accommodate the building of the library. Until relatively recently, both the converted barn and the relocated house had slate roofs that their respective owners sought to replace with asphalt shingles. Neither was granted a Certificate of Appropriateness, but due to unfortunate mistakes in the permitting processes of each, each was allowed to replace the slate roofs with asphalt shingles.

(b) The fact that there were prior mistakes by the municipal authorities, including the Historic District Commission, does not by itself require or result in granting permission to replace a slate roof with asphalt shingles. However, in this particular case – given the unique nature of the problems causing the very substantial hardship demonstrated by Applicant and the very close similarity between this house and the other two houses – principles of equity suggest



that the approval of this Certificate of Hardship would not cause substantial detriment to the public interest.

**4. Whether the application may be approved without substantial derogation from the intent and purposes of Bylaw P:**

(a) The primary intent and purpose of Bylaw P is the preservation of Acton's historic buildings and structures. Here, given the substantial and unique structural problems of the house in question, saving the slate roof could very well result in the loss of, or at least serious damage to, the house, a trade off that would not well serve the goal of preservation.

(b) While Bylaw P is meant to advance preservation, it nevertheless provides for a Certificate of Hardship in very narrow circumstances. In a case such as this, in which the existence of such circumstances has been clearly demonstrated, approval of such a Certificate is not in substantial derogation from the intent and purposes of Bylaw P.

**Conclusion:** Based on the Findings set forth above, the HDC concludes that, owing to the conditions existing with regard to the slate roof at, and its effect on, the house at 446 Main Street but not affecting the Center District generally, the failure to approve this Application would involve substantial hardship to the Applicant and that approval of this Application will not result in substantial detriment to the public welfare or substantial derogation from the intent and purposes of Bylaw P.

Accordingly, for the reasons set forth above, after a public hearing commencing March 28, 2023 and continued to April 11, April 25, and May 16, 2023, by a vote of four to zero, a Certificate of Hardship for Application #2306, seeking to replace the slate roof on the house at 446 Main Street with asphalt shingles is APPROVED, subject to the following conditions:

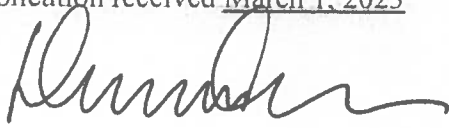
1. The replacement shingles must be either three-tab asphalt shingles or standard architectural asphalt shingles (e.g., GAF Timberline, Certainteed Landmark, or other similar product), owner's choice of color;
2. The drip edges must be finished to blend with architectural trim, or, alternatively, a starter course of shingles;
3. Any shingle-covered roof-ridge-vents must be low in profile and extend all the way to the gable ends;
4. Any chimney step-flashing must be copper, lead, or lead-coated copper, not mill-finish aluminum; and
5. Any vent-pipe must be flashed with copper, lead, lead-covered copper or a black neoprene boot, not mill-finish aluminum.

When completed, the work outlined above must conform in all particulars to the Application approved on May 16, 2023. The applicant may proceed with the proposed work provided all

other approvals have been obtained, including a Building Permit where required. This Certificate is valid for work commenced within one year of the date of issuance. An extension or renewal of the Certificate may be granted at the discretion of the Commission. If a property changes ownership during the time the Certificate is in force, a new owner who wishes to continue the authorized work must apply to have a new Certificate issued in his or her own name.

The Decision only applies to matters within the HDC's jurisdiction. Any action permitted hereunder may still be subject to or require other approval or permits from other governmental boards, agencies or bodies having jurisdiction such as the Building Department, Planning Department, Health Department, Planning Board, Conservation Commission or Zoning Board of Appeals, as the case may be.

Application received March 1, 2023



Certificate Approved by HDC Vote (4-0)  
David Honn, Chair

Public Hearing March 28, 2023,  
cont'd to April 11, 2023, cont'd  
cont'd to April 25, 2023, cont'd to  
May 16, 2023.  
Date May 16, 2023