

Minutes
HISTORIC DISTRICT COMMISSION
Wednesday, February 6, 2008, at 7:00 PM

MEMBERS PRESENT: Vice Chair Mark Rhoades, Mark Bell, Holly Snyder, Emily Eidenier (arrived a 7:20 p.m.), and Pete Yeganian.

ABSENT: Chairperson Jessica Dockery, Joseph Council.

STAFF: Senior Planner Tom King.

WITNESSES: Teresa Chapin, Zach Read, and Robert Foy.

ITEM #1: Call to order, roll call, and confirmation of quorum.

Mr. Rhoades called the meeting to order at 7:00 p.m., and Mr. King called the roll and confirmed the quorum.

ITEM #2: Reading of the Commission's Mission Statement.

Mr. Rhoades read the Commission's Mission Statement and provided information on the Commission's processes.

ITEM #3: Additions to the agenda and agenda adjustments.

Mr. King indicated that Item #8, the application from Kim Steffan, had been withdrawn. There were no other additions or adjustments to the agenda.

ITEM #4: Consideration of Approval of additions to the approved minutes of January 2, 2008.

Mr. Bell stated that on page 5, middle paragraph, the sixth line, the word "spade" should be "spayed."

MOTION: Mr. Bell moved to approve the minutes of January 2, 2008 as amended.

SECOND: Mr. Yeganian.

VOTE: Unanimously approved.

ITEM #5: Application for a Certificate of Appropriateness for Teresa Chapin to construct a 10' x 20' wooden shed at 110 North Nash Street (TMBL 4.29.D.20)

Mr. Rhoades swore in Teresa Chapin and Senior Planner Tom King. Mr. King provided some information on the architecture of the structure, noting that the proposed work was to construct a 10' x 20 A-frame wooden shed in the rear, to be painted white with a green shingle roof to match the house. He said that no windows were planned for the structure, that landscaping would be provided on the street-facing side, and that the door would be centered.

Mr. King stated the Standards that applied were A, B, C, D, F, G, H, I, J, K, L, M, N, O and P, and the Design Guidelines that applied were New Construction of Outbuildings

and Garages, Exterior Lighting, Roofs, Paint and Exterior Color, Exterior Walls, and Windows and Doors.

Ms. Snyder asked why Ms. Chapin had chosen not to have windows. Ms. Chapin stated it was a shed for storage and she believed it would be safer not to have windows.

Mr. Yeganian asked if the roof color proposed would match the existing roof on the house. Ms. Chapin stated it would.

Mr. Rhoades asked if the shed would be visible from the street. Ms. Chapin stated the gable end likely would be. Mr. Rhoades asked had she thought about what type of shrubs she would be planting for screening. Ms. Chapin stated probably a mock orange which would grow to about 8 to 10 feet high and 6 to 8 feet wide, as well as some smaller shrubs and flowers. Mr. Rhoades asked about the foundation for the shed. Ms. Chapin stated it would have a cinderblock foundation with piers.

MOTION: **Ms. Snyder** moved to find as fact that the Teresa Chapin application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards A, B, C, D, F, G, H, I, J, K, L, M, N, O and P, and the Design Guidelines for New Construction of Outbuildings and Garages, Exterior Lighting, Roofs, Paint and Exterior Color, Exterior Walls, and Windows and Doors.

SECOND: **Mr. Bell.**

VOTE: Unanimously approved.

MOTION: **Ms. Snyder** moved to approve the application as submitted with no conditions.

SECOND: **Mr. Bell.**

VOTE: Unanimously approved.

ITEM #6: **Application for a Certificate of Appropriateness for Barbara Hume to place wood shutters (matching the shutters on the front of the house) on existing windows on the east, west, and south sides of the oldest part of the building at 139 West King Street (TMBL 4.36.A.8).**

Mr. King noted that Ms. Hume was out of Town and he would be presenting the application. He provided some information on the architecture of the structure, noting that the proposed work was to place wood shutters, matching the shutters on the front of the house, on the existing windows on the east, west, and south sides of the oldest part of the building. Mr. King stated the 1888, 1894, 1900, and 1905 Sanbourn maps depict the office as a simple side gable building. He said in 1911 a rear "L" was present, and in 1924 another addition appeared at the rear of the original structure. Mr. King stated the office was built around 1830 and used for some years as a medical office; later it was used as a law office and later still as a home. He stated it had been described as having two small rooms and a pillared porch; since 1924 it had been used as a private residence.

Mr. King stated the proposed shutters were functional raised panel wood shutters with metal hinges on the existing windows in the oldest part of the house. He stated the shutters would match the color of the shutters on the front of the house which were a Market Square Tavern Green.

Mr. Rhoades asked if Ms. Hume's goal was to cover all the windows of the house. Mr. King stated he did not know, noting she had only indicated the three windows on the oldest part of the house. Mr. Rhoades said then even with the proposed shutters, there would still be some windows that were left as is. Mr. King stated that was correct.

Mr. Bell stated he had talked with Ms. Hume and had toured the house in the past, and believed it was a great example of preservation. Mr. Yeganian agreed.

Mr. King noted that the Standards that applied were C for materials, D for texture of construction, F for architectural details, I for exterior color, and O for appurtenant fixtures. He said the Design Guidelines that applied were Paint and Exterior Color, Windows and Doors, and Utilities and Energy Retrofit.

MOTION: Mr. Bell moved to find as fact that the Barbara Hume application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C, D, F, I and O, and Design Guidelines for Paint and Exterior Color, Windows and Doors, and Utilities and Energy Retrofit.

SECOND: Ms. Snyder.

VOTE: Unanimously approved.

MOTION: Mr. Bell moved to approve the application as submitted with no conditions.

SECOND: Ms. Snyder.

VOTE: Unanimously approved.

ITEM #7: Application for a Certificate of Appropriateness for Gardens by Laura for the construction of a 240 square foot stone patio with retaining wall, rear-yard stone walkway, and a landscaping hedge on the west side of the property at 121 West Corbin Street (TMBLs 4.19.A.2, 3 and 4).

Mr. King swore in Zach Read. Mr. King provided some information on the architecture of this 1922 structure, noting that the proposed work was to construct a 240 square foot stone patio with retaining wall, a rear-yard stone walkway, and a landscaping hedge on the west side of the property. He said the patio was to be constructed of irregular flagstone laid in concrete; the stone color would be a mix of tans and browns; the seating and retaining wall would be cut limestone matching the patio and would be 21 feet in length and 2 feet in height; it would act as a retaining wall for the garden area; a screening hedge was proposed on the west side of the property; and, the walkway would be constructed of the same material as the patio.

Mr. King stated that the Standards that applied were C for materials, D for texture of materials, E for landscaping, O for appurtenant fixtures, Q for walls, R for groundcover, and S for maintenance of pedestrian scale. He said the Design Guidelines that applied were Site Features and Plantings, Walkways, Driveways, and Off-Street Parking, Fences, and Walls.

Ms. Snyder stated the photograph looked as if there was concrete or mortar between the stones. Mr. Read stated that was correct.

Mr. Rhoades commented he assumed that proper drainage would be added underneath the patio. Mr. Read stated that was correct.

MOTION: **Ms. Snyder** moved to find as fact that the Gardens by Laura application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C, D, E, O, Q, R, and S, and Design Guidelines for Site Features and Plantings, Walkways, Driveways, and Off-Street Parking, Fences, and Walls.

SECOND: **Ms. Eidenier.**

VOTE: Unanimously approved.

MOTION: **Ms. Snyder** moved to approve the application as submitted with no conditions.

SECOND: **Mr. Bell.**

VOTE: Unanimously approved.

ITEM #8: **Application for a Certificate of Appropriateness for Kim Steffan to: 1) Extend privacy fence down western property line; 2) Addition of a wooden handicap access ramp, painted white to match the building, along the western side of the building involving the removal of porch railings on the west side of the front porch; 3) removal of the lean-to canopy carport at the rear of the property, and 4) Extend the existing driveway to loop around the building and reconnect to the existing driveway with the new section being made of concrete at 128 West Margaret Lane (TMBL 4.36.A.11).**

This application was withdrawn by Kim Steffan on February 5, 2008 via an email message to Senior Planner Tom King.

ITEM #9: **Application for Certificate of Appropriateness for Robert E. Foy, Jr. to replace the existing reddish-brown asphalt roof shingles with textured, black-gray 30-year asphalt shingles on the house located at 122 East Tryon Street (TMBL 4.31.E.3A).**

Mr. King swore in Robert Foy. Mr. King provided some information on the architecture of the structure, noting that the proposed work was to replace the existing reddish-brown asphalt roof shingles with textured, black-gray 30-year asphalt shingles on the house. He said the Standards that applied were C for materials, D for texture, H for roofing materials, and I for exterior color. Mr. King said the Design Guideline that

applied was Roofs. He supplied the Board with samples of the existing shingles and the proposed shingles.

Mr. Foy stated that this brick ranch house was built circa 1961 as opposed to many of the buildings in the area.

Mr. Bell asked was the color change so different that it could not have been approved as a Minor Work. Mr. King responded when the application came in the color was a reddish brown, and now it was a blackish gray. He said now that he saw the sample they were similar, but he had not had that advantage prior to this evening.

Mr. Yeganian stated he had not received this application in his packet for tonight's meeting. Mr. King apologized for that. Mr. Yeganian stated that based on the discussion he felt comfortable voting on the application.

MOTION: Mr. Bell moved to find as fact that the Robert E. Foy, Jr. application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C, D, H and I, and the Design Guidelines for Roofs.

SECOND: Ms. Eidenier.

VOTE: Unanimously approved.

MOTION: Mr. Bell moved to approve the application as submitted with no conditions.

SECOND: Ms. Eidenier.

VOTE: Unanimously approved.

ITEM #10: Commission and Staff Reports/Updates.

131 West Queen Street

Mr. King stated that a COA modification for Patrick and Mildred Long at 131 West Queen Street was issued on September 5, 2007 for a rear addition, but as Ms. Snyder had mentioned at the last meeting nothing was moving on that, although the Longs had put in some stone steps. He said he had spoken to Mr. Long on January 16, 2008 about the rear addition and the stone steps, and Mr. Long had indicated that they had decided not to make the rear addition. Mr. King stated the old wooden steps had been replaced with Pennsylvania Blue Stone, and those could be approved as a Minor Work, although Mr. Long had not yet gotten back in touch with him. He said he would be contacting Mr. Long in that regard.

Cat Fence at 408 West King Street

Mr. King stated the application at 408 West King Street for a cat fence would not happen; the cats had been relocated.

Jeff and Kelly Hopper Appeal

Mr. King stated that he had discussed the Jeff and Kelly Hopper appeal with the Board of Adjustment (BOA) Chair, who had asked that the HDC make a written request to meet with the BOA to discuss the outcome of that appeal. He said the request should include the reason for the request, the topics to be discussed related to the appeal, and what was the expected outcome of that meeting.

Mr. Bell said that would be positioning the HDC to actually attend one of the BOA's meetings to get clarification on the Hopper appeal. Mr. King stated that the HDC had wanted some answers and the Chair of the BOA was happy to meet to discuss that. He said he did not expect the BOA's March agenda to be extremely lengthy, and asked if the HDC was comfortable with proceeding in that way.

Mr. Rhoades asked if the BOA was asking the HDC to appear before their Committee. Mr. King said they were suggesting a joint meeting, and he had thought that during a normal 2nd Wednesday night of the month meeting would be the best time to do that, rather than calling a special meeting. He said the BOA could be invited to attend an HDC meeting, but the HDC meetings tended to be lengthier, so it would not be as easy to add it to an agenda.

Mr. Rhoades asked how did the Board feel about having a couple of the HDC members attend a BOA meeting to represent the Board, take notes, and then report back to the full Board with more clarification. Mr. King offered to write a memo detailing what the Board's questions were and what their expected outcome of the meeting would be, so that the BOA was better prepared to respond.

Mr. Bell stated he believed this would be an important topic of discussion for Mr. Council and Ms. Dockery, and was hesitant to move forward without them being present. He said it was his feeling that they should have a joint meeting with the full Boards in attendance, adding that since this Board had two new members, that the discussion would be important because it related to following procedures and guidelines to assure no negative outcomes.

Mr. Yeganian asked for a brief overview of what the issue was. Mr. King provided a "thumbnail" description of the Hopper case and the appeal to the BOA, and the subsequent reversal by the BOA of the decisions made by the HDC. He said of particular interest to the HDC was why the BOA had not remanded it back to the HDC. Mr. King stated there was some question in the BOA's mind about whether or not the Hopper's could get a fair hearing from the HDC if it were remanded back. He said the big issue was that the Hopper's had performed work that was not included in the COA, but it could not be undone or in some cases materials could not be replaced.

Ms. Eidenier asked if it had been felt that the lack of guidelines for the HDC in dealing with that kind of case made it difficult to speak without seeming to have a bias. She said during the HDC's review of the Hopper case, it had seemed to her that the HDC was struggling to explain the case without having specific guidelines to point to. Mr.

King said it was his hope that these kinds of issues would be touched on during the training with the County Historic Properties Commission on February 27, 2008.

Ms. Snyder asked was it the BOA's position that there should be no punishment when applicants violated COA's. She said it seemed that the HDC could make a decision and it be appealed to the BOA, and the BOA could allow applicants to do whatever they wanted. Ms. Snyder said she was very frustrated and did not know where to go from here when you had people who had done what the Hopper's had done.

Mr. Bell stated that was exactly what needed to be addressed with the BOA. Mr. King stated the BOA understood the HDC's concern, and had admitted it had been a difficult case and a difficult call to make. He stated that Mayor Stevens and Commissioner Gering had both indicated they would like to attend the joint meeting, and he would like to get that scheduled as soon as possible.

Mr. Yeganian asked had anything like this ever happened before, in that an applicant had not followed their COA application. Mr. King stated there were times when someone got approval for something, then did something else. He said in his opinion, he did not understand why if someone did something in violation of the historic district guidelines it was not a zoning violation. Mr. King said the historic district was a zoning overlay district, it was governed by the Town's Zoning Ordinance, and the HDC had guidelines to assist them in making its decisions. So, he said, he wondered why those would not be treated like any other zoning violations, with fines, injunctions, or other available tools.

Mr. Yeganian asked at this point, what were the consequences. Mr. King said there were none.

Mr. Rhoades said he did not believe there had been a past case where the violations had been as extensive as in the Hopper case. He said at this point the HDC did not have the ability to levy fines or injunctions. Mr. King said if staff was notified of a zoning violation they did have the ability to enforce the ordinance, but those enforcement actions could also be appealed to the BOA. He said the HDC's job was not enforcement but to make decisions of whether or not to grant COA's.

Mr. Yeganian asked if one possible outcome of a joint meeting could be that there were adjustments made to the Code. Mr. King said possibly, adding that although they could not undo what had already been done they could prevent it from happening in the future.

Ms. Snyder said it seemed like that should be the focus of the joint meeting, not what went wrong since they already knew that. She said she had deeply appreciated Mayor Stevens and Commissioner Gering attending an HDC meeting to discuss this, but was also deeply disappointed that the Town Attorney did not attend since many of the questions were legal in nature. Mr. King said he believed the enforcement section of the Zoning Ordinance could be expanded somewhat, and they were getting ready to

begin a Zoning Ordinance rewrite which could address that. He added that the Town Attorney would attend the joint meeting.

Mr. Rhoades said he believed the Board was in agreement that the full Boards should meet in a joint meeting. He asked if the HDC had a preference to do it during one of their meetings, to attend a BOA meeting, or to have a separate meeting.

Mr. Bell stated he believed it should be a separate meeting. Ms. Snyder and Ms. Eidenier agreed. Mr. Rhoades said he also wanted to make sure that the Town Attorney attended that meeting.

Mr. Rhoades said since it appeared the HDC wanted a special meeting, he asked Mr. King to begin the process to coordinate that. Mr. King asked if some time in March would be acceptable. Mr. Rhoades responded yes. He said the HDC's meeting was March 5, and the BOA's was the following Wednesday. Mr. King stated he would need to check on the availability of the meeting room. Mr. Rhoades suggested that the meeting be set after the BOA's March 12, 2008 meeting. Mr. King stated he would try to set the meeting for a Wednesday, and asked the Board to send any questions or topics they wanted to discuss with the BOA to him and he would combine them in a memo to send to the BOA.

Mr. Rhoades stated he would be out of Town on March 19.

Mr. Bell stated for him, the meeting did not need to be on a Wednesday. Mr. King stated he would check the availability of the meeting room and get back to the Board.

Mr. Yeganian asked to be sent copies of the minutes from the meetings in question. Mr. King agreed to do so, noting he would send copies to Ms. Eidenier as well. He said just to be sure, he would send the entire Board copies of all relevant minutes via email.

National Preservation Institute Seminars

Mr. King said he had included information regarding upcoming seminars if any of the Board were interested in attending. He said he did not know what funds were available, but it was possible the Town may be able to send some members who were interested.

Ms. Eidenier stated she would be interested in attending one of the seminars.

Other

Mr. Rhoades stated he had recently received an email regarding honoring a jazz musician who had ties to Hillsborough, and that signs would be posted in the historic district. Mr. King said that was correct, noting the musician was Billy Strayhorn. He said those signs were allowed to be done as a staff approval, but he would make sure the Board was updated on that.

ITEM #12: Adjourn.

Mr. Rhoades moved to adjourn the meeting at 8:08 p.m., seconded by Ms. Eidenier. The vote was unanimous.

Respectfully submitted,

Tom King, Secretary