

**REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP
OF THE PHILADELPHIA HISTORICAL COMMISSION**

**TUESDAY, 28 NOVEMBER 2023
ROOM 18-029, 1515 ARCH STREET
BOB THOMAS, CHAIR**

CALL TO ORDER

START TIME OF MEETING IN ZOOM RECORDING: 00:00:00

The Chair called the meeting to order at 9:06 a.m. The following Committee members joined him:

Committee Member	Present	Absent	Comment
Robert Thomas, AIA, Chair	X		
Donna Carney, RA	X		
Dan McCoubrey, FAIA, LEED AP BD+C	X		
Matthew Treat	X		

The meeting was held in Room 18-029 at 1515 Arch Street.

The following staff members were present:

Jonathan Farnham, Executive Director
Laura DiPasquale, Historic Preservation Planner III
Alex Till, Historic Preservation Planner II
Leonard Reuter, Esq., Law Department
Molly Costello, Esq., Law Department

The following persons were present:

Matt McClure, Esq., Ballard Spahr
Meredith Trego, Esq., Ballard Spahr
Melissa Draganac-Hawk, Pennsylvania School for the Deaf
Greg Smolley, DRA Architects
Neil Sklaroff, Esq., Dilworth Paxson
Paul Steinke, Preservation Alliance
Hanna Stark, Preservation Alliance
Janice Woodcock, Woodcock Design
Irwin Trauss

AGENDA

ADDRESS: 156 W SCHOOL HOUSE LN

Proposal: Demolish building

Review Requested: Final Approval

Owner: Pennsylvania School for the Deaf

Applicant: Matthew N. McClure, Ballard Spahr LLP

History: 1897; Boxwood; Mantle Fielding Jr., architect

Individual Designation: 3/12/2021

District Designation: None

Staff Contact: Jon Farnham, jon.farnham@phila.gov

OVERVIEW:

This application proposes demolishing the house at 156 W. School House Lane, owing to financial hardship and necessity in the public interest. The Pennsylvania School for the Deaf owns the property, which is located at the northwest corner of the campus in central Germantown. The application claims that the building cannot be feasibly adapted for use by the school and that demolishing the building and redeveloping the land for the school's use is necessary in the public interest. It also claims that the demolition is necessary to meet the reasonable accommodation standard under the Americans with Disabilities Act (ADA).

The Penn Knox Neighborhood Association nominated the property in January 2019, when a different non-profit owner planned to sell the property to a for-profit developer for redevelopment as an apartment complex. After the nomination was submitted, the apartment plan was abandoned and the Pennsylvania School for the Deaf purchased the property in July 2019. The school's campus bordered the property. In March 2021, the Historical Commission reviewed the nomination and designated the property. During the review, school representatives objected to the designation and explained that the school needed to redevelop the property to redesign the traffic flow on the campus and improve safety for the students. The school's consultants also explained that the house was in very poor condition and could not be feasibly adaptively reused for the students. At the time of designation, the Commission suggested that the school submit a financial hardship application formalizing and demonstrating its claims about the infeasibility of reuse and necessity in the public interest. This application is the result of that advice.

Section 14-1005(6)(d) of the City of Philadelphia's historic preservation ordinance expressly prohibits the Historical Commission from approving demolitions of historic buildings in all but two instances. It may approve a demolition only after determining that:

- the demolition is necessary in the public interest; and/or,
- the building cannot be used for any purpose for which it is or may be reasonably adapted.

In the first instance, the ordinance authorizes the Historical Commission to approve demolitions for public policy reasons, when the public interest advanced by the demolition greatly outweighs the public interest in the preservation of the building. In the second instance, the ordinance authorizes the Commission to approve demolitions when the Commission's regulation of the property denies the owner of all economically viable use of it and thereby inflicts a financial hardship on the owner.

The application consists of an affidavit and supporting documents. The application claims that the configuration and condition of the building prohibit a financially feasible reuse of the

property. The application also claims that the demolition is necessary in the public interest because redeveloping the property is the only means of meeting certain needs of the school and its students.

The Historical Commission's Rules and Regulations indicate that both the Architectural Committee and Committee on Financial Hardship must review financial hardship applications and offer recommendations to the Historical Commission. The Committee on Financial Hardship's role is clear; it must evaluate the claims of financial hardship and necessity in the public interest and determine whether they have merit. The Architectural Committee's role is less clear, but it typically offers a recommendation regarding the claims made in the application related to architecture, planning, and design. The Architectural Committee reviewed the application on 23 August 2022. The Committee on Financial Hardship reviewed the application on 18 October 2023 and recommended that the Historical Commission continue the review to allow the applicant to submit supplemental materials. At its 10 November 2023 meeting, the Historical Commission continued the review and remanded the application to the Committee on Financial Hardship. Since the remand, the applicants submitted additional information including a memorandum in support of the application and details regarding the campus plan and parking.

In 2001, the Pennsylvania School for the Deaf sought and received the Historical Commission's approval to demolish the designated house at 143 W. Coulter Street, which was southeast of the property at 156 W. School House Lane and adjacent to the school's campus. The Historical Commission approved the demolition as necessary in the public interest, to clear the site for the construction of a facility for the school.

STAFF RECOMMENDATION: The staff recommends that the Historical Commission find that issuance of the demolition permit is necessary in the public interest and approve the application for the following reasons and with the following conditions:

- The application demonstrates that adaptively reusing the building in a way that would accommodate deaf and hard-of-hearing persons would be prohibitively expensive.
- The application demonstrates that, even if adapted at great expense, the building would not meet any need of the Pennsylvania School for the Deaf.
- The application demonstrates that incorporating the property into the campus would provide needed space for campus improvements that would increase safety and enhance educational experiences for students.
- While designated as historic, the building is of relatively minor historical and architectural significance. Relative significance can and should be factored into financial hardship and necessary in the public interest decisions.
- The staff advises that the Historical Commission grant final approval of this application but condition it on the review and approval of a campus reorganization plan that includes the relocations of drives, parking lots, and walkways, the location and massing of any new buildings, and the protection of archaeological resources.

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend that:

- The Architectural Committee acknowledges that the primary program spaces that the school currently lacks and needs to provide such as dining and assembly spaces cannot be accommodated in the building at 156 W. School House Lane.
- The application has not proven that the demolition of the building and repurposing of the property will achieve the school's parking and circulation goals. More information is

needed to show that reuse of the property for parking and circulation will increase the safety and efficiency of the campus.

- The application has not proven that the demolition of the building is necessary in the public interest, but that deficit could be remedied with additional information.
- Additional information should be provided to the Committee on Financial Hardship and the Historical Commission.

START TIME OF DISCUSSION IN ZOOM RECORDING: 00:01:42

PRESENTERS:

- Mr. Farnham presented the application to the Committee on Financial Hardship.
- Attorneys Matt McClure and Meredith Trego, Melissa Draganac-Hawk of the Pennsylvania School for the Deaf (PSD), and architect Greg Smolley represented the application.

DISCUSSION:

- The members of the Committee on Financial Hardship and staff introduced themselves.
- Mr. McClure stated that they supplemented their application with the additional information requested by Ms. Carney at the last meeting including information about parking and the geometric requirements of the circulation drive. He noted that they will also provide testimony directed at providing information requested by the Committee. Mr. McClure also requested an opportunity to respond to some of the public comment offered at the last meeting. He asked the Committee to limit the discussion at today's meeting to new information and not allow others to repeat statements made at the last meeting. Mr. McClure asked the Committee to decline to consider the conceptual plan to insert classrooms and offices into the house that Janice Woodcock prepared and submitted late Sunday night, just one day before this meeting. He asserted that it was submitted well beyond any reasonable deadline and observed that his team would not comment on it.
- Mr. Smolley, the architect working on the campus master plan for the school, stated that any master planning process for a school must start with and focus on the students. He stated that he has been working on rationalizing the parking and circulation on the campus to increase student safety. He displayed aerial photographs and architectural plans to convey to the Committee the scheme to reorganize the campus. He stated that the campus has evolved as the bussing of students has increased. Currently, a wide asphalt band runs down the middle of the campus, dividing the main buildings from the athletic fields and the Early Childhood Center. The younger students are isolated from the rest of the campus. He displayed images detailing the numbers of parking spaces and the demand for parking. He reported that the school has 185 staff and 156 parking spaces. The numbers do not account for visitors, contractors, or deliveries. The current parking is not adequate and certainly cannot accommodate special activities like Parents' Night and Graduation. He stated that 37 buses from outside agencies come to the school every day. In addition, the school itself has four buses, sometimes five. About 40 buses come to campus every day in the morning and again in the afternoon. Mr. Smolley stated that they conducted a poll of 205 people coming to campus every day to learn about their means of transportation; 112 people responded. About 91% of respondents drive their own cars and park on campus. When asked to rate the parking on campus, respondents said that it did not work well, and they were forced

to get to campus earlier and earlier to try to find parking spaces. He stated that the parking that is on campus was not planned but simply evolved and was largely in place before the Pennsylvania School for the Deaf (PSD) moved to the property. He also noted that PSD did not have a high school when it moved to the site in the 1980s. The addition of the high school increased the need for parking. He also noted that access to the site on public transportation can be difficult because the transit system was designed to bring people from the outskirts to the downtown, not from one suburban area to another. Mr. Smolley stated that his master planning process has three main objectives: increase campus safety, increase sports opportunities, and increase learning and mentoring opportunities. He explained that the primary way to increase safety on campus is to rationalize the traffic and parking by separating the students from the vehicles. He reported that they would also like to relocate the security office so that they have more control over people entering and exiting the campus. By rationalizing the parking and circulation, they will be able to provide better facilities for soccer as well as track and field. He stated that they will increase learning and mentoring opportunities by creating a space where students from throughout the school can meet. A Community Life Building would provide dining and theater/assembly spaces for the entire student body and link the Early Childhood Center to the remainder of the campus. Mr. Smolley showed a slide detailing which parking lots and drives would be removed to improve campus safety. It indicated that 37 parking spaces would be removed from the center of the campus and another 11 in front of the gymnasium. Mr. Smolley then displayed conceptual plans for the redesigned campus with the new Community Life Building and revised parking and circulation, with and without the house at 156 W. School House Lane. With the house remaining, they can fit 98 parking spaces on the main campus, 19 fewer than they currently have. Without the house, they can fit 134 spaces on the main campus, 17 more than they currently have. Removing the house allows for 36 additional parking spaces.

- o Ms. Carney asked about a conceptual plan that was shown at the last meeting that seemed to show the house in place, indicated by a star, and a count of 134 parking spaces. She asked why the current plan conflicts with that plan and how they can retain the house and still get 134 parking spaces.
- o Mr. Smolley stated that the conceptual plan that Ms. Carney is referencing does show the house, indicated by a star, for locational purposes, but the plan itself only possible with the removal of the house. He pointed out that the conceptual plan with the starred house also shows the driveway running right through the house. The conceptual plans shown at the last meeting and this meeting are entirely consistent, but graphically slightly different. Both indicate that there will be 134 parking spaces on the main campus if the house is removed. That count does not include the Early Childhood Center parking or the parking behind 137 W. School House Lane. The earlier one superimposes the house on the new driveway to orient the viewer; the newer one does not include the house, but both assume that the house has been removed.
- Mr. Smolley discussed the design of the proposed driveway onto the campus with special attention paid to the details needed for fire apparatus or a large truck to be able to turn off School House Lane onto the driveway. He explained that a 24-foot-wide driveway will allow vehicles to go in and out simultaneously. Mr. Smolley explained why the suggestion that vehicles could drive in front of the gymnasium to get to the parking behind the gymnasium would not work. He stated that there is not sufficient room for a truck to turn onto the driveway at the east side of the gymnasium. The suggestion does not work. Next, Mr. Smolley described the

- dimensions of the proposed driveway to the west of the gymnasium and explained why Ms. Woodcock's analysis was flawed. He stated that her measurements failed to account for the projection of the gymnasium building at the northwest corner. He then explained how they would extend the sideways and add grass areas along the driveway. He noted that the fire lane would be a place for an ambulance to stop or for a school bus to pick up children. It may not be required by code, but it is needed for the safe and efficient use of the driveway.
- o Ms. Carney asked if the 24-foot-wide driveway would impinge upon the porte-cochere.
 - o Mr. Smolley stated that it would require the removal of the porte-cochere.
 - o Mr. McCoubrey confirmed that a 24-foot-wide driveway would require the removal of the porte-cochere.
 - Mr. Thomas asked how the Pennsylvania School for the Deaf uses the property at 151 W. Coulter Street, to the west of the Early Childhood Center, and whether the school could add some parking spaces at that property. Mr. Thomas noted that he was looking at the Woodcock proposal.
 - o Mr. McClure responded that the school does not own that property. It is a private dwelling.
 - Ms. Draganac-Hawk spoke to the Committee with a sign language interpreter. She spoke about the language gap for young deaf students, who often have parents who are unable to communicate with their deaf children. She stated that deafness is often not diagnosed in children until they are about one year old. She stated that young children are educated in the Early Childhood Center, which is located on W. Coulter Street. The facility is disconnected from the remainder of the school buildings. She explained that the students need to be able to gather in one place like a cafeteria to support the language acquisition of younger children. Currently, the school does not have such a space and the younger children are missing out on language acquisition opportunities. Language development takes place in relaxed, social settings with older children. She also noted that parents have a difficult time engaging with the activities on campus because parking at the campus is difficult and limited. Ms. Draganac-Hawk noted that 43% of deaf people are unemployed, primarily because they were unable to adequately acquire language. Language deprivation is a significant problem. Ms. Draganac-Hawk objected to Paul Steinke's use of the song lyrics "They paved paradise and put up a parking lot" to criticize the school's master plan for the campus. She stated that deaf people do not have access to the song and the use of the song is a way of ostracizing and excluding deaf people from the conversation. She stated that the school has had conversations with the neighbors about collaborating, but the neighbors never focused on the students during those conversations. The students were not the priority for the neighbors. Students should be at the forefront of the conversation about reconfiguring the campus and constructing new buildings. She explained that the school has been very responsive to the neighbors regarding their concerns and always kept lines of communications open, but then Ms. Woodcock and Messrs. Steinke and Trauss trespassed on the campus without any advanced warning. She recounted that, when they trespassed on campus, the security supervisor immediately contacted her and said that three unknown people were on the campus without permission trying to open doors and looking in windows. She responded to the situation to make sure that students and staff were safe. She stated that, when it was all over, the students were very scared by the intruders. She concluded that the students are her priority.

- Mr. McClure explained that their claim has three bases: financial hardship, necessary in the public interest, and reasonable accommodation under the Americans with Disabilities Act (ADA). He stated that they would address the ADA claim primarily at the Historical Commission meeting, but it does relate to the necessary in the public interest claim. He noted that, when they opposed the designation during the nomination review, they asserted that the school already maintains four very important historic buildings, that it serves a very diverse population that is 80% below the poverty line, and that 40% of the students have other disabilities beyond deafness. The school inherently works in the public interest. He noted that the Historical Commission approved the demolition of a house on Coulter Street for the construction of the school's Early Childhood Center without this level of evidence and debate, and the preservation ordinance and pertinent Rules and Regulations have not changed in that time. Mr. McClure recounted that the Historical Commission told his client not to worry when it designated the property because they could seek relief under the financial hardship and necessary in the public interest tests. Now that they are seeking that relief, the opponents are asserting that those tests are not available to them. The community is asserting that the school should cede control of its property to someone else. The Historical Commission has never compelled a non-profit to relinquish a property on its campus, yet that is what the neighbors are now seeking. Mr. McClure asked the Committee to follow its City Solicitor's advice. He referenced the 40th and Pine Street hardship case and noted that the University of Pennsylvania was not required to place the property for sale on the open market, even though it was several blocks from the main campus. The Historical Commission also did not compel the university to consider uses beyond the University's uses. He referenced the Episcopal Hospital case and noted that the Historical Commission did not require the owner to market the property. It also did not require proposed redevelopment plans. There was no opposition to the proposal and the Historical Commission approved the demolition of the two buildings. He added that Episcopal Hospital works in the public interest.
 - o Mr. Thomas corrected Mr. McClure, stating that the Episcopal application related to a church and the construction of an apartment tower to provide revenue to fund the stabilization the church building.
 - o Mr. McClure disagreed and stated that he was discussing an application for the hospital on Lehigh Avenue, not the cathedral on Chestnut Street.
- Mr. McClure then discussed an application for Liacouras Walk or Park Mall at Temple University. The university sought to demolish the rears of a row of historically designated buildings and construct a building. The Historical Commission applied Section 10 of the Rules and Regulations and did not compel the university to market the buildings for sale because of their location on the campus. The Historical Commission only considered whether the non-profit university could reuse the buildings, not whether any potential owner could reuse them. Mr. McClure moved on to discuss for-profit hardship cases. He observed that the Historical Commission approved the demolition of the Penn Fruit building on Frankford Avenue without requiring the owner to market the property for sale. He noted that the Preservation Alliance did not oppose that application. He asked rhetorically if there was a new standard that was being applied to the school that had not been applied in earlier cases. He then reported that the Historical Commission did not require the for-profit developer to market the property for sale in the Oliver Bair Funeral Home hardship case. He added that Neil Sklaroff, the attorney for the opposition in this case, represented the developer in that case and argued that the 40th and Pine Street case

set a precedent regarding the lack of a requirement to market a property for sale as part of the hardship process. He stated that Mr. Sklaroff is now arguing for a higher standard for a non-profit school than for a for-profit developer of a tower on Rittenhouse Square. Mr. McClure discussed necessary in the public interest cases and noted that the Historical Commission has broad discretion to decide what is necessary in the public interest. He pointed to the Episcopal Cathedral case and the Curtis Institute case. In both cases, the Historical Commission approved the demolitions of designated buildings for non-profit organizations. He again mentioned the earlier Pennsylvania School for the Deaf case, in which the Historical Commission approved the demolition of a building for the construction of a new school facility. Mr. McClure discussed the current situation at the Pennsylvania School for the Deaf. The school is growing. It opened a high school after it moved to the site. It is constricted by the relatively small site. It cares for four very important historic buildings. The students deserve an opportunity for a good education. He observed that one neighbor who owns a house across the street from the site and an apartment building down the street is opposed to this application. He thanked that owner for all he did to help the school move to the site in the 1980s, but he asserted that the school, not the neighbor, should make decisions about what is best for the students. He observed that the neighbor who opposes this application has a personal interest defeating this application to protect the viewshed from his house. He compared that to the public interest in improving the educational opportunities for the Pennsylvania School for the Deaf students and concluded that the personal, private interest of one neighbor should not be placed ahead of the public interest of the students and all Philadelphians, who benefit from the work of the school. Mr. McClure noted that when the neighborhood nominated the area for historic designation in the 1990s, it classified the building in question as contributing. He pointed out that the Rules and Regulations indicate that a building classified as significant is worthy of individual designation, but a building classified as contributing is not. Mr. McClure highlighted the fact that the staff has opined that the building in question is not highly important architecturally or historically. He noted that the staff recently visited the site and toured the building and campus. Allowing for the demolition of this building would permit the school to completely reorganize its campus to the benefit of the students, their families, and all Philadelphians. He asked that the private interest of one person, the neighbor in opposition, yield to public interest.

PUBLIC COMMENT:

- Attorney Neil Sklaroff stated that he represents the Penn Knox neighborhood Association and the Preservation Alliance. He stated that his clients acknowledge the great work of the school, but they oppose the application. He stated that reasonable accommodation does not mean better facilities than public school; it means equivalent facilities. Reasonable accommodation does not mean ignoring neutral zoning regulations. Mr. Sklaroff asked the applicants to provide the number of buses they plan to park at the site.
 - o Mr. McClure responded that his team would answer questions from the Committee members but would not be cross-examined by members of the public.
 - o Mr. Sklaroff objected but continued and said that he believes that 40 buses will be parked at the site. He stated that in all his work with school districts and in his work as a school director, he has never seen a bus depot on a campus. He suggested that the buses should be parked elsewhere, perhaps in nearby unused parking lots. He added that schools do not usually provide parking for

their faculty and staff onsite. The faculty and staff should park elsewhere. Mr. Sklaroff objected to the suggested design for the fire lane and stated that no one knows what type of fire apparatus would respond to a fire at this site. He claimed that a hook-and-ladder could not get up School House Lane. He stated that the application did not provide the necessary information. He asserted that the claim that a non-profit owner only needs to show that it cannot use a building to demonstrate a financial hardship is "just plain wrong." The 40th and Pine Streets decision indicates that, to demonstrate a hardship, a property must be exposed to the marketplace, or it must be shown that exposing it to the marketplace would be fruitless. In that case, the University of Pennsylvania went through 10 years of effort to market the property, which was sufficient. In this case, the school has not attempted to market the property. The public interest test is not satisfied by simply showing that the non-profit works in the public interest. Mr. Sklaroff discussed the Episcopal Cathedral case. In that case, the bell tower was in poor structural condition. A steeple nearby had collapsed. The cathedral was allowed to demolish two buildings to build a large apartment tower, which generated revenue to support the repair of the bell tower. There is no trade in this case. Parking spaces are not in the public interest. He wondered if a single-lane entrance-egress would be sufficient. If an ambulance came to campus, it might drive over the grass, he suggested. Are parking spaces necessary in the public interest? In all other public interest cases, there has been a trade or an exchange, but there is no such exchange in this case. Regarding the reasonable accommodation claim, Mr. Sklaroff contended that the City only needs to ensure that disabled people have equal access, not greater access, to facilities.

- o Mr. Thomas stated that this is a transportation problem. He stated that the real question is: How do we provide excellent access to the school?
- o Mr. Sklaroff stated that demolishing the house will only provide 12 additional parking spaces.
- Paul Steinke of the Preservation Alliance stated that the Historical Commission designated the property under Criteria for Designation B, C, D, E, I, and J in 2021 over the objections of the Pennsylvania School for the Deaf. It was designated for its Colonial Revival style and for architect Mantle Fielding, who designed buildings for Northwest Philadelphia's elite. Mr. Steinke stated that his organization retained a civil engineer, who determined that the fire code does not require a fire lane at this site. He stated that this building would have been protected 30 years ago if the Historical Commission had acted on the proposed Penn Knox Historic District. Mr. Steinke objected to Mr. McClure's characterizations of several earlier hardship cases. He noted that the Oliver Bair building was vacant and fire damaged. He claimed that the buildings on Liacouras Walk were long vacant. He mentioned the Episcopal Cathedral. Regarding Penn Fruit, that building was slated for demolition for a new mixed-use transit-oriented development supported by the community. The Episcopal Hospital buildings were vacant and in poor condition. The Curtis Institute building required the demolitions of most of two designated buildings, but the facades were preserved. There is no preservation win in this case. Germantown is finally coming back after decades of disinvestment. This building could be reused for residential use. Mr. Steinke asked if a non-profit could acquire a property proposed for designation, declare that it has no use for the property, and then obtain a permit to demolish the building. He stated that he hopes not. This proposal is antithetical to the City's preservation and sustainability goals.
- Mr. Sklaroff introduced architect Janice Woodcock.

- o Mr. McClure objected that Ms. Woodcock's proposal for creating classrooms in the house was submitted at 10:30 p.m. on the Sunday evening before this Tuesday meeting and no one had adequate time to review it.
- o Ms. Woodcock stated that she prepared a report regarding parking on the site. She contended that the applicants' plans for parking do not take landscaping required by zoning regulations into account. She stated that a fire lane or lay-by lane does not make sense in this context. She stated a zoning variance should be sought to get the extra 12 parking spaces. She stated that zoning and historic preservation should be coordinated.
- o Mr. McClure stated that their campus plan will require several zoning variances.
- Neighbor Irwin Trauss stated that this application has nothing to do with safety or education. It is all about 19 parking spaces. Off-street parking is not in the public interest. He stated that the nearby Greene Street Friends School owns a parking lot that the Pennsylvania School for the Deaf could use. There is also a large public parking lot off Cheltenham Avenue that the school could use. He also stated that the school's parking lot behind its administrative building is seldom full. He stated that he takes issue with the claim that the school is difficult to access. He noted that there are two regional rail lines and six bus lines in the area. He suggested that the school provide incentives for its faculty and staff to use public transportation. He objected to the claim that the house cannot be reused by the school. He stated that the school's security office could be relocated to the house. He stated that special needs staff could be assigned parking spaces on the campus without creating the additional 19 parking spaces. With regard to the demolition for the construction of the Early Childhood Center, Mr. Trauss asserted that the community initially opposed the demolition of three houses for the new facility, but then compromised because the school found a way to save one of the houses. He added that the two houses that were demolished were deteriorated. He suggested that a compromise was possible here as well. He stated that the demolition of the porte-cochere or projecting porch is not necessary to achieve the school's goals. He observed that he would be willing to reconsider the demolition of the porch if the school proved to him that the demolition of the porch was necessary. He concluded that the school has frustrated their attempts to bring people in to explore alternate uses for the property. He stated that he has identified a broker who is interested in marketing the property for a long-term lease, another that is interested in marketing it for sale, and someone interested in looking at it for purposes of redevelopment, but the school has thwarted his attempts to have those people look at the property.
- o Mr. Sklaroff suggested that perhaps that Mr. Trauss could yield the floor and provide an opportunity to have Mr. Weinstein address the Committee.
- Ken Weinstein introduced himself to the Committee and stated that he offered a compromise in a letter that he sent to the Historical Commission. The compromise would require the demolition of the porte-cochere and subdivision of the property with a few parking spaces at the rear so that the house could be used as either a residence or offices. The school would need to provide an easement to the property owner to access the parking spaces. He noted that when he redeveloped the Germantown Masonic Hall on Germantown Avenue, he secured offsite parking for the tenants. He also noted that he has parking spaces he could rent to the school at his properties in Wayne Junction. He stated that he would like to find a compromise. He noted that he has not been allowed to visit the inside of the house but would like to do so. He claimed that the house has "good bones." Mr. Weinstein concluded, stating that he is developing many residential properties in Germantown that are

close enough to the school that tenants could walk or bike to work at the school. He suggested that the school should market his nearby rental properties to its faculty and staff.

- o Mr. Thomas stated that people should consider public transportation as well.
- Mr. McClure responded to the public comment. He stated that 12 buses park on the campus, not 40 as some claimed. He stated that unlike the 40th and Pine Streets case, this property is already an integral part of the school's campus. Section 10 of the Rules and Regulations was intended to address properties like this one, which are parts of larger campuses. He stated that this is not simply a parking exercise. It also has to do with the cost to rehabilitate this building, which does not have "good bones." He stated that this building has been in deplorable condition for many years. He objected to Mr. Steinke's argument regarding the contributing classification of the property in the proposed historic district and stated that this property was individually designated in an effort to stop a development project. He noted that the property was marketed, and a developer purchased the property to redevelop it with new construction at the rear, but the developer eventually abandoned the project when the neighbors opposed it. The developer could not make money simply rehabilitating the historic building but needed the new construction to subsidize the rehabilitation. Mr. McClure stated that he referenced the earlier hardship cases not to claim that the approvals were wrongly granted but instead to demonstrate that the Historical Commission should apply the same standard to the Pennsylvania School for the Deaf that it applied to the other non-profit applicants. No non-profit applicant has been forced to hang a "for sale" sign on its property. Mr. McClure noted that PSD students come from throughout the region. This is not a neighborhood elementary school. Mr. McClure objected to Mr. Sklaroff's assertion that there must be a preservation gain to offset the preservation loss of the house if it is demolished. The preservation ordinance does not require a trade like that. The gain will be a safer, better campus for the education of deaf students, which is in the public interest. The school should not be saddled with the cost of rehabilitating a building that has no value to it. The school should not be forced to cede control of part of its campus to a third party. The school is already maintaining four very important buildings while educating very needy children.

ADDITIONAL DISCUSSION:

- Mr. McCoubrey asked the applicants if the school would lose money if it were to sell the property at this point in time, given its investment.
 - o Ms. Trego explained that the school paid \$550,000 for the property in 2019 and has since spent more than \$200,000 on the maintenance of it. She stated that the school could not recover its investment at this time by selling the property. If the school subdivided off the back of the property for its uses and sold the front with the house, the front property would be worth significantly less than the amount the school paid for it. Even if the house could be rehabilitated for several hundred thousand dollars as Mr. Weinstein suggested, it would have to sell for more than \$1 million for the school to break even and there are no comparable sales in this area that approach that amount.
 - o Ms. Carney stated that the school will not recover its expenditure by demolishing the building.
 - o Ms. Trego agreed with Ms. Carney but stated that the school would then be able to take full advantage of the entire property. With the entire property, the school will be able to reorganize its campus and still have space to grow.

- o Mr. McClure added that the property is an investment in the school's future. He reminded the Committee of the school's budget deficit, which the school's CFO discussed at the last meeting.
- Ms. Carney stated that the Committee agrees that the building cannot be feasibly rehabilitated for a new use by the school. She asked if it could be feasibly rehabilitated by a new owner.
 - o Mr. McClure again reminded the Committee that the City Solicitor has informed the Committee that the preservation ordinance and Rules and Regulations do not require a non-profit owner to market a part of its campus for sale to demonstrate a hardship.
 - o Mr. Sklaroff stated that the Historical Commission is not a guarantor of profit. The Historical Commission can require the school to subdivide the property and use the rear for its purposes and sell the front for reuse, even if the sale results in a loss for the school. He stated that in the 40th and Pine Streets case, there was no restriction on use and a long-term lease. In the current case, a prior owner may have tried to sell the property, but the current owner has not.
 - o Mr. McClure described a compromise that his client offered to the neighbors and the Preservation Alliance. He stated that the school would remove the porte-cochere for its new driveway and offer a ground lease on the house for a nominal rent for someone to rehabilitate it, but if no one leased the property within three years then the community would support the demolition of the house. He stated that the neighbors and the Preservation Alliance agreed with the compromise, and he drew up the paperwork. Then the neighbors and Alliance changed the terms and asked the school to provide funding to fix the house. Then they wanted an outright sale instead of a ground lease. Then they withdrew their agreement to support the demolition of the porte-cochere. He stated that they tried to find a compromise in good faith, but the neighbors and Alliance made a compromise impossible.
 - o Mr. Steinke tried to interrupt Mr. McClure several times but Mr. Thomas told him to wait his turn.
 - o Mr. McClure admonished Mr. Steinke for trespassing on the property.
 - o Mr. Sklaroff interjected that "this is hearsay, who said what to whom."
 - o Mr. Thomas attempted to bring order to the meeting. He suggested that the participants should be looking for solutions, not pointing fingers. He suggested that everyone seek a compromise.
 - o Mr. McClure stated that the school is already compromising with regard to its campus. It maintains four very important historic buildings. It is very constricted and has little room to grow. The school is already compromising. Mr. McClure added that the students' rights under ADA should not be put to a popular vote. The neighbors should not decide whether the students are able to exercise their rights under ADA. He concluded that they have submitted a reasonable application that is in line with prior precedent and is supported by the staff. He asked the Committee to recommend in favor of their application.
 - o Mr. Steinke stated that he wanted to both confirm and refute Mr. McClure's description of the compromise. He stated that Mr. McClure offered a compromise as described, which the neighbors and Preservation Alliance started to explore with local realtors. However, when they sought a meeting with the school to further discuss the proposed compromise, the school never followed up on a plan to meet. Then, realtors informed the neighbors and Preservation Alliance that they should seek an outright sale of the property, not a lease, because a lessee would be very unlikely to spend the many hundreds of thousands of dollars that it

would cost to rehabilitate the property. He stated that they “cooled” on the compromise and “pulled back” because they concluded that no one would be willing to spend the money to rehabilitate the property under the terms of the compromise.

- Mr. Thomas stated that the Historical Commission cannot force the school to sell the property. It does not have that authority. He stated that the Committee must make a recommendation on whether the application demonstrates financial hardship and necessity in the public interest.
- Mr. Thomas suggested that they look for creative solutions like car-stacking systems for additional parking. He also suggested that they could add parking in front of the house.
 - o Mr. McClure questioned the ability to get tenants in and out of the property safely with school buses going in and out. He asked if a second driveway to the west would be necessary. He concluded that reusing this property for the school and tenants would be infeasible.
 - o Mr. McCoubrey agreed with Mr. McClure that creating a situation in which tenants were sharing the access driveway with school buses and other school traffic was “very problematic.”
- Mr. McCoubrey stated that he is convinced that the house cannot be feasibly reused by the school for its own purposes. He also agreed that renovating the house for any use would require a significant investment. Even renovating it for residential use, not institutional use, would require a significant amount of money. The parking spaces that would be gained by the removal of the house have an “undeniable benefit for the institution.” Mr. McCoubrey stated that he found the suggestion that the school negotiate for parking elsewhere in the community unconvincing.
 - o Mr. Thomas stated that he agreed that compelling the school to find offsite parking was not a feasible solution.
 - o Mr. McCoubrey asked for legal guidance regarding the extent of the Historical Commission’s authority to compel the property owner to take any particular actions.
 - o Ms. Carney stated that she agreed with all of Mr. McCoubrey’s statements.
 - o Mr. Thomas stated that he sees significant benefits in moving the traffic out of the middle of the campus and linking the parts of the campus together with green space. He also noted that it should not be forgotten that the school is already maintaining four major historic buildings. He also noted that the students are of modest means. Removing the traffic from the center of the campus will increase the safety of the students.
 - o Mr. McCoubrey agreed that removing the traffic from the campus is a significant benefit. He asked if that benefit could be achieved with the retention of the house. He also noted that the proposal has the benefit of removing the parking along the front of the gymnasium and restoring the green space. Mr. McCoubrey noted that there may be ways to add a parking space here or there but concluded that the only way to get all the parking needed is to demolish the house.
- Mr. Farnham stated for the record that Mr. Weinstein’s letter to the Historical Commission has been available to the Committee members, applicant, and public since it was submitted soon after the previous Committee meeting.
- Mr. Thomas stated that the Committee should consider the school as a whole and not just this particular property when reviewing the application. The Committee should look at the preservation activities that are already taking place at the school

and seek to support them. The best way to do that is to ensure that the school can function properly, a school that provides the best and safest educational experience.

- Mr. Sklaroff asked the Committee to set aside the motion it was contemplating. He stated that everyone agrees that the school does good work. He acknowledged that the removal of the parking from in front of the gymnasium would be a benefit, but he asserted that the school does not have the space to lose that parking. He suggested that the parking should remain. He then suggested that, if the campus is not large enough for the school's needs, the school should move to a new campus. He again suggested offsite parking. He noted that he represented a magnet school that uses offsite parking. He concluded that retaining the parking in front of the gymnasium and offsite parking could save the house.
- Mr. McCoubrey stated that he is convinced that the institution is unable to feasibly reuse the building. He added that rehabilitation for residential use would require a substantial investment that would place a financial hardship on the institution.
- Ms. Carney stated that she understands that the neighbor has a strong interest in the preservation of this building, but there does not seem to be any feasible way to accomplish that goal. She stated that they are trying to respect the interests of both the community and the school, but it does not seem as though those interests are reconcilable.
- Mr. Thomas stated that improving the campus and accommodating all the activities, including parking on the campus, is very important. He stated that the remote parking solution "is not an avenue that makes sense."
- Ms. Carney stated that reusing the house for a use unrelated to the school does not make sense. There would be no feasible way to access the house and accommodate the school's parking and circulation needs.
- Mr. Thomas stated that the maintenance and health of the Pennsylvania School for the Deaf is very important, more important than the retention of the house. The services that the school provides are critical. He concluded that retaining the building would impose a hardship on the school. Reorganizing the campus and improving the educational experiences for the students is more important than the house.
- Mr. McCoubrey agreed with Mr. Thomas. He stated that the school has very limited resources and its scant resources should be devoted to furthering its mission, which includes preserving four very important historic buildings. He observed that the school is physically constrained. It is "in a box." He concluded that retaining the house would be a hardship for the institution.
- Ms. Carney stated that she was prepared to make a motion recommending that the Historical Commission find that the building at 156 W. School House Lane cannot be used for any purpose for which it is or may be reasonably adapted by the non-profit Pennsylvania School for the Deaf.
- Mr. Farnham noted that the application proposes three bases for approval: financial hardship, necessary in the public interest, and reasonable accommodation under ADA. Everyone appears to have agreed to set aside the reasonable accommodation question until the Historical Commission meeting. He asked Ms. Carney and the Committee if they wanted to opine on the necessary in the public interest aspect of the application in the motion.
 - o Mr. Reuter noted that the financial hardship and necessary in the public interest aspects of the application are intertwined, but it is not necessary for the Committee on Financial Hardship to offer a recommendation on the necessary in the public interest aspect of the application. The Historical Commission can

address that aspect of the application, which is also related to the reasonable accommodation aspect of the application.

- Mr. Thomas observed that one must look at the campus as a whole when considering this application, and not simply the house in isolation. When one weighs the benefits to the school, its campus, and the students that will be achieved with the removal of this house, it is clear that retaining the house would pose a hardship for the school. He stated that it is also clear that removing the house is necessary in the public interest to achieve the benefits that reorganizing the campus would provide.
 - o Mr. Reuter explained that the Committee is not obligated to make a recommendation on the public interest aspect of the application, but it may if it chooses to.
 - o Ms. Carney stated that her motion relates to the financial hardship aspect of the application only.

COMMITTEE ON FINANCIAL HARDSHIP RECOMMENDATION: The Committee on Financial Hardship recommended that the Historical Commission find that the building at 156 W. School House Lane cannot be used for any purpose for which it is or may be reasonably adapted by the non-profit Pennsylvania School for the Deaf, pursuant to Section 14-1005(6)(d) of the Philadelphia Code and Section 10 of the Historical Commission's Rules and Regulations.

ITEM: 156 W School House Lane					
MOTION: Find for financial hardship					
MOVED BY: Carney					
SECONDED BY: McCoubrey					
VOTE					
Committee Member	Yes	No	Abstain	Recuse	Absent
Robert Thomas	X				
Donna Carney	X				
Dan McCoubrey	X				
Matthew Treat	X				
Total	4				

ADJOURNMENT

START TIME OF DISCUSSION IN ZOOM RECORDING: 02:54:40

ACTION: The Committee on Financial Hardship adjourned at 12:01 p.m.

PLEASE NOTE:

- Minutes of the Philadelphia Historical Commission and its advisory Committees are presented in action format. Additional information is available in the video recording for this meeting. The start time for each agenda item in the recording is noted.
- Application materials and staff overviews are available on the Historical Commission's website, www.phila.gov/historical.