

**THE MINUTES OF THE 608TH STATED MEETING OF THE
PHILADELPHIA HISTORICAL COMMISSION**

**FRIDAY, 12 APRIL 2013
ROOM 18-029, 1515 ARCH STREET
SAM SHERMAN, CHAIR**

PRESENT

Sam Sherman, Chair
Richardson Dilworth III, Ph.D.
Dominique Hawkins, AIA, NCARB, LEED AP
Anuj Gupta, Esq.
JoAnn Jones, Esq., Office of Housing & Community Development
Rosalie Leonard, Esq., Office of City Council President
Michael Maenner, Department of Licenses & Inspections
John Mattioni, Esq.
Sara Merriman, Commerce Department
Joseph Palantino, Department of Public Property
R. David Schaaf, RA, Philadelphia City Planning Commission
Robert Thomas, AIA
Betty Turner, M.A.

Jonathan Farnham, Executive Director
Randal Baron, Historic Preservation Planner III
Erin Coté, Historic Preservation Planner II
Jorge Danta, Historic Preservation Planner II
Rebecca Sell, Historic Preservation Planner II

ALSO PRESENT

Scott Donahue
Samuel Gordon, SGA
Ben Leech, Preservation Alliance for Greater Philadelphia
Caroline Boyce, Preservation Alliance for Greater Philadelphia
Maryanne Finigan, Esq.
Matthew and Linda Carrafiello
Thomas Griffin
Kfir Binnfeld
Herbert Ocks, Esq.
Joan Wachlin
Adrienne Mendell
Kevin McMahan, Powers & Co.
Ori Feibush, OCF Café
Justino Navarro, Spring Garden Civic Association
Pat Freeland, Spring Garden Civic Association
Kit Leary, 2105 Wallace Street
Joan Markman, Chief Integrity Officer, City of Philadelphia
Al Hanssen, 2004 Wallace Street

CALL TO ORDER

Mr. Sherman called the meeting to order at 9:17 a.m. Commissioners Dilworth, Gupta, Hawkins, Jones, Leonard, Maenner, Mattioni, Merriman, Palantino, Schaaf, Thomas, and Turner joined him.

MINUTES OF THE 607TH STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION

ACTION: Ms. Merriman moved to adopt the minutes of the 607th Stated Meeting of the Philadelphia Historical Commission, held 8 March 2013. Ms. Leonard seconded the motion, which passed unanimously.

THE REPORT OF THE ARCHITECTURAL COMMITTEE, 26 MARCH 2013

Dominique Hawkins, Chair

CONSENT AGENDA

Mr. Farnham introduced the consent agenda and explained that it included three applications, 2351 St. Albans Street, 1828 Delancey Place, and 1519-21 N. 16th Street. Mr. Sherman asked if any Commissioners had comments on the Consent Agenda. No one offered comments. Mr. Sherman asked if the audience had comments on the Consent Agenda. No one offered comments.

ACTION: Ms. Hawkins moved to adopt the recommendations of the Architectural Committee for 2351 St. Albans Street, 1828 Delancey Place, and 1519-21 N. 16th Street. Ms. Turner seconded the motion, which passed unanimously.

AGENDA

ADDRESS: 2351 ST ALBANS ST

Project: Alter exterior

Review Requested: Final Approval

Owner: F. Scott Donahue

Applicant: F. Scott Donahue

History: 1869; Charles Leslie, developer

Individual Designation: 9/30/1969

District Designation: None

Staff Contact: Rebecca Sell, rebecca.sell@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, with the staff to review details, pursuant to Standards 2, 3, 5, 6, and 9.

OVERVIEW: This application proposes to alter and restore the exterior of this building. The application proposes to install wood windows and doors, clean the marble base, clean and repoint brick, install decorative wood panels on the rear shed, and restore existing bays and dormers.

This application also proposes to install synthetic slate shingles with clipped corners in a continuous pattern on the mansard roof. The historic slate roofing pattern consisted of alternating double rows of rectangular slates and clipped corner slates, as is shown in photographs taken in 1969, when the historic roof was in place.

ACTION: See Consent Agenda

ADDRESS: 1828 DELANCEY PL

Project: Construct addition with terrace and parking

Review Requested: Review In Concept

Owner: William Green

Applicant: Samuel Gordon, Samuel Gordon Architects, PC

History: 1855

Individual Designation: None

District Designation: Rittenhouse Fitter Residential Historic District, Contributing, 2/8/1995

Staff Contact: Jorge Danta, jorge.danta@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend final approval, provided that the curtain wall is kept within the existing masonry opening.

OVERVIEW: This application, in-concept, proposes to alter the rear façade of this residence. The rear façade currently has two non-original additions; an older full-height addition, possibly from the turn of the twentieth century, and a one-story addition built in 1977. The application proposes to remove these two additions, while maintaining the majority of the original nineteenth-century brick rear wall of the property, and constructing a new addition in the place of the two existing ones. The new addition would be two stories tall with a garage partially below grade. The installation of the garage would necessitate the excavation of the rear yard and a portion of the raised basement of the property. A two-story addition would be built on top of the garage. The addition would only occupy half of the square footage of the garage; a deck would be constructed on the remaining half. The addition would have set backs on all floors and terraces at the second and third floors. The original rear wall would be maintained as an interior wall at the second and third floors. The wall would remain exposed above the third floor. The fourth-floor windows would remain as they are, but the third-floor windows would be cut down for French doors. The application proposes to infill the gap resulting from the demolitions of the non-original additions at the rear façade with a wood and glass curtain wall.

ACTION: See Consent Agenda

ADDRESS: 1227 PANAMA ST

Project: Legalize installation of brick steps

Review Requested: Final Approval

Owner: Patricia Griffin

Applicant: Patricia Griffin

History: 1830

Individual Designation: 11/24/1959

District Designation: None

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial, pursuant to Standard 6.

OVERVIEW: This application proposes legalizing the demolition of a stoop and the construction of a new stoop in brick. The work was done without the Historical Commission's approval or a building permit. The owner claims that the old stoop was constructed of concrete. However, other houses in the row have marble stoops. The Commission has a long history of working with the current owner on projects for this building including windows and roofing. The house has a

Historical Commission plaque. To bring the building into compliance, the stoop should be replaced using marble blocks.

DISCUSSION: Mr. Baron presented the application to the Commission. Tom Griffin, the resident and son of the property owner, represented the application.

Mr. Griffin stated that he co-owns the property with his mother. He explained that he reconstructed his steps at the same time a contractor for the City reconstructed the street in front of his house. He claimed that, at the time of the street reconstruction, the Philadelphia Gas Works, which was also working in the street, undermined the sidewalk and his steps. He also explained that the planters adjacent to his steps had become deteriorated and were being used as urinals; he therefore removed them. He claimed that his steps were in a deteriorated condition and that he had concerns about their safety. He therefore hired the contractor reconstructing the street to rebuild his steps at the same time. He said he rebuilt the steps in brick to match the steps of nearby houses.

Mr. Baron explained that he spoke to the contractor who rebuilt the steps. He claimed that the contractor told him that he had access to marble blocks to rebuild the steps in their original configuration. Mr. Griffin stated that he was unwilling to pay the premium to have the steps rebuilt in marble. Mr. Sherman noted the door had been replaced as well. Mr. Griffin stated that he had a permit to replace the door. Mr. Thomas asserted that applicant should have sought a permit before replacing the steps. Mr. Sherman also noted that brick steps will present a long-term maintenance problem. He said that marble is a much more durable and the appropriate material with which to reconstruct the steps.

ACTION: Mr. Thomas moved to adopt the recommendation of the Architectural Committee and deny the application, pursuant to Standard 6. Ms. Merriman seconded the motion, which passed unanimously.

ADDRESS: 1227 RODMAN ST

Project: Legalize façade alterations

Review Requested: Final Approval

Owner: Kfir and Leona Binnfeld

Applicant: Kfir Binnfeld

History: 1852

Individual Designation: 12/31/1984

District Designation: None

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial of the legalization of the alterations to the steps, windows, sills, and lintels, but approval of the legalization of the star bolts, stucco at the base, and storm door, pursuant to Standard 6 and 9.

OVERVIEW: This application proposes to legalize work to the front façade of this rowhouse. In 2010, the Commission's staff approved a rear addition for the building. The permit applications and drawings for that addition specified that there would be no work to the front façade. The architect's drawings show existing single-block steps, 6-over-6 windows as well as thin lintels and sills. The staff noticed several unapproved changes to the façade in 2012. These changes did not exist in the 2009 Google Street View photograph of the property or the architect's drawings for the addition. These changes included new stucco on the base of the front facade, a

new storm door, the removal of marble steps and their replacement in brick with stone treads, new wood show lintels and sills installed over the marble ones, new 9-over-9 windows with new frames, the removal of the shutter hardware, installation of star bolts, and modifications to the cornice. The owner has claimed that most of this work was undertaken before he purchased the property. A photograph on a 2010 appraisal report and the architect's drawings would seem to contradict this claim. The owner does concede to changing the glass but keeping the frames in the six front windows. However, the current frames are a different color than the old frames and the muntin grids are now 9-over-9 rather than 6-over-6. In any case, the work was done since the 2009 Google photograph without a building permit or the Commission's approval.

To bring the building into compliance, the windows and frames should be replaced with 6-over-6 windows, the stucco should be removed from the base, the steps restored with marble blocks, the false lintels removed from the marble ones, and the insulation removed from the exterior of the cornice. The storm door and star bolts could be approved at the staff level.

DISCUSSION: Mr. Baron presented the application to the Commission. Property owner Kfir Binnfeld represented the application.

Mr. Binnfeld claimed that when he applied for a permit to add onto the rear of the property in 2010 he was told that the building had illegal vinyl windows, but that the violation for the windows would not be enforced as long as he did not modify them. He stated that he subsequently sought to improve the windows, but directed the window contractor to upgrade them without replacing them, thereby maintaining the grandfathered condition. He stated that his contractor worked on the windows. He contended that he had vinyl windows before the work, which were apparently acceptable, and has vinyl windows now, that should also be acceptable. He suggested that the Historical Commission notify new owners that their properties are designated as historic. Mr. Sherman asked Mr. Binnfeld when he purchased the property. He replied that he bought it in 2010. Mr. Sherman informed him that the information about its designation was readily available from many sources. He contended that Mr. Binnfeld's real estate broker or attorney should have informed him that the property was designated as historic. Mr. Binnfeld stated that he was aware that the property was designated as historic. He again claimed that the Commission's staff had told him that he could retain the vinyl windows. He asserted that the building is not a museum and needs to be updated to meet the needs of its residents. He claimed that he did not know the extent to which he could alter the windows without the Commission's approval. Mr. Thomas pointed out that the permit approval Mr. Binnfeld did receive for alterations clearly indicated that it precluded any changes to the exterior. He asserted that Mr. Binnfeld should have sought the Commission's guidance if he did not understand the limits within which he could work legally. Mr. Binnfeld claimed that his contractor serviced and improved the windows but did not change them. Mr. Thomas noted that Mr. Binnfeld replaced the glass and muntins without an approval. The change altered the appearance of the windows. Mr. Thomas asserted that Mr. Binnfeld's alterations to the windows required a review and approval, yet none was sought. Mr. Binnfeld asked if he could reverse the process and reinstall the old muntins. Mr. Baron claimed that he not only replaced the muntins, but removed and replaced the historic window frames and removed the shutter hardware and the lintels and sills.

ACTION: Mr. Schaaf moved to adopt the recommendation of the Architectural Committee and deny the legalization of the alterations to the steps, windows, sills, and lintels, but approve the legalization of the star bolts, stucco at the base, and storm door, pursuant to Standard 6 and 9. Ms. Merriman seconded the motion, which passed unanimously.

ADDRESS: 1519-21 N 16TH ST

Project: Legalize installation of transformer

Review Requested: Final Approval

Owner: PMS Development, LLC

Applicant: Plato Marinakos, Plato Studio Architect, LLC

History: 1886; addition, 1893

Individual Designation: 7/1/1982

District Designation: None

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the legalization of the installation of the transformer, provided it is screened by plantings, fencing, benches, and/or a pergola, with the staff to review details, pursuant to Standard 9.

OVERVIEW: This application proposes legalizing the installation of an electrical transformer in the front yard of the addition to this house on N. 16th Street. In April 2011, the Historical Commission approved a large side addition to this house. The contractor deviated from the approved plan for the addition. The Department of Licenses & Inspections issued violations for the non-compliant work. The owner submitted an application with a plan to correct the violations to the Commission in June 2012, which was approved. The applicant undertook some aspects of the corrective work, but did not undertake the work to relocate a large electrical transformer, which had been placed in the front yard of the addition. The plan approved in June 2012 proposed constructing an underground vault for the transformer. However, the vault was not built and the transformer was not moved, apparently owing to cost. The applicant now proposes to hide the transformer with plantings, rather than relocating it. No financial information about the cost to relocate the transformer has been submitted.

ACTION: See Consent Agenda

OLD BUSINESS

ADDRESS: 418 N 32ND ST

Project: Legalize windows

Type of Review Requested: Final Approval

Owner: Stephen Donnelly

Applicant: Dennis Daily, De Haven Construction Co.

History: 1860

Individual Designation: 2/25/1964

District Designation: None

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial, pursuant to Standard 6.

OVERVIEW: This application proposes to legalize the installation of vinyl windows. The owner removed wood windows and installed vinyl windows with a shape and light pattern very different from the originals. He has retained the old windows, which are depicted in photographs. He claims not to have the funds to buy new wood windows. In such a case, the staff recommends that he reinstall the old windows until such time as funds are available for appropriate replacement windows.

DISCUSSION: Mr. Baron presented the application to the Commission. Attorney Herbert Ocks represented the application.

Mr. Ocks explained that Mr. Donnelly is ill and was unable to attend the Commission meeting. He claimed that Mr. Donnelly was unaware that the building was designated as historic when he purchased the building more than 10 years ago. He explained that Mr. Donnelly replaced the windows because his tenants were complaining that they were deteriorated. He claimed that the frames were in poor condition and the utility bills were excessive. Mr. Ocks stated that Mr. Donnelly installed the windows to make the building “more habitable.” He suggested that the windows could be “touched up,” making them indistinguishable from the correct windows. He concluded that the window contractor advised against using wood windows. Mr. Sherman asked if the request for relief is predicated on the claim that the owner was unaware of the historic designation. Mr. Ocks stated that the owner was unaware of the designation; he added that it was not noted on the deed. Mr. Sherman replied that designations are not noted on deeds. Mr. Baron noted that the Commission had reminded every owner of an historic property of its historic designation in writing a few years ago. He also noted that a building permit is required to replace windows in a multi-family residential building whether it is historically designated or not. Mr. Ocks reported that the building in question has three units. Ms. Merriman asked how many windows were proposed for legalization in the application. Mr. Baron responded “a whole bunch of them.” Ms. Merriman said that, in cases with extenuating circumstances such as severe illness like this one, the Commission has allowed for the illegal windows to be replaced over time.

ACTION: Ms. Merriman moved deny the application, pursuant to Standard 6, but to suspend enforcement of the violation if at least three illegal windows are replaced each year until all are replaced. Ms. Hawkins seconded the motion, which passed unanimously.

ADDRESS: 2535 S 19TH ST

Project: Remove hairpin fence, install parking pad and gate

Review Requested: Final Approval

Owner: Linda and Matthew Carrafiello

Applicant: Anthony Bruttaniti, Bruttaniti Architecture

History: 1909; James H. and John T. Windrim, architects

Individual Designation: None

District Designation: Girard Estate Historic District, Contributing, 11/10/1999

Staff Contact: Rebecca Sell, rebecca.sell@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial, pursuant to Standards 2 and 9.

OVERVIEW: This application proposes to install a parking pad at this corner property. The parking area would be paved and a portion of the original hairpin fence around the side yard would be removed and a swing gate would be installed.

In July 2008, the applicant proposed a nearly identical project in-concept. The Commission denied the application. In August 2008, the applicant appealed the Commission’s decision to the Board of License & Inspection Review. In September 2009, the Board affirmed the City and upheld the Commission’s decision.

The Statement of Significance in the nomination of the Girard Estate Historic District specifically identifies the open green space as part of the district's significance. The district is historically significant because it was an experimental proposal for an alternative form of development to the typical rowhouse form, which offers little to no green space. Communal garages were constructed with this development as a place for vehicles in order to maintain the open, unencumbered, green experience.

DISCUSSION: Mr. Mattioni recused, owing to his firm's relationship with the applicants. Ms. Sell presented the application to the Commission. Attorney Maryanne Finigan and owners Matthew and Linda Carrafiello represented the application.

Ms. Finigan explained that Mr. and Mrs. Carrafiello have owned the property for 26 years and it was designated on the Philadelphia Register of Historic Places in 1999. She explained that the owners have continued to enhance the outdoor space by adding bushes, hedges, fig trees, and a rear garden. She noted a vine that is growing through an existing gate. She stated that the owners propose to remove the vine and alter the gate so that it may open and close to allow for entrance to a parking space. She stated that they obtained letters of support from the Girard Estate Neighbors Association and Girard Estate Residents Association. She explained that there are several properties in the area that allow for parking on the side or rear of homes; particularly on the 2500 blocks of S. Cleveland, S. Colorado, S. Garnet, S. Lambert, and S. 20th, 21st, and 22nd Streets. She explained that their proposal is to partially remove the existing gate and fabricate a new, operable, hairpin fence in-kind. She distributed letters of support from the neighborhood associations and copies of the full site plan. She explained that new hedges are proposed for the garden, a portion of the existing gate will be converted to become operable, and a curb cut will be installed, which has received Streets Department approval. She argued that the inventory description of this property does not mention the existing historic hairpin fence whereas it is included in the description of 2501 S. Garnet Street, a recent parking proposal that was denied by the Commission. She claimed that the existing fence is not original to this property. She argued that the open spaces in this district are packed with cars and to approve this proposal would encourage other residents to adapt off-street parking. She argued that the Statement of Significance for a West Philadelphia National Register historic district notes that rear alleys and garages were added for parking. She requested that the Commission allow this alteration because it is in the context of the garden court design.

Ms. Merriman asked what about this proposal is different from the one that was proposed in 2008. Ms. Finigan responded that they did not present a real architecturally-designed plan and that the sidewalk and existing fence are in need of repair. She added that the previous application proposed removal of the entire hairpin fence and this application proposes alteration to the existing fence.

Ms. Hawkins stated that, in her experience as a preservation architect, she relies heavily on inventories and found that they are often inaccurate and incomplete. She argued that because a neighboring house makes mention of a fence does not mean that one was not present at this location when the building was constructed or within a year of construction. Ms. Finigan agreed and stated that she went through the inventory and was amazed at how few fences are identified in the descriptions. She argued that because so few were noted in the inventory, that this fence was not present at the time of construction. Ms. Hawkins argued that there is not enough information to know if it was or was not present at the time of construction. She added that the character of West Philadelphia is extraordinarily different than Girard Estate Historic District and does not agree with drawing parallels between the two areas despite similar terminology used in the designations. She argued that there is a difference between a paved

surface where one has a patio or social gatherings and one that contains a parked car. She explained that they are intrinsically different in what is meant by “open space.” She added that she doubts the area was originally paved when the district was designated. She concluded that she opposes this application.

Mr. Dilworth asked the Commission if it is appropriate to regulate this application based on whether a removable object can or cannot be placed around a house. He proposed the hypothetical situations of lawn furniture or a statue of a car in an area next to the house and asked the Commission if it would have jurisdiction over those installations. Ms. Merriman argued that there would not be a change to historic fabric. He argued that the change to the fence would be retrofitting with hinges and latch and installation of a curb cut. Mr. Schaaf argued that a curb cut is a significant change because a car would need to drive over a public way. Ms. Finigan explained that the curb cut has been approved by the Streets Department. Ms. Merriman clarified that the Streets Department approval does not influence the Commission’s review of this application. Mr. Thomas explained that when a project is proposed it is necessary to obtain all prerequisite approvals; each agency considers different factors. He stated that the previous owner of his house removed the historic porch in the 1970s. He continued that, if would like to reinstall it, he would need to seek a zoning variance even though he would get approval from the Historical Commission. Ms. Finigan stated that she is aware that they need multiple approvals and they are currently scheduled to appear before the Zoning Hearing Board on 24 April 2013. Mr. Thomas explained that the Commission only looks at the Secretary of the Interior’s Standards and determines whether the proposal conforms to those Standards.

Mr. Gupta opined that the issue with this proposal seems to be the alteration to the fence, because a curb cut does not factor into an evaluation of the fence. Mr. Dilworth agreed and stated that alterations to the fence and curb cut do not appear to be a major change to the historic fabric of the building. Mr. Thomas agreed that creating a dip for wheelchair access is also a minor change and there have been many curb cuts that the Commission has approved for this reason. He argued that the real issue is paving over the yard to accommodate a parked car. Ms. Finigan stated that the backyard is already partially paved.

Ms. Hawkins stated that it is important for the Commission to focus on the Secretary of the Interior’s Standards, particularly Standard 9, which states that “new additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property.” She argued that this proposal destroys the spatial relationship that characterizes the property. Ms. Finigan asked Ms. Hawkins if she is referring to the alteration to the curb. Ms. Hawkins stated that she views the various issues in the proposal as a package that impact features and spatial relationships that characterize the property.

ACTION: Mr. Dilworth moved to approve the application. Mr. Gupta seconded the motion, which passed by a vote of 6 to 5. Mses. Hawkins, Jones, and Merriman and Messrs. Schaaf and Thomas dissented.

ADDRESS: 2100 FAIRMOUNT AVE

Project: Alter and install doors, windows, and railings at first floor

Type of Review Requested: Final Approval

Owner: 2100 Fairmount Avenue LLC

Applicant: Ori Feibush, OCF Café LLC

History: 1898, Dominguez Brothers Cigar Factory

Individual Designation: 12/6/1979

District Designation: Spring Garden Historic District, Contributing, 10/11/2000

Staff Contact: Jorge Danta, jorge.danta@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial, owing to incompleteness.

OVERVIEW: This application proposes to replace ground-floor windows and doors that were installed without approvals or permits, to bring them into compliance, in the mixed-use building at the southwest corner of 21st Street and Fairmount Avenue.

The building was constructed about 1898 for the Dominguez Brothers Cigar Company, which occupied it until 1904. It housed various light industrial uses throughout the first half of the twentieth century. In 1965, the ground floor facades were significantly altered. The windows were removed, masonry openings altered, a garage door installed in one opening and glass block in others, and stucco applied to the ground-floor street elevations. The ground floor was significantly altered for a second time at some point between the late 1970s and the late 1990s. The glass block and garage door were removed and non-historic doors and windows with brick sills were installed in non-historic openings in some bays on 21st and Fairmount. The work was undertaken without the Historical Commission's review, either before designation in 1979 or afterwards illegally. The ground floor was significantly altered for a third time in 2004, when a coffee shop named Mug Shots renovated the ground-floor space. The Historical Commission approved the Mug Shots project, which included cutting the window openings down below the levels of the historic sills and installing aluminum windows and doors that were compatible with the windows in the upper stories. For financial reasons, the Mug Shots project was not carried out to its fully-approved extent; the as-built project differed slightly from the approved project.

The ground-floor street facades of 2100 Fairmount were significantly altered for a fourth time in 2012. In July 2012, the Commission approved the exploratory removal of stucco for the current tenant to allow for an examination of the ground-floor façade. The tenant exceeded the permit and began installing new windows and doors. At the Commission's request, the Department of Licenses & Inspections stopped the illegal work, which was partially complete. The Commission reviewed and denied an application to legalize the windows and doors in December 2012. At that time, the Commission provided guidance to the applicant regarding correcting the illegal conditions. After the Commission denied the legalization, the Court of Common Pleas issued an order allowing the applicant to complete the window and door installation and open his business, provided he sought the Commission's approval for appropriate windows and doors, installed them on a schedule, and posted a bond ensuring the completion of the work. The applicant completed the installation, opened the business, and now seeks to bring the ground floor into compliance as required by the court order.

The applicant proposes windows and doors that follow the Commission's guidance provided during the December 2012 review and that are similar to those approved by the Commission in 2004. With the revised design, the enlarged openings down to floor level would be maintained and the inappropriate storefront systems would be altered, with transom bars and thicker mullions added. The garage doors would be retained in the interior and folding doors would be

installed in front of them at the plane of the fixed windows. Simple metal railings would be installed at the folding doors. The color of the window and door systems would be matte black, in place of the existing aluminum grey.

The Storefront Rehabilitation Guidelines in the Secretary of the Interior's Standards address this situation precisely. They allow for two options when "the historic storefront is completely missing," as it has been in this case since 1965. The Standards allow for "an accurate restoration using historical, pictorial, and physical documentation" or "a new design that is compatible with the size, scale, material, and color of the historic building." In light of the Commission's 2004 approval for Mug Shots and its December 2012 advice to the applicant, the proposed design satisfies the standards set forth in the second of the two acceptable options: the new design is compatible with the size, scale, material, and color of the historic building.

DISCUSSION: Mr. Danta presented the application to the Commission. Business owner Ori Feibush and attorneys Carl Primavera and Sean Whalen represented the application.

Mr. Danta reported to the Commission that the applicant had submitted drawings with additional details about the proposal, copies of which were provided to the Commissioners at the start of the meeting. Using the conference room's projector, Mr. Danta displayed a series of images of photographs and drawings summarizing the history of the building and the 2004 approval. He displayed photographs of the work underway without approvals in 2012.

Mr. Primavera stated that his client would like the opportunity to display some photographs and drawings. He provided a digital storage device to the staff, from which the documents were loaded onto the conference room computer. Mr. Primavera conceded that his client had exceeded the limits of his permit and approval when he undertook the work in 2012. He explained that, after the City stopped the unpermitted work, he and his client went before a judge to find a way to open the establishment. The judge issued an order allowing the business to open in exchange for a commitment from the business owner that he would comply with the historic preservation ordinance in a timely manner. He stated that, with the court order, they sealed the building and opened the business. Since then, his client and his architect have been working to comply with the requirements set forth by the Architectural Committee during its reviews. He stated that his client is seeking to bring the building into compliance by rendering the exterior façades compatible with the neighborhood. Mr. Primavera noted that the Architectural Committee had requested additional details, which his client has submitted. Mr. Feibush showed photographs of the current conditions of the building using the digital projector. He stated that he intended to preserve the ghost of the old painted sign. He stated that he is proposing to install the transom bars to the windows and change the color of all window components to a matte black. He explained that he will install tri-fold windows in the openings with the garage doors. He asserted that they will be compatible with the windows above. Mr. Primavera added that his client does not own the building, but is merely the tenant. He noted that the building has suffered from some unfortunate work that predates his client's involvement. Mr. Primavera stated that the building ownership is in "disarray." He stated that his client originally intended to move into the space without alterations, but the space was vandalized before he moved in. He contended that what had been a "move-in operation" became a rehabilitation project. Mr. Feibush apologized for his earlier "inappropriate" behavior and stated that he is moving toward a position of which he can be proud. He stated that he hopes and believes that the current proposal is "in line with the expectations" of the Historical Commission.

Ms. Hawkins stated that she received the new details when she arrived at the meeting. She noted a minor mistake, that the interior and exterior notations are reversed. She stated that the

Architectural Committee questioned whether the operable doors would work and, if so, how big the mechanisms would be. She stated that the detail drawing answers that question to her satisfaction. She asked Mr. Feibush to confirm the color of all of the components of the door and window systems. He stated that they would all be matte black. Ms. Hawkins asked about the mechanism that allows the tri-fold windows to open and close. She asked specifically about the height of the mechanism above the window; she asked about the width of the plate that hides the mechanism that runs above the operable part of the window and below the lintel. Mr. Feibush stated that he did not know the dimension, but would obtain it and provide it to the Commission. Ms. Hawkins asked if the garage doors, which are inset deeply in the openings, would remain in place or be removed after the installation of the new tri-fold windows. Mr. Feibush responded that he intended to retain them as interior elements. He stated that he would remove the garage doors if necessary, but hoped that he would be able to retain them because he liked the industrial aesthetic that they provided to the interior. Ms. Hawkins asked if the garage doors could be raised up to allow the tri-fold windows to align with the tops of the fixed windows. Mr. Feibush stated that he did not think that the garage doors could be raised up. He displayed photographs of the interior and asserted that the garage doors harmonize with the look of the former industrial space in the interior. He stated that he “loved” the garage doors, but would remove them if necessary. He again stated that he would like to retain them in the interior. He stated that he invested \$500,000 in the space. He added that he would be willing to permanently affix the garage doors in the open position on the rails at the ceiling. Ms. Hawkins stated that the Commission has no jurisdiction over the appearance of the interior. She stated that the windows should align or nearly align on the exterior. Mr. Thomas asked if locking the garage doors in the open position would allow the new tri-fold windows to better align with the fixed windows. Mr. Feibush stated that the windows may be able to align or almost align in that scenario. He suggested that the alignment might deviate by about one inch in that case. Mr. Feibush stated that, given that he is replacing the trim on all of the windows, he could adjust the head heights of the fixed windows for alignment. Mr. Mattioni stated that he thought that the Commission might be “splitting the hair too finely.” He asserted that the Commission should not insist that the garage doors be fixed open. He opined that he found the application acceptable as proposed. Ms. Hawkins concluded that the “applicant has addressed the suggestions and recommendations of the Architectural Committee.”

MOTION: Ms. Hawkins moved to approve the application as supplemented, provided the dimensions from the lintels down to the glass at the fixed and operable windows do not differ by more than one inch, pursuant to Standard 9 and Storefront Rehabilitation Guidelines. Mr. Mattioni seconded the motion.

Kevin McMahon, who works for Powers & Co., a preservation consulting firm, introduced himself and distributed additional materials. He stated that he was “speaking on behalf of some of the Spring Garden neighbors.” He explained that Robert Powers, his employer, is a resident of the neighborhood and has been working pro bono with a group of neighbors to oppose the applications for this property. He stated that Mr. Powers was unable to attend today’s meeting. Mr. McMahon stated that he is speaking on behalf of Mr. Powers. He asserted that the Commission is looking at the details, but not the big picture. He stated that the “staff approval was based on the Storefront Rehabilitation Guidelines,” but the building did not historically have storefronts. He claimed that the building did not have storefronts originally. It did not have storefronts until the Mugshots Café opened in 2004. He claimed that Mr. Feibush’s changed the character of the building. The ground floor had windows that were residential in size and character for the early part of its history. The new windows are incompatible and convey a false sense of history. Adding transom bars and altering the mullions would not be approved in any other circumstance. He acknowledged that the Commission approved enlarging the window

openings in 2003 for Mugshots, but contended that that approval was based on incomplete information. He claimed that he recently discovered additional historic photographs that show the original sill heights. He stated that Mr. Feibush has presented no evidence demonstrating that the sill heights had already been altered when he began his work. He referenced the 1970s photograph that shows a garage door in one of the Fairmount Avenue openings and claimed that all of the other openings had been reduced in size, but not enlarged. The one enlarged opening should not serve as a precedent for the other bays. The burden of proof is on Mr. Feibush. Mr. McMahon stated that Mr. Farnham's claim that the Commission routinely approves such applications is not true. He stated that the examples provided by Mr. Farnham, 1602 Spruce Street, 135 S. 18th Street, Parc Restaurant, Pietro's Pizzeria on Walnut Street, and the Starbuck's in the Wanamaker Building, are not good examples. He claimed that none of the alterations resulted in a significant change in character. He asked the Commission to deny the application.

Kit Leary introduced himself as a neighbor, who lives on Wallace Street, around the corner from the subject property. He claimed that OCF Café destroyed historic fabric. He claimed that the proposal is not compliant with Standard 9 with respect to size and scale. He stated that the proposed windows are 25% taller than the historic windows. He asserted that aluminum windows did not exist in 1898. He contended that wood windows should be installed. He objected to the "battleship grey" color of the stucco. He stated that the building is large and has a significant presence on the block. He stated that "to deface" the building with windows that are not up to the standard "is not really proper." He claimed that the 2004 Mugshots approval called for Pella double-hung windows. He claimed that the applicant is proposing to install additional aluminum material onto the existing window frames and asserted that this "is a poor way to go." He stated that the neighbors and their consultant have not had a chance to review the supplementary materials. He claimed that the soffits at the garage doors are 14 inches deep. He claimed that any folding window would be restricted to folding below the transom bar to avoid hitting the garage door soffit. He stated that that "would not be a proper way." He claimed that the Commission is strict with home owners, but not with this applicant. He urged the Commission to deny the application.

Mr. Sherman asked Ms. Hawkins to clarify her motion regarding the retrofitting vs. replacement of the window frames and the relationship of the new folding windows to the existing lintels. Ms. Hawkins stated that her motion called for "replacement of the frames and elimination of that soffit panel."

Al Hanssen introduced himself and explained that he is a neighbor, but not an official of the Spring Garden Civic Association. He stated that he is concerned by the work that has happened over the last year. He asserted that the applicant has not followed the proper procedures. He noted that lawsuits have been threatened and court injunctions have been obtained. He categorized the work to the facades as a "desecration." He contended that the applicant has claimed that this is "a jobs issue." He countered that it is a "building issue." He stated that he liked the fact that the window openings were enlarged from their former infilled conditions and that the historic lintels over the windows were revealed. However, he objected to the windows installed within the openings. He stated that they are "wrong." He reminded the Commission of the decisions that it made in the cases that preceded this one on the agenda. He objected to the garage doors remaining in place behind the tri-fold windows. He contended that the aluminum would "shine through." He asked the Commission to reject the proposal. He stated that this is a corner property and an entry into the neighborhood. He asked the Commission to "do the right thing today."

Caroline Boyce, the executive director of the Preservation Alliance, read a prepared statement:

The Preservation Alliance appreciates the opportunity to comment on the application submitted to the Philadelphia Historical Commission by Mr. Ori Feibush of OCF Café LLC to alter and install doors, windows, and railings at 2100 Fairmount Avenue, a contributing building in the Spring Garden Historic District. We have concluded that the proposal does not meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, and that if approved, would represent an unfortunate precedent for future applications before the Historical Commission. We therefore urge you to deny the application as presented.

The application before you proposes to legalize alterations to the building that were undertaken by the applicant without a permit and without Historical Commission approval. These alterations include the enlargement of ground-floor masonry openings beyond their historic dimensions and the installation of new window units whose proportions and materials are incompatible with the character of both the building and the district. While the present application proposes further alterations to these illegally-installed windows in an attempt to satisfy Historical Commission standards, we maintain that the proposal remains inappropriate and should not be approved.

Given the unfortunate circumstance that this application requests the legalization of work already undertaken, it is crucial that the Commission remain consistent in its longstanding practice of judging the application solely on its merits. As stated by Commissioner Hawkins during this project's initial review by the Architectural Committee on November 27, 2012, "When the committee reviews legalization applications, it always looks at whether work performed would have been approved had it been presented to the Commission in advance and followed the normal review channel."

Both the Architectural Committee and the full Historical Commission unanimously found that the alterations failed this test and were correctly denied.

This revised application should be judged by the same standard, and was indeed unanimously recommended for denial by the Architectural Committee on February 19, 2013, citing incompleteness. In the seven weeks since that meeting, no additional information was provided to the Commission before this morning to address the Committee's stated concerns about the appropriateness or constructability of this proposal. The Preservation Alliance concurs with the Architectural Committee that the application is incomplete. We further maintain that, even in concept, the proposal remains inappropriate to the character of the building and the district.

Three aspects of the proposal represent dangerous precedents if approved. First, in approving any version of this project that maintains the enlarged floor-length window openings, the commission would be condoning the removal of historic and original building fabric without justification. The applicant's desire for floor-length windows was not guided by historic precedent, but by a desire for a contemporary aesthetic that is not in keeping with the character of the building. Research conducted by Powers & Company has proven conclusively that the window configurations depicted in the 1940 photograph of the building presented at the last Commission meeting are in fact the historic original windows, and not later alterations as was speculated by the applicant and Commission staff at the time. The historic masonry openings in most of the bays had been infilled, but no evidence has been presented that they had ever existed in their

current illegal configuration. Appropriate alterations to the ground floor should therefore use the historic window configuration as a model, following the Commission's long precedent of encouraging the incremental restoration of building features and characteristics that were lost prior to designation. As noted by the Alliance and others previously, the building's historic window configurations would more than adequately provide the applicant's desired "eyes on the street" and the transparency necessary to showcase the activities of the commercial tenant inside the building.

Second, by approving the proposed minor alterations to the existing illegal windows, the Commission would be condoning the use of applied materials to imitate the appearance of multi-pane windows. Even in a commercial context, the Preservation Alliance is aware of no precedent for this approval. The Commission regularly and consistently denies requests to legalize inappropriate residential windows through the use of false muntins or imitation divided lights. Any window configuration approved by the Commission for this project must involve the installation of true mullions and transom bars, not applied imitation members. Not only is this a bad precedent for future applications, but will likely result in visibly poor and mismatched workmanship relative to the proposed new units in the garage door bays.

Third, and perhaps most troubling to the Alliance, by approving work that was done in conscious and blatant disregard of the standards and procedures of the Historical Commission, the Commission risks setting a precedent that could be followed in the future by other developers hoping to circumvent its standards and requirements. The Alliance does not doubt the sincerity of the applicant's current remorse for the work undertaken illegally, but it is clear that he took a conscious and calculated risk in its undertaking. If this proposal is approved as submitted, that risk will have been rewarded and others will no doubt take note. For the integrity of this historic building, the integrity of the Spring Garden Historic District, and the integrity of the Historical Commission's standards and authority, the Preservation Alliance strongly urges you to deny this application.

Joan Markman introduced herself as the City's Chief Integrity Officer. She stated that she was attending the meeting in "her City capacity," although she first learned of this hearing from the neighborhood because she lives in the neighborhood on the 2000 block of Wallace Street. She stated that she is a patron of OCF Café and likes the applicant's coffee. She stressed that she was attending the meeting in her "City capacity." She said: "I am not here representing the neighborhood. I am here in my City capacity." She said she had no opinion "yea or nay, up or down" about the application, but was "concerned about the process." She stated that she was in attendance to ensure that the Historical Commission did not apply "different standards" to the current application than it had applied to other applications earlier in the hearing. She stated that, in the earlier reviews, the Commission strictly interpreted standards to the disadvantage of the home owners. The earlier applicants were held to strict standards regardless of the financial impact. She stated that she has concluded that Mr. Feibush consciously disregarded the Commission's process. She stated that Mr. Feibush is a sophisticated developer. He is not simply an unaware home owner. Mr. Primavera interrupted and stated that he has a running objection. He stated that "this is a very heavy-handed, inappropriate line of discussion." He stated that the comments are "irrelevant" to the merits of the application. It is "disrespectful to the Commission." He stated that Ms. Markman is "taking things on an ad hoc basis." He asserted that she is unaware of the Commission's procedures and practices. He stated that he is "offended." He stated that he has worked with the City since the Rizzo Administration and has not experienced anything like this. He again called her actions "heavy-handed." He paraphrased

Shakespeare, stating that the opponents “protest too much.” He suggested that the Commission “dismiss” her remarks. Ms. Markman stated that there is nothing “offensive” in what she is saying. She asserted that the process should be applied in this matter as it is in all others. She stated that she takes no position on the merits of the current application. She urged the Commission to apply the same standards to this applicant that it applies to all others. She asked the Commission to apply firm deadlines to this applicant and impose consequences if those deadlines are not met. Mr. Primavera responded that the City Solicitor has been active in this case and they have appeared before the Court of Common Pleas. He informed Ms. Markman that they are working under a court stipulation. He asked Ms. Markman if she was acting as legal counsel for the Commission or the City. He asked if she was providing legal advice. Ms. Markman stated that she is not a lawyer, but then corrected herself and stated that she is not acting as a lawyer. Mr. Primavera asked Ms. Markman if she is a member of the bar.

Mr. Sherman asked for order. Mr. Mattioni stated that the Commission will defend itself against Ms. Markman’s accusations. He stated that he is “personally offended” by her comments. Ms. Markman stated that the Mayor has “made it clear” that City officials should apply the same standards to all those who appear before City agencies and that they make their decisions in “a uniform and transparent way.” Mr. Sherman stated that Ms. Markman was insinuating that the Commission was not applying its standards uniformly. Ms. Markman denied that she was implying that the Commission was acting inappropriately. Mr. Sherman stated that that was “exactly” what she was doing. Mr. Mattioni agreed, stating that she was implying that the Commission was acting inappropriately in its review of this application. Mr. Mattioni stated that, as one of Mayor Nutter’s appointee on the Commission, that he was insulted personally and that he resented her implication that the Commission was acting inappropriately. He stated that Ms. Markman was “out of line” and, if she was at the meeting at the Mayor’s request, “he was out of line.” Ms. Markman noted that the Commission had not yet acted and she was only speaking “prospectively.”

Ms. Merriman explained that there is a key difference between the current application and the ones that the Commission reviewed earlier in the meeting. She stated that the home owners who appeared before the Commission earlier in the meeting were requesting legalization without any mitigation. She noted that Mr. Feibush requested legalization without proposing any mitigation in December 2012 and was denied. She stated that Mr. Feibush is at a different place in the process than are the home owners who appeared earlier. He has conceded that he has done illegal work and is now proposing work to correct that illegal work. The earlier applicants offered no work to mitigate, but instead only requested forgiveness. Ms. Merriman “encouraged” Ms. Markman to “educate” herself “offline” to better understand the Commission’s process. Ms. Merriman noted that she is also a member of the administration and is vice-chair of the Commission and Deputy Mayor Greenberger’s designee on the Commission. Ms. Markman responded “that’s fine.” Mr. Mattioni stated that Ms. Markman’s “presence here is inappropriate.”

Ms. Hawkins stated that the Commission does not typically require restoration-level projects, nor are they required to conduct exhaustive historical research before proposing a project. Ms. Hawkins stated that this applicant has acknowledged working illegally and has taken under advisement the suggestions of both the Architectural Committee and Commission to remedy the illegal work. In the earlier cases, the work was done to original, historic features. In this case, the ground-floor facades had been “extraordinarily altered” prior to this applicant’s involvement with the building. Ms. Hawkins stated that she would like to add the “staff to review details” caveat to her motion. He second agreed with the addition. Mr. Farnham asked for a clarification. He noted that Ms. Hawkins first moved to approve the application, which proposes to alter but not replace the frames, but then later commented that the frames should be replaced, not

simply altered. He asked Ms. Hawkins to clarify whether the motion would require the replacement of the frames or whether it allowed for the frames to be altered to bring them into compliance. She stated that her goal is to ensure that the windows all have the same exterior finish. She stated that she doubts that a new finish can be successfully applied to the existing frames, but she would allow for that option. The applicant may either replace the frames outright or retrofit them as long as the new and existing frames have the same finish. She stated that she would delegate the decision-making about the finish to the staff. Her second agreed. Mr. Palatino asked Ms. Hawkins to clarify her motion with regard to the garage doors. Ms. Hawkins stated that her motion requires that the distance down from the lintel to the glass of the window will not deviate by more than one inch between the retrofitted existing windows and the new tri-fold windows. She stated that the garage doors will become interior elements out of the Commission's jurisdiction. She added that the tri-fold windows should be in the same plane with the openings as the retrofit windows. Her second agreed.

Someone in the audience asked the Commission to restate the motion. Mr. Farnham responded that the staff will review the audio recording of the meeting to ensure that the motion is correctly stated in the minute and decision letter. He recited his understanding of the motion: approve the application, provided that there is not more than a one-inch deviation between the lines of the top of the glass in the tri-fold and fixed windows, provided that the window frame finish is a matte black and consistent across all ground-floor window systems, and provided that the fixed and tri-fold windows are in the same plane within the window openings, with the staff to review details.

Someone in the audience asked for a clarification about the application of the transom bars. Ms. Hawkins replied that the staff will determine whether the applied transom bars comply with the proposal as set forth in the architectural drawings.

ACTION: The Commission voted unanimously to adopt Ms. Hawkins and Mr. Mattioni's amended motion to approve the application, provided that there is not more than a one-inch deviation between the lines of the top of the glass in the tri-fold and fixed windows, provided that the window frame finish is a matte black and consistent across all ground-floor window systems, and provided that the fixed and tri-fold windows are in the same plane within the window openings, with the staff to review details, pursuant to Standard 9 and Storefront Rehabilitation Guidelines.

ADJOURNMENT

ACTION: At 10:48 a.m., Ms. Hawkins moved to adjourn. Mr. Thomas seconded the motion, which passed unanimously.

STANDARDS AND GUIDELINES CITED IN THE MINUTES

Standard 2: The historic character of a property will be retained and preserved. The removal of distinct materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.

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

Standard 5: Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

Standard 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.

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

Storefronts Guidelines: Recommended: Designing and constructing a new storefront when the historic storefront is completely missing. It may be an accurate restoration using historical, pictorial, and physical documentation; or be a new design that is compatible with the size, scale, material, and color of the historic building.