

**THE MINUTES OF THE 356TH STATED MEETING OF THE
PHILADELPHIA HISTORICAL COMMISSION**

9 October 1991

City Council Caucus Room

Edward A. Montgomery, Jr., Chairman

Present

Edward A. Montgomery, Jr., Chairman
Christine Washington, Vice Chairperson
William Brown
David Brownlee
David Hollenberg
Jason Nathan
Stephanie Wolf
Barbara Kaplan, Executive Director, City Planning Commission
John Street, Esquire, Philadelphia City Council, 5th District
Scott Wilds, Office of Housing and Community Development
David Wismer, Deputy Commissioner, Licenses and Inspections

Maria Petrillo, Esquire, Deputy City Solicitor
Richard Tyler, Historic Preservation Officer
Randal Baron, Preservation Planner
Sara Jane Elk, Historical Research Technician
Daniel W. Simcox, Executive Secretary

Also

Gray Smith, Howard Kittell
Preservation Coalition of Greater Philadelphia
Roger Prichard, Richard Thom
Old City Civic Association
Donna Harris, Philadelphia Historic Preservation Corporation
Sandra Garz, Foundation for Architecture

Mr. Montgomery called the meeting to order and announced the presence of a quorum.

The Minutes of the 355th Stated Meeting of the Philadelphia Historical Commission, held 11 September 1991, Edward A. Montgomery, Jr., Chairman. Mr. Wilds requested a correction regarding the motion to approve the demolition of the Jayne Estate Building, stating that he did not make the motion.

Mr. Nathan accepted attribution of this motion.

Mr. Wismer noted a typographical error in the Report of the Committee on Financial

Hardship. The correct address of the buildings on Chestnut Street are 920-22, 926 and 930.

A motion to adopt the minutes incorporating the preceding remarks and corrections, made by Mr. Wilds and seconded by Mr. Brownlee, received unanimous approval.

The Report of the Architectural Committee of the Philadelphia Historical Commission held 26 September 1991, David Hollenberg, Chairman. Mr. Hollenberg forwarded two recommendations.

Approval: The Committee recommended approval, contingent upon certain conditions, of proposed alterations by Soong Associates to 1001 Spruce Street. Sabrina Soong, architect notified the staff in a letter that the owners would comply with these conditions. Mr. Wismer seconded this recommendation, which was approved unanimously.

Disapproval: The Committee revisited a proposal by Paul Rimmeir to replace 36 aluminum windows of 248-250 Market Street with vinyl windows. Having deferred action in August for lack of adequate information, the Committee reviewed revised drawings. They afforded insufficient matches with the existing windows. Though considerable discussion ensued regarding a program of repair and replacement in aluminum, the Committee recommended disapproval of the formal submission. Mr. Wismer seconded this recommendation, which was approved unanimously.

The Report on Staff Activities, September 1991, Richard Tyler, Historic Preservation Officer. Reargument in the matter of United Artists' v. City of Philadelphia, Philadelphia Historical Commission was scheduled to be heard by the Pennsylvania Supreme Court on 25 October 1991 in Room 456 City Hall. [The Court subsequently changed this date to 23 October 1991.] A MOTION to adopt the report, made by Mr. Nathan and seconded by Mr. Wismer, was approved unanimously.

Old Business

The Jayne Estate Building, 2-16 Vine Street, a vote on the demolition permit application. Mr. Tyler provided background information. In September 1991, the Committee on Financial Hardship forwarded its report of 5 September which concluded that the owner of this property demonstrated financial hardship. Though the Commission adopted the vote of its Committee by a vote of 10-2, with Messrs. Brownlee and Hollenberg opposed, it did not vote on the demolition permit application. Mr. Prichard brought this matter to the attention of the Commission after the stated meeting adjourned. Then, upon counsel of Ms. Petrillo, the Chairman convened a special meeting specifically to vote on the question of demolition. In that meeting, a motion was made by Mr. Nathan and seconded by Mr. Thompson to approve the demolition permit application for the Jayne Estate Building. Gray Smith objected to this procedure. The Commission adopted the motion by a vote of 4-3 with Ms. Wolf abstaining and Messrs. Brownlee, Hollenberg and Wilds opposed. Voting in favor of the motion were Messrs. Nathan and Thompson, Ms.

Kaplan and the Chairman. Ms. Petrillo offered an apology for her counsel regarding the special meeting. Though Local Agency Law acknowledges the obligation of an individual to raise any objection at the time of the meeting, she erred in advising a call for a special meeting to resolve the issue. There was insufficient public notice for a special meeting. Subsequently, she counseled the Commission to schedule a vote on this matter for the next stated meeting and to notify all interested parties.

A motion was made by Mr. Nathan and seconded by Mrs. Washington to approve the demolition permit application for the Jayne Estate Building, 2-16 Vine Street. In September, Mr. Wilds urged the recordation of this building prior to its demolition.

Mr. Wilds indicated that he opposed this motion in September because he was uncomfortable with the process. However, as a member of the Committee on Financial Hardship, he felt that the owner demonstrated good faith in his application and that the substance of that submission demonstrated financial hardship. Mr. Wilds declared his support for the motion.

Roger Prichard of the Old City Civic Association addressed the Commission. He suggested that the Commission draw on the expertise of each of its committees to review the historic significance and architectural potential of the building. Although the Commission acknowledged that historic significance and other factors could weigh into its decision, it had only heard testimony regarding financial hardship. Mr. Prichard then asked if the Commission would have proceeded differently if the Supreme Court had not issued an adverse ruling. He suggested that, just at the Commission deferred further designations, it defer hearings on demolitions until after reargument. Third, he asked the Commission to distinguish between the Jayne Estate Building and any other designated building. If the testimony submitted sufficiently demonstrated financial hardship for the Jayne Estate Building, then he could not think of any other building for which hardship could not be proven. Mr. Prichard asked if the future of the architectural heritage of Philadelphia rested on the naivete of property owners. He suggested that it was not unforeseeable that a speculator in Old City could assemble a large site of historic buildings for future development.

Ms. Kaplan stressed that the applicant did not acquire this building with intent to demolish. The corporation tried to develop this site in good economic times and was unable to obtain financing. As such, it differs considerably from many applications.

Mr. Montgomery stated that the Commission has designated over 13,000 buildings in Philadelphia and that all of these are not of the same value. City Hall clearly possesses greater significance than the Jayne Estate Building. He stressed that historical significance and other factors had been considered in these deliberations even if they were not explicitly repeated at each meeting. Mr. Montgomery added that delaying a decision until after the Supreme Court rules would place an unfair burden on the owner.

Mr. Tyler reinforce this point, noting that the suggested strategy may play into the hands of preservation opponents.

Mr. Brownlee reviewed the historical significance of the Jayne Estate Building. It was significant as the work of John MacArthur, the architect of City Hall. The building was the only late-19th century port-related commercial structure along Delaware Avenue south of Spring Garden Street. Further, it was built by the estate of a significant Philadelphia citizen. Mr. Brownlee concluded by stressing that the importance of the building was assumed by its historic designation by this Commission.

Mr. Hollenberg expressed concern with the provisions for financial hardship. He noted that Mr. Prichard raised significant concerns last month. Particularly, Mr. Hollenberg questioned the degree to which demolition alleviates financial hardship. Ms. Kaplan noted that demolition would remove liability and insurance costs from vandalism. Mr. Hollenberg noted that the projected revenue from a surface parking lot was inflated. Further, the presence of an undeveloped, adjacent parcel owned by a prominent local developer suggests an absence of demand. Mr. Hollenberg stressed that demolition does not resolve the owner's financial hardship. Plans for future development, required by the Ordinance, were not even provided. Mr. Hollenberg acknowledged that the owner proceeded in good faith, yet he was not convinced that economic return from demolition warranted the loss of a building of historic significance. Mr. Hollenberg concluded by announcing his opposition to the motion and asking the Commission to consider how much hardship was sufficient to allow demolition.

Mr. Tyler suggested that even under the Penn Central test, denial of this permit may constitute an unconstitutional "taking." In that case, the decision allowed an existing viable use and provided other economic benefit through a Transfer of Development Rights program. The Jayne Building meets neither test. It is vacant, providing its owner with no return. Further, the City offered no other tangible incentive to the owner. Mr. Tyler noted that Zoning Bills, presently under consideration by City Council, may establish a Transfer of Development Rights program in Philadelphia. Mr. Tyler added that he spoke in support of these bills at a meeting of Council's Rule Committee. A TDR program would significantly assist preservation efforts.

Howard Kittell, Executive Director of the Preservation Coalition of Greater Philadelphia, spoke in opposition to the proposed demolition of the Jayne Estate Building and urged the Commission to consider other significant factors. He suggested that the purpose of the ordinance was to "blunt the peaks and valleys of economic cycles." The ordinance was intended to protect historic buildings when their land values rose excessively high as well as when the market made development economically infeasible. He urged the Commission not to allow "temporary economic circumstances" to determine the fate of this significant building. Though heartened to hear discussion of the historic value of the Jayne Building, he suggested that if the Commission failed to

take a stand and oppose demolition, that there was little reason for meeting. If the Historical Commission could only delay and eventually capitulate to demolition requests, there seemed little reason to maintain such an office.

Councilman Street suggested that the ordinance specifically included provisions for financial hardship in order to guide the Commission in its consideration of such requests. The owner had acted in good faith and demonstrated financial hardship despite documented efforts to rehabilitate the building. As such, Mr. Street suggested that disapproval of this application may place the Commission in a vulnerable legal position.

Mr. Montgomery stressed that these deliberations were not influenced by the Pennsylvania Supreme Court, but rather solely upon review in accordance with the Rules and Regulations and the preservation ordinance.

Messrs. Brownlee and Hollenberg inquired whether the Department of Licenses and Inspections had examined the building. Mr. Wismer indicated that there had been directives to seal the property, but that it had not been assessed as either "dangerous" or "imminently dangerous."

A VOTE was taken on the motion to approve the demolition permit application for the Jayne Estate Building, 2-16 Vine Street. The Commission adopted the motion by a vote of 9-2 with Messrs. Brownlee and Hollenberg opposed.

Mr. Montgomery expressed appreciation to the members of the Old City Civic Association and Preservation Coalition for their concern and commitment to testify on this issue.

New Business

Certified Local Government Review and Comment on Nomination to the National Register of Historic Places. Most Precious Blood Roman Catholic Church, Rectory and Parochial School, 2800-2818 Diamond Street. Mr. Brownlee indicated that this church, rectory and parish school possess historic significance as the work of two prominent local architectural firms and as a neighborhood landmark. He made a motion to convey a favorable comment on this nomination to the Pennsylvania Bureau for Historic Preservation.

Mr. Tyler added that the school had been sold for development as low and moderate income housing, a project which would be assisted by the Office of Housing. Mr. Wilds seconded the motion, which was approved unanimously.

Harry A. Batten Memorial Fund

Mr. Tyler requested compensation from this fund for refreshments served at a recent meeting of attorneys held at the Commission office to discuss strategy for reargument before the Pennsylvania Supreme Court. Mr. Brownlee made a motion to compensate Mr. Tyler for this expense in the amount of \$ 46.89. Mr. Wilds seconded the motion which was approved unanimously.

There being no further business, the Commission adjourned.

Respectfully submitted,

Daniel W. Simcox,
Executive Secretary