MEETING OF THE COMMITTEE ON FINANCIAL HARDSHIP
OF THE PHILADELPHIA HISTORICAL COMMISSION

TUESDAY, 27 OCTOBER 2020
REMOTE MEETING ON ZOOM
ROBERT THOMAS, CHAIR

CALL TO ORDER

START TIME IN AUDIO RECORDING: 00:00:00

The Chair called the meeting to order at 3:00 p.m. The following Committee members joined him:

Committee Member	Present	Absent	Recused
Robert Thomas, AIA, Chair	X		
Mark Dodds (Division of Housing & Community Development)	X		
Kelly Edwards, MUP	X		
Lebaron Lenard-Palmer (Dept. of Planning & Development)	X		
Dan McCoubrey, AIA, LEED AP BD+C			X

Owing to public health concerns surrounding the COVID-19 virus, all Commissioners, staff, applicants, and public attendees participated in the meeting remotely via Zoom video and audio-conferencing software.

The following staff members were present:

Jonathan Farnham, Executive Director
Kim Chantry, Historic Preservation Planner III
Laura DiPasquale, Historic Preservation Planner II
Shannon Garrison, Historic Preservation Planner I
Meredith Keller, Historic Preservation Planner II
Leonard Reuter, Esq., Law Department
Megan Cross Schmitt, Historic Preservation Planner II

The following persons were present:

Gussie O'Neill, Esq., Klehr Harrison
Representative Jason Dawkins
Sami Jarrah
Adrian Lionel
Janet Bernstein
Blane Stoddart
Suzanna Barucco
Eugene Desyatnik
Patrick Grossi, Preservation Alliance
Roger S. Tenant Sr.
Bill Ritzler
Karen Lockhart Fegely
Yvonne Boye
Peter Bloomfield

Kim Washington
Alex Balloon
Paul Newlin, Rite Aid
Paul Steinke, Preservation Alliance
Randy Baron
Nancy Templeton
Ellie Devyatkin

ADDRESS: 5129-35 FRANKFORD AVE
Proposal: Demolish building
Review Requested: Final Approval
Owner: Rite Aid of Pennsylvania
Applicant: Ronald Patterson, Klehr Harrison Harvey Branzburg LLP
History: 1955; Penn Fruit; George Neff, architect
Individual Designation: 11/10/2016
District Designation: None
Staff Contact: Kim Chantry, kim.chantry@phila.gov

BACKGROUND:
This application proposes to demolish the purpose-built Penn Fruit supermarket building at 5129-35 Frankford Avenue. It claims that the building cannot be feasibly reused, that requiring its preservation would impose a financial hardship on the property owner. The financial hardship application will be reviewed by the Architectural Committee and Committee on Financial Hardship as well as the Historical Commission. The building is a large, single-story purpose-built supermarket constructed in 1955. It is 37,666 square feet in size. The last supermarket tenant, occupying approximately 80 percent of the rentable space, closed its doors in 2016. The space has been vacant and the signature storefront system has been entirely covered behind a security system of panels since that time. The Historical Commission designated the property as historic on 10 November 2016 with a vote of 7 to 5, finding that it satisfied Criteria for Designation A, C, D, and J. The nomination argued that the arched-roof supermarket, constructed in 1955, possessed significant character, interest, and value as part of the development of Philadelphia in the postwar era, exemplified the legacy of the Penn Fruit Company as a major innovator in the supermarket industry; reflected the environment of the postwar era characterized by the popularity of exaggerated modernism; and embodied the distinguishing characteristics of the supermarket as a building type uniquely emblematic of this era and style. The owner of the property, Rite Aid of Pennsylvania, objected to the designation in 2016, presenting an engineer's report claiming that the building was poorly designed and constructed and was in very poor condition, beyond repair.

Section 14-1005(6)(d) of the historic preservation ordinance prohibits the Historical Commission from approving the complete demolition of a historic building unless the Historical Commission finds that issuance of the building permit is necessary in the public interest, or unless the Historical Commission finds that the building cannot be used for any purpose for which it is or may be reasonably adapted. In order to show that the building cannot be used for any purpose for which it is or may be reasonably adapted in order to justify a demolition, the owner must demonstrate that the sale of the property is impracticable, that commercial rental cannot provide a reasonable rate of return, and that other potential uses of the property are foreclosed. This application claims that the condition of the building and the cost to repair it prohibit a sale or reuse of the building. This application also makes an argument for allowing demolition in the public interest, with a claim that the continued designation of the property will thwart the revitalization of the Frankford Avenue corridor.

The application includes a cover letter from attorney Ronald J. Patterson that explains that Rite Aid of Pennsylvania, the owner of the property, seeks a finding of financial hardship owing to three main reasons: 1) the building's essential features have reached a point of imminent and complete failure, making preservation infeasible; 2) Rite Aid has lost and continues to lose substantial money by keeping the property within its real estate portfolio; and 3) reuse of the existing building does not present the highest and best use, and an alternative design for the site would positively impact the community. The cover letter concludes that:

> "the present conditions of the building make preservation both impracticable and economically infeasible, and being required to repair the building would work a hardship on Rite Aid as the owner. Moreover, the continued designation of the Property would directly contradict the sound goals and recommendations that the Planning Commission has established for this corridor, and would thwart redevelopment efforts encouraged by the neighborhood impacted by the Property's continued designation. For all these reasons, we respectfully request that the Commission exercise its discretion and grant Rite Aid's application for financial hardship."

The application includes an affidavit from Paul F. Newlin III, the Director of Real Estate Operations at Rite Aid Corporation. The affidavit states that the property has not been listed for sale, and no offers for purchase have been received. It also states that no reuse of the property is contemplated because the cost to rehabilitate the property is prohibitive. Exhibit "E" offers a construction budget estimate from 2018 of $3,792,344 for a building rehabilitation and fit out, including site improvement, exterior construction, ceiling work, flooring, roofing, electrical, plumbing, and associated costs. An appraisal report prepared in 2016 at Exhibit "B" indicates that the property is valued at $1.5 million with the current leases, and $1.6 million with the best possible leases. Exhibit "A" documents a 24-month expense to Rite Aid of $211,599.84 to keep the property in its real estate portfolio. The 2016 appraisal report which concluded that, although there are positive aspects of the market area and site, including excellent transit access to major job centers and good commercial exposure with three street frontages, the market for commercial uses was weak due to low incomes, declining rental rates, and negative absorption. The application includes two engineer's reports, at Exhibits "C" and "D," one from the time of historic designation, and the other from June 2020, that conclude that the condition of the property has only worsened from the extremely poor condition that it was in at the time of designation. The application includes a report from a land planning consultant at Exhibit "F" that opines that the current building and historic designation restricts the potential for vertical mix-use development and prohibits the optimal use of the site for financial and community benefit. This report suggests that a conceptual plan for maximum potential use of the site would include a supermarket, but also additional ground-floor retail, with four stories of multi-family units above. The application also includes several letters of support from community organizations for approval of the hardship application.

The cover letter provided in the application includes mention of a request for rescission of the historic designation as an alternative, but no arguments are made in the application to support this request. Therefore, the staff recommends that consideration of a rescission is not part of this application.

After reviewing the initial application described above, the staff recommended to the applicant that they provide a discounted cash flow analysis of a project to rehabilitate the historic building for commercial use that is based on a ten-year pro forma and predicts yearly cash flows and a net present value. Such an analysis would demonstrate whether or not the sale of the property is impracticable, that commercial rental cannot provide a reasonable rate of return, and that other potential uses of the property are foreclosed. The applicant provided this analysis, which is included at the end of the application. The analysis predicts negative cash flows every year and a present value for the project of negative $5,028,291 in its current condition, negative $3,836,470 with a retail tenant, and negative $1,078,565 if sold today for market value. The conclusion drawn from the analysis is that only a redevelopment of the site would prevent a substantial financial loss.

STAFF RECOMMENDATION: The staff recommends that:

- The complete demolition of the designated resource triggers the demolition prohibition in Section 14-1005(6)(d) of the historic preservation ordinance. For the Historical Commission to approve the complete demolition, the applicant must demonstrate that the demolition is necessary in the public interest or that the building cannot be used for any purpose for which it is or may be reasonably adapted.
- The implicit necessary in the public interest argument in the application should be rejected because, while the demolition and redevelopment that might bring economic revitalization to the area may be in the public interest, no argument is made that the demolition is *necessary* in the public interest, i.e. that the demolition is the *only* means to achieve an overriding public interest.
- The implicit rescission request in the application should be rejected because no argument regarding the satisfaction of the rescission criteria set forth in Section 5.14.b of the Rules & Regulations has been proffered.
- The assertion that the demolition should be approved to allow the property to be put to its highest and best use should be rejected. The Historical Commission may constitutionally regulate a property to the extent that it cannot be put to its highest and best use, provided that property remains able to furnish a reasonable rate of return. The measure in this case is reasonable rate of return, not highest and best use.
- The construction cost estimate relative to the appraised value indicates that it is unlikely the building can be used for any purpose for which it is or may be reasonably adapted.
- The construction cost estimate relative to the appraised value indicates that it is likely that a sale of the building is impracticable without a substantial financial loss.
- The condition of the building was very poor at the time of designation. The condition is reportedly worse today. If the financial hardship case is proven, it will negate any claims of demolition by neglect because a property owner cannot be compelled to invest in a property that cannot provide a reasonable rate of return.
- The financial analysis demonstrates that the building cannot be used for any purpose for which it is or may be reasonably adapted.
- The Historical Commission may approve the application, pursuant to Section 14-1005(6)(d) of the historic preservation ordinance.

START TIME OF DISCUSSION IN ZOOM RECORDING: 00:04:05

PRESENTERS:

- Ms. Chantry presented the application to the Committee on Financial Hardship.
- Attorney Gussie O'Neill, land planner Nancy Templeton, and Paul F. Newlin III, Director of Real Estate Operations at Rite Aid Corporation, represented the application.

DISCUSSION:

- Ms. O'Neill explained that Rite Aid purchased the property in 2007 with the intention of demolishing the building and constructing a new pharmacy, but, owing to the economic collapse in 2008, Rite Aid decided to keep it as a supermarket for the community until they had a plan for what to do with the property. The property was designated as historic in 2016, which passed by a narrow vote of 7 to 5. At the time of designation, there was a tenant in the building who went into bankruptcy despite Rite Aid offering a reduced rent. That was the last major tenant. The community has been left without a grocery store. The security panels were put in place at the request of the community because the property was attracting those impacted by the opioid epidemic. Rite Aid has made concerted efforts to find a new grocery store tenant, but has been unsuccessful in finding a tenant willing to pay more than $5 per square foot in rent. The pro forma prepared by Mr. Newlin shows that rehabilitating the building and renting to a new grocery store tenant is not financially feasible. Mr. Newlin has received interest from potential buyers who would want to demolish the building and revitalize the site, which is not possible owing to the historic designation. Rite Aid is willing to redevelop the site in a way that will work for the community, but the historic designation is standing in the way. Ms. O'Neill noted that community members commented during the Architectural Committee meeting and urged approval of the application.
- Ms. Templeton provided her professional opinion regarding the planning implications and community impacts of the existence of the building on the site. She commented that she looked at whether preserving the building would have a more beneficial impact on the neighborhood than demolishing it. It is a very high-profile corner and is highly suitable for transit-oriented development. Transit-oriented development is also a primary goal of the neighborhood as stated in the City Planning Commission's Lower Northeast District Plan and by the Frankford Community Development Corporation. The scale and single-use of the building does not lend itself to transit-oriented development, which requires higher density and a mix of uses to be impactful. The building as-is does not provide a community benefit.
- Mr. Newlin reiterated that Rite Aid had purchased the property in 2007 with the intention of demolishing the building and building a new Rite Aid building, but the economic collapse of 2008 required that the plans be put on hold. Then Walgreens had a deal to purchase Rite Aid, so plans for this site were stopped owing to that circumstance. The Philadelphia region ended up being retained by Rite Aid in the merger deal, so plans for the site were restarted. Then Albertsons, which owns ACME, was going to buy Rite Aid. During that time, this site was discussed with them, but they had no interest in the building itself. The sale of Rite Aid to Albertsons did not happen. Then, in 2016, the property was placed on the Philadelphia Register, putting all redevelopment plans on hold.
- Mr. Newlin explained the pro forma. He stated that the low-end cost to renovate the building to get it suitable for a retail rental tenant is estimated to be approximately $3.5 million and could be as much as $7 million. Rite Aid purchased the property for $3.7 million. The pro forma addresses a sale of the building, even though Rite Aid has spoken to numerous potential buyers over the years and did not find one interested in the building itself. All potential buyers wanted the property only if they could demolish the building. No potential buyer proposed to retain the building. With the low rental rate for commercial real estate in the area, it does not make financial sense to invest in the existing building. It is not financially feasible to rehabilitate the building.

- Mr. Thomas asked about specific sections of the pro forma.
    - Mr. Newlin explained that current condition category shows what happens if they do nothing. There is a negative cash flow of $419,024 a year currently. Depreciation is minimal and does not factor in. The remodel tenant improvements cost of $3.5 million is an estimate of the cost to rehabilitate the space for reuse. The building needs all new mechanical systems. Tenant improvement money would also have to be provided to a new tenant. The surplus sale shows the finances if Rite Aid were to sell today to one of the potential buyers that has offered to purchase the property, but all of those buyers are only interested in redevelopment of the property, not in retaining the existing building. Even with a sale of the property under current market conditions, Rite Aid would lose over $1 million. All three options, maintain the status quo, rehabilitate the building for retail rental, and sell the building, lead to significant losses for Rite Aid.
- Mr. Thomas asked if the applicants had considered the appreciation of the property value over time, owing to improvements made to it and elsewhere in the immediate Frankford neighborhood. He referenced his company's property on South Street in Center City as an example and suggested that the loss might be overcome by an increase in property value over time.
- Mr. Newlin stated that he has met with the City several times, and has committed to working with the City on redeveloping this property, making sure that the redevelopment is good for the community. However, the property must be removed from the Philadelphia Register for that redevelopment to occur.
- Mr. Thomas asked if Rite Aid might partner with another owner.
    - Mr. Newlin responded that Rite Aid develops buildings for its business, pharmacies, but is not in the business of acting as a landlord or real estate developer, and looks to sell its surplus properties.
- Ms. Edwards noted that Rite Aid purchased the property in 2007 with a supermarket tenant, and that tenant filed for bankruptcy in 2016. She asked about the supermarket lease and about the long-term goal for the property when it was purchased in 2007.
    - Mr. Newlin reiterated that Rite Aid purchased the property in 2007 with the intention of demolishing the building and constructing a new Rite Aid on the site, but the economic downturn in 2008 put those plans on hold. He explained about the potential purchase by Walgreens and then Albertsons, during which time Rite Aid had to continue to put plans for the site on hold. Rite Aid kept the supermarket tenant in the building during that time, at a reduce rent, because they wanted the tenant to stay and the community needed the grocery store. Rite Aid likes to keep its surplus properties rented, but it has been unable to find a tenant for this building since the grocer left.
- Ms. Edwards asked if the site is under consideration by City Council or any other group to be designated as a transit-oriented development in the future and be rezoned as such.
    - Mr. Newlin responded that he is not aware of that.
    - Ms. Templeton responded that she does not recall if this specific site was identified as a transit-oriented development site, but there are references to transit-oriented development along the Frankford corridor in that area.
- Ms. Edwards commented that there are many incentives for redeveloping this site in a way that is not a suburban-style Rite Aid. She commented that it feels like a missed

opportunity for community-serving retail, density bonuses, and fresh market bonuses. She asked to hear from the community in attendance.
  - Mr. Newlin agreed with Ms. Edwards. He stated that the 2007 plan for the site has changed, and this site is a redevelopment situation, not a suburban concept. He stated that the highest and best use of the property would be a mix of residential, grocery, and retail that would complement the transit.
- Ms. Edwards asked for the results of the Architectural Committee review.
  - Mr. Farnham responded that the Architectural Committee, which reviewed the application earlier in the day, recommended denial of the application. He explained that the Rules and Regulations require that the Architectural Committee review financial hardship applications, but its role is not well-defined. The Architectural Committee can look at construction cost estimates and whether or not the demolition of a historically designated resource satisfies historic preservation standards, but it is not tasked with and expert in evaluating financial analyses.
- Mr. Farnham stated that the Historical Commission can approve a demolition in two circumstances, one being when an applicant demonstrates there is no feasible reuse for a property, which is the basis for the application today. The applicant has also made some arguments that are better suited for the second path to a demolition, which is if the Historical Commission finds a demolition is necessary in the public interest. The arguments about benefit to the community are more public interest arguments than they are financial hardship arguments. The Committee can consider those arguments, but its primary task is to answer the question: If any rational real estate investor were to invest the money that it requires to bring this building back to use, would that investment provide a reasonable rate of return over ten years? The pro forma shows that it does not, and that it results in a loss of a substantial amount of money. The Historical Commission can only protect historic properties when those properties can produce a reasonable rate of return. The contractor on the Architectural Committee conceded that the square foot cost provided in the application to rehabilitate the building seemed low, and that it could be higher. If that number was higher, the financial loss would be even greater.
- Mr. Thomas shared his screen to show the redevelopment of the historic train shed at S. Broad Street and Washington Avenue in Center City, which has Sprouts as the supermarket tenant in the historic building, and includes a large residential building as part of the development. He stated that the substantial residential development on the open land is what made the project work financially.
  - Ms. O’Neill responded that the difficulty with the subject site is that it cannot attract an anchor tenant such as Sprouts. Rite Aid has received offers for rent from grocery store tenants that are so low that the investment to rehabilitate the building would not produce a reasonable rate of return, which makes it impossible for Rite Aid to move forward. The maximum retail rental offer Mr. Newlin has received is $5 per square foot.
  - Mr. Thomas agreed, but returned to the idea of a necessary new construction component to make the project financially feasible. He asked if other types of tenants have been considered.
  - Ms. O’Neill responded that a problem with building on the entire site is that it prevents parking, which is needed.
- Ms. Edwards stated that the pro forma is straight-forward but does not factor in historic preservation tax credits or other incentives. She stated that it would be helpful to hear from the community about their goals for this site.

- Mr. Farnham cautioned the Committee regarding the suggestion to factor in significant new construction as part of the financial analysis. He stated that the historic preservation ordinance requires the Historical Commission to determine whether a building can be reasonably adapted for a new use when it is undertaking a financial hardship analysis. What constitutes a reasonable adaptation was considered during the Boyd Theater financial hardship review, and again during the 400 S. 40th Street financial hardship review. The Historical Commission decided that requiring a property owner to construct an entirely new building or make a very large addition to an existing building in order to subsidize a historic building was not a reasonable adaptation. Reasonable adaptations might include the construction of a new loading dock, the reconfiguring the entrance, or the addition of a penthouse on a tall building, but it does not include the construction of an entirely new building to subsidize the historic building. The Historical Commission has decided in the past that it cannot compel a property owner to construct a large building to subsidize a historic building to overcome the financial hardship. The suggestion that Rite Aid could construct a new building on the open space to subsidize the older grocery building goes well beyond what would be considered a reasonable adaptation. Legally, the Historical Commission cannot compel a property owner to become a landlord and to run a commercial real estate business.
- Ms. O'Neill commented that commercial real estate brokers market directly to grocery store tenants rather than placing "for rent" or "for sale" signs on their buildings. The fact that there has been no "for rent" or "for sale" sign on this building does not indicate that Rite Aid has failed to market the building. That is not how this type of commercial real estate works.
- Ms. O'Neill stated that they looked into the federal historic preservation tax credits, but the building in not listed on the National Register of Historic Places and is therefore not eligible for the credits. Any tax credits that this building might qualify for are meant to offset additional costs for rehabilitation and would not suddenly make the rehabilitation feasible for Rite Aid. An owner of a property should not be expected to invest in a property that does not provide a reasonable rate of return, even if the owner is Rite Aid. The pro forma shows that no redevelopment of this property would provide a reasonable rate of return. Other examples of Penn Fruit building reuses were likely not historically designated. Any kind of tenant would have been captured in the pro forma. Rite Aid has made efforts to work with the community and cares about what happens in this community.
- Ms. Edwards asked if Rite Aid wants to sell the property.
    - Mr. Thomas responded that the Committee needs to focus on if the application satisfies the requirements for proving a financial hardship.
- Mr. Dodds asked if the staff could elaborate on its staff recommendation.
    - Mr. Farnham responded that the staff recommends that the applicant has proven the case for a finding of financial hardship. The staff believes that the pro forma demonstrates that there is a not a feasible reuse that would generate a reasonable rate of return. Mr. Farnham commented that the pro forma would benefit from a sensitivity analysis that would show whether subsidies like tax credits or an appreciation in value over time might change the results. However, the staff believes that a sensitivity analysis would show that there is no reasonable rate of return, even if the income were to be increased, the construction costs were to be reduced, and some reasonable incentives were included.

- Ms. Edwards stated that she is hopeful that the future use of the site will be community-serving. She asked if Rite Aid wants to demolish the building and then sell the property.
    - Mr. Newlin responded that Rite Aid has determined that it will not build a traditional suburban Rite Aid at this location. That is out of the question. Rite Aid will stay involved with the community and help to develop a plan that benefits the community, and will try to sell the property to someone that will be able to execute on that vision.
- Mr. Farnham stated that one of the requirements for satisfying a financial hardship claim is that the sale of the property for reuse of the historic building is impracticable. He asked Mr. Newlin to confirm that he has not received any offers to purchase the property that envisioned the reuse of the historic building.
    - Mr. Newlin confirmed this. He stated that all offers received were for demolishing and redeveloping the property.

PUBLIC COMMENT:

- Paul Steinke, representing the Preservation Alliance, opposed the application. He referenced his letter, which had been provided to the Committee. He commented that the Preservation Alliance had nominated the building in 2016 as part of an effort to protect Mid-century Modern buildings. Four years ago, it was a perfect example of a Penn Fruit store from 1955. There is no indication that Rite Aid has made an effort to sell, lease, or maintain this building during its ownership, and there have been no "for rent" or "for sale" signs placed on the building. The financial analysis does not factor in financial incentives, including the Federal historic preservation tax credit, the City of Philadelphia's ten-year property tax abatement, and the Pennsylvania Fresh Food Financing Initiative. The application does not factor in development on the parking lot. Multiple Penn Fruit supermarkets in the region that have been repurposed. Rite Aid has let this building deteriorate. He opined that Rite Aid would not have let this happen in one of their suburban locations. It was boarded it up in 2016 without obtaining Historical Commission approval. Rite Aid has been unresponsive to attempts by the Preservation Alliance to connect them with potential tenants. The proposal to build a new City Health Center nearby which could be a reuse for this property. Mayor Kenney tasked us to think creatively about repurposing historic buildings for contemporary uses. The effect of Rite Aid's stewardship of this building has been devastating to the community. Rite Aid had four years to maintain this building and find a new tenant and work with the community to find a reuse.
- Ellie Devyatkin, Commercial Corridor Manager for the Frankford Community Development Corporation, supported the application. She commented that the building was functionally obsolete in 2016 when it was designated as historic. That is part of the reason why the existing supermarket was unable to thrive there. The community does not have warm feelings about this building, even before 2007 when Rite Aid purchased it. The hardship for the owner is very real and significant. The inability to redevelop this parcel is a hardship for the community. Black and Brown communities are hurting right now, and Frankford is hurting right now. It needs a supermarket, jobs, and quality affordable housing. She stated that she resents the assertion by Mr. Thomas, the chair of the committee, that Frankford needs to wait for gentrification and an increase in real estate values before anything productive can happen with this parcel. The condition of the building is hurting the neighborhood. It had to be boarded up because people were breaking into the building and the community requested that it be boarded up. The community would like to see mixed-

use transit-oriented development at this site, including a supermarket, ideally collocated with a health center, which would require building up. Other examples of Penn Fruit building reuses have undergone significant modifications that would likely not get approved if historically designated. The Councilperson would support a transit-oriented development overlay at such time as there is a viable project. Mayor Kenney has asked Rite Aid to make a move on doing what they need to do including applying for a hardship for this property, so that the property can go back into productive use for the community. She stated that her organization has talked to numerous supermarket tenants, who are all very interested in the location, but not the existing building, especially with the historic designation. Utilizing Federal historic preservation tax credits would include the interior of the building and further restrict rehabilitation of the building. New construction on the site could be eligible for New Markets Tax Credits, Low-Income Housing Tax Credits, City subsidy, and state RACP funding.

- Blane Stoddart, of construction project management company BFW Group, supported the application. He stated that he has been in the real estate business for 28 years, and is the owner's representative of the Frankford Community Development Corporation, which he has worked with for eight years to help to revitalize the community. The community fiercely opposes the preservation of this building. Two engineering reports document that the steel on this building is compromised. The roof leaked when the supermarket tenant was still there. There is no depreciation to take. The building is obsolete and sits on the site diagonally, in a way that makes the site unusable. The Department of Licenses & Inspections has had problems with this building for years and has issued numerous violations for its condition. The building poses a threat to the community. No one will pay $3 million for this property. The land is more valuable without the building. The Councilperson has said that if the Frankford Community Development Corporation develops a plan, she will be happy to support the transit-oriented development. The building has been a money pit. The Boyd Theater and the Sprouts development, mentioned earlier, are both in Center City and the properties are inherently much more valuable. The price per square foot here is a lot less than in Center City; the rental rate cannot support a rehabilitation of the existing building. Everyone that has approached Rite Aid or the community about this property wants the land, not the obsolete building. Four years ago, at the time of its designation, the building was leaking and the Department of Licenses and Inspections was trying to declare the building dangerous. The tenant at the time tried to get the building designated as historic to hold up the development process. The community did not ask for the historic designation.
- Jason Dawkins, State Representative of the 179th District, supported the application. He stated that he is a lifelong member of the Frankford community. He stated that this building is in no condition to be reopened, and he agrees with the community. He has worked with the Frankford Community Development Corporation to develop this parcel, and has had discussions with numerous tenants and also SEPTA. The community does not have a quality supermarket in this area. The community is depending on the development of this parcel to ensure they have access to quality food, living, and retail. He stated that he is not in support of any development that does not have the community at the helm. He has tried for years to develop this parcel with no luck.
- Janet Bernstein, Constituent Services Advisor for State Representative Joseph Hohenstein of the 177th District, and former Board member of the Historical Society of Frankford, supported the application. She commented that it is sad that the

building was allowed to deteriorate, but it is now well past its ability to be rehabilitated. The site could serve as one of the few supermarkets where people could use the public transit. No other property in Frankford that can allow a new building of the size the community needs. Demolishing the building to allow for redevelopment of the site would be the best thing for the community.

- Yvonne Boye, Senior Director for the Office of Neighborhood Economic Development, Department of Commerce, supported the application. She stated that she was at the Historical Commission meeting four years ago when the property was designated as historic. The City has been working with Rite Aid since the beginning. This community is different than the community around the location of Sprouts in Center City. It is unfair that the building is allowed to sit and deteriorate. The community should be able to have the opportunity to have someone else take this property and do something right for the community.
- Roger Tenant Sr., Board President of the Frankford Community Development Corporation, supported the application. He commented that he is fourth generation living in Frankford. The Board meetings always involve a discussion about this site. They appreciate that Rite Aid boarded up the building. The community deserves a quality supermarket at this location.

COMMITTEE ON FINANCIAL HARDSHIP FINDINGS & CONCLUSIONS:
The Committee on Financial Hardship found that:

- The complete demolition of the designated resource triggers the demolition prohibition in Section 14-1005(6)(d) of the historic preservation ordinance. For the Historical Commission to approve the complete demolition, the applicant must demonstrate that the demolition is necessary in the public interest or that the building cannot be used for any purpose for which it is or may be reasonably adapted.
- The implicit necessary in the public interest argument in the application should be rejected because, while the demolition and redevelopment that might bring economic revitalization to the area may be in the public interest, no argument is made that the demolition is *necessary* in the public interest, i.e. that the demolition is the *only* means to achieve an overriding public interest.
- The implicit rescission request in the application should be rejected because no argument regarding the satisfaction of the rescission criteria set forth in Section 5.14.b of the Rules & Regulations has been proffered.
- The condition of the building was very poor at the time of designation.
- The construction costs and retail rental rate estimates are accurate and therefore the retail rental pro forma indicates that the building cannot be used for any purpose for which it is or may be reasonably adapted.
- Potential buyers have made offers for the property, but all offers assumed the demolition of the building. No offers for the property proposed the retention and rehabilitation of the building. The application shows that a market-rate sale of the building would result in a significant financial loss for the owner. The application demonstrates that a sale of the building is impracticable.

The Committee on Financial Hardship concluded that:

- The building at 5129-35 Frankford Avenue cannot be used for any purpose for which it is or may be reasonably adapted; the sale of the property is impracticable; rental cannot provide a reasonable rate of return; and other potential uses of the property are foreclosed; pursuant to Section 14-1005(6)(d) of the Philadelphia Code.

COMMITTEE ON FINANCIAL HARDSHIP RECOMMENDATION: The Committee on Financial Hardship voted to recommend approval, pursuant to Section 14-1005(6)(d) of the historic preservation ordinance.

ITEM: 5129-35 Frankford Avenue **MOTION: Approval** **MOVED BY: Dodds** **SECONDED BY: Edwards**					
VOTE					
Committee Member	**Yes**	**No**	**Abstain**	**Recuse**	**Absent**
Robert Thomas, AIA, Chair	X				
Mark Dodds (Division of Housing & Community Development)	X				
Kelly Edwards, MUP	X				
Lebaron Lenard-Palmer (Dept. of Planning & Development)	X				
Dan McCoubrey, AIA, LEED AP BD+C				X	
Total	4			1	

ADJOURNMENT

START TIME OF DISCUSSION IN AUDIO RECORDING: 01:38:55

The Committee on Financial Hardship adjourned at 4:42 p.m.

PLEASE NOTE:

- Minutes of the Committee on Financial Hardship are presented in action format. Additional information is available in the audio 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.