

**THE MINUTES OF THE 629TH STATED MEETING OF THE
PHILADELPHIA HISTORICAL COMMISSION**

**FRIDAY, 9 JANUARY 2015
ROOM 18-029, 1515 ARCH STREET
SAM SHERMAN, CHAIR**

PRESENT

Sam Sherman Jr., chair
Richardson Dilworth III, Ph.D.
Ralph DiPietro, Department of Licenses & Inspections
Anuj Gupta, Esq.
Rosalie Leonard, Esq., Office of City Council President
Melissa Long, Office of Housing & Community Development
John Mattioni, Esq.
Thomas McDade, Department of Public Property
Sara Merriman, Commerce Department
R. David Schaaf, RA, Philadelphia City Planning Commission
Robert Thomas, AIA
Betty Turner, M.A.

Jonathan E. Farnham, Executive Director
Randal Baron, Historic Preservation Planner III
Kim Broadbent, Historic Preservation Planner I
Erin Cote, Historic Preservation Planner II
Laura DiPasquale, Historic Preservation Planner I
Tammye Watson, Secretary

ALSO PRESENT

Ben Leech, Preservation Alliance for Greater Philadelphia
Jay Rockafellow, DAS Architects
Ian Toner, Toner Architects
Jeremy LeCompte, Harman Deutsch
Mark Wallace, Harman Deutsch
Michael Skolnick, PZS Architects
Herb Schultz, PZS Architects
Marcin Szkotak, L2 Partridge
Manja Lyssy
Chris Tantillo, Tantillo Architecture
Rachel Thurston, Tantillo Architecture
Devon Chesire, Rubenstein Partners
Lorna Katz Lawson, Society Hill Civic Association
Stephen Maffei, Abitare
Logan Dry, Abitare
Jim Campbell, Campbell Thomas & Co.
Jonathan Weiss, Equinox
Peter Staz, Equinox
Matt McClure, Esq., Ballard Spahr
Paul Sehnert, University of Pennsylvania
Paul Boni, Esq., Boni Law

Jeffrey Cohen, Bryn Mawr College
Aaron Wunsch, University of Pennsylvania
Mathew Grubel
Peter Manoogian, Woodland Terrace Homeowners Association
Mary Daniels, Woodland Terrace Homeowners Association
Greg Oliveri, Woodland Terrace Homeowners Association
Richard Tyler
Kathy Dowdell
Samuel Siegel, Commerce Department

CALL TO ORDER

Mr. Sherman, the chair, called the meeting to order at 9:00 a.m. Commissioners Dilworth, DiPietro, Gupta, Leonard, Long, Mattioni, McDade, Merriman, Schaaf, Thomas, and Turner joined him.

MINUTES OF THE 628TH STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION

ACTION: Ms. Turner moved to adopt the minutes of the 628th Stated Meeting of the Philadelphia Historical Commission, held 12 December 2014. Ms. Leonard seconded the motion, which passed unanimously.

THE REPORT OF THE ARCHITECTURAL COMMITTEE, 16 DECEMBER 2014

Dominique Hawkins, Chair

CONSENT AGENDA

Mr. Farnham introduced the consent agenda and explained that it included applications for 15-21 S. 11th Street, 1627 Wallace Street as well as two applications for 508-32 Walnut Street. He noted that Lorna Katz-Lawson had requested moving the application to install an ADA entrance at 508-32 Walnut Street to the regular agenda. Mr. Sherman agreed to move it to the regular agenda. Mr. Sherman asked if any Commissioners had comments on the amended Consent Agenda. No one offered comments. Mr. Sherman asked if the audience had comments on the amended Consent Agenda. No one offered comments.

ACTION: Mr. Schaaf moved to adopt the recommendations of the Architectural Committee for the applications for 15-21 S. 11th Street, 1627 Wallace Street, and 508-32 Walnut Street (install glass canopy). Ms. Turner seconded the motion, which passed unanimously.

AGENDA

ADDRESS: 15-21 S 11TH ST

Project: Replace storefronts and windows; construct roofdeck; extend elevator and stair to roof

Review Requested: Final Approval

Owner: Brickstone Realty

Applicant: Jay Rockafellow, DAS Architects Inc.

History: 1912; William Steele & Sons

Individual Designation: 6/14/2013

District Designation: None

Staff Contact: Jon Farnham, jon.farnham@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, provided the new storefront system is installed in the southernmost bay instead of the historic interior doors, a dark granite is installed at the bases of the storefront piers, and the transom divisions follow those of the windows above, with the staff to review details including storefront, window, canopy, awning, and replacement cladding details such as color, sheen, finish, profile, and attachment as well as brick and terra cotta cleaning, repair, and replacement specifications and samples, pursuant to Standards 6, 7, 9, and 10 and the Roofs Guideline.

OVERVIEW: This application proposes to rehabilitate a building on S. 11th Street, between Market and Chestnut Streets. The rehabilitated building will house retail space on the first floor and office space on the upper four floors.

The ground-floor façade of S. 11th Street was stripped of its historic ornament and storefronts, probably in the 1950s. The storefront area is currently a jumble of non-historic elements added over time. Non-historic storefronts and infill would be removed, historic storefront openings including transoms reopened, and aluminum storefronts installed. Lost cladding and capitals on the storefront piers would be replaced; the replacement cladding material is only specified as “stone,” but should be more precisely defined. An existing egress doorway with transom would be retained in the southernmost bay. A new entrance for the upper-floor office space would be created adjacent to the existing egress doorway. It would include a glass and metal canopy. A detail of the canopy is provided, but it does not include information about the hanger rods, which are shown attaching to the terra cotta cornice in a rendering. In light of the fact that the building originally had two metal canopies tied back into the cornice, such a hanger rod design should be acceptable, but the details should be provided. Fabric awnings would be installed at the other storefront openings. At the north façade, along Ludlow Street, infilled openings would be reopened and aluminum storefront systems installed. At the rear, along a service alley, louvers and metal doors would be installed.

At the upper floors, all windows would be replaced with aluminum windows matching the pane configurations and other details of the historic windows. Details of the proposed windows have not been provided, but can be confirmed by the staff. The historic terra cotta, brick, and other features would be cleaned and restored. The staff can review specifications and samples for this work.

An elevator and stair would be extended to the roof to access a new rooftop terrace for the office tenants. The elevator penthouse would include a small glass and aluminum vestibule. The

rooftop additions would be set back significantly from the primary facades so as to be inconspicuous from the street.

ACTION: See Consent Agenda.

ADDRESS: 1627 WALLACE ST

Project: Construct roof decks; alter window and door openings at side

Review Requested: Final Approval

Owner: Yuval Ben-Zeev, Cedar Apartments LLC

Applicant: Ian Toner, Toner Architects

History: 1859

Individual Designation: None

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

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, including the vinyl replacement windows on the secondary façades, provided the existing vinyl windows were legalized through the Board of License & Inspection Review, with the staff to review details, pursuant to Standard 9.

OVERVIEW: This application proposes to construct two roof decks at the rear of the property, and modify several window and door openings on the north and west (rear and side) façades to accommodate interior alterations and to allow for access to the proposed roof decks. The roof decks will be visible from N. 17th Street across several rear yards, as will a few of the window and door opening modifications.

ACTION: See Consent Agenda.

ADDRESS: 4258-64 MAIN ST

Project: Alter storefront; install awnings and banner sign

Review Requested: Final Approval

Owner: SJ Barbeque LLC

Applicant: Herb Schultz, Polatnick Zacharjasz Architects

History: 1850; Blantyre Mills

Individual Designation: None

District Designation: Manayunk Historic District, Contributing, 12/14/1983

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the banner sign and NanaWall system; approval of the awnings, provided they relate to the windows above, with the staff to review details; and denial of the wood paneling, pursuant to Standards 3 and 9.

OVERVIEW: This application proposes to alter a storefront and add signage to a building located within the Main Street Manayunk Historic District. The existing storefront has previously been altered. The proposed storefront alterations include the application of painted wood paneling over the existing stucco at the first floor, new doors and a NanaWall system within existing openings, installation of a banner sign at the second and third floors, and installation of four awnings that extend six feet at the first floor to shelter a sidewalk seating area.

Please note that, since the time of the Architectural Committee meeting, the applicant has revised the drawings to reflect comments from the Committee members. These revisions include a change in width and location of the awnings to better relate to the window openings above, and the change from applied wood paneling over stucco to only painting of stucco at the first floor.

DISCUSSION: Ms. Broadbent presented the application to the Historical Commission. Architects Herb Schultz and Michael Skolnick represented the application.

Mr. Sherman noted that the applicants had revised their drawings to reflect the comments of the Architectural Committee. The Commissioners reviewed the revised drawings and determined that they complied with the Committee's recommendation and the Standards.

ACTION: Ms. Merriman moved to approve the revised application as presented to the Historical Commission at its meeting of 9 January 2015, with the staff to review details, pursuant to Standard 9. Mr. Mattioni seconded the motion, which passed unanimously.

ADDRESS: 150, 152, AND 154 VINE ST

Project: Construct three five-story townhouses on vacant lots

Review Requested: Review and Comment

Owner: Essie Ancrum

Applicant: Rotciver Lebron, Harman Deutsch

History: vacant lots

Individual Designation: None

District Designation: Old City Historic District, Non-contributing, 12/12/2003

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE COMMENT: The Architectural Committee commented that the proposed construction does not relate to the Old City Historic District in scale, massing, rhythm, proportions, color, or materials, adding that the garage fronts on Vine and N. 2nd Streets are inconsistent with the historic district, that the translucent windows on the Vine Street elevation should include a mullion/muntin system, and that the N. 2nd Street windows should be expanded.

OVERVIEW: This application proposes to construct three five-story, single-family residences on a currently vacant lot. The buildings would be composed of grey brick with dark grey metal, green metal, and translucent panels, green metal bay windows, and aluminum casement windows. The Vine Street elevation of the two eastern properties would include slightly recessed entries with contemporary doors and cast stone steps, and would feature contemporary roll-up garage doors. The fifth floor of the three townhomes would be set back five feet from the Vine Street façade, and balconies would be located on the 4th floor roofs. The corner townhouse would have a punched opening with a tripartite casement window facing Vine Street, and would be accessed through a contemporary entrance with cast stone steps and a garage door on 2nd Street. The rear of the properties would be composed green metal panels for the first several feet, with light grey stucco for the remainder of the façade. It would feature roll-up garage doors for the two eastern properties, a continuous wood screened deck along the second floor, and aluminum-clad sliding patio doors with dark grey powder coated metal Juliet balconies on the 3rd and 5th floors, and small horizontal fixed aluminum-clad windows on the 4th floor.

DISCUSSION: Ms. DiPasquale presented the application to the Historical Commission. Architects Jeremy LeCompte and Mark Wallace represented the application.

Mr. Schaaf commented that he was concerned about the garages facing Vine Street, which have a deadening effect on the street. He noted that the addition of glazing, even if opaque or frosted, would allow light through and would be a friendlier gesture to the passersby. Mr. LeCompte reported that the project had already received Streets and Zoning approvals. Mr. Thomas concurred with Mr. Schaaf, noting that the garage doors could be rendered in a friendlier manner that would increase the value of the homes, as well as the appearance on the street. He noted that he understood that there was no way to create a driveway at the rear, given the shallowness of the lots, but that other comparable projects have successfully utilized garage doors with glass panels at the top, and that such a change would not interfere with the rest of the building design. Mr. Sherman asked Mr. Schaaf why new construction in the area seemed to focus so heavily on front-loaded garages, and suggested that the zoning regulations should preclude such garages. Mr. Schaaf responded that previously there had been a zoning overlay prohibiting front-loaded garages from Old City to South Philadelphia, but that it no longer applied in Old City. Mr. Sherman expressed dismay that these front-loaded garages are allowed by right, and opined that the addition of glazing to a garage door does not mitigate the problem. Mr. Thomas suggested that, given the project at hand, since the applicant can install garage doors by right, they should explore ways to make the doors friendlier, which will in turn increase the pedestrian experience as well as the value of the homes. Mr. Sherman reiterated that he does not approve of front-loading garages in historic districts, but noted that, given the Commission's limitations in Review and Comment jurisdiction, the Commission cannot prevent such doors in this case.

ACTION: Mr. Schaaf moved to adopt the recommendation of the Architectural Committee and comment that the proposed construction does not relate to the Old City Historic District in scale, massing, rhythm, proportions, color, or materials, adding that the garage fronts on Vine and N. 2nd Streets are inconsistent with the historic district, that the translucent windows on the Vine Street elevation should include a mullion/muntin system, and that the N. 2nd Street windows should be expanded.

ADDRESS: 528 AND 530 SPRUCE ST

Project: Construct addition with roof deck on garage; remove connector

Review Requested: Final Approval

Owner: Theodore Schiffman and Manja Lyssy

Applicant: James Campbell, Campbell Thomas & Co.

History: 1795; Aaron Clarke, house carpenter

Individual Designation: 4/30/1957

District Designation: Society Hill Historic District, Contributing, 3/10/1999

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted three to one to recommend denial.

OVERVIEW: This application proposes to subdivide two existing three-story rowhouses and to construct an additional floor and roof deck on top of an existing one-story, non-historic garage. The existing one-story garage associated with 528 Spruce Street would be subdivided to become the garage and new in-law suite for 530 Spruce Street. The new addition would be clad in brick, and would include a pent-eave over the existing garage door, six-over-six windows and

a pair of French doors and Juliet balcony at the second floor, and false windows with Juliet balconies at the third floor to camouflage the roof deck behind. The roof deck on the new addition would include a small pilothouse, a covered area with skylights, and a trellis. The application also proposes to demolish a portion of an existing one-story connecting hallway at the rear of the garage.

The Commission approved a very similar faux façade with deck on a non-historic garage in the Rittenhouse area a few years ago. John Cluver of the Architectural Committee was the architect of that approved proposal.

Please note that, since the time of the Architectural Committee meeting, the applicant has revised the drawings to eliminate the pent roof over the garage and increase the height of the third floor punched opening sills, as well as shown the proposed façade in relation to the adjacent non-historic building at 537 Cypress Street, as requested by the Committee. The applicant has also removed the muntins from the proposed windows, making them one over one rather than six over six to give the façade a more modern appearance.

DISCUSSION: Mr. Farnham noted for the record that Mr. Thomas recused himself from the review, owing to the fact that he is partner at the architectural firm that is presenting this application. Ms. DiPasquale presented the application to the Historical Commission. Architect James Campbell and property owner Manja Lyssy represented the application.

Mr. Campbell explained that the same property owners own both 528 and 530 Spruce, the former of which extends from Spruce Street to Cypress Street. They seek to subdivide the properties, but keep the garage behind 528 with the 530 property.

Ms. Merriman asked how the addition would be accessed. Mr. Campbell explained that it would be accessed through both 530 Spruce Street as well as the existing Cypress Street garage. The purpose of the addition, he noted, is to provide a carriage house-like building for extended-stay guests. The garage addition and existing 530 Spruce Street buildings would not be physically connected, but would be connected by a walkway through a small yard.

Mr. Schaaf asked for clarification as to how the in-law suite would be accessed and connected to the existing 530 Spruce Street property. Ms. DiPasquale explained that the in-law suite would be constructed as the second-floor addition on the existing one-story garage of 528 Spruce Street, and that it would not be physically connected to the 530 Spruce Street building, but would stand alone, and be accessed through a small courtyard connecting the two properties.

Ms. Merriman asked if the existing garage façade would have to be rebuilt, and Mr. Campbell responded that it would. The garage door opening, he noted, would be widened. Mr. Campbell noted that their desire is to construct the façade of brick in order to be compatible with the Society Hill District, and that they would like for the brick to be consistent for the entire height of the building.

Ms. Merriman noted that they should take this opportunity to improve the garage door composition. She commented that front facades along Cypress face the existing garage and proposed addition. She asked why the garage door would remain blank, and whether the applicant would be willing to enliven it in some way. Mr. Campbell responded that they would be willing to explore that option, but noted that they need the proposed width of the door to enter and exit the garage safely. Mr. Schaaf agreed that the design of the garage door could be

improved. Mr. Sherman asked how wide the proposed garage would be, and Mr. Campbell responded that it would be 20 feet wide.

Ms. Lyssy commented that her family is friendly with the neighbors on Cypress Street as well as Spruce Street, and that her neighbors are in favor of the addition, which will look like a carriage house or front façade rather than a squat garage. She noted that she would appreciate any additional width of the garage door, and was willing to do whatever necessary to make the garage door more appropriate to the street.

Mr. Sherman commented that a carriage-style door, or a style of door other than that shown with the repeating panels, might be more appropriate. He suggested a wood material, or a door with glazed panels to add light. Ms. Lyssy responded that she was in favor of that suggestion.

ACTION: Ms. Merriman moved to approve the revised application as presented to the Historical Commission at its meeting on 9 January 2015, provided the garage door is modified according to the Commission's comments, with the staff to review details, pursuant to Standard 9. Mr. Schaaf seconded the motion, which passed unanimously.

ADDRESS: 508-32 WALNUT ST

Project: Install ADA entrance

Review Requested: Final Approval

Owner: FRUB Penn LLC c/o Rubenstein Partners

Applicant: Marcin Szkotak, L2 Partridge, LLC

History: Penn Mutual Life Insurance Company Building; 530, Edgar Seeler 1914; 520, Ernest J. Matthewson, 1930; 508, Mitchell/Giurgola Associates, 1971

Individual Designation: 9/25/1962

District Designation: Society Hill Historic District, Significant, 3/10/1999

Staff Contact: Erin Cote, erin.cote@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, provided that the dado cap remains between the window and the door, the width of the entrance aligns with the window opening above, and the return opening on the dado base is not articulated but is a simple cut, with the staff to review details, pursuant to Standard 9 and the Accessibility Guideline.

OVERVIEW: This application proposes to remove a portion of the existing stone base below a window opening and install double entrance doors in the front façade to allow for ADA access to the original Penn Mutual Building at 6th and Walnut Streets. A section of the base of the building would be removed for a new door opening and dark bronze doors would be installed under an existing window to the east of the main entrance to the building. The window above the new door would remain. The Historical Commission recently approved a similar ADA entranceway for the PSFS Building at 200 W. Washington Square, a.k.a. 700 Walnut Street, but only after the applicant demonstrated that the proposed location was the only feasible location for ADA access.

DISCUSSION: Ms. Coté presented the application to the Historical Commission. Devon Cheshire and architect Marcin Szkotak represented the application.

Lorna Katz-Lawson of the Society Hill Civic Association stated that her organization understood that the reason for approving this door, although not legally required, is to provide an alternative ADA entrance to the building. She informed the Commission that there is already an ADA entrance in the building that makes all floors accessible. She stated that she is concerned whether this would truly be a public entrance. She stated that the design clearly indicates that this would be an entrance specific to the tenant space. She questioned allowing the cut because the building already has ADA access and is a prominent building in a prominent location.

Mr. Sherman asked about the existing ADA accessibility. Mr. Szkotak explained that the ADA entrance is at 510 Walnut Street; it provides access to all three buildings in the connected complex. He explained that, to get from the ADA entrance at 510 to the building at 530, one must enter at 510, take the elevator up to the fourth floor, then cross from 510 through 520 to 530, then take a second elevator down to the ground floor to get the lobby space of the building at 530 Walnut Street. He explained that the proposed entrance would be at grade and an interior lift would provide access to the lobby level and common space.

Mr. Thomas stated that the concern that this new entrance would be used as a private entrance, not a common entrance, is valid. He agreed with the Architectural Committee that this has been designed as sensitively as it can be. He stated that it should be clear that this is a public entrance. He opined that the cut in the façade is worthwhile if it provides an ADA entrance that serves the entire building and not just one tenant.

Mr. Sherman asked whether the Historical Commission could require that this entrance remain a common entrance for the entire building. Mr. Farnham stated that the Commission is authorized to regulate physical changes to buildings, but cannot regulate use. He stated that, from a practical standpoint, he doubted whether the Commission could enforce a requirement on the use of this entrance. He stated that it would be impossible for the Commission to monitor the use of the entrance and also impossible for to take an enforcement action should the entrance not serve as a common entrance. Mr. Cheshire stated that they are amenable to have the entrance serve as a common entrance for the building. Mr. Thomas stated that there is a National Park Service Preservation Brief that addresses accessibility. He stated that having this ADA entrance serve as a common entrance for the entire building would be worth the loss of historic fabric.

Mr. Dilworth asked if there is an alternative option that would not impact the historic exterior of the building as this proposal does. Mr. Thomas opined that there is no easy alternative. He stated that, when you have a grand entrance with stairs like this, a typical solution is the one that is proposed. He stated that this design is minimally invasive and, in terms of accessibility, this alternative is far superior to the existing accessibility, which is clearly not equal for the disabled. He noted that the owner's representative has stated that this would be used as a common ADA entrance.

ACTION: Mr. Thomas moved to adopt the recommendation of the Architectural Committee and approve the application, provided that the dado cap remains between the window and the door, the width of the entrance aligns with the window opening above, and the return opening on the dado base is not articulated but is a simple cut, with the staff to review details, pursuant to Standard 9 and the Accessibility Guideline, and with the understanding that entrance will be a common entrance. Ms. Merriman seconded the motion, which passed unanimously.

ADDRESS: 508-32 WALNUT ST

Project: Install glass canopy

Review Requested: Final Approval

Owner: FRUB Penn LLC

Applicant: Joseph Winchester, The Sullivan Company

History: Penn Mutual Life Insurance Company Building; 530, Edgar Seeler 1914; 520, Ernest J. Matthewson, 1930; 508, Mitchell/Giurgola Associates, 1971

Individual Designation: 9/25/1962

District Designation: Society Hill Historic District, Significant, 3/10/1999

Staff Contact: Erin Cote, erin.cote@phila.gov, 215-686-7660

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, provided that the width of the two outer panels is reduced, with the staff to review details, pursuant to Standards 9 and 10.

OVERVIEW: This application proposes to remove a non-historic glass and metal canopy at the main entrance to the Mitchell/Giurgola designed Penn Mutual tower at 510 Walnut and install a metal canopy in its place. The main entrance has been significantly altered from the original Mitchell/Giurgola design. The new canopy will be comprised of two steel beams, supported by the two lower existing support brackets and an existing metal wrapped beam, with t-shaped steel purlins, and aluminum panels supported by steel spider connections. The proposed steel framing of the canopy reflects the architecture of the Independence Visitor Center and the Liberty Bell Museum to the north of Independence Hall.

ACTION: See Consent Agenda.

ADDRESS: 626 S FRONT ST

Project: Rehabilitate building

Review Requested: Final Approval

Owner: Vicki Angelos

Applicant: Stephen Maffei, Abitare Design Studio, LLC

History: 1760; Old Philadelphia Tavern

Individual Designation: 6/24/1958

District Designation: None

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

ARCHITECTURAL COMMITTEE RECOMMENDATION: On the first matter, the Architectural Committee voted unanimously to recommend approval of Option Two to restore the façade in its original plane, except denial of the spheres on the deck railing, the light fixtures at the side door, and the additional dormers, with the staff to review details, pursuant to Standards 6, 9, and 10. On a second matter, the Committee split 2 to 2 to recommend recladding the first floor of the main house with a modern but matching brick in a plane four inches proud of the historic eighteenth century brickwork, if the restoration/reconstruction of the historic wall proved structurally infeasible.

OVERVIEW: This application proposes the partial restoration of this house. The house, constructed about 1760, is one of the finest early Georgian mansions of the city. Unfortunately, over the years, the house has been altered several times. A four-inch thick brick veneer, a corner entrance, and window bays were added at the first floor when it was converted to a restaurant. The rear ell was enlarged, bringing the first floor out toward the street. A garage was

added and then altered several times. The Commission has reviewed several proposals for the property over the years, but none have been undertaken and the property has sat vacant.

The current application proposes returning the building to residential use. A circa 1910 photograph will be used as evidence for the partial restoration. The application proposes removing the added bays and restoring the window openings, side doorway, and frontispiece.

When the mason began an exploratory removal of some of the brick veneer, he found that it had been tied into the original wall. He feared that removing more veneer would result in structural instability. The evidence of potential instability is somewhat inconclusive because he exposed a rebuilt area of wall around an air conditioner, which may or may not represent the conditions of the walls as a whole. For this reason, the architect is proposing two alternatives. If feasible, the veneer would be removed and the historic wall restored. However, if the removal is found to be infeasible, the veneer would be left in place and the correct windows and frontispiece would be installed in a plane four inches proud of the original wall.

The application proposes replacing the windows and reconstructing the side cornice. The details in the current drawings are incorrect, but can be corrected with the staff's assistance. On the front façade, a casement window is proposed in place of a double-hung sash for a code compliant exit. Two dormers are proposed in the gambrel roof for light and views. The gambrel roof of this early, important building is a character-defining feature; the proposed dormer on the front of the gambrel does not satisfy preservation standards. The applicant claims that window alterations are necessary to achieve code-compliant egress windows, but a variance would likely be granted from those requirements for this very significant, very old building, especially in light of the fact that a sprinkler system is being installed.

The application proposes reconstructing the walls at the rear ell, rear addition, and garage. It also proposes adding a sliding door in the west wall of the rear ell and a deck with an elaborate railing.

DISCUSSION: Mr. Baron presented the application to the Historical Commission. Architects Steven Maffei and Logan Dry represented the application.

Mr. Baron summarized the Committee's findings, but explained that the Committee acknowledged that there were several open questions that the architect was going to explore. The first question was whether the top-floor bedroom could be reconfigured to use a rear dormer as an exit. The second question was whether the side window at the third floor could be reconfigured as a casement to provide an exit. The third question involved the cost and viability of restoring the first-floor walls.

Ms. Merriman asked if the architect had had a chance to explore the open questions. Mr. Maffei replied that several masons have consulted on the restoration of the first-floor walls. He reported that the masons have concluded that the removal of the four-inch brick veneer should not destabilize the wall. He said that restoring the wall in the original plane by removing eight inches of brick would be approximately twice as expensive as the other option, but that they are willing to undertake this project to restore the facade. He said that the inside of the building would have to be stabilized first before the exterior brick was removed.

On the issue of the egress windows, Mr. Maffei said that the building will be sprinkled and that the code does not require creating the egress in a situation where the masonry openings will not

be modified. Nonetheless, he would like to enhance the egress options. He said that the side window is only 2' 8" wide and 4' 2" high and does not meet the need of accessibility because it is a cottage window, meaning that the upper and lower sash are different sizes. Mr. Baron explained that the Committee did recommend allowing the conversion of the double-hung window to a casement as long as the difference in the planes of the top and bottom sash is replicated.

Mr. Maffei said that they intend to restore many parts of the building including the corner of the building, which was notched for an entrance, a cornice, and the main doorway on Bainbridge Street. Mr. Maffei said that they would like to add the front dormer because it would make the third-floor front space more livable, providing light, air, and headroom. Mr. Thomas suggested that the desire for light and air at the third floor could be met by adding an operable skylight or roof window on the top slope of the gambrel roof. It was pointed out that any dormer would be too narrow to provide much headroom. Mr. Dilworth asked if a new dormer should be modern in appearance to satisfy the Standards. Other Commission members pointed out that a front dormer would not be appropriate because it changes the shape of the roof, a character-defining feature.

Mr. Thomas suggested that a less visible rear dormer might be appropriate and that the interior configuration of the bedroom could be modified to make use of the rear dormer as part of a suite. A dormer located at the middle of the building under the roof ridge would provide the maximum headroom.

ACTION: Mr. Thomas moved to deny the spheres on the deck railing, the light fixtures at the side door, and the front dormer, but otherwise approve the application with Option Two to restore the façade in its original plane and operational skylights, with the staff to review details, pursuant to Standards 6, 9, and 10. Ms. Turner seconded the motion, which passed unanimously.

REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP, 19 DECEMBER 2014

Sam Sherman, Jr., Chair

ADDRESS: 400 S 40TH ST

Project: Amend Historical Commission hardship decision of May 2012

Review Requested: Amend earlier decision

Owner: OAP, Inc.

Requestor: Matthew McClure, Esq., Ballard Spahr

History: 1853; John P. Levy House; Colonial Revival alterations and additions for David P. Leas, 1902; additions for convalescent home, 1964, 1975

Individual Designation: 11/1/1973

District Designation: None

Staff Contact: Jon Farnham, jon.farnham@phila.gov, 215-686-7660

OVERVIEW: The University of Pennsylvania and its development partner, Azalea Garden Partners, LP, have requested that the Historical Commission amend its May 2012 hardship decision for the property at 400 S. 40th Street. The request will be considered by the Committee on Financial Hardship and the Commission.

The property consists of a large lot at the southwest corner of 40th and Pine Streets, on which stands a large house with several additions. The house was constructed about 1853 and substantially altered and expanded about 1902; the lot was enlarged in 1907, when the house to the south was demolished. The house was converted into a convalescent home in 1942. In 1964 and 1975, the building was significantly altered and almost entirely encased in a series of concrete block additions. The Historical Commission individually designated the property in 1973, but may have been unaware of the 1964 additions and inexplicably did not review the 1975 additions and alterations. The house is vacant and in poor condition.

Over the last seven years, the Historical Commission has reviewed several proposals for the property. In 2007, the Commission denied a request to rescind the designation. In 2008, the Commission approved a proposal to build a 10-story hotel building with a connector to the restored house. In 2011, the Commission approved a proposal to restore the house and construct a 7-story, L-shaped apartment building in the yard. Neither approved project was undertaken, owing to community opposition.

In early 2012, the University and its development partner submitted a financial hardship application, claiming that the property at 400 S. 40th Street could not be reasonably adapted for a new use and proposing to demolish the building and construct a five-story residential building in its place. In May 2012, by a vote of 7 to 2, with one abstention, the Historical Commission:

1. found that the applicant has demonstrated 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;
2. found the building's required retention would result in a financial hardship for the property owner; and,
3. approved the demolition, pursuant to Section 14-2007(7)(j) of the historic preservation ordinance, provided no demolition is undertaken until all prerequisite approvals for the building permit are obtained and the building permit has been issued for the new construction.

At that same meeting in May 2012, the Commission voted unanimously, with one abstention, to approve in concept the construction of the five-story residential building on the site. Subsequently, in October 2014, the Historical Commission granted final approval to the construction of the five-story residential building approved in concept in 2012.

The current request proposes that the Commission remove the condition in the third section of the financial hardship decision of May 2012. In that section, the Commission approved the demolition, but conditioned the approval with the restriction that "no demolition is [to be] undertaken until all prerequisite approvals for the building permit are obtained and the building permit has been issued for the new construction." The reasons for the request are presented in a letter from the attorney for the property owner and development partner.

Section 14-1005(6)(c) of the preservation ordinance, Conditions on Approval, clearly authorizes the Commission to condition building permits.

The Historical Commission may require that a building permit for the alteration or demolition of any building, structure, site, or object subject to its review be issued subject to such conditions as may reasonably advance the purposes of this Chapter 14-1000. L&I shall incorporate all such requirements of the Historical Commission into the building permit at the time of issuance. In cases where the Historical Commission, pursuant to § 14-1005(6)(a), agrees to the demolition of a historic building, structure, site, or object, or

of a building, structure, site, or object located within a historic district that contributes, in the Historical Commission's opinion, to the character of the district, the Historical Commission may require that the historic building, structure, site, or object be recorded, at the owner's expense, according to the documentation standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) for deposit with the Historical Commission.

The staff has reviewed the case and suggests that, although it has the authority to do so, the Commission should not place such conditions on complete demolitions approved under the financial hardship provision in the historic preservation ordinance. The ordinance authorizes the Commission to approve demolitions in two instances, when the issuance of the building permit is necessary in the public interest, and when the Commission finds that the building cannot be used for any purpose for which it is or may be reasonably adapted. In the public interest case, the Commission may appropriately condition a demolition because the Commission is essentially relinquishing its protection of the public benefit provided by the historic resource to allow for a construction project that will presumably provide a greater public benefit. In such a case, the Commission may appropriately condition the demolition to protect the public benefit associated with the historic resource until the greater benefit is guaranteed.

In the hardship case, the Commission has determined that the historic building cannot be reasonably adapted for a new use, i.e. that its retention removes most or all value from the property, and a demolition must be allowed to restore some value to the property and avoid a regulatory taking. In some instances, a partial demolition may be sufficient to permit a reasonable reuse of the property; in others, only a complete demolition allows for reasonable reuse. In cases in which the Commission finds that a partial demolition will alleviate the financial hardship, the Commission may reasonably condition the demolition to ensure that the remaining portion of the historic resource is protected during the demolition and subsequent construction. However, in cases in which the Commission finds that only a complete demolition will alleviate the financial hardship, the Commission should not condition the demolition on the completion of an unrelated task, such as the acquisition of a permit for a new building, because such a condition delays the restoration of some value to the property and thereby potentially violates the property owner's constitutionally protected rights. The Commission may have an interest in reviewing the new construction that may follow a complete demolition approved under the hardship provision, but that interest is entirely separate and distinct from alleviating the hardship. Once the Commission has determined that only a complete demolition of a historic building will provide a potential for reasonable reuse of a property, the Commission should allow for the complete demolition unconditionally.

A review of the Commission's practice since 2000 is informative. Since 2000, the Commission has approved five public interest demolition applications: Pennsylvania School for the Deaf's Early Learning Center, Race Street firehouse-Convention Center, Sansom Street Parking Authority garage, Curtis Institute dormitory and performance hall, and Episcopal Cathedral. In four of the five cases, the Commission conditioned the demolition approval with mechanisms that ensured that demolition would not occur until the subsequent project, and hence the greater benefit, was guaranteed. The fifth case, the Sansom Street Parking Authority project approval, was not conditioned, but the approval was overturned on appeal.

Since 2000, the Commission has approved seven financial hardship applications: Temple University-Park Mall, 10 Rittenhouse, Episcopal Hospital, Hillman Medical Center, Church of the Assumption, 400 S. 40th Street, and Boyd Theater. In four of the seven cases, the demolition

approval was not conditioned. In the 10 Rittenhouse case, the demolition approval was conditioned, but the demolition was partial, not complete; the front section of the Rittenhouse Club was retained. Only two of the seven complete demolitions approved under the financial hardship provision since 2000 included conditions on the demolition, Hillman Medical Center and 400 S. 40th Street, the case in question. The staff contends that, in light of the financial hardship findings, an argument can be made that those demolitions should not have been conditioned. Once the Commission has determined that nothing short of a complete demolition of a historic building will allow for the reasonable reuse of a property, the Commission should permit the complete demolition unconditionally. The hardship provision is a safety valve of sorts that allows the Commission to release its jurisdiction when confronted with a regulatory taking and thereby act constitutionally. If a complete demolition is the only means to avoid a regulatory taking, then the Commission should not condition the demolition approval on guarantees of a subsequent construction project; the demolition, which permits the reasonable reuse, should be allowed unconditionally. In the public interest case, the Commission enjoys some discretion; it may approve a demolition, with or without conditions, when it determines that the issuance of a demolition permit is necessary in the public interest. In the financial hardship case, the Commission has no discretion; it must approve a demolition without condition when it determines a complete demolition is the only means to avert a regulatory taking.

DISCUSSION: Mr. Farnham noted for the record that Ms. Long recused herself from the review, owing to the fact that her husband is partner at the law firm representing the University of Pennsylvania and its developer partner in this matter, and excused herself from the meeting. Mr. Farnham presented the request to the Historical Commission. Attorney Matt McClure, developers Jonathan Weiss and Peter Staz, and Paul Sehnert of the University of Pennsylvania represented the request.

Mr. Farnham noted that he had provided copies of two letters regarding this matter to all Commissioners at the start of the review. The letters were submitted by the University of Pennsylvania and attorney Paul Boni.

Mr. Sherman reminded those in the audience who might be speaking on this matter to speak into the microphone so that everyone in the room can hear the proceedings. He reminded the audience that the Commission will not reconsider the hardship finding or the approval of the demolition, but will only consider whether to grant the request to remove the condition.

Mr. McClure addressed the Commission, explaining that his clients are Azalea Gardens Partners LP and OAP, Inc., a wholly-owned affiliate of the University of Pennsylvania. Mr. McClure stated that he is not requesting that the Commission reconsider, expand upon, or embellish the hardship approval, but only that it reconsider the condition in question. He read from Section 14-1005(6)(c) of the preservation ordinance, which states that the Commission may attach “such conditions as may reasonably advance the purposes of this Chapter 14-1000,” the preservation ordinance. He stated that the ordinance provides examples of possible conditions for demolitions including requiring the owner to record the building to be demolished with photographs that satisfy the standards of the Historic American Buildings Survey (HABS). He noted that the ordinance authorizes the Commission to place conditions on building permits themselves, rather than placing conditions on obtaining the permits. Mr. McClure contended that Section 14-1005(6)(c) of the ordinance gives the Commission the discretionary authority to impose conditions and also to remove and modify conditions. Mr. McClure stated that he agrees with the staff as expressed in its recommendation that there are instances when a demolition permit should be conditioned to preclude demolition until the building permit for the new

construction that will replace the demolished building has been obtained. He stated that there are instances when such conditioning is wholly consistent with the purposes of the ordinance. He stated that demolitions in the public interest may be appropriately conditioned. He pointed to the Commission's conditioning of the demolition of the Race Street firehouse as appropriate. He stated that allowing a demolition in the public interest before the subsequent project providing the public benefit is assured makes no sense. He stated that it is also appropriate to condition significant alterations and partial demolitions to guarantee that the subsequent projects will occur before any demolition occurs. He cited the recent alteration approval for the hotel at the Warner Brothers Film Exchange as an example; he noted that the condition was not explicit in the approval, but observed that the demolition and new construction plans must be presented simultaneously, making the condition implicit. He also cited the 10 Rittenhouse hardship-partial demolition approval as an example; the approval was conditioned to protect the façade of the Rittenhouse Club.

Mr. McClure asserted that the authority to impose conditions under Section 14-1005(6)(c) of the ordinance is not unfettered. He stated that the ordinance requires that any conditions advance the purposes of the ordinance. He observed that Section 14-1001 enumerates the purposes of the ordinance. He contended that only one of the purposes cited in the ordinance that was not addressed "square on" by the Commission's hardship approval is that set forth in Subsection 5: "Strengthen the economy of the City by enhancing the City's attractiveness to tourists and by stabilizing and improving property values." Mr. McClure asserted that the purpose cited supports the removal of the condition. He remarked that removing the condition would be completely consistent with prior actions of the Commission and would not set any new precedent. He stated that the Commission has approved many complete demolitions based on hardship without conditions, as the staff noted in its recommendation. Mr. McClure cited the Episcopal Hospital demolitions. He explained that Temple University Health System applied to the Historical Commission to demolish two buildings, the Aspinwall and Harrison Buildings, owing to financial hardship. The Commission approved the demolitions without conditions and without any plans to construct anything on the sites of the buildings, Mr. McClure reported. Mr. McClure informed the Commission that he did not represent his clients during the hardship review, but was retained after the Commission reached a decision in the 400 S. 40th Street hardship and demolition matter. He noted that they underwent the review without legal counsel. He acknowledged that the University and its developer partner did not object to the imposition of the condition in 2012. He asserted, however, that any purpose the condition may have served in 2012, if any, is no longer evident. He observed that Commissioner Hawkins pointed out in detail at the Committee on Financial Hardship meeting that the new construction has been granted final approval since the hardship decision in May 2012. He added that his clients have made every effort to move forward with the new construction.

Mr. McClure informed the Commission that he is making the request to remove the condition for three reasons. First, the project has been halted by "constant" appeals from three appellants, a homeowners' association and two investment property owners. He stated that his clients have successfully defended themselves against all appeals and would like to begin the project, but assured the Commission that no demolition would occur until all preservation appeals have been exhausted at Commonwealth Court. He stated that his clients are not seeking to "make an end run around the courts." The University has submitted a letter agreeing not to undertake any demolition until all preservation appeals have been exhausted at Commonwealth Court. He stated that his clients would like to undertake the demolition once the preservation appeal has been decided in their favor at Commonwealth Court. He stated that, if the condition is maintained, his clients will be compelled to wait until the zoning appeal has run its course, which

could be “several” years. The condition, which was applied in good faith by the Commission, has been used by the appellants as a pretext for delay. Mr. McClure explained that the Commonwealth Court will hear oral arguments on the preservation appeal shortly and, assuming his clients are successful, the appellants will have exhausted their as-of-right appeals shortly. Second, Mr. McClure claimed that the retention of this building, which the Commission has already determined is a hardship, is a waste of non-profit funds. He acknowledged that the University is large and has significant funds, but contended that, nonetheless, it must spend its money wisely. He stated that the University has spent about \$30,000 annually to maintain the building since 2003. Moreover, the empty building poses liability and a danger to the neighborhood; fire is a danger. Third, the building blights the surrounding Spruce Hill community. He noted that some who opposed his clients’ project and are in the room today have described the building in sworn testimony as “awful,” “somewhat mutilated,” and “not very good.” He concluded that the opposition to the demolition has little to do with preserving the existing building and everything to do with what might be built on the site in the future. Mr. McClure contended that no one knows why this building was designated in the 1970s. The scant information in the files does not explain why the Commission designated this building, which lacks integrity. He reminded the Commission that Commissioner Hawkins had stated at the Committee on Financial Hardship meeting that the Commission would not designate this building today because of its “substantially compromised” state. He stated that the building’s condition and significance are relevant because Section 14-1005(6)(e)(2) mandates that the Historical Commission shall consider the historical, architectural, and aesthetic significance of the building when making its determination as to the appropriateness of proposed alterations, demolition, and construction. Mr. McClure concluded that, in certain instances, the Commission may find that it is appropriate to condition demolition approvals predicated on hardship, but, in light of the lack of significance of this resource under consideration, such a condition is “wholly unreasonable and should be removed.”

Mr. McClure responded to the letter issued by Mr. Boni, the attorney for the appellants, and distributed to the Commissioners at the start of the meeting. Mr. McClure noted that his request for the removal of the condition was filed with the Commission in November 2014, yet Mr. Boni did not submit his letter until one day before the Commission’s meeting on 9 January 2015. He summarized Mr. Boni’s letter, stating that it contends that the Historical Commission has no jurisdiction over this matter because it is on appeal at Commonwealth Court. Mr. McClure stated that Mr. Boni’s argument is novel, but fundamentally flawed. He contended that the rule cited by Mr. Boni is not binding on the Commission. Mr. McClure asserted, that even more significantly, nothing he is today requesting has any bearing on the issue under appeal at Commonwealth Court. The issue before Commonwealth Court is the merit of the hardship application, whether his clients proved their hardship case and whether the Commission appropriately found that the retention of the building would constitute a hardship. The issue before the Commission today is unrelated to the issue before the Commonwealth Court, Mr. McClure claimed. Mr. McClure noted that Mr. Boni’s letter cites Rule 1701(a), but failed to mention 1701(c), which states that any stay or bar on additional administrative action is only limited to those issues on appeal. Mr. McClure reiterated that the condition is entirely unrelated to the appeal, which concerns the merits of the hardship finding. He again promised that the University would comply with the Commonwealth Court’s decision on the preservation appeal. Mr. McClure concluded that the University has worked for years in good faith to redevelop this property and asked the Commission not to facilitate the appellants’ continued efforts to thwart the University’s good-faith effort. He asked the Commission to adopt its staff’s and Committee’s recommendations and remove the condition. He stated that he hopes the letter from the University convinces

Commissioner Thomas that the University will not act before the Commonwealth Court reaches a decision.

Mr. Sherman invited Mr. Boni to address the Commission. Mr. Boni began to distribute stacks of papers to the Commissioners. Mr. McClure objected to Mr. Boni's submission of materials, citing Section 4.6.b of the Commission's Rules & Regulations, which requires that parties to a matter before the Commission submit in writing seven (7) calendar days in advance of a Commission meeting any proposed substantial testimony, including any supporting documentation, reports and studies, to be offered at a public meeting of the Commission. Parties to a matter before the Commission include an applicant and/or organization or person who has previously evinced an interest or position on a matter. Mr. Sherman refused to accept the documents because Mr. Boni had failed to comply with Section 4.6.b of the Commission's Rules & Regulations. Mr. Boni stated that he represents a homeowners' association and two nearby property owners. He stated that they believe that the Commission erred two years ago when it approved the hardship application and have appealed that decision. He stated that the appeal is scheduled for oral argument at Commonwealth Court on 10 February 2015. He stated that the condition in the 2012 decision that is at question was "a good condition" and he asked the Commission not to change it. Mr. Boni asserted that the Commission does not have the jurisdiction to hear this request today because the matter is on appeal. He stated that it was "good to see Penn's letter of January 8, but I'm not sure it's good enough." He stated that the letter relates to the University's activities, but not those of its development partner. He also noted that it addresses the appeal before Commonwealth Court, but not a subsequent appeal to the Supreme Court. Speaking about Mr. McClure's law firm, Mr. Boni stated that "it's clear that Ballard and its clients ... over the years at 10 Rittenhouse and the Boyd have jumped at the opportunity even at the weekend to have demolition people come in at the earliest possible minute even ..." Mr. Sherman suggested that Mr. Boni should not "waste" the Commission's time with "this ludicrous line of argument." He suggested that Mr. Boni avoid the "innuendo" and "accusations" and instead present his case on its merits. Mr. Boni responded that he "would hope that neither side has innuendo and accusations." Mr. Boni noted that Mr. McClure acknowledged that the University and its partner did not object to the condition at the time it was imposed in 2012. Mr. Boni stated that he would characterize it in a different way; he claimed that the University requested the condition, rather than accepting it. He claimed that the applicants specifically asked the Commission to impose the condition. Mr. Boni read from the affidavit submitted as part of the hardship application: "No demolition will take place until the developer obtains all necessary approvals and financing for the five-story project." Mr. Boni directed the Commission to the minute of the Committee on Financial Hardship review of April 2012, which reads "Mr. Hollenberg assured the Committee that, if the Commission approved the project, no demolition would be undertaken until all other approvals and financing had been obtained." Mr. Boni played a segment of an audio recording of the Committee on Financial Hardship meeting of April 2012, during which Mr. Hollenberg stated that "no physical demolition would occur until all approvals were, of course, obtained, and there will be others, for sure, and until all financing is also obtained." Mr. Boni had difficulty stopping the recording, which continued to play for a while, but was unintelligible. Mr. Boni asserted that Mr. Hollenberg had made a commitment. From the Commission's meeting minute of 11 May 2012, Mr. Boni read: "Mr. Boni asked if the motion included the condition that all other permit approvals must be obtained before the demolition is undertaken. Mr. Sherman responded that the motion included such a condition." He claimed that the condition was not established by a word processing program creating a form letter, but by the applicant offering the condition. He asserted that Mr. Hollenberg made a commitment and now wants to breach that commitment. Mr. Boni claimed that everyone knew in 2012 that this case would be litigated; he reminded the Commission that he brought his own court

stenographer to the Commission meeting in 2012. Mr. Boni concluded that everyone is human and everyone makes mistakes. Mr. Boni asserted that the staff recommendation argues that the Commission made mistakes by imposing conditions in hardship decisions. Mr. Boni stated that we should all welcome the democratic process and be happy that we have courts that check for and correct mistakes. He stated that he knows that the Commission is “frustrated and tired” with him, but contended that “democracy is frustrating and tiring.” He asked the Commission to make the University’s letter part of its motion if it decides to grant the request. Referring to an earlier case, he claimed that the Commission did not accept Penn Mutual’s word that an entry would be available for the common use of all tenants, but incorporated it into the motion as a condition; he asked the Commission to do the same in this case. Mr. Boni stated that the condition was good when it was imposed and is good now and should be maintained because it promotes historic preservation. He asked the Commission not to prejudice his clients’ rights on appeal.

Ms. Merriman asked Mr. Farnham to report on the Law Department’s assessment of the claims Mr. Boni makes in his letter. Mr. Farnham responded that Andrew Ross, the Commission’s attorney, who was unable to attend this meeting, and his colleagues in the Law Department considered Mr. Boni’s letter as well as Mr. McClure’s letter making the request and documents related to the May 2012 decision and they concluded and advised that the Historical Commission has not lost jurisdiction owing to the pending Commonwealth Court appeal and the Commission may entertain this request. As Mr. Ross explained, the rule cited by Mr. Boni is directed at the court below the court at which the appeal is pending as well as at government agencies whose decisions are appealed directly to Commonwealth Court, but not at other administrative departments. Mr. Ross advises that the Commission may entertain this request.

Mr. Mattioni asked if any court had issued a formal stay in this matter, as opposed to a reliance on a rule of procedure. Mr. McClure responded that there has been no stay and no party has sought a stay. Mr. McClure added that his clients have obtained all approvals including the zoning approval, but those approvals have been appealed. He concluded that there is no stay, but Mr. Boni has the right to seek a stay.

Mathew Grubel stated that he holds a Master’s degree in historic preservation and has created a website on the history of West Philadelphia. He stated that he would like “to object to the personal characterization of why I, myself, and I think I can speak for my neighbors, wish to stop this house from being demolished.” He stated that he “would also like to object to the characterization of this property, just I hope everyone realizes this, as encased, that the historic house being encased in incompatible materials and so forth. The description implies an irreversible loss of integrity.” Mr. Sherman suggested that Mr. Grubel speak to the merits of maintaining or removing the condition in question and not offer irrelevant arguments about the significance of the building. Mr. Grubel responded that the staff had stated that the building was encased in incompatible additions and that that statement implied “an irreversible damage to the historic integrity and I would just like to point out that the Commission’s own committee looked at the situation back in 2007 ... and the committee members pointed out that that’s just not the case.” Mr. Sherman stated that the Commission’s 2007 decision to deny the request to rescind the designation of this property from the Philadelphia Register of Historic Places is not relevant to today’s proceeding. He asked Mr. Grubel to address the current request to remove the condition that no demolition is to occur until all permits and approvals are obtained for the new construction. Mr. Grubel thanked the Commission for the opportunity to speak. Mr. Boni stated that Mr. McClure had argued that the condition of the building should factor into the Commission’s decision today and observed that it appeared that Mr. Grubel was attempting to make a statement disputing Mr. McClure’s characterization that the building is in poor condition.

Mary Daniels addressed the Commission. She informed the Commission that she is a longtime resident of Woodland Terrace. She stated that she has followed the rules regarding the preservation of her property. She stated that the Historical Commission should follow the rules, not change or amend the rules for the University of Pennsylvania. She noted that there is an appeal in process. She stated that she is concerned about her neighborhood and the demolition, which seems to be impending.

Aaron Wunsch stated that he shares in the Commissioners' frustration that a few opponents have successfully blocked the University's proposals that would have saved the historic building by constructing an addition or new building in the side yard. He asserted that he is not affiliated with either side in this case, but is a "free agent." He opined on Mr. McClure's earlier comment that no one knows why this building was designated as historic and that the Commission would not designate it as historic if it were nominated today. Mr. Wunsch stated that he wrote an article on the historic house; he commented that he is not insulted that he was unable to find a copy of his article in the Historical Commission's files on the property. He asserted that the building is significant and that the question of its significance no longer needs to be debated.

Jeffrey Cohen introduced himself as a professor of architectural history at Bryn Mawr College and a member of the Commission's Committee on Historic Designation. He noted that Mr. McClure began the discussion about the significance of the house. He asserted that, despite the additions, the house remains important as the entranceway to the villa district of West Philadelphia. He contended that relinquishing this condition could pose a danger to other historic resources. The duty of the Historical Commission is to protect historic resources and it should not give up tools that assist in preserving resources. The Office of the Deputy Mayor for Planning and Economic Development may be charged with promoting development and the Historical Commission may fall within the organization under that office, but the Commission must remain independent. He stated that others will look at this decision and perhaps rush to demolition without obtaining the necessary permits and approvals. Removing this condition would set a terrible precedent. He urged the Commission not to approve the request.

Mr. Sherman stated that he wanted to speak about the source of his frustration with this property. He stated that the Commission has reviewed numerous applications for this property and has approved reasonable proposals that would preserve the historic building. He stated that, despite approvals of reasonable projects that would have restored and preserved the historic building, a small group of objectors has resisted and appealed every approval and forced the property owner into the position of seeking an approval for the demolition of the building. He stated, except for the objections, the University and its partner would be constructing the approved project that would preserve the historic building. Mr. Sherman stated that the University sought the demolition approval after exhausting all other options. That demolition approval was predicated on obtaining prerequisite approvals, which have been obtained but are under appeal. Mr. Sherman asserted that the Commission would not set a precedent by removing this condition. Mr. Sherman asked Mr. Mattioni, who is an attorney, to opine on whether the Commission would set a negative precedent by removing this condition. Mr. Mattioni stated that he does not believe that any new precedent would be set with the removal of the condition. He noted that he voted against the hardship finding and abstained on the approval of the new construction in 2012. He noted that, notwithstanding his vote in opposition, the Commission found under the ordinance and Rules & Regulations that the required retention of the building would create a hardship. The finding is now irrevocable. He stated that, despite Mr. Boni's objections, the Commission has been advised by the Law

Department that it has jurisdiction and can rule on this request. Moreover, no formal stay order has been sought or issued. He stated that he sees no “slippery slope” of which the most recent speaker warned the Commission. Mr. Boni stated that he did not respond to the earlier question about a stay. Mr. Mattioni replied that he accepted Mr. McClure’s representation that no stay had been sought or issued by the court because Mr. Boni did not object to the representation. Mr. Mattioni advised Mr. Boni to disclose now to the Commission whether a stay has been sought or issued. Mr. Boni countered that the earlier question was not directed to him and he therefore did not speak. Mr. Mattioni suggested that Mr. Boni’s statement was a “red herring.” He asked Mr. Boni to answer the question directly. Mr. Boni stated that he had not sought a stay and that there is no stay because he did not believe that demolition was imminent. He threatened that, if demolition becomes imminent, then he will seek a stay. He stated that, if the Commission makes the demolition imminent, then it prejudices his clients’ position and they will seek a stay. Mr. Cohen stated that he hopes that the appellants will stop their dangerous game of “brinksmanship” and allow this building to be preserved. He disagreed with Commissioner Hawkins, who had stated that this building would not be worthy of designation if it were nominated today. He claimed that it is an important building. It is the gateway to the villa district, he claimed.

Mr. Schaaf asked about the Commonwealth Court’s schedule for the appeal hearing. Mr. Farnham replied that oral argument will be held on 10 February 2015 and a decision would likely be rendered two or three months later. Mr. McClure informed Mr. Schaaf that his request to the Commission is unrelated to the matters on appeal at Commonwealth Court. He again stated that the University would not demolish the building until the appeal is decided by Commonwealth Court. Mr. McClure insisted that the real matter is whether the zoning appeal, which could drag on for years, has any bearing on the Historical Commission’s hardship decision. He asserted that it does not.

Mr. Farnham stated that, before he makes his remarks, he would like to note that he has great respect for Mr. Cohen, who he has known since the day he moved to Philadelphia. However, disagreeing with Mr. Cohen, he asserted that removing this condition would not establish a precedent. He noted that the Commission typically does not condition demolition approvals that result from findings of financial hardship. He stated that removing the condition as proposed would make this decision typical, not atypical, and would not set a precedent. The claim that removing this condition would set a precedent and result in additional hardship approvals and demolitions is simply not true. The Commission has approved complete demolition applications based on hardship in the past; that door is already open and the removal of this condition would not be precedential. Mr. Farnham noted that he wrote and spoke the words “encased in additions,” to which Mr. Grubel objected. Mr. Farnham stated that he intended the words to be descriptive only; the historic building is surrounded by additions on four sides. Mr. Farnham asserted that he did not imply with that description that the building has lost such integrity that it could not be restored, as Mr. Grubel had claimed. The alterations to the house are reversible. Mr. Farnham noted that he has reviewed several proposals presented by the University that called for the renovation of the house and the reversing of the additions. He asked the Commission to disregard Mr. Grubel’s claim that the word “encased” implies irreversibility. He stated that that was not his intent.

Ms. Merriman stated that she intended to move to adopt the Committee on Financial Hardship’s recommendation, removing the demolition condition and inserting the landscaping condition. Ms. Leonard suggested adding a condition to Ms. Merriman’s proposed motion prohibiting demolition until all possible appeals of the finding of hardship have been exhausted. Mr.

McClure objecting, stating that it would be inappropriate for the Historical Commission to issue a stay of its own decision. Ms. Leonard raised a point of order. Ms. Leonard asked Mr. McClure if the University had agreed to defer any demolition until Commonwealth Court had ruled on the matter. Mr. Sherman responding that the University had provided a letter stating that it would not undertake any demolition until the Commonwealth Court preservation appeal had been concluded. Ms. Leonard asked Mr. McClure if his client was willing to defer any demolition until the conclusion of a potential Supreme Court appeal. Mr. McClure replied that he would not want the Commission to “festoon” its approval with any additional conditions because the appellants have taken advantage of such conditions. The University and its partner have given their word that they will not demolish until the Commonwealth Court appeal is concluded. Mr. McClure asserted that Mr. Boni can seek a stay during the petition for allocator, if he takes an appeal to the Supreme Court. He reminded the Commission that an appeal to the Supreme Court is not an as-of-right appeal. Mr. McClure argued that the Commission found more than two years ago that the retention of this building would inflict a hardship on the owner; if it stays its decision to allow for appeals, it would essentially be casting doubt on its decision. He asked the Commission to stand behind its decision. Mr. Mattioni stated that he finds it inappropriate to condition the motion as suggested by Ms. Leonard. Ms. Merriman agreed and stated that she would not amend her proposed motion as suggested by Ms. Leonard. Mr. Boni contended that the Commission should incorporate the University’s letter into the motion. He asserted that the Commission should do as it had done in the 508-32 Walnut Street case earlier in the meeting and “make it part of the motion.” Mr. Farnham responded that Mr. Boni was misrepresenting the Walnut Street decision. The Commission did not condition the Walnut Street approval with the requirement that the door be used as a common entrance, but had explained that it was approving the door with the understanding that the door would be a common entrance.

ACTION: Ms. Merriman moved to adopt the Committee on Financial Hardship’s recommendation and remove the condition in Section 3 of the action (shown in strike-through) and replace it with a new condition (shown in italics) so that the action now reads: The Historical Commission voted to find that the building cannot be used for any purpose for which it is or may be reasonably adapted and:

1. to find that the applicant has demonstrated 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;
2. to find that the building’s required retention would result in a financial hardship for the property owner; and,
3. to approve the demolition, pursuant to Section 14-2007(7)(j) of the historic preservation ordinance, ~~provided no demolition is undertaken until all prerequisite approvals for the building permit are obtained and the building permit has been issued for the new construction~~ *provided the Historical Commission approves and the property owner implements an interim landscape plan.*

Mr. Mattioni seconded the motion, which passed by a vote of 6 to 3. Ms. Leonard and Messrs. Thomas and Dilworth dissented.

NATIONAL REGISTER NOMINATION COMMENT

ADDRESS: 4900 N BROAD ST, WYOMING CENTRAL OFFICE OF BELL TELEPHONE

Owner: 4900 NBS LP

Nominator: Kevin McMahon, Powers & Co.

OVERVIEW: The Pennsylvania Historical & Museum Commission has requested comments from the Philadelphia Historical Commission on the National Register nomination of the Wyoming Central Office of the Bell Telephone at 4900 N. Broad Street.

The Wyoming Central Office of the Bell Telephone Company has significance under Criterion A, Industry, for its representation of competition and monopoly in Philadelphia's telephone networks in the early-twentieth century. The building's significance under Criterion A, Communications, also encompasses its architectural history. The Wyoming Central Office is notable for being designed by the firm of John T. Windrim, a prominent Philadelphia architect of the early-twentieth century who designed dozens of buildings for Bell throughout Pennsylvania, New Jersey and Delaware.

STAFF RECOMMENDATION: The staff recommends that the Commission recommend that the Wyoming Central Office of the Bell Telephone Company is significant under Criterion A, for industry and communications, and should be listed on the National Register of Historic Places.

DISCUSSION: Ms. Broadbent presented the nomination to the National Register of Historic Places for the property located 4900 North Broad Street. The Commissioners discussed the nomination and agreed that the resource satisfied the cited criteria. No one in the audience commented on the nomination.

COMMENT: Mr. Thomas moved that the Historical Commission endorse the listing of 4900 North Broad Street on the National Register of Historic Places. Mr. Schaaf seconded the motion, which passed unanimously.

ADJOURNMENT

ACTION: At 11:28 a.m., Mr. Thomas moved to adjourn. Mr. Schaaf seconded the motion, which passed unanimously.

STANDARDS AND GUIDELINES CITED IN THE MINUTES

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 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 7: Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damages to historic materials will not be used.

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.

Standard 10: New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Accessibility Guideline, Not Recommended: Altering, damaging, or destroying character-defining features in attempting to comply with accessibility requirements.

Accessibility Guideline, Not Recommended: Making access modifications that do not provide a reasonable balance between independent, safe access and preservation of historic features.

Roofs Guideline: Recommended: Designing additions to roofs such as residential, office, or storage spaces; elevator housing; decks and terraces; or dormers or skylights when required by the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.