

**THE MINUTES OF THE 567TH STATED MEETING OF THE
PHILADELPHIA HISTORICAL COMMISSION**

**13 NOVEMBER 2009
ROOM 18-029, 1515 ARCH STREET
SAM SHERMAN, CHAIR**

PRESENT

Sam Sherman, Chair
David Amburn
Rosalie Leonard, Office of City Council President
John Mattioni, Esq.
Sara Merriman, Commerce Department
Robert Murray, Department of Public Property
Daniel Quinn, Department of Licenses & Inspections
David Schaaf, Philadelphia City Planning Commission
Scott Wilds, Office of Housing & Community Development

Jonathan Farnham, Executive Director
Randal Baron, Historic Preservation Planner III
Erin Coté, Historic Preservation Planner II
Jorge Danta, Historic Preservation Planner II
Karen Gonski, Administrative Technician

Leonard Reuter, Esq., Assistant City Solicitor

ALSO PRESENT

John Gallery, Preservation Alliance for Greater Philadelphia
Carey Jackson Yonce, Firmarchitecture
Jacqueline Buhn
Brett Feldman, Klehr Harrison Branzburg Harvey & Ellers
Cata Raisbeck
Monique Delapenha
Alex Roman, University of Pennsylvania
Briana Pressey, University of Pennsylvania
Anthony Tsirantonakis, Tsirantonakis & Associates

CALL TO ORDER

Mr. Sherman called the meeting to order at 9:09 a.m. Commissioners Amburn, Leonard, Mattioni, Merriman, Murray, Quinn, Schaaf, and Wilds joined him.

MINUTES OF THE 566TH STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION

Mr. Amburn noted that the word “not” is missing from a sentence on page 11. Mr. Farnham replied that it would be corrected.

ACTION: Mr. Amburn moved to adopt the minutes as corrected of the 566th Stated Meeting of the Philadelphia Historical Commission, held 9 October 2009. Ms. Leonard seconded the motion, which passed unanimously.

THE REPORT OF THE ARCHITECTURAL COMMITTEE, 27 OCTOBER 2009

David Amburn, Chair

3459 W. QUEEN LANE

Owner: Debra Brackett

Applicant: Debra Brackett

History: c. 1929; Contributing to the Tudor East Falls Historic District, 10/9/2009

Project: Legalize windows

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the legalization, pursuant to the Transition Regulation, Section 6.3.b of the Rules & Regulations.

OVERVIEW: This application proposes to legalize windows that were installed during the 60-day notice period prior to the review of the nomination for the Tudor East Falls Historic District. The Historic Preservation Ordinance requires that notice be sent to all owners of properties in the proposed district at least 60 days prior to the Commission's review of the district nomination at a public meeting. The jurisdiction of the Commission begins with the date of the notice. If the Commission votes to designate the proposed district, its jurisdiction continues; if not, the jurisdiction lapses. Notice for the Tudor East Falls District was sent on 9 July 2009. The Committee on Historic Designation reviewed the nomination on 8 September 2009 and the Commission reviewed the nomination and voted to designate the Tudor East Falls Historic District on 9 October 2009. The staff observed the installation of new windows that had not been reviewed or approved by the Commission on 17 September 2009. A violation was issued. The owner submitted an application seeking legalization that includes a work estimate dated 1 June 2009. The Transition Regulation, Section 6.3.b of the Rules & Regulations, was designed to address this situation. It states that:

the Commission, its committees and staff shall consider the prior existence of executed contracts, substantial design development or other evidence of a material commitment to development in the review of applications. This regulation shall not apply to buildings, structures, sites or objects within a proposed district that were previously designated individually.

This property was not individually designated prior to the creation of the historic district. Also, even though the windows do not precisely match the historic window, they are sympathetic to the building and district.

DISCUSSION: Ms. Cote presented the application to the Historical Commission. No one represented the application.

Ms. Merriman asked the staff how the installed windows differ from windows that would meet the standards and be approved at the staff level. Ms. Cote explained that the configurations of the new windows differ slightly from the historic windows. The historic four casements with wide center mullion at the first floor were replaced with four similar casements, but without the center mullion. At the upper floor, the historic three casements were replaced with two. However, the new casements have the same pane sizes as the historic windows, making the differences less noticeable. Ms. Cote also explained that the staff is researching window options to identify appropriate replacements for the district.

ACTION: Ms. Merriman moved to adopt the recommendation of the Architectural Committee and approve the legalization, pursuant to the Transition Regulation, Section

6.3.b of the Rules & Regulations. Ms. Leonard seconded the motion, which passed unanimously.

2404 DELANCEY PLACE

Owner: Alan Razak and Jacqueline Buhn

Applicant: Carey Jackson Yonce

History: c. 1890

Project: Install windows and doors, stucco side and rear facades, alter and add deck to non-historic garage

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the application, provided the stucco applied to the main house is not scored, with the staff to review details.

OVERVIEW: This application proposes to modify a garage and install a garage roof deck and doors, windows, balconies, and stucco. In September 2006, the Commission reviewed a similar application to rebuild the garage, remove the fire escape, install windows, doors, balconies, and cut new openings on the rear elevation. The Commission approved the proposal as submitted, with the staff to review details. The work was never undertaken.

This application now proposes to install a garage roof deck and raise an existing garden wall. This application also proposes alterations including the installation of doors and windows within existing openings, a third-story balcony, a second-story railing, and scored stucco over the entire south and west brick elevations. The fire escape would be retained. The first story of the rear is not visible from the public right-of-way. The remainder of the rear as well as the exposed south party wall is visible, but not highly visible, from the public right-of-way.

DISCUSSION: Mr. Baron presented the application to the Historical Commission. Architect Carey Jackson Yonce and property owner Jacqueline Buhn represented the application.

Mr. Baron stated that the staff has some concerns about the proposed stuccoing of the walls, especially the south wall. He stated that, if the walls are suffering from moisture problems, then they should be repointed, not stuccoed. He explained that this building was constructed after the adjacent buildings, some of which have since been demolished. He displayed a photograph of the building in question, which was a sanatorium, soon after construction, before it lost its turrets. He stated that, in general in Philadelphia, the front walls of rowhouses are built with a very high quality brick, while the other walls are built with a brick that does not have as crisp an edge. He cautioned that approving stucco on a historically exposed wall would set a new precedent that would sanction covering all but front walls elsewhere. Ms. Leonard asked him if the walls were highly visible from the street. Mr. Baron displayed photographs taken from the street showing the visibility of the walls.

Mr. Wilds asked Mr. Baron to interpret the historic maps and discuss the potential relevance of adjoining buildings. Mr. Baron stated that the surrounding buildings were constructed in the 1840s; the building in question and its twin were not constructed until the late 1880s. He said that this building was not part of a row, but was built later. Mr. Wilds asked if the south wall was very visible from the street. Mr. Baron stated that it was. Mr. Baron stated that the application does not provide any evidence of damage to the brick that might make stucco appropriate. He suggested that any problems could be solved with pointing.

Mr. Yonce stated that the brick is letting water into the building. He elaborated that the stucco would not only prevent water infiltration, but would also provide additional insulation. Mr. Wilds asked him if additional insulation could be installed inside the building. Mr. Yonce hesitatingly agreed that the insulation could be installed inside the building. Mr. Wilds stated that he could insulate in the interior and repoint the brick to achieve the same outcome. Mr. Yonce countered that that would provide a partial solution only. He stated that the exterior brick is deteriorating. Mr. Schaaf stated that it would be complicated to insulate in the interior. Millwork would need to be removed and replaced. Mr. Baron noted that the work would be simpler because there are no windows on the south wall.

Mr. Wilds stated that no evidence has been presented on the deterioration of the wall. He stated that the south wall is highly visible. He concluded that the gain from the stucco would not offset the loss of the view of the historic material. He added that no economic hardship claim has been made. He stated that it would set a bad precedent to allow the stuccoing of visible walls. He stated that the Commission has consistently denied such applications. Mr. Yonce responded that the Architectural Committee recommended approval without scoring and added that stucco is typical in this area. Mr. Yonce observed that part of the west wall is already stuccoed.

Ms. Buhn stated that the Committee approved the stucco. She remarked that she did not know that the Commission would want additional evidence of deteriorating brick. She claimed that the brick is deteriorating. She stated that the Committee approved the stucco for its insulation value. It was noted that the Committee is advisory only and does not approve. She contended that it would difficult, if not impossible, to insulate from the inside. She stated that the walls are visible. She stated that the south wall is "very evident" from 24th Street. She explained that the building was constructed in 1893, much later than the neighbors.

Mr. Wilds stated that the Commission has been strict when reviewing stucco for historically exposed side walls. He observed that the Commission may be willing to approve stucco for areas of the wall that are not visible from the street. Mr. Wilds again advised the Commission to be consistent.

MOTION: Mr. Wilds moved to approve the application, provided no stucco is installed on the south wall, with the staff to review details. Ms. Merriman seconded the motion.

Ms. Buhn stated that part of the south wall is already stuccoed. She suggested a compromise that would prohibit stucco within a certain distance of 24th Street. Mr. Wilds stated that he would not support such a compromise. Mr. Yonce asked if they could determine the maximum visibility from the street and then stucco the invisible areas. Mr. Wilds stated that there is no way of determining visibility here at the meeting. Mr. Amburn stated that there appears to be agreement that stucco is appropriate on the west wall, but not necessarily on the south wall. He noted that there is stucco at the lower rear part of the west wall.

Mr. Sherman asked about the detailing of the stucco at the windows. He noted that the windows would become more recessed in the walls. Mr. Yonce agreed, stating that the stucco would be two inches thick.

Mr. Wilds suggested that the Commission approve everything but the stucco and invite the applicants to return with a more detailed plan for the stucco that would avoid public visibility on the south wall. Ms. Buhn agreed to return with additional information about visibility, deterioration, and detailing. Mr. Schaaf suggested details regarding the intersection of the

stucco with the quoins at the southeast corner of the building. Mr. Yonce pointed to a similar detail in the application materials. The stucco will be held back from the quoins.

WITHDRAWAL OF MOTION: Mr. Wilds and Ms. Merriman withdrew their motion to approve the application, provided no stucco is installed on the south wall, with the staff to review details.

Mr. Yonce asked if the visibility of the south party wall was the primary concern. Mr. Wilds stated that it was, but that the Commission also has concerns about the detailing at the quoins, windows, and other locations. Ms. Buhn stated that there are no windows in the south wall; the windows in the west wall are all non-historic. Mr. Yonce asserted that the requisite details are already in the application. Mr. Schaaf agreed. Mr. Schaaf stated that the only missing information is the identification of a boundary for the stucco on the south wall to ensure that it is not visible from 24th Street. Mr. Yonce offered to undertake a sight-line study. Ms. Buhn said that the wall is mostly hidden by trees in the summer.

MOTION: Mr. Wilds moved to approve all aspects of the application except the stucco, with the staff to review details. Ms. Merriman seconded the motion.

Mr. Sherman noted that this should not delay the project because it is unlikely that they would apply the stucco in winter. Ms. Buhn said that the stucco is the largest part of the job; therefore, they would not bid the job until they had an approval for the stucco. Mr. Schaaf suggested that they provide an architectural drawing of the south elevation.

The applicants asked if they should submit a new application for the Architectural Committee's review, or if they could instead provide supplemental materials for review by the Commission at its next meeting. Mr. Reuter explained that, if the Commission tabled the application, then the applicants could submit additional details to the staff to supplement the application and then appear at a subsequent Commission meeting without review by the Architectural Committee. He noted that any new application would require review by the Committee.

WITHDRAWAL OF MOTION: Mr. Wilds and Ms. Merriman withdrew their motion to approve all aspects of the application except the stucco, with the staff to review details.

Mr. Mattioni asked the Commission to provide clear guidance to the applicants regarding any new information needed to complete the review. Mr. Sherman stated that the new information must include an elevation of the south wall that shows the proposed locations for stucco and the visibility from the street. It must also include details of the finishing of the stucco at windows and other features.

ACTION: Mr. Wilds moved to table the application for a period not to exceed six months. Ms. Merriman seconded the motion, which passed unanimously.

241-43 CHESTNUT STREET, UNIT H

Owner: Ben Hur Chestnut LP; 243 Chestnut GP, LLC; Jerry Harary; In Mocean Group

Applicant: Kenneth Gioffre

History: 243 Chestnut, Borie Brothers Bank, 1897, Wilson Eyre, Jr., architect;

rear addition approved by Commission, 8/8/2003

Designation: individually designated, 11/4/1976;

significant in Old City Historic District, 12/12/2003

Project: Relocate and install new signage

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the relocation of the sign on the non-historic addition, but denial of the blade sign on the historic door surround, pursuant to Standards 2, 5, and 9.

OVERVIEW: This application proposes to relocate an existing sign on a non-historic addition at the rear of 243 Chestnut Street, along S. 3rd Street, and to add a new sign on a historic door surround along Chestnut Street.

An existing sign would be relocated further south on a non-historic addition at the rear of the historic building. The Commission approved this non-historic addition, which faces 3rd Street, with the current signage on 8 August 2003. The staff would approve the alteration of this sign alone at the staff level. However, the second sign included in this application obliged the staff to forward the application to the Commission for its review. The application proposes to install a second sign, a blade sign, into the elaborate door surround on the historic building at the corner of 3rd and Chestnut Streets. The proposed location for the blade sign, the keystone in the arched doorway, is inappropriate. It would destroy the proportions and symmetry and conceal the important decorative element of this door surround. It would not comply with Standards 2, 5, and 9.

DISCUSSION: Mr. Danta presented the application to the Historical Commission. No one represented the application.

The Commissioners reviewed the application and determined that the sign proposed for Chestnut Street does not meet historic preservation standards.

ACTION: Mr. Wilds moved to adopt the recommendation of the Architectural Committee and approve the relocation of the sign on the non-historic addition, but deny the blade sign on the historic door surround, pursuant to Standards 2, 5, and 9. Mr. Schaaf seconded the motion, which passed unanimously.

1957 LOCUST STREET

Owner: Walnut Street Equities LLP

Applicant: Richard DeMarco on behalf of Cata Raisbeck

History: c. 1860; contributing to Rittenhouse Fidler Historic District, 1995

Project: Legalize façade alterations to first floor

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

OVERVIEW: The application proposes the legalization of work to the storefront performed without a permit by a tenant. A violation was issued for the work. Former tenants have also altered this storefront illegally.

The application provides few details about the work undertaken or the legalizations sought. The applicant has not submitted architectural drawings indicating the alterations. The applicant has provided photographs showing some but not all alterations and very limited annotations do not fully describe the alterations or the relief sought.

The alterations include the reconstruction of the storefront window facing 20th Street. The new storefront window does not replicate the historic window. A wide center mullion was added and the sizes of the transoms were altered. The storefront on Locust Street is intact above the bulkhead and provides a good model for a reconstruction of the historic design. The tenant also installed new metal door, which is not based on an historic design. Perhaps most noticeable of the changes is the installation of an air conditioning unit on the first-floor brick wall along 20th Street. Inappropriate awnings with unusual clear plastic “skylight” sections were also installed.

DISCUSSION: Mr. Baron presented the application to the Historical Commission. Attorney Brett Feldman and tenant Cata Raisbeck represented the application.

Ms. Merriman asked about the adjacent storefront, which has a window air conditioner and appears to be in violation in a similar manner. Mr. Baron stated that that condition predates designation. Mr. Baron also explained that the applicant’s storefront has had air conditioners for many years, but the current units are new and unpermitted.

Mr. Wilds noted that the Architectural Committee concluded that the application was not complete because it does not propose anything specific. He stated that the application includes a few photographs showing the current conditions as well as an acknowledgment that the applicant is responsible for some of the illegal work, but it does not propose a resolution.

Mr. Feldman stated that his client is requesting the legalization of the work she undertook. He stated that she replaced the door, made some “adjustments to the storefront window on 20th Street, and added the air conditioner. He stated that the air conditioner in the storefront window transom is in a similar location to a unit that existed before the transom was replaced. He described the difficulty in keeping the store cool during the summer months. The air conditioner was installed soon after the shop opened, after the owner discovered that it was difficult to cool the space. He stated that he agrees that the unit mounted on the wall should be reconfigured. He asked the Commission to bifurcate the application, separating out the wall-mounted unit from the remainder of the work. He stated that his client would submit a new application to resolve the wall-mounted unit part of the legalization. He asked the Commission to legalize the door, window, and other work. Mr. Wilds observed that the window and door are not documented in the application. The Commission would not know what it was legalizing. He noted that Mr. Feldman had appeared before the Commission many times. He asked Mr. Feldman if the current application represented a typical application. Mr. Feldman stated that it did not. He apologized for the quality of the application.

Mr. Feldman asked the Commission to comment on the aspects of the application. Mr. Wilds commented on the patchwork approach to the air conditioning and suggested a holistic approach to the air conditioning. Mr. Schaaf commented on the inappropriateness of the awnings and suggested that they may, in fact, collect solar radiation and trap heat, making the cooling problem more difficult. Mr. Feldman asked if the Commission would table the application to await additional information. Mr. Wilds stated that it should not, but should refer any new application to the Architectural Committee. Mr. Sherman stated that the application was clearly deficient. He asked if the applicant planned to mitigate the illegal work. Mr. Feldman stated that the 20th Street awning has already been removed. It was not that the removal of the awning

requires a permit and Commission approval. Mr. Sherman suggested investigating the installation of the air conditioning equipment inside the building.

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

1323 LOMBARD STREET

Owners: Bernard and Karen Bygot

Applicant: Sal Guerrero, Architect

History: c. 1835

Project: Legalize rear addition

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, provided the mullion width is reduced and the pane sizes of the patio doors are increased, with the staff to review details.

OVERVIEW: The building suffered a fire. Under separate permit, the applicant is restoring the front façade. The owner is in the process of constructing a rear three-story addition that fills in the side yard next to the rear ell. A former owner altered the rear and stuccoed the rear façade. The new addition will also have this finish. The addition is similar to one at 1325 Lombard next door. It faces a small street of several rowhouses and the side of an electrical power station.

DISCUSSION: Mr. Baron presented the application to the Historical Commission. Architect Anthony Tsirantonakis represented the application.

Mr. Baron noted that the architect has already updated the design to reflect the Committee's recommendation. The Commissioners agreed that the addition was appropriate to its context.

ACTION: Mr. Wilds moved to adopt the recommendation of the Architectural Committee and approve the recommendation, provided the mullion width is reduced and the pane sizes of the patio doors are increased, with the staff to review details. Ms. Merriman seconded the motion, which passed unanimously.

1734 MOUNT VERNON STREET

Owner/Applicant: Monique Delapenha

History: c. 1859, contributing to the Spring Garden Historic District, 2000

Project: Legalize rear deck

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial, pursuant to Standards 9 and 10 and the Roofs Guideline.

OVERVIEW: This application proposes the legalization as well as alteration to a deck erected at the back of this rowhouse. The deck extends from the rear ell of the property and sits out over a rear bay and the rear yard. It is supported by large concrete columns. It is highly visible from 18th Street. This deck replaced a much smaller deck, which sat entirely on the rear ell of the building. The application also proposes a new railing for the deck.

STAFF RECOMMENDATION: Denial, pursuant to Standards 9 and 10 and the Roofs Guideline.

DISCUSSION: Mr. Baron presented the application to the Historical Commission. Property owner Monique Delapenha represented the application.

MOTION: Ms. Leonard moved to adopt the recommendation of the Architectural Committee and deny the application, pursuant to Standards 9 and 10 and the Roofs Guideline. Mr. Schaaf seconded the motion.

Mr. Baron displayed a Pictometry photo from 2003 showing the rear ell without a deck projecting into the rear yard as well as a current photograph showing the deck extending over the yard.

Ms. Delapenha told the Commissioners she had employed a contractor who had assured her that he had secured all the necessary permits for the rehabilitation, including the deck. She later learned that the permits were not obtained. Ms. Delapenha stated that she has been working to resolve the violations over time, beginning with the correction of the third-floor windows. The fire detection system had also been corrected. The rear deck is the last piece she is seeking to rectify. She stated there had been an existing deck over the bay window, but it was deteriorated. When the contractor repaired it, he extended it and installed additional supports. Mr. Wilds asked the applicant if she had sought to have the contractor rectify the illegal work. Ms. Delapenha stated the contractor is now incarcerated.

Mr. Sherman noted an approval stamp from a City agency on the drawings. He asked what approvals it had received and whether it violated the set back requirements from the property line. Ms. Delapenha stated that she received zoning approval for the deck.

Mr. Wilds asked who authorized the contractor to extend the deck. Mr. Wilds stated that it would have been an expensive project to extend the deck and the contractor would not have undertaken it unilaterally. Ms. Delapenha stated that the contractor told her that the deck was unstable and needed the extra support to make it stable.

Mr. Murray reviewed the approved drawing and concluded that the approval was for zoning only. He stated that it was not an approval of a building permit. An application for a building permit would have triggered the Historical Commission's review. Mr. Reuter stated that this property owner has been in court regarding enforcement of the many violations on the property. He stated that the court had required her to seek the necessary approvals including the zoning approval to resolve the violations. The applicant was aware of the Commission's jurisdiction before the zoning application was submitted or approved owing to the court enforcement. Mr. Sherman asked the applicant if she has a building permit for the deck. She stated that she does not. She claimed that she had a building permit for the other renovations. She claimed that she learned that she lacked a building permit for the deck when she applied for a Certificate of Occupancy.

Mr. Wilds asked how visible the deck is from 18th Street. Mr. Baron stated that it is visible. Ms. Delapenha stated that hers is the third building in from the corner. She stated that the deck is visible from the rear, but not from the front of the house.

Mr. Sherman asked why the deck was constructed with very tall supporting columns, rather than supports on the bearing walls. Ms. Delapenha stated that an engineer along with an architect had inspected the deck and suggested additional support pieces. Mr. Wilds asked the Commission members familiar with the building code if this deck would be approved by the Department of Licenses & Inspections. Mr. Quinn replied that the Department would rely on the seal of the licensed professional. It was noted that the drawings were sealed by Michael Johns,

the architect of the Philadelphia Housing Authority. Mr. Murray noted that the cross supports depicted in the architect's drawing have not been installed. Mr. Schaaf noted that the railing does not meet code. Mr. Amburn stated that, if the deck needs to be altered anyway, then it should be set back to the rear wall of the ell. Mr. Sherman agreed. He stated that it would look even worse when it is retrofitted to meet the architect's plans.

Mr. Baron asked if the Commission would have approved such a deck if it had been proposed prior to construction. He said that to approve illegal work that would not have been approved before the fact would reward working outside the law.

Mr. Wilds asked Ms. Delapenha if she installed the inappropriate, new-looking, vinyl siding on the rear ell without the Commission's approval as part of her rehabilitation of the building. She stated that she "didn't recall."

WITHDRAWAL OF MOTION: Ms. Leonard and Mr. Schaaf withdrew their motion to adopt the recommendation of the Architectural Committee and deny the application, pursuant to Standards 9 and 10 and the Roofs Guideline.

ACTION: Mr. Wilds moved to deny the legalization of the deck, but to approve a deck reduced in size to fit on the roof of the extant rear ell, not including the projecting bay, provided the remaining structure of the existing deck is removed, with the staff to review details. Mr. Schaaf seconded the motion, which passed unanimously.

DISCUSSION OF AMENDMENTS TO THE RULES & REGULATIONS

Mr. Farnham summarized the process of revising to the Rules & Regulations and introduced this month's topics for discussion. He explained that the foremost open question regarding the establishment of rules and regulations for the designation and regulation of interiors relates to financial hardship. Fundamentally, are the current hardship submission requirements and review procedures applicable to and adequate for interiors? Currently, when the Commission designates a building, structure, or site, it designates an entire property. The current financial hardship submission requirements and procedures are designed for evaluating the financial viability of an entire property. With the new interior jurisdiction, the Commission may designate a portion of a property, perhaps a single room in a very large building. This potential raises numerous questions. For instance, how would the Commission review a financial hardship application for a single room within a larger property? How would the Commission determine whether a single room could be feasibly or reasonably adaptively reused? Could the Commission require an owner to attempt to sell a single room within a larger property? Could and/or should the Commission consider the financial viability of the entire property, even if it has only designated a single room?

Mr. Farnham explained that, to answer these questions, the staff consulted staff members and attorneys at the New York City Landmarks Preservation Commission (LPC) and the Los Angeles Office of Historic Resources, reviewed numerous hardship cases heard by the Washington, DC Historic Preservation Review Board, and examined the ordinances and rules of several dozen large U.S. cities. The staff uncovered no ordinance, rule, or court case that had direct bearing on the questions. It appears that no municipality has codified a distinct hardship process for interiors. However, the staff did find a general consensus among preservation officials in other cities that a preservation agency should always consider the financial viability of the entire property when reviewing a hardship application, even in an interiors case, even if only a single room is designated. Without exception, preservation officials asserted that, to justify the

demolition of an interior, a property owner should be required to demonstrate that the entire property cannot be feasibly adaptively reused without the demolition of the interior. Leonard Reuter's conversation with Mark Silberman, the General Counsel for the New York City Landmarks Preservation Commission, proved especially fruitful. Mr. Silberman explained that the LPC had never encountered a hardship application for an interior designated alone without the exterior also being designated, but, if it did, it would require the review of a hardship application for the entirety of the property, not only the interior. The staff and Mr. Reuter agreed with this conclusion, deciding that the hardship measure specified in the ordinance functions only when applied to an entire property. Financial viability only makes sense in the context of an entire property, something that can be assigned a market value. Based on this determination, the staff and Mr. Reuter agreed that the hardship submission requirements and review processes delineated in the proposed Rules & Regulations do not need additional amendment or elaboration to accommodate interiors, with the exception of the addition of one new clause to Section 9.2.a: "for the entire property." With the addition of this clause, the regulations clearly require the property owner claiming hardship to submit hardship information for the entire property, even if only part of it is designated.

Mr. Farnham discussed the other revisions made to the draft Rules & Regulations since the October 2009 meeting. He noted that, at its October meeting, the Commission directed its staff to research several other issues and to make several other amendments to the proposed Rules & Regulations. Also, the Preservation Alliance issued a memorandum, which was distributed at the October Commission meeting, proposing numerous amendments, most of which the Commission embraced. In response, the staff has made several modifications to the October draft of the Rules & Regulations. The preliminary district eligibility section was rewritten and now suggests consultation with the staff early in the district nomination process, rather than requiring a finding of preliminary eligibility by the staff and members of the Committee on Historic Designation, a requirement that proved untenable for several reasons. A section was added requiring the Commission to list new addresses on the Philadelphia Register when a property is subdivided, consolidated, or converted to condominiums. A section was added enumerating the review criteria for properties designated as part of the Main Street Manayunk Historic District. The staff made several other minor modifications. All of the modifications made since the October draft was distributed including those described above are noted in the list below.

Mr. Reuter summarized his discussion about hardship and interiors with Mr. Silberman, the attorney for the New York Landmarks Preservation Commission. He stated that the attorney concurred with his and Mr. Farnham's conclusion that hardship reviews must consider entire properties, not parts of properties. Mr. Reuter noted that a condominium unit is a whole property and could be the subject of a hardship review. Mr. Reuter pointed out that the Landmarks Preservation Commission had never confronted a financial hardship review in which the interior was designated but the exterior was not. He noted, however, that the Landmarks Preservation Commission has designated some interiors without also designating the exteriors. He suggested that it would be unlikely that the Commission would ever face a hardship review for an interior that was not within a designated exterior. Mr. Wilds noted that the Commission currently considers the financial information for an entire property when it reviews a hardship application seeking to justify limited work, such as the installation of windows that do not meet the standards. The Commission members agreed that Messrs. Reuter and Farnham's proposal for retaining the existing regulations for hardship was appropriate, with the addition of the single clause to indicate that the Commission would consider the financial information for the entire property even when only a single interior space is designated.

Mr. Farnham reported that John Gallery had submitted a memorandum detailing suggested changes to the Rules & Regulations. Mr. Farnham explained that he agreed with virtually all of the proposed changes. He stated that he had prepared a written response to Mr. Gallery's memorandum and had copies of both documents for distribution to the Commissioners if they desired them.

Mr. Farnham observed that the Commission should review the draft Rules & Regulations today and direct the staff to make additional changes. The Commission would have an opportunity to review the changes at the next Commission meeting before taking action. He counseled that the Commission need not act today on the proposed Rules & Regulations. If the Commission adopts the Rules & Regulations at the December meeting, the document would then be reviewed by the Law Department before sitting at the Department of Records for 30 days. He stated that, if this schedule is followed, then the new Rules & Regulations would go into effect in early January, within a week or two of the effective date of the amended ordinance.

Mr. Farnham discussed Section 5.7 regarding the determination of preliminary eligibility for proposed historic districts. Everyone agreed that the current text was problematic because it wrongly invests excessive authority in an informal group of staff and Committee on Historic Designation members. They noted that the group's determinations could not bind the Commission. The Commission members agreed that the staff or Committee should not provide a formal determination, but that, instead, the staff should provide advice only on preliminary eligibility. They agreed that the proposed language was appropriate.

Mr. Farnham summarized the new section on consolidation, subdivision, and condominium conversion. He stated that it does not represent a new policy, but codifies a current practice. He noted that it will be important to have the policy stated as an explicit regulation. Mr. Wilds asked how the Commission is informed of consolidation, subdivision, and condominium conversion at properties designated as historic. Mr. Reuter stated that there currently is no mechanism to inform the Commission, which learns of address and property lines changes by chance. Mr. Farnham reported that he is working with the Streets Department, Department of Records, and the Law Department to find a mechanism for informing City agencies of lot line changes.

Mr. Farnham noted the change from requiring the Commission to use the 1995 edition of the Secretary of the Interior's Standards to requiring it to use the most recent edition.

Mr. Farnham noted the insertion into the proposed Rules & Regulations of the unique permit application review criteria for properties designed under the Main Street Manayunk ordinance. Messrs. Wilds and Reuter discussed designating the Main Street Manayunk area under Section 14-2007 of the Philadelphia Code to avoid the dual standards. Mr. Farnham stated that this addition to the Rules & Regulations will alert property owners in Manayunk that the Commission employs different standards in that area; currently, the unique standards are not acknowledged in the Rules & Regulations.

Mr. Farnham introduced a proposed change to the hardship section, which would better define the role of the Architectural Committee in the review of hardship applications. Mr. Gallery stated the staff has done an outstanding job on the research and reorganization of the Rules & Regulations. He stated that he supports almost all of the proposed revisions, but not this one. Mr. Gallery contended that the proposed text defined a role that is narrower than that the Committee now places in such reviews. He stated that this question of the Architectural Committee's role was a complicated one and should not be addressed in a last-minute change. He suggested removing the text and considering an amendment at a later date, when the

Commission would have the time for a thorough review of the entire hardship process. Mr. Farnham agreed, stating that the text he had added was merely a placeholder that required additional revision and elaboration. He suggested deleting the second paragraph of Section 9.6, but retaining the first. He also agreed that the Commission should consider refining the hardship process at a later date. The Commissioners agreed and directed the staff to delete the second paragraph of Section 9.6.

Mr. Farnham noted the addition of Section 10.2.b, which would require non-profit hardship applicants to document their non-profit status. He stated that the requirement was suggested by Mr. Gallery. The Commission members agreed that it was appropriate.

Mr. Farnham reported on other suggested revisions. Mr. Baron had suggested some changes in language to add clarity. Mr. Gallery suggested adding a submission deadline of three business days before a meeting for supplementary material. Mr. Gallery suggested clarifying the Commission's jurisdiction over new construction in historic districts. He stated that the proposed text does not indicate clearly that the Commission enjoys plenary jurisdiction over many vacant lots in districts owing to individual designations, former buildings, and other reasons. The Commissioners agreed with these suggestions and directed the staff to implement them.

Mr. Gallery asked for a clarification on the requirements for additional materials for hardship applications in Sections 9.2.b and 10.2.c. He explained that the current wording requires the applicant to submit all of the additional documents if the Commission requests any of them. He asked if this was the Commission's intent, or if it intended to provide a list of documents the Commission might potentially request but not necessarily require in its entirety. He asked if the word "shall" or "may" was appropriate in the final sentence before the list. Mr. Wilds stated that he approved of the regulation as currently written. He contended that the Commission should require all of the documents if it requested additional information. The other Commissioners agreed.

Mr. Reuter observed that the document presented to the Commission in December for action would have no comments or cross-outs, but would be a final version of the text. Mr. Farnham stated that he would distribute a final draft version with cross-outs electronically before issuing the final version to allow the Commissioners one last opportunity to suggest amendments.

Mr. Schaaf asked for an explanation of the term "non-historic parking" in the definition of Undeveloped Site. Mr. Farnham answered the term "non-historic parking" is used as an adjective to modify the word "kiosks," not as a noun, as Mr. Schaaf was reading it. He offered to insert the word "kiosks" a second time to ensure that there was no confusion. The phrase, which was "non-historic parking and other kiosks," will be amended to read "non-historic parking kiosks and other kiosks."

ADJOURNMENT

Upon a motion proffered by Mr. Wilds and seconded by Ms. Merriman, the Commission unanimously voted to adjourn at 11:10 a.m.

STANDARDS AND GUIDELINES CITED IN THE MINUTES

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

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

Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

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

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.

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.