

**THE MINUTES OF THE 533RD STATED MEETING OF THE
PHILADELPHIA HISTORICAL COMMISSION**

**12 JANUARY 2007
1515 ARCH STREET, ROOM 18029
MICHAEL SKLAROFF, ESQ., CHAIR**

PRESENT

Michael Sklaroff, Esq., Chair
James Brown IV
Sara Merriman, Commerce Department
Kathleen Murray, Office of the City Council President
Vincent Rivera, AIA
David Schaaf, RA, Philadelphia City Planning Commission
Joan Schlotterbeck, Department of Public Property
Denise Smyler, Esq.
Thomas Sugrue, Ph.D.
Scott Wilds, Office of Housing & Community Development

Randal Baron, Historic Preservation Specialist
Erin Cote, Historic Preservation Planner
Jorge Danta, Historic Preservation Planner
Jonathan Farnham, Acting Historic Preservation Director
Rebecca Sell, Historic Preservation Planner
Leonard Reuter, Esq., Assistant City Solicitor, Law Department
Larry Copeland, Esq., Senior Attorney, Law Department

ALSO PRESENT

John Gallery, Preservation Alliance
Lawrence Mason, MEA
Logan McCuntic-Smith
Frans Van Wagenberg
Harry Sher, Esq.
Michael Sher
Natalia Bobkic
Victor Sylvester
Michael Treacy
Robert Powers, Powers & Co.
Clive Coppin, DPK&A
Judy Pote
Kevin Rasmusen
Phillip Cuffey
Elizabeth Blazeovich, Preservation Alliance
Carl Primavera, Esq., Klehr Harrison
Darwin Beauvais, Esq., Klehr Harrison
Edwin Rivera
Michael Siter
Kevin Klatte
David Robb
Elizabeth Robb

CALL TO ORDER

Michael Sklaroff, Chair, recognized the presence of a quorum and called the 533rd Stated Meeting of the Philadelphia Historical Commission to order at 9:08 a.m. Commissioners Sklaroff, Merriman, Murray, Rivera, Schaaf, Schlotterbeck, Smyler, Sugrue, and Wilds were in attendance. Commissioner Brown arrived later.

MINUTES OF THE 532ND STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION

ACTION: Upon a motion proffered by Mr. Sugrue and seconded by Ms. Murray, the Commission unanimously approved the minutes of the 532nd Stated Meeting of the Philadelphia Historical Commission, held 8 December 2006.

THE REPORT OF THE ARCHITECTURAL COMMITTEE, 19 DECEMBER 2006

Vincent Rivera, Chair

531-535 DELANCEY STREET

Owner: Harold and Judy Pote

Applicant: Liz Pisano, Pisano Enterprise

History: 531, c. 1963 converted to garden
533, c. 1800 with 1960s alterations
535, c. 1802 with 1960s alterations

Individually listed, 531 is contributing, 533 and 535 are significant

Project: Create off-street parking for one vehicle

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the proposal, with the staff to review details, pursuant to Standard 9.

OVERVIEW: This application proposes to create a one-car parking pad with stone pavers, reconstruct a brick pier, replace a metal gate with a gate with wood slats, install a wood frame trellis over new carport, and replace the existing curb with a sloped stone to match. The new driveway would be constructed in an open area currently used as a garden with walkway. At house once stood at 531 Delancey, the location of the open space; it was erected about 1800 and demolished at some point between 1867 and 1960. In 1963, during the redevelopment period in Society Hill, houses 533 and 535 Delancey were rehabilitated and the vacant lot at 531 was converted into a garden.

DISCUSSION: Ms. Sell presented the application to the Commission. Judy Pote, the owner, represented the application.

ACTION: Mr. Wilds moved to adopt the Architectural Committee's recommendation and approval of the proposal, with the staff to review details, pursuant to Standard 9. Ms. Smyler seconded the motion, which passed unanimously.

699 N. BROAD STREET

Owner: NSI Venturi Fund Five-DL LP, Patrick J. O'Neil, principal; Sunergy Housing Divine Lorraine LLC, Benno Wiersma, principal.

Applicant: Michael F. Treacy

History: 1892-93, Willis Hale, architect. Designated 13 May 2005

Project: In Concept, rehabilitate Lorraine Hotel building, demolish rear annex, and construct rear addition

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial, owing to the demolition of the rear annex, pursuant to Standards 2, 9, and 10 and §14-2007(7)(j).

OVERVIEW: This application in concept proposes to rehabilitate the historic Lorraine Hotel for residential and commercial use, demolish the annex, and construct a connecting mix-use complex in two phases. The in-concept application raises two fundamental questions that must be answered before the review of the new construction can proceed.

First, it proposes the demolition of the annex, a separate structure at the rear of the hotel. The annex was designated as part of the hotel, which was individually certified in 2005. If the Commission deems that the removal of this structure constitutes a *Demolition* as defined in §14-2007(2)(f), then that demolition can be approved only after the Commission has determined that it would be financially infeasible to retain the annex or in the public interest to demolish it. If the Commission deems that the removal of this structure does not constitute a *Demolition*, then it may review the proposal as an *Alteration*.

Second, the Commission must determine the extent of its jurisdiction over the new construction. The proposed complex would connect to the designated hotel building and encroach on the designated parcel, but would also extend across five undesignated parcels. Portions of the new complex would physically and visually impact the historic building; others would have no direct impact on it.

The application proposes to convert the Lorraine Hotel into approximately 150 condominium units. The conversion would include two commercial spaces at the ground floor facing North Broad Street. This would involve the construction of a terrace along the east façade of the hotel. Other alterations to the façade would include the removal of fire-escape systems and modifications to the balcony railings to make them code compliant. Other proposed work includes masonry and window restoration.

The new buildings would be constructed in two phases. Phase One would include the rehabilitation of the historic hotel, demolition of the annex, and construction of a mix-use complex. This new complex would have approximately 450 condominium units, 55,000-square-foot supermarket and enclosed garage. Phase Two would include another residential complex and garage.

The applicant has submitted location and massing studies of the proposed new construction. These studies show that the new construction would be contemporary in style and no taller than the historic Lorraine Hotel. The new construction would connect to the Lorraine Hotel at the ground floor approximately where the annex currently stands. The proposed Phase-One residential complex would stand away from the historic building with buffer zone between the new and old. This buffer zone would afford unobstructed views of the Hotel's facades and would preserve its visual prominence at the intersection of North Broad Street and Ridge Avenue.

DISCUSSION: Mr. Sklaroff recused; Mr. Sugrue assumed the chair. Mr. Danta presented the application to the Commission. Attorneys Carl Primavera and Darwin Beauvais, preservation consultant Robert Powers, architect Clive Coppin, and developers Frans Van Wagenberg and Michael Treacy represented the application.

MOTION: Ms. Smyler moved to adopt the Architectural Committee's recommendation and deny the application, owing to the demolition of the rear annex, pursuant to Standards 2, 9, and 10 and §14-2007(7)(j). Mr. Rivera seconded the motion.

Mr. Sugrue stated that the Commission must confront two primary issues, whether the removal of the annex constitutes a demolition and what, if any, jurisdiction it will assert over the new construction.

Mr. Primavera offered the developers' view of the annex. He stated that the annex was the "back of house" section of the hotel. He conceded that it is interesting from a cultural standpoint because it housed the servants and mechanical facilities, but he contended that its history would not be lost with its removal. He suggested that the Commission might consider this proposal as it had the "Turchi" case; the section proposed for removal is only a small percentage of the total complex and the historically significant section will remain. Mr. Powers reported that the annex was designed by Willis Hale, the architect of the hotel, and constructed approximately one year later than the hotel.

Mr. Primavera suggested that the Commission does not have jurisdiction over most of the new construction, which would fall outside the property lines of the designated parcel. He noted that the developers would welcome the advice and comments on the new construction from the Commission, but it falls outside its plenary jurisdiction.

Ms. Smyler asked Mr. Primavera if the annex had been designated separately or as part of the hotel. Mr. Primavera stated that the annex was not designated separately as an independent structure, but is designated because it stands on the hotel parcel. Mr. Wilds likened the annex to an ell or addition on the rear of rowhouse; the Commission routinely approves the removal of rear additions and sheds without findings of financial hardship or public interest. Mr. Coppin stated that the annex is connected to the hotel through the basement and by the fire escape. Mr. Treacy reported that the annex has no main entrance, but must be entered through the basement.

Mr. Coppin explained that his firm, DPK&A, is charged with restoring the hotel. Another firm, Cope Linder, is charged with designing the new buildings. He stated that the exterior of the hotel would be fully restored; the masonry, balconies, windows, and monitors would be restored.

Mr. Sugrue asked the applicants to clarify the work to be undertaken in the two proposed phases. Mr. Coppin replied that Phase One would consist of the restoration of the hotel and the construction of the northern segment of the new buildings including the link, loading docks, main entrance, supermarket, residences, and parking. Phase Two would consist of the southern section of new construction including residences, commercial space, and parking. He noted that the community is eager for the construction of the supermarket.

Mr. Primavera stated that the developers will include a restaurant in the historic hotel building. The hotel building will become a vital, active hub on N. Broad Street. Mr. Van Wagenberg began his overview of the project. He stated that the development will provide residences for young people, who would otherwise be unable to live in the inner city. Mr. Van Wagenberg fell ill and

could not continue. Mr. Primavera stated that the new construction will fund the restoration of the hotel building. He noted that the views from the historic building are wonderful. He stated that contractors have been unwilling to venture into the annex because it is dangerous.

Mr. Schaaf asked the applicants to describe the floor plan of the annex. Mr. Treacy replied that there is mechanical equipment at the basement level and a laundry press at the first floor. The upper floors have eight very small rooms per floor accessed by a double-loaded corridor. The stair to the upper floors is only 24 inches wide. Mr. Powers noted that the floor levels differ significantly between the annex and hotel, making connections very difficult.

Mr. Primavera displayed a plot plan and showed where the one-story link or connector would be constructed. Mr. Wilds asked what material would be removed from the hotel building for the link. The applicants stated that they had not decided on those details for this in-concept application. Mr. Coppin stated that the linking building would be minimalist and light, probably metal and glass. Mr. Wilds suggested that they incorporate any existing openings in the hotel wall when they design the link. Mr. Coppin noted that they would probably need to cut a window into a door.

Mr. Sugrue asked Mr. Powers to provide some background information on the annex. Mr. Powers stated that it is a secondary feature. He noted that it does “tell a story” about the hotel. He concluded that it is very small, “the tail, not the dog.” He opined that this will be an excellent project that will preserve a very important historic building. He asserted that the “sacrifice” of the annex is a “worthwhile trade-off.”

Mr. Rivera asked if the developers would need to add a stair tower if they remove the fire escape. Mr. Coppin stated that they would not; the egress stairs would be housed within the historic building. He added that it would not be economical to add fire stairs to the annex. Mr. Primavera stated that they would not add anything new to the exterior of the historic hotel building.

Ms. Murray asked about the size of the footprint of annex relative to that of the hotel. Mr. Coppin stated that the annex is approximately 15% of the total footprint. Mr. Schaaf noted that the annex was not visible historically; its view was blocked by other buildings. Mr. Wilds congratulated the developers on their “daring” plan, which will revitalize the area. Mr. Schaaf congratulated them on their revival of this transportation hub.

Mr. Gallery stated that he supported the Committee’s recommendation of denial. He asserted that this application does not propose an alteration, but instead proposes a demolition. Therefore, the applicants should justify the demolition with either a financial hardship or public interest application. He also remarked that the annex would be eligible for designation alone, even without the hotel. He recounted the statement in which Mr. Powers described the annex as culturally, socially, and historically significant. Mr. Gallery reminded the Commission that Willis Hale, one of the most important Philadelphia architects of the nineteenth century, designed the annex. He commented that, if this property was in Old City, then it would be preserved. Mr. Gallery rejected the claim that the annex was analogous to a shed on a rowhouse. He claimed that the annex has architectural merit. Mr. Gallery contended that Mr. Primavera’s statement that it does not fit “programmatically” is not sufficient justification for its demolition. He also contended that Mr. Primavera’s statement that the annex is not “architecturally significant” is likewise not sufficient justification for its demolition. Finally, he contended that Mr. Powers’ claim that the demolition of the annex for the success of the overall project is a “worthwhile trade-off” is not sufficient justification for its demolition. He noted that the Commission required a financial

hardship procedure for the 10 Rittenhouse project. Mr. Gallery asserted that an approval of this demolition would set a negative precedent. Commenting on the Commission's jurisdiction, Mr. Gallery opined that it should extend to any part of the project that occupies the designated site as well as the portion along Ridge Avenue, which may not be on the designated parcel, but which will be part of the link or connector. Answering a question from Mr. Wilds, Mr. Gallery stated that the Commission should review the entire link building even if the lot line divides it. He asserted that the Commission would not be able to successfully review half of a building. Mr. Wilds agreed with Mr. Gallery, but conceded that he is not a lawyer. Mr. Copeland, who is a lawyer, stated that the Commission's jurisdiction does not extend beyond the lot line.

Mr. Schaaf inquired about Melon Street. Mr. Treacy stated that it would be stricken from the city plan.

Addressing Mr. Gallery's comment, Mr. Powers asserted that the annex is not eligible by itself for either the National or local historic registers. He noted that it does not even have a door and it could not be considered a separate, stand-alone building. He claimed that it is very different from the four independent buildings demolished on 18th Street between Walnut and Sansom Streets for the 10 Rittenhouse project. Mr. Wilds agreed, asserting that this case, like the Dilworth case, falls within the Commission's discretionary zone.

WITHDRAWAL OF MOTION: Ms. Smyler and Mr. Rivera withdrew their motion to adopt the Architecture Committee's recommendation.

Ms. Smyler moved that the Commission vote on the demolition. Mr. Schaaf seconded the Ms. Smyler's apparent motion. Several Commission members asserted that Ms. Smyler had not offered an appropriate motion because it was not possible to vote aye or nay. The Commission rejected the invalid motion.

MOTION: Ms. Smyler moved that the Historical Commission consider the proposed work an alteration, not a demolition. Ms. Murray seconded the motion.

In response to Ms. Schlotterbeck's request for information on differentiating between alteration and demolition, Mr. Copeland read from the appropriate Sections 14-2007(2)(f) and (7)(j). Mr. Sugrue pointed to the importance of the words "in significant part" regarding demolitions. He stated that the fundamental question is: Would the demolition of the annex be a demolition in significant part?

At the request of Mr. Gallery, Mr. Copeland read the definition of alteration. Mr. Gallery reminded the Commission that the Preservation Alliance has appealed the Dilworth House approval and implied that it would also appeal an approval of this proposal. He asserted that alterations are undertakings like reroofing, cleaning, and pointing, not more significant undertakings. Mr. Farnham contended that the reroofing, cleaning, and pointing examples were included in the definition of "alteration" in the Ordinance to define the boundary between routine maintenance, which does not require the Commission's approval, and alteration, which does. Those examples do not in any way help to define the boundary between alteration and demolition. Ms. Murray agreed.

Mr. Rivera suggested that the Commission insert conditions into any approval to guarantee that the annex is not demolished unless the project will be completed. Mr. Wilds suggested that the Commission include those provisions in any final approval. Mr. Primavera stated that the demolition would not occur until the development was finalized.

ACTION: The Commission passed Mses. Smyler and Murray's motion that the Historical Commission consider the proposed work an alteration, not a demolition, with a vote of 7 to 2. Ms. Schlotterbeck and Mr. Brown dissented. Mr. Sklaroff recused.

ACTION: Mr. Wilds moved to approve the application in concept, with the Commission to exercise full jurisdiction over all proposed work within the lot lines of 699 N. Broad Street (as defined in the nomination) but not over other parcels included in the larger project. Ms. Merriman seconded the motion, which passed with a vote of 9 to 0. Mr. Sklaroff recused.

1817 DELANCEY PLACE

Owner: Acorn Property Development LLC, principals Alexander Waddell and Steve Shapiro

Applicant: Alexander G. Waddell

History: Built c. 1856, contributing within the Rittenhouse Fidler Historic District.

Project: Construct three-story rear addition, install roof cupola

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of the proposal, with the staff to review details, pursuant to Standard 10.

OVERVIEW: This application proposes to construct a three-story addition with garage to the rear of a large four-bay Italianate rowhouse, which originally had no rear ell. The rear of the property is presently occupied by a one-story, non-historic garage. The addition would expand and reclad the existing garage to include a pedestrian door and roll-up metal garage door. Above the garage, three stories are proposed. The first story of the addition would occupy the entire width of the property and have a small deck. The second and third floors would only extend three bays wide; decks are also proposed for these stories. The second-floor deck would have a metal railing and the third-story deck would have a masonry parapet. The historic openings at the fourth-floor would be altered. The two eastern most windows would have their sills raised and the other two windows would be replaced by a triple door to access the third-floor deck. The addition would be clad in brick veneer and accented with stone lintels. All new windows would be wood two-over-two, except the triple door at the third floor. The applicant also proposes to install a cupola over the stair well. The stair well currently has a non-historic skylight. The applicant's sight-line study demonstrates that the proposed cupola would not be visible from Delancey Place.

DISCUSSION: Mr. Danta presented the proposal to the Commission.

ACTION: Ms. Murray moved to adopt the recommendation of the Architectural Committee and approve the proposal, with the staff to review details, pursuant to Standard 10. Mr. Wilds seconded the motion, which passed unanimously.

18-22 & 24 LETITIA STREET, 31-35 S. 2ND STREET

Owner: EFL Partners, Sam Bradstreet, John Contra

Applicant: Brett Harman, architect

History: 18-22 Letitia, c. 1855, individually designated, Contributing to Old City District

24 Letitia, c. 1855, individually designated, Contributing to Old City District

31 S. 2nd Street, c. 1840, individually designated, Contributing to Old City District

33 S. 2nd Street, c. 1905, individually designated, Contributing to Old City District

35 S. 2nd Street, c. 1865, individually designated, Significant to Old City District

Project: Façade alterations including storefronts, windows, paving, and fire escapes

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval of all aspects of the proposal, with the staff to review details, especially the windows and storefront details, except the following: denial of the granite curbs in the storefront on Letitia Street; and denial of the removal of the historic marble on S. 2nd Street, pursuant to Standards 6, 9, and 10.

OVERVIEW: This application proposes a mixture of legalization and new alterations to a project that the Committee and Commission have reviewed several times. The project involves combining seven buildings which face Letitia and S. 2nd Streets into a residential complex with commercial ground-floor space.

At 20 Letitia Street, the applicant proposes a new storefront with louvered transoms to vent a restaurant kitchen. The Commission approved a new storefront in concept in November 2005 conditioned upon the louvers being removed from the storefront and rerouted to the roof. The applicant has worked with the staff on a design for the storefront doors and windows at 18-24 Letitia Street. The plans show infilling areas of the storefront with granite curbs where there had previously been cellar doors. The applicant proposes to remove the fire escape on the front of 24 S. Letitia Street and install a new one.

On the Black Horse Alley side of 18 Letitia, the applicant proposes to restore the sidewalks, curbs, and basement windows. On the wall above the alley, the applicant's drawings show the cutting of windows in addition to those approved in the last application. On the entry courtyard wall at the back of 18 Letitia, the applicant wishes to legalize windows cut and installed at variance with those approved by the Commission in August 2006. The new narrower windows number three per floor rather than the approved two.

On S. 2nd Street, the plans propose new storefronts with operable café windows at both 33 and 35; both currently have mid-twentieth-century storefronts. The applicant has uncovered a piece of the nineteenth-century storefront at 33 S. 2nd Street including a marble entablature. The applicant also proposes to remove the fire escape on the fronts of 33 and 35 S. 2nd Street.

DISCUSSION: Mr. Baron presented the proposal to the Commission. Architect Brett Harman represented the application.

Mr. Baron noted an error in the Architectural Committee's recommendation; the Committee recommended approval, not denial, of the louvers.

Mr. Harman stated that his client would attempt to repair the entablature. Mr. Harman agreed to submit a revised application to the Commission if it could not be repaired.

The Commission turned its attention to the proposed granite curbs on Letitia Street. Mr. Harman stated that his client would like to install the granite curbs. Mr. Baron responded that,

historically, the storefronts did not have curbs in the proposed locations; they had wells. Mr. Sklaroff asked Mr. Harman if he had provided the design details for the curbs. He stated that he had not. Mr. Harman stated that his client does not wish to restore the original wells, but instead wishes to place the granite curbs where the wells were once located. Mr. Sklaroff stated that, owing to the lack of drawings, the Commission should not act upon the proposal for the curbs. He suggested the applicant accept the recommendation of the Architectural Committee and return to the Commission at a later date with an updated application if necessary. The applicant agreed.

Mr. Wilds asked about the illegal windows. Mr. Harman stated that they resulted from an unfortunate miscommunication at the work site. He explained that the contractor installed the windows without following the approved plans. He did acknowledge that the windows brought needed light into bedrooms. He claimed that, excepting for the fifth floor, the added windows were not visible to the public. Mr. Sklaroff remarked that this segment of the application requested legalization, not simply approval. He asked Mr. Harman if he had drawn the windows in the illegal configuration. Mr. Harman stated that he had not. Some Commissioners wondered how windows of the incorrect sizes had been ordered. Mr. Sklaroff asked Mr. Harman to provide the name of the contractor to the staff, who, in turn, should write a memorandum to David Perri of the Department of License & Inspections providing him with the name and requesting an investigation.

ACTION: Mr. Sugrue moved to adopt the corrected recommendation of the Architectural Committee and approve all aspects of the proposal, with the staff to review details, especially the windows and storefront details, except the following: denial of the granite curbs in the storefront on Letitia Street; and denial of the removal of the historic marble on S. 2nd Street, pursuant to Standards 6, 9, and 10. Mr. Brown seconded the motion, which passed unanimously.

ALLEN LANE STATION

Owner: SEPTA

Applicant: Michael J. Cuddy

History: Built 1885 Architects: W. Bleddyn Powell & William H. Brown, designated 8/6/1981

Project: Construct ADA ramp and raise platforms for ADA access, rebuild shelters and canopies with salvaged, new and replicated materials, restore bridge.

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval, provided the bridge railing is revised to be more transparent and doors and windows are installed in their historic locations in the inbound shelter, with the staff to review details, pursuant to Standards 6, 9, and 10.

OVERVIEW: This application proposes to construct ADA ramps and to demolish the existing low-level platforms and replace them with pre-cast high-level platforms for ADA access. The existing pedestrian bridge will remain in place and will be rehabilitated with salvaged materials or new, replicated materials. The existing stairs will be demolished and replaced with pre-cast concrete sections. The existing shelters and canopies will be demolished and rebuilt on the new elevated platforms with salvaged or new materials to match the existing. New roofing is proposed for the canopies, shelters, and a portion of the station building. The Architectural Committee reviewed a similar application last month and requested more detailed information regarding the pedestrian bridge railing height and the effect of the raised platforms on the shelters. That application was withdrawn prior to the Commission meeting.

DISCUSSION: Ms. Cote presented the proposal to the Commission. Engineer Len Nardone of Lichtenstein Consulting represented the application. Mr. Sklaroff stated that he would abstain from the vote.

MOTION: Ms. Murray moved to adopt the recommendation of the Architectural Committee and approve the proposal, provided the bridge railing is revised to be more transparent and doors and windows are installed in their historic locations in the inbound shelter, with the staff to review details, pursuant to Standards 6, 9, and 10. Mr. Rivera seconded the motion.

Mr. Wilds asked about the doors and the windows noted in the recommendation. Mr. Nardone responded that the windows or doors do not exist today and he is not proposing to replace them. He stated that they would not withstand the anticipated vandalism. Mr. Sugrue concurred that the glass would be an invitation to vandals. He noted that plexiglass will scratch over time. He agreed with the spirit of the Committee recommendation, but contended that it was not practical to restore the missing windows and doors. He supported the application as proposed.

Mr. Schaaf asked the applicant to explain his design for the bridge. Mr. Nardone stated that they needed to install a solid barrier over the catenary wires, but that SEPTA was willing to build it in a transparent material, not the wood shown in the plans.

WITHDRAWAL OF MOTION: Ms. Murray and Mr. Rivera withdrew their motion to adopt the recommendation of the Architectural Committee and approve the proposal, provided the bridge railing is revised to be more transparent and doors and windows are installed in their historic locations in the inbound shelter, with the staff to review details, pursuant to Standards 6, 9, and 10.

ACTION: Mr. Sugrue moved to approve the proposal, provided the bridge railing is revised to be more transparent, with the staff to review details, pursuant to Standards 6, 9, and 10. Ms. Murray seconded the motion, which passed with a vote of 9 to 0. Mr. Sklaroff abstained.

1322 PINE STREET

Owner/Applicant: Phillip W. Cuffey

History: c. 1860, designated 3/28/1961

Project: Enclose rear porch, construct two rear decks

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend approval with the retention of the rear second-floor porch ironwork, and partial demolition of the second-floor rear wall with pilasters and a cross-beam expressing the previous existence of the rear wall, with staff to review details.

OVERVIEW: This application proposes maintenance and restoration work for all facades of the building. It also proposes to retain the windows in the side elevation of the rear ell while sealing them off on the interior. This application also proposes to enclose the existing second-story rear porch and construct two roof decks on the third and fourth floors while maintaining the historic roof line. The iron detailing on the second-story porch is a character defining feature and should be retained and remain visible from the exterior with the enclosure of the porch.

DISCUSSION: Ms. Cote presented the proposal to the Commission. Phillip Cuffey represented the application.

ACTION: Mr. Wilds moved to adopt the recommendation of the Architectural Committee and to approve the proposal with the retention of the rear second-floor porch ironwork, and partial demolition of the second-floor rear wall with pilasters and a cross-beam expressing the previous existence of the rear wall, with staff to review details.

OLD BUSINESS

2202 BRANDYWINE STREET

Owner: Kevin and Monika Klatte

Applicant: Douglas Grainge

History: Built c. 1859, altered in 1924, contributing within the Spring Garden Historic District.

Project: Construct third-story addition with rear and side alterations

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend denial of the proposed cornice and Thorolastic coating; approval of a cornice that is either contemporary in style or compatible with the 1920s façade, stucco on the entire side wall; and the third-floor addition, provided it is confined to the main block, pursuant to Standards 3 and 9.

OVERVIEW: This application proposes to construct a third-story addition on this house. The property, originally built c. 1859, matched the rest of the row and had three stories. According to the cover letter submitted by the applicant, the property suffered a fire and was rebuilt in the 1920s as a two-story residence with a textured-brick façade. The new addition would necessitate demolition of the parapet wall. The new third-story would be clad in textured brick to match the 1920s facade and capped with a cornice reminiscent of the nineteenth century original. Star bolts and a Thorolastic coating in brick red color are proposed along the party wall. The third-floor addition would occupy the front half of the rear ell; a roof deck would occupy the back half of the ell. The portion of the addition over the rear ell would be finished in smooth stucco.

The application also proposes to address an outstanding violation for vinyl siding on a second-story masonry section of the rear ell. An application to legalize this vinyl siding was submitted in August 2004. The Historical Commission denied the legalization at that time. The applicant now proposes to replace the vinyl siding with smooth stucco. In addition, the applicant proposes to replace the entrance door with a six-panel door with glazing in the upper two panels and replace the triple-window sash with on-over-one sash.

DISCUSSION: Mr. Danta presented the proposal to the Commission. Kevin Klatte, the owner, represented the application.

Mr. Wilds suggested that the primary issue was the proposal to add an Italianate cornice on the 1920s building. He asked the applicant if he had considered reconstructing the entire front façade to recreate its 1850s Italianate appearance. Mr. Klatte responded that he had considered the possibility, but his architect had dismissed it as “insane.”

Mr. Sklaroff questioned the classification of this building as contributing to the Spring Garden Historic District. He contended that it does not contribute, but conceded that one could argue that it does contribute, owing to its scale and massing.

Mr. Wilds stated that he deemed the Italianate cornice acceptable. Mr. Danta explained that the Architectural Committee judged the falsely historic cornice on the 1920s-styled building to be problematic. The Committee recommends a 1920s cornice or a contemporary cornice. Mr. Danta noted two other open issues: the extent of the third-floor addition and the proposed coating for the party wall.

Mr. Klatte expressed his concern about the integrity of the brick on the side wall, stating it is allowing water to infiltrate the house. Mr. Schaaf suggested that stucco would solve that problem.

Mr. Klatte stated that he would accept any style cornice approved by the Commission.

Mr. Sklaroff noted the similarities between the rear addition just approved for Delancey Street and the addition proposed for this project. He asked what differentiated them. Mr. Wilds stated that this addition would be visible. Others noted that the neighbors opposed this addition.

MOTION: Mr. Wilds moved to approve the proposal as submitted. Mr. Brown seconded the motion.

David and Elizabeth Robb, who own the adjacent property, supported the Committee recommendation and requested that the proposed third-floor addition be limited to the main block and not allowed to extend onto the rear ell. They claimed that the addition would block their light and air. They asserted that the addition does not comply with Standards 3 and 9.

Mr. Klatte stated that a three-foot extension of the addition onto the ell would allow him to run the utilities to the addition. The Robbs agreed to this compromise, but noted that they could not speak for the neighbors. Mr. Sklaroff asked if they had any opposition to the cornice or treatment of the walls; they replied that they had none.

ACTION: Messrs. Wilds and Brown amended their motion to approve the proposal, provided the third-floor addition is limited to the main block and the northernmost three feet of the rear ell, with the deck on the two-story portion of the rear ell, with the staff to review details. Their amended motion passed with a vote of 9 to 0. Mr. Schaaf abstained.

410 S. 15TH STREET, A.K.A. 1500 WAVERLY STREET

Michael Sher, Owner

History: c. 1850; altered c. 1885

Project: Legalize mural

HISTORICAL COMMISSION ACTION IN SEPTEMBER 2002: Mr. Wilds made a motion to grant a temporary permit for a period not to exceed 4 years, at that time either return the stucco to a brick red color, or review the mural proposal again for a further extension of time, with the denial of the clear coating of the mural. Mr. Tissian seconded the motion which carried with 7 votes. Mr. Rivera, Mr. James, Mr. Brown, Ms. Smyler and Mr. Sugrue opposed the motion. Mr. Sklaroff recused himself from the vote.

OVERVIEW: Without the Commission's approval, the owner of the property had a mural painted on the Waverly Street façade of this building. The Department of Licenses & Inspections issued a violation for the mural and the owner applied to legalize the work. Both the staff and Architectural Committee recommended denial of the proposal, pursuant to Standard 9. At the

Commission meeting in February 2002, a motion to reject the Committee's recommendation and to legalize the mural failed with a vote of 5 to 5. Because the Commission did not act on the permit application within 60 days, the Department of Licenses & Inspections issued a permit to legalize the mural. Peirce College filed an appeal with the Board License & Inspection Review and the Board remanded the matter to the Historical Commission. In September 2002, the Commission granted "a temporary permit for a period not to exceed 4 years, at that time either return the stucco to a brick red color, or review the mural proposal again for a further extension of time, with the denial of the clear coating of the mural." The four-year interim permit expired in September 2006. The owner appears at today's meeting because the Commission requested in writing that the owner rectify the matter.

DISCUSSION: Mr. Baron presented the proposal to the Commission. Attorney Harry Sher and owner Michael Sher appeared before the Commission on behalf of the mural.

Mr. Sklaroff noted that this review is unusual in that the Commission is undertaking it because an interim permit has expired. He stated that no application form had been presented to the Commission, but it would be treated as an application nonetheless.

Harry Sher requested that the Commission grant his client another four-year interim approval. He explained that the neighbors support the mural. He added that Frank Furness scholar Michael Lewis supports the retention of the mural. He noted that it has a positive influence on the area; it inhibits both "graffiti artists" and drug activity. He reported that the mural is painted on stucco only, not on brick.

Mr. Wilds asked if the artist was responsible for the maintenance of the mural. Michael Sher responded that he and the Anti-Graffiti Network have repaired the mural. He noted that it is part of the Mural Arts Program's tour and contended that it is a work of art. He reported that tourists photograph the mural.

Harry Sher sought to establish Michael Lewis as an expert. He submitted his resume for the record. Mr. Sklaroff stated that he need not endeavor to establish his expertise; Mr. Lewis is well known to the Commission, which agrees that he is an expert on Frank Furness as well as Willis Hale.

Mr. Sklaroff stated that the primary issue before the Commission is whether this mural detracts from the historic nature of this building. Mr. Sklaroff noted that the Commission has a policy on murals. Ms. Merriman asserted that the owner of the property has upheld his commitment to maintain the mural and, owing to the fact that the Commission first reviewed this mural before it adopted its mural policy, it "should grandfather this piece in." Ms. Murray suggested that, if approved, the maintenance of the mural should be monitored.

Mr. Sklaroff invited comments from the public. None was offered.

MOTION: Mr. Wilds moved to permanently approve the mural, with the staff to advise the Commission on the condition of the art work at least every five years. Ms. Merriman seconded the motion.

Mr. Sugrue asked Mr. Wilds to clarify what actions the Commission might take if the mural was not properly maintained. Mr. Wilds answered that the Commission would confront that situation as it confronts any routine maintenance problem.

Mr. Sklaroff addressed Ms. Merriman's earlier comment that this mural was painted before the Commission adopted its mural policy. He reminded the Commission that this mural was painted illegally, without the Commission's approval. He noted that the Commission did have a policy, albeit not the current mural policy, for reviewing the application in 2002. However, ultimately, the standard is the same today as it was in 2002: Does the mural detract from the historic building? Addressing Ms. Merriman's contention, Mr. Sklaroff stated that the Commission may apply its current mural policy during this review because the previous approval has expired; this is essentially a new application. Mr. Sklaroff asked again: Does it detract? He answered that, in his opinion, it does; it is an "unfriendly change."

Mr. Wilds opined that the mural has become important in the intervening four years. He noted that the Commission can treat historic accretions as significant. He asserted that this mural has achieved historic significance. Mr. Sklaroff disagreed, stating that 4½ years is not history. He stated that the Commission is responsible for the preservation of historic fabric.

Ms. Smyler agreed with Mr. Sklaroff that the mural detracts from the building; she stated that she would oppose the motion. Mr. Sugrue agreed and noted that this is not a party wall; it is part of the original architectural fabric of the historic building. The mural conflicts with the architecture.

FAILED MOTION: The Commission rejected the motion proffered by Mr. Wilds and Ms. Merriman to permanently approve the mural, with the staff to advise the Commission on the condition of the art work at least every five years with a vote of 4 to 6. Mses. Schlotterbeck and Smyler and Messrs. Sklaroff, Rivera, Schaaf, and Sugrue dissented.

MOTION: Mr. Wilds moved to extend the interim approval for an additional four years. Ms. Merriman seconded the motion.

Michael Sher stated that "the most horrible regimes in history" have destroyed art when that art conflicts with their policies. He also reminded the Commission that "the leading historian in the world," Michael Lewis, approves of the mural. He added that the University of the Arts approves of the mural. He concluded that "everyone" agrees with this mural.

Mr. Sklaroff stated that the artist has had four years of self-expression. The Commission must now uphold its responsibility.

Michael Sher stated that African Americans in the southern United States were not allowed to express their cultural values until others stood up to defend their right of self-expression. He also used Nazi Germany, Communist Russia, and China during the Revolution as examples of government suppression of the arts. He asserted that the mural has been documented as a piece of art and he cannot paint over art in good conscience. He noted that those who object to the mural did not attend the Commission meeting. He reminded the Commission that contemporary Philadelphia is not the Soviet Union or the American South of the 1930s.

Mr. Sugrue noted that many consider graffiti to qualify as art. He added that graffiti is shown in art galleries in this postmodern era. Art collectors have paid large amounts of money to commission graffiti artists to paint for them. However, Michael Sher, who has claimed that he would never deface a work of art, stated earlier that he has personally destroyed graffiti, a type of art. Mr. Sher explained that this mural deters the painting of graffiti. Mr. Sugrue rejected Mr. Sher's implication that the Commission is tantamount to Nazis and asked him how he differentiates between the mural and a work of graffiti art. Mr. Sklaroff agreed and stated that

Mr. Sher's assertions equating the Commission to totalitarian regimes were offensive. He stated that this application does not present a First Amendment issue. An artist may paint anywhere, provided he has the permission of the owner and does not break the law. Mr. Sklaroff restated that the Commission's question is very narrow: Does this detract from the historic resource? He concluded that, at some point, expression must be subject to community values.

Ms. Merriman asked Mr. Baron to read the Commission's decision of 2002, which he did. Ms. Merriman asserted that the mural had already been approved by the Commission. The only question before the Commission today is: Has the mural been maintained? If it has, the Commission must approve it, she contended. She asserted that the mural has been maintained and therefore must be approved. She concluded that if the Commission requires the applicant to remove the mural, it would be violating the standards it must apply to every application. Mr. Sklaroff stated that Ms. Merriman's interpretation of the Commission's 2002 action did not capture its spirit; it was not dependent on maintenance. Mr. Wilds disagreed with Mr. Sklaroff and stated that maintenance was a key aspect of the 2002 decision.

John Gallery of the Preservation Alliance noted that Michael Sher has stated on the record that he will never remove the mural. Therefore, extending the interim approval for another four years will not resolve the matter.

FAILED MOTION: The Commission rejected the motion proffered by Mr. Wilds and Ms. Merriman to extend the interim approval for an additional four years with a vote of 4 to 6. Ms. Schlotterbeck and Smyler and Messrs. Sklaroff, Brown, Rivera, and Sugrue dissented.

DISCUSSION OF PROPOSED AMENDMENTS TO THE RULES & REGULATIONS

Mr. Sklaroff explained that several members of the Commission have recently suggested amendments to the Commission's Rules & Regulations related to the employment of the Secretary of the Interior's Standards during the application review process and to the granting of continuances by the staff. The Commission would like to begin a public dialogue regarding the proposed amendments.

Mr. Farnham provided an overview of his memorandum to the Commission, which outlines the current regulations regarding the Standards and continuances.

Mr. Copeland summarized the processes for amending rules and regulations. The current proposal suggests amendments to regulations. To amend regulations, ten or more members of the Commission must vote to approve the amendments. The Law Department must then verify that the amended regulations are legal. Then, the Department of Records advertises the proposed amendments and accepts requests for a public hearing on the amendments for 30 days. If no request is forthcoming, the amendments become effective at the end of 30 days. If a hearing is requested, the Commission holds the hearing and then adopts or revises the amendments accordingly.

Mr. Sklaroff suggested that the Commission amend the regulations regarding the granting of continuances when it functions in its regulatory or permit review capacity, but not add a regulation regarding the granting of continuances when it functions in its legislative or designation capacity. He opined that authorizing the Historic Preservation Officer to grant up to

two continuances of the reviews of building permit applications totaling no more than six months was appropriate. Other Commissioners agreed.

The discussion turned to the regulation governing the Commission's employment of the Secretary of the Interior's Standards. Mr. Farnham noted a discrepancy between the ordinance, which states that the Commission "may be guided" by the Standards, and the Rules & Regulations, which states that the Commission "shall be guided" by the Standards but then refers to the section in the ordinance with the "may." Mr. Sklaroff referred the Commission to the minutes of the special Commission meeting of 30 April 1997. During that meeting, which was convened to discuss amendments to the Rules & Regulations including Section 6.3.a on the Standards, Mr. Sklaroff highlighted the discrepancy between the "may" of the ordinance and the "shall" of the Rules & Regulations. Section 6.3.a of the Rules & Regulations is internally inconsistent. It simultaneously states that the Commission "shall" be guided by the Standards and, in the same sentence, refers to Section 14-2007(7)(k), which states that the Commission "may" be guided by the Standards. Mark Zecca, the Commission's legal counsel at the time of the 1997 meeting, advised the Commission that "the Rules and Regulations also refer to 14-2007(7)(k) which gives the Commission the authority to go outside of the adopted standards and guidelines, if necessary." Mr. Sklaroff stated that Mr. Zecca had already advised the Commission on this issue and concluded that the "may" of the ordinance predominates.

John Gallery of the Preservation Alliance reported that he had not had sufficient time to study the proposed amendments. He requested that the Commission not rush to judgment, but that it should defer any vote on the changes to a later meeting to allow for informed public comment. Several Commission members agreed. The Commission directed the staff to include a discussion of the proposed amendments on the agenda for the next Commission meeting.

ADJOURNMENT

ACTION: At 11:57 a.m., Ms. Murray moved to adjourn the meeting. Mr. Sugrue seconded the motion, which passed unanimously.

STANDARDS AND GUIDELINES CITED IN THE MINUTES

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

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

Standard 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.

Section 14-2007(7)(j): No permit shall be issued for the demolition of an historic building, structure, site or object, or of a building, structure, site or object within an historic district which contributes, in the Commission's opinion, unless the Commission finds that issuance of the permit is necessary in the public interest, or unless the Commission finds that the building ... cannot be used for any purpose for which it is or may be reasonably adapted.