

**REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP
OF THE PHILADELPHIA HISTORICAL COMMISSION**

**MONDAY, 16 OCTOBER 2023
ROOM 18-029, 1515 ARCH STREET
BOB THOMAS, CHAIR**

CALL TO ORDER

START TIME OF MEETING IN ZOOM RECORDING: 00:00:00

The Chair called the meeting to order at 1:13 p.m. The following Committee members joined him:

Committee Member	Present	Absent	Comment
Robert Thomas, AIA, Chair	X		
Donna Carney, RA	X		
Dan McCoubrey, FAIA, LEED AP BD+C	X		
Matthew Treat		X	

The meeting was held in Room 18-029 at 1515 Arch Street.

The following staff members were present:

Jonathan Farnham, Executive Director
Kim Chantry, Historic Preservation Planner III
Laura DiPasquale, Historic Preservation Planner III
Heather Hendrickson, Historic Preservation Planner I
Allyson Mehley, Historic Preservation Planner II
Ted Maust, Historic Preservation Planner I
Leonard Reuter, Esq., Law Department
Molly Costello, Esq., Law Department

The following persons were present:

Matt McClure, Esq., Ballard Spahr
Meredith Trego, Esq., Ballard Spahr
Melissa Draganac-Hawk, Pennsylvania School for the Deaf
Mark D. Apodaca, Pennsylvania School for the Deaf
Jeffrey S. Bravin, American School for the Deaf
Greg Smolley, DRA Architects
Neil Sklaroff, Esq., Dilworth Paxson
Paul Steinke, Preservation Alliance
Hanna Stark, Preservation Alliance
Irwin Trauss
Robert Mandeville
Deneene Brockington, Penn Knox Neighborhood Association
Susan Patterson
Sue Gilflan
Georgette Bartell
Russell Kleinbach
Lucy deWahl

AGENDA

ADDRESS: 156 W SCHOOL HOUSE LN

Proposal: Demolish building
Review Requested: Final Approval
Owner: Pennsylvania School for the Deaf
Applicant: Matthew N. McClure, Ballard Spahr LLP
History: 1897; Boxwood; Mantle Fielding Jr., architect
Individual Designation: 3/12/2021
District Designation: None
Staff Contact: Jon Farnham, jon.farnham@phila.gov

OVERVIEW:

This application proposes to demolish the house at 156 W. School House Lane, owing to financial hardship and necessity in the public interest. The Pennsylvania School for the Deaf owns the property, which is adjacent to its campus in central Germantown. The application claims that the building cannot be feasibly adapted for use by the school and that demolishing the building and redeveloping the land for the school's use is necessary in the public interest.

The Penn Knox Neighborhood Association nominated the property in January 2019, when a different non-profit owner planned to sell the property to a for-profit developer for redevelopment as an apartment complex. After the nomination was submitted, the apartment plan was abandoned and the Pennsylvania School for the Deaf purchased the property in July 2019. The school's campus borders the property on the northeast. In March 2021, the Historical Commission reviewed the nomination and designated the property. During the review, school representatives objected to the designation and explained that the school needed to redevelop the property to redesign the traffic flow on the campus and improve safety for the students. The school's consultants also explained that the house was in very poor condition and could not be feasibly adaptively reused for the students. At the time of designation, the Commission suggested that the school submit a financial hardship application formalizing and demonstrating its claims about the infeasibility of reuse and necessity in the public interest. This application is the result of that advice.

Section 14-1005(6)(d) of the City of Philadelphia's historic preservation ordinance expressly prohibits the Historical Commission from approving demolitions of historic buildings in all but two instances. It may approve a demolition only after determining that:

- the demolition is necessary in the public interest; and/or,
- the building cannot be used for any purpose for which it is or may be reasonably adapted.

In the first instance, the ordinance authorizes the Historical Commission to approve demolitions for public policy reasons, when the public interest advanced by the demolition greatly outweighs the public interest in the preservation of the building. In the second instance, the ordinance authorizes the Commission to approve demolitions when the Commission's regulation of the property denies the owner of all economically viable use of it and thereby inflicts a financial hardship on the owner.

The application consists of an affidavit and supporting documents. The application claims that the configuration and condition of the building prohibit a financially feasible reuse of the property. The application also claims that the demolition is necessary in the public interest because redeveloping the property is the only means of meeting certain needs of the school and its students.

In 2001, the Pennsylvania School for the Deaf sought and received the Historical Commission's approval to demolish the designated house at 143 W. Coulter Street, which was southeast of the property at 156 W. School House Lane and adjacent to the school's campus. The Historical Commission approved the demolition as necessary in the public interest, to clear the site for the construction of a facility for the school.

The Historical Commission's Rules and Regulations indicate that both the Architectural Committee and Committee on Financial Hardship must review financial hardship applications and offer recommendations to the Historical Commission. The Committee on Financial Hardship's role is clear; it must evaluate the claims of financial hardship and necessity in the public interest and determine whether they have merit. The Architectural Committee's role is less clear, but it typically offers a recommendation regarding the claims made in the application related to architecture, planning, and design. The Architectural Committee reviewed the application on 23 August 2022.

After the Architectural Committee's review, the applicants submitted two sets of additional information including materials regarding campus planning as it relates to parking and traffic circulation, existing and proposed facilities, floor plans for the house in question, and information about planning spaces for deaf persons.

STAFF RECOMMENDATION: The staff recommends that the Historical Commission find that issuance of the demolition permit is necessary in the public interest and approve the application for the following reasons and with the following conditions:

- The application demonstrates that adaptively reusing the building in a way that would accommodate deaf and hard-of-hearing persons would be prohibitively expensive.
- The application demonstrates that, even if adapted at great expense, the building would not meet any need of the Pennsylvania School for the Deaf.
- The application demonstrates that incorporating the property into the campus would provide needed space for campus improvements that would increase safety and enhance educational experiences for students.
- While designated as historic, the building is of relatively minor historical and architectural significance. Relative significance can and should be factored into financial hardship and necessity in the public interest decisions.
- The staff advises that the Historical Commission grant final approval of this application but condition it on the review and approval of a campus reorganization plan that includes the relocations of drives, parking lots, and walkways, the location and massing of any new buildings, and the protection of archaeological resources.

ARCHITECTURAL COMMITTEE RECOMMENDATION: The Architectural Committee voted to recommend that:

- The Architectural Committee acknowledges that the primary program spaces that the school currently lacks and needs to provide such as dining and assembly spaces cannot be accommodated in the building at 156 W. School House Lane.

- The application has not proven that the demolition of the building and repurposing of the property will achieve the school's parking and circulation goals. More information is needed to show that reuse of the property for parking and circulation will increase the safety and efficiency of the campus.
- The application has not proven that the demolition of the building is necessary in the public interest, but that deficit could be remedied with additional information.
- Additional information should be provided to the Committee on Financial Hardship and the Historical Commission.

START TIME OF DISCUSSION IN ZOOM RECORDING: 00:03:01

PRESENTERS:

- Mr. Farnham presented the application to the Committee on Financial Hardship.
- Attorneys Matt McClure and Meredith Trego, Melissa Draganac-Hawk and Mark D. Apodaca of the Pennsylvania School for the Deaf (PSD), Jeffrey S. Bravin of the American School for the Deaf, and architect Greg Smolley represented the application.

DISCUSSION:

- Mr. McClure thanked everyone for attending the first in-person meeting of the Historical Commission in more than three years. He pointed out that the application consists of an affidavit with exhibits as well as two supplements. He directed the Committee members to the paper copies of the application as well as paper copies of their Powerpoint presentation, which he provided for the convenience of the Committee. He noted that a report by Dr. George Thomas, which was submitted during the review of the nomination designating the property in 2021, was being incorporated into the record of this review. Mr. McClure introduced the application team. Mr. McClure noted that the staff had asserted that the house at 156 W. School House Lane is relatively insignificant architecturally and historically. He thanked the staff for its recommendation of approval.
- Mr. McClure asked to confirm that the 60-day time period in which the Historical Commission has to complete its reviews of building permit applications, pursuant to Section 14-1005(6)(a) of the Philadelphia Code, is starting to run as of today.
 - o Mr. Reuter confirmed that that was true. The Historical Commission has 60 days from today to complete its review of the application. If it does not complete the review within 60 days, the Department of Licenses and Inspections may issue a permit based on the application without the Historical Commission's determination on the application.
- Mr. McClure objected to the fact that the real estate developer seat on the Historical Commission is currently vacant. He noted that Section 14-1003(1)(b)(.4) of the Philadelphia Code directs that the Mayor shall appoint a real estate developer to the Historical Commission. He asked Mr. Farnham to confirm that the real estate developer seat on the Commission is vacant.
 - o Mr. Farnham confirmed that the real estate developer seat on the Commission is vacant.
 - o Mr. McClure claimed that the Historical Commission is not acting in accordance with the law because it does not have a real estate developer on the Commission. He stated that he will formally object to any denial of his application made without a developer seated on the Commission.

- Mr. McClure explained that the Pennsylvania School for the Deaf has occupied its current location for several decades. Before it moved to the current campus, it was located on Germantown Avenue in Mt. Airy at a much larger campus. The current campus is confined. It is hemmed in by streets and adjacent properties, unlike the earlier large campus. The school was founded in 1820, is one of the oldest schools for the deaf in the world, and is a national leader in deaf education. The school accepts students regardless of their financial situation. Students range in age from birth to 22 years of age. 85% of students live below the poverty level. 75% of students are persons of color. 40% of students have a second disability. The school is a private, non-profit institution that works for the public good. The proposed campus improvements are directly related to the education, safety, and welfare of the students. Deaf students require different environments to thrive. The property in question occupies a key spot on the campus and is needed to tie various disconnected facilities on campus together. Internal driveways, parking lots, and loading zones separate the various facilities and create safety hazards for the students. Traversing the campus without crossing drive aisles is currently impossible for students. He stated that his expert will show why the campus plan proposed by Janice Woodcock for the neighbors is not viable for a deaf population. He noted that this campus has very little room to grow. Regarding the house at 156 W. School House Lane, it was last used as a group home. It is in poor condition. The property was marketed for redevelopment, but the sale fell through because of opposition from the neighbors to a proposed development project. The school acquired the property after the for-profit development project was abandoned. The building cannot be reused by the school, which has no need for the spaces it would provide. The building would be very expensive to rehabilitate even if there was a reuse.
- Mr. McClure stated that the application proposes three grounds to justify the demolition. First, the building cannot be feasibly reused for a new purpose; the compulsory preservation of the building would result in a financial hardship. Second, the demolition and reconfiguration of the campus is necessary in the public interest. And third, the petition seeks a reasonable accommodation under the Americans with Disabilities Act (ADA). Under ADA, educational institutions must provide “reasonable accommodations” to enable students with disabilities to have an equal opportunity to participate in academic programs including modifying the academic environment. The school already maintains very important historic buildings. The building in question is relatively historically insignificant, as the Commission’s staff has noted. Mr. McClure address Rule 10 in the Historical Commission’s Rules and Regulations, which governs the review of financial hardship applications for properties owned by non-profit organizations like this school. In Rule 10, the Historical Commission recognizes that financial hardship applications for properties owned by non-profit organizations are judged by a different standard than are similar applications for for-profit entities. Non-profits cannot be forced as part of a financial hardship application review to sell or lease a building on its campus to a third party. The Historical Commission has never required a non-profit to seek to sell or lease a building as part of a financial hardship application review. The point was made in the 400 S. 40th Street/Woodland terrace case. Rule 10.2 makes it clear that the question is not whether anyone could make reasonable use of the building, but whether the non-profit owner could make reasonable use of the building. The Historical Commission recognized the rule when it approved the demolition of two buildings at Episcopal Hospital. The Historical Commission approved the demolition of the buildings after the owner showed that the non-profit health care system could not feasibly reuse the

buildings. In the Episcopal case, the Historical Commission did not compel the owner to demonstrate that no potential owner could reuse the buildings, but only that the non-profit owner could not reuse the buildings. Mr. McClure also pointed to the Commission's approval of the demolition of the building at 40th and Pine Streets, which was owned by the University of Pennsylvania. He also pointed to the Commission's 2002 approval of the demolition of a building on this campus as necessary in the public interest for the construction of the early childhood center. The Historical Commission has already recognized that demolition may be necessary on this campus to provide educational opportunities. He concluded that this application should be approved under the financial hardship provision, as necessary in the public interest, and as a reasonable accommodation under ADA.

- Ms. Draganac-Hawk, the head of school at the Pennsylvania School for the Deaf, addressed the Committee with a sign language interpreter. She provided information about her background and explained that she and her parents are deaf. She noted that she communicated with Peruvian Sign Language as a child. She noted that her parents experienced language deprivation, which refers to the experience of children who do not have access to language until they are older. She had access to language from birth. She stated that she has worked at the school for 14 years and was recently promoted to head of school. She also noted her work with the National Association for the Deaf. She reported that she was recently elected a member of the board at Gallaudet University, the only liberal arts academic institution for the postsecondary education of deaf students in the world. PSD has been serving students for over 200 years. 71% of the students live in Philadelphia. 45% of the students are African American or Black. 28% of the students are Hispanic or Latina. 20% are Asian. Almost 80% of the students identify as BIPOC. 40% of the students are deaf plus, have deafness as a diagnosis as well as something additional like autism or another disability. 5% of the students have physical challenges. 80% of our students qualify for programs that indicate financial struggles at home. 93% of the students come from families where the parents are hearing and use spoken language at home, so most parents do not know how to communicate with a deaf child. Therefore, language access does not happen at home. PSD provides early intervention services, from birth to 3, to overcome language deprivation. 63% of the students use some sort of assistive technology that includes hearing aids or cochlear implants. Ms. Draganac-Hawk stated that overcoming language deprivation is critical, but the school is currently stymied because the early childhood center is disconnected from the main section of campus with the library, dining hall, and other facilities. It is difficult to move groups of young students from the center to the other facilities on campus. Rearranging the campus is critical to overcoming language deprivation. Currently 45 school buses bring students to campus every day. Separating pedestrian and vehicular traffic is essential to making the campus safe and providing adequate facilities for the younger students. Turning her attention to the house at 156 W. School House Lane, Ms. Draganac-Hawk stated they have studied the building for several years and concluded that it is inadequate for the school's use, especially with regard to safety and access. She reported that it would cost more than \$3 million to rehabilitate the house for the school and the school does not need the spaces it would provide. She stated that PSD is very proud of its historic buildings and works very hard to maintain them. PSD is currently undertaking roof work that is costing \$250,000. She stated that her priority for students is safety. She told a story about a recent lockdown on the campus and the difficulty that she and first responders had owing to the confusing, poor circulation driveways on campus. She noted that visitors are often confused and do not know where to drive

or park. Ms. Draganac-Hawk pointed out on an aerial photograph projected on a screen where the circulation problems occur and where the students face safety hazards. She explained that deaf students require more space and more assistance when near traffic hazards. She concluded, saying that she, other school officials, and consultants have been studying the campus with regard to traffic circulation extensively and have not come to conclusions quickly or easily. They have determined that they need to rearrange the campus and construct a linking or connecting building to provide a safe environment for the students and allow the students to have the best possible education. It is necessary to demolish the building at 156 W. School House Lane to rearrange the campus and achieve the school's mission to educate deaf and hard-of-hearing students.

- Mr. Smolley, the architect, provided information about his background and experience. He stated that his practice is mainly devoted to designing educational buildings for kindergarten to 12-grade students. He stated that he is internationally certified as an educational facilities planner and works in the campus planning field. He stated that he has considerable experience with historic buildings. He noted that he had worked as a building and zoning official, a planning official, and a facilities management official for local governments.
- Using an aerial photograph of the PSD campus, Mr. Smolley described the campus and explained how the vehicular and pedestrian traffic moves around the campus currently. He noted that the soccer field is not regulation size for eight-on-eight soccer, which is one of the two primary athletic activities for the students. He stated that his goal is to remove conflicts between pedestrian and vehicular traffic on the campus to increase safety. He showed photographs of the significant historic buildings on the campus and noted that the building at 156 W. School House Lane is not nearly as significant.
- Mr. Smolley reviewed the classroom and gathering spaces available in each of the buildings at the school including the Main, Chapel, and Nevil buildings. He explained that deaf schools typically have a student-teacher ratio of 6-1 and 400 or 500 square foot classrooms, while traditional schools have a ratio of 22-1 and 900 or 1000 square foot classrooms. He noted that the dining and gathering spaces are inadequate. The gym is currently used for large assemblies but is not adequate. He noted that the current dining space in the Main building is too small.
- Mr. Smolley discussed the educational system for deaf students and noted that it includes the families of the students because they too need to learn sign language. Mr. Smolley presented several slides discussing best practices for the design of educational spaces for deaf students. He discussed size, space, vibration, color, lighting, texture, and other attributes of indoor and outdoor spaces.
- Mr. Smolley discussed his investigations into improvements for the PSD campus. He stated that he developed a prioritized list of spaces needed by the PSD community. They are an auditorium, maker space, community garden, and transition space. He showed photographs of successful spaces recently created at the American School for the Deaf in West Hartford, Connecticut.
- Mr. Smolley discussed his efforts to try to fit PSD's needs into the building at 156 W. School House Lane. He showed floor plans of the house and explained that none of the spaces fit PSD's needs that he discussed during the discussion of the campus buildings. He stated that the small spaces in the house replicate other small spaces on campus while noting that the house is not accessible for people with disabilities. He concluded that the house simply cannot provide the spaces that the school needs. He then discussed the condition of the house. He observed that it is not about

- to collapse, but it is in very poor condition. She showed images from the conditions report and pointed out deterioration. He stated that the house suffered from neglect for years. He noted water infiltration. Mr. Smolley then discussed the McBrick Building Group's cost estimate for rehabilitating the house. He called it a systems estimate because it does not include an estimate for a particular interior fit-out but instead is an estimate to bring all systems up to code and make the house accessible. He stated that the estimate came in at \$3.25 million in 2022, but the number may now be 8% or 10% higher, owing to inflation. He added that it was a non-union, prevailing wage estimate. Owing to its government funding, PSD is obligated to pay prevailing wages. A union estimate would be higher. He concluded that, in the end, it would cost \$3.25 million to bring the building back and it would only provide redundant spaces, spaces that PSD does not need.
- Mr. Smolley showed an existing conditions aerial photograph and then a conceptual campus plan with the proposed community life building, which would link the early childhood center on Coulter Street to the other campus buildings on School House Lane. He showed the changes in driveways and parking lots and noted that this plan would separate vehicular and pedestrian traffic. The plan also provides a regulation soccer field and a running track. Track and field is the second main sport on campus, after soccer. It also restores the green space in front of the gym along School House Lane. Mr. Smolley also noted that a school for the deaf requires more parking than a traditional school because deaf schools have nearly four times as many teachers per student as traditional schools. He noted that the house at 156 W. School House Lane would need to be demolished in this plan. Mr. Smolley provided detailed information about the design of the entrance drive to demonstrate that the plan necessitated the demolition of the house. He then showed a conceptual plan for the community life building, which would provide the needed dining and gathering spaces that PSD currently lacks and that the house at 156 W. School House Lane cannot provide.
 - Mr. Smolley began to present his reasons why the alternate plan prepared by Janice Woodcock for the neighbors does not work.
 - o Neil Sklaroff, an attorney representing the neighbors, interjected, and suggested that Ms. Woodcock should present her own design.
 - o Mr. Thomas stated that he agreed with Mr. Sklaroff.
 - o Mr. McClure objected, stating that his team has not completed its presentation of the application. He suggested that Ms. Woodcock could present any material she wanted during the public comment period.
 - Mr. Smolley discussed Alternate 1A of the Woodcock plan and stated that it fails to move the traffic away from the pedestrian paths to the gym from locations on the campus. He added that he considered the option that this plan is based upon in his own work and decided that it was not feasible, so he is no longer considering it. He noted that, ignoring the fundamental problem with it related to accessing the gym safely, it will not work because the space between the gym and the head of school building may be too narrow to support a two-way driveway.
 - o Mr. Sklaroff interjected that the Woodcock plan is based on a plan prepared by PSD.
 - o Mr. McClure objected to Mr. Sklaroff's interruption and again reminded the chair that this is not an adversarial proceeding. Mr. Sklaroff's clients are not a party to the matter. Mr. Sklaroff may present whatever he wants during the public comment period, but he should not be allowed to interrupt the applicant's presentation.

- o Mr. Thomas agreed with Mr. McClure.
- o Mr. Smolley continued with his discussion of Alternate 1A of the Woodcock plan. He noted that the parking shown on the plan between the soccer field and W. Coulter Street is infeasible because of grade changes and would narrow the soccer field beyond the minimum width. It also creates too much traffic through the early childhood center. He then discussed Woodcock Alternate 2A. He noted that it does not include any fire lanes. He stated rather than seeking to meet the bare minimum requirements of the code, his plan seeks to provide a safe campus for deaf students, who need more space to move about safely than do hearing students. He stated that the Woodcock plan introduces uncertainty when a good plan should provide for certainty. He showed an image of the proposed fire lane between the gym and the 156 W. School House Lane property. He stated that they are proposing a 24-foot travel lane and an eight-foot fire lane. For safety, the fire lane should not overlap with the travel lane. He said that the Woodcock plan discusses a 24-foot fire lane, which makes no sense. He showed Alternate 2B of the Woodcock plan and noted that he does not know how or where Ms. Woodcock obtained the dimensions on her plan. If the dimensions were scaled from an aerial photograph, they are inaccurate. If the dimensions were measured at the site, the person taking the measurements must have trespassed. Alternate 2B of the Woodcock plan proposes a sidewalk that is much too narrow and is unsafe. Mr. Smolley concluded that Alternate 2B of the Woodcock plan is unworkable. It does not provide a separate fire lane and the sidewalk is unsafe.
- Mr. McClure presented slides from a report prepared by architectural historian Dr. George Thomas, who was unable to attend the meeting owing to the death of his brother. He showed photographs and HABS drawings of the very old and important school buildings, which date to the eighteenth century. He showed a photograph of the building at 156 W. School House Lane. He claimed that the building at 156 W. School House Lane is of relatively insignificant historical value. He asserted that relative historic significance does matter in reviews like this. The Committee should take into account the fact that the building at 156 W. School House Lane is relatively insignificant when undertaking its balancing test, weighing the public interest in the preservation of the house with the public interest in the improved health, safety, and welfare of the students at the school.
- Mr. McClure reviewed earlier financial hardship decisions by the Historical Commission including 1918-20 Sansom Street. He stated that the property was never offered for sale to the public, yet the Historical Commission approved the demolition of the building owing to financial hardship. He pointed to the 400 S. 40th Street case, in which the University of Pennsylvania agreed to ground lease but not sell the property. In the 5129 Frankford Avenue case, the Penn Fruit grocery store, the Preservation Alliance declined to oppose the application because there was no community support for the underlying nomination. In the 100 E. Lehigh Avenue case, the Historical Commission approved the demolition of two buildings on the Episcopal Hospital campus under the hardship provision. The hospital did not have a need for the two buildings and did not have the money to repair them. The Historical Commission did not seek to compel the hospital to market them for sale because they are part of a campus. There was no plan for new construction. Mr. McClure then reviewed relevant necessary in the public interest applications including the demolition of a building at 143 W. Coulter Street for PSD's early childhood education center; the Curtis Institute's rehearsal hall and dormitory on the 1600-block of Locust

Street; the demolition of the parish hall of the Episcopal Cathedral at 3737 Chestnut Street; and the demolition of the fire station at 1328 Race Street for the convention center. He stated that the institutions were not required to try to sell the buildings to prove their cases. Mr. McClure concluded that the Historical Commission has significant discretion in financial hardship and necessary in the public interest cases.

- Mr. Apodaca, a board member of PSD and the chair of the board's finance committee, addressed the Committee on Financial Hardship with a sign language interpreter. He stated that he has worked in finance for over 45 years and is currently the CFO of the New Mexico School for the Deaf. He noted that he is also a professional, registered parliamentarian. He stated that he agreed to serve on PSD's board because he believes in the school's mission statement to educate students for success by recognizing and developing individual strengths, building confidence, and collaborating with families and communities in a nurturing environment so that they can thrive dynamically in their language-rich environment. Mr. Apodaca stated that he experienced language deprivation for almost all of his life, and he does not want to see that happen to other children. Deaf children should get the proper education that they deserve. Mr. Apodaca stressed that this application is ultimately about making the campus safe for deaf students, who require different types of spaces. He told a story about being unaware of an approaching police car while walking and the dangers it posed for him. He noted that PSD carried a deficit in Fiscal Year 2022 and will have a deficit of \$600,000 in Fiscal Year 2023. Projections for Fiscal Year 2024 show a deficit of \$900,000. He added that he has confirmed the numbers for 2024. He stated that he believes in carrying a balanced budget and stated that PSD is watching its spending very carefully at this time.
- Mr. Bravin, the executive director of the American School for the Deaf in West Hartford, Connecticut, introduced himself and addressed the Committee on Financial Hardship with a sign language interpreter. He stated that his school is the first school for the deaf in America, and the first special education school in the Western Hemisphere. PSD is the third oldest school for the deaf in the country. Old schools have old campuses and are often encountering problems with old buildings. He recounted his work at his school to determine whether an old building on the campus should be renovated or demolished and rebuilt. He stated that he hired various consultants, engineers, architects, and planners to assess the older building. He stated that they determined that the cost to reconfigure the existing building was over \$35 million. They decided instead to demolish the historic building and construct a new state-of-the-art building for deaf students for less money. He explained that there was much community opposition to the demolition, but they had to privilege the students over the building. He explained that providing the best education environment was their goal. Deaf students require facilities with very specific attributes to thrive. He noted that they did save artifacts from the older building and incorporate them into the new building to commemorate the school's history. He concluded by asking the Historical Commission to take into account the health, safety, and education of PSD's students when making its decision.
- Mr. McClure concluded his presentation, stating that this application is not simply about driveways or parking. It is about the safety and education of deaf children. He stated that this is not a tribal fight between preservationists and developers. It is about children and their education. He contended that the community's efforts to oppose this application have crossed a line. Opponents have made derogatory statements about deafness and genetics. Opponents have filed complaints leading to code violations for the condition of the historic house, even though the condition has

not changed since it was designated, for bus parking, and even for the HVAC system at the gym, even though that system has been in place for years. And recently, opponents trespassed on the school's property to take photographs through windows. Mr. McClure stated that he understands advocacy, but the opponents have gone too far. He contended that PSD has been a good steward of its historic properties and has always worked with the Historical Commission in good faith. He asked the Historical Commission to grant PSD's request for approval.

PUBLIC COMMENT:

- Attorney Neil Sklaroff stated that he represents the Penn Knox Neighborhood Association in cooperation with the Preservation Alliance. He acknowledged that the early childhood center does not connect well to the rest of the campus. He applauded PSD's use of the historic buildings and the new curriculum that the school is seeking to implement. He objected to the demolition of the building at 156 W. School House Lane. He stated that the school will merely lose 15 parking spaces if it does not demolish the building. He stated that his team will prove that they do not need to demolish the building. He observed that reasonable accommodations do not have to be the best accommodations; they just have to be reasonable; they just have to bring parity, not more. Additional parking spaces are not a matter of parity. He suggested that the Historical Commission consult its attorney regarding reasonable accommodation. Mr. Sklaroff asked his client Irwin Trauss if he was ready to testify.
 - o Mr. McClure reminded the Committee that the Historical Commission does not hold adversarial hearings. He stated that the public may comment on the application, but the Committee is not hearing from two parties, each represented by counsel. This is not a court of law or a zoning board hearing. It is an administrative review. The Penn Knox Neighborhood Association is not a party to the matter. He asked the chair of the Committee to indicate how he would accept public comment.
 - o Mr. Sklaroff countered that his client, the Penn Knox Neighborhood Association, nominated the property for designation.
- Paul Steinke of the Preservation Alliance stated that he is very familiar with the deaf community. He noted that when he was a child his mother was secretary for a deaf church in Northeast Philadelphia for many years. She became friendly with many congregants, who were often in his home socially, so he has knowledge of and exposure to the deaf community. He thanked PSD for its stewardship of its historic buildings. He stated that he agrees that the safety of the students is supremely important. He also stated that he agrees that the financial stability of PSD is essential for it to continue to carry out its mission. He stated that he does not want to be adversarial but wants to inject a voice of preservation into the discussion. He asserted that the Preservation Alliance believes that this is a completely unnecessary demolition. He reminded everyone that the building at 156 W. School House Lane is a house. He described the house and its architect. He noted that PSD purchased the house after it was nominated. He stated that the Historical Commission must weigh the public interest in preservation with the public interest in deaf education with this application. He suggested that the Curtis Institute case mentioned by Mr. McClure involved the restoration of two historic facades. He stated that campuses need to grow but they often do so at the expense of residential neighborhoods around them. He suggested that people of good faith can come together and find solutions. He opined that the house should be sold to a new owner who will reuse it as a residence.

- o Mr. Thomas stated that Mr. Steinke rightly suggested that PSD and the Penn Knox Neighborhood Association need to find a compromise.
- Architect Janice Woodcock stated that she did not prepare a master plan for the campus. She stated that her task was much narrower than that. She explained that she looked closely at the space between the building at 156 W. School House Lane and PSD's gym. She stated that she could provide 10 solutions to the parking and circulation problems at PSD that have been discussed, but she has not been asked to solve those problems. She showed her plan for the driveway between the building at 156 W. School House Lane and PSD's gym. She stated that she measured the space between the buildings with a laser and she thinks that the measurement is correct. If the measurement is incorrect, she stated that she is happy to measure it again. She stated that the school should remove the temporary storage container next to the gym and put additional grates over the basement window grates. She explained her approach showing a plan in her report and concluded that the space was sufficient for a sidewalk, fire lane, and travel lane without demolishing the house.
 - o Mr. Thomas offered some comments.
 - o Ms. Woodcock wondered if the PSD staff actually needs to drive all the way to campus or if they could park elsewhere.
- Ken Weinstein introduced himself as the owner of Philly Office Retail and the founder of Jumpstart Germantown. He stated that he has been investing and developing in Germantown for 37 years. He is familiar with Germantown, PSD, and the building at 156 W. School House Lane. He stated that, after being contacted by Penn Knox Neighborhood Association and the Preservation Alliance, he met with PSD officials and toured the exterior of the building and reviewed photographs of the interior of the building. He opined that the building can be saved and saving it would be a typical renovation project. It could be reused as a single-family residence. He acknowledged that he has not reviewed PSD's renovation estimates but asserted that it would cost \$300,000 to \$400,000 to renovate it as a residence. He suggested that PSD subdivide the house from the rest of the lot and sell it to someone who will renovate it. He noted that other historic houses in the area have recently sold for \$825,000 and \$540,000.
 - o Mr. Thomas noted that the property at 121 W. Coulter Street is not a reasonable sales comparison because the lot is so large. He wondered if PSD could purchase that property because the lot is so large.
 - o Mr. Weinstein stated that the main entrance at 156 W. School House Lane could be relocated to the rear of the building to allow the property to be subdivided right along the edge of the house.
 - o Mr. Thomas offered some additional comments.
 - o Mr. Steinke interjected that he had intended to disclose earlier that the Preservation Alliance is serving as fiscal sponsor for Penn Knox Neighborhood Association and has been helping the organization fundraise to support this appeal. He stated that the Preservation Alliance is a 501(c)3 and can accept donations that are tax deductible.
- Irwin Trauss, a neighbor, introduced himself, stated that he lives directly across the street from 156 W. School House Lane, and said that he was "instrumental" in bringing PSD to the site. He listed the neighborhood's demands that were issued before it would consent to allowing PSD to move into the site including no increases to the size of the playing fields, no new buildings on or behind the playing fields, and guaranteed community access to the property. He stated that he and the neighbors have not been adversarial with PSD and noted that every time they have questioned

PSD, the questioning has been construed as an attack. He stated that the neighbors do not want the building at 156 W. School House Lane to be demolished by neglect. He stated that PSD is pushing a false narrative. This is not a conflict between preservation and the needs of the students.

- o Mr. Thomas asked Mr. Trauss to get to his point.
- o Mr. Sklaroff stated that the applicant was given two hours to present its case. His team should have equal time for its case.
- o Mr. McClure reminded everyone that this is not an adversarial hearing. There is one applicant, not two parties. He noted that the Historical Commission's Guidelines for Conduct at Meetings allows three minutes for each public comment.
- o Mr. Sklaroff objected.
- o Mr. Trauss continued with his comments. He stated that the building would be sacrificed for parking spaces and a wider driveway. He claimed that PSD has developed its circulation design such that the demolition of the building is required. He asserted that the school's goals for circulation and parking could be achieved without demolishing the building. He stated that Ms. Woodcock's plans show how those goals can be achieved. He stated that demolishing a historic building for 10 parking spaces is not in the public good. He stated that parking lots cause problems related to pollution and congestion.
- o Mr. Thomas offered some comments.
- o Mr. Trauss stated that he has asked PSD to meet to discuss parking many times, but the school has not met with him. He stated that he has asked PSD to let his contractors and other experts onto the property to assess the building, but the school has declined to give him access to the property. Mr. Trauss stated that people are finally buying and fixing houses in the neighborhood.
- o Mr. Thomas stated that the Committee is trying to find a compromise. He asked Mr. Trauss to make some concrete suggestions regarding the circulation.
- o Mr. Trauss stated that he and his neighbors have been trying to develop an alternative plan and have hired an architect to work with them. He stated that he might be willing to allow the demolition of the porte-cochere if his experts conclude that that is the only option. He stated that he will not allow the building to be demolished. It would be a crime to demolish it. Mr. Trauss stated that he owns the apartment building at 5501 Wayne Avenue, at the corner with School House Lane, called the Fairfax. He stated that he is not a developer but has some experience with real estate and was trying to put together a group to buy 156 W. School House Lane when PSD purchased the property. He stated that it would never cost \$3.5 million to make it into a residential property.
- o Mr. McClure stated that his team never stated that it would cost \$3.5 million to renovate it for residential use.
- Mr. Thomas asked how many more people wanted to speak. After two people identified themselves, he stated that the Committee would hear from the last two and then end the public comment period.
- Sue Patterson stated that she is the former chair of the Penn Knox Neighborhood Association and the person who had discussions with the former owner of the property at 156 W. School House Lane when it was put up for sale. The property was used as a group home for teenagers. She stated that there were teens living in this property up to 2017, and they had to move out because the building did not meet the code requirements for the kitchen. The former owner ripped out the kitchen but could not afford to replace it. The organization also had a problem with the Water

Department with the lateral. The organization built a second floor on the back building in 2011. The non-profit decided that the rehabilitation of the property was too expensive, so it sold the property. The non-profit tried to sell to PSD, but PSD lowballed the non-profit on the price. The non-profit sold to the developer instead, for \$500,000 or \$600,000. The developer proposed three new residential buildings, each three stories tall. PSD had concerns about the development including people looking out windows onto the school and residents of the apartments allowing their dogs to defoul the playing field. The developer was going to put seven apartments in the historic house, which proves that the house is economically viable. Ms. Patterson claimed that the former head of PSD was willing to sell or rent the house. The current school administration is not. The conversation has changed. The school is now talking about campus circulation.

- Deneene Brockington, the chair of the Penn Knox Neighborhood Association, stated that PSD has not engaged with the community to develop a creative solution to this problem. She stated that she toured the campus and saw firsthand the problems with the current circulation on campus. From attending community day on the campus, she also understands what it is like to be unable to communicate. She stated that she does not think that a solution will be uncovered today, but she posited that they would find a solution if both parties, PSD and Penn Knox Neighborhood Association, work together.
- Mr. Thomas stated that the public comment period had ended.

ADDITIONAL DISCUSSION:

- Mr. Thomas invited Mr. McClure to make his concluding comments.
 - o As Mr. McClure began to speak, Messrs. Sklaroff and Steinke walked up to the Committee table from the audience and sat down. Mr. Farnham interrupted Mr. McClure and directed Messrs. Sklaroff and Steinke to return to the audience. He stated that the public comment period had ended.
 - o Mr. McClure stated that, when the Penn Knox Neighborhood Association nominated the area as a historic district in the 1990s, the organization suggested that the Historical Commission classify this property as contributing, not significant. The district was not created, but the opponents conceded at that time that this building was not very significant. By definition, a contributing property is one that is not worthy of individual designation. The property was nominated for individual designation to stop a development project, not to protect an important historic resource. The Historical Commission must take relative historical significance into account when reviewing hardship and public interest applications. Mr. McClure disagreed with Ms. Patterson, who claimed that the abandoned development project proved that the house would be economically viable with seven units. The development project was not undertaken and, if it had been, the house renovation would have been part of a larger project with new construction. Mr. McClure stated that Ms. Woodcock's various parking plans are infeasible; they do not take zoning into account. He stated that the parking she shows is often not compliant with zoning. It does not take setbacks and landscaping requirements into account. Mr. McClure noted that the opponents stated that PSD must cede control of the building. He countered that the City of Philadelphia does not have the legal authority to demand that a private property owner cede control of a property and the Historical Commission has never asked a non-profit to cede control of a property as part of a hardship review. Mr. McClure asked the Committee to look at Section 10 of the Rules and

Regulations, which was drafted by the former director of the Preservation Alliance. Mr. McClure highlighted that the property has been an institutional property for many years. He added that it is in very poor condition. He asserted that estimates of the cost to convert the building for residential use with non-union, non-prevailing-wage contractors are irrelevant. The question before the Committee, per Section 10, is whether the non-profit owner has a reuse and whether the cost to reuse is reasonable. The question is not whether the property can be turned over to some other entity for reuse.

- o Mr. Thomas agreed with Mr. McClure that the Historical Commission cannot force the owner to sell the property. He stated that the Committee is looking for a compromise.
- o Mr. McClure stated that he spent two years trying to find a compromise with the neighbors. He offered compromises which they rejected. He stated that they offered to ground lease the building to neighbors at a nominal rate for three years if they could remove the porte-cochere for a wider driveway with fire lane and redevelop behind the house. The neighbors rejected the proposal after making many unrelated requests. He stated that it was Kafka-esque. He stated that PSD tried very hard to find a compromise.
- o Mr. Sklaroff interjected that PSD should be forced to put the building on the market.
- o Mr. Thomas asked for order.
- Mr. Thomas stated that everyone needs to get together and hold a charette, a design session in which architects discuss and test various design solutions. Everyone needs to sharpen their pencils, sit down as a group, and seek a compromise. Mr. Thomas stated that School House Lane is a “zone of wonderfulness.”
 - o Mr. McCoubrey suggested that the Committee return to focus on the issue at hand, the review of an application.
- Mr. McCoubrey stated that PSD's plan has evolved in the right direction by moving the traffic out of the center of the campus. He stated that the fact that the house is unusable by PSD is unquestionable. He stated that the cost to PSD to reuse the house, creating spaces it does not need, is very high. Therefore, the question becomes whether the house can be used for something else that still allows PSD to transform its campus. Mr. McCoubrey stated that he would like to see some firm numbers on the parking requirements. Every plan has a different number of parking spaces. How many are actually needed? What is the impact on the campus of retaining the house? Mr. McCoubrey stated that he does not know enough to decide whether PSD should be compelled to transfer the house to a new owner. He asked for legal guidance in that regard. He concluded that the Committee needs more information about the parking requirements and the driveway and circulation plan to determine whether the parking and circulation goals can be met with the house in place. He stated that it is clear that PSD itself cannot use the house.
- Mr. Thomas suggested that the applicant submit additional information.
- Ms. Carney stated that the application materials are not clear and detailed enough. The application documents need to be supplemented with clear information like dimensions to prove that the parking and circulation can or cannot work with the house in place.
- Mr. Thomas offered other comments. He suggested that all parties need to get together and work out a compromise solution. He asked about the format for holding a charette with PSD and the neighbors to investigate design solutions.

- o Mr. Reuter interjected that, while the Committee is advisory and may make any recommendation, the Historical Commission cannot continue the matter so that the neighbors can prepare and present alternate solutions. The neighbors are not a party to the matter. The Historical Commission should not convene a charette to explore alternative design solutions. The Commission must review the application before it. It must apply the review criteria set forth in the ordinance and Rules and Regulations and decide whether the applicants have proven their case. The applicant is not required to exhaust every design alternative but should explore reasonable design alternatives. The application makes three arguments, that there is no feasible reuse for the building, that the demolition is necessary in the public interest to ensure the safety and education of the students, and that the City must allow for reasonable accommodation. Regarding adaptive reuse, Mr. Reuter stated that the Committee should look at that within the context of PSD. He stated that it is clear that PSD, a non-profit, purchased this property for its programmatic needs. The case law is clear that PSD does not need to put the property up for sale, which is a way for the market to determine whether there is an adaptive reuse that would provide a reasonable rate of return. However, the Committee can take the fact that it was not put up for sale into account. Any decision not to list the property for sale on the open market is a factor, but not a deciding factor. Mr. Reuter turned his attention to the public interest question. He stated that there are two competing public interests, preservation and the programmatic needs of PSD. The preservation of the building is in the public interest. The enhancements to the campus also appear to be in the public interest, in that they will provide safety, security, and educational benefits. The Committee's task is to determine whether the benefits from the improvements to the campus are in the public interest. If they are, then the Committee must decide whether it is necessary to demolish the house to gain those benefits. If it is necessary to demolish the house to gain the benefits, the Committee must then decide which public interest is greater, preserving the building or providing the safety, security, and educational benefits. If the public benefits of improving the campus are greater than those of preserving the house, the Committee must recommend in favor of approving the application. It is like the Christopher Columbus Statue case. In that case, the Historical Commission decided that the public safety benefit of removing the statue outweighed the preservation benefit of leaving the statue in place. He noted that the courts did overturn that decision but for technical reasons. The courts never considered the merits of the Historical Commission's necessary in the public interest decision. Regarding the ADA reasonable accommodation question, that argument is preserved. This Committee does not need to address that question, but the Historical Commission does need to address it. Neither the Committee nor the Commission needs to seek an alternate solution with the neighbors. The Committee should not be suggesting that the applicant and neighbors convene a charette. The Committee and the Commission need to review the application before it on its merits.
- o Contradicting Mr. Reuter, Mr. Thomas stated that PSD and the neighbors need to find a compromise. Everyone needs to sit down, roll up their sleeves, and work to find a compromise. He observed that there are very fine people on both sides, and he is sure that they can come to a compromise solution. He stated that the Historical Commission grants continuances to allow for negotiations.
- o Mr. McClure stated that the Historical Commission has 60 days to complete its review of the application. He stated that he would advise his client to accept one

short continuance to allow for the submission of supplemental material to the Committee on Financial Hardship. He stated, however, that his client will not enter into bilateral negotiations with the Penn Knox Neighborhood Association or the Preservation Alliance.

- o Mr. Thomas asked for an explanation of the 60-day clock referenced by Mr. McClure.
- o Mr. McClure explained that Section 14-1005(6)(a) of the preservation ordinance indicates that within 60 days after receipt by the Historical Commission of a building permit application, the Historical Commission shall determine whether or not it has any objection to the proposed alteration or demolition. If the Historical Commission fails to object to the proposed work within 60 days, the Department of Licenses and Inspections may issue the permit without the Historical Commission's response.
- o Mr. Reuter asked if there is time for the Historical Commission to meet to continue the review of the application, the Committee to convene again and formulate a recommendation, and the Historical Commission to meet and review the application, supplemental materials, and Committee recommendation, all within 60 days.
- o Mr. Farnham responded that there is time. The Historical Commission can continue the review of the application on 10 November, and then meet on 8 December to review the application and recommendation. The Committee will need to meet between 10 November and 8 December.
- Mr. McClure asked for a brief recess to consult with his client, which the chair granted.
- After the Committee reconvened from the recess, Mr. McClure stated that his client would agree to a continuance, supplement the application, and appear again before this Committee, in time for a final review at the 8 December 2023 meeting of the Historical Commission. He stated that he will correct many misstatements by the opposition at the second Committee on Financial hardship meeting.

COMMITTEE ON FINANCIAL HARDSHIP FINDINGS & CONCLUSIONS:

The Committee on Financial Hardship found that:

- The applicant has proven that the building at 156 W. School House Lane cannot be feasibly adaptively reused to satisfy any needs of the Pennsylvania School for the Deaf.
- The applicant is not obligated to place the property up for sale on the open market to prove its financial hardship or necessary in the public interest cases.
- To prove its necessary in the public interest case, the applicant must demonstrate that there is a public interest in enhancing the security, safety, and educational opportunities for the school's students, faculty, and staff through the proposed campus improvements. If there is a public interest in the implementation of the improvements that will provide enhanced security, safety, and educational opportunities, then the applicant must demonstrate that the demolition of the building is necessary to the implementation. If the demolition is necessary, then the applicant must demonstrate that the public interest in enhancing the security, safety, and educational opportunities outweighs the public interest in preserving the building.
- The applicant made the reasonable accommodation argument, so it is preserved, but is beyond the purview of the Committee on Financial Hardship.

The Committee on Financial Hardship concluded that:

- Additional information regarding the campus reconfiguration, especially circulation, parking, sidewalks, driveways, and fire lanes at they relate to the property at 156 W. School House Lane, is needed before the Committee can offer a recommendation on the application.

COMMITTEE ON FINANCIAL HARDSHIP RECOMMENDATION: The Committee on Financial Hardship recommended that the Historical Commission continue the review to allow the applicant to submit supplemental materials and to remand the application with supplements to the Committee on Financial Hardship for review at a second meeting prior to 8 December 2023.

ITEM: 156 W School House Lane					
MOTION: Continue and remand					
MOVED BY: Thomas					
SECONDED BY: McCoubrey					
VOTE					
Committee Member	Yes	No	Abstain	Recuse	Absent
Robert Thomas	X				
Donna Carney	X				
Dan McCoubrey	X				
Matthew Treat					X
Total	3				1

ADJOURNMENT

START TIME OF DISCUSSION IN ZOOM RECORDING: 03:57:12

ACTION: The Committee on Financial Hardship adjourned at 5:05 p.m.

PLEASE NOTE:

- Minutes of the Philadelphia Historical Commission and its advisory Committees are presented in action format. Additional information is available in the video recording for this meeting. The start time for each agenda item in the recording is noted.
- Application materials and staff overviews are available on the Historical Commission's website, www.phila.gov/historical.