

**THE MINUTES OF THE 352ND STATED MEETING OF THE  
PHILADELPHIA HISTORICAL COMMISSION**

**12 June 1991**

**City Council Caucus Room**

**Edward A. Montgomery, Jr., Chairman**

**Present**

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Edward A. Montgomery, Jr., Chairman  
David Brownlee  
David Hollenberg  
Jason Nathan  
Reverend William D. Thompson  
James Cuorato, Commerce Department  
David Baldinger, Deputy Director, City Planning Commission  
Scott Wilds, Office of Housing and Community Development  
David Wismer, Deputy Commissioner, Licenses and Inspections

Maria Petrillo, Esquire, Deputy City Solicitor  
Richard Tyler, Historic Preservation Officer  
Randal Baron, Preservation Planner  
Sara Jane Elk, Historical Research Technician  
Daniel W. Simcox, Executive Secretary

**Also**

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Warren Huff, City Planning Commission  
Howard Kittell, Preservation Coalition of Greater Philadelphia  
Joseph Decker, owner of 4501 Fisher's Lane  
Louis Hockman, counsel to Joseph Decker  
John Buffington, Joyce N. Halley, Jim Robson & Barbara Auwarter,  
Frankford United Neighbors Community Development Corporation  
Jorge Lovera, Agoos/Lovera Architects

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Mr. Montgomery called the meeting to order, announced the presence of a quorum and proceeded to the agenda.

**The Minutes of the 351st Stated Meeting of the Philadelphia Historical Commission, held 8 May 1991, Edward A. Montgomery, Jr., Chairman. A MOTION to adopt these minutes, made by Mr. Nathan and seconded by Mr. Wilds, received unanimous approval.**

**The Report of the Architectural Committee of the Philadelphia Historical Commission held on 30 May 1991, David Hollenberg, Chairman.** The Committee recommended disapproval of work undertaken without a permit at 4501 Fisher's Lane. Designated as historic on 14 March 1990, this building is significant as a fine and rare example of an eighteenth-century house in Frankford, as the residence of saw-mill owner Harvey Rowland and as part of an early nineteenth-century industrial settlement. Through the spring of 1991, the owner installed pale-blue aluminum siding over stucco walls and chimneys, replaced wooden shutters with red vinyl ones; removed two decorative, wooden bargeboards; covered decorative woodwork on the dormers with aluminum, which made curved-head openings square and replaced a standing-seam, tin roof with asphalt shingles. All of this work was undertaken without a permit and subsequently cited for violations by the Department of Licenses and Inspections upon the request of the Commission staff. The owner also sought approval for the replacement of partly-curved, multi-pane, wooden windows with new square aluminum windows which he has already purchased. After considerable discussion, the Committee recommended disapproval of this request, effectively requiring:

- retention of the existing windows;
- removal of the aluminum siding, the cladding of the chimney, dormer cheeks and vinyl shutters, and;
- re-milling and installation of ground-floor shutters and two bargeboards.

The Committee would allow the owner to retain the new roof even though the former standing-seam roof contributed to the historical significance of the building.

Louis Hockman, counsel to the owner, did not contest this recommendation, but rather requested removal of the building from the Philadelphia Register of Historic Places. Having discussed this application with Randal Baron, he understood that such a request was appropriate. Mr. Baron clarified that their discussion addressed numerous issues, including the procedure for rescission of a building from the Register. Mr. Baron informed the applicant that the Committee on Historic Designation, which would hear this request, would consider only historic significance and not financial hardship. Mr. Hockman indicated that he misunderstood the discussion, having concluded that claims of financial hardship were relevant to the Commission in its consideration of requests for rescission.

Mr. Montgomery announced that the Commission would not hear testimony which had not first been reviewed by its relevant committee. He stressed that issues of designation and historic significance were separate and distinct from the fact that the applicant had undertaken alterations without a permit. Mr. Tyler referred the applicant to Section 5.5.c of the Rules and Regulations, which provides for rescission from the Register.

The owner, Joseph Decker, then submitted that he was unaware that the building was designated, that designation entailed design review or that his work required a permit. He assumed that the Commission notification letter only meant that the building was eligible for historic designation. Though a contractor, he relied on sub-contractors to obtain permits. He did not dispute the violations. However, having already spent \$37,000 on the work completed, he could not comply with the recommendations of the Committee, which would cost another \$40-50,000.

Mr. Hollenberg stressed the value of this house as a fine example of a rural residence within Philadelphia, whose preservation will promote an understanding of this city's distinctive history. Dr. Brownlee reinforced this point, noting that the Committee for Historic Designation unanimously recommended this uncommon resource for entry on the Philadelphia Register. David Wismer expressed disbelief that a contractor could claim that he was unaware that a building permit was required for the work undertaken. He particularly stressed that covering the exterior walls without a wall inspection raised serious questions regarding structural integrity and fire safety. Mr. Nathan reinforced these comments, adding that ignorance of the law is no excuse for breaching it.

At this time, Mr. Montgomery invited comment from the public. Frankford United Neighbors and the Friends of Frankford, represented by John Buffington, Joyce Halley, Jim Robson and Barbara Auwarter, strongly opposed this application and supported the recommendation of the Architectural Committee. This house reflects the origins of Frankford as well as its early industrial development. Its significance is augmented by the paucity of Frankford buildings on the Register. Howard Kittell of the Preservation Coalition of Greater Philadelphia also opposed this application and commended the Architectural Committee for suggesting a thoughtful compromise even when presented with a host of illegal and unsympathetic alterations.

Following further discussion, Mr. Wilds seconded the recommendation of the Architectural Committee which the Commission adopted by unanimous vote.

Mr. Hollenberg proceeded with the Report, reviewing an informal discussion held by the Committee with Jorge Lovera, an architect who presented conceptual plans to demolish a mid-nineteenth century carriage-house at 127 Kenilworth Street. Mr. Lovera has considered acquiring this property for the construction of his personal residence. However, there are three outstanding violations on the property: the present owner removed the second floor of the front facade, the roof and a rear addition without a permit. Despite this illegal, partial demolition, the first floor brick facade, a wooden cornice, the roof and the floor of the second story remain. Mr. Hollenberg reminded the Commission that in 1988 it required the reconstruction of a frame house just two blocks away at 123 Queen Street, after the owner demolished an historic building without a permit. The requirement to rebuild remained in force even after sale to a new owner.

The Committee acknowledged the importance of permitting new development and contemporary design in historic districts and cited those sections of the preservation ordinance which support this perspective. However, time, site and circumstance dictate when contemporary development is appropriate. In this case, the interest to reconstruct is heightened by the outstanding violations, whose prosecution remains the only way to hold the present owner accountable for his transgression. Given the order to rebuild on Queen Street, this course seemed the only fair one.

Jorge Lovera introduced his proposal by explaining that he was attracted to Queen Village because of its history, its active social life and its neighborly interaction. After presenting photographs of the building, he indicated that it has many more problems than are visible from the exterior. Though he acknowledged the concern regarding the extent violations, he suggested that the present owner would lose money on the sale. Further, and more important to the community, his proposal would ensure that this site was not marked by further deterioration and vacancy. To the contrary, this proposal offered the vitality of a late-twentieth century design which would enhance this dynamic, historic environment. Mr. Lovera testified that the president of the Queen Village Neighborhood Association did not object to the proposal and that the group would support the judgment of the Historical Commission. Mr. Lovera did not want to reconstruct the carriage-house to affect an historic appearance, believing such reproductions architecturally dishonest. Though Society Hill may include many buildings reconstructed either in whole or part, he questioned their authenticity, as well as their effect on the social life of that neighborhood. After presenting several sketches and a rendering of his design, Mr. Lovera suggested that his proposal more accurately expressed the character of Queen Village in the 1990s than a reproduction.

Mr. Montgomery indicated that the issue was not whether this proposal was superior to reconstruction, but rather if the Commission wanted to pursue the outstanding violations. Members noted that if this proposal were for a vacant lot in an historic district, Commission review would be limited to a forty-five day comment period; or, if a formal demolition permit application were submitted by the owner or his authorized agent, the merits of the proposal could be discussed. However, the Commission found that it could not make a formal determination on this question owing to the absence of a permit application and of a property interest on the part of Mr. Lovera. In addition, many of the members agreed that the mandate of the historic preservation ordinance and the peculiar circumstances surrounding the building require that the Commission pursue remedies available to it for the correction of the several outstanding violations already issued to the present owner.

**The Report of the Committee on Financial Hardship of the Philadelphia Historical Commission held on 3 June 1991, Barbara Kaplan, Chair.** Mr. Tyler presented a summary of the meeting, at which the Committee reviewed materials submitted by B.T. Waterfront Inc., relevant to its proposed demolition of the **Jayne Estate Building, 2-16 Vine Street**. The applicant presented two new pro forma analyses for reuse of the Jayne Building by itself -- one set for residential loft rehabilitation with ground floor commercial use and limited parking, another for reuse as office space. The applicant maintained that neither option was economically viable. **Following considerable discussion, the Committee requested supplements to the new pro forma analyses, including:**

- a copy of the 1989 appraisal noted in the new analyses;
- two pro forma analyses given existing conditions, one using the income tax credit alone and another using both it and the facade easement;
- an estimate of the financial abatement from demolition of the building and development of a surface parking lot;
- an estimate of costs to seal and "moth-ball" for several years;
- a comparison of the two preceding estimates; and
- documentation of attempts to sell the property.

Dr. Brownlee seconded this recommendation, which the Commission adopted unanimously.

**The Report on Staff Activities, May 1991, Richard Tyler, Historic Preservation Officer.** Mr. Tyler discussed the application for a demolition permit for the **Victory Building**. The owner will appear before the Court of Common Pleas on 27 June 1991 in an attempt to procure an injunction against the City from preventing demolition. Mr. Tyler indicated that he would convene a meeting of Committee on Financial Hardship before that date and would attend the court hearing. In response to inquiry of Mr. Nathan, Mr. Tyler indicated that he was not aware if the materials submitted constituted a complete application.

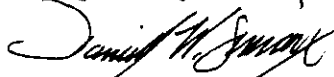
A more general discussion ensued regarding the role of the Committee on Financial Hardship. Mr. Nathan suggested that the questions faced by this Committee were at the cutting edge of significant issues of public policy, including proper police powers and regulatory takings. He requested a memorandum from the Law Department to provide guidance on these issues and to outline those factors which the Committee and the Commission may weigh in consideration of these decisions. Mr. Wilds supported this request and asked for a direct citation from the historic preservation ordinance which allowed the Commission to determine that historic significance constituted sufficient grounds to disapprove a proposal, regardless of hardship. Dr. Brownlee suggested that the language of the ordinance left such decisions to the discretion of the Commission.

Mr. Montgomery concluded that there were no absolute rules on this matter and that the outcome depended on the individual case and the individual building. He added that, in order for the Commission to approve a demolition permit on the grounds of financial hardship, the hardship must be overriding. Mr. Nathan acknowledged the preceding points, then renewed his request for a memorandum summarizing recent case law relevant to this issue. Mr. Montgomery asked Ms. Petrillo to prepare such a memorandum.

On another matter, Mr. Tyler noted that an appeal had been filed with the Board of Licenses and Inspections Review for the Commission decision on the **Wetherill Apartment Building, 1830 Rittenhouse Square.**

To discuss pending legal matters, the Commission called an Executive Session, after which it adjourned at 11:40 a.m.

Respectfully submitted,



Daniel W. Simcox,  
Executive Secretary