

REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP

PHILADELPHIA HISTORICAL COMMISSION

Wayne Spilove, Chairperson

Commission Conference Room, Suite 1301, 1401 Arch Street

4 December 1995

Present

Wayne Spilove, Chairperson, Committee on Financial Hardship
David Baldinger, City Planning Commission
David Brownlee, Architectural Historian
Bennett Levin, Department of Licenses and Inspections
Arlene Matzkin, Historical Architect
Scott Wilds, Office of Housing and Community Development

Richard Tyler, Historic Preservation Officer
Randal Baron, Assistant Historic Preservation Officer
Lori Plavin Salganicoff, Historic Preservation Specialist

Also

Leonard J. Ciccotello
M. Richard Cohen
Milton Marks, Preservation Coalition
James J. Mulvihill, Associate Executive Director, Wills Eye
Hospital
William G. Schwartz, Esq., Counsel for Joseph Pacitti,
equitable owner of 103-105 and 107-109 Walnut Street
Sandra Taxin
Sallie A. Updyke, Esq., Counsel for Wills Eye Hospital

Mr. Spilove called the meeting to order at 2:10 p.m.

Mr. Tyler informed the Committee that the Commission had received documentation in support of applications for demolition based on financial hardship for 103-105 and 107-109 Walnut Street and for 219 and 221 South Ninth Street, that the Commission had secured an independent evaluation of the Walnut Street materials, that it had distributed the submissions to the Committee members and other interested parties, that it had placed a public notice in a newspaper pursuant to the Sunshine Act, that it had informed all known interested parties of the meeting, and that it had provided written notice of the meeting to counsel for the applicants.

103-105 and 107-109 Walnut Street

William G. Schwartz, Esq.

PROPOSAL: Complete Demolition

Upon the invitation of Mr. Spilove, Mr. Schwartz addressed the Committee. He mentioned the report prepared for the applicant by I. Richard Cohen and Mr. Cohen's presence at the meeting to answer questions, and the evaluation written by Reaves Lukens Jr. and Company for the Commission. He concluded that the submissions satisfied the requirements of the Historic Preservation Ordinance (§ 14-2007 of the Philadelphia Code) for the demonstration of financial hardship.

Mr. Tyler reviewed the matter before the Committee. He mentioned the Committee meeting of 24 August 1995 to consider a demolition permit application for these buildings pursuant to the financial hardship provisions of the Historic Preservation Ordinance and the Commission's Rules and Regulations. At that meeting, the Committee did not adopt a recommendation to the Commission, for Mr. Schwartz informed the Committee that the materials transmitted in support of the application did not constitute his submission.

Mr. Tyler observed that if the legal owner or the equitable owner had responded promptly to the violations issued by the Department of Licenses and Inspections and had not removed all the flooring of 103-105 Walnut Street in the course of the investigation to assess the structural condition of this building, perhaps it would be less compromised. He noted, however, that this may little effect on the resolution of the question of the economic viability or the financial hardship of the preservation of this property.

Following some discussion of earlier hotel developments in Old City and a proposal approximately eight years ago to incorporate 103-105 and 107-109 Walnut Street in a similar development, Mr. Wilds stated that the Commission had advocated the stabilization of 149 South Hancock Street in the expectation that it could serve as an annex to the Bond House. At that time, those plans made economic sense. He concluded, however, that the applicant's submission and the Lukens report demonstrate a lack of financial viability for a comparable use now. He also thought the properties uneconomic as apartments.

Mr. Levin stated that during the proceedings in the Court of Common Pleas on these buildings, the Department of Licenses and Inspections sought to have the issue returned to the Commission. He also said that Judge Nigro had discussed the assessing of a \$100,000 fine for demolition by

neglect to be paid to the Mayor's Historic Preservation Fund and that that option remains before the court. In addition, Mr. Levin mentioned a discussion with Judge Nigro concerning appropriate controls on the future development of the site.

Mr. Brownlee thought that a decision by the Committee and Commission should not anticipate the court's decision. He further did not want to make a recommendation at this meeting that would absolve the owner of all responsibility for the condition of the buildings. Mr. Wilds added that the Committee serves to consider the merits of the financial hardship application, a narrower issue than that before Judge Nigro. Mr. Schwartz recollected that all agreed before Judge Nigro that 103-105 Walnut Streets posed a threat to public safety and that the question of financial hardship involved only 107-109 Walnut Street. Mr. Tyler stated that the possibility of the court's imposition of a fine is not germane to the Committee's deliberation today; the question posed today is: Is there a showing of financial hardship, even if it is self-imposed?

Committee members turned to the question of present plans for the site. Mr. Schwartz replied that a zoning permit had issued for a development at Front and Sansom Streets and two models of a fourteen-story, mixed-use tower built. In its most recent form, the plan identified the Walnut Street frontage for an entrance and open space. Little or no interest now exists in this development. Messrs. Brownlee and Wilds spoke to the understandable desire of the equitable owner, who controls all of the larger parcel except 149 South Hancock Street. Members expressed concern over the absence of a development plan for the site and the possibility of demolition's resulting merely in a vacant lot.

Milton Marks of the Preservation Coalition noted the applicant's use of the term "highest and best use" and asked if the Commission and Committee applied this standard in determining hardship. He also wondered how the applicant could show impracticality of sale in the absence of an attempt to sell the property.

Mr. Tyler responded that the Committee does not measure "highest and best use" only as the most profitable. Rather it seeks to determine whether a user can make a "reasonable return." Mr. Baldinger noted that "highest and best use" does not necessarily mean "highest and best" return. He also mentioned that the legal owner had tried to sell the parcel without success. Mr. Schwartz added that the present equitable owner had entered into its agreement of sale in the expectation of demolishing the buildings, neaten up the site and attempt to develop it. Mr. Wilds commented that

the equitable owner entered the agreement with knowledge of the historic designation.

Mr. Levin returned to the question of the appearance of the parcel in the event of demolition. He cited other instances of demolition followed by unpaved parking lots and asked what improvements would be made here. Mr. Schwartz mentioned that the 1993 Zoning Code would require a wall and landscaping if parking became an interim use. Expansion of the existing would require these improvements to the whole, old and new. He also stated that his client now has no specific plan for the lot, including parking. Mr. Brownlee noted that the Historic Preservation Ordinance includes a development plan as a part of the hardship showing. Mr. Levin again asked what site amenities will be provided. Mr. Schwartz answered that he lacked authority to make any such commitment and that his client now has no plans for the use of these two properties, including the expansion of the exiting parking lot. In part this stems from the cost of the required improvements under the Zoning Code.

Sandra Taxin spoke about the unattractive appearance of the subject properties and the presence of homeless persons around them. She encouraged demolition.

Mr. Tyler suggested a narrowing of the discussion to the question of hardship. He observed that the Department of Licenses and Inspections had found 103-105 Walnut Street imminently dangerous and that it had made no such determination for 107-109 Walnut Street. He acknowledged his lack of a credential to make a professional judgment, but opined that the width of 107-109 Walnut Street and its having a steel frame suggest that it did not depend structurally on 103-105 Walnut Street. Ms. Matzkin and Mr. Levin agreed. Mr. Schwartz questioned this last point. Mr. Tyler continued that the Commission traditionally has found it difficult to approve demolitions that will result only in a vacant lot.

Mr. Tyler suggested that the Committee recommend the approval of the demolition of 103-105 Walnut Street owing to its imminently dangerous condition and the high costs of stabilizing it. He further suggested that, in view of the steel frame and the absence of any plan for its use, the Committee recommend a denial of the demolition permit application for 107-109 Walnut Street.

Following a further exchange on site improvements and costs, Mr. Brownlee moved that the Committee recommend the approval of the demolition of 103-105 Walnut Street solely within the context of the imminently dangerous condition of

the building and the provisions of the Historic Preservation Ordinance, i.e., a finding of financial hardship, and the denial of the demolition permit application for 107-109 Walnut Street absent an imminently dangerous building citation and the submission of a plan for this address. Ms. Wilds seconded the motion which passed unanimously. The Committee adopted the 107-109 Walnut Street portion of the motion without prejudice to the owner's reapplying for a demolition permit with a plan for this property.

219 and 221 South Ninth Street

Sallie A. Updyke, Counsel for Wills Eye Hospital

PROPOSAL: Complete demolition

Mr. Tyler introduced this application by informing the Committee that he had not sought an external evaluation of this submission, for it contains little beyond the minimum required in a financial hardship application by § 7(f)(1.-.6) of the Historic Preservation Ordinance and § 9.2.b. of the Rules and Regulations, Financial Hardship in the Consideration of Permit Applications by Non-profit Organizations. It lacks the fuller demonstration of financial hardship provided for such institutions in § 9.2.c. of the Rules and Regulations. He explained that this resulted from a proceeding in the Court of Common Pleas which directed Wills Eye Hospital to submit the requisite application within one week -- too brief a period of time to undertake a full analysis. In this circumstance, Mr. Tyler suggested an appearance before the Committee for discussion and guidance in the preparation of a comprehensive submission.

Ms. Updyke reviewed the Hospital's position with the Committee. She said that the Hospital sought approval both in the public interest and owing to financial hardship and referred to the Hospital's previous application to demolish 219 and 221 South Ninth Street which the Committee and Commission denied. Since then, the Hospital has had the openings sealed; however, its consultants have discovered conditions that would increase the cost of roof repairs necessitated by a fire and of mothballing the buildings to \$65,000, an amount equal to forty percent (40%) of the purchase price and greater than anticipated earlier.

Committee members noted that the Hospital had acquired the properties at a bargain price after the fire and should have expected the need to make repairs. They also observed that the Hospital had acquired other buildings in the row and suggested that demolition formed the Hospital's original purpose. Mr. Tyler added that the absence of plans and identified uses for the buildings and/or land compounds the

difficulty of considering their demolition. Committee members also questioned the cost estimates for rehabilitation of 219, 221 and the other Wills' holdings on the block and the square footage predicates for these estimates.

Mr. Mulvihill described the difficulty of the Hospital in formulating a plan for the block and the escalation in the price of the remaining properties. He thought that, in this context, the sealing of the subject properties imprudent. He and Committee members touched on various development options that would meet the Hospital's needs and maintain the South Ninth Street streetscape. Mr. Tyler suggested the possibility of mothballing the buildings and developing them in the future on the model of Pennsylvania Hospital at Seventh and Spruce Streets. Mr. Baldinger suggested that the Hospital enlist the assistance of the Redevelopment Authority in acquiring the remaining properties and undertaking a development with a blending of preservation and new construction. The City has an interest and record in supporting such institutional development.

Subsequent discussion ranged over development opportunities, funding, the possible effect of the demolition of a row listed on the National Register on some funding sources, costs, use options including offices, medical facilities and a "Ronald McDonald House", the Hospital's willingness to involve the Commission and the community in a future design whether it entails preservation or not, the Commission's response to similar problems at Seventh and Spruce and, more recently, at Eighth and Walnut Streets, and the need for further design studies. In recognition of the breadth and complexity of the issues, Mr. Spilove assured the Hospital representatives that the objectives of both the Hospital and the Commission were compatible. He urged the securing of the two houses while the Hospital and Commission work together cooperatively to resolve these questions. Mr. Wilds commented on the depth of the lots and the expendability of the rear ells; this offers an opportunity for development by the Hospital with a preservation component. In summary, Mr. Tyler suggested a meeting soon of Commission and Hospital representatives with architects and engineers to define more clearly the problems and their possible solutions.

The meeting adjourned at 4:00 p.m. without a recommendation to the Commission. Rather, the Committee will report on today's discussion and the commitment of the Hospital and the Commission to work together affirmatively to define the issues and to seek a resolution to them for later submission to the Commission.

Respectfully submitted,

Lori Plavin Salganicoff
Historic Preservation Specialist
Richard Tyler
Historic Preservation Officer