

**Historic Landmarks Commission Draft Minutes,
Special Session, November 30, 2009
Town Hall, 7pm**

Call to order, 7:07 pm: Hank Willard (acting chair), Alice Chakmakian, John Shank.

This session is only for the purpose of reviewing three building permit applications.

Conflicts of interest: none

Visitors: Steve Harris; Karene Motivans

Administration report: none

Applications:

09-39, *Specialty Business Supplies, 111 South Princess, replacement sign.*

J. Shank moved to recommend approval; A. Chakmakian seconded; passed unanimously.

09-40, *Andrew Percy, 206 E. High Street, change porch skirt from diagonal lattice to solid with a pattern to match front door; and, paint front door black.*

[Note: This job started as a normal maintenance to replace several rotted porch boards and turned into a rotted porch; though the porch was a replacement under “ordinary maintenance”, the owners wanted to go with a solid skirt as they maintained that animals were getting under their porch.]

Discussion revolved around the appropriateness of lattice versus solid skirt. Two members expressed the belief that lattice work is a traditional skirt all over town; A. Chakmakian pointed out there were other solid skirts not only around town but on High Street. When questioned why the new skirt was on and why had it not appeared before the HLC, the contractor stated that he was told by the zoning officer that he did not need a permit; the zoning officer responded that he neither

remembered saying that nor did his notes reflect that. The zoning officer emphasized that he was not saying the contractor was not telling the truth, rather there was no indication from notes or memory that advised the contractor as such.

[Note, 12/01/09: After reviewing my notes again today, I maintain my account is accurate. When I was informed of the porch work without a permit, I found that the replacement porch was “ordinary maintenance” and thus required no building permit. A day or two days later, I was informed that a solid skirt had replaced open lattice. I went to the job site; there was a solid skirt on the porch. I left a voicemail on the contractor’s office phone, took a building permit application to the carpenter on the job for the contractor or owner to fill out and submit to Town Hall.]

J. Shank made a motion to the Planning Commission that the solid skirt be removed and replaced with wooden open lattice; H. Willard seconded. Shank and Willard voted for the motion; Chakmakian opposed.

[Prior to adjournment, Karene Motivans pointed out there was a second part to the application requesting permission the front door be painted black.]

The black door portion of the application was handled under separate motion; J. Shank recommended approval of the color; A. Chakmakian seconded; motion passed.

09-41, *Steve Harris, contractor for Diane and Bob Iwig, 219 West German St., install new railing.*

J. Shank said that when the HLC heard the original application (#09-28, August 10, 2009), as he recalled, the HLC dismissed the then current metal handrail as unworkable, but concluded that the HLC had not recommended a handrail. K. Motivans read the HLC’s motion from the August 10, 2009, minutes:

“S. Nash offered an amended motion that PC should encourage the applicants to retain and rebuild the stonework and replace the ironwork with something historically appropriate. Amended motion was accepted and passed unanimously.” No replacement material or style was recommended by the HLC.

J. Shank noted that the contractor’s presentation of numerous photos of similar railings in the neighborhood had proved that this type of rail is an appropriate rail,

but felt the question was material, which is not wood. H. Willard was not concerned about the material but the style of rail. K. Motivans pointed out that in the displayed photos, all examples appear to have an overhanging roof on a porch with the posts going to ceiling. The actual replacement would have had no railing at all. J. Shank mentioned safety. K. Motivans said safety was not an issue with this session.

Contractor Steve Harris said the railing is to scale and that licensed contractors have to have building codes and a patio more than thirty inches off the ground has to have a thirty-six inch high rail. He stated that the owners had people falling down the old steps, so safety is an issue. Harris emphasized that it was not his nor the owner's intent to go against the grain of the town; the owners walked around town to view other railings and made the decision on the proposed rail so as to match or mimic other rails; he stated that the owners' intentions were and are honorable and that there was no intent to circumvent the building permit process. H. Willard agreed and felt the current situation was the result of a misunderstanding.

S. Harris said that in terms of composite material, he had advised the client that it might not pass HLC and PC review. After the original application met with HLC resistance, the contractor withdrew the application to perform the work on the porch as per the HLC and Title 9; he concluded that because the HLC recommended the iron rail be replaced that the proposed rail was OK.

H. Willard explained that the HLC looked at the application and choked on porch part of it and never really discussed what would rest on top of it.

The question arose that if they were replacing iron with iron should they go back to iron.

H. Willard said that the current proposed rail looked wrong, but was unable to explain exactly why.

A. Chakmakian, believed the original HLC motion was troublesome, and felt there should be concern with reliance on that motion.

J. Shank expressed that the HLC left the owners and contractor hanging and there has to be a resolution. The HLC can reject approving the application, but what should they be told to do?

S. Harris pointed out that the unpainted rail is stark; with paint, it will be more subtle, it won't be that stark, and it won't appear to be as big when it is painted.

K. Motivans expressed concern that because of the visibility of the area in question that the material used is important and that the proposed material would never have the patina of wood.

J. Shank felt that none of the HLC is pleased with the situation, but the HLC needed to have a resolution.

H. Willard said the applicants did present something before, which was much like what was in front of the HLC with the current application. He added that when the HLC acted on the original application that its action interrupted the whole application.

S. Harris pointed out the large patio which was permitted by the Planning Commission is exactly the same style as the current new construction. He again expressed the desire of the owners for their structures to conform and be uniform.

A. Chakmakian asked if there was any reason why any person would/could change a railing style without going to the PC? M. Abshire said that's where the misunderstanding occurred: the HLC recommended the current iron rail be replaced and a historically appropriate rail used; because the current proposed style is prominent in town, the applicants concluded the rail in the original application was historically appropriate.

J. Shank, the guidelines talk about appropriate railing; does the PC consider the iron railing appropriate? If so, there can be a return to the iron railing. Do we want to consider going back? H. Willard noted that money had been spent and that the owners and contractor had made a good faith effort to follow guidelines.

A. Chakmakian stated that the problem is the HLC did approve something—the replacement of the railing—but HLC didn't give guidance how to do it.

H. Willard said that his focus was on the stone, and as for the railing “I decapitated the whole thing in my mind.” J. Shank added that without addressing the railing directly his belief is the HLC members collectively thought the applicants would replace the railing with new and better quality ironwork, but the HLC made no specification.

S. Harris asked, irrespective of the ironwork, what would the HLC consider historically appropriate?

J. Shank suggested that if completed and if painted the color of house, he felt it would not be that obtrusive. He suggested that even though most of the structures in town with this style railing do have a roof of the area that because of the style of the rail it would blend in. J. Shank made a motion to recommend approval of the railing as is, and when completed, it will be painted the same as color of the house; A. Chakmakian seconded.

A. Chakmakian said that for purposes of discussion she felt hamstrung with the HLC’s previous motion. H. Willard admitted it could have been articulated better.

Without further discussion, motion carried.

Meeting adjourned, 8:30

Additional material related to applications 09-28 and 09-41

11/10/09, notes

Bob & Diane Iwig/Steve Harris contractor

Application received July 27, 2009

#09-28, Bob & Diane Iwig, 219 West German Street, remove existing stone patio and steps; replace with wood composite deck, including posts, rails, lattice, and stairs. J. Hurley, said the existing structure is made of nice stone, and should be repaired.

H. Willard felt this is a troublesome application; it gets into areas we have no judgment about [material selection]. Even if stone porch were 80 years old; he

would encourage them to repair. H. Willard, made a motion to recommend to PC that the owners repair the stonework and not substitute it with plastic; J. Shank, seconded.

Discussion focused on materials in which the guidelines encourage owners to retain original when possible. HLC felt the ironwork should be replaced but the HLC was at a loss to determine from applicant's drawing exactly what architectural style was being proposed. H. Willard wondered what is the overall design of the proposal; he guessed it was somewhere between Victorian and Rocco Revival with Greek overtones.

S. Nash offered an amended motion that PC should encourage the applicants to retain and rebuild the stonework and replace the ironwork with something historically appropriate. Amended motion was accepted and passed unanimously.

[8/17/09 Zoning Officer note: After hearing the HLC comments and recommendations, contractor Steve Harris—acting on behalf of the owners— withdrew the application prior to the Planning Commission hearing. Mr. Harris stated that the owners and contractor would abide by the HLC recommendations.]

August 17, 2009 note

Met with Steve Harris about rock porch 219 W. German; he withdrew application. They will perform maintenance on what is there; all rock will be removed, repack the dirt, lay concrete slab base (because the soil is causing the sinking stones), and if possible replace all the original stones. I requested Mr. Harris send an email confirming this:

August 17, 2009 email from Steve Harris

Sir,

Please remove 09-28 Bob and Diane Iwig application for consideration from tonights hearing.

Thanks,

Steve Harris

[Harris/Forthofer General Contracting LLC](#)

August 28, 2009, email from Steve Harris responding to an email from M. Abshire seeking assurance he would be using the old stone:

Mike,

We will definitely be using some of the old stone. Some of those pieces are priceless and incorporating them with the new is what excites us. Please check out the other patio we did around the corner (we pulled a permit and it was approved:) where we discovered an inert original brick cistern, and convinced the homeowners to let us expose the top part to use in the final patio decor? Good stuff!

Thanks!

Steve Harris

From PC 9/28/09 minutes:

1. [review of August minutes] H. Heyser questioned if application #09-28 was now a maintenance issue. M. Abshire responded yes; the contractor withdrew the application after the Historic Landmarks Commission denied to recommend removing the rock steps and landing, and replacing it with a composite or “plastic” deck. P. Berry felt there should be an application as new materials were put in; M. Abshire maintained that he was told by the contractor that to perform the maintenance, he would have to remove the rock and strengthen its foundation; the soil had caused the structure to sink unevenly causing the steps and landing to become a safety hazard; on two separate occasions the contractor was questioned about replacement of the original rock and the new rock; the contractor said that in the process of dismantling the structure, some rock would be damaged or deteriorated and be replaced, but the contractor assured M. Abshire that they would use as much of the old rock as possible. P. Berry asked that it be checked out. [Note, 9/28/09: M. Abshire contacted the contractor who stated in an email: “We used as much of the old stone as was possible. The majority was deteriorated and had a crumbling face, thus was not suitable for being

installed. We did, however, use approximately 80 percent of the stone in the foundation and as a sub-base.”]

19 Nov 09

Steve Harris returned call this a.m. Said the railing going in at Iwig was \$6,000 piece of work, etc. I said it wasn't that but PC members felt he was doing work that he had not applied to do. We agreed to meet at Town Hall, 10:30 a.m. tomorrow. (He was on this way to Baltimore when he called.)

20 Nov 09

Mr. Harris feels that I told him he didn't need a permit, which I did based on the HLC review, what Mr. Harris said, and section 9-902 II of the zoning ordinance:

II. Ordinary maintenance, [Permit] not required Nothing in this chapter shall be taken or construed to prevent work and repairs on any structure, coming under the heading of ordinary maintenance.

HLC motion: S. Nash offered an amended motion that PC should encourage the applicants to retain and rebuild the stonework and replace the ironwork with something historically appropriate. Amended motion was accepted and passed unanimously.

[8/17/09 Zoning Officer note: After hearing the HLC comments and recommendations, contractor Steve Harris—acting on behalf of the owners— withdrew the application prior to the Planning Commission hearing. Mr. Harris stated that the owners and contractor would abide by the HLC recommendations.]

My question is: At what point does ordinary maintenance become something that requires a building permit? In this case, in an effort to stabilize the foundation, the

rocks became or were unstable or unworkable, does that exceed the standard of ordinary maintenance? If so, how?

In regard to the railing, the style in question was in the original application drawing (included). The HLC stated that “the ironwork should be replaced...but the HLC was at a loss to determine from applicant’s drawing exactly what architectural style was being proposed.” Since the HLC recommended repairs (ordinary maintenance) be made to patio/deck and that the wrought iron railing needed to be replaced, Mr. Harris concluded that the rail from the drawing was OK to use. He stated that the owners picked the railing as it was similar to the railing across the street at the Bread & Breakfast; the owners and contractor felt it appropriate because both buildings are painted brick, and they wanted the new work to blend in with a neighboring houses and styles as much as possible.

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