

STATE HISTORIC PRESERVATION REVIEW BOARD MEETING
MAY 6, 2005
MICHIGAN HISTORICAL CENTER

Lynn Evans, President, called the meeting to order at 10:00 a.m.

Board Members Present:

Janese Chapman, Lynn Evans, Richard Harms, Alison Hoagland, Jennifer Radcliff

Board Member Absent:

Scott Beld, Elisabeth Knibbe

Staff Members Present:

Amy Arnold, Laura Ashlee, Nick Bozen, Bob Christensen, Sandra Clark, Brian Conway, Brian Grennell, Ted Grevstad-Nordbrock, Megan Melinat, Denise Sachau, Diane Tuinstra, Todd Walsh

Members of the Public Present:

Rebecca Binno-Savage, Marilyn Florek, Sheryl Jaslow, Jennifer Wendler

Approval of Agenda:

Harms moved approval of agenda.

Hoagland seconded motion.

Approved 5-0

Approval of Minutes of October 22, 2004:

Evans noted that there had been some changes at the previous meeting, but due to technological difficulties not all changes had been recorded.

Radcliff moved approval of minutes.

Harms seconded motion.

Approval of Minutes of March 4, 2005:

Harms noted that a comment made during the Mazi vs. New Baltimore Historic District Appeal was incorrectly attributed to him.

Hoagland stated that she had made the comment noted by Harms.

Evans requested change be made to minutes.

Hoagland moved approval of minutes as amended.

Radcliff seconded motion.

Staff Reports:

Sandra Clark

- The City of Detroit is in the process of demolishing the Madison-Lenox Hotel.
- The center portion was destroyed on Wednesday morning, there was also damage done to the two towers.

- The historic district commission was able to obtain a temporary restraining order.
- The City of Detroit is financing and taking full responsibility of the actions.
- The restraining order was lifted on Thursday afternoon, and demolition was proceeding.
- It is unfortunate that efforts to find an adaptive reuse had not met with success.
- It is clear that the Michigan Historical Center and the State Historic Preservation Office does not have the ability to stop the demolition.
- It was determined by the Judge that Preservation Wayne and the Michigan Historic Preservation Network do not have legal standing in this case.
- MHC and SHPO were not the only agencies in state government who were working to find a solution

Nick Bozen

- One of the problems with this case is that city attorney assigned to represent the historic commission had historically worked for the building department which was looking to demolish the building.
- There were also concerns about the influence of administration on the final outcome of this case.
- Bottom line is that this case needed a third party (such as Preservation Wayne or the National Trust) to be able to speak on behalf of the building.
- The language in the Local Historic Districts Act needs to be modernized to recognize bonafide preservation groups would have legal standing in cases such as this.

Chapman stated that the demolition of the Madison-Lenox resembles the demolition of the Chene House. Chapman further stated that since Cityscape Detroit and Preservation Wayne did not have legal standing in this case, the Local Historic Districts Act needs to be examined. This case addresses the issue of what is the public good, and if the public does not have standing, then who does.

- There are two aspects of the enforcement provisions in the LHD Act. One deals with who can speak in a pre hoc sense to actions being taken before the property is destroyed. The other addresses post hoc circumstances, and when an organization violates the LHD Act, then that organization must bear the expense of restoring the building to its previous state.
- The question then becomes who can sue on behalf of the building since the violator is a government agency.

Hoagland asks whether it is language within the LHD Act that prohibits non-profit organizations from having legal standing.

- There is nothing in the state law that prohibits non-profit organizations from going into court. The problem is that there is nothing clear within the LHD Act that grants permission to non-profit organizations.

Conway ask whether the Review Board should make a statement regarding the demolition of the Madison-Lenox since the case was going through the appeal process

- The Ilitch family has filed an appeal to the denial of the demolition permit.

- Now the Ilitch family attorney will send a legal motion to the Administrative Law Judge in DLEG to dismiss the case.
- Historically, when cases do not come to hearing the ALJ signs the Order Of Dismissal.
- It is not clear what should be included in the Order Of Dismissal.

Clark stated that there are no good options at this point, and the best focus of energies are determining how the laws should be changed. Radcliff stated that the type of legal representation provided to local historic district commissions within the LHD Act be addressed.

- In the past, when an appeal of a local historic district commission decision has been filed, the appeal ends up with the Review Board before it went to court.
- Previously, appeals had directly gone to court. In some parts of the state that took a lot of time and money, and some judges had limited knowledge of preservation law and would issue radically different judgments.
- There is a provision in the LHD Act that states that no one can go to court before the case is reviewed by the Review Board because the Review board has jurisdiction.
- Previously, a State Hearing Officer would hold a hearing, take in evidence, provide legal analysis and prepare a Proposal For Decision for the Review Board.
- The Review Board held the right to differ from the Hearing Officers opinion.
- The Governor has issues an executive order that centralizes the Hearing Officer functions and personal into the State Office of Administrative Hearings and Rules.
- SOAHR is the largest central hearing organization in the country.
- Most departments have transferred all staff, equipment, and budget to the new organization.
- Dr. Anderson was able to reach an agreement with the Governor and her staff that left the HAL staff and budget in place, and only transferred the hearing functions.
- What will happen now is that SHPO will receive the filing, and fill out a form that transfers the case to SOAHR.
- Prior to sending the file to SOAHR, Bozen will review the documentation and synthesize legal arguments.
- Once SOAHR receives the file, they will assign a hearing officer, send out a notice of hearing, and schedule and hold the hearing.
- The ALJ will prepare and Proposal For Decision and present the proposal to the parties.
- The parties will then respond with any exceptions.
- A certified package containing the evidence, Proposal For Decision, and exceptions will be certified by SOAHR and returned to SHPO to be placed on the agenda for the next Review Board Meeting.
- Bozen then will make any changes determined by the Review Board, and will prepare a Final Decision and Order.
- The ALJs in SOAHR are not totally lacking in preservation law experience.
- SOAHR management fully intends to assign someone with preservation experience to hear preservation cases.

Brian Conway

- Governor's Awards for Historic Preservation was held on Thursday, May 5.
- Very pleased with the number of people and legislators who were in attendance.

- The new historical marker book has been published by the University of Michigan Press, and will be available in bookstores on June 15.

Clark stated that the MHC has issued historical society grants this year totaling \$100,000, and received 140 applications totaling over \$900,000. Over 50 of the applications involved some sort of historic preservation work. Clark also stated that, from a legislative point of view, there have been some attempts to weaken the LHD Act. Radcliff asked whether the commissions understand that they need to have a connection with their legislator, and if anyone is ensuring that they do understand that. Clark commented that the Michigan Historic Preservation Network could do that job. Conway stated that the SHPO is working with the MHPN on this and other legislative issues.

National Register Nominations

Site: Franklin Historic District Boundary Increase and Additional Documentation

Presented By: Wendler

Moved for Approval: Hoagland

Seconded: Harms

Vote: 5-0

Criteria: A, B, C

Level of Significance: Local

Radcliff asked for clarification of the original boundaries and proposed, new boundaries, where the village green is located on the map, and the location of the new police station. Loeb asked whether the village green was ever built on, besides the structures already present. Wendler stated that it had not. Radcliff commented that the addition of the police station had infringed on the original intent of the village green. Loeb commented that the village green was not an original concept. Wendler clarified that the land developer originally owned the land, and through a series of purchases from 1954 to 1973 the village green was created. Evans asked if the archaeological site found in the district might be cause for Criterion D to also be considered. Harms asked whether the invention of the dry roasting of peanut process increased the level of significance. Christensen stated that he needed to conduct further research to establish that evidence does indeed exist for that claim.

Site: Indian Lake Road Stone Arch Bridge, Orion & Oxford Townships, Oakland County

Presented By: Christensen

Moved for Approval: Radcliff

Seconded: Chapman

Vote: 5-0

Criteria: C

Level of Significance: Local

Chapman commented that information about Fred Pelham might be available in the Burton Collection of the Detroit Library.

Site: Barlum Tower, Detroit, Wayne County

Presented By: Jaslow

Moved for Approval: Chapman

Seconded: Loeb
Vote: 5-0
Criteria: C
Level of Significance: Local

Christensen stated that the Detroit Historic Designation Advisory Board approved the nomination, and recommended that Criterion B be added. Conway asked whether the building was occupied. Jaslow stated that it was occupied with city offices.

Site: Park Avenue Hotel, Detroit, Wayne County
Presented By: Florek
Moved for Approval: Hoagland
Seconded: Harms
Vote: 5-0
Criteria: A, C
Level of Significance: Local

Radcliff asked for clarification regarding Lew Tuller's desire to emulate 5th Avenue or Park Avenue in New York City. Christensen stated that the Detroit Historic Designation Advisory Board approves of the nomination.

Site: Eddystone Hotel, Detroit, Wayne County
Presented By: Florek
Moved for Approval: Chapman
Seconded: Radcliff
Vote: 5-0
Criteria: A, C
Level of Significance: Local

Christensen stated that the Detroit Historic Designation Advisory Board approves of the nomination. Radcliff asked why the Eddystone Hotel and the Park Avenue Hotel were nominated separately. Christensen stated that he originally suggested writing them separately. Conway asked if there was any plans for the vacant land surround the Park Avenue and Eddystone. Jaslow stated that there is a lot of development going on, but the area needs some stabilization first. Christensen commented that a cell tower project was recently submitted to the SHPO

Site: Carl and Alice Chandler Schmidt House, Grosse Pointe Farms, Wayne County
Presented By: Florek
Moved for Approval: Hoagland
Seconded: Loeb
Vote: 5-0
Criteria: B, C
Level of Significance: State

Radcliff commented that there might be some connection to state legislation and the creation of mineral reserves. Christensen said that there is something of a case to be made, but is a toss up, and decided to

take the conservative route. Florek stated that a lot of Carl Schmidt's papers at the University of Michigan seem to deal mostly with his farm Serra Bella and not with this house. Radcliff stated that between his connections to the early days of Michigan State University, the determination of right of the State to reclaim lands, and his own experimentation with farming techniques that the nomination should be moved to State Level of Significance. Loeb stated that it would have been helpful to have a map

Site: John T. Woodhouse House, Grosse Pointe Farms, Wayne County

Presented By: Florek

Moved for Approval: Chapman

Seconded: Harms

Vote: 7-0

Criteria: C

Level of Significance: Local

Conway asked if the property still had waterfront access. Florek answered that it did not. Radcliff asked about moving the level of significance to State instead of Local. Florek stated that since there was so many tobacco companies that it would need to have been a major company. Harms stated that tobacco argument would really need to be developed. Hoagland stated that there was an error regarding George Mason and his employment at a tobacco company, and that it should be John Woodhouse.

Site: Detroit-Leland Hotel, Detroit, Wayne County

Presented By: Binno-Savage

Moved for Approval: Radcliff

Seconded: Loeb

Vote: 5-0

Criteria: A, C

Level of Significance: Local

Christensen stated that the SHPO has received a letter of support from the Detroit Historic Designation Advisory Board. He further stated that the DHDAB asked if a larger, "Bagley Avenue" district should be considered.

Site: Mellus Newspapers Building, Lincoln Park, Wayne County

Presented By: Binno-Savage

Moved for Approval: Loeb

Seconded: Hoagland

Vote: 5-0

Criteria: C

Level of Significance: Local

Site: Langford and Lydia McMichaels Sutherland Farmstead, Pittsfield Township, Washtenaw County

Presented By: Christensen

Moved for Approval: Loeb

Seconded: Chapman

Vote: 5-0

Criteria: A, C

Level of Significance: Local

Radcliff asked about the term “basement barn.” Christensen stated that it is a type of barn in which most of the basement is visible. Radcliff noted that on Page 4, Tenon Joints was spelled “Tendon.” Evans asked whether the trees in front of the barn should be included as part of the nomination. Christensen stated that he would look in to it. Radcliff asked whether this barn was included in the MSU barn survey, and if it wasn’t it should be.

Appeals:

Siglow v Romeo Historic District Commission
Harms moved adoption of the Proposal for Decision.
Radcliff seconded motion.
Vote: 5-0

Radcliff asks for clarification of the appellant address. Conway stated that he would bring it to the attention of Bozen.

Trident Realty v Kalamazoo Historic District Commission
Hoagland moved adoption of the Proposal for Decision.
Chapman seconded motion.
Vote: 5-0

Hoagland commented that the claim of conflict of interest is disturbing because commissioners are supposed to have an interest. Conway stated that on page 25 that the Appeals Officer concluded that they did not serve in an interest other than that of the voters, taxpayers, etc.

Historic District Study Committee Reports:

Arnold presented reports and staff comments to the board.

Report: Omena Historic District, Omena, Leelanau County
The board made no additional comments.

Report: Herman Kiefer Hospital Historic District, Detroit, Wayne County
Chapman stated that the facility is still used as a hospital, and that another building within the complex was recently purchased from the school district.
The board made no additional comments.

Report: Vinton Building Historic District, Detroit, Wayne County
The board made no additional comments.

Report: B&C Grocery Building Historic District, Royal Oak, Oakland
Radcliff asked if the SHPO staff knew of anyone who made repairs to Macotta tiles.
The board made no additional comments.

Report: Monroe Historic District, Monroe, Monroe County

Hoagland asked for clarification of the North Macomb Street Historic Area. Arnold stated that Monroe previously had several local historic districts, but that they were revoked, and once the historic preservation tax credit came into being, they tried to establish broad districts.

The board made no additional comments.

Report: Prudden Motor Wheel Factory Building Historic District, Lansing, Ingham County

Hoagland asked that, despite the mention of Kahn, no other architect has been identified.

The board made no additional comments.

Report: Coldwater Downtown Historic District, Coldwater, Branch

Loeb stated that the report should expand on the data contained in the spreadsheet included in the report.

The board made no additional comments.

Dates of Next Meeting:

September 16, 2005

February 10, 2006

Adjournment:

Harms moved that the meeting be adjourned.

Radcliff seconded.

Vote: 5-0.

The meeting adjourned at 12:45PM.

Prepared by T. Walsh