

COMMISSION OF ARCHITECTURAL REVIEW
September 27, 2012

Members Present

Susan Stilwell
Cynthia Castle
Robert Weir
Robin Crews
Michael Nicholas
Sarah Latham
Richard Morris

Members Absent

Staff

Renee Blair
Christy Taylor
Clarke Whitfield

Clarke Whitfield, City Attorney called the meeting to order at 3:30 p.m.

I. ELECTION OF OFFICERS

Mr. Whitfield opened the floor for nominations for Chairman.

Mrs. Stilwell nominated Mrs. Latham for Chairman.

Mrs. Latham nominated Mrs. Stilwell for Chairman.

The nominations were closed.

The motion to elect Mrs. Stilwell as Chairman approved by a 6-1 vote (Mrs. Stilwell voted for Mrs. Latham).

Mr. Whitfield opened the floor for nominations for Vice Chairman.

Mr. Nicholas nominated Mrs. Latham for Vice Chairman.

Mrs. Castle nominated Mr. Morris for Vice Chairman.

The nominations were closed.

The motion to elect Mrs. Latham as Vice Chairman was approved by a 4-3 vote (Weir, Castle, and Latham voted for Mr. Morris).

Mr. Whitfield opened the floor for nominations for Secretary.

Mrs. Crews nominated Mrs. Crews for Secretary.

The nominations were closed.

The motion to elect Mrs. Crews as Secretary was approved by a 7-0 vote.

Chairman Susan Stilwell now presided over the meeting.

II. ITEMS FOR PUBLIC HEARING

Item 1. Request for a Certificate of Appropriateness, PLCAR20120000272, to construct an exterior stairway at the rear of the main structure at 1021 Main Street.

Open the Public Hearing.

No one was present on behalf of the request.

Mrs. Crews stated it looks as though staff has recommended approval with the notation of staining, which I think is the universal treatment instead of painting; I would recommend we approve the idea.

Close the Public Hearing.

Mrs. Crews made a motion to approve the request as submitted using stain to match the house.

Mrs. Latham stated the staff recommendation says painting or staining. I don't feel strongly either way as long as it is appropriate and matches the house. It is certainly not well visible.

Mr. Whitfield stated the motion is to approve with staining, so we need a second.

Mr. Morris seconded the motion. The motion was approved by a 7-0 vote.

Mr. Micah Robinson, applicant arrived at 3:35 p.m.

The Commission members informed Mr. Robinson that his Certificate of Appropriateness was approved.

Mr. Robinson asked what was the reason why I can't use paint instead of stain? Why was there an objection to that?

Mrs. Stilwell responded I am a big fan of staining.

Mr. Robinson stated I am not objecting to that. I was just curious if there was any particular reason why. I am going to have the exact color in paint. Instead of trying to stain it and trying to find a stain to match, I will already have the paint. I will have to wait six months for the wood to dry out and then stain it. Is that something anyone here has a lot of experience in?

Mrs. Castle stated I do. I waited a year for it to dry out and painted it. I regretted it.

Mrs. Crews stated so did I.

Mrs. Stilwell stated staining seems to replenish the wood. It doesn't peel.

Mr. Robinson stated when you say stain to match the house, what do you mean?

Mrs. Stilwell responded just a dark stain.

Mr. Robinson stated a dark color that will blend in with the house.

Mrs. Stilwell stated the house looks fantastic. I didn't think I would live long enough to see that house look like that.

Mr. Robinson stated thank you. It has been interesting working on it part-time; because I am contracting too. I am ok with that.

III. APPROVAL OF MINUTES

Mrs. Latham made a few grammatical corrections to the minutes.

Mr. Nicholas made a motion to approve the minutes as amended from the August 23, 2012 meeting. Mr. Morris seconded the motion. The motion was approved by a unanimous vote.

IV. OTHER BUSINESS

Mr. Whitfield stated I just wanted to let you know that Mr. Holbrook has in fact appealed the City Council's decision to uphold the Commission of Architectural Review.

Mrs. Stilwell asked to the court?

Mr. Whitfield responded yes. It will be in Circuit Court. They appealed on the 30th day. We have already contracted and will be working with, which means you may have a conflict (speaking to Mr. Nicholas). You can't work on it. VML on our behalf has contracted with Daniel, Medley, and Kirby.

Mr. Nicholas stated if we are defending the City there is no conflict.

Mr. Whitfield stated as a matter of fact, it was a very strange pleading in that they appealed both decisions.

Mr. Nicholas asked what a rejection on the spot zoning as well?

Mr. Whitfield responded no. They named the Commission of Architectural Review and City Council. They alleged that it was arbitrary and capricious, which is what they have to do; and then also alleged lack of due process.

Mr. Nicholas asked are you going to be around? I could talk to you about it.

Mrs. Latham asked when you say both decisions; does that mean the opting out as well as the windows?

Mr. Whitfield responded no, I am sorry. What I meant was both your decision here and the City Council's. They have named both bodies.

Mrs. Stilwell asked is he using the same attorney?

Mr. Whitfield responded yes.

Mr. Nicholas asked can they sue this body?

Mr. Whitfield responded they are not suing; they are appealing. That would be strategy issues that we would discuss. Let's see what else was it (looking at the appeal). That is what it was, violation of due process and equal protection rights.

Mrs. Crews asked we denied two items during the course of that discussion. Is he appealing both decisions?

Mr. Whitfield responded he is appealing the windows to install and that is pretty much it.

Mrs. Stilwell stated he is not appealing opting out of the district.

Mr. Whitfield read the appeal notice to the CAR. It is only the windows.

Mrs. Stilwell asked our decision was illegal even though it is based on the law of the City of Danville?

Mr. Nicholas responded it is a standard pleading.

Mr. Whitfield stated there is a small amount that you can get attorney fees for and this is one of them.

Mrs. Crews asked were you here when this was done before?

Mr. Whitfield responded I was here, but I was not the City Attorney at the time.

Mrs. Crews asked was anybody here?

Mrs. Stilwell responded I was not on CAR.

Mrs. Crews stated I was just wondering, do they ever individualize the suit?

Mrs. Stilwell responded they used a Virginia Municipal League attorney who was really not familiar with the law or the situation.

Mr. Nicholas stated she is asking do they ever name individual members of the board?

Mr. Whitfield responded no. In fact, Gary Bengston was the plaintiff's attorney. You can say what you want, but Gary knew the law and Gary never made any allegations against the Commission. It was all against City Council. It was successfully defended in the Circuit Court and then they appealed it to the Court of Appeals and a very good friend of mine defended it. I specifically asked that he not be assigned this case.

Mrs. Stilwell stated I just heard through my little legal grapevine.

Mr. Whitfield stated you can read between the lines. Like I said, he is a very good friend of mine; but I asked that he not be assigned the case. Michael's firm will get it and I will be working very closely with them.

Mrs. Latham asked are we still on the record?

Ms. Blair responded yes.

Mrs. Latham stated we had mentioned at the previous meeting some sort of offer that a couple of us had thought of.

Mr. Whitfield stated since they have appealed, I would prefer us to no further discuss it.

Mrs. Latham stated I just didn't know what the proper venue would be for future consideration.

Mr. Whitfield stated he sued in State court, so it is not required. There could be a situation where the judge asks us to mediate. That would be the proper venue for that.

Mrs. Latham asked there are no other circumstances when CAR denies based on the law where we see a way that things might be able to be worked out to everyone's satisfaction. Is there ever an opportunity?

Mrs. Stilwell stated I think if the applicant had come to CAR before he installed and broke the law, there is a chance to work out negotiations.

Mr. Whitfield stated we are probably at the point where we need to cut off all discussion, because there are minutes being taken.

Mrs. Stilwell stated the French door that has been added to the façade of 944 Main. Obviously we brought that up. I can't guarantee that it was a window. Can you report anything on that?

Ms. Blair responded I had a meeting last week with Mr. Norton. He denies that there was a change. At this point I will continue an investigation to see if there is any photographic evidence to tell me otherwise. Right now, I would consider it an ongoing investigation.

Mrs. Stilwell asked do you still have the photographs I gave you from when I had the property listed for sale?

Ms. Blair responded I am sure we do. There is a lot of information on that property. I did have a meeting with him and we discussed the wedding cake house, the Chestnut Street property, and this as well. We talked about different aspects of each. That was the response I received. I will continue my own internal investigation.

Mrs. Latham asked has Earl made any further progress on finding all of the notes and everything related to the roof line of 944?

Ms. Blair stated he has gone through the material from what I understand, but he has asked me to start conversation with Mr. Norton; and I did that. The response that I received was that they were stolen.

Mrs. Latham asked the roof line was stolen?

Ms. Blair responded no.

Mrs. Latham asked the corbels were stolen, so he decided to cut the roof line?

Ms. Blair responded that is the response that I received at the time. I am going to continue to investigate that one as well. Apparently there is a police report to validate that. I can't confirm that, because I have not gotten to that. I will continue that investigation too.

Mrs. Latham asked on the wedding cake house, has his mother taken up residency there? I see lights and some furniture on in the evenings. I am just curious, not to be nasty to Mr. Norton or overly so.

Mrs. Stilwell stated that house has never been used for business.

Ms. Blair stated it was a bed and breakfast, but I don't know if it was ever opened.

Mrs. Stilwell stated it was in the 80's. I sold it in 1988.

Ms. Blair stated it is a legal non-conforming single family residence. I don't believe his mother is there. Actually, I had conversation about that with him too. His mother is not staying there, but there is someone. At this point he and I have open dialogue. He has given me permission to go on any of his properties at any time. I am going to try my best to keep that on good terms and complete my investigations. I will keep you up to date.

Mrs. Stilwell stated thank you.

Ms. Blair informed the Commission of her trip to the Annual Preservation Conference.

Ms. Blair stated there was a great emphasis on making defensible motions. When you make a motion make it clear, make it concise, and make note of why you are making that motion, "I am making the motion to approve based on the guidelines," or based on whatever the case may be.

There was discussion about case examples presented at the conference.

Ms. Blair stated we are going to talk about the CLG Application. We are going to start that process. I have everyone's resumes. After this, we are going to start one on one meetings and I will contact you. Let me know whatever is convenient for you time wise where we can take maybe five or ten minutes to look it over. There may be something you want to add.

Mrs. Stilwell asked you mean to the application process?

Ms. Blair responded to your resume. If you just have your professional experience and yet you have lived in an 1885 historic home for 20 years and you renovated it, brought it back from neglect, and brought it back to life. Those things can be added to this type of resume to show that you do have historical interest that you do have preservation in mind, you are active in the community, you are active in your neighborhood, and it is preservation minded. Those types of things we will probably add because that is not typically on your resume.

Mrs. Latham asked how does this work into the CLG process?

Ms. Blair responded they require a resume from every member. We are required to have an architect on board, so we have got Rick. We may have to keep cookies here or something to keep him coming. You do have to have an architect. They ask that you have an architect historian or some other options that they have as well. At this moment, we have the one architect and everyone else will fit in the category of historical and preservation interest, which is fine. I don't think it will be a problem. The application calls for copies of the Ordinances, copies of your guidelines, attendance records, things like that I have that are administrative.

Mrs. Latham asked how long does the process usually take?

Ms. Blair responded I wouldn't think no more than 30 days. It is just a matter of gathering everything together and me getting it shipped off.

Mrs. Stilwell asked it is submitted to DHR?

Ms. Blair responded it is.

There was further discussion about the CLG application process and potential funding.

Ms. Blair stated we submitted a Cost Share Application to DHR. We were granted \$12,500. The City has decided to match that. We now have a \$25,000 project that will be underway for a reconnaissance survey on Grove Street going from Ridge all the way to the end taking the cemetery. There is a threatened resources portion that will be Phase I. We do have several threatened resources. We have 40 on the list. What we will do at this point is take 50% of those. They will have an intensive level survey completed. Some of those will be lumped in together like some of them on Paxton with similar architecture. They are the same four room floor plan. We will take the best example of that and survey it. I think there are some similar on North Main. There will be 20 surveys on threatened resources and another 20 on reconnaissance. There are three phases. The last phase is going to be in the Paxton area. We are going to start on the north part, where Old Westend ends. It comes into the eligible area, so we will start at Colquhoun and work our way down. If I have the budget right, I am looking at having around 100 homes surveyed on reconnaissance level depending on how the RFP's come in.

Mrs. Stilwell asked are you talking about from Paxton Avenue, which is Holbrook?

Ms. Blair responded coming from the south side of Green Street Park where the Old Westend ends and then coming down towards the tracks.

Mrs. Crews asked can you define for me what reconnaissance level means?

Ms. Blair responded kind of a high level survey of just the exterior. We will photograph if we can get on the property. We will document all four sides.

Mrs. Crews stated zoom on in the various sides.

Ms. Blair stated we will. If we can get on the property, it will be all four sides; if not, it will simply be from the sidewalk. There will be an architectural write up. If there is any known history of the property, family history of anyone locally famous that will be included as well.

Mrs. Latham asked is this then heading in the direction of extending the lines of the historic district, not the overlay but just the historic district lines?

Ms. Blair responded it was in our original Cost Share Application to do a PIF for the extension of the Old Westend to include Grove Street. Due to funding sources, because we submitted a \$50,000 proposal and we got half; so what we are hoping to do is with the CLG Application there is a potential that once that is completed and we are a CLG community that the PIF can be funded and we can look at that area to Grove Street. It is going to take a little longer.

Mrs. Stilwell asked how about the rest of Chestnut Place?

Ms. Blair responded it does include that.

There was further discussion about the area included.

There was discussion about street names that are signed incorrectly.

Ms. Blair welcomed the new members and congratulated the newly appointed officers.

Ms. Blair stated I have contacted the Dan River Association of Realtors to talk to them about potential training. I have not heard back.

The Commissioners gave brief introductions of themselves.

With no further business, the meeting adjourned at 4:05 p.m.

APPROVED