

Wilmington Design Review and Preservation Commission Wednesday, September 19, 2018

Commissioners present: Peter von Glahn, William Krauss, Edie Menser, Peter Jennings, Stuart Barron

Staff: Rose Tassone, Law; Pat Maley and John Kurth, Planning, Herb Inden, Planning Director

Administrative Business

Introduction of Commission and staff; review of who makes up the Commission and rules of procedure

Minutes from the July meeting – move to accept was made by Edie Menser, seconded by William Krauss – Stuart Baron abstained due to absence from the July meeting; all other approved.

Peter von Glahn noted they were moving the N. Lincoln Street case to the end of the agenda to help expedite the meeting's pacing.

New Business

DR-1587 808 North Broom Street – Holy Trinity Greek Orthodox Church. Construction of a link between church and support building on the Holy Trinity Greek Orthodox Church campus. Cool Spring /Tilton Park City Historic District. Resolution 22-16.

Presentation was made by the project architect, Nicholas Staikos, AIA. The design is for the “long dreamt about (13 +/- years) goal to accomplish easy accessibility between all floors of their complex.” Mr. Staikos also called out the accessibility issue which the new design will address and solve.

Planning's PowerPoint slides were shown.

Commission comments

William Krauss called the application well done and had no further comments. Peter Jennings AIA agreed, calling the project “something desired” and a nice addition to the quality of the church.

Edie Menser stated that it made a lot of sense.

Peter von Glahn called the design well done and inconspicuous (which is even better).

There were no community comments.

William Krauss read the prepared resolution #22-18 with a correction of typo of date (1996, not 1906) in the 2nd paragraph.

This was seconded by Peter Jennings and approved unanimously.

Permit Referral DR-1588: 1100 N. Rodney Street. Request to construct pergola and fireplace adjacent to garage at eastern (rear) end of property. Cool Spring/Tilton Park City Historic District. Resolution 23-18.

Presentation was made by Terry Hendricks, property owner. She stated that she and her husband are trying to “enhance the property for the neighborhood.” They chose a fireplace (and pergola) to allow three season use of the yard.

Commission comments

Peter von Glahn noted with some dismay that “this is the first we have seen of this.” He further noted there has been no permit issued, and that he considered this to be an incomplete application because there was no drawing of how this pergola related to anything else in the neighborhood. The paperwork was also missing the street level elevation and how the proposed pergola relates to nearby buildings. He ended his remark saying that he could not speak to design because the applicant did not speak to what the product would be.

Stuart Baron agreed, saying “We need more info.” He elaborated on that needed data set, calling out for “how does this interact with the garage itself” – there is no idea of distances, will it be built into garage, trim around top – just not enough info.

William Krauss said he had difficulty reading this application because we were left to guess what this will look like and what its scale is. He noted that it seemed to look tall as far as the garage is concerned, but he didn’t know without the document. He called to table the application.

Eddie Menser agreed.

Peter Jennings said the rest of the Commission had well covered his comments.

Peter von Glahn further noted that the problem includes that the project has been built without permit.

OWNER – “So the drawings are not adequate?”

Peter von Glahn – “No - it looks from this like it is the second biggest thing on the block. My idea looking at this is that it is awful big, and I can’t tell what the tarp in the photos is covering. It needs scale drawing to tell how it fits into context. It should have come to us before a single spade of dirt was turned.”

Owner –“We should have done that – we are totally at fault – figured that once we were in our yard there was no approval process. I take responsibility for that.”

Community comments – none

Motion to table was made by William Krauss, seconded by Edie Menser and passed unanimously.

Permit Referral DR-1589: 1800 N. Union Street. Request to “open” the existing enclosed porch space. Forty Acres Neighborhood Conservation District. Resolution 24-18.

Presentation was made by the contractor. He stated that the owner was looking to open up enclosed porch – she is originally from Virginia and wants to have her house join the other open porches in the area.

Planning’s Power Point slides were shown.

Commission comments

Edie Menser stated it was refreshing to return to an outward design.

William Krauss thought that the application was well done and he had no questions or comments, other than to say it will be attractive when it is done.

Peter von Glahn added that he agreed with the other comments 100%. He further noted that it was a nice job on design and application, and that it was refreshing to see things being opened up rather than closed.

He called for a motion to approve as submitted.

Stuart Baron reads the resolution as prepared, it was seconded by William Krauss and approved unanimously.

Permit Referral DR-1591: 857 Kirkwood Street. Request to remove existing signs, place an awning with business name “Woody’s Deli.” East Side City Historic District. Resolution 26-18.

Presentation was made by Daisey Lopez, sign company representative. They are proposing to install a 2-face awning and remove existing signs.

Planning's PowerPoint slides were shown.

William Krauss called it an improvement on the side of the build especially removing the old sign.

Edie Menser and Peter von Glahn agreed.

Stuart Baron asked about the downspout which seems to be rooted behind one of the signs – will that stay? It might be more esthetically pleasing if it could be moved over to where the downspout ends rather than cutting across.

Peter von Glahn noted that it may be built in from the flat roof – suspicion that it is not from an exterior gutter, but rather a built in, but might not be feasible to move.

Stuart Baron asked “So you won't trade the sign for the downspout? “

Peter Jennings read the prepared resolution, it was seconded by Edie Menser and approved unanimously.

Permit Referral DR-1592: Downtown Visions Programmatic Marker. Request from Downtown Visions to place cling signs in windows of all recipients of a DTV façade improvement grant acknowledging the funding sources of those grants. Lower Market Street & Market Street City Historic Districts. Resolution 27-18.

Stuart Baron presented in the absence of Lani Schwager of Downtown Visions (because he is on their Board of Directors).

He clarified that they were coming because they felt the need to acknowledge the financial support from the various banks. The proposed cling signs would be placed in the windows of merchants who had received a DTV grant and they had to remain for at least a year.

There was only one PowerPoint slide – of the proposed cling sign.

There were no comments/questions.

Peter von Glahn stated he thought is a great idea.

There were no community comments.

William Krauss read the prepared resolution 27-18, it was seconded by Peter Jennings and approved by all except for Stuart Baron who recused because of his advocacy for DTV.

Permit Referral DR-1590: 1836 N. Lincoln Street. Request to retain paint on façade and paint large exterior exhaust vent and shaft to match on northern elevation of building. Forty Acres Neighborhood Conservation District. Resolution 25-18.

Don Scalessa, owner of the business, made the presentation, stating that the problem was the confusion started by people against him because of application for a liquor office. He recounted a convoluted history of owning the building for 22 years, who he got it from, how he got a clean-up permit from L & I with no mention being made of the NCD status from L & I. His main point was that no one ever warned him that he was in a neighborhood conservation district, and that he would not have put himself in that position (doing the work currently discussed) if he knew it was against code.

He recounted that he was told the exhaust hood had to be changed out - and that professional job cost him \$12K. He proceeded with a further litany of "Never knew, Never knew..." He added that the conservation booklet is confusing. He stated that he received a Certificate of Occupancy. He continued that he does not have money to get paint off the building and said that he got an estimate \$ 9,000 - \$10,000 thousand dollars for the removal, and that the building would look worse to take paint off. He said that "I made the place look better – the awnings that one person had looked horrible – dogs in the building – chalk board on the building – he questioned why after being open for 6 months and applying for liquor license he gets "drug through hell."

Planning's Power Point slides were shown.

Peter von Glahn began commission comments by saying that DRPC had received 9 expressions of objection – he read the names of the objectors and said, "they have been received by the Planning Department." He noted that he did research because this area of violations in the neighborhood conservation district is new to DRPC consideration – specifically that this is new to the commission because it occurred in the Neighborhood Conservation District which is covered by a different section of the code (§ 48-421 -).

He led the audience and the commission through a Power Point chart that went through the code so the commission could see what they had as their options for decision making.

He discussed the organization of section §48 zoning code- Article IX - divisions – Categories of supplemental districts – Division 2 - division dealing with City Historic Districts. In this section there are 3 subsections that deal with 1) penalties, 2) enforcement for unauthorized work, 3) what remediation can be done.

Subdivision 3 (the Neighborhood Conservation District section) LACKS these three subsections.

Unlike the regular City Historic District section, the Neighborhood Conservation Section has no provisions to deal with unauthorized work or to authorize penalties – the wording in it deals strictly with doing the pre-project application - NOT post work remedies.

Peter von Glahn told the assembled citizens that he was hoping for his research to reveal other options, but, based on the existing Code with its unbalanced divisions, DRPC has little authorization to do anything in this situation as the Code currently exists. He added that, “I have been counseled (by the Law Department) that we have nothing we can do. Any remedies will have to be dealt with through the Department of Licenses and Inspections.” He reminded all present that DRPC is a “recommendation” commission – as contrasted to the Zoning Board of Adjustment.

His remarks included being at a loss on what DRPC can do to help the neighbors or Mr. Scalessa, and in summation, that the two issues were the painting and the hood/vent. He noted specifically for the neighborhood members, “If you had come to us beforehand, the discussion would be somewhat different.”

Peter Jennings added that he also looked at code section and said that it looks “unartfully written.” He drove around the neighborhood – and said there are a number of houses and business that have been painted. He summed that one could argue that is a precedent – that you would not want to see continue if it was in a full City Historic District. To remove the paint does not make sense (due to potential damage to the building). In terms of the color – it does not scream at the neighborhood – I think you would want to leave the paint the way it is at the moment.

Peter von Glahn noted other work that was done without permit – but further noted that they were not part of the discussion (after the fact).

Mr. Scalessa said he asked L & I for permission for the mini-split system.

Peter von Glahn told the assembled neighbors that the Commission would like to offer a chance for the folks to speak, but he was not sure what DRPC would be able to do.

William Krauss stated that, from the correspondence, we know the neighbor’s observations and assessment of the work, but this is an issue for the Department of Licenses and Inspections. L & I has to deal with this, they have the jurisdiction, we clearly don’t.

No comments from staff.

Questions were offered from audience members about the Neighborhood Conservation District status.

Jane Saxton of 1903 N Lincoln Street -

“If you don’t have the authorization to reprimand, etc – I don’t understand.” She opined at length, saying the neighbors were told by L & I that L & I would support what DRPC decided. She further stated there was also a letter from the Mayor, and that “they have all called.”

Pat Maley of Planning tried to summarize the background of the conservation district genesis from early 21st century, with the original drafting based on the neighbors’ charge, “Protect us, but don’t regulate us,” as would have occurred with a full City Historic District status. This is what Mayor Baker had supported at that time. She expressed appreciation for the neighborhood’s desire to maintain the historic streetscapes.

Neighbor Alison Quinn – added to the conversation, saying that the reason why nothing got flagged when applications went into L & I for permit was the permit paperwork indicated the application was for interior work (which would not have been sent to Planning for review, so that filter was missed). She further stated that when she bought her house in 2010 she was handled the copy of the letter that had notified all owners that the properties had been included in a Neighborhood Conservation District. She opined at length on this point.

Pat Maley referred the matter of “standing” to Rose Tassone diNardo from Law.

Ms. Tassone diNardo stated that “this issue will be brought up with L & I, but that none of us sitting here tonight have authority to deal with this matter at this time.”

Alison Quinn asked whether the neighborhood could schedule a follow up meeting to talk about the NCD. Ms. Tassone diNardo stated that was not Ms. Quinn’s original question/request. She continued that, with regards to amendments to the code, the neighbors absolutely can schedule a meeting, and described for them the process, saying contact the City Council member.

Peter von Glahn noted that Planning Director Herb Inden was in attendance, and that Peter would be surprised if Herb did not have communication with the commissioner of L & I to move this matter along.

Further community comments included -

-Alison Quinn – the letter went out July 14 (19?) there will be consequences – 14 days timetable.

-Dawn Alexander of 1829 N Lincoln Street - 1998 resident – received letter in 2004 as did all home/property owners. The Shallcross and Lincoln St. group – got letter from Mayor Purzycki, and the Mayor’s letter had listed 4 items that he said the violations. (Included insertion of hand rail, removal of column, change of appearance).

Other items she noted were installation of exhaust fan and ductwork, installation of lights, installation of wrap sign (the main sign for the restaurant on the building). She

continued that the letter said violations would be issued for all of those. She had called L & I to see if violations had been issued and was told that 2 instant tickets had been issued and had not been paid, and that no violations issued since 2015. Notation was made that a July 19 letter regarding the 4 violations letter was given to Mr. Scalessa.

The conversation became a broader venting session with the neighborhood's frustrations about violations as mentioned above multiple times. Neighborhood members said that they have been calling L & I for 2 years.

Peter von Glahn stated to them that he wished he could be the bearer of better news, but the commission's authority was limited by the current code.

Owner of 1829 N Lincoln Street – gave note regarding the recommendation about painting the ductwork - Mr. Scalessa is to immediately contact a licensed mechanical contractor. Painting is premature because of the possibility of size changes follow up removal.

William Krauss state that was not a recommendation – it was a suggestion.

Peter von Glahn expressed appreciation for his concern.

Tracey Scofield told the group that, "L & I worked perfectly in my case – we were held up. If I had known that this meant nothing, I would have just put it (a mini-split system) in." She continued that she was shocked to hear that there is nothing the neighborhood/DRPC can do, and closed by saying, "We are setting a precedent – forgiveness not permission."

Note was made that many were against the liquor license - she moved into the neighborhood in 2002, and several restaurants have changed to bars.

New resolution was called for.

Motion to table the present case was made by Stewart Baron and seconded by William Krauss. It was noted that this action would move the matter back to L & I.

The October DRPC meeting date was changed from the regular 3rd Wednesday of the month due to Tuesday Oct 30 because of the City-wide public meeting for the new comprehensive plan that all planning staff are required to attend, and to which the public is invited.

Stuart Baron moved to adjourn, it was seconded by William Krauss and approved unanimously.

8:11 pm