

**MINUTES
BUSINESS MEETING
NEW CASTLE COUNTY HISTORIC REVIEW BOARD
DEPARTMENT OF LAND USE – NEW CASTLE ROOM
87 READS WAY, NEW CASTLE, DELAWARE
May 2, 2023
5:00 P.M.**

The Business Meeting of the Historic Review Board of New Castle County was held on Tuesday, May 2, 2023 via Zoom meetings.

The meeting was called to order by John Davis, at [5:02 p.m.]

The following Board members were present:

John Davis
Barbara Silber
Karen Anderson
Jean Hershner
Perry Patel
Nannette Swadey
Kevin Barni
Steve Johns
Robert Duke

The following Board members were absent:

None

Historic Review Board, Department of Law

Colleen Norris

The following Department of Land Use employees were present at the meeting:

Betsy Hatch
Shane Bailey

RULES OF ORDER

Ms. Hatch read the rules of order into the record.

MEETING MINUTES

April 4, 2023 Meeting Minutes

On a motion made by Mr. Patel and seconded by Ms. Silber, the Historic Review Board voted unanimously to approve the meeting minutes from the April 4, 2023 Business meeting.

HISTORIC MARKER PROGRAM

None.

OLD BUSINESS

None.

NEW BUSINESS

App. 2023-0164-H: 19 Water Street. (TP 09-030.30-080). Northwest side of Water Street, southeast of the intersection with E Main Street. White Clay Creek Hundred. Demolition without a permit of 19 Water Street, within the Christiana National Register Historic District. NC5 Zoning. CD 1.

At a meeting held on May 2, 2023 the Historic Review Board considered the proposed application, public testimony provided at the April 18, 2023, public hearing, and the Department of Land Use Recommendation.

On a motion made by Mr. Johns and seconded by Ms. Silber, the Historic Review Board voted to find that a structure of historic significance was demolished without the issuance of a permit and recommend the following the Code Official:

1. **APPROVAL** of the demolition work required to bring the site into compliance with the property maintenance code.
2. The Code Official **WITHHOLD** the issuance of all building permits for a period of three years.
3. The County Attorney take immediate action to prosecute individuals responsible for the demolition.

The motion was adopted by a vote of 8-1-0-0 [In Favor: Davis, Silber, Anderson, Hershner, Patel, Swadey, Barni, Johns; In Opposition: Duke; Abstention: None; Absent: None]

Discussion preceding the vote included the following:

Ms. Hatch read the Department of Land Use recommendation into the record.

Mr. Johns inquired if the withholding of permits would be applied to the property or if it would impact the property owner and the contractor that demolished the structure. Ms. Hatch noted that it would only apply to the property owner and the subject parcel of land. Ms. Norris clarified for the Board that in the code enforcement process, there may be other repercussions for the contractor who demolished the house without a permit; however, it would not be within the Board's purview to consider for the purposes of the case before the Board. Ms. Swadey inquired if the three-year hold applied to the parcel and the property

could be eventually sold at a tax sale, what it would mean for the subject site. Ms. Norris noted that the Board was making a recommendation to the Code Official regarding the consequences of demolition without a permit and noted that further down the road if there is an innocent buyer uninvolved with the current case, the Code Official and Land Use could reconsider the hold on the property. She stated the Board should consider what the consequences of demolishing a historic structure should be and that the recommendation from the Board is important for Code Enforcement to consider.

Mr. Barni inquired what it meant to recommend that immediate action be taken to prosecute those responsible for the demolition without a permit. Ms. Norris stated that Code Enforcement has the ability to file quasi-criminal charges that would go through J.P. Court process. She stated that it is similar to a speeding permit charge or failure to have a hunting permit charge as an example of the level of charge. Mr. Barni thanked Ms. Norris for her clarification.

Mr. Duke inquired if the power to withhold permits was a new power in the code and asked how typical it is for the Board to issue this type of recommendation. Ms. Norris noted that demolition without permit cases do not come up very often and that the Board should consider intent when rendering their decisions. Mr. Davis noted that during his time on the Board he remembered three instances where a similar case was before the Board and agreed that it was not very often the Board had to consider these cases. Mr. Davis stated he believed it was important to understand the intent of the owner / person responsible for demolition and noted each case was different. Mr. Johns stated that the parties involved in the current case did not attend the public hearing to speak to the case or offer any apology. He stated he believed the Board should recommend the maximum penalty the Board can impose and leave it up to the Code Official to decide the best path forward.

Mr. Barni agreed that the Board did not know the intent of the owner and applicant and recommended the Board provide a recommendation to the Code Official also direct the County Attorney to take immediate action to prosecute those responsible for the demolition. He stated that a historic resource was demolished without a permit and that he did not believe the Board should create a precedent for individuals to demolish a building and then to simply wait out a few years before building again.

On a motion made by Mr. Barni and seconded by Mr. Johns, the Board voted to amend the motion on the floor to include a recommendation that the County Attorney take immediate action to prosecute individuals responsible for the demolition. The motion was adopted by a vote of 7-2-0-0 (In Favor: Swadey, Patel, Anderson, Silber, Johns, Barni, Hershner; In Opposition: Duke, Davis; Absent: None; Abstention: None).

App. 2023-0165-H: 3701 Philadelphia Pike. (TP 06-072.00-008). Northerly corner of Philadelphia Pike and Darley Road. Brandywine Hundred. Exterior modifications and associated site improvements to the Felix Darley House. NC6.5 & H Zoning. CD 8.

At a meeting held on May 2, 2023 the Historic Review Board considered the proposed application, public testimony provided at the April 18, 2023, public hearing, and the Department of Land Use Recommendation.

On a motion made by Mr. Johns and seconded by Mr. Patel, the Historic Review Board voted to grant APPROVAL of the proposed exterior modifications on the Darley House and the associated parking plan with the following recommendation:

1. Archaeological monitoring be conducted as ground stripping occurs during any construction on the site.

The motion was adopted by a vote of 9-0-0-0 [In Favor: Davis, Silber, Anderson, Hershner, Patel, Swadey, Barni, Johns, Duke; In Opposition: None; Abstention: None; Absent: None]

Discussion preceding the vote included the following:

Ms. Hatch read the Department of Land Use recommendation into the record. Ms. Silber made a motion to amend the motion, which was seconded by Mr. Patel, for approval to include a recommendation that archaeological monitoring be conducted as ground stripping occurs during any construction on the site. The motion to amend was adopted by a vote of 9-0-0-0 [In Favor: Davis, Silber, Anderson, Hershner, Patel, Swadey, Barni, Johns, Duke; In Opposition: None; Abstention: None; Absent: None].

App. 2023-0166-H: 300 Philadelphia Pike. (TP 06-139.00-158). Southeast corner of the intersection of Philadelphia Pike with Marsh Road, north side of Lore Avenue. Brandywine Hundred. Parking plan and with associated site improvements on the Weldin House site. CN and H Zoning. CD 8.

At a meeting held on May 2, 2023 the Historic Review Board considered the proposed application, public testimony provided at the April 18, 2023, public hearing, and the Department of Land Use Recommendation.

On a motion made by Mr. Johns and seconded by Mr. Patel, the Historic Review Board voted to grant **APPROVAL** of the proposed exterior modifications on the Darley House and the associated parking plan with the following recommendation:

1. Archaeological monitoring be conducted as ground stripping occurs during any construction on the site.

The motion was adopted by a vote of 9-0-0-0 [In Favor: Davis, Silber, Anderson, Hershner, Patel, Swadey, Barni, Johns, Duke; In Opposition: None; Abstention: None; Absent: None]

Discussion preceding the vote included the following:

Ms. Hatch read the Department of Land Use recommendation into the record. Ms. Silber made a motion to amend the motion for approval, which was seconded by Mr. Patel, to include a recommendation that archaeological monitoring be conducted as ground stripping occurs during any construction on the site. The motion to amend was adopted by a vote of 9-0-0-0 [In Favor: Davis, Silber, Anderson, Hershner, Patel, Swadey, Barni, Johns, Duke; In Opposition: None; Abstention: None; Absent: None].

ANNUAL REVIEW OF RULES OF PROCEDURE

Ms. Hatch read the proposed language for Article V, Section 1 of the Rules of Procedure into the record:

“All meetings and hearings of the Historic Review Board shall be open to the public and compliant with the Delaware Freedom of Information Act. Any action calling for a formal vote shall take place only at a public meeting or hearing which shall be compliant with the Delaware Freedom of Information Act.”

On a motion made by Mr. Johns and seconded by Ms. Silber, the Historic Review Board voted to adopt the language as part of the Rules of Procedure of the Historic Review Board. The motion was adopted by a vote of 9-0-0-0 [In Favor: Davis, Silber, Anderson, Hershner, Patel, Swadey, Barni, Johns, Duke; In Opposition: None; Abstention: None; Absent: None]

REPORT OF THE PRESERVATION PLANNER

Ms. Hatch noted the next public hearing would be held on May 16, 2023.

REPORT OF THE CHAIRPERSON

None.

COMMENTS FROM THE PUBLIC

None.

ADJOURNMENT

ATTEST:

Richard E. Hall, AICP
General Manager
Department of Land Use

John R. Davis
Chairperson
Historic Review Board