

**THE MINUTES OF THE 650<sup>TH</sup> STATED MEETING OF THE  
PHILADELPHIA HISTORICAL COMMISSION**

**FRIDAY, 14 OCTOBER 2016  
ROOM 18-029, 1515 ARCH STREET  
BOB THOMAS, CHAIR**

**PRESENT**

Robert Thomas, AIA, chair  
Emily Cooperman, Ph.D.  
Michael Fink, Department of Licenses & Inspections  
Antonio Fiol-Silva, AICP, FAIA, LEED AP BD+C  
Anuj Gupta, Esq.  
Melissa Long, Office of Housing & Community Development  
John Mattioni, Esq.  
Dan McCoubrey, AIA, LEED AP BD+C  
Sara Merriman, Commerce Department  
Rachel Royer, LEED AP BD+C  
R. David Schaaf, RA, Philadelphia City Planning Commission  
Betty Turner, M.A.

Jonathan Farnham, Executive Director  
Randal Baron, Historic Preservation Planner III  
Kim Broadbent, Historic Preservation Planner II  
Laura DiPasquale, Historic Preservation Planner II  
Meredith Keller, Historic Preservation Planner I

**ALSO PRESENT**

Ted Singer, Plumbob Architects  
Brett Feldman, Esq., Klehr Harrison  
Faith Cohen  
Ben Weinraub  
Sean McMullen  
Darin Steinberg, Esq.  
Brian Seidel  
Paul Boni, Esq., Boni Law  
Michael Sklaroff, Esq., Ballard Spahr  
David Gest, Esq., Ballard Spahr  
J.M. Duffin  
Oscar Beisert  
Rob Gundlach, Fox Rothschild  
Tim Shaaban  
Kiki Bolender  
David Hsu  
Yvette Sheline  
Rita Copeland  
Ara Chalian  
Thomas K. Crumlish  
Melissa Chapman-Smith  
Onices Dickson  
Theresa Pearsall

Sean Tranor  
Sioban Tranor  
Kevin J. O'Neill  
Michael Phillips, Obermayer  
Matt Ruben, NLNA/CDAG  
Patrick Grossi, Preservation Alliance  
Aaron Wunsch  
Lori Salganicoff, CHHS  
Joe Schiavo, CDAG  
Leonard F. Reuter, Esq.  
John C. Manton  
Amy Miller  
Joseph Menkevich  
Kathleen Larkin, Esq.  
Leona Tucci  
Desay Downing, St. James Pentecostal Church  
The Reverend Moore, St. James Pentecostal Church  
David Orphanides, Esq.  
Tim Shabaan  
Eric Leighton, Cecil Baker + Partners

**CALL TO ORDER**

Mr. Thomas called the meeting to order at 9:00 a.m. Commissioners Cooperman, Fink, Fiol-Silva, Gupta, Long, Mattioni, McCoubrey, Merriman, Royer, Schaaf and Turner joined him.

**MINUTES OF THE 649<sup>TH</sup> STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION**

**ACTION:** Ms. Turner moved to adopt the minutes of the 649<sup>th</sup> Stated Meeting of the Philadelphia Historical Commission, held 9 September 2016. Mr. McCoubrey seconded the motion, which passed unanimously.

## **CONTINUANCE REQUESTS FOR NOMINATION REVIEWS**

### **ADDRESS: 2117 E YORK ST**

Name of Resource: Weisbrod & Hess Brewery

Proposed Action: Designation

Property Owner: Autowerkstatt LLC

Nominator: Kensington & Olde Richmond Heritage, LLC

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 2117 E. York Street as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the former Weisbrod & Hess Brewery loading room, condenser and storage/boiler, and the wash house buildings, constructed between 1890 and 1899, are significant under Criteria for Designation A, C, D, E, and J. The nomination contends that the buildings are significant as part of the formerly much-larger Weisbrod & Hess Brewery complex, as well as for their association with Christian Hess, a prominent citizen in the German-American communities in Philadelphia and Atlantic City, NJ. The nomination also argues that the buildings are architecturally significant as representative designs of the Rundbogenstil style, which was used for German-owned breweries in Philadelphia and across the United States. Under Criterion E, the nomination contends that the property is significant as a work of German-American architect Adam C. Wagner, who designed more than 50 breweries during his lifetime.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 2117 E. York Street satisfies Criteria for Designation C, D, and E, but that the nomination does not make a cogent argument for Criteria A and J; it simply provides a history of the company and its owner without identifying the significance of the company in the broader context of the neighborhood or the city. The staff also recommends correcting references to the Industrial Revolution, which dates from the late eighteenth century to about 1840 in the United States. The nomination appears to confuse the Industrial Revolution with what might be broadly called the Industrial Age.

**DISCUSSION:** Mr. Farnham presented the continuance request to the Historical Commission. He noted that the owner has requested that the Commission remand the nomination to the Committee on Historic Designation for review at the December 2016 meeting. He noted that the owner proffered the request at the September Committee on Historic Designation meeting. The Committee elected not to review the nomination on its merits, but instead to recommend that the Commission continue the review to the Committee's December meeting.

Mr. Thomas opened the floor for public comment, of which there was none.

**ACTION:** Ms. Merriman moved to approve the continuance request and remand the review of the nomination to the Committee on Historic Designation's December 2016 meeting. Ms. Cooperman seconded the motion, which passed unanimously.

**ADDRESS: 30 W CHESTNUT HILL AVE**

Proposed Action: Designation

Nominator: James A. Ounsworth, Neighbors of 30 West Chestnut Hill Avenue

Owner: 30 West Main Street Development, L.P.; formerly David and Judith Buten

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 30 W. Chestnut Hill Avenue as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the property satisfies Criteria for Designation C, D, and E. The nomination contends that the property is significant as a reflection of the distinctive architectural style of the environment of the 1880s in the suburban parts of the City; that it embodies distinguishing characteristics of the Queen Anne style; and that it is a representative work of important Philadelphia architect T.P. Chandler.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 30 W. Chestnut Hill Avenue satisfies Criteria for Designation C, D, and E.

**DISCUSSION:** Mr. Farnham presented the continuance request to the Historical Commission. He explained that this matter has been continued several times, as the neighbors who nominated the property and the developer try to reach an agreement regarding its redevelopment. He noted that the request is a joint request from the nominators and owner to continue the nomination for 90 days to seek an agreement.

Mr. Thomas opened the floor for public comment, of which there was none.

**ACTION:** Ms. Merriman moved to approve the continuance request for 90 days, to the January 2017 Historical Commission meeting. Ms. Turner seconded the motion, which passed unanimously.

**ADDRESS: 227 E ALLEN ST**

Proposed Action: Designation

Property Owner: 227 E Allen, LLC

Nominator: Kensington & Olde Richmond Heritage, LLC

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 227 E. Allen Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the property satisfies Criteria for Designation A, C, D, and J. This nomination argues that the Jacob Deal frame dwelling is a rare surviving example of the wooden houses associated with the early development of maritime Philadelphia.

Prior to the nomination's April 2016 submission date, the owner had obtained a building permit for exterior alterations. The permit for this work was issued in October 2015. The work authorized under that permit may be undertaken without the Historical Commission's intervention or oversight.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 227 E. Allen Street satisfies Criteria for Designation A, C, D, and J in its current form, but may not satisfy any Criteria after the ongoing construction project is completed.

**DISCUSSION:** Mr. Farnham presented the continuance request to the Historical Commission. He stated that the continuance request was submitted by an attorney on behalf of the property owner.

**ACTION:** Ms. Merriman moved to approve the continuance request for 30 days, to the 10 November 2016 Historical Commission meeting. Mr. Schaaf seconded the motion, which passed unanimously.

## **OLD BUSINESS**

### **ADDRESS: 81-95 FAIRMOUNT AVENUE**

Proposal: Designation

Nominator: Staff of the Philadelphia City Planning Commission

Owner: VMDT Partnership

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 81-95 Fairmount Avenue satisfies Criteria for Designation A, C, D, and J.

**OVERVIEW:** This nomination proposes to designate the rowhouses at 81-95 Fairmount Avenue as historic and list them on the Philadelphia Register of Historic Places. The nomination contends that 81-95 Fairmount Avenue satisfies Criteria for Designation A, C, D and J. The nomination argues that the rowhouses are a rare surviving example of a once common building type of the early Philadelphia waterfront between Front Street and the Delaware River, and the row retains original early Federal-style characteristics despite a significant but sensitive Colonial Revival renovation in the early 1920s. The nomination further contends that 81-95 Fairmount Avenue exemplifies the cultural, social and historical heritage of the Northern Liberties community, having served as the Beach Street Mission, representing the first facility of the Guild House organization.

On 22 September 2015 The Historical Commission mailed a notice letter to the property owner notifying the owner that the Historical Commission received a nomination, which was under review, and that the property was under the Commission's jurisdiction. The nomination was scheduled to be reviewed by the Committee on Historic Designation on 2 December 2015 and the Historical Commission on 11 December 2015.

On 13 November 2015 the Commission granted the owner's request for a continuance to allow the owner time to review the nomination.

On 11 February 2016, a revised nomination for the property was submitted by the staff of the Philadelphia City Planning Commission, Oscar Beisert, and Jim Duffin. The Historical Commission subsequently notified the property owner that the nomination would be considered at the 17 March 2016 Committee meeting and 8 April 2016 Commission meeting.

On 17 March 2016 the Committee reviewed the nomination and voted to recommend that the Commission table the nomination to allow the nominator to revise it and remand the revised nomination to the Committee for review.

On 8 April 2016 the Commission moved to table the nomination to allow the nominator to revise it and stipulated that the revised nomination must be submitted by 13 May 2016. The revised

nomination was scheduled to be reviewed by the Committee on 15 June 2016 and the Commission on 8 July 2016.

On 15 June 2016 the Committee reviewed the nomination and voted to recommend that the nomination demonstrates that the property satisfies Criteria for Designation A, C, D, and J.

On 8 July 2016 the Commission moved to table the review of the nomination to seek advice from the Law Department to determine whether the staff of the Philadelphia City Planning Commission is authorized to nominate a property. The property owner's representative accepted the 30-day extension without prejudice.

On 12 August 2016 the Commission moved to continue the review of the nomination at the request of the property owner's representative.

On 9 September 2016 the Commission reviewed the nomination and offered three motions regarding the nomination, all of which failed.

On 14 October 2016 the Commission deliberated on whether the three failed motions of the previous month constituted a rejection of the nomination and failure to designate, or if the failed motions resulted in the Commission taking no action. The Commission moved that it took no action at the 9 September 2016 Commission meeting. The Commission then moved to continue the review of the nomination to the 10 November 2016 Commission meeting.

**DISCUSSION:** Ms. Long recused because her husband is employed by the law firm representing the property owner. Mr. Schaaf recused. Attorney Michael Sklaroff represented the property owner.

Mr. Thomas presented a request from Mr. Sklaroff to remove 81-95 Fairmount Avenue from the agenda. Mr. Thomas then stated that his understanding at the conclusion of the 9 September 2016 meeting was that the Commission had taken no action on the designation of the property. Mr. Thomas asked Mr. Farnham to summarize the motions made at the previous meeting.

Mr. Farnham noted for the record that Commissioners Schaaf and Long recused themselves from the discussion. At the 9 September 2016 meeting, he explained, the Historical Commission reviewed the nomination and considered three motions, all of which failed. Mr. Farnham summarized the actions: One motion was made to find that the nomination fails to demonstrate that the property satisfies any criteria for designation, and the motion failed by a tied vote of 4 to 4; a second motion was made to find that the nomination demonstrates that the property satisfies Criteria for Designation A, C, D, and J, and the motion failed by a vote of 3 to 5; a third motion was made to find that the nomination demonstrates that the property satisfies criteria for designation A and J, and the motion failed by a vote of 4 to 4.

The question before the Commission and the question posed in Mr. Sklaroff's letter, Mr. Farnham continued, is whether the failure of two motions to designate the property constitutes an implicit or explicit rejection of the nomination. Mr. Farnham stated that he has consulted with Andy Ross, the Historical Commission's attorney in the city's Law Department, and Mr. Ross's conclusion is that because the Commission took no action, the nomination can be considered to still be pending before the Commission and could be taken up on its merits again. Mr. Farnham added that Mr. Ross indicated that the Commission can decide whether or not the nomination was rejected at the last meeting through the failed motions. He clarified that the process could potentially consist of two steps: First, to decide whether or not the Commission declined to

designate the property through the three failed motions and whether the matter is still pending; and second, if the matter is still pending, to consider the nomination on its merits and attempt to reach a conclusion with an affirmative vote through the passage of a motion to designate the property or reject the nomination and refuse to designate the property.

Mr. Thomas summarized the process by stating that the Commissioners must first decide if they agree with Mr. Ross's opinion that no action was taken, which will result in another review of the nomination, or if the failed motions constituted a rejection.

Mr. Sklaroff asked Ms. Cooperman to recuse, owing to her past relationship with the expert consultant retained by the property owner. Ms. Cooperman responded that conflict of interest as defined by the City's code of ethics does not apply to her. Mr. Sklaroff stated that he understands Ms. Cooperman's position.

Mr. Sklaroff stated that the issue is not a matter of interpretation and referred the Commissioners to the correspondence the staff mails to every property owner when a property is considered for designation. He highlighted the language of the Philadelphia Historical Commission's overview for owners of properties nominated for designation as historic. Mr. Sklaroff asserted that 9 September 2016, the date of the failed motions, was the 436 day of the pendency of the nomination and that the document has passed through three serial nominators. The question, Mr. Sklaroff claimed, was simple and straightforward, and he proceeded to read from the Commission's correspondence with the property owner: "If the Historical Commission votes to designate the property as historic, its jurisdiction continues; if the Commission declines to designate, its jurisdiction lapses." Mr. Sklaroff insisted that the Commission's jurisdiction lapsed on Friday, September 9, on the 436 day of the pendency of the nomination. He noted that the Commission had a quorum, engaged in a substantive discussion, and attempted three motions. He maintained that he could not recall a motion not to designate based on how strongly Commission members felt. The two relevant motions, Mr. Sklaroff suggested, were the first motion to designate based on the nomination, which failed and was rejected by a vote of 3 to 5, and a second motion in favor of designation stripped the nomination of two criteria, leaving only two criteria. The motion failed, he added, and again insisted that the failed motions equated a rejection, even after an effort was made to designate on two criteria. Mr. Sklaroff argued that, based on the language the Commission sends to every landowner who has a property subject to nomination, if the Commission declines to designate, its jurisdiction lapses.

Mr. Sklaroff explicated the significance of a tie vote by stating that in Pennsylvania a tie vote results in failure. He added that the outcome is not a matter of opinion, depending on whether one favors or opposes the nomination. The outcome, he argued, is based on the rules of the Commission and after holding jurisdiction over the property for 436 days, the Commission rejected the nomination and jurisdiction ended on 9 September. Mr. Sklaroff asked the Commission to recognize that action, indicating that, if they did not, there would be no rule of law and nominations could fester and affect property rights indefinitely. He implored the Commission to follow the law and understand that no further action is needed, arguing that jurisdiction had lapsed and that the Commission should remove the item from the agenda.

Mr. Thomas inquired about time limits regarding nominations and asked if no definitive action is taken within a certain period if it results in a particular action. Mr. Farnham responded that neither the preservation ordinance nor the Commission's Rules & Regulations provide any sort of time limit or timeline for designations. Mr. Farnham commented that Mr. Sklaroff's cited language, "If the Commission declines to designate, its jurisdiction lapses," and clarified that Mr. Sklaroff obtained that language from an overview of the Historical Commission, its authority, its

staff, and its procedures that is mailed to every owner of a nominated property. He added that Mr. Sklaroff was not citing from either the ordinance or the Rules & Regulations, but from an overview sent to property owners, which the staff wrote collectively and which has been revised numerous times. The actual notice letter that triggers the Historical Commission's jurisdiction, Mr. Farnham continued, has slightly different language by stating: "If [the Commission] rejects the nomination, its jurisdiction lapses as of the time of the vote." Mr. Farnham indicated that he would make the letters consistent following the meeting and again stated that the Commission must decide whether it rejected or declined the nomination. He added that the Commission is not bound by the language of the document Mr. Sklaroff cited.

Mr. Sklaroff responded that the Commission did not adopt the nomination and it was, therefore, rejected. He reiterated his understanding that a tie vote results in failure and argued that the Rules & Regulations and ordinance do not contradict the overview sent to every property owner. He again argued that the nomination was rejected based on the failed motions.

Mr. Thomas questioned whether a motion requires a majority vote to pass and stated that the Commission needs to decide whether the tie vote resulted in a rejection of the nomination. He reiterated that the Law Department's advice was that the nomination remains pending, though the Commission must decide how to proceed. Mr. Thomas recommended that the Commission vote on the matter. Ms. Turner clarified that the motion that resulted in a 3 to 5 vote was not a rejection of the nomination but was a motion to designate the property under Criteria for Designation A, C, D, and J, which were identified in the nomination. Mr. Thomas added that a nomination can be approved if it meets any one of the Criteria.

Mr. Sklaroff stated that the nomination included four Criteria and asserted that Criteria cannot be plucked from the document. He again argued that the nomination failed, even after an attempt to revive the document by removing two Criteria. He reiterated his position that the nomination failed according to both the Historical Commission's overview and case law, resulting in a lapse in jurisdiction.

Mr. Thomas commented that the Commission can make changes to architectural proposals or nominations and often receive a recommendation from the Architectural Committee to deny one component of an application. In this case, he contended, the Commission can approve a nomination with one Criterion. However, he added, the Commission has not had a case where a motion to designate a property has resulted in a tie.

Mr. Mattioni stated that under normal circumstances Mr. Sklaroff is not quite correct when he argues that a tie vote results in the failure of a nomination. Mr. Mattioni questioned the accuracy of the statement, adding that Mr. Sklaroff was referring to the procedure regarding an appeal in the court system. In an appeals court, he explained, a split vote, such as in the U.S. Supreme Court, results in failure whereby the decision made by the lower courts is upheld. He clarified that the decision translates into the appellant losing and the appellee winning, but questioned whether the analogy applied to a vote on a nomination. He referred to the city solicitor's opinion, stating that the Commission has generally abided by the advice of its counsel. He reiterated his opinion that the procedure for handling a tie vote in the judicial system is not a parallel comparison and suggested that the Commission follow its counsel's opinion regarding the matter.

Mr. Sklaroff respectfully disagreed with Mr. Mattioni's interpretation and argued that his position is based on zoning cases within the Commonwealth of Pennsylvania, which are analogous to the Commission, which is now a "creature of the zoning code," as well as the City Charter. Mr.

Sklaroff offered an example of a case called Giant Food Store vs. the Zoning Hearing Board and explained the application process when seeking a special exception or variance at the administrative level, which is heard by a body similar to the Historical Commission. In this example, Mr. Sklaroff explained, if a property owner applies for a variance and the zoning board vote ties, the motion fails. He then stated that he would like Mr. Ross to be present at the meeting and commented that, because Mr. Ross's opinion was not presented in writing, he does not know what was advised. He asked that the Law Department's legal opinions on the matter be presented in writing, especially if the nomination remains pending before the Commission. He reiterated his interpretation of the laws of the Commonwealth of Pennsylvania and then requested that the matter be continued to the next meeting to allow time to write a brief and get clarity in writing from the Law Department. At present, Mr. Sklaroff contended, the decision is being made on hearsay about a possible opinion by the Law Department, which places him in an untenable position and will continue to hold the property encumbered for an indefinite period of time. He asked that the Law Department provide a short memorandum. Mr. Sklaroff insisted that the result of the tie vote is a matter of law and not judgment and stated that the two failed motions were the product of a very substantive and powerful argument on the rigors of the nomination and the meaning of designation. The property owner, Mr. Sklaroff continued, has spent tens of thousands of dollars to oppose the nomination. He reiterated his position that, following the substantive discussion with a full quorum, the motions failed and jurisdiction lapsed according to law. He assured the Commission that the property would not be demolished in the near future and commented that the current argument relates to freeing the property from a nomination that should have never encumbered it.

Ms. Merriman stated that she believed the Commission has not acted and that it needs to come to a final conclusion outside of the tie vote. Mr. Gupta inquired if there is a precedent for a tie vote on a designation pending before the Commission and asked Mr. Thomas if there had been a tie vote during a prior meeting on applications for alterations or improvements. Mr. Thomas answered that tie votes did not occur in the past because the previous chair abstained from voting except to break a tie. Mr. Thomas noted that he could not recall a comparable situation and concluded that it would be beneficial to consult with counsel on the situation.

Mr. Sklaroff reiterated that the owner will not demolish the building but that he would like to free the property from the ongoing designation process. He stated that he called the Historical Commission office following the previous meeting to inquire about the outcome and to ask whether the Commission acted after he had left the meeting. He was informed that no action had been taken. During the next 30 days, Mr. Sklaroff continued, he would like the Law Department to read the meeting minutes and to review their letter to the Commission, since, he argued, the law in Pennsylvania as it pertains to zoning rules is very clear.

Mr. Mattioni argued that Mr. Sklaroff's analogy is not appropriate, since the zoning board appellant process is different from the Historical Commission's process. Appeals of any decisions made by the Historical Commission, Mr. Mattioni continued, go to a different court, which has a different set of standards. Appeals of the Commission's decisions, he explained, go to a different review board that has the authority to modify, change, reverse, or perform another action, depending on discretion. Mr. Mattioni argued that the Law Department should provide guidance and an explanation of the procedural requirements, to eliminate the current guesswork among Commission members. Mr. Mattioni added that he is not sure the Commission is bound by the Law Department, and it is not the Commission's role to make a legal decision, but he asked that the Law Department decide the matter through an open discussion and exchange of legal memoranda.

Mr. Sklaroff expressed his appreciation of Mr. Mattioni's remarks and continued that this case does not involve a permit. Designations, he believes, go directly to the Court of Common Pleas, which is more comparable to the zoning board. Mr. Sklaroff reiterated that he had hoped to hear from the Law Department.

Ms. Cooperman commented that, although she was not at the previous meeting, she reviewed the minutes carefully and concurs with Ms. Merriman that the Commission remains in the midst of the process and should attempt to find a resolution. In light of the letters from neighborhood organizations and City Council members, she added, the designation of the property is a matter of public interest.

Mr. Sklaroff acknowledged that the matter is of public interest and commented that he may not have seen the letters Ms. Cooperman referenced. Mr. Sklaroff also indicated that an online petition had been created, one that repeats the very misrepresentations of the original nomination that claims 81-95 Fairmount Avenue consists of an intact row of 1820s houses.

Mr. Thomas requested that the discussion focus solely on the issue of whether the nomination remains pending. Mr. Sklaroff added that he hopes there is consensus that the Commission hears in writing from the Law Department, because the issue is a legal matter.

Matt Ruben, president of the Northern Liberties Neighbors Association and chair of the Central Delaware Advocacy Group, stated that he would like to alert the Commission to a couple of points, which he felt would directly impact the ability of the public to have their voice heard. Mr. Ruben remarked that he is not an attorney and is an unpaid volunteer, adding that he had read and consulted several relevant texts. He offered his own understanding of the tie vote and commented that, if the Commission had officially dispensed of the issue and rejected the nomination based on the 4 to 4 vote, then the nominators would have no recourse to appeal. Those decisions, he argued, are in the context of the body of the zoning board or the Historical Commission that, with its discretion, decide when the matter is finalized. Mr. Ruben questioned whether, in cases where the body decides that a tie equals rejection, one seeking relief can claim it was not a true rejection. He contended that his interpretation of the law is plausible and that the issue before the Commission is a matter of opinion and interpretation and not an unarguable matter of fact as Mr. Sklaroff has presented it. He insisted that the Commission has the discretion to determine whether a tie vote results in the rejection of the nomination. Mr. Ruben then stated that the Commission will place the property at risk if the review is continued, and jurisdiction could lapse. When the nomination has been considered formally through motions and voting, he continued, a 45-day clock begins. He indicated that 35 days have passed since the September 9 vote. If continued for another 30 days, he added, Mr. Sklaroff could argue at the next meeting that his due process has been violated. Mr. Ruben encouraged the Commission to reject the argument that it has no discretion and to consider taking action at the current meeting. He asked the Commission to affirm that it did not close the matter at the previous meeting, since it did not send an official decision letter, and he implored the Commission not to continue the decision for another 30 days, due to the potential vulnerability if they extend consideration beyond 45 days.

Ms. Merriman asked the staff to clarify Mr. Ruben's claim regarding the 45-day limit. Mr. Farnham stated that he is not an attorney and is not aware of all the intricacies of administrative law and could not comment on the validity of the claim. Ms. Merriman asked whether the Rules & Regulations impose limits on such decisions. Mr. Farnham confirmed that there is no mention in the Commission's Rules and Regulations or the preservation ordinance.

**MOTION:** Ms. Turner moved that the Commission find that it did not take action on the nomination of 81-95 Fairmount Avenue at its September 2016 meeting and to proceed with the review of the nomination. Ms. Cooperman seconded the motion.

Mr. Sklaroff interrupted to ask to be heard, since his due process rights are involved. Mr. Thomas suggested that the Commission refrain from voting. Mr. Sklaroff asserted that he is not prepared for a discussion, because his expert was unavailable to attend the meeting. He protested that the Commission already held a full hearing with a quorum on the nominations merits. As a matter of due process, he argued, people are now present who were not present at the previous meeting. He remarked that a stenographic record of the proceeding does not exist, and there was oral and documentary testimony. To proceed now, he continued, after the motions failed to designate the property, is a violation of the owner's procedural rights, due process, and substantive process. Mr. Sklaroff further indicated that he has not reviewed the groundswell of popular information and new support, including the letter from City Council. He objected to placing the matter on the agenda and stated that he objected to it in letters submitted prior to the meeting. He reiterated that the building would not be at risk in the next 30 days but warned against hearing the matter at the current meeting, which would place him at a disadvantage. The proof presented, Mr. Sklaroff continued, was developed over months and was sufficient to stop the nomination the previous month. He explained that to go forward based on some theory that somehow the Commission would lose leverage is a legal matter. Jurisdiction, he added, either lapsed or did not. Notwithstanding Mr. Ruben's statement, he asserted, the Commission would lose nothing if jurisdiction has not lapsed. Mr. Sklaroff maintained that if jurisdiction did lapse, the property owner should be free to proceed as he wishes.

Mr. Thomas opined about procedure and whether to keep the item on the agenda. Mr. Sklaroff stated that the decision affects the rights of a landowner in the City of Philadelphia. Mr. Thomas suggested that Ms. Turner withdraw her motion and the Commission consider whether it is of the opinion, based on what has been presented by Mr. Sklaroff, Mr. Ruben, Mr. Farnham, and Mr. Ross, that the tie vote led to the Commission taking no action, regardless of whether a Commissioner voted against or in favor of designation. If the Commission finds that the matter is still pending, he continued, then Mr. Sklaroff's request for a continuance could be considered, as long as there is agreement that the Commission would not be relinquishing jurisdiction.

Mr. Sklaroff responded that he was under the impression that the Commission already had a consensus that it should consult with the Law Department. Mr. Thomas clarified that the Commission had a discussion and will vote on how to proceed. Mr. Sklaroff acknowledged that procedure but reiterated that he understood that consensus was reached that the Commission would seek guidance from the Law Department to determine whether it is a legal matter. He restated his desire to continue the matter for 30 days to allow the Law Department to issue a written opinion to which he could respond.

Mr. Thomas stated that they are trying to reach an equitable resolution. He reiterated the issue being debated and the consequences of both outcomes. Should the Commission determine it rejected the nomination, he continued, it could direct Mr. Farnham to issue a letter to the property owner stating that the property is no longer under the Commission's jurisdiction. With the other outcome, he added, if the Commission determines the matter is pending, it could agree that the legal situation is unprecedented and grant a continuance. Mr. Sklaroff responded that he has not persuaded the Commission about its technical legal right to keep the item on the agenda, and he added that the Commission does have the discretion to continue the matter to the next hearing.

Mr. Mattioni offered a correction to Mr. Sklaroff's suggestion that a consensus had been reached. Mr. Mattioni clarified that there was no consensus and added that he was not in complete agreement over how to act.

Mr. Fiol-Silva observed that many arguments have been presented on how to proceed with the level of rigor and integrity of the process. He stated he believes the full Commission should consider whether the property should be designated or not, adding that it would be reasonable to determine the meaning of a tie vote for this case and future cases. He questioned the 45-day limit and asked for clarification on the rule, so the Commission can be assured it can review the nomination at the next meeting. He asserted that the Commission should have the ability to discuss the nomination as fully as possible, with all members of the board. Arguments, he continued, keep shifting, and he requested that the Commission definitively determine the merits of the nomination in a rigorous manner. Mr. Fiol-Silva indicated that he was troubled by the "slipperiness" of the process and asked for legal clarity before proceeding as a full board to discuss nomination and make one final motion.

Mr. Thomas responded that it is not uncommon that a motion be put to a vote and fail and to have a subsequent motion. Mr. Thomas gave an example of an application for alteration of a designated property in which the Commission has removed certain aspects of the scope of work and subsequently approved it, stating that that procedure occurs regularly. Mr. Fiol-Silva acknowledged that occurrence and added that it was his understanding that this process has continued for some time with many nominations. He clarified that he was suggesting that both sides present their best efforts and the Commission vote only once. He stated that the process is obtuse and creates confusion.

Ms. Cooperman commented that one of the Commission's powers and duties is to designate historic buildings on the basis of the Criteria for Designation. A nomination presents Criteria as they apply to a given property that is before the Commission, and the Commission makes an evaluation. Mr. Fiol-Silva responded that the criteria keep shifting. Ms. Cooperman stated that the Criteria are standardized and included in the ordinance. The Commission, she continued, determine which Criteria, if any, might apply appropriately to the property under the ordinance. Mr. Fiol-Silva responded that he agrees with Ms. Cooperman's statement and added that he would like the Commission members to prepare together and to vote as a full Commission rather than rush the discussion.

Mr. Thomas reiterated that the Commission must decide whether the matter under discussion was concluded at the 9 September meeting and, if not, whether the matter will be placed on the agenda with the understanding that Mr. Sklaroff has requested a continuance. Mr. Thomas asserted that he is of the opinion that the Commission took no action on the matter. Mr. Fiol-Silva asked that the Commission request legal clarification, adding that he does not feel qualified to determine that a tie vote resulted in the nomination's rejection or otherwise. Mr. Gupta agreed with Mr. Fiol-Silva and asserted that the implication and consequence of a tie vote is a fundamental procedural question that should receive a definitive answer. Mr. Gupta restated Mr. Sklaroff's arguments that the Commission process is analogous to zoning board procedures and that a tie vote results in a rejection. He also restated the Law Department's advice that the Commission may vote on the matter and determine the meaning of the tie vote and added that a representative from the Law Department was not present to counter why the zoning board procedure may not be an appropriate precedent for the Historical Commission. He noted that he is not comfortable answering the question without a full vetting from both sides.

Mr. Thomas suggested that the Commission vote on whether the matter remains before the Commission, then, if necessary, vote on a continuance.

Ms. Cooperman stated that it would be important, should there be a continuance, to have an explanation of the 45-day limit suggested by Mr. Ruben. Mr. Sklaroff stated that he has no knowledge of a time limitation and asked Mr. Farnham if he has knowledge of such a rule. Mr. Farnham replied that he did not and added that if Mr. Sklaroff is requesting the continuance after the September meeting, the time limitation would not be imposed, since the property owner is making the request. Mr. Thomas repeated that, if the Commission was to request a continuance, then the time limit may apply, but if the property owner makes the request, a time limit does not apply. Mr. Sklaroff reiterated that the property owner has no plans to demolish the structure.

Mr. Mattioni asked Mr. Sklaroff to state that he would not invoke any time restriction. Mr. Sklaroff responded that there is a notion out there about a time limit but, preserving all of his constitutional, procedural, and other rights, he is asking for the continuance, and it is his view that if the Commission's jurisdiction did not lapse, then it would not lapse in the next 30 days.

Mr. Fiol-Silva asked Mr. Mattioni to repeat his previous statement. Mr. Mattioni stated that at the conclusion of the previous meeting's tie vote, there was a discussion about what the effect or impact was. His understanding, he continued, was that the Commission agreed that it took no action, jurisdiction would be retained, and that the Commission was free to place the nomination back on the agenda. Whether that was an illegal decision at the time has not been determined, he commented, but it was the consensus agreement, even of those opposing the nomination. Mr. Mattioni stated that the discussion was problematic if the vote is considered as a rejection, because then there will be concern that the discussion misled the nominators into believing that the vote was not final and therefore not subject to appeal. Mr. Mattioni opined on whether the nominator would have the right to appeal and which review board or court would review the case. Mr. Fiol-Silva argued that at the end of the discussion at the 9 September meeting, he did not believe that the Commission came to an agreement that the matter was undecided. The Commissioners, he continued, did not understand the meaning of the tie vote and its meaning or outcome remained unclear in subsequent discussions.

Mr. Ruben stated that he fully respects achieving consensus to the extent that the Commission can, and remarked that the property owner's consultant submitted a full report and had the opportunity to vet his argument the previous month. The property owner's attorney, he continued, had the opportunity to submit his legal argument against this agenda item in advance of this meeting. Mr. Ruben argued that the property owner's representatives have had a full opportunity to vet and state their argument and that he is unaware of any issues relating to the merits that they have not already presented to the Commission. The parties that have not yet had a chance to speak to this nomination, Mr. Ruben claimed, are the members of the community and of the organizations that represent the constituents who live in the community. He contended that they have not yet had a chance to discuss the nomination's merits. Mr. Ruben then insisted that the Commission has not received opinions from random attorneys and noted that the Commission's own lawyer has asserted that the Commission has discretion over the matter. He implored the Commission to use its discretion and argued that, should the Commission determine that the legal issue had been resolved and the nomination was rejected, it would be a grave betrayal of the public's ability to weigh in on the issue.

Mr. Mattioni stated that Mr. Ruben's comment was inappropriate and that the Commission has held several public hearings on the nomination. On each occasion there has been proper

advertisement, he continued, and interested parties have been invited to attend and participate. He concluded, rejecting Mr. Ruben's assertion and stating that the public has had every opportunity to participate and has participated.

Mr. Fiol-Silva requested that in the future the Law Department submit its statements in writing to the Commission and asked for clarity on the outcome of a tie vote.

Mr. Thomas asked Ms. Turner to restate the motion that had been made and reiterated the implications of the different outcomes of the vote.

**ACTION:** By a vote of 6 to 3, the Historical Commission adopted the motion proffered by Mes. Turner and Cooperman to find that it did not take action on the nomination of 81-95 Fairmount Avenue at its September 2016 meeting and to proceed with the review of the nomination. Commissioners Fink, Gupta and Mattioni dissented. Mr. Fiol-Silva abstained.

Mr. Thomas stated that the item will be placed back on the agenda. Mr. Sklaroff requested a continuance for 30 days and stated that, on behalf of the property owner, his party will not move forward to demolish any part of the building while the matter is pending. The request, he continued, is made with the understanding that within the 30-day period, he and the Commission will hear from the Law Department, he will have an opportunity to respond, and there will be clarity for all parties involved.

**ACTION:** Ms. Turner moved to grant the property owner's request to continue the review of the nomination of 81-95 Fairmount Avenue for 30 days, to the 10 November 2016 Historical Commission meeting. Mr. Mattioni seconded the motion, which passed unanimously.

#### **THE REPORT OF THE ARCHITECTURAL COMMITTEE, 27 SEPTEMBER 2016**

Dan McCoubrey, Chair

#### **CONSENT AGENDA**

Mr. Thomas introduced the consent agenda, which included applications for 317 Spruce Street, 1416-22 Frankford Avenue, and 614 N. 16th Street. Mr. Thomas asked if any Commissioners had comments on the Consent Agenda. Ms. Cooperman stated that she objected to the proposal for 317 Spruce Street, but would not request its removal from the Consent Agenda. Mr. Thomas asked if anyone in the audience had comments on the Consent Agenda. None were offered.

**ACTION:** Mr. Gupta moved to adopt the recommendations of the Architectural Committee for the applications for 317 Spruce Street, 1416-22 Frankford Avenue, and 614 N. 16th Street. Mr. Fiol-Silva seconded the motion, which passed by a vote of 11 to 1. Ms. Cooperman dissented.

## **AGENDA**

### **ADDRESS: 1231-33 WALNUT ST**

Proposal: Replace storefronts

Review Requested: Final Approval

Owner: Empire Building Partners

Applicant: Keith Braccia, PMC Property Group

History: 1900; Empire Building/Albemarle Hotel; Carl P. Berger

Individual Designation: 7/12/1995

District Designation: None

Staff Contact: Jon Farnham, jon.farnham@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend approval of the proposed storefront replacement at Shibe Vintage Sports, but denial of the replacement at Insomnia Cookies, pursuant to Standards 2, 5, 6, and 9.

**OVERVIEW:** The building in question stands at the northeast corner of 13<sup>th</sup> and Walnut Streets. This application proposes to remove and replace the storefronts at the two northernmost shops along S. 13<sup>th</sup> Street.

The northernmost shop, Insomnia Cookies, has storefronts facing 13<sup>th</sup> Street as well as an alley around the corner. The storefronts in these openings are historic storefronts. They are wood and metal with a recessed entry along 13<sup>th</sup> Street.

The other shop, Shibe Vintage Sports, has a non-historic aluminum storefront.

Recently, the Historical Commission's staff approved at the staff level the replacement of non-historic storefronts in this building with new storefronts that approximated, but did not replicate, the surviving storefronts at Insomnia Cookies. The staff has offered to approve the same storefront system at Shibe Vintage Sports because the existing storefront is not historic, but has refused to approve the replacement at Insomnia Cookies because the historic storefront is extant. The storefronts at Insomnia Cookies should be repaired rather than replaced. If repair is not possible owing to the extent of deterioration, the storefronts may be replaced with the previously approved system, but the recessed entranceway should be replicated.

**DISCUSSION:** Mr. Farnham presented the application to the Historical Commission. No one represented the application.

Mr. Thomas called upon the applicant to step to the table, but no one responded. He asked again if the applicant was present; again no one responded.

Ms. Merriman stated that she agreed with the Architectural Committee's recommendation. Her fellow Commissioners agreed.

**ACTION:** Ms. Merriman moved to adopt the recommendation of the Architectural Committee and approve of the proposed storefront replacement at Shibe Vintage Sports, but deny the replacement of the storefront at Insomnia Cookies, pursuant to Standards 2, 5, 6, and 9. Mr. McCoubrey seconded the motion, which passed unanimously.

**ADDRESS: 317 SPRUCE ST**

Proposal: Construct rear addition

Review Requested: Final Approval

Owner: Margaret Petri

Applicant: Sean McMullan

History: 1815; storefront added, early 20th century; storefront removed, 1958

Individual Designation: 4/30/1957

District Designation: Society Hill Historic District, Contributing, 3/10/1999

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend denial as presented, but approval of a revised application that incorporates the following modifications:

- the angle of the north mansard slope should match that of the west mansard slope;
- the north dormer should be centered between the windows on the lower floor;
- the west dormer should be resized to better relate to the window size;
- the roofing material should be lead-coated copper; and,
- the windows should be painted wood, but simulated-divided-light windows are acceptable.

**OVERVIEW:** This application proposes to remove a section of the rear slope and the rear dormer and construct an addition. The Historical Commission reviewed a similar application at its June 2016 meeting. At that time, the Historical Commission voted to deny the application, pursuant to Standards 2, 5, 9, and 10. A Commissioner suggested redesigning the addition with a gambrel roof that would intersect the rear slope of the main building, with new dormers in the addition. The applicant submitted an in-concept application reflecting this suggestion, which was approved in concept by a vote of 10-2 at the Historical Commission's August 2016 meeting. During that review, a Commissioner encouraged the applicant to provide a rendering showing the extent of visibility from the public right-of-way. The application does not include such a rendering.

**ACTION:** See Consent Agenda.

**ADDRESS: 1416-22 FRANKFORD AVE**

Proposal: Construct addition

Review Requested: Final Approval

Owner: Stablefish LLC

Applicant: Ted Singer, Plumbob LLC

History: 1891; Police Patrol Stable

Individual Designation: 4/8/2016

District Designation: None

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend approval, pursuant to the Historical Commission's September 2016 approval in concept, with the recommendation that metal panel is considered in lieu of composite panel on the Frankford Avenue elevation, that preference is given to the glass block option on the Front Street elevation, and that a material other than wood is considered for the area around the entrance on Front Street.

**OVERVIEW:** This application proposes to construct a three-story building to the north and rear of this recently-designated former stable building, which is situated on a large lot that extends from Frankford Avenue to N. Front Street. Historically, the stable was connected at the rear to a large police station that faced onto N. Front Street. The proposed new construction would be primarily free-standing, attaching to the stable solely at a rear two-story stairtower addition previously approved by the Historical Commission. Owing to a lack of information regarding exterior cladding materials, the Commission approved the application in concept, rather than granting final approval, at its September meeting. The current application has clarified the proposed materials for the new construction.

**ACTION:** See Consent Agenda.

**ADDRESS: 614 N 16TH ST**

Proposal: Construct two townhouses on vacant lot

Review Requested: Review and Comment

Owner: Sean & Geraldine Trainor

Applicant: Paul Kreamer

History: vacant lot

Individual Designation: None

District Designation: Spring Garden Historic District, Non-contributing, 10/11/2000

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE COMMENT:** The Committee members decided that a formal recommendation was not necessary and that the comments offered by individual Committee members could stand on their own.

**OVERVIEW:** This application proposes to construct two three-story multi-family dwellings on a currently vacant lot within the Spring Garden Historic District. The Historical Commission's jurisdiction is limited to review and comment only. The proposed N. 16<sup>th</sup> Street elevations incorporate many elements representative of the district's Italianate buildings. An elevated base, stone stoop, and arched door surround define the entryway, while two-over-two double-hung aluminum clad windows are proposed for the remaining fenestration. The design includes a simplified cornice, cast stone lintels and sills, and brick veneer. Small decks are proposed for each unit at the rear of the property, although these decks would be confined within the plan and would not extend beyond the rear wall.

**ACTION:** See Consent Agenda.

**ADDRESS: 1726 SPRUCE ST, AKA 1727 DELANCEY ST**

Proposal: Construct single-family residence on sub-divided lot

Review Requested: Final Approval

Owner: 1727 Delancey LP

Applicant: Shimi Zakin, Atrium Design Group

History: 1870

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Contributing, 2/8/1995

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend denial, pursuant to Standard 9.

**OVERVIEW:** This application proposes to subdivide a parcel that runs from Spruce Street back to Delancey Street and construct a single-family four-story residence on Delancey Street. Currently, the Delancey end of the site is open and used for surface parking. To accomplish the subdivision, a non-historic, one-story rear addition would be removed from the Spruce Street building.

The proposed house would be four stories tall with a pilot house and deck at the fifth-story level. It would include a front-loaded garage, a recessed front entry, and a front terrace at the third floor. It would be clad with brick and zinc panels and fenestrated with aluminum-clad window systems.

The height and massing of the proposed building are generally compatible with the surrounding streetscape, but the scale and proportion of the building's elements are very large, overwhelming the historic buildings on the block. With its deep corbels, projecting masses of masonry, and unfenestrated garage door, it has the appearance of buildings of the 1960s and 1970s, which appeared to defend the occupants from a dangerous city rather than opening out to the city. With its large window wall, garage door, and inset entranceway, the proposed building eschews the rhythms of the surrounding historic district. The bulkiness, weightiness, and plasticity of the front façade should be reduced. The garage door should be fenestrated. The recess at the entrance should be eliminated. The rhythm of the neighborhood should be reflected in the door and window openings. The massiveness of the top floor should be eliminated. Contemporary styling is appropriate, but that styling should echo the basic characteristics of the historic buildings nearby.

**DISCUSSION:** Randal Baron presented the application. Architects Shimi Zakin and Snezana Litvinovic and attorney Michael Phillips represented the project.

Mr. Baron showed images of the four designs that have been proposed and explained that the architects prefer the third design. This design, which it has a lowered parapet and more uniform grey zinc cladding, still retains greater plasticity. The fourth design has a more uniform, planer front. Mr. Fiol-Silva asked the applicants which option they prefer. Ms. Litvinovic said that they prefer the third option. She explained that they understood the question of the weight of the earlier designs seen by the Committee and they propose two additional designs which address the questions raised by the Committee. She said that she wished to disagree with the minutes of the Architectural Committee meeting regarding the question of plane. She said that they did

not indicate that the dominant plane of the building was represented by the pier at the west side but rather that the dominant plane is made up of all the planes surrounding the central window. She said that Option Three and Four both lower the parapet by 30 inches and push back the deck and add glass to the garage door as well as making the zinc lighter in color. The door has been brought forward and will be constructed of wood although it could also be zinc. She said that, in Option Three, the façade has several planes, which they think is an appropriate response to the neighborhood. In Option Four, they have created a front façade with a single dominant plane.

Mr. McCoubrey said that the third design is essentially like the design for which the Committee recommended denial. He said that fourth design is much more in keeping with the Committee recommendation.

Ms. Cooperman asked for a clarification of the relationship between the new building and the existing structure on Spruce Street. Ms. Litvinovic said that the green colored area on the plan represents open space on the lot after the demolition of the single-story addition. The dashed line indicates the new lot line.

Mr. Thomas said that he too thinks that the fourth design better meets the Standards. He asked for public comment.

David Hsu said that he was speaking for a number of neighbors who had to leave the meeting. He reminded the Commission of the petition signed by 19 neighbors in response to the first design. He said that they only just saw the new design, but that they still had a chance to write a new letter signed by 11 neighbors, from which he read. He said that the building is located on a contributing lot within the historic district. He said that the block features the Plays & Players Theater as well as the Presbyterian Church, both of which are visited by many people. He said that the new building will tower over its neighbors at over 50 feet, in particular when you include the height of the stair house. He also said the dark materials contribute to the large scale of the individual design elements. He read from a letter written by a second neighbor also objecting to the massing and scale. He said that the floor-to-floor heights could be reduced to lower the building. Ms. Litvinovic said that the building is only 41 feet 4 inches at the street; however it is taller at the parapet and at the stairhouse.

Thomas Crumlish, a neighbor, verified that the Commission had received the petition and the letters against the proposal. He said that he hopes the Commission will agree with the staff and the Committee and reject the proposal. He objected to the massing and height and said that the stairhouse is highly visible. Mr. Thomas explained the differences between zoning concerns and the Historical Commission's concerns, which he illustrated with a discussion about replacing the porch on his own house. He also noted that the staff and the Committee were reacting to different designs and noted that Mr. McCoubrey thought that Option Four better met the Standards. Mr. Crumlish asked why this new design was not sent back to the Committee for review. Mr. Thomas said that that still may be done by the Commission. Mr. Hsu said that the neighbors received no notice of the new designs even though they had given all of their contact information on their petition. Mr. Farnham explained that the Commission does not cull email addresses from petitions and other documents. He also stated that the Commission is not required to notify neighbors of reviews. He noted that the neighbors are welcome to add their names to the Interested Parties Email list.

David Stutzman spoke against the proposal. He said that he is raising small children in a house across the street and wishes to remain in the city. He said that the main problem with the

proposed house is its scale which he said is a five-story tower in the middle of the block which blocks out sun, sky and light. He noted that 19 neighbors object to the proposal because of its deleterious effect on the streetscape and that the changes that have been made are cosmetic but do not address the problem of scale. The Commission should deny this application, even in this modified form.

Mr. Zakin asked the Commission to look at the photographs he provided of both sides of the block. He said that his façade is basically three stories in height with a pitched roof pilot house set back 20 feet. He said that he believes the neighbors want nothing built on the lot. He thought that an open lot is not such a good thing as a new family on the street. He pointed out the variety of house sizes on the block and compared this to the tall four-story houses on other blocks of Delancey. Ms Litvinovic said that this design is not fortress-like because it has more glass than other houses on the street.

Mr. Phillips, the attorney for the equitable owner, addressed the Commission. He pointed out the photographs showing the varied height of different structures on the block. He said that the height should be considered in terms of the whole area; the two adjacent houses are not typical of the height. The proposed height is not excessive in comparison.

Mr. Schaaf clarified that this is a four-story building with pilothouse not three. The fourth floor is set back five feet but will be highly visible.

Mr. McCoubrey said that neither the staff nor the Committee objected to the height particularly with the lowered parapet and sloped stairhouse.

Mr. Stutzman said that the stairhouse is a fifth story. He said there is nothing like this in the neighborhood.

Ms. Litvinovic said that the fourth floor is a response to the mansards in the area.

Mr. Hsu said that, since there is no height requirement in the neighborhood, it is up to the Commission to set the height or “contextualization.” Mr. Thomas said that the zoning code includes height requirements.

Ms. Merriman asked if the architect had considered glazing the stairhouse. Mr. Zakin responded that he cannot glaze the party-wall side of the stairhouse for code reasons but that he would be willing to work with staff on materials.

Mr. Fiol-Silva said that this building does not fit into this neighborhood, not so much because of height but because it does not match the respectful tone of the other houses in the historic district. He said it looks like an office building and it has too much glass. It would be better with punched openings and the scale of a carriage house. He said it was like showing up to a dress ball in a track suit.

Mr. Mattioni said that he finds the fourth version of the design respectful to the street and that the block is quite varied.

**ACTION:** Mr. Mattioni moved to approve the fourth design, provided the garage door incorporates more horizontal glazing, a lighter gray color is used for the metal cladding, and the glass railing is set back so that it is not visible from the street, with the staff to

review details, pursuant to Standard 9. Ms. Turner seconded the motion, which passed by a vote of 8 to 3. Commissioners Fink, Merriman, and Thomas dissented.

Mr. Gupta excused himself from the meeting.

**ADDRESS: 2013 LOCUST ST**

Proposal: Construct roof decks and elevator

Review Requested: Final Approval

Owner: Ben Weinraub

Applicant: Ben Weinraub

History: 1887

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Significant, 2/8/1995

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend denial, owing to incompleteness.

**OVERVIEW:** This application proposes adding an elevator and decks. The Historical Commission reviewed and denied a similar application in August 2016. At that time, the Commissioners offered several suggestions for improving the proposal, some of which have been incorporated into the current application. The application proposes to add an elevator tower on the side façade facing Woodstock Street. The application now includes interior plans and a discussion of the impacts of several alternative locations for the elevator including at the rear of the property, as requested by Commissioners. The property owner maintains that the side location, as originally and currently proposed, will have the least adverse impact on the historic character of the property. The application also proposes to add a rooftop deck, but the access has been revised. The earlier application proposed a spiral stair to a deck cantilevering out from the mansard. The current application proposes an interior stair with a roof hatch. The current application, like the earlier application, proposes a third-floor rear deck with access out of a rear dormer.

**DISCUSSION:** Mr. Baron presented the application to the Historical Commission. Property owner Ben Weinraub represented the application.

Mr. Baron showed and explained images of three different designs, two of which had been submitted as elevations after the Architectural Committee meeting.

Mr. Weinraub, the owner explained that he prefers Option A/1 because the new addition would sit on an existing bay and would not begin until twenty feet above the ground. He said that Options B/2 and C/3 would cover a rear dormer and change the roof profile. In addition, Option B/2 would remove a tree and C/3 would result in the removal of all the bathrooms and disruption to a tenant who has been with the owner for 20 years. Mr. Thomas asked how one would access the elevator from the street, given that no door it is not shown in the drawing. He recognized that there is no easy way to insert the elevator inside the building envelope. He noted that even with the owners preferred option it will disrupt a kitchen. Mr. Weinraub said that it would only disrupt an eating area. He reminded the Commission of the eight steps at the front façade.

Mr. McCoubrey said that the Committee preferred the two rear options. He said that looking at the size of the shaft that he doubts that there is enough room to recess the addition and the mansard as shown in Option A/1. He said that there is still a lack of creditable dimensioned elevations and sections. Mr. Weinraub said that he has provided more and more information and that it does not make sense to spend more money on hypothetical proposals. He said that these drawings are to scale. Mr. McCoubrey said that the shaft must be at least four and a half feet wide and that he has scaled the drawings and he thinks the shaft will not fit on the side without projecting beyond the building. Mr. McCoubrey suggested approving the design in concept. Mr. Weinraub said that the Commission should be more concerned with the other options covering the rear dormer. He said that there are no written submission guidelines. Ms. Merriman asked how you would get into the elevator with Option B/2 or C/3. Mr. Weinraub said that there would have to be a gate and a bridge over the basement areaway. He said that the entry would be from the rear alley and that he does not feel comfortable with his wife having to access the property at night from the rear alley. Mr. Thomas said that there is a need for the applicant to provide details for Option A/1 such as the materials which he said should be light in appearance. In addition, he suggested that there should be a set back of the new shaft from the plane of the brick on the existing brick bay as well as the set back from the wall of the front building block and the mansard. Ms. Cooperman said that the devil is in the details. Mr. Thomas thought that Option A/1 is acceptable if the details work out retaining the slope and the setbacks. He said that the applicant could work with the staff. Mr. Fiol-Silva said that he also thinks that A/1 could be acceptable because the other designs compromise the workability of the building. Mr. Baron asked for clarification for the staff review in terms of the Commission's concerns. He said that it is his understanding that the mansard on top of the elevator will be flat along its north façade but will match the slope of the existing mansard on the east façade. The Commission confirmed that assessment. Mr. McCoubrey said that the staff should send the construction drawings back to the Committee if they do not think that the design conforms with the approved conceptual drawing and the Standards.

**ACTION:** Mr. McCoubrey moved to approve the application with Option A/1, with the staff to review details, pursuant to Standard 9. Ms. Long seconded the motion, which passed unanimously.

**ADDRESS: 2108 AND 2110 WALNUT ST**

Proposal: Demolish parts of rowhouse and carriage house; construct addition

Review Requested: Final Approval

Owner: 2110 Walnut Street Development LLC

Applicant: Eric Leighton, Cecil Baker + Partners

History: 1868; E.B. Warren House; Furness & Hewitt, attributed; 1920

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Contributing, 2/8/1995

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend denial, pursuant to Standards 2, 9, and 10.

**OVERVIEW:** The property at 2108 Walnut Street includes a four-story Second Empire rowhouse facing Walnut Street and a two-story carriage house facing Chancellor Street. A non-historic, one-story structure connects the rears of the rowhouse and carriage house. The property at 2110 Walnut Street is a vacant lot and was at the time of designation in 1995. The application proposes to demolish the one-story connector and parts of the rowhouse and carriage house and then construct a 10-story building on and between the historic buildings and on the vacant

lot. The Historical Commission approved a very similar project in September 2015. The primary change from the approved design is the shift of the parking entrance from Chancellor Street to Walnut.

The project would result in the removals of significant portions of the two historic buildings at 2108 Walnut. The proposed addition would engulf the historic rowhouse and carriage house. The addition would be highly conspicuous from the public right-of-way. The proposed addition would alter spaces and spatial relationships that characterize the historic buildings and historic district. The proposed addition would be inappropriate in size, scale, massing, and proportion. The proposed addition would impair the essential form and integrity of the historic property and its environment.

**DISCUSSION:** Mr. Thomas recused himself and left the room. Ms. Merriman assumed the chair. Mr. Gupta returned to the meeting. Mr. Baron presented the application to the Historical Commission. Attorney David Orphanides, developer Tim Shabaan, and architect Eric Leighton represented the application.

Mr. Orphanides said that he wished to make certain clarifications regarding the Architectural Committee's report. He said that 2110 Walnut Street is only a vacant lot in the sense that it has no building on it. The address has been used for parking for many years with a chain link fence on both the Walnut Street and Chancellor Street facades. He said that most recently the cars have entered and existed from Walnut Street. He said that they are proposing a nine not 10-story building. Chancellor Street is not a public street and is, in fact, a dead end, he asserted. He said that they submitted the revised application to the Commission after having made a zoning appeal for at-grade parking. This approval as well as the Historical Commission's earlier approval have been appealed by the neighbors. In the mean time, the owner has secured an as-of-right zoning approval for the project with below-grade parking. He said that their proposed exit onto Walnut Street is a single lane and garages are not unknown on Walnut Street. He said that the new design is supported by the community, which is willing to drop its appeals if this design is approved.

Mr. Leighton discussed the changes to the design. He showed the modification to the storefront on Walnut Street and the garage entrance. He also showed some changes on Chancellor Street in terms of adding reveals in the rear façade and setting back a deck at the second floor of 2110 Walnut Street.

Mr. McCoubrey said that the Committee was unanimous in its opinion that adding a garage on Walnut Street was inappropriate to this street of stores and residences. On the other hand, the Committee thought that Chancellor Street was a completely appropriate place for automobile access given its history of carriage houses.

Mr. Schaaf stated that we now know that Chancellor Street cannot be used for vehicular access. Other Commission members disagreed, claiming that that has not been determined. Mr. Schaaf said that certainly the Commission never likes to see anyone add a garage entrance to either Walnut or Chestnut Street; however he wants to see this project go forward and he does not want this issue to stall the project.

Mr. Fiol-Silva said that he supports the Architectural Committee's recommendation and that he hopes that that view would be unanimous. Chancellor Street was designed for horses, but now we use automobiles. He thought that adding a garage to Walnut Street would do tremendous

damage. Ms. Cooperman asked how many cars will be using this entrance. The applicants responded that roughly eight to 10 cars would use the entrance.

Mr. Orphanides reminded the Commission that a curb cut already exists and this project is a vast improvement over the gap in the block.

Ms. Merriman asked for public comment.

Robert Gindlach, an attorney, said that he is representing David Singer, a neighbor. He spoke in support of this proposal. He said that Chancellor Street is a private way that cannot really accommodate additional new cars and delivery vehicles. He suggested that additional cars would not have much impact on Walnut Street.

Brian Seigel, a planner hired by Mr. Singer stated that he had consulted a traffic engineer in this matter. In their opinion, Chancellor Street cannot accommodate the number of cars that would enter and exit the proposed garage, but Walnut Street could. He reported that there are other parking areas exiting onto Walnut Street.

Paul Boni, an attorney, said that he was representing several neighbors including Paul and Faith Cohen and Ara Chalian. He said they all strongly support this proposed change and think that adding traffic to Chancellor Street would damage a very fragile environment. He showed a diagram on page 17 of the plans with 10 proposed parking spots. He said that the previous owner of 2110 Walnut Street had sold half of Chancellor Street to the Cohens to park their car. This deeded parking area would partially block the access to a garage entrance at the rear of 2110 Walnut Street. He said that they had no notice of the review for the previous proposal. He said they have worked with the developer to find a compromise. He said that attorney Stanley Krakower of the Center City Residents Association has given permission to state that his organization is in favor of this new proposal.

Neighbor Faith Cohen of 2108 Chancellor Street spoke in favor of approving the proposal. She explained that she owns a portion of Chancellor Street directly behind 2110 Walnut Street and uses it as a parking space. She pointed out the parking space on a plot plan and observed that it would block a Chancellor Street parking entrance to the building in question. She said that Walnut Street has well over 1,000 parking spaces that exit out onto Walnut Street.

Ara Chalian, another neighbor, spoke in favor of the proposal, asserting that Walnut Street was better suited for the parking entrance than Chancellor Street. He asserted that Chancellor Street is too narrow to accommodate the volume of cars and that it is a delicate cobblestone street. It was noted that it is a Belgian block street, not a cobblestone street.

Mr. Mattioni suggested that the perfect should not be the enemy of the good.

Mr. Fiol-Silva said that, according to the plans for the garage, the cars will need to be very small to fit in these spots. Therefore, the cars will not overwhelm Chancellor Street. He said that this sets a very bad precedent to allow for a driveway entrance on Walnut Street, one of the prime pedestrian streets of the city. Mr. Orphanides said that, owing to the appeal, a denial of this application would open up the entire approval and may prevent the project from proceeding. Mr. Leighton said that there is sufficient space to allow cars to turn into this garage. Mr. Orphanides said that this decision will not establish a negative precedent because of the existing a driveway.

Ms. Cohen asked for a definition of public property. Ms. Merriman declined to answer the rhetorical question.

**ACTION:** Mr. Mattioni moved to approve this application with the parking garage access from Walnut Street. Mr. Schaaf seconded the motion, which passed by a vote of 8 to 2. Messrs. Fiol-Silva and McCoubrey dissented. Ms. Merriman abstained.

## **THE REPORT OF THE COMMITTEE ON HISTORIC DESIGNATION, 14 SEPTEMBER 2016**

Emily Cooperman, Chair

### **ADDRESS: 1722-40 N HANCOCK ST**

Name of Resource: Francis Kelly Waste & Shoddy Manufactory

Proposed Action: Designation

Property Owner: Leona Tucci

Nominator: Kensington & Olde Richmond Heritage, LLC

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 1722-40 N. Hancock Street satisfies Criterion for Designation J.

**OVERVIEW:** This nomination proposes to designate the property at 1722-40 N. Hancock Street as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the former Francis Kelly Waste & Shoddy Manufactory complex satisfies Criteria for Designation A, C, and J.

Regarding Criteria A and J, the nomination contends that the complex of buildings, constructed in phases between 1889 and 1917, is significant for its association with the textile industry in Kensington. The staff contends that the nomination offers a series of trivial facts and figures related to the evolving business gleaned internet research, but never demonstrates how the complex “has *significant* character, interest or value as part of the development” of the City, Commonwealth or Nation” or how it “*exemplifies* ... the heritage of the community.”

Regarding Criterion C, the nomination invokes William Fairbairn and claims that the complex of buildings is architecturally significant because it “represents an era of the industrial revolution that was characterized by a distinctive architectural style and influence.” The nomination asserts that “a movement of sorts transcended the industrial revolution and its buildings were ‘undecorated’ with a stylistic treatment of simple functional design.” It also claims that complex exemplifies the Rundbogenstil. The nomination concludes that “the influences of both Fairbairn’s ideas and methods and the Rundbogenstil (or round arch style) came to dominate American architecture in the nineteenth and early twentieth century.” The staff contends that the buildings are architecturally unrelated to the Industrial Revolution, which ended more than a half-century before they were constructed, and in no way represent Fairbairn’s ideas or the Rundbogenstil. The buildings are turn-of-century vernacular light industrial structures that evidence aspects of the late Italianate, Queen Anne, and Classical Revival styles.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Historical Commission. Attorney Leonard F. Reuter represented the property owner. Andrew Fearon and Oscar Beisert and Kensington & Olde Richmond Heritage spoke on behalf of the nominator.

Mr. Thomas opened the floor to public comment, of which there was none. Mr. Thomas asked to hear from the nominators first. Mr. Fearon commented that the Kelly Waste & Shoddy Manufactory represents part of the Kensington neighborhood's built heritage, and is a contributing resource identified in the National Register Kensington Textile Multiple Properties Documentation Form. He opined that it is important to the cultural history of the neighborhood, and America. Mr. Beisert added that the nominator could not be present today, and explained that he helped usher her through the process. He noted that he supports the designation, and reiterated that it is a property that is called out in the Multiple Property Documentation Form for the textile industry in Kensington, and is a very distinctive block of buildings.

Mr. Reuter stated that he believes there are some significant problems with the nomination, as described in the Committee on Historic Designation minutes. He stated that his client is strongly opposed to the designation of the property, and that they do not believe that the property exemplifies anything that is significant about Philadelphia history or the textile industry in particular. He opined that there are a number of problems with the nomination, and not just the discussion of shoddy, but also with respect to these particular properties and their construction history.

Mr. Reuter displayed a PowerPoint presentation. He explained that the current property boundary encompasses numerous buildings. He presented an aerial photograph of the property and described which buildings were included in the nomination. Mr. Reuter explained that he wanted to discuss the properties and their histories, noting that the nomination divides the assemblage into four "buildings," and tries to link those buildings with specific addresses, but unfortunately that is not really possible. For his argument, Mr. Reuter noted that first he wanted to talk about the shoddy industry because the Committee on Historic Designation found that it was shoddy and how that was related to the textile industry of Kensington that was significant about these properties. Mr. Reuter opined that the shoddy industry in Philadelphia was not a significant part of the textile industry. He argued that when the Commission is designating a property, that property must meet the Criteria for Designation. Mr. Reuter opined that the Committee and staff had discounted the notion that the properties represent a specific architectural style and significance, so he planned to concentrate his argument against Criteria A and J, although the Committee only recommended approval on Criterion J. He noted that Criterion J reads that a property must exemplify the "cultural, political, economic, social or historical heritage of the community." Therefore, he concluded, the following must be determined: that the shoddy industry was an important part of Philadelphia textile history; secondly, that Francis Kelly was an important player in that history; and most importantly, how this building exemplifies that history.

Mr. Reuter described shoddy and the history of shoddy, explaining that shoddy is recycled wool products, including rags and other discarded wools and worsteds, that, with a process developed in England, is added to other wool products. Typically, shoddy would be used to add weight to wool products because it was much less expensive to incorporate. He noted that shoddy developed a negative reputation during the Civil War, when it was used in coats worn by soldiers on both sides of the war, from which the derogatory meaning of the word shoddy derives, owing to the cheapness of the clothing, which broke down and did not supply sufficient warmth. From the 1860s through 1900, the use of shoddy increased, and was used in wool products throughout the United States. Throughout the nineteenth century, Philadelphia was clearly the leading textile center in the entire United States, and Philadelphia's textile industry in particular concentrated on woolens and worsted products, the difference being that worsteds use long-haired fibers which are combed, and worsteds typically contain little to no shoddy. Mr. Reuter noted that in 1900, shoddy amounted to about 28% of the total woolen products that

were used at the time, as represented in mills as a byproduct of their own textile industry, and in shoddy that was being purchased from individual shoddy mills. He stated that that would have been about 12% of the total textile industry. Wool was an important part of the textile industry, but shoddy was very controversial. Mr. Reuter noted that there is more discussion by 1900, when many manufacturers were increasing the amount of worsted production, which means that shoddy appears to have been higher in proportion to overall woolens, but that is because it is made from both woolen and worsted products. Again, he reiterated, Philadelphia always manufactured shoddy as part of the textile industry, which in Philadelphia was always concentrated on wool and woolen products, and especially worsteds. By 1905, Philadelphia was producing twice as many worsted products than other woolens. He presented charts showing the proportions of shoddy employees to overall employees in the industry, noting that there were 450 self-declared wage earners manufacturing shoddy in Pennsylvania, and it can be assumed that 75-90% of that was in Philadelphia. He stated that the total number of employees creating worsted and felt products was 27,400. He commented that most shoddy products were being produced in mills themselves as a natural byproduct of cutting cloth or making woolens and worsteds. By 1909, Mr. Reuter continued, shoddy production had declined dramatically. He noted that the number of self-declared mills in Philadelphia declined, with 33 self-declared shoddy businesses in 1899, which dropped to 26, and by 1910, 20.

Mr. Reuter presented more charts from census reports that directly address shoddy. In 1920, total production of shoddy was still over \$1 million, but only .5% of total textile industry. Shoddy was not an important part of the textile industry, certainly not in Philadelphia, which was concentrating on fancy dress products and worsted products, which contain very little shoddy. He presented a chart from the Philadelphia Commercial Museum, noting that the purpose of the museum was to promote Philadelphia products and industry, and arguing that the museum does not present anything important about the shoddy industry in Philadelphia. He argued that, while shoddy was a part of wool production and textile mills were producing shoddy and it was part of the industry, individual shoddy mills were not an important part of that industry and not a significant part of Philadelphia history generally, or the textile industry in particular. He noted that shoddy is not a lost art form, but is now called post-consumer textiles, and there are at least seven or eight shoddy mills today, mostly in the Carolinas. He noted that total shoddy production in Philadelphia did not match one plant in Cleveland, Ohio, which was the largest shoddy plant in the world at the time. He reiterated his position that the shoddy industry was not an important part of Philadelphia or textile history.

Mr. Reuter's second argument addressed how the properties were distinguished in the nomination. He argued that it is important to recognize that an attempt was made in the nomination to match up properties to addresses, but when talking about older properties, especially those that were added to, changed, and combined, it is difficult to do that with any precision. He opined that it would be better to define the buildings by their individual lots. Mr. Reuter presented an aerial image of the lots.

Mr. Reuter described 1722 N. Hancock Street, noting that it has always been 18 feet wide, and has always been 1722 N. Hancock Street. Prior to being purchased by Francis Kelly in 1912, it had always been a separate property, a dwelling. He recommended that the Commission members look at the atlases presented in the nomination, noting that there is no dispute over those. As late as 1917, he continued, 1722 N. Hancock still shows a bifurcated dwelling. He presented a photograph of 1722 N. Hancock, noting that, to this day, it has no internal connection to the adjacent properties. In 1918, he noted, a permit was applied for to tear down the dwelling that had been there, and construct a new building with a proposed use as "garbage" or "garage." He noted that another permit from 1918 called for the alteration to waste

shop joists, proposed “two-story construction, 18 x 50, walls are erected,” submitted by the Kelly Hughes Company. He summarized that the building was a three-story dwelling all through Francis Kelly’s life, and was not associated with shoddy manufacturing, and that even though Kelly purchased it in 1912, it remained a dwelling from 1912 through 1918. In 1918, the front and back walls were torn down, the side walls remained, new joists and rafters were installed, and what had been a three-story dwelling became a two-story waste shop, and is a garage now. He noted that he does not know when garage door was installed. 1722 N. Hancock corresponds to parcel number 13N23-0165.

Mr. Reuter addressed the next property on the next lot, pointing to the location of the property line between the two buildings in a photograph on the screen. He noted that he believes this property corresponds to the address 1724-26 N. Hancock Street, and is again a distinct building. He stated that the permit history here is somewhat confused, but that it was vacant land through at least 1895, and is 35 feet wide, corresponding to an 1889 deed to Francis Kelly from McMullin. He noted that the first permit issued after Kelly’s ownership was in 1890 for construction of a one-story brick building on the west side of Hancock Street north of Columbia. Given the size of the lot, and that this is the only lot that size on the block, Mr. Reuter stated that he believes this is the initial permit for construction on that lot. He reiterated that it was a one-story brick building. Next he discussed an alteration permit from 1918 that shows that an existing property was being altered to “expand four feet over roof of existing floor,” which he opined seems to indicate it was a single-story building. He noted that he believes this was the permit to add a second floor. He noted that, more confusingly, when looking at historic atlases, the property is shown at various times as either brick or frame. He noted that it was marked with an X which signals that it was used to hold horses. He explained that he believes it was built in 1890, and heavily altered, with a second floor added in 1918. Mr. Reuter noted that the area where there is now a picture window was once a breezeway between the buildings, and which was possibly filled in 1918. Mr. Reuter noted that there were significant changes made to the buildings over time; the windows were placed at different times on different buildings.

Mr. Thomas asked Mr. Reuter how much longer he would speak. Mr. Reuter responded that he is trying to explain that there is no continuity between the buildings, and that there is nothing significant about them, that their construction history shows that they were used for different purposes at different times, and that they were altered with the addition of floors. Mr. Reuter commented that the Committee on Historic Designation had believed that the properties were all constructed prior to 1913, despite what the permit histories show. He argued that it is clear that most of these properties were altered after 1900. In 1913, a new brick front was put up over at least the first 35 feet of the building. Another building was used as a stable and in grain industry, and had nothing to do with the shoddy industry when it was built, but was taken over by the Kelly Company later in its history. He opined that the nomination fails to demonstrate that the shoddy industry was a significant feature in Philadelphia history or textile history, and that it fails to demonstrate that Kelly was an important figure at all. He argued that, given the long history of alterations and changes over the years, including changes that took place after Francis Kelly died, there is nothing about these buildings that exemplifies or characterizes any significant characteristic of Philadelphia history.

Mr. Reuter argued that in a close case, of which this is not one, where the owner is in opposition to the designation, a property should not be designated. He noted that the property was subject to an agreement of sale prior to the nomination, and owing to the nomination, that agreement is in jeopardy, and will have a direct impact on the owner. He noted that, although it is not a financial hardship case, he has an engineering report detailing the very poor condition of the building, in which the roof and interior are falling down. He opined that the building cannot be

reused without an enormous investment, and that a designation would have a direct and immediate impact on his client.

Mr. Beisert responded that he appreciates the overview of the textile industry and the types of businesses that were part of the industry. He stated that he recognizes that shoddy was a small component of the textile industry, and agreed that it made up a small portion of the textile industry, and does not believe anyone ever said that it did not. He noted that the survey conducted for the Kensington Textile Multiple Property Documentation Form looked for the best properties in Kensington that represent the textile industry, and that out of the entire 43 properties, this was the only property that represents the shoddy component of the textile industry. He explained that he does not claim that every building in Philadelphia that is related to shoddy is significant, but this was part of a larger survey that was intended to give examples of buildings in the textile industry, and this is the only building that represents this component of the textile industry and world that was Kensington. He opined that the building is distinctive in its appearance. He argued that it is ridiculous to think that this type of industrial building would have been built all at one time, noting that many factories and industrial complexes were cobbled together over time. The fact that this was assembled over time is moot, he argued, because that is indicative of many industrial complexes. This is something that was a part of this industry in Philadelphia.

Mr. Thomas asked for other comments and questions. Mr. Reuter responded that he recognizes and agrees that the amalgamation of properties over time is a characteristic of just about any industry, and that that is not anything that is distinctive to the textile industry. He opined that a building that does not have any particular architectural significance, but may have some peculiar characteristic that specifically relates it to the industry (such as a grain storage mill or coal elevator) could be eligible for designation. He opined that the building must clearly bear a direct relationship to the industry in order to exemplify or characterize the specific industry. Here, he reiterated, the discussion is whether to designate a building over a property owner's strong objections. He opined that the case for designation is weak, and reiterated that there is nothing distinctive about the building that exemplifies or characterizes shoddy or the textile industry.

Patrick Grossi of the Preservation Alliance for Greater Philadelphia echoed Mr. Beisert's remarks, and respectfully disagreed with Mr. Reuter. He opined that this building in particular is reflective of the textile industry in Kensington. He noted that he does not think that the nomination was submitted on the grounds that Philadelphia was the shoddy capital of the world, but the point is that this building as it exists is reflective of the textile industry in Kensington, which, as Mr. Reuter alluded to, was significantly important in Philadelphia and to the industrial and residential development of this part of the city. He noted that most of the changes that Mr. Reuter described occurred more than a century ago, and in his mind would qualify them as part of the historic character of this light industrial complex. He stated that the Preservation Alliance supports the nomination, and thinks it meets at minimum Criterion J for designation.

Kathleen Larkin, another attorney for owner Leona Tucci, opined that when the process began, one of the things that struck her is that the nomination focused on a specific time period as the basis for the nomination, and that is the time period was surrounding primarily when Francis Kelly owned the property, from about 1890 to his heirs and the successor company Kelly Hughes, who went out of business around 1930. The designated time period, she opined, was approximately 30-40 years, and she believes they have proven that portions of this building were not used in conjunction with the textile industry or the production of shoddy during that time. She reiterated that part of the building was used during that time period as a residence, and another part was used as a stable. She reiterated that the nomination is based upon 1722-

40 N. Hancock Street during a specific time period, but there is not significant evidence before the Commission to show that shoddy was being manufactured at those addresses during the designated time period. She added that the idea that this was the “Francis Kelly Waste & Shoddy Manufactory” is bogus. Francis Kelly and his heirs and successor company never referred to themselves as a Waste & Shoddy Manufactory; there is only one place where that name exists, and that is on a Sanborn insurance map. She reiterated that the building has never been known by that name, and that Waste & Shoddy Manufactory is something that the nominators put on the nomination because they took it off the map.

Mr. Reuter clarified that, up until the 1920s, to be a corporation, a business needed a charter from the state. He noted that they are not saying that Francis Kelly did not have anything to do with shoddy, but rather that this property was never referred to by the formal name. He opined that Francis Kelly was simply a person doing business, and the business would have just been known by his name. The Sanborn description was his name plus the type of work, not the name of the business. It was not until the Kelly Hughes business was incorporated that the business received an official name.

Mr. Beisert responded that he agrees the name is essentially a description of what the business was, just like the Edward Corner marine merchandising business would never have been referred to by the formal name. He noted that the name does not assert any additional significance; it is the one shoddy mill called out in a survey that looked at all kinds of different buildings in the area.

Ms. Larkin reiterated that 1722-40 N. Hancock Street was not a mill the entire time, and the evidence presented today proves that.

Ms. Cooperman commented that the Committee on Historic Designation found that the nomination did not make sufficient argument for any Criteria other than J, but did feel very strongly in concurrence with Mr. Beisert’s claim that this property represents an important aspect of the cultural heritage of the textile industry within the city. She opined that the Commission should not focus solely on properties as large and significant as the Bromley Carpet Mills, noting that in order for the citizens of the city to fully understand the heritage of their industrial past, all of its aspects must be represented. She argued that this property represented that broader context. She acknowledged that the Committee did find that there were some deficiencies in the nomination. She suggested that, if the Commission finds that there are other technical deficiencies regarding the dates with which the different buildings were associated with the manufacturing of shoddy, perhaps the Commission might consider remanding the nomination back to the Committee on Historic Designation.

John Manton stated that he noticed that no one had mentioned checking the city or business directories to see who was at this address and what they did. Mr. Reuter responded that there is no dispute with the nomination’s chain of titles for the property, and no question about when Francis Kelly bought what. He noted that he is trying to say that, during the period of significance, half of the properties were not even owned by Francis Kelly. He explained that he has no disagreement with the notion that the smaller players in the industry should be recognized, but argued that this building with this construction history related to this industry does not exemplify these things. Mr. Beisert responded that the company started in a smaller building, and then it grew. The business purchased other parts of this block and expanded their operations, as often happens when a business grows over time. He stated that the period of significance in the nomination extends to 1933. Mr. Manton opined that there was some question by the other attorney that Francis Kelly was not actually listed as a shoddy dealer, and

the business directories would certainly address that. Mr. Reuter responded that the reference was to the name of the company; there is no dispute that Francis Kelly was in the shoddy business and that at various times, he utilized various portions of this building. Mr. Reuter opined that that is not sufficient reason to kill an agreement of sale. Mr. Thomas responded that if the Commission feels the property meets Criterion J, the Commission will designate it. Mr. Reuter responded that generally, he does not feel that designation causes *per se* harm, but in this case it will have an immediate adverse impact on the sale of the property and its development. Mr. Fearon responded that the building is in use today, and is related to the textile industry today as an upholstery shop. He opined that it could be stabilized. Mr. Thomas commented that the Commission has a recommendation from its advisory Committee on Historic Designation that the property satisfies Criterion J. Mr. Thomas noted that the Criteria for Designation say nothing of the condition of the building. Others countered that satisfaction of the Criteria is only one step toward designation; as a second step the Commission must decide whether a designation constitutes good public policy.

Ms. Cooperman commented that she had some questions regarding the development of the portion of the building at 1722 N. Hancock with regard to the period of significance.

**ACTION:** Ms. Merriman moved to reject the nomination for 1722-40 N. Hancock Street on the grounds that it does not demonstrate that the property satisfies any of the Criteria for Designation. Mr. Fink seconded the motion, which passed by a vote of 6 to 4. Commissioners Cooperman, McCoubrey, Royer, and Schaaf dissented.

**ADDRESS: 3322 WILLITS RD**

Name of Resource: Lower Dublin Academy

Proposed Action: Designation

Property Owner: Richard and Linda Gutman

Nominator: Joseph Menkevich

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 3322 Willits Rd satisfies Criteria for Designation A, B, C, D, I, and J.

**OVERVIEW:** This nomination proposes to designate the property at 3322 Willits Road as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the property satisfies Criteria for Designation A, B, C, D, I, and J. The site for Lower Dublin Academy dates back to Thomas Holme, who served as surveyor-general to William Penn and laid out the 1682 plan for Philadelphia. The site is located on land granted by Penn to Holme. Under direction of Holme's will, a log schoolhouse was built on the site, which was replaced about 1803 by the current building. A fire in 2006 significantly damaged the building, which now sits vacant.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Historical Commission. No one represented the property owner. Joseph Menkevich and John Manton represented the nomination.

Mr. Menkevich commented that the property owner was in attendance earlier in the meeting, but had to leave owing to a prior obligation. Ms. Cooperman stated that the Committee determined that this building is rather remarkable despite its poor condition, and is an extremely important property. Mr. Menkevich asked if the Commission received letters of support from City Council.

Ms. Merriman responded that a letter of support from Councilman Bobby Henon was distributed at the start of the meeting.

**ACTION:** Mr. Schaaf moved to find that the nomination demonstrates that the property at 3322 Willits Road satisfies Criteria for Designation A, B, C, D, I, and J, to designate it as historic, and to list it on the Philadelphia Register of Historic Places. Ms. Long seconded the motion, which passed unanimously.

#### **ROMAIN STREET, DEAL STREET TO ADAMS AVENUE**

Proposed Action: Add Block to Historic Street Paving Thematic District

Property Owner: City of Philadelphia

Nominator: Streets Department

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the Historical Commission amend the inventory of the Historic Street Paving Thematic District to include the block of Romain Street between Deal Street and Adams Avenue, pursuant to Section 5.14 of the Rules & Regulations.

**OVERVIEW:** In 1988, the Historical Commission designated the Historic Street Paving Thematic District, a collection of several hundred blocks of streets in the city that retain their historic street paving materials. The Commission amended the district in 1999, adding a few streets that had been initially overlooked, and again in 2014, when a larger series of additional and removals were made to the district inventory based on a survey and report commissioned by the Streets Department.

Shortly after these modifications were complete, Streets Department staff located one additional segment, which had been overlooked, Romain Street between Deal Street and Adams Avenue in Frankford. The block is paved in red brick. With the exception of some concrete patching, the street is in good condition and retains a high level of integrity, and had it not been overlooked, likely would have been included in the recent amendment to the district. The Streets Department proposes that this change be made at this time, allowing Romain Street to be included in the Department's long-range planning related to maintenance of this historic resource.

**DISCUSSION:** Ms. Broadbent presented the amendment application to the Historical Commission. No one represented the property owner or amendment application.

The Commissioners discussed the amendment and concluded that Romain Street between Deal Street and Adams Avenue merited inclusion in the Historic Street Paving Thematic District.

**ACTION:** Mr. Schaaf moved to amend the inventory of the Historic Street Paving Thematic District to include the block of Romain Street between Deal Street and Adams Avenue, pursuant to Section 5.14 of the Rules & Regulations. Ms. Cooperman seconded the motion, which passed unanimously.

**ADDRESS: 1910 FITZWATER ST**

Name of Resource: Union Baptist Church

Proposed Action: Designation

Property Owner: Union Baptist Church

Nominator: Keeping Society of Philadelphia, LLC

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 1910 Fitzwater Street satisfies Criteria for Designation A and J.

**OVERVIEW:** This nomination proposes to designate the property at 1910 Fitzwater Street as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the Union Baptist Church, constructed in 1915, is significant under Criteria for Designation A and J. The nomination contends that the church is significant for its association with the Union Baptist Church, founded in 1832, and once the largest African Baptist congregation in America. The nomination also argues that the church is significant for its association with the world-famous contralto Marian Anderson, a member of the Union Baptist congregation, who regularly sang at the church during her youth.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Historical Commission. Mr. Beisert represented the nomination. Theresa Pearsall represented the property owner.

Ms. Pearsall stated that she is in support of the nomination. Mr. Beisert noted that the building is probably also eligible for designation for its architectural significance, but that he did not have sufficient time to discuss that criterion in the nomination. Ms. Cooperman agreed, but also noted that the Committee on Historic Designation was very enthusiastic about the nomination.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrated the property at 1910 Fitzwater Street satisfies Criteria for Designation A and J, to designate it as historic, and to list it on the Philadelphia Register of Historic Places. Mr. Schaaf seconded the nomination, which passed unanimously.

**ADDRESS: 4101-05 LUDLOW ST**

Name of Resource: Monumental Baptist Church

Proposed Action: Designation

Property Owner: St. James Pentecostal Church

Nominator: University City Historical Society

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 4101-05 Ludlow Street satisfies Criteria for Designation A and J.

**OVERVIEW:** This nomination proposes to designate the property at 4101-05 Ludlow Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the property satisfies Criteria for Designation A, I, and J. The nomination argues that the Monumental Baptist Church provided a religious anchor to the West Philadelphia African-American community, functioning as the place of worship for the second oldest African-American Baptist congregation in Pennsylvania.

**DISCUSSION:** Ms. Keller presented the nomination to the Historical Commission. Desay Downing and the Reverend Moore represented St. James Pentecostal Church. Elizabeth Stegner and Oscar Beisert represented the nomination.

Rev. Moore stated that his organization purchased the property in 1967. With declining membership, he continued, the needed exterior repairs are too taxing for a small congregation. He explained that when the church was placed on the market, they received many inquiries. Once the church came under the jurisdiction of the Historical Commission, he added, interest waned significantly. Rev. Moore stated his desire to move the congregation to another building, but indicated that it would be impossible without a strong sale price. He added that substantial funds, which the congregation lacks, are needed to restore the church and that designation would harm the congregation.

Mr. Downing remarked that the property was not nominated until the church listed it for sale. He commented on the church's history, noting that it was constructed over an early cemetery and that the original building was located on what is now a side yard. Rev. Moore added that the church has invested thousands of dollars into the church, but more funds are not available.

Ms. Stegner explained that her organization nominated the church, because it stands as the first of the African American churches in University City. Ms. Cooperman clarified that, while the building on the site is not the original building, the property is historically associated with the first African American Baptist congregation to settle in West Philadelphia in the early nineteenth century.

Mr. Beisert stated that Ms. Cooperman had surveyed African American churches and identified the property at 4101-05 Ludlow Street as having significance. The site, he continued, has been associated with African American worship for two hundred years. Mr. Beisert added that while the buildings are not as old as the site, they continue to represent the congregation. He expressed his desire to see the buildings repurposed and noted that he submitted the nomination due to the property's significance and the recent high rate of loss of African American sites. He emphasized the importance of protecting sites related to African American history in Philadelphia.

Ms. Stegner claimed that funds for church restoration are available in the form of two grants totaling \$3 million and \$1 million. She contended that if the owners wished to retain their church, funding may be possible. Rev. Moore expressed interest in remaining at the Ludlow Street property. Mr. Downing argued that past attempts to contact the University City Historical Society went unanswered, and Ms. Stegner stated that those attempts occurred before she joined the organization. Mr. Downing asked Mr. Beisert how he learned of the property at 4101-05 Ludlow Street. Mr. Beisert responded that the church is listed in a survey of African American churches. Mr. Downing repeated the question. Mr. Beisert answered that he frequently nominates historic buildings.

Mr. Thomas stated that designation could ultimately help the church obtain funds. Currently, he added, the Commission is evaluating whether the nomination meets any of the criteria for designation. He suggested that the Commission could find the nomination to be correct without acting on designation, which would enable the Commission to designate the property at any point in the future. Rev. Moore argued that without funding, designation would place a strain on the congregation. Mr. Downing asserted that he would like to see the church saved, but as a contractor he understands the repairs needed and the challenges in restoring the property. Rev.

Moore asked if the Commission would grant the owners time to seek funding before designating the property.

Ms. Cooperman asked if the Commission would retain jurisdiction over the property under the circumstances described by Mr. Thomas. Mr. Thomas stated that it would not and noted that if the property were to be designated, the owner would be able to submit a financial hardship application. Ms. Cooperman asked whether the Commission could discuss tabling the nomination while discussions on possible funding occur. Mr. Thomas concurred. Mr. Schaaf commented that the owners would not be required to change existing conditions and offered examples of alterations that would require Commission review. Several Commissioners offered more information on the type of work that requires review and further discussed tabling the nomination for a period of time that would allow the owners to explore funding options.

**ACTION:** Ms. Cooperman moved to continue the review of the nomination for 4101-05 Ludlow Street for 120 days to the Historical Commission's meeting in February 2017. Mr. McCoubrey seconded the motion, which passed unanimously.

Ms. Merriman excused herself from the meeting.

**ADDRESS: 228 RICHMOND ST**

Proposed Action: Designation

Property Owner: Carlos Lopez

Nominator: Kensington & Olde Richmond Heritage, LLC

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 228 Richmond Street satisfies Criteria for Designation A, C, D, and J.

**OVERVIEW:** This nomination proposes to designate the property at 228 Richmond Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the property satisfies Criteria for Designation A, C, D, and J. This nomination argues that the Jacob Deal frame half-gambrel house is a rare surviving example of the wooden houses associated with the early development of maritime Philadelphia.

**DISCUSSION:** Mr. Beisert stated that the property owner has concerns about designation and would like to continue the review of the nomination.

**ACTION:** Ms. Cooperman moved to continue the review of the nomination for 228 Richmond Street for 60 days to the Historical Commission's meeting in December 2016. Ms. Long seconded the motion, which passed unanimously.

Mr. McCoubrey excused himself from the meeting.

**ADDRESS: 2437-49 FRANKFORD AVE**

Name of Resource: Frankford Avenue Baptist Church

Proposed Action: Designation

Property Owner: Frankford Avenue Holdings LLC

Nominator: Kensington & Olde Richmond Heritage, LLC

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 2437-49 Frankford Avenue satisfies Criteria for Designation A, C, D, E, and J.

**OVERVIEW:** This nomination proposes to designate the property at 2437-49 Frankford Avenue as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the property satisfies Criteria for Designation A, C, D, E, and J. The nomination contends that the 1889 church building, designed by architect Issac Pursell, is significant as a representation of the development of the Baptist denomination in Kensington and Philadelphia, and as a representation of a Romanesque Revival church with Gothic and Tudor Revival influences.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Historical Commission. No one represented the property owner or the nomination.

Amy Miller, chairperson of historic preservation for the East Kensington Neighbors Association, stated that she supports the designation.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 2437-49 Frankford Avenue satisfies Criteria for Designation A, C, D, and J, to designate it as historic, and to list it on the Philadelphia Register of Historic Places. Mr. Schaaf seconded the motion, which passed unanimously.

**ADDRESS: 4908-14 GERMANTOWN AVE**

Name of Resource: Wachsmuth-Henry House

Proposed Action: Designation

Property Owner: Wilkins & Constance Hatton

Nominator: Keeping Society of Philadelphia, LLC

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 4908-14 Germantown Avenue satisfies Criteria for Designation A, C, D, G, and J.

**OVERVIEW:** This nomination proposes to designate the property at 4908-14 Germantown Avenue as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the property satisfies Criteria for Designation A, C, D, G, and J. The nomination argues that the circa 1760 Federal style house evolved to its present appearance as it changed ownership over time, representing the cultural, political, economic, social and historical heritage of Germantown, and was associated with the lives of several significant Philadelphia families.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Historical Commission. No one represented the property owner. Oscar Beisert and Jim Duffin represented the nomination.

Mr. Duffin commented that this building was highlighted in a study completed by the Preservation Alliance back in the 1990s, and he is pleased that it is obtaining local historic designation.

**ACTION:** Ms. Turner moved to find that the nomination demonstrates that the property at 4908-14 Germantown Avenue satisfies Criteria for Designation A, C, D, G, and J, to designate it as historic, and to list it on the Philadelphia Register of Historic Places. Mr. Fiol-Silva seconded the motion, which passed unanimously.

#### **ADJOURNMENT**

**ACTION:** At 2:37 p.m., Mr. Mattioni moved to adjourn. Ms. Turner seconded the motion, which passed unanimously.

#### **STANDARDS AND GUIDELINES CITED IN THE MINUTES**

Standard 2: The historic character of a property will be retained and preserved. The removal of distinct materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.

Standard 5: Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new works shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Standard 10: New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.