



Sean P. Whalen  
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March 3, 2021

*Via e-mail:*

Philadelphia Historical Commission  
1515 Arch Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19102  
Attn: Jonathan Farnham, Ph.D.  
Executive Director

**Re: Pending Nomination for Designation of  
5139 Wayne Avenue (OPA No. 123215100)**

Dear Jon:

We represent Wayne Avenue Brothers LP (the “Owner”) – the owner of 5139 Wayne Avenue, Philadelphia, PA (the “Property”). There is a nomination for the designation (the “Nomination”) of the Property pending before the Philadelphia Historical Commission (the “Commission”). We write to make the Commission aware of the background for the Property pursuant to which the Commission should deny the Nomination given the imminent demolition of all improvements on the Property and the construction of a new four-story, multi-family building thereon.

More specifically, here is a breakdown of the relevant dates:

- March 24, 2020: Owner purchased the Property.
- October 15, 2020: Owner communicated with Elizabeth Baldwin, P.E., Chief Code Official at the Philadelphia Department of Licenses and Inspections (L&I”) regarding proceeding with a building permit application prior to proceeding with a demolition permit application for the Property pursuant to the soon to be issued zoning permit.<sup>1</sup>
- November 4, 2020: L&I issued Owner Zoning Permit ZP-2020-004277 (the “Zoning Permit”), which approved: (a) the complete demolition of the improvements on the Property, and (b) the construction of a four-story, multi-family building.

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<sup>1</sup> Owner, based on its communications with Ms. Baldwin, proceeded to file for its Building Permit prior to filing for its demolition permit because of the likelihood of a demolition permit application delaying the issuance of a building permit beyond the then expiration of the City of Philadelphia full 10-year tax abatement.

- November 9, 2020: Owner applied for a building permit for the construction of a four-story, multi-family building (the “Building Permit”).
- November 24, 2020: The Commission’s staff dated the Nomination correct and complete.
- January 20, 2021: The Commission’s staff served formal notice of the Nomination.

Accordingly, pursuant to the Zoning Permit and in accordance with a procedure approved by L&I, Owner applied for its Building Permit prior to the confirmation by the Commission’s staff that the Nomination was correct and complete. The complete demolition of the improvements on the Property is necessarily imbedded within the Building Permit, with the application for and issuance of an actual demolition permit an administrative formality, since the approved construction of a four-story, multi-family building cannot occur without the demolition of the existing improvements. Therefore, the Commission has no jurisdiction for review over the Building Permit and, similarly, shall have no jurisdiction for review over the demolition permit application. Finally, Owner has clear vested rights in the permit applications and permits associated with the Property, as set forth above, having expended to date over \$200,000 as well as considerable time and energy toward the redevelopment of the Property.

For all these reasons, the Commission should deny the Nomination.

Sincerely,

/s/ Sean P. Whalen

Sean P. Whalen

cc: Allyson Mehley  
Leonard Reuter, Esquire



Sean P. Whalen  
Direct Dial: 484-416-3207  
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March 30, 2021

*Via e-mail:*

Philadelphia Historical Commission  
1515 Arch Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19102  
Attn: Jonathan Farnham, Ph.D.  
Executive Director

**Re: Pending Nomination for Designation of  
5139 Wayne Avenue (OPA No. 123215100)**

Dear Jon:

As you know, we represent Wayne Avenue Brothers LP (the “Owner”) – the owner of 5139 Wayne Avenue, Philadelphia, PA (the “Property”) for which there is a nomination for designation (the “Nomination”) pending before the Philadelphia Historical Commission (the “Commission”). Our letter dated March 3, 2021 detailed that the Owner’s zoning permit (ZP-2020-004277) and building permit (CP-2020-006263) predate the date of the Commission’s service of notice of the Nomination. We write to update the Commission that Owner also has a demolition permit (DP-2020-001572) for the complete demolition of all existing improvements on the Property pending with the Philadelphia Department of Licenses and Inspections (“L&I”).

Since Owner applied for its building permit in advance of the Commission’s service of notice of the Nomination, the Commission has no jurisdiction over the building permit or to review the demolition permit. Moreover, the factual background here makes clear that Owner has vested rights in its permits associated with the Property, having expended to date over \$200,000 as well as considerable time and energy toward the redevelopment of the Property.

For all these reasons, the Commission should deny the Nomination.

Sincerely,

/s/ Sean P. Whalen

Sean P. Whalen

cc: Allyson Mehley  
Leonard Reuter, Esquire