



Schenectady Historic District Commission

**Meeting Minutes
September 19, 2016**

I. CALL TO ORDER

Commissioner Britt called the meeting to order at 7:00 PM.

II. ROLL CALL

PRESENT: Carrie Britt-Narcavage, Chair; Ben Wiles, Vice Chair; Dr. Dean Bennett; Mark Meigher; Patricia Yager

EXCUSED: Jackie Craven; David F. Lowry

STAFF: Rima Shamieh, Assistant Planner; Ryan Bailey, Assistant Corporation Counsel; Jennifer Mills, Secretary

III. CONFLICT OF INTEREST

None.

IV. ADOPTION OF MEETING MINUTES

Motion by Commissioner Wiles, seconded by Commissioner Britt, to adopt the August 15, 2016 Meeting Minutes as submitted.

Motion carried unanimously.

V. NEW BUSINESS - Applications

A. Consideration for approval submitted by Nancy Delain to install a fence and paint the windows and window trim. The premise is located at 107 North College Street.

Nancy Delain appeared before the Commission. Ms. Delain explained that she would like permission to complete three projects – the painting of the windows on the house, the installation of a fence on one side of the property, and the relocation of the driveway gate on the other side. She indicated that on the driveway side of the house she would like to move the existing gate back so as to provide parking for a second car in front of the gate. Ms. Delain stated that the windows are currently bare wood, and that she proposes to paint them either the dark brown color of the sample she submitted with her application or white. She noted that she would prefer to paint them white, but that she would be open to paint them whatever color the Commission feels is most appropriate.

Ms. Delain explained that she is proposing to put a fence between her house and the adjacent building, the Stockade Towers, to provide privacy and security. She stated that she would prefer a chain link fence, but that she understood that chain link is not an approved type of fencing in the Stockade. She noted that there is an existing chain link fence across the street from her property. Commissioner Britt stated that although she is aware that there are some properties in Historic Districts that do have chain link fencing, according to their guidelines the Commission cannot approve the installation of a chain link fence. Ms. Delain stated that in order to comply with the zoning ordinance which requires a maximum of 70% opacity for fences over five feet in height that are located in a side yard and less than five feet from a residential building she is proposing to install a six foot stockade fence with every third board removed. She noted that she would also install a solid three-foot wide gate at the front end of the fence, which will be set back eight feet from the front corner of the house, and that the gate would be constructed of solid stockade fence.

Commissioner Bennett asked Ms. Delain why she is proposing to end the fence eight feet back from the sidewalk and not at the sidewalk or the front corner of the house. Ms. Delain stated that she had thought that the Commission would prefer that the gate be set back, and also because she would like the gate to be behind the utility boxes on the side of the house, so that the boxes may be accessed without having to unlock the gate, which she explained will be locked at all times. Commissioner Bennett asked if the fence would be visible once the gate is installed. Ms. Delain stated that it will be visible from the Stockade Towers side, but that if they also had a gate at the same point then the fence would not be visible at all from the street. Commissioner Yager asked if a six foot gate is allowed in this location. Assistant Planner Shamieh stated that it is, because it is a side yard. She explained that the only time the six foot gate would not be allowed is if it is in front of the front corner of the house, in which case it would be considered in the front yard and could only be a maximum of four feet in height.

Commissioner Britt suggested that the Commissioners next discuss the painting of the windows. Ms. Delain stated that she had recently replaced the windows and that they now need to be painted. She explained that next spring she would like to paint the whole house a medium shade of gray, but that at this time she is only proposing to paint the windows so as to protect the bare wood over the winter. Commissioner Britt commented that with a traditional historical paint scheme, typically three colors are used – one for the body of the building, another for the trim, and a third darker color for the window sashes and doors. Thus she noted that if the body of the house were gray the trim would be white and the sashes and door the dark brown. Ms. Delain stated that she would not use the proposed brown color with the repainted gray body of the house, but that she had proposed the brown because it blends well with the current color of the building. Commissioner Britt suggested that she might want to consider a dark gray for the windows, which would be acceptable with the current body color and also be compatible with the

repainted gray house. She explained that the Commissioners could note in their approval that either the dark brown or a gray in a similar tone could be used. Mss. Delain stated that she would be happy with this alternative. The Commissioners concurred.

Commissioner Britt next moved the discussion to the gate on the other side of the house, which Ms. Delain proposes to move back eight feet from its current location. She stated that she currently parks one car in front of the gate but she would like to have room to park two. Commissioner Britt asked Ms. Shamieh if the parking spaces are required to be paved. Ms. Shamieh stated that they are. Ms. Delain stated that if necessary she will repave the driveway after moving the gate back. Ms. Shamieh stated that she is not certain what the limit is for maximum paved surface in the Stockade, but that the any decision that the Commission makes must of course be allowed under the Zoning Code. Ms. Delain stated that she understood that any decision by the Commission would be conditional, depending on the requirements set forth in the code.

Commissioner Britt asked Ms. Delain is she could indicate on the photos submitted with the application where the proposed location of the gate will be. Ms. Delain showed that she would like the gate to be moved back to the back side of the last window on the first floor, which would be approximately eight feet. Commissioner Wiles asked if eight feet would be a sufficient space in which to park a second car. Ms. Delain responded that her cars are small and less than eight feet in length. Commissioner Britt stated that in her opinion moving the gate back is both negative and positive, because moving the gate further from the street and thus decreasing its visibility is a good thing, while adding more parking to the front of the building will not be. Commissioner Wiles noted that in the photo the gate appears much closer to the street than in the drawing submitted by the applicant. Ms. Delain apologized for her drawing not being exactly to scale. Ms. Shamieh stated that she believes that there is a required two foot setback from the property line for paving, but that she would have to confirm this.

Commissioner Britt asked the Commissioners their opinion about moving the gate back. Commissioner Bennett stated that he would not have a problem with it. Commissioner Wiles stated that they are assuming that the new gate will look the same, but that no details or drawings had been submitted. Ms. Delain stated that the gate will actually be the exact same gate; she will simply have part of the side fence removed and the existing gate moved back.

Commissioner Britt stated that in considering the fencing on both sides of the property it is important to consider the character of the space in relation to the property and the streetscape and surrounding properties. She explained that while she is not a fan of adding six foot high fences, a stockade fence of this height already exists on the other side of the house and having the same fence on both sides will contribute to the appearance of the uniformity of the property as a whole.

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Commissioner Wiles noted that in the photo there is an existing fencepost indicating that there once was a six foot high fence on this side of the property. Commissioner Britt reiterated that she believes that having stockade fences of the same height on both sides of the property will in fact improve the overall harmony of the site. Commissioner Meigher stated that he would support the fencing and gates on both sides as long as both gates are set back at least eight feet from the sidewalk. Ms. Delain stated that one will be set back eight feet and the other sixteen.

Motion by Commissioner Britt, seconded by Commissioner Yager, to approve the application as summarized below:

1. The bare wood on the windows will be painted and sealed.
2. A six foot high fence and gate will be added to the Stockade Towers side of the property.
3. The existing gate on the other side of the property will be moved back to accommodate the parking of an additional vehicle.

And with the following conditions:

1. Once commenced, the project will be completed within one year.
2. The windows may be painted either the otter brown color submitted or a gray color in a similar intensity and shade, whichever the applicant prefers.
3. The existing stockade fence gate on the driveway side of the house may be moved back to the far side of the last first-floor window toward the rear of the house.
4. The approved fence on the Stockade Towers side of the property is a six foot high stockade fence with every third board removed so as to meet the maximum 70% opacity requirement. The fence will measure a maximum of six feet from the ground to the top of the panel of the fence.
5. At the front end of the fence a three-foot wide solid stockade fence gate will be set back eight feet from the front corner of the house.
6. All approvals are conditional to the proposed changes compliance with the City Zoning Code and Ordinance.

Findings:

1. This is a Type II SEQRA.
2. The sketch provided by the applicant does not properly locate the adjacent building and is not to scale.
3. The Commission has chosen to use the first floor window as the marker for moving the existing gate on the driveway side of the property because the applicant has indicated that this will provide her with sufficient space to achieve her goal of parking two vehicles in tandem in the driveway without blocking the sidewalk.
4. A fence color was not specified because the applicant indicated that she intends to leave the fence unpainted and allow it to weather naturally.

Should the applicant decide at any time in the future to paint the fence, approval of the color by the Historic District Commission is required.

Motion carried unanimously.

B. Consideration for approval submitted by Judy and Greg Miller to paint the garage. The premise is located at 1037-1039 Gillespie Street.

Judy Miller and Chaya Tal appeared before the Commission. Ms. Tal explained that the garage is currently white with boarded up doors, and that they would like to paint the garage so as to make it appear as less of an eyesore until they decide how to proceed with the structure in the spring. Commissioner Yager asked if the applicants have had a structural engineer look at the garage. Ms. Miller stated that they have, and that he reported that the garage is structurally unsound and was not built correctly, but that they are not prepared to take any major action on the building at this time. Commissioner Yager asked that if the eventual goal is to remove the garage are the applicants certain that they want to invest the time and money in painting it. Ms. Miller stated that at this time they are trying to obtain tenants, and the garage is a major eyesore that detracts from all of the other work that they have done rehabilitating the property; thus she believes it will be worth the investment to paint it. Commissioner Wiles noted that the application states that they would like to paint the garage the color of the front porch, but it was not made clear whether the color would be the beige or the dark brown color. Ms. Miller stated that they would like to use the dark brown color. Commissioner Wiles asked if the garage doors are functional, as there is a lock on one of them. Ms. Miller stated that the doors are not functional, but are boarded over.

Commissioner Britt stated that typically she would encourage that the garage be painted the same color as the house, but that in this case due to the structural situation and the fact that no other repairs are being made at this time she would support painting the whole garage the dark brown color in order to help it visually recede. Commissioner Wiles agreed. Commissioner Meigher stated that he believes that painting the garage to match the house and trim would make it the least noticeable. Commissioner Bennett stated that he is not certain that painting the whole garage dark brown will achieve the applicants' goal of making the garage less noticeable, but he stated that he would not vote against their choice. Commissioner Britt stated that she supports the dark brown as a temporary solution while the applicants decide how they want to proceed in the spring.

Motion by Commissioner Britt, seconded by Commissioner Wiles, to approve the application as summarized below:

- 1. The entire garage will be painted a dark brown color to match the trim on the front porch of the house.**

And with the following condition:

1. Once commenced, the project will be completed within one year.

Findings:

1. This is a Type II SEQRA.
2. The dark brown color was accepted for the whole garage due to the current poor condition of the structure. The Commission believes that the color choice will help to achieve the applicants' goal of making the garage less conspicuous from the street and less of an eyesore on the property.
3. The applicants state that they will return in the spring with a final plan for how they wish to deal with the garage. The Commissioners and the applicants understand that this painting is not a permanent solution but believe that it is the best temporary option at this time.

Motion carried unanimously.

VI. OTHER BUSINESS

A. Discussion of street trees in historic districts.

Commissioner Britt asked the Commissioners if they had reviewed the last draft of the letter regarding street trees and if they had any additional suggested revisions. She noted that she had revised the draft letter originally composed by Commissioner Yager, and submitted it to Assistant Planner Shamieh, who also made some minor revisions and then passed the final draft on to the Corporation Counsel's Office for review. The letter that was distributed with the September meeting materials is the product of this process.

Commissioner Bennett stated that he had been excused from the meetings at which the letter was previously discussed, and that he had some questions regarding the intent and language of the letter. He asked if the purpose behind the letter is to state that the Commission is in support of the issue, but that it is not technically within their purview and therefore there is no official action that they can take regarding the matter. Commissioner Britt agreed that this was the main idea behind the letter. Commissioner Bennett stated that he does not agree with the idea, which he believes is implied in the letter, that healthy trees should never be removed. He offered an example of a large maple tree that had been removed from a corner in the Stockade. The tree was most likely healthy, he explained, but had overgrown the space. In his opinion, once it was removed the area was much improved. Ms. Shamieh noted that the main point of the letter is that this should be a citywide discussion, and not solely that of a few small groups. Commissioner Bennett suggested a revision to the second paragraph of the letter which would replace the sentence referring to the replacement of trees that have been removed. The Commissioners approved of this suggestion.

Motion by Commissioner Britt, seconded by Commissioner Wiles, to approve the letter with the following conditions:

1. The fourth sentence in the second paragraph, “We believe trees that must come down should be replaced with new trees...” will be stricken and replaced with the text submitted by Commissioner Bennett and approved by the Commissioners.
2. A final copy of the signed letter will be attached to the September Meeting Minutes, and once adopted will be a part of the public record.

Motion carried unanimously.

VII. OLD BUSINESS

Commissioner Wiles noted that the fence that was installed at 1156 Stratford Road does not fit the specifications of the proposal approved by the HDC. He explained that the fence was approved to be four feet high, and clearly the western end of the fence is higher than four feet. He also noted that the western end was supposed to be configured closer to the door, as was shown in the approved proposal, and that the stepping up of a portion of the fence, which has been filled in with wire, was never approved. Commissioner Britt stated that the wire appears to have been added to keep the homeowners’ dogs within the fence. Commissioner Wiles stated that regardless of the reason for any of the changes they do not follow the proposal that was approved by the Commission, and any permits issued did not allow him to use the materials this way.

Ms. Shamieh stated that a codes officer had looked at the fence and reviewed the situation and concluded that the decision language was ambiguous, because a four foot high fence had been approved, but it did not state that the height from the ground to the top portion of the fence was allowed to be a maximum of four feet. Thus it could be interpreted that a four foot high panel would be allowed in whatever way it was installed. Ms. Shamieh stated that she agreed that an argument against the fence would be tenuous, as the applicant had used approved materials and installed them in a way that one could interpret was approved. Commissioner Wiles stated that he believes that in cases where there is ambiguity in a decision, the argument should be towards the side that is more protective of the Commission’s guidelines rather than towards the more lenient side. He noted that in this case the irony is that the rest of the fence, excluding the western portion, looks good and is in accordance with what was approved.

Commissioner Wiles stated that issuing a permit does not cede authority to the applicant that allows him to interpret the approval however he wishes. He noted that if there are ambiguities in the language of the decision, the onus should be on the applicant to return to staff or the HDC for clarification. Ms. Shamieh stated that in this case she believes that the applicant tried to do everything right and follow the decision of the HDC. Commissioner Wiles disagreed, stating that obviously at some point it

had become clear that the western portion of the fence would need to be stepped, due to the slope of the yard, and that rather than returning for permission or clarification he just went ahead with the installation. He noted that there are other ways to deal with the slope, such as customizing the fence panels or slightly changing their location.

Commissioner Britt noted that there has been significant backlash from the neighbors who are not happy with the fence. She noted that many residents of the GE Realty Plot do not approve of fences at all, as they were not historically part of the neighborhood, but that she also understands the problem of dealing with the increased traffic in some areas, particularly on Rugby Road, which was not a concern when the area was initially built up. Commissioner Britt also noted that she is in full agreement with Commissioner Wiles that when there is an ambiguity in a decision the applicants should come back to staff or the Commission for clarification and not simply take matters into their own hands.

Ms. Shamieh stated that she agrees that even if the issue of the allowed height of the fence was unclear, the stepping of the panels should not have been done without the applicant returning for permission; however, she is not certain that the administration's interpretation will be that the problem is egregious enough to require the applicant to change the fence. Commissioner Wiles noted that the neighbors have expressed concerns with the fence not just because it may or may not be historically accurate, but because they feel that the way the fence was installed is not correct. He added that they have expressed that they have done all they are supposed to do – pay their taxes, maintain their properties, seek proper approvals to do work – and they feel that this fence installation represents a case where the proper channels were not followed. He noted that over time the use of the fence will become less and less objectionable, but this should not mean that it should not be fixed and brought into proper compliance.

Ms. Shamieh stated that she had spoken to the applicant recently. She explained that he had contacted her because he would like to move the existing shrubs which are now inside the fence to the outside of the fence. She stated that she communicated to him that because this plan is different from what was approved by the Commission he will have to come back with an amended application. Ms. Shamieh stated that she will follow up with the applicant.

VIII. MISCELLANEOUS

None.

IX. ADJOURNMENT

Motion by Commissioner Britt, seconded by Commissioner Bennett, to adjourn the meeting.

Motion carried unanimously.

APPROVED 10/17/16

The meeting was adjourned at 8:28 pm.