

# Rockford Historic Preservation Commission

November 9, 2010 — 6:00 PM

**Present:** Janna Bailey, Maureen Flanagan, Vickie Krueger, Mark McInnis, Scott Sanders,

**Absent:** David Hagney, Doug Mark

**Staff:** Attorney John Giliberti; Sandra Hawthorne, Jessica Roberts, Seth Sommer

**Other:** Zitto and Applicant; Mr. Ron Sunday,

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## **Approval of Minutes**

A **MOTION** was made by Mark McInnis to **APPROVE** the minutes of the October 5, 2010 meeting as presented. The **Motion** was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

## **New Business**

### Public Hearing - 910 North Prospect Street Certificate of Economic Hardship

Attorney Giliberti reviewed the exhibits that were presented in the packet to the Commission prior to this meeting. Mr. Sunday had no objection to the exhibits presented. Attorney Giliberti then explained the procedure of the hearing.

Mr. Sunday stated he had no further discussion in addition to what he has already presented.

Mr. Sanders asked Mr. Sunday if he purchased this property with the intent of demolition. Mr. Sunday stated after he discovered how much it would cost him to bring the property up to code, he felt the only course of action was demolition. Mr. Sunday stated the foundation was falling apart, that water was "coming in from all directions", and did not agree with the written information provided by Seth Sommer that the foundation of the house was structurally safe. Mr. Sunday stated he felt he was "picky" about what it would cost him to fix up the house the way he wanted it. He stated he was not going to be a slum lord who put the house together just to rent it out in the condition it was before. He stated this structure was "a piece of junk". Mr. Sanders asked if Mr. Sunday had any communication with the secretary of HPC prior to purchasing the property in regards to demolition. He stated Ginny Gregory did provide him some direction, but did not say yes or no on whether the building could be demolished. Mr. Sanders and Mr. McInnis were in agreement that Ms. Gregory did not state demolition was an option. Mr. McInnis stated Mr. Sunday's comments and application led him to believe that he purchased this property with the intent of tearing it down. He pointed out that the Applicant now has two professional opinions and those opinions found the foundation to be structurally sound. Mr. Sunday stated it was not financially feasible to him to repair the foundation. Mr. McInnis feels this property is going in the direction of demolition by letting the property deteriorate because they did not want to put any money into repairing it. Mr. Sanders explained that one of the purposes of the Commission is to preserve and protect these neighborhoods even when a structure is deteriorating until someone comes along who is willing to restore it. Mr. Sanders felt this was self-inflicted economic hardship since Mr. Sunday knew the condition of the structure prior to buying it. Mr. Sanders stated he also feels it was Mr. Sunday's intent to purchase this property, demolish the structure to increase the size of his property, to which Mr. Sunday stated that was part of his intent.

Vicki Kruegar asked what Mr. Sunday's intention would be if he is denied demolition of the property. Would he sell it or fix it up? Mr. Sunday stated he did not know if he would sell it or turn it back to rental property. He stated he cannot rent it out in the condition it is in at this point.

The Board had no other questions of Mr. Sunday at this point in the meeting.

Mr. Seth Sommer, Building Official for the City of Rockford, gave testimony to his findings on an inspection of this structure. He first provided his background and experience. He stated he went on the building inspection along with Gene Werbecki and gave Mr. Werbecki's 24 years of background. In the basement there was concrete foundation, limestone, and a smaller brick foundation. The rest of the structure, including roof appeared to be in fine condition, the joists above the first floor appeared to be in good shape. Mr. Sommer and Mr. Werbecki did not see any evidence of shifting in the structure. It was their collective opinion that the structure is sound and does not pose any immediate threat on the safety of the building. It is the owner's responsibility to maintain the structure, so cannot speculate on what would happen into the future. He also spoke with Larson & Darby who was in agreement with the findings of Mr.'s Werbecki and Sommer. He discussed the photos taken during the inspection, showing no portions had moved, shifted or sagged. Mr. McInnis asked if there was any puddling in the basement since it appeared to have recently rained as evidenced by some of the outside photos. Mr. Sommer stated there was evidence of slight water infiltration in the basement, but no evidence of where it was coming from since none was coming in that day. He stated there was evidence of minor patching on the limestone but nothing to indicate how old they were. He further explained that there were some repairs that could be made which would run only about a few thousand dollars according to the Inspector. There are violations on the property which are not progressing at this time pending the result of the Commissions decisions. He stated if the violations were not corrected and went to hearing there could be fines of up to \$750 per day per violation.

In response to Mr. Summer's statements, Mr. Sunday feels the condition of the limestone is much worse than Mr. Summer's report stated. He specified there are floor drains with no grates, there is mud and sand coming in, large open cracks allowing water to flow in. He feels these are more serious than minor defects, particularly if the repair option is another wall.

Mr. Summer explained the minor defects term used meant that the house was structurally sound and that these could be repaired. In response to questions from the Commission, Mr. Summer stated the floor of the basement was a slab.

Mr. Sanders expressed his opinion that he was not convinced that the applicant was being denied any reasonable return on his investment if the structure was not demolished. He does not feel it should be torn down with the purpose of purchasing the structure and tearing it down to increase the size of the property. He feels this property still has life in it. Ms. Bailey was in agreement with Mr. Sanders. Ms. Krueger stated every limestone basement she has been in leaks and pointed out that concrete block basements also seep.

Mr. McInnis stated when the Applicant went into the purchase of this structure, because of the down turned economy he was able to purchase it on the low side. He does not see where the economic hardship exists because the Applicant purchased the home when the economy was at a low point. He does not feel the \$31,000 figure given to replace the limestone is realistic given the report from Mr. Sommer and Mr. Werbecki's report that the structure is sound. The Applicant could use sump pumps to remove any water that leaked in as it came in. Given the fact that the Applicant has not demonstrated an economic hardship in his opinion, he feels he cannot agree to approval of an Economic Hardship.

Motion to Deny from Scott Sanders on the basis that the applicant is not being denied reasonable use or return of the property. Mr. Sandres added that the applicants have failed to establish that the existing use of the house is economically infeasible; the applicants have also failed to establish that the sale, rental, or rehabilitation of the house is not possible; the applicants have failed to establish the house was incapable of being put to any reasonable use or that the applicants could not obtain a reasonable economic return from the property without first demolishing the house; this is based on Mr. Sunday's own testimony as well as City Building Official Sommer's testimony that the home is structurally sound; and further the finds are based on Mr. Sommers testimony the home is not in need of extensive rehabilitation. Mr. Sanders noted that there has been no substantial change in economic circumstances of the house since the Sundays purchased it approximately 8 ½ months ago, and therefore, any difficulty the Sundays encountered in obtaining a reasonable economic return on their purchase would be unaffected by the demolition. In conclusion, the Commission finds any economic hardship placed upon the Sundays had been brought about by their own actions. **SECONDED** by Mark McInnis and **CARRIED** by a vote of 5-0. Mr. Sunday was advised he will receive written confirmation of the outcome of the vote within 7 days.

#### Certificate of Appropriateness - 539 Indian Terrace

The applicant was not present. It is their request to replace the 4 casement windows on the enclosed porch with the exact size, using vinyl exterior rather than the existing wood. These windows are visible from the R-O-W. Discussion was held on similar requests. A **MOTION** was made by Mark to **DENY** the request. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a Vote of 4-1, with Vicki Krueger voting Nay.

#### **Old Business**

#### Certificate of Appropriateness 409-415 Kishwaukee Street Demolition

Ms. Roberts has sent the applicant a letter with a request for site plan, which has not been received as of this meeting. Aaron Zitto, representing the Applicant, and the Applicant were present. He stated his client purchased these properties around February 2010. These properties had buildings with had been condemned or were about to be condemned according to Mr. Zitto. The garage in question was slanting and needed to be demolished or repaired. The Applicant tore down the garage without a demolition permit, which Mr. Zitto stated he was not made aware by Building Standards was required. Ms. Roberts reviewed the history of this item from previous HPC meetings.

Mr. Sanders stated he sees nothing that has been provided additional since the original meeting Mr. Zitto attended two months ago. Landscaping plans, site plans, have not been provided as previously requested. The Applicant was present and felt he was unsure of what the Commission was requesting for the past two months. Mr. Sanders felt no effort has been made by the Applicant for the past two months to provide the additional information as requested by the Board at the first meeting, nor to Ms. Roberts written request shortly after that meeting. The Applicant stated he has seal coated the remaining slab, which is level to the ground. Mr. McInnis stated Mr. Zitto has mentioned several times that these properties were condemned. Neither the Commission nor Ms. Roberts felt these buildings had been condemned, but rather had several code violations that needed to be addressed. Mr. McInnis expressed his concern that the building was demolished without a demolition permit nor prior to speaking to the Commission by the Applicant. The Applicant had proceeded with the demolition on his own. Mr. Zitto stated his understanding was that the garages were not part of the original structure. Mr. McInnis responded that the garages were still built in the early 1900's, making them over 100 years old.

Mr. Sanders stated with all this said, the Commission gave an outline to a solution to Mr. Zitto two months ago and no response from the Applicant has been received. Mr. Zitto stated the Applicant is willing to do that now. Mr. Zitto asked Mike Tributini if he was willing to put up a landscape buffer. Mr. Tributini response was that this property could not be seen from the street, to which Mr. Sanders stated it could. In discussing the possibility that this be laid over one more month, Mr. Zitto asked if the Commission could provide specifics as to what would be required for a landscaping buffer.

Attorney Gilliberti stated if this item went to Court and it was proven that this is a violation of City Ordinance, there could be a fine of up to \$5,000 per day. Mr. McInnis asked if there was anything in writing from the City stated this garage could be demolished or repaired. Mr. Sommer stated a Class A license would have had to be held by the demolition contractor to do this demolition, as well as a demolition permit. The demolition permit was received after a Stop Work Order was posted on the property by the City, and after the structure was demolished. Mr. McInnis stated the client knew full well prior to purchasing these properties that there were issues with the properties, that they were in a Historic District, and that as a Developer they were aware that they needed to work with the City on the appropriate permits. He preferred to Lay Over this item until further discussion was held with the Legal Department. Mr. Zitto stated they may not have been aware this property was in a Historic District to which Ms. Flanagan stated when a property is located in a Historic District it is recorded with the title and the buyer would have been made aware. Mr. McInnis also felt that as a Developer they would certainly have been aware of the permitting process. He felt the Applicant sidestepped the rules and regulations of the neighborhood, the Commission, and the Building Department requirements. He felt the claim of ignorance from the Applicant was "old" at this point since this has been a big part of their defense, and their actions were not excusable.

Ms. Roberts stated she would be agreeable to a Lay Over of this item to review a site plan when provided by the Applicant, as well as a landscaping plan, parking plan, and to insure that it meets City Code. She will also investigate whether these properties were condemned and whether the Applicant was told that they needed to demolish the garage.

Mr. Zitto felt if the City did ultimately issue the demolition permit, they were saying it was acceptable to demolish the structure.

A **MOTION** was made by Scott Sanders to **LAY OVER** this item to the December meeting with the understanding the Applicant work with Ms. Roberts to provide all necessary plans required by the Commission. The Motion was **SECONDED** by Janna Bailey and **CARRIED** by a vote of 5-0.

Staff report was given by Ms. Roberts addressing the future 2011 meeting schedule and the future appointments for the commission members.

A **MOTION** was made to close the meeting by Scott Sanders, **SECONDED** by Mark McGinnis and **CARRIED** by a vote of 5-0.

With no further business to report, the meeting was adjourned at 7:52 PM.

Respectfully submitted,

Sandra A. Hawthorne, Administrative Assistant

Historic Preservation Commission