

Rockford Historic Preservation Commission

February 11, 2004

5:30 PM

Rockford City Hall, Conference Room B

MEMBERS PRESENT: Val Olafson; Laura Bachelder; Jeanne Ludeke; Frank St. Angel; Scott Sanders (arrived at 5:50 PM); Ald. Jeff Holt (arrived at 6:30 PM)

MEMBERS ABSENT: Vickie Krueger

STAFF: Ginny Gregory, Jackie Bernard.

OTHERS: John Girgenti, applicant; Brian Bauer, River District (arrived 6:35 PM)

COMMISSIONER TRAINING

In John Giliberti's absence, Ginny Gregory called the Commissioner Training Session to order at 5:30 PM.

Ginny explained that since Attorney John Giliberti was unable to attend due to a conflict in schedules, she would go through and explain the information that he had given her as well as the information she had put together. She will provide a copy for everyone at the end of the meeting.

General Information

The Historic Preservation Commission is part of City Hall. Part of the mindset that needs to be brought to meetings is that HPC members are part of City government and the actions that each member takes reflect on the City. If any legal repercussions fall from HPC actions, then the City would have to deal with it. To put it in another perspective, when people come to the Commission, it may be their only contact with the City. This is important to remember when reviewing applications. Whether the Commission is dealing with a Certificate of Appropriateness or a landmark application, there are two key items that Attorney Giliberti wanted to be sure Commission members are aware of:

- ▶ Be consistent; and,
- ▶ Base decisions on what is in the record, either what is in the application or stated at the public meeting or hearing. There must be something in the official record to support what any Commission decision..

CERTIFICATES OF APPROPRIATENESS

Just like landmark applications, these can be challenged in court. The City has never been challenged and we never may be, but it doesn't hurt to be prepared.

Ginny spoke with people from other Commissions; the one from Raleigh, North Carolina had a really good point. In a lot of ways, the Commission can look at every decision they make as an opportunity to educate, whether it's that individual person or City Council.

In every Certificate, the Commission needs to get into the habit of having full documentation of the request, clearly stating why the application does or does not meet the guidelines, and, if it's approved, clearly defining what has in fact been approved. Ginny said that for her part, she probably needs to toughen up a little to make sure that she provides the Commission members in the beginning what is needed for information – that she does not pass along incomplete applications to them.

In the first packet that Ginny sent out for this session, she included COA application forms for other cities, as well Rockford's. There is a huge range of what other commissions ask for. Ours is pretty simple, as is the case with many other cities. There are some that get into real specifics. They request site drawings, etc. It would be nice to keep ours simple and continue to make it applicant-friendly, while still making sure that the Commission members get the information they need, and the information that she needs to pass on to the Building Department. She asked HPC members to review these documents and let her know if anyone feels the application requirements should be changed.

▶ **Guidelines / Precedents**

The Design Guidelines were written five years ago. Only half of the current members were on the Commission at that time. Ginny suggested that members review the guidelines to see if anything needs to be tightened up, taken out or modified in some other fashion. They are really the basis for every decision the Commission makes in terms of Certificates, so it is important to adjust the guidelines, if necessary, to make sure they express what the Commission wants.

The question was raised regarding clarification of John Giliberti's statement about precedents. Ginny explained that precedent would be going back through similar cases and making sure that all were handled in the same fashion. Example: Someone calls and makes an application for a fence, and they give you the same exact design that you have approved on four other houses in the same neighborhood, and for some reason, you turn this one down. Ginny reminded everyone that there would have to have a darn good reason for turning it down or vice versa. That is what John Giliberti is talking about regarding consistency and making sure you are following your precedents.

▶ **Motions (For Certificate of Appropriateness)**

Ideally, Commission members need to state where in the guidelines an application does or does not permit what's being approved or denied when making a motion. This has not always been done in the past; however, it is a good habit to get into. Ginny said that other Commissions have their staff go through applications ahead of time, and a part of what would be mailed to the Commission is basically a sheet on each one that says "this application relates to (and cites the guideline)." She said she would be willing to try this approach for the next couple of months to see how it goes.

There are times that the motion being made is simply to "approve, as submitted." When doing that, make sure that what is submitted has all of the relevant information that is needed. For example, a request for a fence should have a site plan, a design of what the fence looks like, etc. If it's an addition, they should have elevations, description of materials and a site plan. It is also important to be detailed when making motions. The more detailed the information in the Commission's record, the stronger the City's position will be in any court case. As long as the record is complete and the Commission has followed its own rules, judges will generally uphold any decision of the Commission. Commissions get into trouble when they ignore their own guidelines or if don't follow their own basic rules.

If there is any variation from what is submitted, which happens about 1/3 of the time, be sure when making a motion to state very specifically what that variation is. Also, it should be noted in detail what was approved or not approved. As an example, Ginny referred to two new houses on North Prospect, both built within the last couple of years. For one, the applicant submitted only one drawing of a generic log house and a rough site plan. Several modifications were made in the design of the house, but there was never any requirement for a revised drawing that truly reflected what the Commission approved and what was eventually built. In the other example, an architect was

involved and submitted detailed elevations of what the Commission reviewed and ultimately approved. This is what is needed in every case where any type of new construction is involved.

LANDMARK AND HISTORIC DISTRICT RECOMMENDATIONS

In a public hearing, Commission members must be sure to listen to all testimony from both the applicants and other witnesses. HPC members should ask questions of the witnesses as they go along, but should not voice any opinions as they do so to avoid even the appearance of giving testimony yourself. The job of Commission members is to listen to everybody else, weigh the information provided and then make a decision. The exception to this would be when a Commission member can reasonably draw on their own professional expertise to provide information. An example might be a licensed architect who works primarily in renovation work. The individual must preface what they are going to say with what their credentials are, clearly relating it to what they're going to say. In this particular example, it might be to state what the classic characteristics of a Beaux Arts building are.

When discussion begins after the hearing is officially closed, specifically state which facts and opinions included in the application and/or the testimony relate most clearly to the criteria under discussion. Ideally, if it is something like St. Mary's, cite what page in the transcript it is on. That way, Commission members are clearly tying what they are basing their decision on to the testimony that was given and to the written application. Ginny mentioned that it is highly unusual to have a transcript for a hearing. If there are conflicting witnesses, as there have been in the past, HPC members need to state why they are taking the opinion of one witness over another one. It should be stated either in the discussion that leads up to making a motion, or when the motion is made.

[Scott Sanders arrived at this point.]

Scott asked why this needs to be made so clear. Ginny explained that if St. Mary's had been approved by City Council, the Commission [and the City] would most likely have been taken to court. What the court would look at is, did the Commission follow its own procedures, and did it base its decision on what is in the record. The judge will not assume that any decision is based on the record unless the record that he is given – minutes, transcripts, motions, whatever – clearly indicates that it is.

Commission members should not introduce any facts from their own personal knowledge unless they can show that they have professional expertise in the area. For example, using St. Mary's again, Frank or Val might want to say, "the classic elements of a Gothic church are.....". What they would need to do is first state, I am a licensed architect, I do renovation work, I have a degree in Historic Preservation, so I know the field. Once they had established their credentials, they could then proceed to state what the classic elements are. This way, they would be establishing that they are expert witnesses. The only other way for Commission members to introduce additional information into the discussion would be to introduce facts that are generally known, and by generally, we mean general population, not just within the preservation community.

Even if there is more than one criterion listed on the application, it only has to meet one. If the Commission feels it only meets one or only meets two, then either state why it does or does not meet the other two, or just be silent on that point.

Basic Rules for Making a Motion

Always make a motion based on the record. If it hasn't been said either in the application or in the hearing, don't include it in the motion. Always state why something does or does not meet ordinance

criteria. It has to be said in such a way that someone not conversant in preservation standards, such as a judge, can understand why it does (i.e. referencing something from the record).

The Commission may want to consider establishing a policy where it does not vote on landmarks the same night as the hearing. This would allow time for minutes and/or a transcript to be produced that could be referenced in a motion.

And finally, she suggested that anyone making a motion try to write out an outline of what they plan to include in the motion so they can do it in a logical fashion and make sure everything is covered.

Helpful Hints

- ▶ For a landmark application based on Criterion B (architecture), what really needs to be established is:
 - ▶ What the classic elements of that particular style are; and
 - ▶ Why this particular building does or does not really stand out, in terms of what those elements are and in relation to other buildings of that type and style within the City of Rockford.

- ▶ The same basic approach can be used with most of the criteria. Where it gets a little fuzzy is Criterion F (the one most closely associated with the life or activities of a major historic person, organization or group). If it is a group, the property needs to be the one most closely associated with that group. It is not the kind of thing where you can say, two Presidents ate at the Elks Club and therefore, it is important. It is important because that was the home for Elks Club No. 64 for approximately 80 years.

Bottom Line

Word motions to approve a landmark designation in such a way that an individual (such as an alderman or a judge) can clearly tell why this property should be a landmark without having to read anything else except the motion. Have the bare bones of why this meets the criteria in that motion. Assume that they don't know anything about architecture or whichever criteria are being used and couch any motions accordingly.

BIAS, CONFLICT OF INTEREST, EX PARTE CONTACTS

Prejudgment

Prejudgment can be alleged if a Commission member makes any public statements about anything before it's actually discussed at the meeting and voted on. Once it has been voted on, members are free to express their opinions. Whether it's a Certificate or a landmark application or district application, Commission members need to be aware that they should not make up their minds until they have heard all of the evidence at the meeting or hearing.

Conflict Of Interest

If a Commission member has any type of personal, financial or professional stake in anything coming before the Commission, they cannot vote on it. Examples would be a project that their firm is working on, or something related to Tinker (for Laura), or if they are the homeowner. We definitely do not want to give any appearance of favoritism. And finally, if an HPC member helps someone complete a landmark application or prepares a landmark application themselves, they can give testimony, but they cannot vote.

Ex Parte Communication

This was discussed last year. Basically, if an applicant calls a Commission member on the phone or approaches them in some other fashion and says they want to discuss their application, the member should tell them that they can't discuss it until the open meeting. This is true whether it's an application for a landmark, a Certificate or a historic district. That way everything that is being considered is on the record, and no one on the Commission is privy to anything that other members are not aware of.

One of the exceptions made in the past would be in cases where a Commission member has particular expertise. This generally happens when someone wants to take out a large tree because it is dying. The landscape architect on the Commission could go by and take a closer look and take pictures, but he should not speak to the applicant while he is there. At the meeting where the application is discussed, he should clearly inform everyone at the meeting that he was at the site and these were his conclusions).

Commission members **are** expected to drive by sites, that is why Ginny mails out the information ahead of time. However, they should not talk with anyone about the application while they're driving by.

Val questioned what to do if someone calls for advice before sending in an application. Part of what was discussed when setting out goals in the Strategic Plan was to give advice to people and being an advisor and committee. Does that have to be only at our meeting? Ginny said yes, even though it is not applicant-friendly, but that is the best way to avoid any difficulties. Plus, it protects Commission members because if they did give advice, it could be misinterpreted and the Commission could be faced with someone bringing in an application and saying, "Val told me I could do it this way."

Scott asked if the Commission as a whole could meet with an applicant on site. He remembered a time when someone came in with an application for a Certificate and the Commission wasn't comfortable with what was being proposed. Two HPC members met with him with him on site between meetings to see if something could be done.

Ginny said that if the applicant brought in his/her application this month (February) and HPC wanted to go to the site and then vote on it next month, it should be stated at the February meeting who was going to go on the site and when. Then, at the March meeting, those members who made the site visit would make a full report on what they saw, who was there, what was talked about, etc. That way, if there are other interested parties, they can be made aware of what is happening.

Ginny said that National Trust has just released a new edition to its Procedural Manual for Commission members. As soon as the City Budget is approved, she will order ten copies so that each member of HPC can have one. This will cover everything she has covered tonight, as well as a lot more information.

Val said that we have gotten lax in our motions to approve Certificates of Appropriateness, and said that we should be more detailed in what we are approving and not approving. Whether we approve or not, we have to reference why, why not, etc.

Ginny said that for the next couple of months, she will try out a new procedure to see how it goes. With each application that comes in, she will attach a cover sheet to the application that says "they are applying for a fence, these are the guidelines...". If this presents more work, maybe we can figure out a better idea.

Scott raised questions about the guidelines and how to respond. Ginny said that it might be easier if she numbered the guidelines, so anyone making a motion could indicate the proper guideline numbers. If this approach works out, that can certainly be done.

Ginny handed out a copy of her notes as well as a copy of a report she received for Planning Commission members. The first section of this report really works for any kind of City Commission, covering a lot of the same information as she discussed at this meeting.

Ginny also mentioned that Commissioner Training should be done every year. She also asked if HPC members would be interested in viewing three videos produced by IHPA. Each one is about 30 minutes long and she could set them up a half hour before each of the next three meetings. General consensus was that this would be a good idea.

The Commission Training Session recessed at 6:25 PM.

The regular Meeting was called to order at 6:30 PM by Val Olafson.

NEW BUSINESS

APPROVAL OF MINUTES

A **MOTION** was made by Laura Bachelder to approve the minutes of January 14, 2004. The motion was seconded by Jeanne Ludeke and **CARRIED** by a vote of 6-0.

CERTIFICATE OF APPROPRIATENESS - 311 Grove Street

The owner, John Girgenti, was present and explained what he is proposing to do. He wants to build a deck on the back of the house and he has supplied some drawings and pictures with his proposal. He believes there may be a hazard there because of the poor condition of the steps. He said the letter he received from the Commission raised issues regarding the shutters he had installed as well as the scalloped vinyl siding. He also wanted to apologize. He knew that he was in a historic district, but he was not aware of the guidelines. He now has a copy of the guidelines and has been made aware of what they allow. He explained that this home at one time had shutters on it and at the time of purchase, he found some of them in a small shed in the rear of the property. They were mostly in pieces and the rest rotted. If it was at all possible to repair or restore them, that would have been his first option. However, they were deteriorated beyond repair. He apologized for applying shutters of another material and before applying for a Certificate of Appropriateness. He knew this was a historic district but was unaware of the design guidelines or any book outlining them, which is described on page 19, paragraph 3, regarding the vinyl applications.

His request is to remove the yellow fishscale vinyl siding at the front of the home, replacing it with cedar shake shingles (sample and photo shown). He would also like to secure a building permit if granted a Certificate of Appropriateness for the proposed deck on the rear of the property. He has just recently purchased this property and it was in some state of disrepair, both inside and out.

Val wanted to address these items one item at a time, beginning with the fishscale siding. She said that this is not in keeping with the architectural style of the building. If he needed to replace the material there, it should have been replaced with clapboard to match the clapboard that already exists on the front so it would be the same material from the peak to the bottom.

Mr. Girgenti said that when he purchased this property, the first thing that drew him to it was the price. He realized that it needed some help, but the lack of curb appeal was one of his big concerns. It lacked anything at all to draw it. Apparently the small shed addition on the front was put on well before he knew

about the house and it just looked like a nothing. His proposal was to add some color, something different to that. Once he got involved with the vinyl, he realized that it was not the thing to do. It was difficult to work with and it cheapened it more than anything. He got rid of that and wants to go with the natural cedar shake. Val pointed out that the shake is a completely different period and style than the house is. She said it makes more sense to go with the clapboard. John said that he was trying to purchase some of the clapboard, but it is not available in the same dimensions and width as the existing ones that are on the house now. Laura said that he could re-saw some of the available clapboard. Jeff Holt said that it can be re-sawed to narrow it down and match the exposure of the existing ones just by how they are installed. John didn't think that it would give the effect that he wanted for enhancing the exterior of the home. Laura commented that people who are attracted to that area would be more attracted to a house that is historically appropriate. She suggested going that route instead of creating something new out of this old house. Jeff suggested the enhancements could come with landscaping to soften the look of the house.

Val pointed out that if the applicant wanted to go back to exactly what it should look like and address the front part of the house, it would be appropriate for him to remove the shed addition. Since it was there before Haight Village was a historic district, the Commission can't tell him to remove the shed; however, she pointed out that it would never have been there in the front of the cottage from the very beginning. In trying to stay with just the clapboard, the Commission is trying to keep the materials as close as possible to the historic context of the building. Val referred to Page 31 of the Guidelines, which talks about architectural details, which relates to the proposal for the cedar shake, but also fits in with the shutters as well. If the original features are missing, they may be replaced with accurate recreations based on pictorial historical and physical documentation or they may be replaced with a new design that is compatible with the size, scale, material, color and era of the building. That is what the Commission is trying to keep going, even if he has to replace materials, he needs to stay in context as much as possible with the era and design of the original structure.

John Girgenti said that on page 19, paragraph 3, the Guidelines say to remove synthetic siding and restore original building material if possible. If this is not possible, for example, if the original siding is gone or deteriorated to the point where wood has to be replaced, then synthetic siding may be considered.

Val said that was talking in regards to siding of the complete house. So, if a house is covered in vinyl siding, the installers would either remove the wood siding and replace it with vinyl, or they would apply vinyl siding on top of the wood clapboard. If the latter happened, the owner can remove the siding and have the wood clapboard underneath. The Commission is only requesting a small triangle area to be replaced with the material that is appropriate to the complete rest of the structure.

John Girgenti wanted to know if that was the Commission's stand on the shingles. He said that his intention when he purchased this home was to renovate it to help it along somewhat, then resell it. He is a realtor, and one of the things that he is most concerned with is trying not to make it look cheap, trying not to cut expenses to the place where it would jeopardize the health or welfare of anyone who would be occupying it later. He felt he is somewhat at risk, since he is a professional in real estate, and there are rules and regulations in that industry seriously dealing with situations like that. His intention and focus was not to do anything out of compliance with the District, or upset anyone, but just to make it a better looking place than it was originally.

Val said the Commission understood and appreciated that, and this was their concern as well. However, their main concern is to retain context of the structures within the historic district. That is why HPC has the different regulations and why materials are such a concern to the Commission, but also other members of the historic district. Everyone in each historic district in the City of Rockford has to comply with these Guidelines. That is why HPC judges each building individually, because each one is of a

different era, different style, and hopefully HPC can lead Mr. Girgenti to the direction that will best bring the building back to this style that was meant to be.

Scott Sanders commented that historically appropriate or accurate restoration is a plus, and could be heralded in the marketing of the house, i.e. all restoration work was done consistent with its period. Even a little bit of landscaping or some sort of foundation treatment could go a long way towards adding curb appeal for this house.

Val said that that addresses part of the issue with the shutters, as well. They are vinyl, and they really should be wood. In addition, they are not installed correctly nor are they the correct size. There are wood shutters available that would be appropriate here. In looking at the original ones that were left there in pieces, Mr. Girgenti said he found that the dimensions on those particular windows would be narrower and slatted. He thinks to replace them to the dimensions of the windows that are there now might be a custom order. Where he shops, they are not available.

Frank suggested possibly ordering them. He was not sure if custom shutters could be ordered at Menard's or Home Depot, since he has never checked on that. He was aware of restoration warehouses that actually sell shutters that are historically appropriate. They also have the right hardware on them, with the hinges that come over the frame of the window so when it closes, it actually covers the whole window.

Val suggested a few ideas of where to order or purchase these shutters, including two businesses in Chicago that save architectural salvage. If they can't find it, that can usually refer you to someone who can. In the long run, it is less expensive and much more appealing visually on the house than the vinyl shutters that are just attached to the siding of the house.

Mr. Girgenti disagreed with this. He said he has restored 14 homes in the past, and in order to get the appropriate wood shutters in the dimensions needed, they would be a lot more expensive. Also, in some cases, they would probably need some repair and a lot more attention to get them to look more presentable than vinyl.

Val said the if the vinyl was approved, it is still the incorrect size and application. Jeff Holt commented that if there was a vinyl out there that had the right proportions for the window and hardware that had looked like it was appropriate, that might be another issue. The shutters that are currently on there are, in proportion to the window, too thin for the window. It looks like if they were closed, they would not cover the entire window. He also said that Mr. Girgenti has the option of simply taking off the shutters or painting the older ones.

Mr. Girgenti said that the 14 homes that he had previously restored were not historic homes. As far as the appropriateness of the homes, his concerns are with the mechanical issues, i.e. roof, furnace, foundation, layout of the rooms, electrical system and the cosmetics, as well as curb appeal. His purpose was to improve the looks of the home and then re-sell it. When driving through the neighborhood, he noticed some houses in the historic district that looked a lot worse than his. He thought that his doing a little something would be a lot better than doing nothing. Apparently, the Historic District has mandates and things in place, but he is just representing himself and telling his side of the story of how he feels.

Val said that the Commission's responsibility is to maintain the look of the whole district. They are very concerned about curb appeal as well. However, their focus is that it is historically correct and intact.

Mr. Girgenti said that he can scrap the idea about the deck. He will just paint the steps in back. Val said another solution would be an applied stone patio in the back, which would be more appropriate, because the deck would be seen from three different streets. Mr. Girgenti prefers to just paint the steps. If the

wooden steps are not safe, that could be a Building Department issue, but they could be rebuilt with new wood and then painted.

Val said that HPC's purpose is to give advice and help people restore within a historic context. We need to maintain each property as well as it could possibly be. Every property owner in each historic district is held up to the same standards. She said that she hoped Mr. Girgenti would take the suggestions of the Commission and possibly come up with different ideas for trying to restore the building in the historic contexts.

Mr. Girgenti said this was not why he purchased the home and he had nothing else to say.

A **MOTION** was made by Scott Sanders to DENY the Certificate of Appropriateness based on two references to the Design Guidelines:

- ▶ On page 31, Architectural Details, specifically the references to shutters and replacing features in a manner consistent with the character of the building.
- ▶ On page 24, which states that decks should only be added in inconspicuous areas and screened from public view.

The motion was seconded by Frank St. Angel and **CARRIED** by a vote of 6-0.

VIOLATION NOTICE

1120 Greenmount Street – Ginny reminded everyone that this is the multi-colored building visible from North Second Street. She sent a notice to the owner in October concerning a sign on the building. The owner has already been to an administrative code hearing, and they have turned it over to collections, without much luck. It has since been referred to the City of Rockford Legal Department.

2003 ANNUAL REPORT

Ginny distributed a copy of the draft to everyone and asked if there was anything anyone wanted to change. The attendance record is required by the State and does not go to City Council. She said that one of the most critical things is whether or not anyone who was on the Commission last year went to anything that would be considered training or educational experience that relates to preservation. She already has something from Gary Carlson as well as herself, but would add anything that anyone else had.

Scott wanted to see the "roles" of Commission members as defined in the ordinance, primarily for himself. It currently says Licensed Architect. He questioned whether it should also be a Licensed Landscape Architect. The question was raised to what the difference is. Scott said that the Licensed Landscape Architect is primarily outside, i.e. parking lot site design, golf course design, residential subdivision layout design, as well as planting an outside garden at someone's house. Scott said that if using the title Licensed Landscape Architect, it must be a registered professional. Some discussion followed.

A **MOTION** was made by Scott Sanders to approve the Annual Report. The motion was seconded by Laura Bachelder and **CARRIED** by a vote of 6-0.

OLD BUSINESS

CERTIFICATE OF APPROPRIATENESS - 234 North Main Street

Ginny reported that Dante Leoni, owner of the Times Theatre, had submitted an informal application the previous month to install new windows where there are now boards as the result of a truck running into the building last year. He did not show up for the meeting and didn't submit enough information for the Commission to understand exactly what he was planning to do. It was laid over, so Ginny sent him a letter to explain the process; she has not received a response from him. He was recently fined \$12,000 by the City of Rockford Building Department. The building is currently up for sale. Brief discussion followed but no action was taken.

STAFF REPORT

▶ **Riverfront Museum Park**

Ginny reported on last week's River District Framework Plan meeting at which Lew Crampton and Sarah Wolf discussed expansion plans for Burpee Natural History Museum and the Discovery Center. Burpee wants to build an addition which would be attached to the back and do an L-shape over to the old Sears Building. Ginny invited Lew Crampton, Director of Burpee, to come to a Commission meeting before the plans are finalized so everyone could take a look at it. She is unsure of whether or not he will be attending the March meeting or sometime later.

▶ **Fire Station (Administration Building / 911 Center)**

The Fire Department wants to add a floor to the fire station at Walnut and South First Streets to provide space for an improved and revamped 911 Center. Hagney Architects is working on the project. Ginny spoke with Chief Robertson and invited him to come to a meeting before the final stages of this project. Hopefully, this will happen within the next couple of months.

With no further business to conduct, the meeting was adjourned at 7:10 PM.

Respectfully Submitted,

Jackie Bernard
Intermediate Clerk