

**MINUTES OF THE PROCEEDINGS OF THE  
HISTORICAL COMMISSION OF THE CITY OF WORCESTER**

**October 22, 2009  
WORCESTER CITY HALL – LEVI LINCOLN CHAMBER**

**Commission Members Present:** Peter Schneider, Chair  
Thomas Constantine  
Timothy McCann  
Janet Merrill  
Michael Theerman

**Staff Present:** Edgar Luna, Division of Planning & Regulatory Services

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

Chair Schneider called the meeting to order at 5:30 P.M.

**CONTINUANCES – WITHDRAWALS**

- 1. 246 Burncoat Street (HC-2009-070):** Mr. Luna informed the Commission that the petitioners Mark and Patricia Le Pain submitted a letter requesting Leave to Withdraw regarding their Building Demolition Delay Waiver petition to remove and replace a deck on the rear of the house which was built circa 1748. Upon a motion by Commissioner McCann, and seconded by Commissioner Constantine, the Commission voted 5-0 to approve the Leave to Withdraw Without Prejudice request; therefore, and the BDDW request was withdrawn.

**APPROVAL OF MINUTES**

Upon a motion by Janet Merril and seconded by Michael Theerman, the Commission voted 4-0 to approve the minutes from the October 8, 2009 Historical Commission meeting. Commissioner Constantine abstained because he was not present at the October 8, 2009 meeting.

**UNFINISHED BUSINESS:**

- 2. 102 Randolph Road – Building Demolition Delay Waiver (HC-2009-052):** Stephen Madaus and Michael O’Hara, representatives for Randolph Road Realty Trust, petitioner, presented the petition. Chair Schneider reminded the Commission that the hearing for this petition was continued to this date in order to request an opinion from the Law Department regarding whether or not the Commission could consider the petitioner’s

request to change the petition from total demolition to partial demolition. He indicated the original petition sought to demolish the entire building complex on site; however, he indicated that the partial demolition now being considered by the Commission, sought to preserve the original building which is the three and a half story brick structure with a five story clock tower built between 1890 and 1892, and demolish the one-story church gathering hall, and the two and a half story brick structure built circa 1902. Chair Schneider informed the Commission that Joel Fontane, Director of Planning and Regulatory Services had sent copies of an email message issued by Michael Traynor, Assistant City Solicitor, and dated October 22, 2009, addressing the questions raised by Commission members at the last meeting. He indicated that the message stated the following: "In the instant case, where the applicant has indicated it no longer seeks to demolish the original building, there is no request pending before the commission concerning that building. Without a request to demolish, the commission has no findings to make and thus no twelve month period ensues. For the same reason, there is no possibility of a constructive [grant] approval forty-five days after the commission's receipt of the original application. In the future, if the applicant or any subsequent owner desires to demolish the original building, a separate application for permission is required". Commissioner Theerman stated that in his opinion, the two additions proposed to be demolished were newer and had not been part of the original design. He also stated that while the Building Demolition Delay Waiver Ordinance was created to protect buildings and sites that are important to the historical and/or architectural resources of the City of Worcester, the ordinance should not be misinterpreted to impede development of the City. Commissioner Constantine stated that the loss of the newer additions was not as important as the preservation of the original structure. Commissioner Merrill stated the structures proposed to be demolished were an important component of the entire building complex; therefore, she felt that it was inappropriate to approve the BDDW petition. Upon reviewing the petition submitted and the evidence provided, and upon a motion by Commissioner Theerman, and seconded by Commissioner Constantine, the Commission voted 3-2 (Commissioners Merrill and McCann voted no) that the demolition of the one-story church gathering hall, and the two and one-half story brick structure built circa 1902 was not detrimental to the historical and/or architectural resources of the City of Worcester; therefore, the Building Demolition Delay Waiver petition was approved.

## **NEW BUSINESS**

- 3. 40 Freeland Street (HC-2009-069):** Michelle Nguyen, petitioner, presented the petition. Ms. Nguyen stated that she was seeking Building Demolition Delay Waiver approval to remove and replace forty-two (42) windows throughout the house with energy efficient vinyl windows; however, she clarified that the proposed window replacements did not include the three (3) front windows, which she plans to repair instead. She also indicated that she was proposing vinyl window replacements because the alternative of restoring the windows on site was significantly more expensive. Ms. Nguyen indicated that the estimated cost of restoring the windows was \$20,500 versus \$7,182 for new energy-efficient vinyl windows. Upon reviewing the petition submitted and the evidence provided, and upon a motion by Commissioner McCann, and seconded by Commissioner Constantine, the Commission voted 2-3 (Commissioners: Schneider, Merrill and

Theerman voted no) that the removal and replacement of forty-two (42) windows was not detrimental to the historical and/or architectural resources of the City of Worcester; therefore, the motion failed and the Commission considered granting the Building Demolition Delay Waiver based on whether the applicant had demonstrated undue economic hardship. Upon reviewing the evidence provided, and upon a motion by Commissioner Theerman and seconded by Commissioner McCann, the Commission voted 5-0, that the proposed changes were necessary in order to avoid undue economic hardship to the property owner; therefore, the Building Demolition Delay Waiver petition was approved.

- 4. 45 Freeland Street (HC-2009-071):** Jacqueline Vachon-Jackson, Director of the Worcester Lead Paint Abatement Program, and representative for the petitioner, Patrick Emery-Le, presented the petition. Ms. Vachon-Jackson stated that the petitioner was seeking Building Demolition Delay Waiver approval to remove and replace three (3) lead-positive windows, located on the left-side of the front bay window of the three-story residential structure, as part of the Worcester Lead Paint Abatement Program (WLAP). She also indicated that the petitioner specifically requested vinyl window replacements. Commissioner Theerman stated that the windows in place appear to be wooden windows; therefore, he indicated that in his opinion, the replacements should be wooden windows. Chair Schneider stated that he concurred with the statement expressed by Commissioner Theerman that wooden windows would best preserve and maintain the architectural features of the building. Ms. Vachon-Jackson stated that since the petitioner was not present, she would need additional time to discuss the matter with Mr. Emery-Le; therefore, she requested continuation of the hearing to November 5, 2009. Upon a motion by Commissioner Theerman and seconded by Commissioner McCann, the Commission voted 5-0 to continue the hearing to November 5, 2009 to allow additional time to discuss the matter with the petitioner.
- 5. 46 Freeland Street (HC-2009-072):** Jacqueline Vachon-Jackson, Director of the Worcester Lead Paint Abatement Program, and representative for the petitioner, Nicholas Polechronis, presented the petition. Ms. Vachon-Jackson stated that the petitioner was seeking Building Demolition Delay Waiver approval to remove and replace six (6) lead-positive windows, located in basement of the four-story residential structure, as part of the Worcester Lead Paint Abatement Program (WLAP). She also indicated that petitioner was proposing to replace the windows with hopper style energy efficient vinyl windows. Commissioner Constantine stated that the proposed windows were the appropriate type of windows for such location. Upon reviewing the petition submitted and the evidence provided, and upon a motion by Commissioner Constantine, and seconded by Commissioner McCann, the Commission voted 5-0 that the proposed removal and replacement of six (6) windows with hopper style energy efficient vinyl windows was not detrimental to the historical and/or architectural resources of the City of Worcester; therefore, the Building Demolition Delay Waiver petition was approved.
- 6. 76 Dewey Street (HC-2009-073):** Tieu Tran, representative for the petitioner, Dung Tran, presented the petition. Mr. Tran stated that the petitioner was seeking a Building Demolition Delay Waiver approval to remove and replace the first-floor wooden deck

frame and lattice and replace it with the same design and materials. Mr. Tran stated that the proposed replacement was needed in order to address the advanced state of decay and disrepair of materials on site. Upon reviewing the petition submitted and the evidence provided, and upon a motion by Commissioner Theerman, and seconded by Commissioner Merrill, the Commission voted 5-0 that the removal and replacement of the first-floor wooden deck frame and lattice with a new deck utilizing the same design and materials was not detrimental to the historical and/or architectural resources of the City of Worcester; therefore, the Building Demolition Delay Waiver petition was approved.

- 7. 118 Elm Street (HC-2009-074):** Robert Toupin and Victoria Stefos representatives for the petitioner, and Elizabeth Stefos, petitioner presented the petition. Ms. Stefos stated that she was seeking Building Demolition Delay Waiver approval to remove and replace the three (3) porches located in front of the house, utilizing the same floor plan, open vinyl railing, vinyl ceiling and circular support columns. She also indicated that the proposed replacements were needed in order to address the advanced state of decay and disrepair of materials on site. Mr. Toupin stated that the porches appeared to have been repaired several times since the dwelling structure was built in 1905. Upon reviewing the petition submitted and the evidence provided, and upon a motion by Commissioner McCann, and seconded by Commissioner Constantine, the Commission voted 5-0 that the removal and replacement of the three (3) porches located in front of the house, utilizing the same floor plan, open vinyl railing, vinyl ceiling and circular support columns were not detrimental to the historical and/or architectural resources of the City of Worcester; therefore, the Building Demolition Delay Waiver petition was approved.
- 8. 16 Home Street (HC-2009-075):** Margos Stone and Steve Landry representatives for the petitioner and Ida Stone, petitioner presented the petition. Mr. Stone stated that the petitioner was seeking Building Demolition Delay Waiver approval to remove the brick and field stone foundation wall located on the left site of the residential structure and replace it with a cement block foundation wall. Mr. Landry stated that the wall replacement was necessary in order to provide support and stability to the building. He also indicated that the section of the wall to be replaced was severely damaged by years of rain water seeping into it without being properly treated. Upon reviewing the petition submitted and the evidence provided, and upon a motion by Commissioner McCann, and seconded by Commissioner Constantine, the Commission voted 5-0 that the removal of the brick and field stone foundation wall located on the left site of the residential structure and its proposed replacement with a cement block foundation wall was not detrimental to the historical and/or architectural resources of the City of Worcester; therefore, the Building Demolition Delay Waiver petition was approved.
- 9. 19 Stanton Street (HC-2009-076):** Nancy and Alexander Ward, owners of this parcel were present at the meeting. In addition, Todd Rainey and Pat Kapulka owners of Bill's Roofing and Siding were present at the meeting. Mr. Luna informed the Commission that on September 25, 2009, Ms. Kapulka filed a Building Demolition Delay Waiver petition seeking retroactive approval for the three (3) front porches which according to Ms. Kapulka, Mr. Rainey demolished reportedly on September 23, 2009 without a building

permit from the Department of Inspectional Services and without approval from the Worcester Historical Commission. Mr. Luna also informed the Commission that on the day of submittal, Ms. Kapulka indicated that she was representing and acting on behalf of Ms. Ward; therefore, she signed the petition. In addition, Mr. Luna stated that upon submittal, Ms. Kapulka acknowledged that the owner had received a Cease and Desist Order from the Department of Inspectional Services dated September 23, 2009, for removing the porches without a Building Permit, in violation of 780 CMR 5118.1 et. seq., and indicated that such order was the main trigger for the BDDW petition. Ms. Ward stated that the petition before the Commission was not her petition, and indicated that she had never authorized Ms. Kapulka to file or sign the BDDW petition on her behalf. She also stated that she was upset that the porches had been demolished without her consent, and indicated that she never authorized Todd Rainey to remove the porches completely. In addition, Ms. Ward stated that the porches were in good condition, and indicated that they only needed minor repairs. Mr. Rainey indicated that Mr. Ward had requested that he demolish the porches and had in fact, signed the contract to do so. Consequently, he proceeded to demolish them, although he acknowledged that he had done so without a building permit. Chair Schneider asked Ms. Ward if she would consider signing the petition to allow the commission to act on it; however, Ms. Ward declined, indicating that she did not understand what Chair Schneider was asking her to do, or the meeting proceedings. He then asked Ms. Ward if she would consider allowing her husband to sign the petition on her behalf, but she refused. Ms. Ward reiterated that she did not comprehend the issues discussed and the meeting proceedings. Commissioner Constantine and Commissioner Theerman explained the BDDW process. Ms. Ward informed the Commission that recent health issues may be impacting her ability to understand the process. Ms. Ward informed the Commission that on April 16, 2008, the Department of Inspectional Services had issued an Order informing her that on April 15, 2008, a Building Inspector had visited the site and determined that the building did not have a reasonable safe means of egress, in violation of 780 CMR 1001.1, due to the fact that the front porches had deteriorated to a point that collapse was imminent. Therefore, she was ordered to apply for a building permit to remove the existing structure and to replace the front 1<sup>st</sup> porch, so as to maintain a safe means of egress, and stated that she was ordered to act on it within forty-eight hours, but indicated that she did not do so. Chair Schneider expressed concern that the petition submitted did not appear to be properly before the Commission, and indicated that given the health condition indicated by Ms. Ward, she did not seem capable of addressing the matter appropriately. Commissioner Constantine expressed concern with the validity of the application and discussing the matter further, Commissioner Theerman stated that it would be beneficial to consult with the Law Department as to whether or not the petition was properly before the Commission and whether or not the Commission could in fact render a vote when the owner of the property had not signed the petition. Upon a motion by Commissioner Constantine and seconded by Commissioner McCann, the Commission voted 5-0 to continue the hearing to November 19, 2009, and requested Mr. Luna consult with the Law Department on the aforementioned matter.

Commissioner Theerman left the meeting at the end of this hearing.

**OTHER BUSINESS:**

**10. Crown Hill Local District Update:** Mr Luna informed the Commission that the Crown Hill Neighborhood Properties Survey RFP Selection Committee had selected Larson Fisher Associates, Inc. to do the properties survey, and indicated that the applicant had accepted.

**11. 4 Woodford Street – Stanley Kunitz Childhood Home:**

Mr. Luna informed the Commission that in response to the Commission's request, he contacted Michael Steinitz from the Massachusetts Historical Commission requesting clarification on the appeal process regarding MHC decision not to support the petition submitted by Carol Stockmal to include this site in the National Register. Mr. Luna indicated that, to date, MHC has not yet responded.

**Adjournment:** Chair Schneider adjourned the meeting at 7:45 pm.