

# HISTORIC PRESERVATION COMMISSION

## HEARING MINUTES

**JULY 14, 2011**

### **Commissioners**

Scott Winnette, Chairman

Robert Jones, Vice Chairman

Timothy Wesolek

Gary Baker

Shawn Burns

Kate McConnell

Stephen Parnes

Brian Dylus, Alternate

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### **Aldermanic Representative**

Michael O'Connor (not present)

### **Staff**

Lisa Mroszczyk, Historic Preservation Planner

Scott Waxter, Assistant City Attorney

Shannon Albaugh, HPC Administrative Assistant

**•I. Call to Order**

Mr. Winnette called the meeting to order at 6:00 P.M. He stated that the technical qualifications of the Commission and the staff are on file with the City of Frederick and are made a part of each and every case before the Commission. He also noted that the Frederick City Historic Preservation Commission uses the Guidelines adopted by the Mayor and Board of Aldermen and the Secretary of the Interior's Standards for Rehabilitation published by the U. S. Department of the Interior, National Park Service, and these Guidelines are made a part of each and every case.

All cases were duly advertised in the Frederick News Post in accordance with Section 301 of the Land Management Code.

**Announcements**

Ms. McConnell announced that she would need to recuse herself from HPC11-307 located at 119 E. 5<sup>th</sup> Street.

**II. Approval of Minutes**

**1. June 9, 2011 Hearing/Workshop Minutes**

**Motion:** Shawn Burns moved to approve the June 9, 2011 hearing/workshop minutes as written.

**Second:** Brian Dylus

**Vote:** 6 - 0

**2. June 23, 2011 Hearing/Workshop Minutes**

**Motion:** Shawn Burns moved to approve the June 23, 2011 hearing/workshop minutes as written.

**Second:** Brian Dylus

**Vote:** 6 - 0

- **II. HPC Business**

**3. Administrative Approval Report**

**4. Election of Officers**

**Chairman**

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**Motion:** Shawn Burns moved to nominate Scott Winnette to serve as Chairman.

**Second:** Brian Dylus

**Vote:** 6 - 0

**Vice Chairman**

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**Motion:** Shawn Burns moved to nominate Robert Jones as Vice Chairman.

**Second:** Kate McConnell

**Vote:** 6 - 0

**5. Petition for Reconsideration - HPC11-239, 433 N. Market Street**

**Discussion**

Ms. Mroszczyk stated that after the Commission's decision a few hearing back she worked closely with the applicant to try to find a company that would produce the material. The applicant has provided more information that they would like to present to the Commission at a hearing so the applicant requested a reconsideration.

**Motion:** Scott Winnette moved to reconsider HPC11-239 at 433 N. Market Street.

**Second:** Shawn Burns

**Vote:** 6 - 0

**IV. Consent Items**

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**a. Cases to be Approved**

**b. Cases to be Continued**

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**•V. Cases to be Heard**

Raise bulkhead and install new cellar door

*Lisa Mroszczyk*

Mr. Winnette announced that the applicant was not present so the case would need to be continued to the next scheduled hearing.

**Motion:** Shawn Burns moved to continue case number HPC10-429 located at 126 W. 4<sup>th</sup> Street to the July 28, 2011 hearing.

**Second:** Gary Baker

**Vote:** 7 - 0

**7. HPC11-307**

**119 E. 5<sup>th</sup> Street**

**Erma Lee**

Install vinyl windows

*Lisa Mroszczyk*

### **Staff Presentation**

Ms. Mroszczyk entered the entire staff report into the record and stated that the applicant is seeking post-construction approval for the installation of vinyl windows throughout a contributing early 20th century Gothic Revival-influenced duplex.

### **Applicant Presentation**

Erma C. Lee, the owner of 119 E. 5<sup>th</sup> Street, stated that she was willing to do what the Commission would want. She added that she let the gentleman from the window company know that she was in the Historic District and he said he was going to replace the windows anyway. Ms. Lee stated that she was going to have a friend of hers, Andrew Johnson, speak for her.

Andrew Johnson, a friend to Ms. Lee, stated that Ms. Lee loves the windows in her house but she did not go through the right procedure. He went on to say that if there was any way she could afford to redo it right now and do it the way the Historic Preservation Commission would like it to be done she would do it. She just does not have any money to be able to go ahead and do it and she doesn't even have the money to pay the fine from Code Enforcement. He stated that if there would be a way that the next title holder of the house be responsible to put the windows back or to put some type of lien on the house so that it cannot change hands it would be great. He went on to say that if there were some type of financial hardship form that Ms. Lee could fill out to find some government agency that would be willing to help her put wood windows back in.

### **Commission Questioning/Discussion**

Mr. Parnes asked if there had been any contact with a company representative to shed some light on the company that did the work and the applicant's efforts to try to rectify what occurred. Mr. Johnson answered that there have been numerous phone calls to the company requesting them to return phone calls and there has been no communications back to them. Ms. Mroszczyk stated that Joe Adkins, Deputy Director of Planning, has placed three or four calls to the company and has not received any response.

Mr. Jones stated that Habitat for Humanity or some other organization could possibly help initiate the install depending on how the motion goes. Ms. Mroszczyk stated that regardless of what happened that evening staff can always work with an applicant to try and find solutions.

Mr. Winnette stated that to the best of the Commission's ability they do seek to honor the Guidelines before them regardless of what information the applicant presents to them regarding their personal finances. He went on to say that they have had some leniency in regard to some facades not being front facades and Ms. Mroszczyk offered in her staff report an opening that the Commission not require the windows on the addition be replaced. He went on to say that in regard to the case before them considering that it is a duplex structure he was in agreement with the staff report and that 2/2 double hung windows are the most appropriate and the vinyl windows are not appropriate. However he did not have a problem with the vinyl windows in the addition. Mr. Johnson stated that if the application is denied for the front two windows whether it two or all the windows will not make a difference to Ms. Lee's finances. He added that if the mortgage company has to pay to replace all the windows to be compatible with the Guidelines it would not be a bad thing.

### **Public Comment**

Phillip Lee, Ms. Lee's son, stated that he looked at the information from the window company and one of their policies was that they would get all the permits. He added that he was not aware of that beforehand and after reading it he asked Ms. Lee if she had gotten any permits. She said that the person that came to replace the windows was going to take care of getting the permits.

### **Staff Recommendation**

Staff recommends denial of the application because the proposed replacement windows do not duplicate the material, design, dimensions and configuration of the original windows and because they detract from the character of this contributing structure.

As an alternative, staff would recommend an approval to replace the windows with the modification that the windows throughout the original brick structure be replaced with all wood (non-clad) 2/2 double hung windows to include simulated divided lights with a dark, non-metallic spacer bar and 1/1 wood windows on the frame addition with the dimensions of all new windows to correspond to the size of the original opening.

**Motion:** Scott Winnette moved to approve the application with the amendment that the windows be replaced throughout the original brick structure with all wood non-clad 2/2 double hung windows to include simulated divided lights with a dark non-metallic spacer bar and a 1/1 wood window on the frame addition with the dimensions of all new windows to correspond to the size of the original opening because the Guidelines prohibit vinyl windows in the Historic District.

**Second:** Brian Dylus

**Vote:** 5 - 0

### **•VI. Designations**

**8. HPC11-278**

**7926 Gas House Pike**

## Historic Preservation Overlay Zoning Map Amendment

*Lisa Mroszczyk*

### **Staff Presentation**

Ms. Mroszczyk entered the entire staff report into the record and stated that this is the Historic Preservation Commission's application for a Historic Preservation Overlay (HPO) Zoning Map Amendment for the Nicodemus Property. The Nicodemus Property, historically known as the Brengle Farm, contains an intact early nineteenth century Federal/Greek Revival style house and associated domestic outbuildings, a bank barn, dairy barn and milk house and a tenant house.

### **Commission Discussion**

Mr. Mroszczyk stated that a letter was received from Harris and Smariga stating that they would not be present for the hearing as well as their objection to the Historic Preservation Overlay.

Mr. Dylus asked if this property had been on a list since 1979. Ms. Mroszczyk answered that it was identified by a survey that the County completed in 1979. Mr. Dylus asked if the developer knew there was a potential for the property to be designated a Historic Preservation Overlay when he purchased the property. Ms. Mroszczyk answered no. The Maryland Historical Trust state inventory of historic properties would not imply that this property was potentially going to be designated by the City. The property was identified in the 2010 Comprehensive Plan and research was completed when this plan first came in back in 2009 and it was recommended that the properties be looked at and preserved if at all possible and that is part of what lead up to this plan including the open space and parkland around the historic properties.

Mr. Winnette stated that they would not be reversing or modifying at all what has already gone through the planning process even though letter from Mr. Smariga suggests that. He added that what is before them are the buildings on the property and whether they can add another level of respect to those buildings by recommending that it be considered a Historic Preservation Overlay.



Mr. Burns understood that they had the authority to initiate this application but he did not agree with it because the property owner knew it was identified and he thought that if they wanted to pursue this they should have started the process. Mr. Winnette said that based upon the Land Management Code, Frederick Town Historic District Guidelines, 66B, the Secretary of Interiors Standards and all the layers of historic preservation ask them to be advocates for historic properties whether they are within the historic district currently or not and they are given the right to be able to make applications whether the property owners want them or not. Ms. McConnell stated when following the Secretary of Interior's Standards for Rehabilitation different uses of the property are allowed, it is simply trying to maintain the character of the building which is something that may not happen with the Homeowners Association so in terms of preserving historic character so the use and setting may change but they would still be protecting the historic resource. Ms. McConnell also stated that there are tax credits that provide an increased economic ability to do this.

**Public Comment - There was no public comment.**

#### **Staff Recommendation**

Staff recommends the Commission adopt a resolution in support of the designation of a portion of the Nicodemus Property because it fulfills three of the four Criteria for Designation as further described in this staff report and in the attached inventory form.

**Motion: Scott Winnette moved to approve A RESOLUTION for the purpose of recommending approval of the Nicodemus Property/Brengle Farm Historic Preservation Overlay**

**WHEREAS, Article 66B, Section 8.01 of the Annotated Code of Maryland establishes that it is a public purpose in this State to preserve sites, structures, and districts of historical, archeological, or architectural significance and their appurtenances and environmental settings; and**

**WHEREAS, Article 66B, Section 8.02 of the Annotated Code of Maryland further dictates that each local jurisdiction may designate boundaries for sites, structures, or districts which are deemed to be of historic, archeological, or architectural significance, by following the procedures of the local jurisdiction for establishing and changing classifications of zoning; and**

**WHEREAS, at a public hearing on February 9, 2006, the Historic Preservation Commission adopted a "Priorities for Potential Historic District Overlay Zoning" list that included the Nicodemus Property; and**

**WHEREAS, on November 19, 2009, the Mayor and Board of Aldermen adopted the 2010 Comprehensive Plan Update which identifies the Nicodemus Property as potentially eligible for Historic Preservation Overlay designation; and**

**WHEREAS, on April 14, 2011, the Historic Preservation Commission initiated an application for the designation of the Nicodemus Property according to Section 423(c)(3) of the Land Management Code; and**

**WHEREAS, the Nicodemus Property was historically known as the Brengle Farm for its long association with the Brengle Family; and**

**WHEREAS, on July 14, 2011, the Historic Preservation Commission held a public hearing to evaluate the historic and architectural significance of the Brengle Farm and to receive public testimony; and**

**WHEREAS, the Brengle Farm contains historically and architecturally significant structures that fulfill the Criteria for Designation as set forth in Section 423(c)(2) of the Land Management Code; therefore be it**

**RESOLVED, that the Historic Preservation Commission hereby recommends approval of Historic Preservation Overlay zoning for the Nicodemus Property/Brengle Farm according to Attachment A to include the system of roads approved by the Planning Commission and shown within that attachment.**

**Second: Kate McConnell**

**Vote: 5 - 2, Timothy Wesolek and Shawn Burns opposed.**

The meeting was adjourned at approximately 7:25 PM.

Respectfully Submitted,

Shannon Albaugh, Administrative Assistant