

CITY OF DOVER
HISTORIC DISTRICT COMMISSION
MAY 18, 2023

The Meeting of the City of Dover Historic District Commission was held on Thursday, May 18, 2023, at 3:55 PM (late start due to technical difficulties) as an In-Person meeting in the City Hall Conference Room (anchor location) and virtually using the videoconferencing system WebEx. With Chairman Czerwinski presiding, the other members present were Mrs. Mason, Mr. Street and Ms. Horsey. (Note: The fifth Historic District Commission member has not been appointed following the completion of the term of Mr. McDaniel in 2020).

Planning Office Staff members present were Mrs. Melson-Williams, Mrs. Maretta Savage-Purnell, Mr. Julian Swierczek, and Ms. Katherine Oehmke.

APPROVAL OF AGENDA

Ms. Horsey moved for approval of the agenda as presented, seconded by Mr. Street, and the motion was unanimously carried 4-0.

ADOPTION OF MINUTES OF THE REGULAR HISTORIC DISTRICT COMMISSION MEETING OF NOVEMBER 10, 2022

Ms. Mason moved for approval of the Meeting Minutes of November 10, 2022, seconded by Mr. Street and the motion was unanimously carried 4-0.

ADOPTION OF MINUTES OF THE REGULAR HISTORIC DISTRICT COMMISSION MEETING OF JANUARY 19, 2023

Mr. Street moved for approval of the Meeting Minutes of January 19, 2023, seconded by Ms. Horsey and the motion was unanimously carried 4-0.

COMMUNICATIONS & REPORTS

Summary of Applications for 2022 and 2023

Mrs. Melson-Williams mentioned that included in your packet first is the Summary of Applications for 2022 and 2023. For the last calendar year, we had a total of 7 Applications. The first things that we have of notice with those Applications from 2022 is that the Kent County Family Courthouse is moving along. We are very close to Final Site Plan approval for that project. The associated parking lot at the Box Outlet which is not in the Historic District does have Final Plan approval. We may see activity starting there soon. The demolition of the building at 235 to 239 West Loockerman Street is complete and grass is growing there, and a related issue has arisen thanks to that building going away.

For 2023, we had one Parking Lot Improvement Project for 34 The Green that you looked at back in January. That project has received its Final Site Plan approval earlier this month and we await submission of their Building Permit to get started with that improvement project. Again, it's related to the Kent County Family Courthouse project.

Summary of Architectural Review Certifications for 2023

Mrs. Melson-Williams stated that through the end of April there have been a total of 16 Permits in the Historic District. Staff has been busy and all of them were eligible for Staff approval and or they were interior to the building where there's no jurisdiction over from a Historic District standpoint. There were a number of a new sign projects within the District.

Department of Planning & Inspections Updates

Mrs. Melson-Williams mentioned that we have a retirement in our Building Inspections team. Mike McGregor's last day with the City is May 19, 2023 after 23 years of service. The good news is that we have his replacement already on staff in Michael Bailey who was part of our Code Enforcement team is now becoming a Building Inspector. This will leave a vacancy on the Code Enforcement side. We will be looking for a new staff member. I believe that job is posted as are a number of openings across the City. If you know anyone certainly have them, check out the City's website about job opportunities.

Education & Training Opportunities

Historic District Commission Training Session on *Advanced Historic Preservation Law & Procedures* - May 18, 2023, at 5:00pm. It is sponsored by Preservation Delaware, Inc. and Division of Historical & Cultural Affairs.

For the Historic District Commission members, Preservation Delaware in conjunction with the Division of Historical and Cultural Affairs is presenting another set of training sessions. There was one back on May 4th, I don't know if anybody took the opportunity to attend that one and then there is also one this evening that starts at 5:00 PM. If you registered for it, you have to register online. You will be able to get the recording at a later time for that. In your meeting packet was the information about registering for that event that's on *Advanced Historic Preservation Law and Procedures*. These are both being done by the same gentleman that did the presentations back in November.

Ms. Mason asked how she could register since she is not able to get to the website on this meeting. Mrs. Melson-Williams replied I think you have to type in that address that is there. The other thing would be to look on Preservation Delaware's website. I know that they were limited in attendance; so, it wasn't broadly broadcast.

NEW BUSINESSReview of Permits Referred to Commission

HI-23-02 Referral of Fence Permit #23-781 at 147 S. New Street – Referral by the City Planner to the Historic District Commission for Review of Architectural Review Certification for a Fence Permit #23-781 for a 6-foot vinyl fence project along the south property line spanning from the restaurant building at 147 S. New Street to the building located on 231 W. Loockerman Street. The property is zoned C-2 (Central Commercial Zone) and subject to the H (Historic District Zone). The property is located on the east side of South New Street and north of (but not adjacent to) West Loockerman Street. The owner of record is Otis Brooks. Address: 147 S. New Street. Tax Parcel: ED-05-077.09-01-48.00-000. Council District 4.

Mrs. Melson-Williams gave a summary on Application HI-23-02. This is an application for a fence permit that was filed for a fence project at 147 South New Street.

Hence our guest with us this afternoon is Mr. Otis Brooks who is the owner and proprietor of the restaurant at that location. He filed a Fence Permit application late last week and in that he is looking to replace a segment of fence that runs between the back of the restaurant building to a brick building that's on an adjoining property. There is an existing wood fence. In his Permit, he is seeking to replace that wood fence with a 6-foot white vinyl fence. The couple of things that the Planning Staff did put together was a review report. We referenced the different sections of your *Design Standards and Guidelines*. Normally, for fence Permits, Staff can review it; however, in this case since they were looking to exceed the design standard height of 4-feet, we referred it to the Historic District Commission for your consultation on it. Because of the demolition of the building on the adjacent property, the fence is now visible. It previously would not have been visible, which would have allowed Staff to review it, and it would not have been in the public view. We could have approved that fence with no issue. It is now visible from New and Loockerman Streets. It falls into review for Architectural Review Certification here in the Historic District.

Representative: Mr. Otis Brooks, Owner and Proprietor of 147 S. New Street.

Mr. Brooks stated that he was privileged to be here. I feel even more so being a part of the enhancement of what's going on Downtown. I want to use myself as an example to see how I can improve this area. I have had one of the businesses Downtown for almost 14 years. I am now expanding on another restaurant. My intent is to see how we can improve the City.

I love that I have adapted here. Going back to fence, it aesthetically does not give a bad appearance coming from Loockerman Street. I am taking the responsibility to improve this area; this fence is not on his property (but the property that was demolished). But is adjacent to his property. If approved, I will see how I can maintain it and keep it looking good and keep it aesthetically pleasing to the City. I think we have big improvement to what Downtown is now. I think the 4-foot fence is the conventional height that is allowed in that area. I think from what is there right now, the 4-foot fence would take away from the privacy, more prone and less safety. I can recall a while back people use to step/hop over the fence. I think a 6-foot fence would be most appropriate.

Chairman Czerwinski stated that a vinyl fence is not a recommended material for Downtown in the Historic District.

Mr. Otis started that the wood fence is the second choice. He stated that he likes vinyl because of the look it portrays when you are moving by. On the other side of my property, I do have a wooden fence there, but it is not visible from the street. I chose vinyl because it looks more pleasing in his opinion. I will make sure I take the responsibility of keeping it clean even though it's not on my property.

Chairman Czerwinski asked if you were building a fence that is not on your property line? Mr. Otis replied it is on his property line, but it belongs to the other property.

Mr. Street mentioned that the Staff Report said that there were other vinyl fences approved in the Historic District. Mrs. Melson-Williams replied yes.

Chairman Czerwinski replied that for transparency, we approved a 6-foot metal fence.

Mrs. Melson-Williams mentioned that Mr. Street's question was about other examples of vinyl fencing. I think there's certain ones in other non-visible locations. The somewhat similar to a fence is when the PNC Bank did the ATM machine. They also did an improved dumpster enclosure. I think the Commission ended up recommending a more neutral color or something that is the appearance of wood. I don't think they were originally asking for white in that case. You have approved the 6-foot fence height in a number of places some of which were for security type situations both in metal and in wood.

Mr. Street mentioned that he had a few points. Vinyl seems more expensive. It's been my experience. You can always go with a different color or texture. It's not so white is not so bright. It's just such a high contrast. I think is more of a concern. My number one concern is the cost for you (the applicant). The second is some of the vinyl fences out there aren't really structurally very strong. The fences become flimsy. For example, there is one over by the Royal Farms on North Street across from Eden Hill that constantly has a problem. People could kick it through. It's a constant maintenance issue. Those are some of my thoughts, but cost is the main one. It is such a short stretch of fence that he would think that just putting back as a wood fence would be cost effective. I don't necessarily have any heartache over material as long as it's not just white, but it's like a high contrast of what's already around the area, and the fact that it goes against the recommendations for the District. He asked if there were other glaring examples where the Commission needed to approve 6-foot fences.

Chairman Czerwinski mentioned that the Commission personally did not have any problem approving 6-foot fences, but that's here that's not the problem here. It's material because the contrast doesn't work well with Historic District. The contrast pattern materials with old brick buildings that are on either side. I would definitely recommend a wood fence and of course make sure that your cross supports are on your side so nobody is stepping up into your backyard. I completely understand your safety concerns and security aspect.

Mr. Street asked that you (applicant) mentioned safety was a concern? Mr. Otis replied yes.

Chairman Czerwinski mentioned that a white fence would be subject to graffiti. Mr. Street mentioned that anything is subject to graffiti.

Mr. Street asked Mr. Brooks if he had looked into a wood fence and if he had received a price? Mr. Brooks replied yes. Was the cost difference significant? Mr. Brooks replied yes, one was \$1950 and the other was \$1700.

Chairman Czerwinski mentioned that is the concern of my fellow members here too is the materials. Vinyl is modern and it shines, its plastic. When you introduce plastic in the old historic area it really does stand out more.

Mr. Brooks mentioned in terms of appearance I think the wooden fence opposed to the vinyl looks more appealing. Ms. Horsey mentioned that the Commission is here to help, but we are also here to defend the Historic District. If vinyl were made in anything other than shining white, but wood looks so much better all the way around. I would think that for your purposes and safety and security that we could possibly work with the wood fence. As mentioned in a higher height than before in wood because we are also concerned about the safety issues. If you would consider that, I think you make us all a little happier because we're still in the Historic District and we are the watchdogs.

Chairman Czerwinski mentioned it does advise us and gives us guidelines of what we are supposed to abide by.

Ms. Horsey mentioned it sounds like you also you already have other wooden fences on the other side. Mr. Brooks replied yes, but it is not visible from the street. I like the vinyl because of the visibility from Loockerman Street. Ms. Horsey mentioned that they are trying to get away from vinyl in the Historic District.

Chairman Czerwinski mentioned the idea of black metal fences and wood fences. There are fences that give the privacy but not the security without privacy. This is where we would give you 6 feet for the security part, but we would still need the aesthetic of the wood fence.

Ms. Horsey recommended denial of the request of a 6-foot vinyl fence as submitted, but to recommend approval of a wood fence for Permit #23-781 at the request of 6-foot height with the proviso of matching the aesthetic of the original fence. The motion was seconded by Mr. Street and unanimously carried 4-0.

Motion was reinstated.

Mr. Chair you have a motion on the floor to approve the Fence Permit with the requirement to use wood materials and allowing the 6-foot height. The fence is to be in similar appearance, and it can be stained but basically saying no to the use of vinyl material.

Mr. Otis asked if he would be able to paint that wooden fence in red color or white color appearance (stain). The Commission replied yes.

Ms. Tina Bradbury with the Downtown Dover Partnership mentioned one of the conversations that we did have with Mr. Brooks is if we would be able to move forward and have that approved now. Then we would have to come back if working with Habitat for Humanity on doing a possible mural on the wood fence. That would do something community oriented. Nothing has been finalized.

The Commission mentioned that it would be a different motion and would probably have to come back before the Commission. Mrs. Melson-Williams mentioned that as long as it's a mural that's painted on the wood and it's not a sign. We can't say the name of this restaurant, but if it's very generic our Code would call it public art and it would not have to come back before the Commission.

Chairman Czerwinski mentioned it is not within the purview of approving a mural. We have had it before. We had the mural on the side of the brick building.

Mr. Street asked so the mural doesn't have to go through so our Sign Regulations. Mrs. Melson-Williams replied that our Sign Regulations allow for public art as long as it's not a sign saying the name of a business. We may have had some informational things. There are 2 other murals Downtown of the birds and the greetings, but it did not come before this Commission. The other one you're thinking about it was a request to paint the entire unpainted brick wall and that's what the Commission said "no" to.

Architectural Review Certification Process and the Historic District Zone

Review of Application and Review Processes for Architectural Review Certification and H (Historic District Zone) Designation

Mrs. Melson-Williams stated that included in your packet was a series of Code excerpts and also included on your desk today is a map that shows the Historic District area of the City which is shown in an orange color that is the Historic District zone. Properties in that area are subject to specialized review processes for Architectural Review Certification. This map also shows the two areas of Downtown that are listed in the National Register of Historic Places as Historic Districts. The one outlined in green is the Dover Green Historic District of the National Register and then there is a purple outline to the north captures the Loockerman Street area and then extends up to State Street and that is the Victorian Dover Historic District. That's the two different types of kind of districts that exist here in Downtown.

The regulations of our *Zoning Ordinance* really focus on the local Historic District as we referred to it as, which is shown in orange. That area ultimately has been a part of the Code for a number of years. The guidelines and district regulations in the *Zoning Ordinance* in Article 3. Section 21 talks about the Historic District. It gives a purpose statement, and it gives the requirements for Architectural Review Certificates. It also makes note of how amendments happen to the Historic District. It's noted that City Council can't take any action to amend supplement or repeal Historic Districts. Which means it can basically add to it, change the boundary of, take something out, add something in, without first having a report from the Historic District Commission. With the Historic District, it is treated just like any of our other zoning districts. To change the zoning district of a property here in the City, there is a very specific review process that a typical rezoning involves the Planning Commission with public hearings and City Council with public hearings.

If you're doing something associated with the Historic District boundary in any way, then you add in the fact that it has to go through a hearing process with the Historic District Commission.

How the Commission function's is found in Article 10 Section 3. It starts out with the establishment of the Historic District and then the process in 3.2 outlines the Architectural Review Certification. As previously discussed, this can happen in three ways. There are certain types of permits that can be reviewed for Architectural Review Certification by the City Planner. In other cases, there are Architectural Review Certifications that require review by the Historic

District Commission. Typically, that happens when it's a new build unless the new build is a small accessory structure. Oftentimes those Architecture Review Certifications by the Historic District Commission involve an Administrative Site Plan which is administrative process with the Planning Staff, and it ultimately still involves a Building Permit and the procedures are outlined. There is an appeal process built into all of these. The third type of Architectural Review Certification involves the Planning Commission. There are certain projects with size thresholds that trigger a formal application and hearing process with the Planning Commission. If they happen to be in the Historic District, they're going to come through the Historic District Commission first before going to the Planning Commission. Again, a public hearing here and a public hearing there. In any case, this also makes reference in 3.25 to what standards you're judging it against. It makes the general statement about a Certificate can be issued "if the architectural style, general design, height, bulk and setbacks, arrangement location, materials, and the structures affecting the exterior appearance are generally in harmony with neighboring structures and complementary to the traditional architectural standards of the Historic District." Your Guidelines are the guidelines that give those Recommended, Not Recommended, and then Appropriate practices. Of course, it gives the Historic District Commission the authority to bend them like you did today for good reason for things such as height. There are also the other standards, the Secretary of Interior Standards for Rehabilitation that are referenced. Those are ten very kind of broad statements dealing with existing buildings. The next section of the Code here goes through the procedures for filing that Architecture Review Certification. I won't go into too much details with that other than to say an application filing to one of our Boards and Commissions starts with a pre-application meeting with Planning Staff. There's a discussion with us and the design professional and the developer about what their project is looking to do. We do kind of a code reference of the provisions of the Code that you would have to meet through Historic District, reminding them of the *Design Standards and Guidelines* and giving them some feedback on what they're they may be showing us in a concept. Ultimately, an application is filed, and we go through the processing of getting it ready for it to appear before the Historic District Commission. Whether that's writing reports and any public notice requirements for public hearings, and then you can take action at a meeting. In some cases, you are the final acting body and other cases you are recommending from the Historic District Commission to the Planning Commission. There's kind of another report that then joins the application package before it goes to the Planning Commission with its own hearing process. The Code talks about expiration of approvals and how to do extensions to those approvals.

Mrs. Melson-Williams asked if there were any particular questions about Architectural Review Certification in general.

The Commission previously asked how to amend the Historic District boundaries. The Code actually outlines a process for doing that. In the case of making changes to the boundaries of the Historic District, the Ordinance here sets forth criteria for you to judge the placement of individual buildings or structures into the district or an area into the District. Basically, what that means is it's a Rezoning process taking a property to the H zone, the Historic District Zone. It can be an individual property or a District.

Section 3.33 on page 7 talks about the criteria for amending the district boundaries; so, it's changing the district boundary which would be taking something out or putting something in.

Repealing an existing district or creating a new one, there's a set of four criteria there that are to be considered. It refers back to the criteria in 3.32 which is basically things of significant value, things that are associated with important person or events, representative of architectural style, and notable work. It also notes the desire of the owner to have the property designated and any increase economic or community development potential, which is a little unusual. The first four really follow the same kind of criteria that consideration for placement in the National Register of Historic Places follow.

Mr. Street mentioned that it seems like there is an ability to amend. Mrs. Melson-Williams replied that there is a process. Mr. Street said there is definitely an orderly process to add or delete in either case. Mrs. Melson-Williams said yes and in either case there's a public hearing process that's involved and there's a report process. If you were thinking to remove something from the District, there's still a report process of why; you have to make the case for why it should be removed.

Mr. Street asked who can bring that. For example, if I own a place that is of no significant historical value and I'm in the District, can I as a private landowner petition the Historic District Commission or Council to remove my property from an historic overlay. Mrs. Melson-Williams replied yes, it's a Rezoning application. It would come through a hearing process here and hearing process through the Planning Commission. It would be processed like a regular Rezoning Application. There will be three different public hearings and three different bodies in order for that to happen. It is possible, but I do not know that it is easy.

Mr. Street said I think my original discussion was talking a lot. There's a lack of significance at least in my eyes and in my opinion for most of the buildings going down other than the Priscilla Block (Pasco, the south side of Loockerman) other than the old buildings Citizen Bank, E-Z Pass, the old Sears building.

Ms. Horsey said back when the District was created and I was around, the buildings on Loockerman was very much intact.

Mr. Street said take that one step further, we've got parking lots, the old Acme, which are owned by the various entities between the City and the Partnership. Those properties either are vacant or have the ability to be redeveloped. It's a question of, if one wanted to do that, how would you do that? It sounds like it's a Rezoning for each individual property that you would want to take out of the District.

Chairman Czerwinski said those individuals would have been notified and there's the public hearings for each of the properties.

Mrs. Melson-Williams stated that Rezoning Applications Article 10 Section 5 Amendments talks about Rezoning Applications which is what this is. The Code does kind of meld together a little bit. A property owner can make application to amend the Zoning Map of the city. Amendments to the Zoning Map can be initiated by sponsorship of three members of City Council.

A Comprehensive Zoning Map Amendment which would be several together and could be brought forward as a result of a comprehensive plan or any other formal plan or study.

Mr. Street questioned that it happens once a year. Mrs. Melson-Williams mentioned that it happens once a year if it's a Comprehensive Plan Amendment. If it's any other formal plan or study that can be considered as a Comprehensive Zoning Map Amendment and then that's initiated by the Planning Office.

If the Historic District Commission was truly interested in changing boundaries, it would I think be some type of study initiated by this group, which then results in a recommendation to expand or pull back whatever the case is. But there's a research component there. I think you would have to be making that case for.

There is a way to amend the District boundary. It's not necessarily short.

Mr. Street stated that Mrs. Melson-Williams has satisfied my inquiry. I think we have a very broad and built-in systems.

Mrs. Melson-Williams stated that as a result of the *Downtown Strategic Master Plan* that was done by Mosaic Development Partners for the Downtown Dover Partnership, there is a working subgroup of City Planning Staff along with DDP. The DDP are helping to orchestrate some of the meetings and Mr. Street is involved as well. Looking at basically our zoning and ordinances in this general area, there are some discussions about procedures. There Code amendments we need to do and some forward thinking that way in response to that *Strategic Master Plan*. I think one of the things that we talked about last week was more on the kind of the educational side, cleaning up some of our forms, and more information about the process so that it is clear as well as the flow charts. Katherine has been working on the *Design Standards and Guidelines* which is a scan of multiple versions of a document from 1992-1993. At this point, we may not be rewriting it, but we are looking at updating photos and making it look a little nicer than the version we currently have now. We certainly would encourage the Commission if there's any thoughts you have about how to make your process work better, how we can improve what you have to do as a Commission with applications, your understanding of the process, and zoning are certainly welcomed.

The Commission members thanked Mrs. Melson-Williams.

OLD BUSINESS

Certified Local Government (CLG) Program

Mrs. Melson-Williams stated that we are a member. There were Grants that were left over from a couple of years. At this point, we don't believe we have the capacity to move forward with that in the timeframe before the monies go away. We had that discussion last week in kind of conjunction with the Strategic Master Plan thinking that we are doing.

Implementation of 2019 Comprehensive Plan

Mrs. Melson-Williams mentioned that there were no changes on the related to the Historic Preservation chapter at this point. Since your last meeting there was a Comprehensive Plan

Amendment that ultimately was denied by City Council. It was related to some annexation of some areas for future public utility type land use activities, but that was denied at Council.

Once a year we give the opportunity for Amendments to the Comprehensive Plan. That process starts in December of each year and kind of concludes in the March -April timeframe. There was one applicant of this year amendment request wasn't approved.

Chairman Czerwinski asked if there were any further questions.

Ms. Horsey moved to adjourn the meeting, seconded by Mrs. Mason, and unanimously carried 4-0.

Meeting adjourned at 4:51 PM

Sincerely,

Maretta Savage-Purnell
Secretary