

B R I G H T O N
H I S T O R I C
P R E S E R V A T I O N
C O M M I S S I O N

September 22nd, 2022
At approximately 7:15 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JERRY LUDWIG, CHAIRPERSON

JUSTIN DELVECCHIO)
AMANDA L. DREHER)
JOHN PAGE)

BOARD MEMBERS

MARY JO LANPHEAR
Town Historian

KEN GORDON, ESQ.
Town Attorney

JEFF FRISCH
Town Planner

NOT PRESENT:

DIANA ROBINSON
DAVID WHITAKER
WAYNE GOODMAN

REPORTED BY: RHODA COLLINS, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, New York 14020

CHAIRPERSON LUDWIG: I should ask if there's anyone here for open forum.

Doesn't look like it.

Well, I think we should call the meeting to order.

Would you call the roll, Jeff?

MR. FRISCH: Ludwig?

CHAIRPERSON LUDWIG: Here.

MR. FRISCH: Robinson, not here.

DelVecchio?

MR. DELVECCHIO: Here.

MR. FRISCH: Goodman, not here.

Whitaker, not here.

MR. FRISCH: Page?

MR. PAGE: Here.

MR. FRISCH: Dreher?

MS. DREHER: Here.

CHAIRPERSON LUDWIG: Thank you.

May I have a motion to approve the agenda?

MS. DREHER: I'll move to approve the agenda.

CHAIRPERSON LUDWIG: Thank you.

Second, please?

MR. DELVECCHIO: Second.

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23 CHAIRPERSON LUDWIG: Thank you.
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5 All in favor?

6 ALL COUNCIL MEMBERS: Aye.
78 CHAIRPERSON LUDWIG: Agenda stands approved.
9

10 Minutes. Any additions or corrections?

11 MS. DREHER: I just have one substantive
12 correction. Page 28, Line 11, destination should be
13 designation.14 CHAIRPERSON LUDWIG: Okay. Page 4, Line 14,
15 should be Sacony Vacuum, S-A-C-O-N-Y and then Vacuum, both in
16 capital letters.17 On Page 20, Line 24, it should be Fred
18 Gannett.

19 Anything else from anyone?

20 Motion to approve as amended?

21 MR. PAGE: I'll make the motion, John Page.

22 CHAIRPERSON LUDWIG: Second?

23 MS. DREHER: I will second the motion.

24 CHAIRPERSON LUDWIG: All in favor?

25 ALL COUNCIL MEMBERS: Aye.
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27 CHAIRPERSON LUDWIG: Minutes stand approved.

28 Was this meeting duly advertised?

29 MR. FRISCH: The meeting was properly

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advertised in the Daily Record of September 15, 2022.

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CHAIRPERSON LUDWIG: That meeting as properly advertised will now be held.

6

We have no communications, no designation of landmarks, no certificate of appropriateness, no hardship applications, Public Hearings are now closed.

9

The first item on our new business is demolition review 12 Elmwood Hill Lane.

11

Mary Jo, would you just introduce that?

12

MS. LANPHEAR: Okay. I did do some digging into the history of the property and it was developed in 1911, for Joseph Francis Weller. The Wellers were there until about mid-century when John D. Cockeroff bought the land on which the Wellers outbuilding was located. So, it wasn't the Weller house, it was the Weller outbuilding.

18

I don't know what happened to the Weller house, it must have been razed about that same time because there's a ranch house where the Weller house was.

21

But, John D. Cockeroff was a relatively famous person at that time. He was the chair of RT French and he had come from England to do that. And the house was -- that he commissioned was designed by three rather prominent architects, Martin McGraw and Wenton Wired, and they had done

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23 some -- some of their commissions included the Church voters
4 building in Fairport, the Rochester Civic Center, the Conway
5 Todd, and then the Hall of Justice, also downtown. First
6 Baptist Church in Brighton, Christ the King Church in
7 Irondequoit, for just a few.8 And Wired was also the architect for the
9 Kenneth B. Keating house at 3500 Elmwood Avenue. The
10 partnership ceased with the death of McGraw and Martin in 57
11 and 58.12 So, that's all I can really tell you about the
13 house. It was designed much more modernly. The house that
14 was there before, according to the picture of the back here,
15 the Weller house which was there, had three big bays that
16 looked quite substantial. And this was the barn that was
17 torn down for number 12 Elmwood Hill Drive. And this house
18 was torn down at some point for the ranch house up there.
19 So, that's all I can really tell you.20 CHAIRPERSON LUDWIG: Well, if we approve the
21 demolition, this will be the third time, maybe the charm.

22 Any discussion on this?

23 Has everyone -- anyone been by? Everyone been
24 by it?

25 MR. PAGE: Yes.

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3 CHAIRPERSON LUDWIG: Anyone in the audience to
4 speak of this?

5 Well, then I guess I'd like to -- yes?

6 MR. GORDON: I will share, last night at the
7 Planning Board meeting, the owner of the property came, Kim
8 Bailey, and her engineer Larry Heininger, and her architect
9 Mark, whose name escapes me, did present on this. Jeff and I
10 both advised him it was not necessary for them to come
11 tonight.

12 They did share, at least Larry Heininger
13 shared that there was an active and damaging water leak in
14 the property which flooded the basement, caused damage to the
15 floors, the walls, et cetera, so I wanted to share that.

16 CHAIRPERSON LUDWIG: Okay, thank you. Anyone
17 else?

18 We'll close the Public Hearing, not that
19 there's a Public Hearing.

20 Ken, would you provide a motion then please?

21 MR. GORDON: Sure. As you recall, the issue
22 here is simply does the Board have an interest in landmarking
23 or starting the landmarking process for this property as it
24 now exists.

25 So, a proper motion would be: The Board does

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23 not have any interest in designating the existing property,
4 at 12 --

5 MS. LANPHEAR: 12.

6 MR. GORDON: Yes, at 12 Elmwood Hill Lane, as
7 a landmark under the Historic Preservation law of the Town of
8 Brighton.9 CHAIRPERSON LUDWIG: So, a yes vote means no,
10 basically.

11 MS. DREHER: I will make the motion.

12 CHAIRPERSON LUDWIG: Thank you.

13 Second?

14 MR. DELVECCHIO: I'll second.

15 CHAIRPERSON LUDWIG: Thank you.

16 Any discussion?

17 Jeff.

18 MR. FRISCH: Ludwig?

19 CHAIRPERSON LUDWIG: Yes.

20 MR. FRISCH: DelVecchio?

21 MR. DELVECCHIO: Yes.

22 MR. FRISCH: Page?

23 MR. PAGE: Yes.

24 MR. FRISCH: Dreher?

25 MS. DREHER: Yes.

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CHAIRPERSON LUDWIG: Motion passes. Thank you.

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Next item, old business. The original application was 1H-01-21.

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APPLICATION 1H-01-21

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1H-01-21 Application of Rufus & Amy Judson, owners of property at 3541 Elmwood Revised Avenue, tax number 137.12-2-15, for changes to materials used on a pool cabana previously approved under a certificate of appropriateness (1H-01-21). All as described on application and documents on file.

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CHAIRPERSON LUDWIG: Anyone to speak on this? Come up and introduce yourself please for the record.

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PATRICK DECKER: Hello. My name is Patrick Decker and I am an employee of the pipe company. In this piece I am representing Rufus Judson who was unable to attend, due to a business obligation that came up late. And, I was the project manager on his project.

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Let it be known, I am not typically a project manager for the company, as much as anything I am a friend of Rufus in the company. So, a little different for me, I happen to have an expertise in civil and site work more than I do buildings. So, a lot of this is new though to me, to be

3 honest with you.

5 But, the only other thing I will say, is the
6 roofing contractor did come to us and was not keen, I should
7 say, on the initial idea of standing seam product, and
8 suggested a mix more appropriate and close to what the actual
house is.

10

CHAIRPERSON LUDWIG: Who is the roofing
contractor?

11

PATRICK DECKER: CSTM, Curt.

12

CHAIRPERSON LUDWIG: I'm surprised.

13

PATRICK DECKER: You know him?

14

15

CHAIRPERSON LUDWIG: Oh, yes. Not in a bad
way.

16

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PATRICK DECKER: I agree. I have an actual
fabulous opinion of him at this time. He is excellent.

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Anyway, he did suggest some different
products. He really suggested, let's move in a little bit of
real copper into the roof. And, he presented a shingle to us
that has a very similar look as the slate on the house and
wanted to just bring it all around.

In addition to that, he was having a hard time
with metal product at that time, and Rufus thought it was an
excellent idea one presented with the copper elements, if you

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23 had a chance to take a look at it. It came out quite amazing
4 in my opinion.5 So, I see it as, you know, I feel like I agree
6 on presenting it as a genuine upgrade to something else. I
7 guess that's all.8 CHAIRPERSON LUDWIG: I don't understand why
9 Curt would not recommend slate to match the house.10 PATRICK DECKER: I think if he had the budget
11 in mind that actually something like that might have been,
12 but that number would have been way, way out of reach.13 CHAIRPERSON LUDWIG: Now, has the siding
14 changed also?

15 PATRICK DECKER: No, no. The siding remains.

16 MS. DREHER: This is the diamond coat siding
17 that was in the original application?

18 PATRICK DECKER: That's correct.

19 MS. DREHER: I checked on it, because it looks
20 great and I'm familiar with it as well.21 CHAIRPERSON LUDWIG: Well, yes. I don't
22 particularly care for embossed wood because it doesn't really
23 look like real wood that was painted. That's the only --
24 party plank I only recommend people turn it inside out so
25 it's a smooth finish.

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3 But, anyway, that's not on our docket tonight.

4 Well, any comments about the roof?

5 MR. PAGE: I want to get clarification on
6 specifically what the application is. I understand they're
7 changing from metal (inaudible).8 THE COURT REPORTER: I can't hear, what kind
9 of roof? Can you pull the microphone closer?10 CHAIRPERSON LUDWIG: Hold on a minute, do you
11 have the original application anyone?

12 MR. FRISCH: I have it on my desk.

13 CHAIRPERSON LUDWIG: Oh, you have it?

14 MS. LANPHEAR: I have the same thing that you
15 got.16 CHAIRPERSON LUDWIG: Oh, not the original,
17 okay.18 MR. PAGE: I think I'm fine. So, the basic
19 request is to omit the standing seam metal roof that was
20 approved and substitute architectural asphalt shingles, that
21 part I understand. Do I further understand based on the
22 photographs, or the modified photographs, that you are going
23 to install copper at the edge for the bottom foot or two of
24 the roof?

25 PATRICK DECKER: If you've seen the

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3 as well.

4 MR. DELVECCHIO: So, this is as built?

5 MR. FRISCH: Yes.

6 MR. PAGE: So, I think it looks lovely. I
7 would have had no problem approving this, had it been
8 submitted. So, it's quite common to get, or a good property
9 project like this, to use an expensive asphalt shingle that
10 is an architectural shingle that has some characteristics
11 that are similar to slate, if there's slate on the house.12 This is an independent building, and a new
13 building reads that way, but it is nicely designed and is
14 compatible with the building.15 So now that I understand it, other than always
16 being slightly disappointed when people come in after the
17 fact instead of before the fact, I have no problem with this,
18 and it looks as, you know, well-installed as you would expect
19 CSTM to do.20 MR. GORDON: So, if I could clarify, your
21 question, John, was: What is the application? And although
22 it is perhaps not artfully prepared, the application or
23 accurately prepared, what it really is, is an application to
24 amend the prior Certificate of Appropriateness that was
25 granted for this project. And, you sort of hit the nail on

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3 the head there with going back to, if the project had been
4 presented with this architectural asphalt shingle in the
5 first instance, would you, the Board as a whole, have granted
6 the Certificate of Appropriateness finding that that
7 improvement was consistent with the historic character of the
8 landmark property.

9 That's the issue, that's the application. I
10 would like if Jeff could share a little bit about how this
11 issue came up, because I think it would be instructive to the
12 Board.

13 MR. FRISCH: Prior to closing out
14 applications, whether -- for this one I went out with the
15 building inspector, who was going out for a final inspection.
16 So, before we close out anything that has the Board's
17 approval, whether it's ARB, Historic Preservation Commission,
18 we go out and take a site visit.

19 So, I went out to the site and with the
20 materials there and saw that what was installed in the site,
21 what wasn't matching what they approved. And so, I told them
22 he should come in to seek approval from the Board for the
23 changes to what was originally approved.

24 PATRICK DECKER: Personally, I would have
25 never -- I would have had no idea. If he would have just

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23 said something, I wasn't part of the initial process. It's
4 not, you know, but, I was surprised too. He was sharp on
5 picking it up, for that matter.6 MR. GORDON: So, John, you indicated that
7 you're somewhat disappointed that the applicant is coming in
8 after the fact.

9 MR. PAGE: Not this gentleman.

10 MR. GORDON: No, certainly not this gentleman.
11 He is not the applicant, Mr. Judson is the applicant. So, in
12 addition to him not coming in, they performed the work with
13 materials that were not authorized by this Board. They did
14 not voluntarily come in with an application saying, well, we
15 did it and had to get it done because we were protecting our
16 improvement and we needed to get a roof on it and this is the
17 quickest we could get it in.18 The only reason that this application is here
19 is because town staff went down to inspect it, and would not
20 pass it given that different materials were used.

21 MR. PAGE: Good.

22 MR. GORDON: Yes, good, but sort of the -- for
23 me, and I will just speak for me, I am beyond disappointed.
24 I'm not happy at all that our town staff had to catch them
25 in, frankly, a violation of their Certificate of

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23 Appropriateness and instruct them to come in and make an
4 application. That's sort of a different level of an
5 application, than someone just simply coming in after the
6 fact.7 I just wanted the Board to be aware of how
8 this came in.9 CHAIRPERSON LUDWIG: Well, I'm a little
10 disappointed. I don't know if I'd use another word, but I am
11 disappointed as well, and I guess this is probably without a
12 doubt the most expensive pool cabana that's ever been built
13 in Monroe County. And, I guess if you're going to have a
14 timber frame structure that is elegant and everything like
15 that, and you're not going to use standing seam, why not put
16 slate on it to match the house? Now, that's my comment.17 But, as we often said, forgiveness is easier
18 than permission.

19 So, Amanda, your thoughts?

20 MS. DREHER: Well, I would echo what John
21 said, and I don't know if it's possible to include a note to
22 the Judson's, they have a beautiful, large property they
23 recently purchased and will likely be back before this Board
24 many times over their ownership of the property and a
25 reminder of what our purview is.

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23 But, yeah, of course, disappointed that they
4 did not think to come in and discuss the change. I know it's
5 a big project, a lot of moving parts, but that is what, you
6 know, when you own a landmark, that is what is required.7 But, overall I think it looks good, materials
8 are satisfactory and it is a new build. I think, yes, Jerry,
9 it would look lovely with the slate, but it is a new build
10 and I think esthetically this looks good.11 And for what I decide tonight, I would have
12 voted in favor of it, if it were presented before as well.13 MR. DELVECCHIO: I would have voted in favor
14 as well, but I think the Judsons should be aware, you know,
15 future applications will be taken, you know, to another level
16 in a detailed review. I look at this as an agreement, the
17 certificate is really a mutual agreement. They certainly
18 would have had time to come back. We accommodate all sorts
19 of last minute things, and so I question why it went this
20 route, how it went so far, and it compromises the process I
21 see they follow on how they deal.22 CHAIRPERSON LUDWIG: Well, the Judsons of
23 course, don't have any construction background, so I can
24 understand how something like that would fall through the
25 cracks.

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3 MR. GORDON: I think they were being sarcastic
4 with that comment.

5 PATRICK DECKER: I will tell you, I'm playing
6 advocate. Again, we did this project on much more of a
7 design build-like avenue where many of the trades, many of
8 the contractors, subcontractors, were given initial guidance,
9 and then were at that point allowed to utilize their own
10 materials, their own suggestions, their own details moving
11 forward at that point, which we did a lot of.

12 So we utilized, we asked a lot of questions:
13 Hey, what's the best way to do this? How would you guys do
14 this? And we went with those ideas in many, many aspects.
15 So, to be honest with you, in almost defense of our project
16 architect, our landscape architect, Mark, they weren't really
17 involved in any of this at this point in time. Which, I
18 think is a little bit of checks and balances that maybe is
19 how things got missed is they would been more in tune with
20 this type of action.

21 Whereas, us out there doing it, we just kept
22 on trying to do the best we could, the best -- make the best
23 decisions day to day without the checks and balances. Maybe
24 that aspect, designed build, to be honest with you.

25 MR. FRISCH: Did you have a copy of the

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23 approved plans by the Historic Preservation Commission or
4 plans of the standing seam?5 PATRICK DECKER: We do. We had all of that
6 readily available to us. That's all on site, and we had an
7 area of our project where we kept a running group of files,
8 you know.9 MR. PAGE: I think that the key here is that
10 the applicant, the owner would be in charge of ensuring that
11 the protocol was followed. And I would say that the
12 application was very well done, very well presented. And so,
13 they certainly were capable of making a good application, and
14 I think that they're capable of following up.15 And I will say that the Board, as suggested,
16 has a history of being very responsive when there's a timely
17 issue that needs to be dealt with. It's quite common,
18 actually. I'd say maybe 20 percent of the Certificates of
19 Appropriateness people come back and request a modification
20 of some sort or another.21 This case, it was a material change it wasn't
22 a change to the -- that was necessarily going to, you know,
23 other than Jerry's desire here, wasn't going to be super
24 significant.

25 CHAIRPERSON LUDWIG: Well, I'm certainly not

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23 going to, I don't think, make you take the asphalt off and
4 put something else on. But, I think the process is where the
5 breakdown was, as been alluded to.

6 Any other comments or questions?

7 Okay. Let's close the Public Hearing, and
8 would you prepare a motion please?9 MR. GORDON: Could you give me the date that
10 the original Certificate of Appropriateness was granted?11 CHAIRPERSON LUDWIG: The original application
12 was presented to us on February 25, 2021, and on the
13 following day there was a letter to the owners and to Mark
14 Beyor saying, the Historic Preservation Commission approves
15 the application and with the following condition: All
16 materials presented by the applicant shall be used in the
17 project work. Work shall be completed within one year of
18 approval. Please note that all building permits shall be
19 obtained.20 MR. GORDON: What is the original application
21 number please?

22 MS. DREHER: On our agenda, 1H-01-21.

23 MR. GORDON: So we didn't give this matter a
24 new application number?

25 MR. FRISCH: No.

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3 CHAIRPERSON LUDWIG: The original application
4 1H-01-21, the Public Hearing was scheduled on January 28th.

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MR. GORDON: Okay.

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CHAIRPERSON LUDWIG: Is that close enough?

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MR. GORDON: Yes.

8

MS. DREHER: Do we need to grant an extension
9 as part of this motion?

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MR. GORDON: Well, when was the work

completed?

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PATRICK DECKER: I don't have the exact date.

We've been done with building construction for four months,
three months even. We've been working on grounds and the
pool for the past --

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CHAIRPERSON LUDWIG: Jeff, do you want this --

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18

MS DREHER: If it matters at all. It doesn't
make a difference for our records or procedures then.

19

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MR. GORDON: Yeah. I think -- I have
something in mind that will interest them.

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PATRICK DECKER: I might have some dates, I
mean, we've had that out quite a lot. He might have dates of
where things were when he came out.

24

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MR. GORDON: I think I'm ready to go, if you
are ready.

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3 CHAIRPERSON LUDWIG: Okay.

4 MR. GORDON: Okay.

5 Whereas, Application 1H-01-21 was previously
6 submitted and approved by the Board on February 25, 2021, for
7 a Certificate of Appropriateness under the Town's Historic
8 Preservation Law for improvements of the property located at
9 541 Elmwood Avenue, tax number 137.12-2-15 for the
10 construction and improvements to the property, including a
11 pool house.12 And whereas, said application having been
13 approved had certain conditions, including the mandate that
14 the materials used in the improvement matched those presented
15 to the Board.16 And whereas, the owners of the property, Rufus
17 and Amy Judson, having installed on the pool cabana
18 architectural asphalt shingles with a copper metal edge,
19 which materials are different than those in the original
20 application.21 And whereas, said owners have not applied to
22 the Historic Preservation Commission for an amendment to the
23 previously granted Certificate of Appropriateness to allow
24 for the installation of the asphalt architectural asphalt
25 singles with a copper metal edge on the pool cabana.

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23 And whereas, the Historic Preservation
4 Commission set a hearing to consider the application to amend
5 the prior Certificate of Appropriateness to be heard on the
6 22nd day of September 2022.7 And whereas, the applicant was represented at
8 the hearing and testimony was presented as to the reason for
9 the replacement materials.10 And whereas, the date on which the prior
11 Certificate of Appropriateness was granted is more than one
12 year prior to today's hearing.13 It is now hereby resolved that the Historic
14 Preservation Commission grants the application to amend the
15 prior Certificate of Appropriateness to allow for the
16 installation of architectural asphalt shingles with a copper
17 metal edge having found that those materials in the
18 installation thereof on the pool cabana are consistent with
19 the historic character of the property.20 And, be it further resolved that the
21 Certificate of Appropriateness previously granted is hereby
22 extended for a one-year period nunc pro tunc from
23 February 25, 2022.

24 MR. PAGE: I will make that motion, John Page.

25 MS DREHER: I will second the motion.

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3 CHAIRPERSON LUDWIG: Thank you.

4 Any discussion?

5 MR. FRISCH: Ludwig?

6 CHAIRPERSON LUDWIG: Yes.

7 MR. FRISCH: DelVecchio?

8 MR. DELVECCHIO: Yes.

9 MR. FRISCH: Page?

10 MR. PAGE: Yes.

11 MR. FRISCH: Dreher?

12 MS. DREHER: Yes.

13 PATRICK DECKER: I can go now?

14 CHAIRPERSON LUDWIG: You can.

15 Any other old business?

16 MR. GORDON: I would just make a note for the
17 record here that, when the approval letter goes out that I
18 think I heard all of the Board members express a desire to
19 have staff include in that a reminder about the proper
20 procedures and requisites of the Historic Preservation Law.21 MR. PAGE: So you are suggesting like a
22 sentence that says if you find yourself in a position to need
23 to consider modifications, that you need to come back to the
24 Board?

25 MR. GORDON: Prior to performing the

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3 modifications.

4 CHAIRPERSON LUDWIG: Good point.

5 Anything else?

6 MR. PAGE: I have a question about when we get
7 an application, and maybe this is a special situation that
8 this application seems incomplete, and I would have kicked it
9 maybe.10 MS. DREHER: I was surprised that it would be
11 accepted without any information.12 MR. PAGE: Or perhaps, you know, if the person
13 was there and could have been assisted with filling out
14 certain things, when I looked at it I was confused. And my
15 only -- since I didn't have the old application to reference,
16 it didn't say it was an amendment, although it was implied.
17 It didn't say it was limited to roofing, although it was
18 implied. It isn't an application to require a lot of
19 information, but --

20 MS DREHER: It wasn't signed either.

21 MR. PAGE: It was consistent with the spirit
22 of the whole endeavor, after the fact.23 MR. FRISCH: This is kind of on me. I wasn't
24 sure how to handle modifications previously approved.

25 MR. DELVECCHIO: Probably like a new

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23 application, but it's an amendment, so the standard of
4 submission would be the same.

5 MR. FRISCH: Okay.

6 MR. DELVECCHIO: And the timing, you know, I'm
7 not getting into the detail here, but, okay. If we are
8 trying to be open to respond quickly to changes, we do not
9 want to hold up a job for two months. So, I don't know what
10 accommodation we have, ability to move more quickly. They
11 probably said -- you know, I'm surmising of what happened --
12 someone might have said, well, wait a minute, and they might
13 not have said, just keep going.14 CHAIRPERSON LUDWIG: The whole process sounds
15 pretty lose.

16 MR. DELVECCHIO: From not complying enough.

17 CHAIRPERSON LUDWIG: We'll let the design
18 build team take care of that.19 MS DREHER: Well, this application is dated
20 September 9th, so we did not have it brought before us this
21 month. We did not require them to wait to give notice to the
22 public.23 MR. FRISCH: It was given proper notice to the
24 public.

25 MS DREHER: Oh, okay. I would have thought it

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3 would have had a cutoff.

4 MR. DELVECCHIO: Within one year.

5 MR. GORDON: What's the cutoff for the
6 meeting, Jeff?

7 MR. FRISCH: It was prior to the 9th.

8 MR. GORDON: Yeah. I think that's what Amanda
9 was really referring to is, we did ask about this and got it
10 on the agenda. We did sort of bend the rules.11 I do think all of your points are very well
12 taken, where we have a process we need to follow the process.
13 If somebody doesn't follow the process, we still need to make
14 sure that process is followed. But, we need to be flexible
15 in getting things on the agenda more quickly.16 That's sort of a staff call, to get it on the
17 agenda. But, I will tell you that Jeff and I worked fairly
18 closely together and we will make sure that if something like
19 this comes up again, we will have a complete application, it
20 will be an application where everything is filled out, and
21 signed.22 And really, an application like this should
23 also attach the prior Certificate of Appropriateness so you
24 are not wondering what was approved previously.

25 MR. PAGE: The good news on this is that it

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3 got caught. I'm thrilled.

4 MR. GORDON: Because of Jeff.

5 MR. PAGE: And that's, he went out to look at
6 it. I don't think that's necessarily a normal thing.7 MR. DELVECCHIO: That was my question, is it
8 standard procedure?

9 MR. FRISCH: Yes, it's standard.

10 MR. DELVECCHIO: That gives me comfort. I
11 think that for maybe a lesser known as well, to make sure
12 that we are getting out when you can. It's hard to fit in
13 these visits, I'm sure they're not easy to schedule to get on
14 some property. But, if we can get ahead of it and identify
15 these things earlier, that might help.16 And/or, I guess my comment is, I'd like to see
17 more oversight if they come before us again. They kind of
18 laid out how they want to operate under the terms of the
19 certificate. I think that was a declaration, and they will
20 be back in front of us, as Amanda eluded to. I am concerned
21 about future work going there and how it could be executed,
22 et cetera.

23 So, it's a bigger, long term question, but.

24 MS. DREHER: Well, I agree. We can't hold
25 them to standards we don't hold other people to. But, I

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3 think I get, understand what you are getting at.

4 MR. PAGE: I think we will drive the issue
5 home.6 MR. DELVECCHIO: I was just trying to make a
7 point. I do think in dealings with the Town, if they are
8 engaged with the homeowner or business, that they are dealing
9 with over years, if there is a precedent set of, hey, we're
10 going to overrun our certificate and not cooperate. They
11 haven't really lived up to their end of the deal, and so
12 therefore, we have to be more careful, I think.13 CHAIRPERSON LUDWIG: Did you go out with the
14 building inspector for the C of O?15 MR. FRISCH: Yeah. Usually these inspections
16 are done with they are requesting a C of O.

17 CHAIRPERSON LUDWIG: Is that when you went?

18 MR. FRISCH: Yeah.

19 CHAIRPERSON LUDWIG: Okay.

20 MR. GORDON: And I think the lynchpin here
21 really was John's comment, which I think all of you agreed
22 with, which was: Had this been the original application, and
23 the original materials, we would have probably still approved
24 it. And I'm going to encourage the Board that if you see
25 something like this happen, sort of a ex post facto, after

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3 the fact, you know, application to ask forgiveness rather
4 than ask permission and is for a change in the materials or
5 anything else that you would not have approved, just because
6 they spent their money and installed something, doesn't mean
7 that you don't have the right to say, no. You do have that
8 right.

9 MR. DELVECCHIO: What would happen
10 thereafter?

11 MR. GORDON: They would need to remove it.
12 They would need to correct it before they would be in
13 violation.

14 MR. DELVECCHIO: Via an action?

15 MR. GORDON: No, we would just instruct them
16 to do it. If they didn't do it, then they would get a notice
17 of violation.

18 MR. PAGE: They would not get a C of O?

19 MR. FRISCH: Right, definitely not.

20 MR. GORDON: They would not get a C of O in
21 the first instance, but secondarily, they would also get a
22 violation for performing work on a landmark property that was
23 not approved. And then, if they didn't correct the
24 violation within the time set for the violation, then they
25 would be in front of one of our town court judges with fines

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3 and penalties, on whatever they do.

4

MR. DELVECCHIO: Okay.

5

6 MR. GORDON: That's the process. And, we
7 could, depending on the severity and the extent of the
8 project, we could even take them to a different court to seek
9 the removal of, the physical removal, an order of injunction
10 to compel the removal, or for the other, what Amanda is
saying, to compel the removal of the unlawful improvement.

11

12 MR. PAGE: We really do not want to have that

to be a thing, so we need to avoid that.

13

14 MR. GORDON: Right. But, you know, this makes
15 me think of a certain property on Monroe Avenue that has a
red tile roof.

16

MR. PAGE: I immediately went there too.

17

18 MR. GORDON: You know, had that owner decided,
do you know what? I don't care what the Historic
19 Preservation Commission says, I'm tearing off the red tile
20 roofs and putting on asphalt shingles. That might be
21 something that you might not want to approve.

22

23 MS DREHER: I think trying to slip vinyl
siding by us, that's the example I think of. What would
24 likely happen is someone just puts vinyl siding on his or her
25 house.

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3 property owners themselves.

4 CHAIRPERSON LUDWIG: Okay.

5 MS DREHER: They just decided to change the
6 materials without seeking amendments.

7 CHAIRPERSON LUDWIG: Yes.

8 Anything else tonight?

9 Motion to adjourn?

10 MR. DELVECCHIO: I move.

11 MR. PAGE: Yes.

12 CHAIRPERSON LUDWIG: All in favor?

13 ALL COUNCIL MEMBERS: Aye.

14 CHAIRPERSON LUDWIG: Thank you all very much.

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3 REPORTER CERTIFICATE
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I, Rhoda Collins, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

11
12 Dated this 24th day of October, 2022.

13 At Rochester, New York
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15

16 *Rhoda Collins*
17 Rhoda Collins
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