

IN THE MATTER OF
THE APPLICATION OF
DANIEL AND LISA ROTH

* BEFORE THE
* HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
TO PERFORM EXTERIOR ALTERATIONS
AT 6130 LAWYERS HILL ROAD
ELKRIDGE, MARYLAND

* HISTORIC PRESERVATION
* COMMISSION
* Case No. 17- 16

* * * * *

DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on March 3, 2017 to hear and consider the application of Daniel and Lisa Roth (“Applicants”), for Certificate of Approval to perform exterior alterations at 6130 Lawyers Hill Road, Elkridge, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Erica Zoren, Drew Roth, and Bruno Reich. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval; (4) the Agenda for the March 3, 2017 Commission meeting; (5) the Lawyers Hill Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the

Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member. Applicant Daniel Roth testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the Lawyers Hill Historic District. According to SDAT the building dates to 1890.

B. Proposed Improvements

The Applicants propose to construct a wrap-around porch/deck on the side of the house, connecting a previously approved rear deck with the existing front entry porch, which was approved to be rebuilt. The Applicants have submitted a photograph from 1991 that shows a previously existing deck similar to the current proposal.

In June 2016, approval was given to rebuild the existing front porch and construct the rear deck:

- 1) Rebuild the side porch. The existing porch will need to be completely removed and rebuilt. The application states, "the plan includes installing primed wood decking that is period correct and paint a grey color. All trim boards, posts, and hand-rails will be painted the same off-white color to match the windows and doors."
- 2) Add a 16x20 foot deck off the rear of the house. All decking and railing to match the side porch.

The original design for the porch included round columns, but after Staff indicated that was not an historically appropriate design, the Applicant revised the porch columns and

railings to be square. The porch railings and columns that were constructed do not match this design. The approved end railing has an open design and the columns have a square base and capital.

The current proposal plans to connect these two previously approved items with a side porch. For clarity in this proposal the original porch will be referred to as the front porch, the deck off of the kitchen will be referred to as the rear deck and the proposed connecting porch will be referred to as the side deck.

The decking will be painted porch grey, which was previously approved for the main entry porch and the wooden rails, trim boards and posts/columns will be painted off-white to match the house trim. The decking will be painted gray.

Staff inquired about the height of the deck and the Applicants provided the following information: "From the highest point at the rear of the house, the deck boards will be 8 feet off the ground. In the front on either side of the stairs, the deck boards will be 6 feet off the ground. In the front, to the left of the front porch, the deck boards will be 4 feet off the ground. On the right side of the stairs leading to the front porch, the deck boards will be 3 feet off the ground."

The Applicants stated via email that the "support posts under the deck will be 2 inch steel posts/helical piles that will be trimmed out with 1" by 6" wood trim boards that will be painted the same medium brown color as the foundation of the house. We have no plans to close in the under part of the deck or run lattice."

The Applicants also stated that "the rear stairs will be built identical to the front porch stairs in style. There will be a stair tread and a riser and will have hand rails on both sides. It will not be an open deck stair and will be finished the same as front porch."

Staff conducted a site visit on Thursday, February 16, 2017 and found the majority of the porch, with the exception of the posts/footers, had already been constructed.

C. Staff Report

The County Architectural Historian does not think a wrap-around porch existed historically on this house and that the 1991 photograph is a modern alteration. Staff finds that adding a wrap-around deck presents some difficulties with historic restoration. The Applicant proposes to paint the decking gray, which is part of the original approval and is an historically correct treatment for porch floors. However, porch floors are covered and the current proposal is for open air decking, which would not typically be painted and would not weather well. Chapter 6.F of the Guidelines states, “porches are generally of frame construction with painted wood. Unpainted wood is not common in the Historic District.” As the Guidelines point out, unpainted wood is not common, but painted wood for a deck is also not a common treatment either. Chapter 6.F recommends, “maintain and repair porches, including flooring, railings, columns, supports, ornamentation and roofing, that are original or appropriate to the building’s development and style.” Staff is concerned about the modern change in appearance to the home with the addition of this deck that was most likely not a historic feature, nor is it appropriate to the building’s style as it will greatly alter the side appearance of the building, one of the most visible sides of the building from public view. Staff asked the Applicant to provide a side elevation of the house showing the proposed deck, but did not receive such a plan.

The above comments were written prior to discovering that the side deck was already constructed. Now that the deck is constructed, Staff finds the number of vertical railings is visually overwhelming. While the vertical railings may have been appropriate for the front

porch and rear deck, it is clear that it is not an appropriate design for the entire porch/deck. The railings interrupt the line of sight with the side windows. This issue could have been cleared up if a side elevation had been submitted and if the deck had not been constructed without approval.

Chapter 7 of the Guidelines provides recommendations for new construction, including porches. Chapter 7.A recommends, “attach additions to the side or rear of a historic building. Design and place additions to avoid damaging or obscuring key architectural features of the historic building” and “design additions to be subordinate to the historic building in size, height, scale and detail and to allow the form of the original structure to be seen. Distinguish an addition from the original structure by using vertical trim or a setback or offset between the old section and the new.” The railings obscure the windows, which are key architectural features of this building and do not allow the form of the original structure to be seen. In the original application the Applicant proposed to shorten a side window for interior space planning, which the Commission did not approve. The most appropriate place for this deck is the rear of the building, which was approved. The side deck also connects to the front porch, a historic feature of this building, and does not distinguish between the new construction, creating a false sense of history. The railings are not subordinate to the building in terms of detail and have become one of the most prominent features on the side façade, which is the largest visual expanse of this building.

The Applicant proposes to install a staircase on the new side deck, where the gap in the railing currently is. Staff finds this is not an appropriate location as it will draw more attention to the side deck and is too narrow in design. The deck drawing indicates that the stairs will run sideways off of the side deck. This is a very modern treatment for stairs and

Staff finds the most appropriate location for secondary egress from the deck would be on the farther side of the rear deck, as originally approved.

The Lawyers Hill Historic District Design Guidelines are very clear that this work required a Certificate of Approval before it was constructed. Appendix A (page 53) contains a summary of work requiring approval and "Porch or deck addition" is identified as needing approval.

As mentioned above, the Applicant stated that the steel posts will be trimmed out with 1x6 wood boards that will be painted the same medium brown color as the foundation of the house. Chapter 7 of the Guidelines recommends, "use details to provide a visual link between old and new by continuing a line of trim, or using similar forms in rooflines or other elements." The posts are highly visible due to the height of the deck. If the Commission approves the retroactive application for construction, Staff finds the posts should match the existing brick posts found on the front porch as this deck is highly visible and the materials used should be consistent.

D. Staff Recommendation

Staff recommends denial of the side deck. Staff recommends the end posts on the front porch be replaced per the original approved design and the columns completed per the original approved design. Staff recommends the staircase be added to the rear deck as originally approved.

E. Testimony

Mr. Shad swore in Mr. Daniel Roth and Mr. Kevin Grimes, the contractor who performed the work. Mr. Shad asked if there were any additions or corrections to the Staff comments or application. Mr. Daniel Roth said the front porch and rear deck were approved last July and said he mentioned at that time that he hoped for a side deck connecting the front

porch and rear deck. Mr. Daniel Roth submitted a photo from the 1990s showing the historic house with a side deck, and stated that it was removed for safety reasons before he purchased the property. Mr. Daniel Roth said he hoped to restore the house to what it looked like when they first saw it with the side deck as shown in the photo. Mr. Daniel Roth said there was miscommunication between him and his contractor once the budget became available for a side deck. He said the contractor misunderstood the “go ahead and get started” as an okay to build the side deck, as opposed to go ahead with the approval process first. Mr. Daniel Roth said the side deck construction has already started but is not approved yet and he would like to come to an agreement with the Commission on how to move forward. Mr. Daniel Roth wants to be in compliance with the Design Guidelines to maintain period correct material and he is open to suggestions.

Mr. Shad clarified that the front porch with railings and the new 16 x 20 foot rear deck were approved. Ms. Holmes said the existing front porch was approved to be rebuilt due to poor conditions. Mr. Shad said the back deck was supposed to have railings to match the front porch, but there were no prior considerations to connecting the two features. Ms. Holmes said that was correct and said the stairs were supposed to be built on the rear deck, but currently there is an opening on the side deck. Mr. Daniel Roth said he never submitted for approval of the side deck connecting the front porch and rear deck, since he was unsure about the budget and ability to do that work. Mr. Shad said requesting a retroactive approval runs the risk of having to tear down work not approved by the Commission, with costly consequences.

Mr. Grimes said Mr. Daniel Roth was out of town and there was back and forth communication about various projects. Mr. Grimes said he proceeded to build the side deck after looking at an aerial view of the house from 2012 that showed a wraparound deck. Mr.

Grimes said that he thought there was a roof over the porch due to the presence of a ledger board where the previous deck was built. Mr. Grimes said this house consists of two houses that were joined together when Interstate 95 was built through Lawyers Hill.

Mr. Shad asked Mr. Grimes if he submitted plans for a building permit before moving forward. Mr. Grimes said yes, he got a permit for the porch being constructed all around. Mr. Shad asked if the side deck was a deviation from the submitted plans. Mr. Grimes said no, he received a building permit based on a wrapped around porch. Mr. Shad pointed out that the wrap around deck was never approved by the Commission. Ms. Holmes said that it was her understanding that the building permits were not approved for the side deck. Mr. Grimes said the permit was approved but the next day he received an email that he could not build the side deck because it needed the Commission's approval, but he was already constructing the side deck.¹ Ms. Holmes said she spoke with the homeowners before the house was purchased and thoroughly explained the HPC approval process.

Mr. Taylor asked Mr. Grimes if he built the front porch, rear deck, and side deck. Mr. Grimes said yes. Mr. Taylor asked Mr. Grimes if he obtained a permit before he started building. Mr. Grimes said he had a permit for renovation work on the house and applied for a separate permit for the deck. Mr. Grimes said the permit was approved and then retracted right away. Mr. Taylor asked how much work was done on the deck in the time that the permit was issued and revoked. Mr. Grimes said the entire deck framework was completed except for the railings. Mr. Taylor asked if all of the work was done on the day the permit was issued by DILP. Mr. Grimes said yes.

¹ Records of the Department of Inspections, Licenses, and Permits (DILP) indicate that a permit was applied for on February 2, 2017 but the application was cancelled on February 8, 2017 because of required Health Department inspections. On February 17, 2017, DILP investigated the property and issued a stop work order. To date, no permit has been issued for the work.

Mr. Taylor asked if DILP has taken any enforcement action on this property. Mr. Daniel Roth said a stop work order was issued. Mr. Taylor asked the reason for the stop work order. Mr. Daniel Roth said the side deck was not permitted when the construction started. Mr. Grimes said no, the permit was issued when the construction started, but Mr. Grimes then found out that the side deck required the Commission's approval, so the County issued a stop work order. Mr. Daniel Roth said he was seeking Commission approval before the side deck installation. Ms. Holmes said the plans submitted to the Commission changed two times within a two week time frame and asked if the deck was already constructed when those changes were taking place. Mr. Daniel Roth said he was trying to acquire materials and salvaging iron handrails, so the deck was not up then. Mr. Daniel Roth said it was his intent to do everything correctly to get approval before installation, but there was miscommunication between him and his contractor.

Mr. Taylor asked Mr. Grimes if the day DILP revoked the permit was the same day the stop work order was issued. Mr. Grimes said no, the stop work order was issued last Friday, February 24. Mr. Taylor asked when the permit was applied for. The Applicant and his contractor did not know when the permit was applied for. Mr. Grimes said Ms. Karen Roth, the Applicant's mother, applied for the permit. Mr. Taylor asked when DILP revoked the permit. Mr. Grimes was unsure. Mr. Taylor asked when the deck was built. Mr. Grimes said about two weeks ago. Mr. Taylor asked why DILP issued a stop work order after the permit was revoked. Mr. Grimes said the stop work order was issued because they didn't have the Commission's approval. Mr. Taylor asked if Mr. Grimes was working on the deck at the time. Mr. Grimes said yes, the railings were being installed. Mr. Taylor confirmed that they were working on the deck even though the permit had been revoked. Mr. Drew Roth said the

deck is not finished yet. Mr. Taylor said he understood, but wanted clarification on why DILP issued a stop work order, because apparently work continued after the permit was revoked. Mr. Daniel Roth and Mr. Grimes said that might have been possible. Mr. Daniel Roth said he was not sure of the timeline, but from what he understands they probably should not have worked on the deck at all.

Ms. Burgess said Staff visited the site on February 16 and that was the day photos were taken showing the side deck nearly completed. She is unsure how long Mr. Grimes was working on it. Mr. Daniel Roth said there may have been work on the hand rails after the permit was revoked due to safety concerns. Mr. Grimes said when the DILP Building Inspector came out to issue the stop work order, he asked the Building Inspector about installing handrails on both sides of the steps for safety reasons. The Building Inspector said no additional work was allowed, and to put caution tape up at the opening around the stairway and lean railings against the opening to prevent people from falling.

Mr. Drew Roth stated that Staff visited the property on Thursday, February 16, and that a stop work order was issued sometime before February 18. Ms. Holmes said the stop work order was issued on February 17. Mr. Drew Roth said that stop work order was definitely in place by the 18th.

Mr. Reich asked Ms. Holmes to discuss the Staff recommendations. Ms. Holmes said Staff did not think the side deck was historically appropriate as it is an open air deck and not a porch. From the Staff Architectural Historian's view, the side deck was not an historic feature. Mr. Reich asked if the deck built in the 1990s was already a modern addition. Ms. Holmes said yes. Ms. Holmes said the side deck railings interrupt the line of windows on the main living level. Mr. Reich asked if Staff found the rear deck was ok because it was out of sight.

Ms. Holmes said that was correct and that the Commission approved the rear deck because it was out of the public line of sight. Ms. Holmes explained previous applications filed by the Applicant to point out that the Commission specifically did not approve changes to the subject side of the building one year ago (these alterations were not made, this merely points out this side of the building was intended to be preserved). Ms. Holmes referenced a 1977 photo found in a Maryland Historical Trust inventory form that showed no deck on the house, just the front porch.

Ms. Zoren said the rear deck was built larger than it was approved to be because the sides protrude past where they were supposed to end. Mr. Reich said that he thought the application should be revised to Advisory Comments for the Applicant to return with a plan for approval. Mr. Daniel Roth said he is asking for the Commission to approve the side deck as is. Mr. Grimes said that from Lawyers Hill Road, the windows appear above the railing.

Mr. Shad asked about the rear deck size in the previous approval. Ms. Holmes said the previous approval was for a 16x20-foot rear deck. Ms. Burgess said the Staff visit was only a visual site assessment, no measurements were taken and the rear deck size cannot be confirmed. Mr. Drew Roth said the rear deck was presumably larger, because it extended over to align with the side deck. Mr. Drew Roth was unsure why the Commission would approve a rear deck that was wider than the width of the house. Mr. Shad said that nothing from the front porch back is in compliance with what the Commission approved. Mr. Reich asked other than the size of the rear deck, the side deck, and the front porch columns, what other features are not compliant with the previous approval. Ms. Holmes said the proposed side deck stairs also do not comply. Ms. Burgess showed the Applicant and the Commission the details of the approved application.

Mr. Drew Roth said the photo from the 1970s confirms the Architectural Historian's assessment that the deck was not historic. He recommended the Commission use Chapter 7 of the Guidelines for new construction of porches, garages and outbuildings, and treat the deck as a new addition not an historic feature. Mr. Drew Roth said the materials on the new deck are better than the previous deck, because it is now painted wood. Ms. Holmes said most shingle style homes only show pickets on the railings for an enclosed porch that has columns and a roof. Ms. Zoren said the deck is not a historic feature in general and the current vertical pickets on the railing are too much. Mr. Drew Roth referred to a picture on Page 7 of the agenda and explained that the view of the deck would be different from the public street. He said the deck is largely obscured behind large taxus shrubs.

Mr. Shad swore in Ms. Lisa Roth.

Mr. Drew Roth recommended the Commission approve the deck as a new addition, not focusing on the regrettable failure of the Applicant to seek pre-approval. Ms. Zoren agreed, unless the Commission would not have approved anyway. Ms. Burgess said Staff has concerns, such as the stairway coming down from the side deck and facing the public right-of-way. Ms. Holmes said these concerns existed before it was known that the deck was constructed. Ms. Lisa Roth asked for alternate suggestions for what is built, rather than removal of the side deck, such as altering the columns and moving the staircase. Mr. Daniel Roth said they are open to suggestions to bring the side deck into compliance with the Guidelines.

Mr. Drew Roth said this deck looks much better than the 1970s deck and does not find the deck objectionable because it is similar to what has been there. Mr. Drew Roth again recommended treating the deck as a new addition, per the Guidelines. Ms. Holmes asked Mr.

Drew Roth, in that capacity, how the side deck complies with the Chapter 7 recommendations and if there are specific guidelines he finds it complies with. Mr. Drew Roth said the Guidelines recommend “attach additions to side or rear of historic buildings” and the deck is on the side. He said whether it obscures key architectural features is arguable, and that it obscures the bottom of the windows, but that the overall effect of the house and its eclectic forms and shapes is not affected by having the porch there. He finds it follows the recommended practices of using details to provide a visual link between old and new by connecting the historic porch and rear deck. He said the materials are appropriate and compatible with the existing building. He said the colors are appropriate. In terms of an addition, he said it is in line with the recommendations.

Ms. Burgess asked about the deck footings. Mr. Drew Roth said they can be brought into compliance with the Guidelines and could be brick or wood. Ms. Holmes said wood footings would stand out, but brick footings would be consistent with existing materials. Mr. Daniel Roth said the footings would be painted to match the existing foundation in a medium brown color. Ms. Burgess said that would make it look like a floating deck and it is a very prominent feature. Ms. Holmes said the use of brick footings would be consistent with the Guidelines and the use of wood would not be appropriate.

Ms. Holmes quoted Chapter 7 of the Guidelines, which was used in the staff report on page 8, Chapter 7 of the Guidelines recommends, ‘use details to provide a visual link between old and new by continuing a line of trim, or using similar forms in rooflines or other elements.’” The posts are highly visible due to the height of the deck. If the Commission approves the retroactive application for construction, Staff finds the posts should match the existing brick posts found on the front porch as this deck is highly visible and the materials

used should be consistent.” Mr. Drew Roth said that was reasonable. Mr. Reich said the house has a shingle-style roof, pyramid shaped roof and a kitchen addition combined as one, making it difficult to tie in together, but the one good factor is the all-around deck which ties the mixed architectural styles of the house together. The deck does not disturb the historic elements and reflects the trim of the period. He said the columns should be trimmed out with the same kind of trim as the front porch. Mr. Reich said the railings are painted wood to match the house, which is appropriate. Ms. Holmes asked about the front porch that was rebuilt with a different end column than was approved with the previously submitted plans. Mr. Daniel Roth said they will be replaced with 6x6 columns.

Mr. Daniel Roth would like to plant shrubs in front of the side deck. Ms. Holmes said the Guidelines are online for the Applicants to review and said the Guidelines explain what requires approval. Mr. Drew Roth recommended the Applicants refer to page 44 of the Guidelines for landscaping.

Ms. Holmes noted the following Staff concerns if the Commission is leaning towards approval for the side deck:

1. The supporting posts should be brick to comply with the Guidelines.
2. The opening on the side deck creates a bigger visual interruption. The staircase should go back to the rear where it was originally approved. It should not be on the side of the deck as it is visually obtrusive.

Mr. Reich agreed with Ms. Holmes, and Mr. Daniel Roth said he can alter the staircase to make it work in compliance with Guidelines. Mr. Drew Roth said the stairs in the front are more for aesthetics, but the back stairs are for everyday usage for practical access going in and out of the house from the parking pad. The Commission discussed the stairs remaining on

the side deck and choosing the width of the front porch. Ms. Holmes said if the stairs remain on the side location, it detracts from the historic porch that was rebuilt, because those are the primary steps one should be using. Ms. Holmes said it was not appropriate to detract from the historic feature by adding this new feature. Mr. Drew Roth said the stairs in the front are more for aesthetics, but the back stairs are for everyday usage. Ms. Holmes said that is not something the Guidelines take into account. Ms. Burgess said the side stair location is not near a door. Ms. Zoren said she disagreed with the stairs being located on the side of the deck. Mr. Daniel Roth said he would like to move the stairs to the rear deck and that his plan was to add a lower landing. Ms. Holmes stated that a landing changes the design from what is before the Commission for Approval.

Mr. Shad swore in Ms. Karen Roth. Ms. Karen Roth said she has been working with the Applicants in the rebuilding of the house in the past year. She stated the historic materials are hard to obtain and the Applicants have done their best and invested a lot of time and money to be compatible with the Guidelines.

Mr. Taylor asked Mr. Daniel Roth if it was his testimony that he did not authorize the construction of the side deck, but that the builder misunderstood that Mr. Daniel Roth had authorized the construction of the side deck. Mr. Taylor asked if Mr. Daniel Roth told the builder to go ahead and build the side deck. Mr. Daniel Roth said he told the builder he wanted the side deck built, but there was a miscommunication. Mr. Taylor asked if Mr. Daniel Roth did not intend to tell the builder to build the side deck, but the builder interpreted the okay to proceed, with an okay for construction of the side deck. Mr. Daniel Roth said he told the builder he wanted a side deck since the budget allowed it now. Mr. Drew Roth asked the Applicant if he did not intend to tell the builder to proceed with the side deck in advance of

obtaining HPC approval. Mr. Daniel Roth said correct, he knew he had to get HPC's approval first in order to qualify for all of their previously approved tax credits. Mr. Shad asked if the pre-approval requirement was conveyed to the builder. Mr. Daniel Roth said yes.

Ms. Holmes reminded the Applicants that if the design of deck stairs is left for Staff approval, the Applicants will need to submit drawings showing the stairs pattern coming off the rear of the deck. If there's a landing, it needs to be shown on the plan.

F. Motion

Mr. Reich moved to approve the deck as built with the following modifications. The stairs are to be moved to the rear deck. The new location and the new design of the stairs are to be approved by Staff. The columns supporting the deck should be brick and the flooring of the deck should be painted gray. No stairs are approved on the side deck. The color of the brick columns should match the existing brick and mortar. Mr. Roth seconded. Mr. Shad opposed. The motion was passed 3-1.

Conclusions Of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Lawyers Hill Historic District Design Guidelines. Chapter 7 sets forth the relevant recommendations for New Construction: Additions, Porches, and Outbuildings. Additionally, Chapter 6 sets forth the relevant recommendations for Maintenance and Rehabilitation of Existing Buildings.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it does not contribute to the historic significance of Lawyers Hill. Consequently, in reviewing the application, the Commission will be lenient in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

This is a highly problematic application for retroactive approval of a side deck that was built without Commission approval and without the proper building permits. In HPC 16-35, incorporated here by reference, the Commission approved a variety of work at the Subject Property including rebuilding an existing small side porch and constructing a new rear porch. The Applicant rebuilt the small side porch but also constructed a larger wrap-around side deck and a rear porch larger than that which had been approved. The Applicant proffered an excuse that he failed to adequately communicate with his builder what work should be

performed. The Commission finds that the construction occurred in violation of County law and without reasonable excuse.

That finding, however, does not address whether the new side deck is otherwise in accord with Guideline recommendations. In this instance, the historic structure is an amalgam of different buildings and different styles and so defies easy interpretations of what additions to the façade are historically or architecturally appropriate. There is evidence of a previous side deck similar to that proposed for retroactive approval, though the evidence indicates that the previous side deck was a later addition and not original to the structure.

In general, the Guidelines recommend that decks be added to the side and rear of a historic structure. The proposed side deck will be located on the side of the structure, which is an area that, although it is visible from the public way, is not highly visible. As constructed, the side deck obscures the appearance of windows, but at the same time it does function to provide a visual link between old and new, which is also a Guideline recommendation. The Commission concludes that the overall appearance of the house and its eclectic forms and shapes is not affected by having the side deck. Additionally, the deck will be constructed of historic materials that are compatible with the rest of the structure.

The Commission makes its approval of the side deck, and the relative enlargement of the rear porch, contingent on relocating the proposed stairs to the rear porch area, in a manner that must be approved by Staff. No stairs are approved on the side deck and any request for stairs in the area is denied. Furthermore, the columns supporting the deck must be brick and the flooring of the deck must be painted gray. The color of the brick columns must match the existing brick and mortar

For these reasons, and for the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Lawyers Hill Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 3 to 1, it is this 10 day of April, 2017, **ORDERED**, that the Applicants' request for a retroactive Certificate of Approval to perform exterior alterations at the Subject Property, is **APPROVED, as amended and detailed herein.**

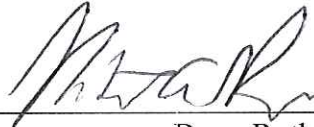
**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**

Opposed

Allan Shad, Chair



Bruno Reich



Drew Roth

ABSENT

Eileen Tennor


Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor
Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.



HOWARD COUNTY HISTORIC PRESERVATION COMMISSION

ELlicott CITY HISTORIC DISTRICT ■ LAWYERS HILL HISTORIC DISTRICT

3430 Court House Drive ■ Ellicott City, Maryland 21043

Administered by the Department of Planning and Zoning

www.howardcountymd.gov

410-313-2350

FAX 410-313-3467

TDD 410-313-2323

April 6, 2017

Robert Z. Hollenbeck
3420 Sylvan Lane
Ellicott City, MD 21043

RE: HPC-17-17; 3420 Sylvan Lane, Ellicott City

Dear Mr. Hollenbeck:

Enclosed is the Decision and Order for the referenced case. As the Applicant for this Decision and Order, you are advised of certain provisions of the Howard County Code.

1. This Decision and Order is limited to exterior alterations approved by the Historic Preservation Commission as stated in the attachment, and you must comply with any listed conditions or requirements.
2. The last page of the Decision and Order must be posted on the property in a location visible from a public street while the work authorized by the certificate is being performed.
3. The Decision and Order will expire if the work has not been substantially completed within three (3) years of the date of approval for the construction of a new principal structure, or within 18 months of the date of approval for any other work. If the Decision and Order expires because work has not been substantially completed, a new application must be approved by the Historic Preservation Commission prior to commencing or completing this work.
4. This approval does not eliminate the need for a building permit or sign permit. Those permits may be applied for in the Department of Inspections, Licenses and Permits located on the first floor at 3430 Court House Drive, Ellicott City MD. Any questions regarding the permit process should be directed to the Department of Inspections, Licenses, and Permits at 410-313-2455.

Please contact Ms. Samantha Holmes at 410-313-4428 if you have any questions about this letter or the Decision and Order.

Sincerely,

Beth Burgess
Executive Secretary

IN THE MATTER OF
THE APPLICATION OF
ROBERT Z. HOLLENBECK

* BEFORE THE
* HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
FOR NEW CONSTRUCTION
AT 3420 SYLVAN LANE
ELLICOTT CITY, MARYLAND

* HISTORIC PRESERVATION
* COMMISSION
* Case No. 17-17

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DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on March 3, 2017 to hear and consider the application of Robert Z. Hollenbeck (“Applicant”), for a Certificate of Approval for New Construction at 3420 Sylvan Lane, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the March 3, 2017 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. The Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the Ellicott City Historic District and dates to approximately 1890.

B. Proposed Improvements

The Applicant proposes to construct a bank barn behind the main historic house, cut into an existing slope. The application states, "the topography of the existing slope leaves approximately nine feet from driveway level to where the slope plateaus at the top, and has relatively little fall from side to side. By cutting into the slope, the scale of the structure is diminished, as only a single story will generally be visible from three sides once constructed."

The Applicant also seeks approval for a three rail wood fence that was constructed prior to their ownership of the home. The fence is a three rail split rail fence that is four feet high with posts 8-foot on center. Staff did not see approvals in the file for these items.

The proposed barn elements and materials are outlined below:

Foundation: The walls of the lower level foundation will be clad in a custom gray/brown/tan stone blend from quarried stone. The stone will be laid in a coursed ashlar pattern with light sand color mortar. The stone will be 4 to 6 inches thick and approximately 8 to 18 inches long.

Natural stone steps: Install 13 large stone slabs, approximately 3 to 4 feet in length and at least 6 inches in height, and varying in depth from 12 to 24 inches, into the existing hillside to create a stone pathway, as shown on the site plan.

Siding: The upper level of the barn will be constructed with board and batten siding using 1x12 rough sawn pine that is left to patina to a natural silver/gray. The battens will be 1x3 rough sawn pine, also left to naturally weather. The application states that “board and batten siding was selected to ensure that the structure does not resemble the home, so that it is subservient both in scale and material to the principal structure. Additionally, the board and batten is intended to echo some of the older accessory garage and barn structures located throughout the Historic District.”

Roof and Gutters: The Applicant proposes to install a 16 inch wide Pac-Clad standing seam metal roof in either Weathered Zinc (option 1) or Colonial Red (option 2). The barn will have half round gutters and matching downspouts in a galvanized metal color in order to blend in with the natural wood siding which will weather to a silver/gray color. The Applicant also seeks approval to install an asphalt shingle roof if the standing seam metal roof is too expensive. The proposed asphalt shingle roof would be Tamko Heritage asphalt shingle in the color Old English Pewter, a light gray color. A metal woodstove chimney will extrude from the roof.

Lighting: Lighting fixtures will be added at entry doors and will be a black gooseneck style light.

Windows: The proposed windows will be Pella 2 over 2 double hung aluminum clad wood windows in the color white. The windows will have a 1x4 natural unpainted pine trim to match the board and batten siding.

Exterior doors, windows and other features by elevation:

East Elevation (labeled South elevation on submission) - Overhead garage sectional doors on the lower level will be faux carriage house garage doors built out of a composite material that will be painted Sherwin Williams Roycroft Copper Red with black hardware. The upper level barn style doors will be a wood custom built door 2 lite over 1 panel with v-groove detail in the panel. There will be three windows visible from this elevation. This side of the building will also have a 4x12 beam installed to resemble a barn hay carrier. A pulley will be affixed to the beam and will either be weathered steel or painted black. This item will not be functional.

South elevation (labeled West elevation on submission) – The proposed door on the lower level will be a half lite (no muntin pattern) over 1 v-groove panel wood door. Three windows will be visible on this side of the building. There will be one light on this side of the building, to the right of the door.

West Elevation (labeled North elevation on submission) – There will be one pair of doors on this elevation, which are salvaged doors with 6 lights over 1 ‘x’ panel. The doors will be painted Sherwin Williams Roycroft Copper Red with black hardware. There are two windows visible on this elevation. There will be one light on this side of the building, over the paired door.

North elevation (labeled East elevation on submission) – There are no doors on this elevation. There are two windows, one on the upper level and one on the lower level, visible on this side of the building.

C. Staff Report

The application complies with Chapter 7 recommendations for “New Construction: Additions, Porches and Outbuildings.” The location of the barn complies with Chapter 7.C recommendations, “if allowed by the size and shape of the property, place new outbuildings to the side or rear of the main building, separated from the main building by a substantial setback.” The new barn will be located 22 feet behind the main house, set to the side and built into the hillside. The Guidelines also recommend, “do not place a new outbuilding where it blocks or obscures views of a historic building.” The barn will not be located directly behind the historic house, but to the rear on the north east edge.

The barn was designed to look like historic barns found in Ellicott City. This was explained in the application, as examples of other outbuildings and barns in the historic district were provided. The design complies with Chapter 7.C recommendations, “design outbuildings visible from a public way to be compatible in scale, form and detailing with historic structures and outbuildings in the neighborhood.” This barn will not be visible from the public right of way, although it still complies with the recommendation. The barn will be built into the hillside, taking advantage of the natural topography. As a result, the barn will appear to be a one story structure on most sides, which complies with Chapter 7.C recommendations, “design outbuildings to be subordinate in size and detail to principal buildings in the immediate vicinity.”

Chapter 7.C recommends, “use materials compatible with the main building on the lot or with historic outbuildings in the immediate neighborhood.” The barn will have wood board and batten siding, which will complement the German lap wood siding on the historic house. The application complies with Chapter 7.A recommendations, “on any building, use exterior materials and colors similar to or compatible with the texture and color of those on the existing building.” The board and batten will be compatible with the historic house, but is more appropriate for the architectural style of the proposed barn. A natural stone will be used to veneer the foundation and it is compatible in color and scale with stone used on other buildings in Ellicott City. The proposed windows are aluminum clad wood and are appropriate as they will not be visible from a public way, are for new construction, but will still be made of wood and match the style of the windows on the historic house.

The proposed standing seam metal roof or backup proposed asphalt shingle roof complies with Chapter 7.A recommendations, “roofing material may be similar to historic roofing material on the existing building or may be an unobtrusive modern material such as asphalt shingles. Asphalt shingles should be flat and uniform in color and texture.” The historic house has an asphalt shingle roof, so there are no historic roofing materials on the site. Staff recommends the Applicant consider using the secondary standing seam metal roof color choice, the colonial red. While the weathered zinc color is appropriate, the red will provide more contrast as the natural wood begins to age and keeps the entire building from becoming a monochromatic silver gray. The red will also complement the proposed red for the doors and tie that color scheme into the building.

The fence complies with Chapter 9.D, which states, “split rail or post and rail fences are more appropriate in less densely developed areas such as upper Church Road, Sylvan

Lane and Park Drive” and “install open fencing, generally not more than five feet high, of wood or dark metal.”

D. Staff Recommendation

Staff recommends Approval as submitted and retroactive approval of the fence.

E. Testimony

Mr. Shad swore in Mr. Robert Hollenbeck. Mr. Shad asked if there were any additions or corrections to the Staff comments or application. Mr. Hollenbeck said he originally submitted a request for conditional approval pending approval of the zoning variance, but DPZ cannot approve the variance until the Commission issues an approval first.

Mr. Hollenbeck stated the proposed structure will not be very visible from the public way and he wants to do everything in accordance with the Guidelines. With the board and batten siding, Mr. Hollenbeck requested two different options. The first option would allow the wood to naturally patina. The second option would be to paint the siding Sherwin Williams Earl Gray with white trim.

Mr. Hollenbeck said for the standing seam metal roof they submitted two colors. He said that Staff recommended the red, which was their alternate color. He said they also submitted a Weathered Zinc color and requested approval for both colors. He said the roofer will use the PAC 150 double lock seam. Mr. Hollenbeck also requested approval of an alternate roof shingle in the color Old English Pewter by Tamko. Mr. Hollenbeck said if the natural patina siding is used, then galvanized gutters and downspouts will be installed. He said if the barn is painted, they will match the house with white gutters and downspouts.

Mr. Hollenbeck said for the exterior doors he submitted an option for salvaged doors, but the salvaged doors were no longer available because they didn't want to purchase them

without approval. He wanted guidance about the use of salvaged materials. Ms. Holmes said that if the Commission leaves that item to Staff approval, then Mr. Hollenbeck can bring the item to Staff and they could issue an approval. Ms. Holmes clarified Mr. Hollenbeck's first siding choice is the natural weathered patina. Mr. Hollenbeck said yes.

Ms. Holmes stated that she clarified the Hollenbeck's first choices so the Commission can focus on those items and approvals, and look at secondary choices if needed. Ms. Holmes summarized the first choices for the Commission. She said the siding would be an unpainted, natural patina board and batten siding. The roof is the galvanized weathered zinc. Downspouts are galvanized and the doors painted red, regardless of the color scheme. The lighting fixtures are black gooseneck style, regardless of the color scheme. The windows are 2 over 2 double hung aluminum clad wood windows in the color white, regardless of the color scheme. The trim would be natural unpainted pine matching the siding. Mr. Hollenbeck said yes. Ms. Holmes said thirteen large stone steps will be installed on the hillside for access. The foundation is the stone, regardless of the color scheme. Mr. Hollenbeck said they brought a sample of the stone for the foundation, which would be an ashlar pattern

Ms. Zoren asked if the steep slope will have a retaining wall. Mr. Hollenbeck said no, the current slope will be maintained and the center will be dug out to add the structure. He said it may not be as drastic as shown in the section or elevation, but will represent the same grade.

Mr. Shad asked the other Commissioners if there was any concern over the color options. Mr. Roth said he had no concerns; he said that if they do not paint it the siding may need to be replaced sooner. Ms. Zoren said she was fine with the general style of the 6 light

over one panel door and letting Staff approval the salvaged doors. Ms. Holmes asked the Commission if they would want the salvaged doors to go through the Minor Alterations process if a drastically different style was submitted. The Commission confirmed that process should be used if the style is different.

F. Motion

Mr. Roth moved to approve as submitted for both option one and option two, and to allow Staff to use the Minor Alternation Process should the Applicant wish to change the west side door style, otherwise the salvaged door is subject to Staff approval. Ms. Zoren seconded. Mr. Roth also moved to retroactively approve the fence. Ms. Zoren seconded. The motion was unanimously approved.

Conclusions Of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 7 sets forth the relevant recommendations for New Construction: Additions, Porches and Outbuildings., as detailed in the Findings of Fact, part C. Additionally, Chapter 9 sets forth relevant recommendations for Landscape and Site Elements.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

The Applicant proposes to install a "bank" barn designed to look like historic barns found in Ellicott City. The barn will not be readily visible from the public way as it will be located at the rear of the historic structure on the Property, in keeping with Guidelines recommendations. The scale and location of the structure will be subordinate to the primary structure on the Property, as suggested by the Guidelines. The Applicant provided detailed description of the proposed architectural details and materials, which are in keeping with the historic and architectural materials and styles identified in the Guidelines, as thoroughly discussed in the Staff Report.

The barn will have wood board and batten siding, which will complement the German lap wood siding on the historic house. A natural stone will be used to veneer the

foundation and it is compatible in color and scale with stone used on other buildings in Ellicott City. The proposed windows are aluminum clad wood and are appropriate as they will not be visible from a public way, and are for new construction, but will still be made of wood and match the style of the windows on the historic house.

The proposed standing seam metal roof and backup proposed asphalt shingle roof both comply with Chapter 7.A recommendations, that roofing material be similar to historic roofing material on an existing building or be an unobtrusive modern material such as asphalt shingles. The historic house has an asphalt shingle roof, so there are no historic roofing materials on the site. Either of the color choices proposed for the roof are acceptable; colonial red or weathered zinc. Neither is historically inappropriate and both are compatible with the existing structure.


Finally, the fence that was constructed prior to the current owner's occupancy complies with Guidelines recommendations to use split rail or post and rail fences in less densely developed areas such as Sylvan Lane.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 4 to 0, it is this 60 day of April, 2017, **ORDERED**, that the Applicant's request for a Certificate of Approval for Landscape Alterations at the Subject Property, is **APPROVED, as amended**.

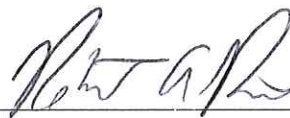
**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



Allan Shad, Chair



Bruno Reich



Drew Roth

ABSENT

Eileen Tennor

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor
Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.