IN THE MATTER OF THE APPLICATION OF KIMBERLY KEPNES	* *	BEFORE THE HOWARD COUNTY
FOR A CERTIFICATE OF APPROVAL TO INSTALL A FENCE AT 3585 CHURCH ROAD ELLICOTT CITY, MARYLAND	* * *	HISTORIC PRESERVATION COMMISSION Case No. 20-69

* *

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 October 1, 2020 to hear and consider the application of Kimberly Kepnes, ("Applicant"), for a Certificate of Approval to install a fence at 3585 Church Road, Ellicott City, Maryland (the "Subject Property"). The Commission members present were Allan Shad, Eileen Tenor, 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 October 1, 2020 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. According to SDAT the building dates to 1865.

B. Proposed Improvements

The Applicant proposes to install a 42-inch high, four board, estate style (x-board) pressure treated wood fence along the property line at the street. The fence will be painted Snowball white to match the house. The fence will be painted once the wood has cured. The post caps on the fence will be black. The fence will be located approximately 3 to 5 feet from the property line.

C. Staff Report

Chapter 9.D: Landscape and Site Elements; Walls, Fences, Terraces, Walkways and Driveways

1) *Chapter 9.D recommends:*

    a. *"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."*

b. *"Install open fencing, generally not more than five feet high, of wood or dark metal."*

Although split rail or post and rail fences are more appropriate in less densely developed areas such as upper Church Road, there are no other fences marking property lines in this vicinity, except for the fence lower on Church Road around the Patapsco Female Institute. This would be the first fence in a front yard along upper Church Road.

The style of fencing complies with the Guidelines and the white color of the fence will match the siding on the house. Alternatively, a black fence would also match the house and may blend into the environment more. Pressure treated posts would reduce the rot, but paint does not adhere to treated wood as well as a good quality hardwood.

D. <u>Staff Recommendation</u>

Staff recommends the HPC approve the application as submitted and recommends the HPC consider a maintenance/replacement component to an approval.

E. <u>Testimony</u>

Mr. Shad swore in Kimberly Kepnes. Mr. Shad asked if Ms. Kepnes had any comments on the staff report. Ms. Kepnes amended the application to include a dark brown or black stain for the fence to be approved by staff, rather than painting the fence. Ms. Kepnes asked for the Commission's opinion on the fencing material and if MCA, micronized copper azole, a preservative used in pressure treated wood, would be acceptable. The MCA process would allow the fence to be painted or stained quickly after installation without a curing period. Mr. Shad asked if the MCA would be applied by the Applicant. Ms. Kepnes said the wood comes from the manufacturer with the treatment already applied.

The Commission asked the Applicant the function or benefit the fence would supply the property as there are not many fences for properties along Church Road. Ms. Kepnes said the primary interests for the fence were safety, privacy and aesthetics.

Mr. Roth said noticed remnants of a fence similar to the proposed fence around the Lacey Property during his site visit.

The Commission found the application and product to comply with the Guidelines and three of the Commissioners said they preferred the dark brown stain for the fence.

Mr. Taylor asked if the Applicant was amending their application for a stained fence and asked if the Applicant still wanted the fence to be white in color. Ms. Kepnes said she was amending her application per staff recommendations to a dark stain.

F. Motion

Mr. Reich moved to approve the application, as amended. Mr. Roth 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 9 sets forth the relevant recommendations for Rehabilitation and Maintenance of Existing Buildings in the Historic District, as detailed in the Findings of Fact, part D.

B. <u>Application of Standards</u>

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 seeks approval for the installation of a 42-inch high, four board, estate style (x-board) pressure treated wood fence along the property line at the street. The Applicant amended the application Ms. Kepnes amended the application to include a dark brown or black stain for the fence to be approved by staff, rather than painting the fence. The post caps on the fence will be black. The fence will be located approximately 3 to 5 feet from the property line.

The proposed deign and material of the fence comply with the Guideline recommendations on scale and materials.

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 5 to 0, it is this 5th day of November, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval to install a fence at the Subject Property, is **APPROVED, as amended**.

HOWARD COUNTY HISTORIC PRESERVATION COMMISSION

Allan Shad, Chair

BB

Eileen Tennor, Vice-Chair

BB

Drew Roth

BB

Bruno Reich

BB

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW

Lewis Taylor
Senior 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.