



CITY OF THE VILLAGE OF CLARKSTON
Historic District Commission
Art Pappas Village Hall 375 Depot Road
Clarkston, MI 48346
Draft Minutes for Tuesday September 10, 2019

Meeting called to order by J. Meloche at 7:01 P.M. This meeting was held at the Clarkston United Methodist Church, 6600 Waldon Road.

Present: M. Luginski, J. Meloche, M. Moon, John Nantau, J. Radcliff.

Approval of Agenda: Motion by J. Radcliff, second by M. Luginski to approve the agenda as written with the addition of one announcement. Motion carried with all ayes.

Announcement:

There is a court reporter present who will be transcribing and recording tonight's proceedings, so please state your name and speak loudly and clearly if you have comments during the Review and Discussion portion of the meeting.

Public Comments: None

Individuals can address the HDC on issues that are not on the agenda limiting their comments to three minutes. Comments on agenda items are allowed when that issue is being discussed. Please state your name for the record.

Approval of the Minutes of the August 13, 2019 meeting: Motion by M. Luginski, second by J. Nantau to approve as written with no additions or changes. Passed with all ayes.

New Applications for Review and Approval: None

Existing Applications for Review and Approval:

42 West Washington: Applicant R. Roth and representation J. D. Mulvihill present. Please note T. Ryan representation for the City of the Village of Clarkston also present.

The remand order of P. L. Plummer, Administrative Law Judge dated August 13, 2019 was read by J. Meloche, Chairman of the Clarkston Historical District Commission (CHDC):

Order of Remand to Clarkston Historic District Commission, which reads, in part:

IT IS HEREBY ORDERED AND ADJUDGED that under authority of the Local Historic Districts Act (LHDA) 1970 PA 169, as amended, being MCL 399.201, et seq, (Act), Remand Order for Additional Findings of Fact issued February 8, 2019, by the State Historic Preservation Review Board and this Order, the Clarkston Historic District Commission (HDC) shall record and transcribe consideration at its meeting scheduled for September 10, 2019, or as soon as practicable thereafter, should such meeting be adjourned, the following:

The historic preservation issues relating to Petitioner Lehman Investment Co., LLC's August 8, 2017 Application as an application for a Notice to Proceed as provided in MCL §399.205(6)(a-d). The Clarkston HDC shall evaluate the

application and issue or deny a Notice to Proceed. The Clarkston HDC shall make separate and specific findings and take separate votes as to each of the subparagraphs (a) through (d) of MCL §399.205(6)
MCL §399.205(6) states as follows:

(6) Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

(a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(b) The **resource is a deterrent to a major improvement program that will be of substantial benefit to the community** and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.

(c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

(d) Retaining the resource is **not in the interest of the majority of the community**.

IT IS FURTHER ORDERED that the Clarkston HDC shall without undue delay reduce its reasons and decision to writing.

Mr. Mulvihill presented for applicant, "Petitioner's Pre-Hearing Statement." At his request, it has been added to the record as Exhibit 1.

Per the Order of Remand, provisions for a Notice to Proceed [MCL 399.205 (6) (a-d)] were considered individually, as directed.

- (a) Mr. Mulvihill stated "does not apply." CHDC commissioners agreed with this assessment. Motion made by M. Luginski, by stipulation of petitioner second by M. Moon since this does not apply, no further discussion is required. Motion passed unanimously.
- (b) Mr. Mulvihill stated "does not apply." CHDC commissioners agreed. Motion made by J. Radcliff by stipulation of petitioner, second by J. Nantau, since this does not apply, no further discussion is required. Motion passed unanimously.
- (c) Mr. Mulvihill stated "does not apply." CHDC commissioners agreed. Motion by J. Nantau, by stipulation of petitioner, second by M. Luginski, since this does not apply, no further discussion is required. Motion passed unanimously.
- (d) Mr. Mulvihill stated "only peripherally applies" and restated portion of Pre-Hearing Statement. Discussion among commissioners ensued focusing on whether or not the petitioner has provided evidence that demolition of 42 West Washington would "substantially improve or correct" condition (d) i.e. that "retaining the resource is not in the interest of the majority of the community." HDC consensus was that the issue before us tonight is not about the structure itself or its historic significance or insignificance, but rather to weigh the alternative of losing it to demolition, and to hear petitioner's reasons why the majority of the community would like to see 42 West Washington gone.

During discussion on subparagraph (d) HDC commissioner J. Meloche presented from report "The Path toward Establishing a CLARKSTON HISTORIC DISTRICT STUDY COMMITTEE." At his request, it has been added to the record as Exhibit 2.

Members of the community spoke in favor of retaining the resource: David Bihl, Alfred Avery, and Sharon Kramer. Terry Hawk, grandson of Hawk Tool founder and builder/prior resident of the home (Ethan Hawk) supported retaining the home considering the importance of his grandfather and Hawk Tool in the history of Clarkston.

Each commissioner spoke individually noting a lack of proof by the petitioner to show that they meet the

criteria of subparagraph (d), and no evidence by petitioner to support that retaining the resource is not in the interest of the majority of the community.

Therefore it is the finding of the CHDC that Petitioner has failed to demonstrate, pursuant to MCL 399,205 (6) a, b, c, or d, that removing the resource at 42 West Washington Street is necessary to substantially improve any condition in the historic district, and that removing the resource is not in the best interest of the majority of the community.

Motion by J. Radcliff, second by M. Moon that a notice to proceed with a total demolition of the structure at 42 West Washington is to be denied.

M. Luginski, aye

J. Radcliff, aye

J. Meloche, aye

J. Nantau, aye

M. Moon, aye.

Meeting adjourned at 8:28 P.M.

Next regularly scheduled meeting is Tuesday October 8, 2019 at 7:00 PM.

Respectfully submitted,
Michael Moon