

*Approved 12/19/12*

## Minutes of the Avon Hill Neighborhood Conservation District

Monday, October 24, 2011 - 5:30 P.M. - 831 Massachusetts Ave., Basement Conference Room

Commissioners Present: Art Bardige, *Vice Chair*; Robert Crocker, Mark Goldberg, Catherine Henn, Constantin von Wentzel, *Members*; Heli Meltsner, *Alternate*

Commissioners Absent: Theresa Hamacher, Maryann Thompson, *Members*

Staff Present: Charles Sullivan

Members of the Public: Bupesh Patel

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With a quorum present, Acting Chair Catherine Henn called the meeting to order at 5:32 P.M. She made introductions and reviewed the hearing procedures. She designated alternate Heli Meltsner to vote on all matters. Vice Chair Art Bardige announced that he would recuse himself as an abutter of 37 Lancaster Street.

### Public Hearing: Alterations to Designated Properties

**AH-385: 87 Lancaster St., by Steven McCarroll and Annika Malmberg.** Review completed work, consisting of removal and replacement of windows in locations not previously approved

Mr. Sullivan reviewed the case. He read the Certificate of Appropriateness issued on June 29, which required "that existing wood windows be preserved and repaired and that the windows that are removed for new doors or differently sized windows be re-used elsewhere in the project, wherever possible." He said that Ms. Burks had observed that new Marvin windows had been installed throughout; that the contractor thought the Certificate had been advisory; and that the original windows had been destroyed.

Bupesh Patel, the owner's representative, said that the certificate referred to six original windows. The contractor had worked with WindowRepair.com with the objective of removing lead paint and installing insulated glass, but found that the upper sash in all cases were not original, but only about 40 years old, and not worth restoring. The contractor's preferred method of dipping the sash to remove lead paint would deteriorate them, and the subcontractor would not certify them as lead-free. Prices for restoration vs. new were comparable, but the owners did not want to mix new Marvin upper sash with original lower sash; they wanted all new windows. The contractor needed to take out the windows to rebuild the walls, and did not want to reinstall the old windows temporarily as Mr. Patel advised. The "whenever possible" language in the certificate was somewhat confusing. Mr. Patel was absent for about two weeks and the contractor proceeded without permission.

Mr. von Wentzel asked if the owners had been involved in these decisions. Had they attended the hearing? Mr. Patel replied that the husband had attended.

Ms. Henn asked for public comments, but there were none.

Mr. von Wentzel asked what happened to the windows. Mr. Patel said that the contractor had given them to another contractor for possible reuse, but they had been discarded.

Mr. Crocker asked if they had considered removing the paint with chemicals or heat, and Mr. Patel said that they had not. Mr. von Wentzel stated that either method would be less destructive than dipping.

Mr. Sullivan asked if the top sash were restorable. Mr. Patel replied that they were made of soft pine, and would have required a lot of new wood. He said that in hindsight the best approach would have been to have new upper sash custom made to match the original lower sash.

Mr. Goldberg asked about the end result – was it acceptable? Ms. Meltsner said it was not; the old fabric had been lost across an entire elevation.

Ms. Henn asked Mr. Sullivan for advice; should they approve the change, however reluctantly? Mr. Sullivan advised denying the application, while stating that the Commission would not seek enforcement given the circumstances of the case. Mr. Goldberg was concerned about establishing a precedent, but Mr. Sullivan said that the Commission was not a court, establishing new legal principles; the Commission might easily find that another case, involving clearly inappropriate windows, warranted enforcement.

Mr. Patel pointed out that the owners had made an effort over many months to find a satisfactory resolution, and that the replacement windows matched other approved windows.

Ms. Meltsner moved to deny the application for an amended Certificate of Appropriateness, but due to extenuating circumstances, including the owners' effort to investigate restoration, the presence of non-original upper sash, and the fact that the original sash were no longer extant, the Commission declined to seek enforcement of the decision. Mr. Crocker seconded, and the motion passed unanimously.

Ms. Meltsner noted that this had been the second case of unauthorized window replacement recently, and asked that the staff send out a general letter to the neighborhood reminding owners of the required procedures, with an emphasis on windows and fences.

#### Other Business

Mr. Sullivan reported that the owners of 37 Lancaster Street were putting the house back on the market due to their inability to resolve differences with their abutters. Mr. Bardige expressed frustration with the fact that the Commission had never had a chance to hear the case. Mr. Sullivan said he had met with Mrs. McQuillan and strongly urged her to bring an application before the Commission, but to no avail. Mr. Bardige said that any and all parties were encouraged to bring their ideas to the Commission at any time.

Ms. Meltsner reported that the City Council had postponed consideration of the proposed Wyman Street curb cut. Mr. Bardige thought that all parties had been satisfied by the results of the hearing, but members assured him that there was still significant concern.

Ms. Henn asked the staff to check the reshingling work going on at 30 Agassiz Street; had it been permitted? She also reported that the rear deck at 33 Agassiz Street had never been completed. Mr. Goldberg asked if such incomplete projects should be considered violations; Mr. Sullivan said that he would consider this and report back.

Minutes

Ms. Meltsner moved to approve the minutes of July 11, 2011. Mr. Crocker seconded, and the motion passed unanimously.

Mr. Bardige moved to adjourn the meeting. Mr. von Wentzel seconded, and the motion passed unanimously. The meeting adjourned at 6:40 P.M.

Respectfully submitted,

Charles M. Sullivan  
Executive Director