

MADISON HISTORIC PRESERVATION COMMISSION

Special Meeting – May 28, 2019

Continuation of March 12, April 9 and May 6, 2019 meetings

Attending: Madison Historic Preservation (“HPC”) Co-Chairs Janet Foster and Mary Ellen Lenahan; Members Karen Jeisi, Chris Kellogg, David Luber, Jill Rhodes, John Solu and Carmine Toto; Commission Attorney Jonathan Testa and Recording Secretary Laurie Hagerich. Absent: Member John Forte and Council Liaison Maureen Byrne.

Also in attendance was HPC’s Preservation Consultant, Mr. John Hatch; Applicant’s attorney Peter J. Wolfson, Esq.; Applicant’s Project Design Architect Jeffrey Gertler; Objector Save Madison Theater, Inc.’s attorney Michele R. Donato, Esq.; and Save Madison Theater’s President/representative Sandy Kolakowski; Save Madison Theater’s proposed Structural Engineering expert, William Killeen, P.E., and proposed Historic Preservation expert Nancy Zerbe.

Ms. Foster called the meeting to order at 7:30 pm. Ms. Lenahan announced the meeting was called in accordance with the Open Public Meetings Act and Ms. Hagerich took a verbal roll call.

Mr. Testa summarized Madison’s Historic Preservation Ordinance and outlined protocols and time limits for all witnesses and public speakers. It was stipulated the meeting would close at 12 am and that decision on the application will be made on June 11, the next regular meeting date of the Commission.

Business:

Continuation of Hearing on Application for demolition and redevelopment of Madison Theater property at 14 Lincoln Place:

Mr. Peter Wolfson, Esq. of Day Pitney, attorneys for property owner/Applicant Saxum Real Estate, noted for the record that he expected a decision tonight. He indicated that he would discuss the timetable for an HPC vote with his client at the end of the meeting.

At the request of the HPC’s attorney, dated May 21, 2019, Applicant’s Project Architect Jeffrey Gertler prepared and presented three (3) revised exhibits to address concerns of height, mass and scale of the proposed new building as compared to the existing structure and surrounding buildings in the district. The first revised slide purported to show height and volume comparisons of the existing theatre in relation to the surrounding structures in the district; and the added volume and height of the proposed building as compared to the existing structure the surrounding structures in the district.

The second revised slide purportedly depicts “slab-to-slab height” and volume changes for the new structure overlaid on a photograph of the existing structure and consideration the changes in height in relation to the existing parapet and gabled roof.

The third revised slides modified the rendering of the street view comparisons from 14 Waverly Place. Mr. Gertler testified that the view modified from the prior rendering which was at a slightly higher elevation. Mr. Gertler explained that the height difference of the parapet on the existing building in relation to the new parapet shows an increase in height of approximately 2 feet 8 inches.

Mr. Gertler explained that the views were intended to allow comparisons of the height of the proposed new building to existing buildings on Lincoln Place. Mr. Gertler presented the new renderings and explained why he felt the new building would fit into the streetscape. Mr. Gertler admitted that the rendering company misinterpreted a bump in the roadway as a height variation, and the new rendering corrected this discrepancy.

Ms. Michelle Donato, Esq. the attorney representing Save Madison Theater, was introduced and questioned Mr. Gertler as to whether the renderings were drawn to scale and whether the scale and mass of the building were changed or altered. Mr. Gertler responded that the rendering company responsible for preparing the previous versions of a street view had made errors, and the new renderings were intended to correct those mistakes. The actual design has not changed since April 5 revisions presented at the April 9, 2019, HPC meeting. Mr. Gertler confirmed that one of the prior renderings was inaccurate. Mr. Gertler admitted that the renderings were not to scale, and explained that renderings are not to scale because they are in perspective and have no scale to it. He denied taking an artistic license as to the renderings.

Mr. Gertler did not change the size of the building in response to requests from HPC members related to concerns scale and mass. He explained that the Applicant had responded to various other issues of the HPC members.

Mr. Gertler admitted that the proposed building is larger than the current theater. He explained that the two-story building in the front would be changed to a three story building in the front and a four story building in the back. Mr. Gertler admitted that he had not measured the width of the current existing parapet at its highest point. When questioned as to the mass of the new building in relation to the existing parapet, Mr. Gertler explained that the fourth floor would be set back from the third floor on all four sides, but the proposed new third and fourth floors would become part of the mass of the new building. The increased height of the parapet is approximately 1 foot 6 inches and covering the majority of the building.

There were questions about a bulk-head structure on the roof. Mr. Gertler admitted that a bulk-head would be required, but denied the bulk-head structure was depicted in the renderings. The purpose of the bulk-head which Mr. Gertler explained would accommodate the head-house for an ADA required elevator in accordance with applicable building codes. In addition to the increased height of the new structure, the bulk-head would need to be installed at an increased height of eight to nine feet. Mr. Gertler admitted that this structure would add to the height of the building although such accessory roof structures are generally not included in zoning calculations of height or number of stories. He explained that a three story building would also require a bulk-head.

Mr. Gertler testified that a change in the roof from a gable roof to a flat roof would be consistent with the District. Ms. Donato questioned the number of stories, since the building's four stories would require a variance to exceed the allowed height of three stories; and asked Mr. Gertler to explain his prior testimony interpreting the height restrictions and the number of stories in the District. Mr. Gertler was unable to explain the exact number of mass increase.

Mr. Wolfson objected that the issue of obtaining any variances is for the Planning Board to decide and HPC's role is to decide on the issue of demolition and re-design of the building should demolition be permitted. Mr. Testa stated that the HPC could comment on massing and design of any new building in the Historic District.

Mr. Gertler addressed the relationship of the Lincoln Place exit from the Train Station to the mid-line of the Theater's elevation. He stated there is a close relationship, but not an exact symmetrical relationship. Mr. Hatch commented that he felt substantial progress had been made with the design revisions. The owners are planning to preserve many of the historic features of the building, including the box office ticket booth, the stone plaque on the front façade, and the chandeliers.

Questions and concerns raised by the HPC members included:

- Concern was raised about protection of the Post Office building adjacent to the Theater from a demolition perspective, as well as regarding the scale and mass of the proposed new building. The HPC members stressed that the Post Office is a "key" contributing building in the Historic District, and the protection of the Post Office is of utmost importance.
- Concerns were also raised about the visual impact of the elevator tower and overall bulk of the broadened facade of the proposed new building.

Several witnesses were sworn in and gave testimony on behalf of Save Madison Theater. The first witness called by Save Madison Theater was William Killeen, P.E. Save Madison Theater asked the Commission to accept Mr. Killeen as an expert in structural engineering. Ms. Donato offered Mr. Killeen's curriculum vitae as an exhibit for consideration by the Commission.

Mr. Wolfson objected to Mr. Killeen's qualifications as an expert based on the fact that Mr. Killeen's area of engineering experience is limited to bridges. Mr. Wolfson's objections were noted for the record.

Concerning Mr. Killeen's qualifications, Mr. Killeen testified that he was a licensed New Jersey Civil Engineer, and confirmed that his licensure and certifications have continuously been in good standing in the New Jersey since 1987. Mr. Killeen advised that he is a Madison resident, and confirmed that his engineering practice is in bridge engineering. When questioned further as to his experience with historical structures, Mr. Killeen explained that he has personal experience with residential renovations of two historical structures in Cape May, New Jersey. Upon review of Mr. Killeen's curriculum vitae, the Commission's attorney opined that Mr. Killeen's licensure and background was sufficient to meet the requirements to qualify as an expert, and that Mr. Wolfson's objections go to the weight and credibility of Mr. Killeen's opinions.

Mr. Killeen admitted that he had not personally inspected the property. Mr. Killeen explained that his opinions as to the structural integrity of the Theater are based on his review of the report prepared by the HPC's structural engineering consultant McManus Design Group, as well as Applicant's structural report prepared by Thorton Tomasetti and the "Structural Review" report of Persimmon Engineering from May 2018. Mr. Killeen did not have access to the building and did no testing of any kind to reach his conclusions.

Mr. Killeen opined that the building's terracotta walls, though prone to cracking, are still in acceptable condition. He further opined that based on the relevant period of the original construction of the Theater, the roof truss was likely overbuilt and remains structurally acceptable; removing interior plaster ceilings, of which there are two, could lighten loads. In his opinion, other structural issues were not as serious as the previously submitted reports indicated. His conclusion was that the building is not in danger of collapse and the structural problems can be corrected. He disagreed with the conclusions of the other structural experts that the building was not worthy of saving.

The HPC asked if the building would have to meet current building codes if restored, and as Mr. Killeen is not an architect, nor a member of the Building Department, he was not in a position to offer a firm answer. A question was asked about whether the repairs could be made in stages, and Mr. Killeen indicated he thought that was possible.

The second sworn witness was Nancy Zerbe, an historic preservation expert, whose credentials were accepted by Mr. Wolfson on behalf of Saxum Real Estate. She testified that she felt the movie theater building is under-valued. By virtue of its being a contributing building in the historic district, it is significant and worthy of protection. Even though not a building of "high style" architecture, it is representative of a type of building from the 1920s serving as a movie theater and it has a prominent location in the historic district directly across from the train station. She agrees with Mr. Hatch that demolition of such a building in the historic district is a drastic step and would constitute a detriment to the public interest. She felt the new building would have a negative visual impact on the historic district in that it has the appearance of adding mass, and that the added height of the elevator head house on top must be considered. She recommended that careful conditions be set if the Commission does rule to allow demolition.

Questions from Commission members for Ms. Zerbe included whether repairs on the building could be done in stages, whether re-opening of the theater would be economically viable, whether there were other adaptive uses for the building and whether she was aware that similar theaters all over the country are being saved and rehabilitated. As she is not familiar with specific theater projects, she could not comment on the economics or adaptive re-use of such projects. She indicated that many preservation projects are completed in stages.

Mr. Wolfson asked about the building being "significant" and whether Ms. Zerbe was aware that a 91-seat theater was a part of the plan for the new building. She indicated that she felt a new theater in a new building was not the same as saving the old theater, and therefore, not appropriate for the historic district. She indicated that adaptive re-use possibilities for the building should be thoroughly explored as a threshold before demolition is carried out in the Historic District.

The third sworn witness was Sandy Kolakowski, President of Save Madison Theater (SMT). She gave background on formation of the non-profit organization and read a statement that the theater is an important part of Madison's culture. SMT has collected over 2,000 signatures from people who support its preservation. SMT commissioned a Non-Profit Movie Theater Survey to provide information from other towns of similar size that have restored theater buildings which are thriving. After discussion, the survey was entered into evidence. Ms. Kolakowski felt the new building was of a massive size and

does not reflect the wishes of most of the residents of Madison. She appealed to the principals of Saxum Real Estate to take into account the wishes of the residents to retain the present movie theater building. She also felt the rendering shown by Mr. Gertler are not totally accurate.

Mr. Wolfson questioned Ms. Kolakowski about the active marketing of the property for over one year and whether any funds had been raised to rehabilitate the building and if help was sought from the Borough of Madison. She indicated that she and former Mayor Woody Kerkeslager had approached the Borough about purchasing the theater but discussions never advanced because the Borough was aware that the Saxum proposal was already underway. She indicated that fundraising had not officially begun, except for donations from SMT Board Members, because there was no willing seller from whom to acquire the property.

Questions from HPC members included whether the 2000 signatures were mostly residents of Madison. The answer was that "most" of the signatures were Madison residents. She was asked for the financial plan for the operation of the theater. Ms. Kolakowski is not able to talk about funding or the business plan that SMT has drawn up. She stated the goal is to purchase the theater and rehabilitate it for use as a theater; beginning with the two "upstairs" theaters and gradually, as funds allow, restoring the larger "downstairs" theater. Her vision is for a "self-sustaining" theater that would not need to fundraise for operating costs. She believes an estimate for repairs needed for the building would be under a million dollars. She feels the 91-seat theater proposed for the new building is not sufficient and she is confident her organization has the knowledge and ability to operate a theater. Members of Save Madison Theater have made financial pledges of about \$125,000 and they are prepared to hire a professional fundraiser.

Ms. Kolakowski was questioned further by Ms. Donato to establish that public fund raising cannot be started before there is a willing seller.

Questions from the public relating to testimony from the three witnesses included:

- A contributing building does matter to a historic district and thus is significant and entitled to projection.
- Concern about visual impact of the new building affecting the Post Office and the Hartley Dodge Memorial; views throughout town, and impact of the new theater on other contributing buildings in the district;
- Whether a market study has been made on the economic prospects for a theater in Madison?
- Whether any physical testing was done on the building?
- Lack of sloped floor in proposed new theater makes it unacceptable;
- What is the business plans of Save Madison Theater?

The public question period was closed at 11 pm and public comment portion of the meeting was opened. Comments included:

- Concern about mass and height of new building which will change the character of the historic district.
- The DDC has given its support to the new building and feels it will bring increased foot traffic and economic benefits to Madison

- A movie theater needs to have a sloped floor and a large enough screen - the proposed new theater in the new building is inadequate.
- Examples of a multi-use theater in Pennsylvania and other successful renovations were given as evidence that small-town theaters can operate.
- One resident expressed support for the Save Madison Theater's financial plan
- Concern about parking issues and traffic congestion on Lincoln Place.
- Concern about loss of last cultural building in historic district.
- Concern about setting a precedent for future demolitions.
- Concern about buildings behind the theater being subject to demolition (which are not owned by Saxum or part of this development application).
- The new building will result in 40% (estimate from member of public) larger structure than present theater.
- The theater is historic and significant and part of Madison's character.
- Pictures shown are artist's renderings and don't realistically show how new building will look.
- Consideration should be given to loss of a cultural asset to be replaced by retail, which Madison already has in abundance.
- Difficulty in making operation of a movie theater economically viable.

The public comment period was closed at 11:40 pm. It was stipulated that final arguments as written submissions will be made by the applicant and Save Madison Theater by June 3 to Attorney Jon Testa, and shared with members of the HPC. Saxum Real estate agreed through its attorney to allow HPC to make deliberations and render a decision its next regular meeting on June 11 and that the time period for a decision to be made on demolition is extended through June 11. The meeting was adjourned at 11:45 pm.

Laurie Hagerich, Recording Secretary