



City of Chicago



F2015-111

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Meeting Date:	9/24/2015
Sponsor(s):	Dept./Agency
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Title:	Historical landmark designation for 1927 W Evergreen Ave (Wicker Park District) - Denial of Permit App No. 100584889
Committee(s) Assignment:	



DEPARTMENT OF PLANNING AND DEVELOPMENT
CITY OF CHICAGO

August 18, 2015

The Honorable Susana Mendoza
City Clerk
City of Chicago
Room 107, City Hall
121 North LaSalle Street
Chicago, Illinois 60602

RE: Denial of Permit Application No. 100584889
1937 W. Evergreen (*Wicker Park District*)

Dear Clerk Mendoza:

We request that you provide written notice to the City Council that the Commission on Chicago Landmarks (the "Commission") has issued the attached written decision disapproving the above permit application. This request is made pursuant to Section 2-120-800 of the Municipal Code of Chicago, which states, in part: "The Commission shall send written notice of its decision [approving or disapproving a permit application] ... to the City Council."

Thank you for your attention to this matter.

Sincerely,

Eleanor Esser Gorski, AIA
Director of Historic Preservation
Bureau of Zoning and Land Use

encl.

cc: Alderman Proco 'Joe' Moreno, 1st Ward (*without enclosure*)

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**FINDINGS AND CONCLUSIONS OF THE COMMISSION ON CHICAGO
LANDMARKS IN THE MATTER OF A PERMIT APPLICATION FOR THE
REMOVAL OF THE FRONT STAIRCASE AT 1937 W. EVERGREEN AVENUE
IN THE WICKER PARK LANDMARK DISTRICT**

I. BACKGROUND

George Menninger and Ann Cheeseman ("Applicants") seek permission to remove the front staircase to their home located at 1937 W. Evergreen (the "Home"). The Home is located within the Wicker Park Landmark District (the "District"). The project was reviewed, pre-permit, by the Permit Review Committee of the Commission on Chicago Landmarks (the "Commission") on February 5, 2015, and the proposal to remove the stairs was unanimously denied. A permit application was received by the Commission on April 17, 2015 (the "Permit Application"), and a preliminary disapproval letter was issued on May 1, 2015.¹ At Applicants' request, an informal conference was held on May 15, 2015, but Applicants and the Commission could not reach an accord. The preliminary disapproval of the Permit Application required the Commission, under Section 2-120-800 of the Municipal Code of Chicago (the "MCC"), to hold a public hearing on the Permit Application within 90 days after the Commission's disapproval of the permit.

II. PUBLIC HEARING

The Commission scheduled a public hearing for Wednesday, June 10, 2015, at 1 p.m. It notified Applicants and issued notice of the meeting in compliance with the requirements of the Landmarks Ordinance. The public hearing was convened on June 10, 2015, at approximately 1:00 p.m. Mary Ann Smith, a member of the Commission, served as the Hearing Officer. Commissioner Smith recognized that the Applicants and the City's Department of Planning and Development ("DPD") were parties as a matter of right to the public hearing. She granted Paul Dickman's request to participate in the public hearing as a party. By agreement of the parties, the hearing was continued to July 14, 2015, at 10:00 a.m.

On July 14, 2015, Commissioner Smith reconvened the public hearing. She was assisted by Arthur Dolinsky, Assistant Corporation Counsel of the Real Estate Division of the City of Chicago's Department of Law, as legal counsel to the Commission. Applicants were present, along with their counsel, Thomas Ferguson of Michaels, Schulwolf & Salerno, P.C. DPD was represented by William Macy Aguiar, Senior Counsel, and Ellen Wight McLaughlin, Assistant Corporation Counsel, of the Constitutional and Commercial Litigation Division of the City of Chicago's Department of Law. On DPD's motion, Commissioner Smith ruled that Mr. Dickman could not participate as a party to the public hearing because he did not comply with the requirements set forth in Article IV, section E.3 of the Commission's Rule and Regulations but could still make a public statement for or against the Permit Application.

Following opening statements from both parties, the Applicants presented sworn

¹ Applicants' Permit Application seeks approval for work to the Home in addition to the removal of the staircase feature. None of that additional work is at issue and is therefore not discussed herein.

testimony from four witnesses: (1) Ann Cheeseman; (2) George Menninger; (3) Sam Marts; and (4) Wayne Zuschlag. DPD then presented sworn testimony from James E. Peters, AICP. Mr. Dickman of the Wicker Park Committee and Erin Menninger made statements in favor of the Permit Application.

III. CRITERIA FOR EVALUATING PERMITS

In the case of proposed work to a property located within a landmark district, the Commission must first determine whether the property in question contributes to the character of the district using the criteria set forth in Article III, section G.4 of the Commission's Rules and Regulations. The Commission must also determine whether the proposed work would have an adverse effect on a significant architectural or historic feature of the district, using the criteria set forth in Article III, section G.3 of the Commission's Rules and Regulations. Under Article III, section G.2 of the Rules and Regulations, in evaluating the effect of work proposed in a permit application, the Commission is also governed by guidelines adopted and published by the Commission itself, as well as by the *U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.

IV. FINDINGS OF FACT

After careful consideration of the record of the July 14, 2015 public hearing, including the Commission's exhibits, the testimony of the witnesses, the exhibits submitted by Applicants and DPD, and the public statements, the Commission, in its review pursuant to MCC § 2-120-740 and the standards set forth above, makes the following findings of fact regarding the Permit Application for the removal of the front staircase to the Home:

A. Evidence Concerning Other Properties was Properly Excluded.

During the public hearing, Applicants sought to introduce evidence related to the removal of staircases at other properties located in landmark districts. The Hearing Officer concluded that such evidence should be excluded because whether alterations have been made to other properties, and the circumstances under which those changes were made, are not relevant to the Permit Application. The Commission's Rules and Regulations do not adopt "precedence" as a standard to be considered, however. To the contrary, the Commission stated in its *Guidelines for Alterations to Historic Buildings and New Construction* that "[b]ecause no two situations are exactly alike, each application of criteria and policy must be done on a case-by-case basis." Thus, each application must be reviewed on its own merits for its impact on the District, and the Hearing Officer properly excluded Applicants' proffered evidence.

B. The Home Contributes to the Character of the District

Based on the record, which includes the designation ordinance for the District (Commission Exhibit 1), the Commission's report to the City Council regarding the District (Commission Exhibit 2), the testimony of James E. Peters, AICP, an expert in the field of historic preservation and planning, the report of Mr. Peters (DPD Exhibit 2), the testimony of architects Sam Marts and Wayne Zuschlag, the Home's *Chicago Historic Resources Survey* ("CHRS") inventory form (DPD Exhibit 4), and photographs of other homes in the District

(DPD Exhibits 5 and 6), the Commission finds that the Home satisfies all of the criteria set forth in Article III, section G.4 of the Commission's Rules and Regulations for determining whether a property contributes to the character of a landmark district.

1. Criterion One

Criterion One reads: "The subject property exhibits the general historic and architectural features described in the designation ordinance."

The designation ordinance for the District, enacted in 1991, states that the District "consists of a core of large, elaborate homes, built by the most affluent of its late nineteenth-century residents, surrounded by more modest homes typical of the period," and that it "illustrates the range of architectural styles manifest in American domestic architecture from 1870 to 1900 and demonstrates the highest quality of materials and craftsmanship." The designation ordinance further states that "the critical features that make an essential contribution to the qualities and characteristics by which the district meets five of the seven criteria for designation are: all exterior faces of the structures and all the streetscapes and landscapes within the boundaries" of the District.

The record demonstrates that the Home is a Chicago workman's cottage constructed as a one-story structure in 1883 and raised to its current two-story configuration sometime prior to 1905. This type of structure is found throughout the District and is one of "the range of architectural styles manifest in American domestic architecture from 1870 to 1900," as set forth in the designation ordinance. Both DPD witness Peters and Applicants' witness Marts testified that the Home contributes to the historic character of the District. The Commission finds that the Home's exterior face, which includes a staircase feature to the historic entrance sequence on the second floor, is an architectural feature described in the designation ordinance. The Home therefore satisfies Criterion 1.

2. Criterion 2

Criterion 2 states that "[t]he subject property exhibits the general historic and architectural characteristics associated with the district."

As the designation ordinance explains, the District "constitutes a distinctive enclave that developed on and adjacent to Charles Wicker's property, reflecting common building types, styles, and materials." The evidence shows that the Home is representative of the cottages built during the early years of the development of the District. Many of these homes were set on high foundations, with raised second-story entrances. Homes with tall staircases to an above-grade entrance are found throughout the District. As the evidence at the hearing showed, these staircases were designed to be tall and broad in order to create a grand entrance to the home. As a result, the Home exhibits one of the general architectural styles which characterize the District. The Home therefore satisfies Criterion 2.

Although the CHRS does not govern the Commission's determination, it is worth noting that the CHRS inventory card for the Home also describes it as a "contributor to a potential landmark district." (DPD Exhibit 4) The CHRS report (DPD Exhibit 17) explains that the yellow color code of the inventory card indicates that the Home is a "relatively unaltered" property "that [was] part of a *concentration* of significant buildings." For this reason as well, the Home satisfies Criterion 2.

3. Criterion 3

Criterion 3 reads: "The subject property respects the general site characteristics associated with the district."

Although the building setbacks in the District vary widely, depending on the type of structure, testimony by Peters established that the Home exhibits a setback that is representative of many other residences in the District. Thus, the Home satisfies Criterion 3.

4. Criterion 4

Criterion 4 states: "The subject property exhibits the general size, shape, and scale associated with the district."

As noted above, the evidence overwhelmingly demonstrates that the District contains a rich collection of architectural styles dating from 1870 to 1900, including workman's cottages and large single family homes built by wealthy businessmen. The Home is consistent with the many other brick and frame residences in the District, which generally range from one to three stories in height, many of which have tall staircases to raised entrances. The Home therefore satisfies Criterion 4.

5. Criterion 5

Criterion 5 states: "The materials of the subject property are compatible with the district in general character, color and texture."

The Home's red brick construction with stone lintels and trim are consistent with the materials used in the vast majority of other buildings in the District. Many other homes in the District also have wooden front staircases. Thus, the Home satisfies Criterion 5.

C. Removal of the Home's Staircase Feature Would Have an Adverse Effect on the District

Article III, section G.3(a) of the Commission's Rules and Regulations states that "[w]ork proposed as part of a permit application that is contrary to any of the following criteria will be deemed to have an adverse effect." Criterion 1 of this section requires that the proposed work "maintain the significant historical or architectural feature with no material change to that feature."

The front staircase entry sequence of the Home is a significant architectural feature of a Chicago workman's cottage. The evidence shows that such cottages are typified by this staircase configuration. (DPD Exhibits 7 and 8) The record also shows that the entry at the second floor has always been the historic main entry to the Home, as evidenced by the wide entry portal and large decorative door lintel that is indicative of this cottage style. Although Applicants propose to replace the current opening at the top of the stairs with a false door, the removal of the entry staircase feature itself would fail to maintain the significant architectural feature that is the defining presence of a staircase leading to the second story entrance.

It is undisputed that the staircase in its current form is not the original staircase. The feature to be preserved, however, is not this particular staircase, but the presence of a staircase, because this configuration is typical of workman's cottages and other homes in the District and is a significant architectural characteristic. The evidence demonstrated that the current height of the staircase is 10' 5 3/4," which is well below the 12 feet allowed by MCC § 13-160-310. Although there is evidence that the risers and handrails do not meet the Building Code, there is no dispute that the current staircase could be replaced with a staircase that meets all requirements of the Building Code.

Based on the record, the Commission finds that, under Criterion 1 of Article III, Section G.3(a) of the Rules and Regulations, removal of the staircase feature would have an adverse effect on the Home and the District.

D. The Commission's *Guidelines* on "Entrances" and "Stairs"

The Commission's decision is also governed by its *Guidelines for Alterations to Historic Buildings and New Construction*. (DPD Ex. 10) The *Guidelines* state that removal of a staircase to the original entrance of a residence is not appropriate:

ENTRANCES. Houses in Chicago's older inner city districts typically were set on high bases. Often a full story above grade, the entrance to the main floor was reached by a broad staircase. This main floor is often considered the second floor today, the staircase having been removed and the entrance relocated to street level. Removing staircases to relocate the entrance is not appropriate. When planning rehabilitation work on houses where this significant feature has been removed, consideration should be given to restoring the main floor entrance and staircase (see "Millwork" and "Stairs").

The *Guidelines* further explain that tall staircases are a characteristic feature of many old Chicago homes:

STAIRS. As previously stated under "Entrances," many Chicago houses are set on high bases and are reached by broad, tall staircases that are a characteristic feature of their design. Although some houses, particularly more elaborate ones, have stone stairs, most have stairs built of wood treads with closed wood risers. The staircase may or may not be enclosed below to provide basement access and storage. Because wood is readily subject to deterioration, proper maintenance is

important in prolonging the life of wood elements. Replacing wood stairs with concrete or other materials is inappropriate. Replacement must be in kind. Stair railings typically were bent pipe rails with cast-iron newels and balusters. These features must be retained where they survive.

The Commission finds that, under the *Guidelines*, a tall, broad staircase to a second-floor entry is a characteristic feature of the design of the Home, and its removal would be contrary to the *Guidelines*. Because the *Guidelines* explicitly provide that staircases to original entrances should be preserved, the proposed work does not comply with the Commission's *Guidelines*.

E. The U.S. Secretary of the Interior's *Standards and Guidelines*

The *U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (DPD Exhibit 11) also govern the Commission's evaluation of the permit application. Standards 2 and 5 of the *Interior Standards* state:

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

The chapter of the *Interior Guidelines* on "Entrances and Porches" recommends "[i]dentifying, retaining, and preserving entrances and their functional and decorative features that are important in defining the overall historic character of the building such as . . . stairs." (DPD Exhibit 11) The *Interior Guidelines* also lists the following actions as "Not Recommended":

Removing or radically changing entrances and porches which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Removing an entrance or porch because the building has been reoriented to accommodate a new use.

Removing an entrance or porch that is unrepairable and not replacing it; or replacing it with a new entrance or porch that does not convey the same visual appearance.

The Commission finds that removal of the front staircase to the Home would violate Standards 2 and 5 of the *Interior Standards* because it would alter a feature that characterizes the property, in violation of Standard 2, and fail to preserve a distinctive feature of the property, in violation of Standard 5. The work is also "not recommended" under the *Interior Guidelines* because it would "radically chang[e]" the entrance to the Home, a feature "important in defining the overall historic character of the building."

At the public hearing, Applicants presented evidence that the Home was reconfigured in 2010 to be used as a single-family home and that the ground floor entrance is now used as the functional main entrance. Mr. Zuschlag opined that the front staircase does not contribute to the character of the Home and is "non-historic." He further opined that change is permissible under the *Interior Standards* and that properties need to adapt to current uses. Mr. Peters testified that the front staircase is a significant historical and architectural feature of the Home and the District. He further testified that the *Interior Guidelines* indicate that the fact that the Home has been reoriented to a new use does not justify removing the historic staircase entry sequence.

The Commission finds that the expert opinions of Mr. Peters warrant more weight than those of Mr. Zuschlag. Mr. Peters has worked for decades in the area of historic preservation and has substantial experience in identifying the significant historical and architectural features of an area and evaluating the effect of proposed changes on those features. Mr. Zuschlag has comparatively little experience in the field of historic preservation. Although he testified that he has worked as an architect on a landmarked structure, unlike Mr. Peters, Mr. Zuschlag has not written articles or books, given lectures, or taught classes on historical preservation.

Based on the record, the Commission concludes that the proposed work would not be consistent with the *Interior Standards* or *Interior Guidelines*.

F. Evidence Related to Applicants' Safety Concerns

Applicants testified that they have concerns about the safety of the front staircase and that an elderly family member fell while descending the stairs. Although Applicants concede that the height of the staircase satisfies the requirements of the Building Code, they contend that the staircase is unsafe because it is steep and tall. The record demonstrates that the Permit Review Committee of the Commission has already approved replacement of the existing stair with a new stair having a more generous rise and run and replacement of the railings with taller railings. (Commission Exhibit 5)

This issue falls outside of the purview of the Commission. Nothing in the Commission's Rules and Regulations, *Guidelines*, or the *U.S. Secretary of the Interior's Standards* mentions safety as a criteria for the Commission to consider in deciding whether to approve proposed work. Indeed, under MCC § 2-120-780, "if the construction, reconstruction, alteration, repair, or demolition of any improvement would remedy conditions imminently dangerous to life, health, or property, as determined in writing by the Department of Buildings, or the Board of Health, or the Fire Department, the Commission shall approve the work notwithstanding other considerations relating to its designation as a "Chicago Landmark." Applicants presented to the Commission no written determination from any of these entities stating that the staircase was unsafe and had to be demolished and that no staircase could ever be safely constructed at the Home. Thus, the Commission may not consider safety in determining whether to approve the Permit Application.

V. CONCLUSION

The Commission concludes that the part of the Permit Application seeking to remove the front staircase feature must be denied because the Home is a contributing building to the District, and the removal of the front staircase to the Home would have an adverse effect upon the significant historical and architectural features of the Home and the District. The removal of the stairs is also contrary to the Commission's *Guidelines* and the *U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*. The removal of the staircase feature is therefore directly contrary to the spirit and purposes of the Landmarks Ordinance and the applicable standards and cannot be approved pursuant to MCC §§ 2-120-740 and 2-120-800.

VI. FINAL DECISION

The Commission hereby disapproves the Permit Application insofar as it seeks permission for removal of the staircase. This decision is the Commission's final decision.

Adopted 5-0 with one member of the on August 6, 2015
Commission recusing himself



Rafael Leon, Chairman
Commission on Chicago Landmarks