

## MINUTES

### **HARRISBURG ARCHITECTURAL REVIEW BOARD REGULAR MEETING**

**June 6, 2022**

**THE MARTIN LUTHER KING, JR. CITY GOVERNMENT CENTER  
CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Trina Gribble, Chair  
Bruce Henry, Assistant Codes Administrator  
Camille Bennett  
Kali Tennis  
April Rucker

**MEMBERS ABSENT:**

**STAFF PRESENT:** Geoffrey Knight, Planning Director  
Stephen Ekema-Agbaw, Senior Deputy City Solicitor

**OTHERS PRESENT:** See Sign-In Sheet

**CALL TO ORDER: 6:00 PM**

#### **APPROVAL OF MINUTES:**

Ms. Tennis noted that her salutation was incorrect at a point in the minutes; Mr. Knight stated that he would revise the May 2022 meeting minutes to correct this deficiency. Mr. Henry moved, and Ms. Tennis seconded the motion, to Approve the minutes from the May 2, 2022 meeting with the discussed corrections. The motion was adopted by unanimous vote (4-0).

#### **OLD BUSINESS:**

#### **NEW BUSINESS:**

- 1. 131 State Street, filed by David Butcher with WCI Partners LP, to install an ADA ramp and access door along Shanklin Alley in the northwestern corner of the building; remove an existing access door along the side elevation; change some windows on the side elevation; and remove non-historic elements such as the fire escape and second-floor porch screen along the side elevation. This project revises a previously-approved submission from September 2020.**

The case was represented by Lori Fortini with WCI Partners, LP (the property owner), 1900 North 2<sup>nd</sup> Street, Harrisburg, PA 17102; and Kathryn Sterner with By Design Consultants, Inc. (the project architect), 1950 Market Street, Camp Hill, PA 17011 (aka “the Applicants”).

Mr. Knight gave a synopsis of the case report recommending the request be Approved with the following condition(s):

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1. The Applicant will ensure that the proposed ADA ramp railing will utilize the same materials and design as approved during the previous project review in September 2020.
2. The Applicant will utilize historic bricks from other work on the façade (such as the window enlargements or the installation of the door at the top of the ADA ramp) as infill for the two doors to be removed and infilled toward the rear of the side elevation.
3. The Applicant will install a window transom (as opposed to the molded transom shown in the drawings) above the new access door at the top of the ramp, and will utilize a painted wooden doors and frame.

Mrs. Gribble requested clarification from the Planning Bureau staff regarding specifics related to Condition #1; Mr. Knight confirmed that the previous approval had included a metal railing for the ADA ramp, although he was unsure what type of metal had been proposed and whether the previous design included spindles.

Mrs. Gribble asked the Applicants whether they wanted to provide additional information on the proposal; they clarified that the ADA ramp would utilize painted steel railing pickets, as proposed in the initial project design. The Applicants confirmed that the relocated ramp would be closer to the sidewalk along State Street and closer to the existing main entrance of the structure.

Mrs. Gribble stated that she didn't recall the previous project involving replacement windows as the current project proposed. The Applicants stated that they were proposing to replace existing small, single-pane windows with full-size windows to introduce more light into the building and to better match the size and rhythm of other windows on the side façade; they also noted that from inside the building, it was evident that one of the smaller windows was a full-size window at one point. They stated that the windows were changed in the past due to a new interior configuration that created a bathroom along the exterior wall. The Applicants noted that the new windows would be slightly shorter than the other windows along the side elevation, as they wanted to limit the amount of bricks being removed from the façade and they did not want to compromise the integrity of the façade.

Mrs. Gribble asked the Applicants to discuss some of the fenestration changes towards the rear of the building. They noted that they would be fully infilling one of the existing door openings with bricks, and would be replacing the other door opening with a new window. Ms. Bennett asked whether the doors being removed were historic; the Applicants stated that they were not, noting that one was a hollow metal door and the other was a non-historic wooden door. They noted that there were two modern additions on the original structure, including the one-story addition on the side and the two-story addition on the rear which was evident via the bricks painted white.

Mrs. Gribble inquired as to the material of the proposed doors; the Applicants stated that they originally proposed fiberglass doors, but that Planning Bureau staff had recommended wood doors. Mr. Knight confirmed that the case report recommended the use of wood doors to ensure a more historically-appropriate material and appearance for the new entrance. The Applicants also noted that the windows would be wood as well.

Mrs. Gribble inquired about the proposed work around the roof; the Applicants stated that they would be replacing the existing aluminum gutters and fascia in-kind.

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Mrs. Gribble asked whether there were any questions or comments from the other Board members. Ms. Tennis noted that there were existing basement window wells which were covered with non-historic additions, and asked whether the project was going to address those. The Applicants stated that they weren't proposing any changes to the front elevation besides painting. Mrs. Gribble requested clarification on whether the Applicants were intending on painting the brick façade, and they confirmed that they would only be painting wooden windows and trim. They also noted that they would be repainting the brick on the rear addition which was already painted white.

Ms. Tennis noted that the side entrance into the building would be moving from the rear of the side façade to the top of the proposed ramp near the front of the building, and asked what the new door would be replacing; the Applicants confirmed that there was currently a window located there. She asked whether the proposed transom above the door would be installed at the height of the current window header, and the Applicants confirmed that it would be installed at that height. Ms. Tennis asked how tall the new opening would be; the Applicants stated that they were not sure about the height, but confirmed it would be taller than seven feet. Ms. Tennis stated that she felt it would be better to have the new doorway installed at the same height as the nearby windows. The Applicants reiterated that it appeared there was a window installed at about that height at one point, but that they were concerned about disturbing any brick above the existing header.

Ms. Tennis noted that the project proposed removing a wooden screen on the second floor near the rear of the building, and asked whether the project was proposing to enclose that area. The Applicants stated that they were not proposing to enlarge the second floor as part of the project, and noted that while there was door access to the roof of the one-story addition, there was no proposal to create a new deck or otherwise alter that area. They noted that the windows shown in the elevation plans already existed on the second story of the side façade.

Ms. Tennis asked whether the roofline on the back of the building would be changing as part of the project; the Applicants stated that there would be no change to the rear roof.

Mrs. Gribble noted that one of the conditions of the case report was to salvage brick removed to install the door or enlarge windows for use in infilling the existing doorways; she asked whether the Applicants had any issues with that condition. The Applicants stated that they did not have an issue with that condition; they noted that they might use newer brick to infill the doorway in the rear addition which was painted white, because that brick would be painted over regardless, and so that they could save bricks to infill the doorway to be removed in the unpainted portion of the building.

Ms. Tennis asked for clarification on where salvaged brick would be used to infill proposed doorway removals; the Applicants noted that they would be salvaging brick from the openings for the enlarged windows and the new doorway towards the front to use in infilling the doorways towards the rear of the side façade.

Ms. Tennis stated that she was concerned about the size of the mortar joints in the areas to be infilled, and asked whether the salvaged bricks were the same size as the bricks around the openings to be infilled so that the mortar joints would align. The Applicants stated that they had

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not considered that issue specifically, but that they believed the bricks were of equal or similar size so that they would not create issues with the alignment of the mortar joints. Ms. Tennis expressed some concern that the infilled bricks would not be aligned with the surrounding mortar joints and that it would be evident where salvaged bricks were used.

Mrs. Gribble reiterated the conditions outlined in the case report. She asked the Applicants whether they had any concerns about or opposition to the condition for a transom window to be installed above the new door instead of molded panel; they stated that they did not and noted that they had revised the proposed elevation plans to reflect the transom window.

Ms. Bennett moved, and Mr. Henry seconded the motion, to Approve with Staff Conditions. The motion was adopted by a majority vote (4-1).

- 2. 1402 North 3<sup>rd</sup> Street, filed by Sean Linder w/ SJL Rentals, to make alterations to the existing front and rear façades, including the removal of the existing awning and other façade elements of the first-floor commercial space, installation of new entryways and storefront windows, replacement of entry doors, and the construction of an ADA ramp on the sidewalk. The project will also involve as well as the infill of lightwell in the rear elevation with cementitious fiberboard and an entry gate on the first floor. Windows throughout the building will be replaced as well.**

The case was represented by Richard Gribble with By Design Consultants, Inc. (the project architect), 1950 Market Street, Camp Hill, PA 17011 (aka “the Applicant”).

Mr. Knight gave a synopsis of the case report recommending the request be Approved with the following condition(s):

1. The Applicant will not utilize fiberglass windows for any new windows or replacements of existing windows, and will repair the existing windows in-situ or utilize either wood or wood composite windows in the same pane configuration as the existing windows.
2. The historic signage on the façade shall be rehabilitated and preserved; any alteration to the historic signage must be reviewed by the Planning Bureau and HARB. Any new wall or project signage proposed for businesses in the commercial space will be approved by HARB.
3. The Applicant will file an Easement application, and receive approval from the City, for the proposed ADA access ramp into the first-floor storefront area.

Mrs. Gribble stated that she was recusing herself from consideration of and comment on the current application. Ms. Tennis asked whether the current Applicant was employed at the same architecture firm that was contracted for the previous project. She noted that the architecture firm for the project was the same as the architecture firm for the previous application, and inquired as to whether Mrs. Gribble should have recused herself during that review as well. Ms. Tennis stated that she noted the architecture firm for the two projects was similar, but was unsure of whether they were the same entity and thus whether a recusal was warranted for the previous application review. Mrs. Gribble confirmed that it was the same firm, but noted that there were different architects on the projects and that her rationale for recusing herself was that the architect for the current application was her husband. She confirmed that Ms. Tennis raised a good point about the recusals; Ms. Tennis stated that she felt the Board should consider the issue.

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Mr. Knight stated that he felt it was appropriate for the Senior Deputy City Solicitor to comment on the need for recusals, but noted that conflicts of interest generally involved either direct financial gain or immediate family relationships, and thus that the two projects may be differentiated in that way. Mr. Ekema-Agbaw stated that he was trying to understand the specifics of each project and how they were related; Mr. Knight confirmed that both projects employed the same architecture firm but that the applicants themselves were different, with one applicant being the property owner and the other being the architect.

The Applicant confirmed that his company, By Design Consultants, was based out of Camp Hill, and that one of the applicants (Ms. Sterner) for the previous application was his business partner. He confirmed that his partner more often worked on projects in the city. The Applicant confirmed that when he had represented applications in the past, Mrs. Gribble had recused herself from voting on those cases, but that when other partners with his company represented projects, she had not recused herself in those cases. He noted that that this dynamic had been in place for several years.

Mrs. Gribble noted that the Board could discuss the rules governing these situations in the future. Mr. Ekema-Agbaw stated that he thought Mrs. Gribble's actions in the past were acceptable and clarified that she was recusing herself based on her personal relationship with the Applicant as opposed to a more indirect relationship with the Applicant's firm. He stated that the Board could discuss alternatives after the meeting, that they could proceed with reviewing the application and taking a vote, and that it might be a moot point depending on the vote. He noted that the issue might become complicated if Mrs. Gribble would be the deciding vote. Mr. Ekema-Agbaw stated that he agreed with Mr. Knight that he wasn't sure what added benefit there might be between projects done by his firm and represented by other partners, and that the primary issue seemed to be based on Mrs. Gribble's personal relationship with the current Applicant. He stated that there did not seem to be any undue influence in the discussion of the previous project created by the Applicant's interest in the same architecture firm.

Mr. Ekema-Agbaw noted that the Board would have a quorum without Mrs. Gribble, and thus that the review could proceed if she recused herself, but stated that he did understand Ms. Tennis' inquiry regarding the differentiation between the two cases. Ms. Tennis stated that sometimes conflict of interest involved the perception of that conflict, and that she felt the Board had a duty to avoid any perceived conflicts. Mr. Ekema-Agbaw confirmed her concerns were valid, but stated that he didn't believe there was an issue with moving forward with the current review so long as Mrs. Gribble recused herself; he stated that he could coordinate with Planning Bureau staff outside of the current meeting to discuss how these issues could be appropriately addressed in the future. Mr. Ekema-Agbaw inquired as to the vote on the previous case. Mr. Knight stated that it was a unanimous vote (5-0), but Ms. Tennis stated that she had voted against it and thus it was a majority vote (4-1). Mr. Ekema-Agbaw noted that even if Mrs. Gribble had recused herself in the previous case, there was still a quorum and the Board would have approved by the project by a majority vote (3-1).

Ms. Tennis asked whether the Board actually had a quorum for the first case because Ms. Rucker had arrived late; Mr. Knight noted that she had arrived while he was reading the Planning Bureau's case report and had been in attendance for the entire discussion. Mr. Ekema-Agbaw confirmed that

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as soon as Ms. Rucker had arrived, a quorum would have been reached and that she could have voted in that case. Ms. Tennis stated that she was concerned about whether the vote in the first case would be overturned if the Law Bureau determined that the conflict of interest applied in both cases. Ms. Rucker asked if the first vote would still count if it was determined that Mrs. Gribble's vote should not have been included; Mr. Ekema-Agbaw stated that once a quorum was reached, the meeting could begin and all actions were valid, and he noted that since Ms. Rucker was in attendance during that discussion, the vote would have counted.

Mr. Ekema-Agbaw noted that in the absence of by-laws specific to the Board that would run counter to general quorum regulations, the actions taken by the Board were appropriate and the first case would still have received approval had Mrs. Gribble recused herself from that review. He stated that Mrs. Gribble's recusal in the current was still sound, and that without her attendance the Board could still move forward with a review of the case.

Mr. Ekema-Agbaw stated that one outstanding issue was the Board's officers, and noted that if Mrs. Gribble (the Board Chair) was recusing herself, the Vice Chair would be responsible for running the meeting; he asked who held that position. Mr. Knight noted that a former Board member, Mr. Chamberlin, had been the Vice Chair and confirmed that he was no longer a member. He stated that he did not believe there had been a vote on the Vice Chair since Mr. Chamberlin stepped down from the Board, and suggested that the Board vote to go out of session to select a temporary Chair to hear the current case. Mr. Ekema-Agbaw spent some time reviewing the Board's regulations, and noted that the Board did not have specific rules of procedure that addressed this particular issue. He stated that the Board members could take a vote on who would be the presiding officer that would run the Board review of the project.

Mr. Knight asked the Board whether any members wanted to serve as the presiding officer for the current case; he noted that the other Board members appeared to be nominating Ms. Tennis for that role. She stated that she was not familiar with how to run a case review. Mr. Ekema-Agbaw stated that the Board needed to make motions to take official actions in reviewing a case, but otherwise boards did not have the same type of rules and regulations as a body like City Council.

Mrs. Gribble stated that it sounded as though there was a motion and a second to have Ms. Tennis act as the presiding Chair for review of the current application; she asked whether she was permitted to vote as well. Mr. Ekema-Agbaw stated that she should probably abstain from the vote. Mrs. Gribble inquired as to whether she should ask for the vote; Mr. Ekema-Agbaw confirmed that she was not participating in the review from this point forward.

Ms. Rucker confirmed that she had made the motion to appoint Ms. Tennis as the presiding Chair, and Ms. Bennett seconded the motion; the motion passed by a unanimous vote (2-0). Ms. Tennis asked whether the appointment would just apply to the current meeting, and Mr. Knight confirmed that was the case. Mr. Ekema-Agbaw confirmed that as HARB Secretary, Mr. Knight would call the vote. Mr. Knight asked Ms. Tennis whether she was comfortable acting as the presiding Chair, and she confirmed she was. Mr. Knight noted that he had already read the case report, and advised Ms. Tennis to ask the Applicant whether the conditions were acceptable or whether the Applicant had anything to add to the case report.

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Ms. Tennis asked whether the Applicant had anything to add to the case report; he noted that the project had initially proposed to use fiberglass windows and asked the Board to consider allowing that product. He stated that the material had been used in a previous project in Shipoke which involved a small addition to an existing home, as opposed to modifying an historic façade. He asked that the Board consider allowing a fiberglass window as an appropriate replacement for a wood window, based on the longevity of the material and profile of the proposed window. The Applicant stated that they were considering using wooden windows but that it would impose higher maintenance cost and more effort. He stated that he otherwise agreed with the information in the Planning Bureau's case report.

The Applicant referenced the partial window model that he had brought to the meeting, and noted that a Fibrex window would have a similar appearance and cross-section. He stated that fiberglass can be painted in the same manner as the Fibrex material. Ms. Bennett asked whether a requirement for wooden windows was in the case reports developed for the Planning Commission and Zoning Hearing Board reviews; Mr. Knight noted that it would not have been included in those case reports since it related to the historic aspects of the property and the Planning Bureau did not include all conditions for each aspect of review in each case report, but merely referenced the requisite approvals. Ms. Bennett inquired as to whether the existing windows were wood; the Applicant confirmed that they were.

Ms. Tennis asked whether they were single-pane windows, and the Applicant confirmed they were and noted that they were the original windows from the 1920s; he also noted that some of the sashes were rotted. The Applicant confirmed that both the fiberglass windows and Fibrex windows utilized insulated glass. The Applicant stated that any windows which had rotted sashes would require the replacement of the full sash, which would require a complicated replacement process.

Ms. Bennett stated that she felt an in-kind replacement with wooden windows was appropriate. Ms. Tennis asked whether the Applicant had considered an in-kind, wooden replacement window; he stated that it would be a feasible alternative but reiterated that the long-term maintenance would be more difficult. Ms. Tennis asked whether the fiberglass product came in finished colors and whether the intention was to have a pre-finished color applied to the exterior; the Applicant confirmed that was their intention.

Ms. Tennis inquired as to the cladding of the bay window; the Applicant confirmed that it was painted metal. The Applicant confirmed that each window had a wood sash. Ms. Tennis asked whether each window had its own metal sill; the Applicant confirmed that was the case. Ms. Tennis stated that because the existing bay window was clad in metal, she was comfortable with approving the proposed fiberglass material. She stated that the maintenance requirements of wood windows were a justification for the proposed fiberglass windows. Ms. Tennis inquired as to whether the proposed fiberglass windows could be custom-fitted to the existing window openings; the Applicant confirmed that they could. He stated that because the bay window was comprised of a wooden structure wrapped in metal, the proposed windows should also be able to be wood clad in metal. Ms. Tennis stated that with a different material, the Applicant may have to "pack out the framing" of the window and thus lose some of the character of the bay window. The Applicant confirmed that they would use a replacement sash with the proposed fiberglass windows that would not change the character of the building.

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Ms. Tennis referenced Condition #1 in the Planning Bureau’s case report and asked whether the Applicant still wanted to move forward with the fiberglass, or was willing to accept Ms. Bennett’s request for wooden windows. Mr. Knight interjected and noted that the Applicant would likely prefer to move forward with the submitted design, but stated that the Planning Bureau’s concern was that the two-story bay window was such a prominent and defining feature of the building that it differentiated significantly from situations where a single window might be replaced in a brick frame. He stated that if the Applicant was only proposing to replace a couple windows on a secondary façade, the proposed fiberglass replacement windows might be more acceptable. He noted that in the past, the Board had granted approval for use of a more historically-appropriate material/design for a primary façade with latitude granted for secondary or tertiary façades, and suggested that fiberglass windows could be approved for use on the rear façade, with wood or Fibrex windows approved for the front façade.

Ms. Tennis stated that real wood windows presented problems when being installed in existing window openings because they needed to be “packed out,” and that she felt a clad window would be more appropriate. She stated that the windows would be out of the “touch zone,” not visible from the street, and that simulated divided lite grills would be appropriate for the replacement windows. Ms. Tennis asked whether the Board was ready to take a vote, or whether they had additional questions.

Ms. Bennett inquired as to the material in which the proposed windows would be clad; Ms. Tennis referenced the sample brought by the Applicant and stated that the window would be wood clad in factory-finished metal. She stated that the proposed material would not fade or rust and that the caulking could be color-matched to the window. She stated that Pella manufactured color-matched screens and color-matched caulking.

Mr. Knight noted that the proposed windows were not, in fact, clad in metal but instead utilized fiberglass. The Applicant stated that their proposed windows were clad in fiberglass, and stated that references to metal cladding were made regarding the existing bay window exterior. He stated that they could also use wood windows clad in metal; Ms. Tennis stated that she would be agreeable to metal-clad windows and reiterated that the caulking and the screens could match the windows. She said that wooden window screens and caulking would wear down over time and would not age as well.

Mr. Knight stated that the Planning Bureau was definitely not supportive of aluminum-clad windows; Ms. Tennis stated that she was not referencing an aluminum window, but rather a type of metal that is referenced in the Secretary of the Interior’s Standards for Rehabilitation. She stated that she had utilized these windows in previous residential and commercial projects. She stated that the windows looked great and recommended that Mr. Knight review these options.

Mr. Knight asked whether the product Ms. Tennis was referencing was paintable; she stated that it didn’t need to be painted because it had a factory finish and never faded or rusted. She stated that the windows, once installed, looked like wood. Mr. Knight noted that “paintability” was traditionally a primary consideration in the Board’s reviews of alternative materials. Ms. Tennis stated that they were paintable; Ms. Tennis stated that they were. Mr. Knight asked whether the

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material was paintable without voiding the warranty and without the use of special treatments; he stated that while he understood the Applicant wanted the windows to be hunter green, a future property owner may prefer a different color. Ms. Tennis stated that wood windows required paint; Mr. Knight clarified that the issue was whether the material could be painted without voiding the warranty and without requiring special treatment. He reiterated that this standard had been applied by the Board at all times in the past when an alternative material was proposed; he stated that if that were the case for any new material, the Planning Bureau would have less opposition.

The Applicant noted that the location of the windows being discussed was in the metal-clad bay window, but asked about the Board's thoughts on the proposed storefront window installation on the first floor; he noted that this was a new addition to the general exterior work that the Board had reviewed at a previous meeting. The Applicant noted that the project proposed two new metal doors with full-view panes on the first floor, separated by large storefront windows. He noted that these storefront windows would be in the "touch zone" as opposed to the windows on the upper floors.

Ms. Tennis asked for concurrence from the other Board members that Condition #1 could be removed from their resolution, due to the fact that the windows were out of the "touch zone;" she also recommended it be treated as a "test case." Ms. Bennett asked whether the Applicant was proposing to replace all ten windows on the second and third floors with metal-clad windows; he confirmed they were proposing fiberglass windows and stated that it would have a similar appearance to the window model he brought to the meeting. Ms. Tennis stated that the proposed windows would be energy-efficient.

Ms. Tennis referenced Condition #2 in the Planning Bureau's case report, and asked whether the Applicant was acceptable of that condition; Mr. Knight clarified that it related to retaining the existing vertical projecting sign. The Applicant confirmed the sign would be retained. The Applicant noted that the sign did not currently have lettering as it had been painted over; he noted that the project may adaptively reuse the sign in its current location.

Ms. Tennis referenced Condition #3 in the Planning Bureau's case report, and asked if the Applicant was amendable to filing an Easement application for the proposed ADA ramp. The Applicant confirmed that he had no issues with that requirement.

Ms. Tennis asked whether there were any changes to the rear elevation; the Applicant noted that the project proposed to infill the lightwell in the rear of the building. He noted that the rear façade was brick, and that the infill façade would utilize cementitious fiberboard. Ms. Tennis asked whether the project would be altering the window openings, and the Applicant confirmed that they would be modifying all window openings to utilize the same window design.

Ms. Tennis asked whether the Board members had any questions or comments regarding the proposal for the rear of the building; there were none.

Ms. Tennis asked whether the Applicant had brought a sample of the proposed storefront window and door installation; he responded that he did not, but noted that he had provided product specifications as attachments to the COA documentation. The Applicant confirmed that the

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proposed storefront would be a fiberglass material that could be painted; he confirmed that the existing configuration would be modified with a door on either side of the first floor with storefront windows in between.

Ms. Tennis requested clarification that the proposed ADA ramp would be located between the two doors. The Applicant confirmed that was the case stated that the ramp would allow access to the first-floor commercial space, and noted that there was currently a seven-inch step into the building. Ms. Tennis asked whether the proposed doors would be solid fiberglass doors, and the Applicant confirmed that they would include full-view panes.

Mr. Henry inquired about the landings at the top and bottom of the proposed ADA ramp, and whether there was sufficient space to install the proposed ramp. The Applicant stated that it required a tight fit, but that it would be possible because there was latitude in the regulations that allowed for steeper ramps for existing buildings. Mr. Henry stated that he had run into issues during inspections in the past in which contractors were not able to properly install ADA ramps. The Applicant confirmed that so long as the doors were installed at either end of the building, as proposed, there would be sufficient space to install a ramp. The Applicant noted that the building was not currently accessible and acknowledged that access was complicated by the historic nature of the building, but stated that the property owner wanted to ensure the commercial space on the first floor was ADA accessible.

Ms. Tennis inquired about the width of the sidewalk and whether an ADA ramp could be legally installed in front of the building. The Applicant stated that the sidewalk was approximately ten feet wide and thus that a ramp could be installed in an ADA-compliant manner, but that it might require the removal of street furniture such as the trash can or signage. Mr. Knight noted that that the configuration of the ADA ramp and surrounding street furniture would be reviewed and discussed during the Easement application process, and that issues in the public right-of-way could be addressed at that time.

The Applicant noted that the Board might be considering whether a ramp was necessary, again referencing that it was an historic building and that they may want to retain the existing non-accessible entrance, and noted that there were other properties along North 3<sup>rd</sup> Street that were not ADA-accessible. Ms. Tennis asked whether the Applicant had considered alternative designs for accessibility. The Applicant confirmed that an alternate approach, in which a ramp was installed within the floor area of the commercial space, had been considered, but that there were structural issues to consider in installing an interior ramp, and that there was no space for a required landing area at the bottom of the ramp. He also noted that the amount of space required for an interior ramp would occupy a significant portion of the first-floor commercial area. Mr. Knight confirmed that, and noted that he had considered the option of an internal ramp, but that the small size of the commercial space, due to the presence of a residential unit at the rear of the first floor, likely precluded that. He noted that the Planning Bureau's preference was usually to install ramps on the interior of buildings, so as not to occupy sidewalk space.

Ms. Tennis asked whether the project would retain the existing wood-shingled pent roof over the storefront; the Applicant confirmed that element would be removed. She asked what the Applicant was proposing for that area. Mr. Knight noted that the roof would be removed entirely. The

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Applicant stated that when the property had originally accommodated a pharmacy, there was no roof and there were transom panels above the first-floor windows. He stated that the wooden transom panels would be rehabilitated and incorporated into the modern storefront design.

Ms. Tennis summarized the proposed changes to the front façade, which included: the addition of a door and ADA ramp; the installation of modern storefront windows; the removal of the pent roof overhanging the first floor; and the replacement of the existing wooden windows on the second and third floors with fiberglass windows. The Applicant noted that the final design of the storefront window would be finalized after preliminary demolition determined whether there were any structural considerations.

Ms. Tennis asked whether the other Board members had any questions about the project or the conditions in the Planning Bureau's case report. She asked whether the Board wanted to consider the proposed fiberglass windows as a "test case." Ms. Bennett stated that she did not agree that the fiberglass windows should be authorized. There was not a consensus on how to address the issue, so Ms. Tennis suggested they revisit Condition #1 and discuss how to proceed.

Ms. Rucker noted that Planning Bureau's case report did not recommend use of fiberglass and thus that she did not want to approve their use. Ms. Tennis asked if the Board members did not also want to approved the fiberglass doors proposed for the first-floor storefront. Mr. Knight discussed the Planning Bureau's approach to the proposed storefront design and why it differentiated from the approach to the windows on the second and third floors. He stated that he had referenced the case report done by the previous Historic Preservation Specialist, Frank Grumbine, for a COA application submitted in 2021, which noted that the first-floor storefront between the wooden pilasters and below the transom panels was not original to the building, and thus the project would not be replacing an historic element with an inappropriate element as was the case in the second- and third-floor windows. He stated that it would therefore not be damaging the historic character of the building, and thus that he felt replacing the non-historic, first-floor elements with more modern, non-historic elements that enhanced the proposed commercial space was appropriate. He stated that any fiberglass storefront elements were thus differentiated from the proposed fiberglass replacements in the historic bay window.

Ms. Tennis noted that Ms. Rucker was opposed to the fiberglass windows on the second and third floors. Ms. Bennett asked if the Applicant intended to rebuild the bay window and replace the metal cladding; he responded that there was no intention to do that, and that the only proposal was to replace the window units.

Ms. Tennis noted that the project proposed to retain the existing wooden end pilasters and wooden transoms above the first floor in the proposed redesign of the storefront commercial area; she also noted that the two front doors would be replaced with full-view doors and that the space between them would be infilled with large, storefront windows. Mr. Knight reiterated that the doors being replaced were not original to the building and were not historic. He stated that the storefront design would bring additional utility to the structure and ensure it was active and contributing to the streetscape of the corridor. He noted that Frank Grumbine had previously discussed with the Board how historic buildings can evolve over time, allowing them to maintain their usefulness and thus continue to serve in their historic roles within a community.

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Ms. Tennis stated that that was her argument for allowing the proposed fiberglass windows, because modern wood windows would not age well and would require “packing out” the window frame which would change the proportions of the pane. She stated that she felt the fiberglass windows should be acceptable and that Fibrex was an interior product with screens and caulk that did not match the window color. Ms. Tennis asked whether the Board wanted to reconsider Condition #1 and allow the fiberglass windows as a “test case.” Ms. Bennett stated that the project should only use wood or Fibrex windows and that the proposed fiberglass windows should not be permitted as a “test case.” Ms. Rucker also agreed the Applicant should only be permitted to use the wood or Fibrex windows as outlined in the case report.

Mr. Henry asked for clarification on the difference between modern wooden windows and the windows proposed by the Applicant. Ms. Rucker stated that metal-clad windows could not be painted; Ms. Tennis stated that the windows could be painted.

Ms. Tennis asked if Mr. Henry was open to considering the proposed fiberglass material as a “test case.” Mr. Henry asked whether the Applicant would need to “pack out” a modern wood window when installing it in the existing opening; the Applicant stated that it might be a possibility. He asked whether the Board could provide some overall guidance, and stated that they would prefer not to replace the whole window unit, but rather just the sash. The Applicant stated that the project team could look at using wood windows, Fibrex windows, or repairing the sash in-situ, although he noted that the latter option was unlikely. He stated that they would also consider wood windows clad in a material that did not change the size of the sash and was paintable.

Ms. Tennis asked whether the Board members wanted to revise the condition to state that whatever product was chosen would not change the dimensions of the sashes. Ms. Rucker stated that she felt the condition was a bit too broad, and Ms. Tennis noted that it would address the concerns about “packing out” the window regardless of the material utilized.

Mr. Knight noted that the window profile, including the width of the sashes, was as much a consideration in new windows as the paintability of the material or the decision between real or simulated divided lite. He stated that the size of the sashes and the window panes was a defining characteristic that would be important to consider, regardless of the type of window material being used; he stated that he felt Ms. Tennis’ suggestion regarding the revised condition was a good idea. Ms. Tennis asked Mr. Knight to recite the language of the revised condition. He stated that the language would be revised to require the window to have the same profile and sash width as the existing windows.

Ms. Bennett stated that the revisions were acceptable so long as the Applicant utilized wood or Fibrex windows. The Applicant confirmed that was the case, and that he interpreted the language to apply to whatever windows were deemed appropriate by the Board, although he asked that he be able to consider an aluminum-wrapped wood window as well. Mr. Knight noted that the Board may have to balance using either a wood or Fibrex product with a fiberglass or aluminum-wrapped window that had a better profile.

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Ms. Bennett requested clarification on which window materials were being proposed. Mr. Knight stated that it sounded as though the Board was debating the merits of wood, Fibrex, and aluminum-clad wood windows. Ms. Bennett and Ms. Rucker both stated that they were not comfortable with the fiberglass material.

Ms. Tennis stated that they could also decide to have the Applicant bring different window samples to the next meeting, and have the Board choose which one they preferred, or they could deputize the Planning Bureau to decide on the most appropriate product that did not change the window profile or pane size.

Ms. Bennett stated that she felt the sash and pane dimension considerations could be met with either wood or Fibrex window materials. Ms. Tennis asked inquired as to which aspect Ms. Bennett prioritized in selecting the proposed windows, and Mr. Knight clarified that she preferred the materiality over the profile issues and noted that those issues were not mutually exclusive.

Ms. Tennis asked whether the Board had reached a consensus and could take a vote.

The Applicant stated that he was willing to agree to the conditions outlined by the Planning Bureau staff. Ms. Bennett noted that the Applicant was agreeing with the Planning Bureau's condition, and the Board should just move forward with a vote on the project as recommendation by the Planning Bureau. Mr. Knight clarified that the Board was asking for a vote on the wood or Fibrex windows in the same sash and pane dimensions.

Ms. Bennett moved, and Ms. Rucker seconded the motion, to Approve with Staff Conditions. The motion was deadlocked by a tie vote (2-2).

Mr. Henry stated that he couldn't tell the difference between fiberglass product and metal from the distance between himself and the Applicant's window sample.

Mr. Ekema-Agbaw stated that there was nothing in the HARB regulations that addressed a tie vote and proceeded to provide counsel to the Board that he clarified should not be considered legal advice for individual members, but rather in their capacity as public officials. He noted that there were exceptions for allowing a member with a conflict of interest to vote in a case, despite having noted that conflict. He stated that one scenario in which it might be permitted was if the abstention of an individual from voting made it impossible to obtain a decision by the Board; he noted that that was the case in this instance. Mr. Ekema-Agbaw also noted that regulations required the member abstaining from the vote to also disclose their conflict and recuse herself from the review, which Mrs. Gribble had done. He clarified that this guidance was from the State Ethics Commission and was not outlined in HARB's regulations. He noted that, in general, if there is a tie, the project would not be approved.

Mr. Ekema-Agbaw stated that there was really not a framework for addressing this specific issue in the Board's regulations, but that the State Ethics Act did allow for Mrs. Gribble to vote on the issue under the specific circumstances present at the current meeting. He asked Mrs. Gribble whether she understood the guidance that he was providing; she confirmed that she did.

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Ms. Bennett asked whether the Board should re-initiate the application review if Mrs. Gribble was going to be casting a vote; Mr. Ekema-Agbaw noted that Mrs. Gribble would not be able to participate in a review or discussion of the project, and that she would only be permitted to vote, because otherwise no action could take place.

Ms. Tennis asked whether the Board should redo the motion and vote, or just ask Mrs. Gribble how she intends on voting.

Mr. Knight noted that the main point of contention was Condition #1 in the Planning Bureau's case report, and asked whether the Board could choose to vote on all aspects of the project *except for* the proposed windows on the second and third floors of the front façade, and then have the Applicant return for the following month's meeting to discuss those windows. Mr. Ekema-Agbaw asked whether Mr. Knight was implying that an approval under those conditions would allow the project to commence without work beginning on the replacement windows. Mr. Knight confirmed that he was correct. He stated that this would allow the project to start while leaving a decision on the windows until the next meeting. Mr. Ekema-Agbaw stated that would be a viable option for the Board so long as it was acceptable to the Applicant.

Mr. Knight noted that this would allow the project to move forward while obviating ethical or procedural conflicts created by Mrs. Gribble's recusal. Mr. Henry stated that this would allow him more time to better understand the differentiation between the window options being discussed. Mr. Ekema-Agbaw stated that it would be an appropriate path forward.

Mr. Knight stated that he was recommending the partial approval option instead of a continuance of the full project was because he assumed the Applicant would prefer to begin moving forward on aspects of the project that were not disagreed upon. The Applicant confirmed that was acceptable, although he was hoping to have approval of the full project after the current meeting; he stated that he would review of the specifics of five approaches to the windows – specifically in-situ repair, wood, Fibrex, fiberglass, and metal-clad – and discuss the options at the following month's HARB meeting.

Mr. Knight noted that if the Board wanted to approach the project along this path, their resolution would remove any reference to the windows in the two-story bay window and would grant approval for all other aspects of the project.

Mr. Henry moved, and Ms. Rucker seconded the motion, to Approve with Staff Conditions #2 and #3, with Condition #1 being addressed in a future discussion. The motion was adopted by a unanimous vote (4-0). Ms. Rucker asked when the Applicant would be presenting the window options to the Board; Mr. Knight stated that they would be included on the July 2022 agenda. He asked the Applicant to provide specification sheets in advance of the meeting. Mr. Knight also confirmed that the case would be put under Old Business on the agenda and would thus be heard first.

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**OTHER BUSINESS:**

Mrs. Gribble asked whether there was any other business the Board needed to discuss at the meeting; Mr. Knight noted that while there weren't any Other Business items on the current agenda, the Board members should be considering some of the procedural matters that arose at the current meeting and be ready to discuss them at the July 2022 HARB meeting.

Mr. Ekema-Agbaw noted that the Board had the authority to make additional rules and regulations that governed their meetings and actions; he noted that the issues raised during the current meeting might be instructive in addressing situations such as occurred at the current meeting. Mr. Knight stated that he thought the Board might have adopted by-laws in the past, but that it had not been addressed during his tenure with the City.

Mr. Ekema-Agbaw noted that the situation that arose at the meeting was a very unusual circumstance; Mrs. Gribble noted that the issue would occur again at the July 11<sup>th</sup> HARB meeting. She also noted that having additional members to fill the vacancies might also help prevent this situation in the future. Mr. Knight stated that the Planning Bureau was working on getting candidate recommendations to City Council, but noted that their legislative calendar would be relatively full up to the summer hiatus that would occur after July 5<sup>th</sup>, and thus the vacancies might not get filled until either September or October.

Mrs. Gribble asked whether the Planning Bureau had a list of candidates' names; he confirmed that they had not finalized a list and were still working on collecting necessary documentation such as resumes.

Mrs. Gribble asked whether the Board wanted to vote in officers to ensure the same issue did not arise during the July 11<sup>th</sup> HARB meeting. Mr. Knight stated that the could vote on officers, but then corrected himself and asked Law Bureau staff whether an action like that needed to be advertised or included on an agenda. Mr. Ekema-Agbaw stated that it might be a Sunshine Act issues and thus it would need to be added to the agenda for the following month's meeting.

**ADJOURNMENT: 7:32 PM**

Ms. Rucker moved, and Ms. Bennett seconded the motion, to adjourn. The motion was adopted by a unanimous vote (5-0); the meeting adjourned at 7:32 PM.