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SPECIAL MEETING , September 12 , 2011
HISTORIC DISTRICT BOARD OF REVIEW

Minutes

September 12, 2011

The City of Madison Historic District Board of Review (HDBR) held a special meeting on Monday September 12, 2011 at 1:00 p.m. at 420 Walnut Street (Meeting location courtesy of Paul Davis)

The roll was called, board members present included: Ron Hopper, Ginger Jorgensen, Ann Roller, and John DeLuca. Preservation Planner Camille Fife was also present. The purpose of the meeting was to review the Historic District Ordinance and to come up with suggestions for potential changes and/or amendments that might be necessary.

The Board began with Chapter 151: I: Purpose

Camille stated that any amendments are listed below the paragraph. This part had not been amended since 1987. Members chose to compare the overlay with the Chapter 151. It was thought that it should not be different except where rules and procedures had been inserted in the overlay. The only change was that the word Ordinance was changed to Chapter and City became City of Madison.

Ann stated that the word Chapter was substituted for Ordinance. Ron pointed out that Chapter was substituted for Ordinance. A discussion of how the Chapter was incorporated into Madison's official book of Ordinances.

Ginger asked for a clarification of the Board's purpose for this meeting. Camille said it was her understanding that we were here because there are a number of things in the Ordinance which do not reflect what we are actually doing.

Procedure: The request for any changes in the Ordinance would have to come before the common council. They would have to be in the form of an amendment to the Ordinance. Camille suggested that it was something that should not be done lightly or quickly and that it should not become a political issue. She suggested that it should be a thoughtful and careful procedure.

The board continued to read and discuss the elements of the Ordinance, and what the overlay is. After study, Camille felt that after study, the overlay was an archival compilation of the Ordinance and Rules which have been enacted throughout the years. She congratulated Luann's efforts to keep a running, archival record of everything that has been enacted, either by the Board or the Common Council. The Overlay should contain everything that is in Chapter 151, but also rules which have been enacted.

Ann suggested that if they were going to recommend changes they should be substantive, not just words.

II. Definitions. Ann Roller questioned why the definition was written. Asked if we could add "conspicuous change" to the definition. Camille stressed that if we decided to recommend changes, they would have to go through the legal review and be allowed by the state enabling act. Ginger recalled that whichever of the two (local ordinance or state enabling act) was stronger, more stringent, would apply.

Camille checked that other groups had not changed their ordinance with regard to defining conspicuous change because it was a part of the enabling organization. Ann Roller found the section in the enabling act...she read it to the group. p. 3 "the commission shall be concerned with those elements of development, redevelopment, rehabilitation and preservation that effect visual quality in the historic district, however the commission may not consider details of design, interior arrangements or building features, if those details, arrangements or features are not subject to public view and may not make any requirement except for the purpose of preventing development, alteration or demolition incongruous within the historic district. A commission established by a county may not take any action that affects property located within a municipality."

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Camille found the reference P.6: “Except as provided in Section 19 and 20, a Certificate of Appropriateness must be issued by or on behalf of the commission before a permit is issued for or work is begun on any of the following:

- 1) Within all areas of the historic district:
 - a) the demolition of any building
 - b) the moving of any building
 - c) a conspicuous change in the exterior appearance of historic buildings by additions, reconstruction, alteration or maintenance involving exterior color change; or
 - d) any new construction of a principal building or accessory building or structure subject to view from a public way.
- 2) Within a primary area of the historic district
 - a) a change in walls and fences or the construction of walls and fences along public ways; or
 - b) a conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change. “(State enabling Act IC 36-7-11)

It was discussed that our local ordinance does not include color change. When enacted, color was eliminated. John and others recognized that “conspicuous change” was not defined. Darrell affirmed that it was the Board’s responsibility to determine the definition of “conspicuous change” on a case by case basis.

The question of whether or not a definition of “conspicuous change” was discussed and whether it should be included in the Ordinance. Camille suggested that the Guidelines provide some guidance in that regard.

The group thought they might come up with a suggested definition, run it past the legal advisors and see if it would be possible.

“materials” should be one of the defining elements of such a change.

Ann asked if we could put a definition in the rules. Ginger and Camille said that Darrell said that this definition needed to be in the Ordinance.

Suggestions included “ changes in materials, design, visual quality...as defined by the Board”. Ann suggested that a definition should be written down...

Ginger suggested including “historic integrity”. John brought up the case of the situation across the street from him where the new windows are impossible to tell from original windows. Many changes and new developments are now coming forward. New technologies are being proposed. An ongoing educational activity is necessary to educate the public and the board. Ginger said that she had been involved in a board that did that. Camille talked about two workshops planned, for September on Tax Credits and one in October 22 on researching your house, etc. Camille also said that we would be required to have educational opportunities for the Board.

It was suggested that a definition for “conspicuous change” should be written. Ann suggested that someone should write one for next meeting. Ginger said that she would.

Camille then suggested they move on to the next part of the Ordinance, concerning “Trees”. She stated that she couldn’t find anything that removed this responsibility from the Historic District Ordinance, but knew that since the city had a tree board, it was no longer a concern of the Historic Board (HDBR) Camille will do research to find out how and when that occurred and why the tree board now takes precedence over the discussion in the historic ordinance.

Question: Should there be anything about trees included in the HDBR responsibility? John said he had checked into it. He would like to have the HDBR have something to say about it. Ann disagreed, that we would have to have expertise about trees. Camille suggested that it might be possible for an HDBR member to be mandated to sit on the tree board. There was additional discussion about trees and sidewalks in Madison.

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In addition to the definition of “trees”. 151.20 includes language about permits needed from the HDBR for the removal of trees. At the moment, the board is not doing anything about trees, so it may not be appropriate that this language stay in the ordinance. This may be an ordinance change to be requested... with a mandated cross membership under composition of the board perhaps.

II. The next area to be discussed was the issue of the language being used: “historic” and “non-rated”. Camille felt it was awkward. (Ref. Definitions). She explained how it initially came about, that people felt “non-contributing” was negative. But current practice in the state and around the country uses “contributing” and “non-contributing”. The HDBR has been using these terms. The original historic map defining “historic and non-rated” has been lost. The NHL survey defines contributing and non-contributing. Therefore, the definition in the ordinance is based on ratings and locations which do not exist.

The board discussed the ratings used for state and national surveys and other items, especially the seven qualities of integrity, in the light of how ratings are determined, including ‘Outstanding, Notable, or Contributing, or Non-Contributing’. Camille gave an explanation of the survey conducted in 2002.

Ann suggested and the others agreed that language should change to “historic buildings and structures, those buildings and structures over fifty years old possessing identified historical architectural merit of a degree warranting their preservation.”...and which are rated “contributing” on the survey.””

III. The section on Boundaries was deemed OK as is.

IV. A discussion was held regarding primary and secondary areas.

Camille suggested that the only major thing that is different between primary and secondary areas is sidewalks, which, at this point are not being considered.

Camille suggested they debate: 1) Primary Area: Does it represent the core of the historic district?

2) Do we actually have different standards for the two areas?

The ordinance is written to have a primary and secondary area, but it has not been used. The major difference is in fences. Camille reminded them that we have one of the largest local ordinance historic districts in the state, and that those outside the central section are less likely to be contributing or significant. The way the ordinance is written, there are two levels of criteria to deal with. Question: Does it help people to have these two areas. Camille suggested that we need to think about this.

Ginger suggested that we should just use the ratings and eliminate the primary and secondary areas. She feels that it is confusing and isn't being useful. And the board is not rating buildings in the two areas differently. Recommendation is to eliminate the Primary and Secondary areas and only use the ratings. Would only eliminate or change the first part of the sentence.

Camille reminded the board that there are three types of districts in Madison. 1) the National Register District, which extends up on the hill and has a period of significance ending in the 1880s and no individual listings; 2) the National Landmark District which is nearly the same boundary as the local ordinance historic district; 3) The Local Ordinance Historic District which is slightly larger and which was the area surveyed in 2002.

Camille suggested that our final “laundry list” would include this change and have a new map submitted to the council to replace the old one. She suggested that we use the language from the survey...”which have been identified on the survey as Contributing, or Non-Contributing

The question was asked...(C. under section) could the board name a non-contributing building as “historic” (or “contributing”). The Ordinance indicates that yes, they could.

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Camille explained that a number of cases buildings have been classified as n/c either because of date or later became restored...this changed their rating. However, the ordinance does not say that the board could go the other way around.

The group looked at additional parts:

151.05 (Relationship of historic districts to zoning districts) is OK. The more restrictive always applies. Usually is the zoning.

151.06 (Variances) is OK. Doesn't ever come up and is not part of what they do.

151.07 Public Utilities facilities...”are NOT subject to the requirements of the chapter”, except meters. The ordinance requires public utilities to consult: Placement of a meter if on street frontage requires a Certificate of Appropriateness. The utility has never had such a case, have not been coming to the board. If the property owner complains, it could go before the board.

Question: Are cable dishes governed by any agency...Camille was informed that the dishes were not in the responsibility of the HDBR. Question: Ordinance covers “public utilities”, but are private cable companies governed by the public service commission? Camille will find out.

Camille suggested that prior to going before the Council a new map should be created and would be made.

The meeting was adjourned.

Respectfully submitted:

Camille B. Fife, Preservation Planner