

Replacing a Failing Concrete Walk with Flagstones . . . Not In a Historic District (and Watch Your Windows Too)!

Proponents of a historic district often claim that designation of a historic district does not hamper the ability of homeowners to make reasonable renovations or repairs, and that the Historic District process simply gives the community a voice in determining what is reasonable. Neither claim is true, as a recent case about a stone front walkway shows.

The concrete walk at 3212 19th Street, in the Mt. Pleasant Historic District, was in poor condition, so the homeowners replaced it with stone tiles. The homeowners assumed there would be no problem, since at least 13 other houses on a two-block stretch of their street had stone walkways, as had *35% of all of the houses in Mt. Pleasant*, according to their calculations. (In Chevy Chase, too, owners have often replaced original concrete walkways with flagstone or other materials.) They were also advised by their contractor that they would not need a permit for this work. Yet the HPRB bureaucracy somehow found out about the new stone walkway and told the homeowners that, if they didn't remove it, the city would "remove the tile, place a lien against [the] property, and then sell it in a tax sale."

The HPRB notice contained mistaken contact and other information. But ultimately the homeowners managed to apply for a permit anyway, accompanying their application with photos of nearby houses with stone walks. Two neighbors filed supporting letters and none filed any objection. Nonetheless, the application was denied. Replacing a concrete walk with stone is simply impermissible in the Mt. Pleasant historic district. Quoting the guidelines for historic districts, the staff explained (my italics), "Existing sidewalks and paths should be maintained and, if necessary, repaired or *replaced in-kind, that is, in the same material as the existing*. This is particularly important for sidewalks or paths located in front yards or in areas that can be seen from a public street." (Note that this rule is "particularly important" for front walkways, but apparently may apply elsewhere on a homeowner's property as well.)

And that's not all. HPRB realized that the owners had also replaced some third-floor windows. The original windows had been double-hung windows with a 15-over-1 true divided light configuration. Fifteen-pane true-divided-light double-hung windows are incredibly expensive to replace today, probably costing five or more times the cost of a single-pane replacement. The owners replaced the windows instead with 1-over-1 windows that were otherwise identical to the originals and identical to those in the two adjoining row houses.

In a meeting on May 25, 2023, the HPRB denied the application. The amount of time, expense, and worry the homeowners have had to endure is not in the public record, nor is the cost of tearing out the stone and replacing it with what many might think is a less attractive concrete, nor is the cost of replacing the 1-over-1 third-floor windows.

Conclusions:

First, the unelected, citywide HPRB is *not* in business to give our community (or any community) a voice. It is legally authorized only to enforce its own idea of "historic compatibility." If that differs from what the community wants, so much the worse for the community. In Mt.

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Pleasant (as in Chevy Chase) a large part of the community has found stone walks aesthetically and/or economically superior to poured concrete. But the HPRB takes the view that the materials used by the original builders are essentially sacred and must be maintained in perpetuity.

Second, enforcement of HPRB regulations is inconsistent, even haphazard, and homeowners who wish to repair their houses cannot rely on simply observing what has been done by nearby neighbors. Some regulations, like those relating to sidewalks, require in-kind repair or replacement while others, such as those governing windows, often require replacement with the originally used materials and configuration, even if neighboring row houses (on a third-floor window!) had used a less expensive style. And while the regulations are detailed, extensive and not always consistent, there is zero forgiveness for proceeding without a required permit.

Third, if your front walk or window needs a repair, or if you'd like to change its appearance, you'd better do it now. If a historic district is recognized, it will be too late!

Jim Feldman

Sources:

<https://app.box.com/s/dhn9muwq7e6fqor5v5v40hn1w7yanfma/folder/206187514013> (case files)

<https://planning.dc.gov/node/1658771> (see minutes of meeting of May 25, 2023)